TITLE 23—HIGHWAYS

This title was enacted by Pub. L. 85–767, §1, Aug. 27, 1958, 72 Stat. 885

Chap.		Sec.
1.	**Federal Aid Highways** [1]	**101**
2.	**Other Highways**	**201**
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EDITORIAL NOTES

AMENDMENTS

2005—Pub. L. 109–59, title I, §1602(e)(2), title V, 5201(a)(1), Aug. 10, 2005, 119 Stat. 1248, 1780, added items for chapters 5 and 6 and struck out item for former chapter 5 "Research and Technology".

1998—Pub. L. 105–178, title V, §5101(1), June 9, 1998, 112 Stat. 422, added item for chapter 5.

1966—Pub. L. 89–564, title I, §102(b)(3), Sept. 9, 1966, 80 Stat. 735, added item for chapter 4.

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 23

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1	Rep.
2	101
2a	101(a)
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3	Rep.
3a	Rep.
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4	Rep.
5	Rep.
6	103(b), (e), 105(c), 121(c)
6–1	103(c)
6a	103(d)
6a–1	105(d)
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7	110(a)
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8a	109(a), 112(a)
9	301
9a	129(a)
9a–1	Rep.
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10	109(a)
10a	Rep.
10b	Rep.
10c	Rep.

11	Rep.
12	105(a), 106(a), (c), 121(d)
12a	121(c)
12b	Rep.
13	114(a)
13–1	112(b), (c)
13a	Rep.
13b	103(d)
14	121(a), (b), (e)
14a	Elim.
15	Rep.
16	Rep.
17	316
18	317(a)–(c)
19	315
20	Rep.
20a	Rep.
21	104(a), (b)(1)
21–1	307(a), (b)
21a	104(b), 105(a), 106(a), 114(a), 118(a), (c)
21a–1	Rep.
21a–2	Elim.
21b	Rep.
21c	311
21d	Rep.
21e	122
22	104(e)
23	101(a), 202(b), 204(a)–(c), 205(a)–(c)
23a	Rep.
23b	Rep.
23b–1	Rep.
23c	205(c)
24	Rep.
24a	109(e)
25	Rep.
26	Rep.
41	101(a), 105(e)
41a	101(a), 103(b)
41b	101(a), 103(b)
42	Rep.
43	Rep.
44	Rep.
45	Elim.
46	See T. 18 §1020
47–53	Rep.
54	Elim.
54a	Rep.
54b	Elim.

55	126
55a	Rep.
55b	126(b)
56	Rep.
57	314
58	Elim.
59	Elim.
59a	Rep.
60	103(d)
61	307(c)
62	318
63	109(d)
64	320(a)
65	320(b)
66	320(c)
67	320(d)
68	320(e)
69	320(f)
70	313
71	303(a)
72	303 note
73	303(a)
101	Rep.
101a	Rep.
102	Rep.
103	Rep.
104	Rep.
105	Rep.
106	210(a), (b)
107	Rep.
108	Rep.
109	Rep.
110	Rep.
111	Rep.
112	Rep.
113	Rep.
114	210(e)
115	308(a)
116	Rep.
117	312
151(a)	104 note
151(b), (c)	104(c), 117(a)–(c), 118(b)
152	204(f), 205(d)
153	206(a), 207(a), 208(a), (b)
154	209(a)
155	203
156	101(b), 103(f), 104(b)(1), 116(d), 119(a), (b), 120(h)

157	103(d)
158(a)	101(b)
158(b)	101 note
158(c)	104(b)(4)
158(d)	104(b)(5)
158(d)	104 note
158(e)	120(c)
158(f), (g)	118(c)
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158(i)	109(b)
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158(k)	307 note
159	107
160	108
161	124
162	123
163	111
164	129(b)–(d)
165	Elim.
166	113
167	101(b), 128(a), (b), 304
168	Elim.
169 (less last proviso)	Rep.
169 (last proviso)	Elim.
170	305
171	306
172	Rep.
173	120 note
174	307 note
175	Elim.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CITATION

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

REPEALS

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

CONSTRUCTION

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

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

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

SAVINGS PROVISION

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

RECODIFICATION OF TITLE 23

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

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

[1] So in original. Does not conform to chapter heading.

CHAPTER 1—FEDERAL-AID HIGHWAYS

Sec.

101 Definitions and declaration of policy.
102. Program efficiencies.
103. National Highway System.
104. Apportionment.
[105. Repealed.]
106. Project approval and oversight.
107. Acquisition of rights-of-way—Interstate System.
108. Advance acquisition of real property.
109. Standards.
[110. Repealed.]
111. Agreements relating to use of and access to rights-of-way—Interstate System.
112. Letting of contracts.
113. Prevailing rate of wage.
114. Construction.
115. Advance construction.
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117. Nationally significant multimodal freight and highway projects.
118. Availability of funds.
119. National highway performance program.
120. Federal share payable.
121. Payment to States for construction.
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123. Relocation of utility facilities.
124. Bridge investment program.
125. Emergency relief.
126. Transferability of Federal-aid highway funds.
127. Vehicle weight limitations—Interstate System.
128. Public hearings.
129. Toll roads, bridges, tunnels, and ferries.
130. Railway-highway crossings.
131. Control of outdoor advertising.
132. Payments on Federal-aid projects undertaken by a Federal agency.
133. Surface transportation block grant program.
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135. Statewide and nonmetropolitan transportation planning.

136. Control of junkyards.
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139. Efficient environmental reviews for project decisionmaking and One Federal Decision.
140 Nondiscrimination.
141. Enforcement of requirements.
142. Public transportation.
143. Highway use tax evasion projects.
144. National bridge and tunnel inventory and inspection standards.
145. Federal-State relationship.
146. Carpool and vanpool projects.
147. Construction of ferry boats and ferry terminal facilities.
148. Highway safety improvement program.
149. Congestion mitigation and air quality improvement program.
150. National goals and performance management measures.
151. National electric vehicle charging and hydrogen, propane, and natural gas fueling corridors.
152. Hazard elimination program.
153. Use of safety belts and motorcycle helmets.
154. Open container requirements.
[155. Repealed.]
156. Proceeds from the sale or lease of real property.
157. National Environmental Policy Act of 1969 reporting program.
158. National minimum drinking age.
159. Revocation or suspension of drivers' licenses of individuals convicted of drug offenses.
[160. Repealed.]
161. Operation of motor vehicles by intoxicated minors.
162. National scenic byways program.
163. Safety incentives to prevent operation of motor vehicles by intoxicated persons.
164. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.
165. Territorial and Puerto Rico highway program.
166. HOV facilities.
167. National highway freight program.
168. Integration of planning and environmental review.
169. Development of programmatic mitigation plans.
170. Funding flexibility for transportation emergencies.
171. Wildlife crossings pilot program.
172. Wildlife-vehicle collision reduction and habitat connectivity improvement.
173. Rural surface transportation grant program.
174. State human capital plans.
175. Carbon reduction program.
176. Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation (PROTECT) program.
177. Neighborhood access and equity grant program.
178. Environmental review implementation funds.
179. Low-carbon transportation materials grants.

EDITORIAL NOTES

AMENDMENTS

2022—Pub. L. 117–169, title VI, §§60501(b), 60505(b), 60506(b), Aug. 16, 2022, 136 Stat. 2083, 2085, 2086, added items 177 to 179.

2021—Pub. L. 117–58, div. A, title I, §§11110(b), 11118(b), 11123(b)(2), 11123(c)(2), 11132(b), 11203(b), 11301(b), 11312(b), 11403(b), 11405(b), 11501(b), Nov. 15, 2021, 135 Stat. 475, 495, 502, 505, 514, 520,

530, 539, 558, 575, 578, added items 124, 157, and 171 to 176, substituted "Nationally significant multimodal freight and highway projects" for "Nationally significant freight and highway projects" in item 117 and "Efficient environmental reviews for project decisionmaking and One Federal Decision" for "Efficient environmental reviews for project decisionmaking" in item 139, and struck out item 105 "Additional deposits into Highway Trust Fund".

2015—Pub. L. 114–94, div. A, title I, §§1105(b), 1109(c)(6)(A), 1116(b), 1403(b), 1413(b), Dec. 4, 2015, 129 Stat. 1337, 1344, 1356, 1409, 1418, substituted "Surface transportation block grant program" for "Surface transportation program" in item 133, "National highway freight program" for "National freight program" in item 167, and added items 105, 117, and 151.

Pub. L. 114–94, div. A, title I, §1446(d)(2)(B), Dec. 4, 2015, 129 Stat. 1438, amended section 1203(b) of Pub. L. 112–141, effective July 6, 2012, as if included in Pub. L. 112–141 as enacted. See 2012 Amendment note below.

2012—Pub. L. 112–141, div. A, title I, §§1104(c)(1), 1106(c), 1111(b), 1114(b)(1), 1115(b), 1202(b), 1203(b), 1310(b), 1311(b), 1509(b), 1515(b), 1519(c)(1)(A), July 6, 2012, 126 Stat. 427, 437, 450, 468, 472, 524, 526, 543, 545, 567, 574, 575, as amended by Pub. L. 114–94, div. A, title I, §1446(d)(2)(B), Dec. 4, 2015, 129 Stat. 1438, substituted "National Highway System" for "Federal-aid systems" in item 103, struck out items 105 "Equity bonus program", 110 "Revenue aligned budget authority", and 117 "High priority projects program", substituted "National highway performance program" for "Interstate maintenance program" in item 119, struck out item 124 "Advances to States", substituted "Transferability of Federal-aid highway funds" for "Uniform transferability of Federal-aid highway funds" in item 126, "Statewide and nonmetropolitan transportation planning" for "Statewide transportation planning" in item 135, and "National bridge and tunnel inventory and inspection standards" for "Highway bridge program" in item 144, added item 150, struck out items 151 "National bridge inspection program", 155 "Access highways to public recreation areas on certain lakes", 157 "Safety incentive grants for use of seat belts", and 160 "Reimbursement for segments of the Interstate System constructed without Federal assistance", substituted "Territorial and Puerto Rico highway program" for "Puerto Rico highway program" in item 165, and added items 167 to 170.

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

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

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

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

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

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

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

airspace rights-of-way" in item 156, and "Safety incentive grants for use of seat belts" for "Minimum allocation" in item 157, added items 162 and 163, item for subchapter II, and items 181 to 189, and added subchapter I heading before section 101.

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

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

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

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

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

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

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

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

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

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

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

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

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

1968—Pub. L. 90–495, §§10(b), 12(b), 16(b), 22(b), 25(c), 35(b), Aug. 23, 1968, 82 Stat. 820, 822, 823, 827, 829, 836, added items 135, 139, 140, and 141 and substituted "Prevailing rate of wage" for "Prevailing rate of wage—Interstate System" in item 113 and "Construction by States in advance of apportionment" for "Construction by States in advance of apportionment—Interstate System" in item 115.

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

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

safety programs.

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

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

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

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

§101. Definitions and declaration of policy

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

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

(2) ASSET MANAGEMENT.—The term "asset management" means a strategic and systematic process of operating, maintaining, and improving physical assets, with a focus on both engineering and economic analysis based upon quality information, to identify a structured sequence of maintenance, preservation, repair, rehabilitation, and replacement actions that will achieve and sustain a desired state of good repair over the lifecycle of the assets at minimum practicable cost.

(3) 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, designating existing facilities for use for preferential parking for carpools, and real-time ridesharing projects, such as projects where drivers, using an electronic transfer of funds, recover costs directly associated with the trip provided through the use of location technology to quantify those direct costs, subject to the condition that the cost recovered does not exceed the cost of the trip provided.

(4) CONSTRUCTION.—The term "construction" means the supervising, inspecting, actual building, and incurrence of all costs incidental to the construction or reconstruction of a highway or any project eligible for assistance under this title, 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) preliminary engineering, engineering, and design-related services directly relating to the construction of a highway project, including engineering, design, project development and management, construction project management and inspection, surveying, assessing resilience, mapping (including the establishment of temporary and permanent geodetic control in accordance with specifications of the National Oceanic and Atmospheric Administration), and architectural-related services;

(B) reconstruction, resurfacing, restoration, rehabilitation, and preservation;

(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-highway grade crossings;

(F) elimination of roadside hazards;

(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;

(H) improvements that reduce the number of wildlife-vehicle collisions, such as wildlife crossing structures; and

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

(5) 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.

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

(7) FEDERAL LANDS ACCESS TRANSPORTATION FACILITY.—The term "Federal Lands access transportation facility" means a public highway, road, bridge, trail, or transit system that is located on, is adjacent to, or provides access to Federal lands for which title or maintenance responsibility is vested in a State, county, town, township, tribal, municipal, or local government.

(8) FEDERAL LANDS TRANSPORTATION FACILITY.—The term "Federal lands transportation facility" means a public highway, road, bridge, trail, or transit system that is located on, is adjacent to, or provides access to Federal lands for which title and maintenance responsibility is vested in the Federal Government, and that appears on the national Federal lands transportation facility inventory described in section 203(c).

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

(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 including public roads on dams, 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) INTERSTATE SYSTEM.—The term "Interstate System" means the Dwight D. Eisenhower National System of Interstate and Defense Highways described in section 103(c).

(13) 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.

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

(15) NATIONAL HIGHWAY FREIGHT NETWORK.—The term "National Highway Freight Network" means the National Highway Freight Network established under section 167.

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

(17) NATURAL INFRASTRUCTURE.—The term "natural infrastructure" means infrastructure that uses, restores, or emulates natural ecological processes and—

(A) is created through the action of natural physical, geological, biological, and chemical processes over time;

(B) is created by human design, engineering, and construction to emulate or act in concert with natural processes; or

(C) involves the use of plants, soils, and other natural features, including through the creation, restoration, or preservation of vegetated areas using materials appropriate to the region

to manage stormwater and runoff, to attenuate flooding and storm surges, and for other related purposes.

(18) 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.

(19) 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.

(20) PROJECT.—The term "project" means any undertaking eligible for assistance under this title.

(21) PROJECT AGREEMENT.—The term "project agreement" means the formal instrument to be executed by the Secretary and the recipient as required by section 106.

(22) 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.

(23) 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.

(24) RESILIENCE.—The term "resilience", with respect to a project, means a project with the ability to anticipate, prepare for, or adapt to conditions or withstand, respond to, or recover rapidly from disruptions, including the ability—

(A)(i) to resist hazards or withstand impacts from weather events and natural disasters; or

(ii) to reduce the magnitude or duration of impacts of a disruptive weather event or natural disaster on a project; and

(B) to have the absorptive capacity, adaptive capacity, and recoverability to decrease project vulnerability to weather events or other natural disasters.

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

(26) SAFETY IMPROVEMENT PROJECT.—The term "safety improvement project" means a strategy, activity, or project on a public road that is consistent with the State strategic highway safety plan and corrects or improves a roadway feature that constitutes a hazard to road users or addresses a highway safety problem.

(27) SECRETARY.—The term "Secretary" means Secretary of Transportation.

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

(29) 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.

(30) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term "State strategic highway safety plan" has the same meaning given such term in section 148(a).

(31) 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.

(32) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

(A) IN GENERAL.—The term "transportation systems management and operations" means integrated strategies to optimize the performance of existing infrastructure through—

(i) 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; and

(ii) the consideration of incorporating natural infrastructure.

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

(i) actions such as traffic detection and surveillance, corridor management, freeway management, arterial management, active transportation and demand management, work zone management, emergency management, traveler information services, congestion pricing, parking management, automated enforcement, traffic control, commercial vehicle operations, freight management, and coordination of highway, rail, transit, bicycle, and pedestrian operations; and

(ii) coordination of the implementation of regional transportation system management and operations investments (such as traffic incident management, traveler information services, emergency management, roadway weather management, intelligent transportation systems, communication networks, and information sharing systems) requiring agreements, integration, and interoperability to achieve targeted system performance, reliability, safety, and customer service levels.

(33) TRIBAL TRANSPORTATION FACILITY.—The term "tribal transportation facility" means a public highway, road, bridge, trail, or transit system that is located on or provides access to tribal land and appears on the national tribal transportation facility inventory described in section 202(b)(1).

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

(35) 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.

(36) 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.

(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 Highways, 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, resilient, 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.

(4) EXPEDITED PROJECT DELIVERY.—

(A) IN GENERAL.—Congress declares that it is in the national interest to expedite the delivery of surface transportation projects by substantially reducing the average length of the environmental review process.

(B) POLICY OF THE UNITED STATES.—Accordingly, it is the policy of the United States that—

(i) the Secretary shall have the lead role among Federal agencies in carrying out the environmental review process for surface transportation projects;

(ii) each Federal agency shall cooperate with the Secretary to expedite the environmental review process for surface transportation projects;

(iii) project sponsors shall not be prohibited from carrying out preconstruction project development activities concurrently with the environmental review process;

(iv) programmatic approaches shall be used to reduce the need for project-by-project reviews and decisions by Federal agencies; and

(v) the Secretary shall identify opportunities for project sponsors to assume responsibilities of the Secretary where such responsibilities can be assumed in a manner that protects public health, the environment, and public participation.

(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 highway which has been apportioned pursuant to the provisions of this title shall be impounded or withheld from obligation, for purposes and projects

as provided in this title, by any officer or employee in the executive branch of the Federal Government, except such specific sums as may be determined by the Secretary of the Treasury, after consultation with the Secretary of Transportation, are necessary to be withheld from obligation for specific periods of time to assure that sufficient amounts will be available in the Highway Trust Fund to defray the expenditures which will be required to be made from such fund.

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

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

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 885; Pub. L. 86–70, §21(e)(1), June 25, 1959, 73 Stat. 146; Pub. L. 86–624, §17(a), July 12, 1960, 74 Stat. 415; Pub. L. 87–866, §6(a), Oct. 23, 1962, 76 Stat. 1147; Pub. L. 88–423, §3, Aug. 13, 1964, 78 Stat. 397; Pub. L. 89–574, §4(a), Sept. 13, 1966, 80 Stat. 767; Pub. L. 90–495, §§4(a), 8, 15, Aug. 23, 1968, 82 Stat. 816, 819, 822; Pub. L. 91–605, title I, §§104(a), 106(a), 107, 117(d), 130, 141, Dec. 31, 1970, 84 Stat. 1714, 1716, 1718, 1724, 1732, 1737; Pub. L. 93–87, title I, §§105, 106(a), 107, 108, 152(1), Aug. 13, 1973, 87 Stat. 253–255, 276; Pub. L. 93–643, §102(b), Jan. 4, 1975, 88 Stat. 2281; Pub. L. 94–280, title I, §§107(a), 108, May 5, 1976, 90 Stat. 430, 431; Pub. L. 95–599, title I, §106, Nov. 6, 1978, 92 Stat. 2693; Pub. L. 97–424, title I, §§126(c), 159, Jan. 6, 1983, 96 Stat. 2115, 2135; Pub. L. 100–17, title I, §§102(b)(3), 108, 109, 133(b)(2), (3), Apr. 2, 1987, 101 Stat. 135, 146, 171; Pub. L. 101–427, Oct. 15, 1990, 104 Stat. 927; Pub. L. 102–240, title I, §§1001(g), 1005, 1006(g)(1), 1007(c), Dec. 18, 1991, 105 Stat. 1916, 1922, 1927, 1931; Pub. L. 104–59, title III, §§301(b), 311(b), Nov. 28, 1995, 109 Stat. 578, 583; Pub. L. 105–178, title I, §1201, June 9, 1998, 112 Stat. 164; Pub. L. 109–59, title I, §§1122, 1909(a), Aug. 10, 2005, 119 Stat. 1196, 1470; Pub. L. 110–244, title I, §101(h), June 6, 2008, 122 Stat. 1574; Pub. L. 112–141, div. A, title I, §§1103, 1301(c), 1501, July 6, 2012, 126 Stat. 419, 528, 560; Pub. L. 114–94, div. A, title I, §1103, Dec. 4, 2015, 129 Stat. 1328; Pub. L. 117–58, div. A, title I, §§11103, 11123(a), 11525(a), Nov. 15, 2021, 135 Stat. 453, 499, 607.)

EDITORIAL NOTES

REFERENCES IN TEXT

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

AMENDMENTS

2021—Subsec. (a)(4)(A). Pub. L. 117–58, §11103(1)(A), inserted "assessing resilience," after "surveying,".

Subsec. (a)(4)(H), (I). Pub. L. 117–58, §11103(1)(B)–(D), added subpar. (H) and redesignated former subpar. (H) as (I).

Subsec. (a)(17). Pub. L. 117–58, §11103(3), added par. (17). Former par. (17) redesignated (18).

Subsec. (a)(18) to (23). Pub. L. 117–58, §11103(2), redesignated pars. (17) to (22) as (18) to (23), respectively. Former par. (23) redesignated (25).

Subsec. (a)(24). Pub. L. 117–58, §11103(4), added par. (24). Former par. (24) redesignated (26).

Subsec. (a)(25) to (32). Pub. L. 117–58, §11103(2), redesignated pars. (23) to (30) as (25) to (32), respectively. Former par. (32) redesignated (34).

Subsec. (a)(32)(A). Pub. L. 117–58, §11103(5), inserted dash after "through" and cl. (i) designation before "the implementation", substituted "; and" for period at end of cl. (i), and added cl. (ii).

Subsec. (a)(33) to (36). Pub. L. 117–58, §11103(2), redesignated pars. (31) to (34) as (33) to (36), respectively.

Subsec. (b)(1). Pub. L. 117–58, §11525(a), inserted "Highways" after "Defense".

Subsec. (b)(3)(D). Pub. L. 117–58, §11123(a), inserted "resilient," after "efficient," in introductory provisions.

2015—Subsec. (a)(15) to (29). Pub. L. 114–94 added par. (15), redesignated pars. (15) to (28) as (16) to (29), respectively, and struck out former par. (29) which defined transportation alternatives.

2012—Subsec. (a)(2). Pub. L. 112–141, §1103(a)(3), added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 112–141, §§1103(a)(2), 1501, redesignated par. (2) as (3) and substituted "designating existing facilities for use for preferential parking for carpools, and real-time ridesharing projects, such as projects where drivers, using an electronic transfer of funds, recover costs directly associated with the trip provided through the use of location technology to quantify those direct costs, subject to the condition that the cost recovered does not exceed the cost of the trip provided" for "and designating existing facilities for use for preferential parking for carpools". Former par. (3) redesignated (4).

Subsec. (a)(4). Pub. L. 112–141, §1103(a)(2), (4)(A), redesignated par. (3) as (4) and inserted "or any project eligible for assistance under this title" after "reconstruction of a highway" in introductory provisions. Former par. (4) redesignated (5).

Subsec. (a)(4)(A). Pub. L. 112–141, §1103(a)(4)(B), added subpar. (A) and struck out former subpar. (A) which read as follows: "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);".

Subsec. (a)(4)(B). Pub. L. 112–141, §1103(a)(4)(C), inserted "reconstruction," before "resurfacing," and substituted "rehabilitation, and preservation" for "and rehabilitation".

Subsec. (a)(4)(E). Pub. L. 112–141, §1103(a)(4)(D), substituted "railway-highway" for "railway".

Subsec. (a)(4)(F). Pub. L. 112–141, §1103(a)(4)(E), substituted "hazards" for "obstacles".

Subsec. (a)(5). Pub. L. 112–141, §1103(a)(2), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (a)(6). Pub. L. 112–141, §1103(a)(2), (5), redesignated par. (5) as (6) and inserted "public" before "highway eligible" and "functionally" before "classified".

Pub. L. 112–141, §1103(a)(1), struck out par. (6). Text read as follows: "The term 'Federal-aid system' means any of the Federal-aid highway systems described in section 103."

Subsec. (a)(7). Pub. L. 112–141, §1103(a)(1), (6), added par. (7) and struck out former par. (7). Prior to amendment, text read as follows: "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."

Subsec. (a)(8). Pub. L. 112–141, §1103(a)(6), added par. (8). Former par. (8) redesignated (9).

Subsec. (a)(9). Pub. L. 112–141, §1103(a)(1), (2), redesignated par. (8) as (9) and struck out former par. (9). Prior to amendment, text of par. (9) read as follows: "The term 'forest highway' means a forest road under the jurisdiction of, and maintained by, a public authority and open to public travel."

Subsec. (a)(11)(B). Pub. L. 112–141, §1103(a)(7), inserted "including public roads on dams" after "drainage structure".

Subsec. (a)(12). Pub. L. 112–141, §1103(a)(1), (2), redesignated par. (13) as (12) and struck out former par. (12) which defined Indian reservation road.

Subsec. (a)(13). Pub. L. 112–141, §1103(a)(2), redesignated par. (14) as (13). Former par. (13) redesignated (12).

Subsec. (a)(14). Pub. L. 112–141, §1103(a)(2), (8), redesignated par. (15) as (14), substituted "as an air quality" for "as a", and inserted "air quality" before "attainment area". Former par. (14) redesignated (13).

Subsec. (a)(15) to (17). Pub. L. 112–141, §1103(a)(2), redesignated pars. (16) to (18) as (15) to (17), respectively. Former par. (15) redesignated (14).

Subsec. (a)(18). Pub. L. 112–141, §1103(a)(2), (9), redesignated par. (21) as (18) and substituted "any undertaking" for "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". Former par. (18) redesignated (17).

Subsec. (a)(19). Pub. L. 112–141, §1103(a)(2), (10), redesignated par. (22) as (19) and substituted "the Secretary and the recipient" for "the State transportation department and the Secretary".

Pub. L. 112–141, §1103(a)(1), struck out par. (19). Text read as follows: "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."

Subsec. (a)(20). Pub. L. 112–141, §1103(a)(1), (2), redesignated par. (23) as (20) and struck out former par.

(20). Prior to amendment, text of par. (20) read as follows: "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."

Subsec. (a)(21). Pub. L. 112–141, §1103(a)(2), redesignated par. (27) as (21). Former par. (21) redesignated (18).

Subsec. (a)(22). Pub. L. 112–141, §1103(a)(2), redesignated par. (29) as (22). Former par. (22) redesignated (19).

Subsec. (a)(23). Pub. L. 112–141, §1103(a)(11), added par. (23) and struck out former par. (23). Prior to amendment, text read as follows: "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."

Pub. L. 112–141, §1103(a)(2), redesignated par. (30) as (23). Former par. (23) redesignated (20).

Subsec. (a)(24). Pub. L. 112–141, §1103(a)(1), (2), redesignated par. (31) as (24) and struck out former par. (24). Prior to amendment, text of par. (24) read as follows: "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."

Subsec. (a)(25), (26). Pub. L. 112–141, §1103(a)(1), (2), redesignated pars. (32) and (33) as (25) and (26), respectively, and struck out former pars. (25) and (26) which defined public lands highway and public lands highways, respectively.

Subsec. (a)(27). Pub. L. 112–141, §1103(a)(12), added par. (27). Former par. (27) redesignated (21).

Subsec. (a)(28). Pub. L. 112–141, §1103(a)(1), (2), redesignated par. (34) as (28) and struck out former par. (28). Prior to amendment, text of par. (28) read as follows: "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."

Subsec. (a)(29). Pub. L. 112–141, §1103(a)(13), added par. (29) and struck out former par. (29) which defined transportation enhancement activity.

Pub. L. 112–141, §1103(a)(2), redesignated par. (35) as (29). Former par. (29) redesignated (22).

Subsec. (a)(30) to (32). Pub. L. 112–141, §1103(a)(2), (14), added pars. (30) to (32) and redesignated former pars. (30) to (32) as (23) to (25), respectively.

Subsec. (a)(33) to (37). Pub. L. 112–141, §1103(a)(2), redesignated pars. (33) to (37) as (26), (28), (29), (33), and (34), respectively.

Subsec. (a)(38), (39). Pub. L. 112–141, §1103(a)(1), struck out pars. (38) and (39) which defined advanced truck stop electrification system and transportation systems management and operations, respectively.

Subsec. (b)(4). Pub. L. 112–141, §1301(c), added par. (4).

Subsec. (c). Pub. L. 112–141, §1103(b), substituted "Federal-aid highway" for "Federal-aid system".

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

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

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

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

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

1995—Subsec. (a). Pub. L. 104–59, §311(b), in first sentence of definition of "construction", inserted "bond

costs and other costs relating to the issuance in accordance with section 122 of bonds or other debt financing instruments," after "highway, including".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subsec. (b). Pub. L. 94–280, §107(a), substituted provision for completion of the Interstate System over a thirty-four year period, through the fiscal year ending September 30, 1990, for a prior provision for such completion over a twenty-three period, through the fiscal year ending June 30, 1979.

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

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

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

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

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

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

Subsec. (b). Pub. L. 93–87, §§106(a), 107, extended time for completion of the National System of Interstate and Defense Highways, substituting in second par. "twenty-three years" and "June 30, 1979" for "twenty years" and "June 30, 1976", and inserted third par. declaratory of national policy, since the Interstate

System is now in the final phase of completion, that increased emphasis be placed on the construction and reconstruction of the other Federal-aid systems in accordance with the first par. of subsec. (b), in order to bring all of the Federal-aid systems up to standards and to increase the safety of these systems to the maximum extent.

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

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

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

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

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

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

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

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

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

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

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

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

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

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 117–58, div. A, §10003, Nov. 15, 2021, 135 Stat. 443, provided that: "Except as otherwise provided, this division [see Tables for classification] and the amendments made by this division take effect on October 1, 2021."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE AND TERMINATION DATES OF 2012 AMENDMENT

Pub. L. 112–141, §3(a), July 6, 2012, 126 Stat. 413, provided that: "Except as otherwise provided, divisions A, B, C (other than sections 32603(d), 32603(g), 32912, and 34002 of that division) and E [see Tables for classification], including the amendments made by those divisions, take effect on October 1, 2012."

Pub. L. 112–141, §3(b), July 6, 2012, 126 Stat. 413, provided that: "Except as otherwise provided, any reference to the date of enactment of the MAP–21 or to the date of enactment of the Federal Public Transportation Act of 2012 in the divisions described in subsection (a) [set out above] or in an amendment made by those divisions [see Tables for classification] shall be deemed to be a reference to the effective date of those divisions [Oct. 1, 2012]."

Pub. L. 112–140, §1(c), June 29, 2012, 126 Stat. 391, provided that: "On the date of enactment of the MAP–21 [Pub. L. 112–141, approved July 6, 2012]—

"(1) this Act [see Short Title of 2012 Amendment note below] and the amendments made by this Act shall cease to be effective;

"(2) the text of the laws amended by this Act shall revert back so as to read as the text read on the day before the date of enactment of this Act [June 29, 2012]; and

"(3) the amendments made by the MAP–21 [see Tables for classification] shall be executed as if this Act had not been enacted."

EFFECTIVE DATE OF 2008 AMENDMENT

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

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

"(b) EXCEPTION.—

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

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

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

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

EFFECTIVE DATE OF 1998 AMENDMENT

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

EFFECTIVE DATE OF 1991 AMENDMENT

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

EFFECTIVE DATE OF 1970 AMENDMENT

Pub. L. 91–605, title I, §147, Dec. 31, 1970, 84 Stat. 1739, 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

Pub. L. 90–495, §37, Aug. 23, 1968, 82 Stat. 836, as amended by Pub. L. 91–605, title I, §120, Dec. 31, 1970, 84 Stat. 1725, provided that:

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

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

EFFECTIVE DATE OF 1959 AMENDMENT

Pub. L. 86–70, §21(e), June 25, 1959, 73 Stat. 146, 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 2026 AMENDMENT

Pub. L. 119–103, div. C, §3001, Sept. 2, 2026, 140 Stat. 1003, provided that: "This division [amending sections 9503, 9504, and 9508 of Title 26, Internal Revenue Code, and enacting provisions set out as a note under this section] may be cited as the 'Surface Transportation Extension Act of 2026'."

SHORT TITLE OF 2021 AMENDMENT

Pub. L. 117–58, §1(a), Nov. 15, 2021, 135 Stat. 429, provided that: "This Act [see Tables for classification] may be cited as the 'Infrastructure Investment and Jobs Act'."

Pub. L. 117–58, div. A, §10001, Nov. 15, 2021, 135 Stat. 443, provided that: "This division [see Tables for classification] may be cited as the 'Surface Transportation Reauthorization Act of 2021'."

Pub. L. 117–52, §1, Oct. 31, 2021, 135 Stat. 409, provided that: "This Act [amending sections 9503, 9504, and 9508 of Title 26, Internal Revenue Code, enacting provisions set out as a note under section 9503 of Title 26, amending provisions set out as notes under this section, and repealing provisions set out as a note under section 9503 of Title 26] may be cited as the 'Further Surface Transportation Extension Act of 2021'."

Pub. L. 117–44, §1, Oct. 2, 2021, 135 Stat. 382, provided that: "This Act [amending sections 9503, 9504, and 9508 of Title 26, Internal Revenue Code, and enacting provisions set out as notes under this section and section 9503 of Title 26] may be cited as the 'Surface Transportation Extension Act of 2021'."

SHORT TITLE OF 2015 AMENDMENT

Pub. L. 114–94, §1(a), Dec. 4, 2015, 129 Stat. 1312, provided that: "This Act [see Tables for classification] may be cited as the 'Fixing America's Surface Transportation Act' or the 'FAST Act'."

Pub. L. 114–94, div. A, title VI, §6001, Dec. 4, 2015, 129 Stat. 1561, provided that: "This title [enacting section 519 of this title and sections 6314 and 6501 to 6503 of Title 49, Transportation, amending sections 502, 503, 512, 514, 515, 517, and 518 of this title, sections 5313, 5315, and 5316 of Title 5, Government Organization and Employees, and sections 102, 330, 5115, 5118, 5505, 6302, and 6307 of Title 49, repealing section 508 of this title and sections 112 and 5503 of Title 49, enacting provisions set out as notes under sections 150, 501, and 503 of this title and sections 301 and 6501 of Title 49, and amending provisions set out as notes under sections 502 and 512 of this title] may be cited as the 'Transportation for Tomorrow Act of 2015'."

Pub. L. 114–87, §1(a), Nov. 20, 2015, 129 Stat. 677, provided that: "This Act [amending section 403 of this title, section 777c of Title 16, Conservation, sections 9503, 9504, and 9508 of Title 26, Internal Revenue Code, and sections 5128, 5311, 5336, 5338, 5339, 31104, and 31144 of Title 49, Transportation, and amending provisions set out as notes under sections 104, 202, and 402 of this title and sections 31100 and 31301 of Title 49] may be cited as the 'Surface Transportation Extension Act of 2015, Part II'."

Pub. L. 114–73, §1(a), Oct. 29, 2015, 129 Stat. 568, provided that: "This Act [amending section 403 of this title, section 777c of Title 16, Conservation, sections 9503, 9504, and 9508 of Title 26, Internal Revenue Code, and sections 5128, 5311, 5336, 5338, 5339, 20157, 31104, and 31144 of Title 49, Transportation, enacting provisions set out as a note under section 20101 of Title 49, and amending provisions set out as notes under sections 104, 202, and 402 of this title and sections 31100 and 31301 of Title 49] may be cited as the 'Surface Transportation Extension Act of 2015'."

Pub. L. 114–41, §1(a), July 31, 2015, 129 Stat. 443, provided that: "This Act [see Tables for classification] may be cited as the 'Surface Transportation and Veterans Health Care Choice Improvement Act of 2015'."

Pub. L. 114–21, §1(a), May 29, 2015, 129 Stat. 218, provided that: "This Act [amending section 403 of this title, section 777c of Title 16, Conservation, sections 9503, 9504, and 9508 of Title 26, Internal Revenue Code, and sections 5128, 5311, 5336, 5338, 5339, 31104, and 31144 of Title 49, Transportation, and amending provisions set out as notes under sections 104, 202, and 402 of this title and sections 31100 and 31301 of Title 49] may be cited as the 'Highway and Transportation Funding Act of 2015'."

SHORT TITLE OF 2014 AMENDMENT

Pub. L. 113–159, §1(a), Aug. 8, 2014, 128 Stat. 1839, provided that: "This Act [amending section 403 of this title, section 777c of Title 16, Conservation, section 58c of Title 19, Customs Duties, sections 430, 436, 9503, 9504, and 9508 of Title 26, Internal Revenue Code, sections 1021, 1056, and 1083 of Title 29, Labor, and sections 5128, 5311, 5336, 5338, 5339, 31104, and 31144 of Title 49, Transportation, enacting provisions set out as notes under section 101 of this title, sections 430 and 436 of Title 26, and section 1021 of Title 29, amending provisions set out as notes under sections 104, 202, and 402 of this title and sections 31100 and 31301 of Title 49] may be cited as the 'Highway and Transportation Funding Act of 2014'."

SHORT TITLE OF 2012 AMENDMENT

Pub. L. 112–141, §1(a), July 6, 2012, 126 Stat. 405, provided that: "This Act [see Tables for classification] may be cited as the 'Moving Ahead for Progress in the 21st Century Act' or the 'MAP–21'."

Pub. L. 112–141, div. A, title II, §2001, July 6, 2012, 126 Stat. 607, provided that: "This title [amending sections 601 to 609 of this title] may be cited as the 'America Fast Forward Financing Innovation Act of 2012'."

Pub. L. 112–141, div. C, title I, §31001, July 6, 2012, 126 Stat. 732, provided that: "This title [see Tables for classification] may be cited as the 'Motor Vehicle and Highway Safety Improvement Act of 2012' or 'Mariah's Act'."

Pub. L. 112–141, div. E, §50001, July 6, 2012, 126 Stat. 864, provided that: "This division [see Tables for classification] may be cited as the 'Transportation Research and Innovative Technology Act of 2012'."

Pub. L. 112–141, div. G, §110001, July 6, 2012, 126 Stat. 980, provided that: "This division [see Tables for classification] may be cited as the 'Surface Transportation Extension Act of 2012, Part II'."

Pub. L. 112–140, §1(a), June 29, 2012, 126 Stat. 391, provided that: "This Act [amending section 327 of this title, sections 460l–11 and 777c of Title 16, Conservation, sections 4041, 4051, 4071, 4081, 4221, 4482, 4483, 6412, 9503, 9504, and 9508 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, section 327 of this title, section 460l–11 of Title 16, and section 9503 of Title 26, and amending provisions set out as notes under sections 5309, 5310, 5338, 14710, 31100, and 31301 of Title 49] may be cited as the 'Temporary Surface Transportation Extension Act of 2012'."

Pub. L. 112–102, §1(a), Mar. 30, 2012, 126 Stat. 271, provided that: "This Act [amending sections 460l–11 and 777c of Title 16, Conservation, sections 4041, 4051, 4071, 4081, 4221, 4481 to 4483, 6412, 9503, 9504, and 9508 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 section 460l–11 of Title 16 and section 9503 of Title 26, and amending provisions set out as notes under sections 5309, 5310, 5338, 14710, 31100, and 31301 of Title 49] may be cited as the 'Surface Transportation Extension Act of 2012'."

SHORT TITLE OF 2011 AMENDMENT

Pub. L. 112–30, §1(a), Sept. 16, 2011, 125 Stat. 342, provided that: "This Act [amending sections 405 and 410 of this title, sections 460l–11 and 777c of Title 16, Conservation, sections 4041, 4051, 4071, 4081, 4221, 4261, 4271, 4481 to 4483, 6412, 9502 to 9504, and 9508 of Title 26, Internal Revenue Code, and sections 106, 5305, 5307, 5309, 5311, 5337, 5338, 31104, 31144, 40117, 41742, 41743, 44302, 44303, 47104, 47107, 47115, 47141, 48101 to 48103, and 49108 of Title 49, Transportation, enacting provisions set out as notes under this section, section 460l–11 of Title 16, and sections 1, 4081, 9502, and 9503 of Title 26, and

amending provisions set out as notes under sections 402, 403, and 405 of this title and sections 5309, 5310, 5338, 14710, 31100, 31301, 41731, and 47109 of Title 49] may be cited as the 'Surface and Air Transportation Programs Extension Act of 2011'."

Pub. L. 112–30, title I, §101, Sept. 16, 2011, 125 Stat. 343, provided that: "This title [amending sections 405 and 410 of this title, sections 460l–11 and 777c of Title 16, Conservation, sections 4041, 4051, 4071, 4081, 4221, 4481 to 4483, 6412, 9503, 9504, and 9508 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 section 460l–11 of Title 16 and section 9503 of Title 26, and amending provisions set out as notes under sections 402, 403, and 405 of this title and sections 5309, 5310, 5338, 14710, 31100, and 31301 of Title 49] may be cited as the 'Surface Transportation Extension Act of 2011, Part II'."

Pub. L. 112–5, §1(a), Mar. 4, 2011, 125 Stat. 14, provided that: "This Act [amending 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, 31309, 31100, 31301, and 31100 of Title 49] may be cited as the 'Surface Transportation Extension Act of 2011'."

SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111–322, title II, §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, §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, §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 AMENDMENT

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

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

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

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

Pub. L. 109–35, §1, July 20, 2005, 119 Stat. 379, provided that: "This Act [amending sections 144, 157, 163, and 188 of this title, section 777c of Title 16, Conservation, sections 9503 and 9504 of Title 26, Internal Revenue Code, section 13106 of Title 46, Shipping, and sections 5307, 5309, 5338, 31104, and 31107 of Title

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

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

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

SHORT TITLE OF 2004 AMENDMENT

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

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

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

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

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

SHORT TITLE OF 2003 AMENDMENT

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

5337 of Title 49, and amending provisions set out as notes under this section, sections 322 and 402 of this title, section 901 of Title 2, and sections 5309, 5310, and 5338 of Title 49] may be cited as the 'Surface Transportation Extension Act of 2003'."

SHORT TITLE OF 1998 AMENDMENT

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

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

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

SHORT TITLE OF 1997 AMENDMENT

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

SHORT TITLE OF 1995 AMENDMENT

Pub. L. 104–59, §1(a), Nov. 28, 1995, 109 Stat. 568, 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

Pub. L. 100–17, §1(a), Apr. 2, 1987, 101 Stat. 132, 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 460l–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'."

Pub. L. 100–17, title I, §101, Apr. 2, 1987, 101 Stat. 134, 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 AMENDMENT

Pub. L. 97–424, §1, Jan. 6, 1983, 96 Stat. 2097, 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 460l–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'."

Pub. L. 97–424, title I, §101, Jan. 6, 1983, 96 Stat. 2097, 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'."

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

SHORT TITLE OF 1981 AMENDMENT

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

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–599, §1, Nov. 6, 1978, 92 Stat. 2689, 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 460l–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'."

Pub. L. 95–599, title I, §101, Nov. 6, 1978, 92 Stat. 2689, 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'."

Pub. L. 95–599, title V, §501, Nov. 6, 1978, 92 Stat. 2756, provided that: "This title [amending section 4601–11 of Title 16, Conservation, sections 39, 4041, 4061, 4071, 4081, 4481, 4482, 6156, 6412, 6421, 6427, 7210, 7603, 7604, and 7605 of Title 26, Internal Revenue Code, and enacting provisions set out as notes under sections 120 and 307 of this title and section 6427 of Title 26] may be cited as the 'Highway Revenue Act of 1978'."

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94–280, title I, §101, May 5, 1976, 90 Stat. 425, provided that: "This title [enacting section 156 of this title, amending this section and sections 103, 104, 106, 108, 117, 118, 121, 125, 127, 129, 131, 135, 138 to 140, 142, 147, 152, 153, 202, 203, 217, 219, 319, and 320 of this title, repealing sections 146 and 405 of this title, enacting provisions set out as notes under this section, sections 103, 104, 124, 134, 135, 215, 218, 319, and 320 of this title, and section 1605 of former Title 49, Transportation, and amending provisions set out as notes under this section, sections 120, 130, and 142 of this title, and section 1605 of former Title 49] may be cited as the 'Federal-Aid Highway Act of 1976'."

SHORT TITLE OF 1974 AMENDMENT

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

SHORT TITLE OF 1973 AMENDMENT

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

SHORT TITLE OF 1970 AMENDMENT

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

SHORT TITLE OF 1968 AMENDMENT

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

SHORT TITLE OF 1966 AMENDMENT

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

SHORT TITLE OF 1965 AMENDMENT

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

SHORT TITLE OF 1964 AMENDMENT

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

SHORT TITLE OF 1963 AMENDMENT

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

SHORT TITLE OF 1962 AMENDMENT

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

SHORT TITLE OF 1961 AMENDMENT

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

SHORT TITLE OF 1960 AMENDMENT

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

SHORT TITLE OF 1959 AMENDMENT

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

SEPARABILITY

Pub. L. 90–495, §36, Aug. 23, 1968, 82 Stat. 836, provided that: "If any provision of this Act (including the amendments made by this Act) [enacting sections 135, 139, 140, 141, and 501–511 of this title, amending this section, sections 103, 104, 108, 112, 113, 115, 116, 120, 125, 128, 129, 131, 135, 136, 138, 205, 319, and 402 of this title, section 636 of Title 15, Commerce and Trade, section 1653 of former Title 49, Transportation, and provisions set out as a note under this section, repealing section 133 of this title, and enacting provisions set out as notes under this section and sections 104, 108, 125, 134, 501, 502, and 510 of this title] or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of the provision to other persons or circumstances shall not be affected thereby."

TRANSFER OF FUNCTIONS

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

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.

RECONNECTING COMMUNITIES PILOT PROGRAM

Pub. L. 117–58, div. A, title I, §11509, Nov. 15, 2021, 135 Stat. 588, provided that:

"(a) DEFINITION OF ELIGIBLE FACILITY.—

"(1) IN GENERAL.—In this section, the term 'eligible facility' means a highway or other transportation facility that creates a barrier to community connectivity, including barriers to mobility, access, or economic development, due to high speeds, grade separations, or other design factors.

"(2) INCLUSIONS.—In this section, the term 'eligible facility' may include—

"(A) a limited access highway;

"(B) a viaduct; and

"(C) any other principal arterial facility.

"(b) ESTABLISHMENT.—The Secretary [of Transportation] shall establish a pilot program through which an eligible entity may apply for funding, in order to restore community connectivity—

"(1) to study the feasibility and impacts of removing, retrofitting, or mitigating an existing eligible facility;

"(2) to conduct planning activities necessary to design a project to remove, retrofit, or mitigate an existing eligible facility; and

"(3) to conduct construction activities necessary to carry out a project to remove, retrofit, or mitigate an existing eligible facility.

"(c) PLANNING GRANTS.—

"(1) ELIGIBLE ENTITIES.—The Secretary may award a grant (referred to in this section as a 'planning grant') to carry out planning activities described in paragraph (2) to—

"(A) a State;

"(B) a unit of local government;

"(C) a Tribal government;

"(D) a metropolitan planning organization; and

"(E) a nonprofit organization.

"(2) ELIGIBLE ACTIVITIES DESCRIBED.—The planning activities referred to in paragraph (1) are—

"(A) planning studies to evaluate the feasibility of removing, retrofitting, or mitigating an existing eligible facility to restore community connectivity, including evaluations of—

"(i) current traffic patterns on the eligible facility proposed for removal, retrofit, or mitigation and the surrounding street network;

"(ii) the capacity of existing transportation networks to maintain mobility needs;

"(iii) an analysis of alternative roadway designs or other uses for the right-of-way of the eligible facility, including an analysis of whether the available right-of-way would suffice to create an alternative roadway design;

"(iv) the effect of the removal, retrofit, or mitigation of the eligible facility on the mobility of freight and people;

"(v) the effect of the removal, retrofit, or mitigation of the eligible facility on the safety of the traveling public;

"(vi) the cost to remove, retrofit, or mitigate the eligible facility—

"(I) to restore community connectivity; and

"(II) to convert the eligible facility to a different roadway design or use, compared to any expected costs for necessary maintenance or reconstruction of the eligible facility;

"(vii) the anticipated economic impact of removing, retrofitting, or mitigating and converting the eligible facility and any economic development opportunities that would be created by removing, retrofitting, or mitigating and converting the eligible facility; and

"(viii) the environmental impacts of retaining or reconstructing the eligible facility and the anticipated effect of the proposed alternative use or roadway design;

"(B) public engagement activities to provide opportunities for public input into a plan to remove and convert an eligible facility; and

"(C) other transportation planning activities required in advance of a project to remove, retrofit, or mitigate an existing eligible facility to restore community connectivity, as determined by the Secretary.

"(3) TECHNICAL ASSISTANCE PROGRAM.—

"(A) IN GENERAL.—The Secretary may provide technical assistance described in subparagraph (B) to an eligible entity.

"(B) TECHNICAL ASSISTANCE DESCRIBED.—The technical assistance referred to in subparagraph (A) is technical assistance in building organizational or community capacity—

"(i) to engage in transportation planning; and

"(ii) to identify innovative solutions to infrastructure challenges, including reconnecting communities that—

"(I) are bifurcated by eligible facilities; or

"(II) lack safe, reliable, and affordable transportation choices.

"(C) PRIORITIES.—In selecting recipients of technical assistance under subparagraph (A), the Secretary shall give priority to an application from a community that is economically disadvantaged.

"(4) SELECTION.—The Secretary shall—

"(A) solicit applications for—

"(i) planning grants; and

"(ii) technical assistance under paragraph (3); and

"(B) evaluate applications for a planning grant on the basis of the demonstration by the applicant that—

"(i) the eligible facility is aged and is likely to need replacement or significant reconstruction within the 20-year period beginning on the date of the submission of the application;

"(ii) the eligible facility—

"(I) creates barriers to mobility, access, or economic development; or

"(II) is not justified by current and forecast future travel demand; and

"(iii) on the basis of preliminary investigations into the feasibility of removing, retrofitting, or mitigating the eligible facility to restore community connectivity, further investigation is necessary and likely to be productive.

"(5) AWARD AMOUNTS.—A planning grant may not exceed $2,000,000 per recipient.

"(6) FEDERAL SHARE.—The total Federal share of the cost of a planning activity for which a planning grant is used shall not exceed 80 percent.

"(d) CAPITAL CONSTRUCTION GRANTS.—

"(1) ELIGIBLE ENTITIES.—The Secretary may award a grant (referred to in this section as a 'capital construction grant') to the owner of an eligible facility to carry out an eligible project described in paragraph (3) for which all necessary feasibility studies and other planning activities have been completed.

"(2) PARTNERSHIPS.—An owner of an eligible facility may, for the purposes of submitting an application for a capital construction grant, if applicable, partner with—

"(A) a State;

"(B) a unit of local government;

"(C) a Tribal government;

"(D) a metropolitan planning organization; or

"(E) a nonprofit organization.

"(3) ELIGIBLE PROJECTS.—A project eligible to be carried out with a capital construction grant includes—

"(A) the removal, retrofit, or mitigation of an eligible facility; and

"(B) the replacement of an eligible facility with a new facility that—

"(i) restores community connectivity; and

"(ii) is—

"(I) sensitive to the context of the surrounding community; and

"(II) otherwise eligible for funding under title 23, United States Code.

"(4) SELECTION.—The Secretary shall—

"(A) solicit applications for capital construction grants; and

"(B) evaluate applications on the basis of—

"(i) the degree to which the project will improve mobility and access through the removal of barriers;

"(ii) the appropriateness of removing, retrofitting, or mitigating the eligible facility, based on current traffic patterns and the ability of the replacement facility and the regional transportation network to absorb transportation demand and provide safe mobility and access;

"(iii) the impact of the project on freight movement;

"(iv) the results of a cost-benefit analysis of the project;

"(v) the opportunities for inclusive economic development;

"(vi) the degree to which the eligible facility is out of context with the current or planned land use;

"(vii) the results of any feasibility study completed for the project; and

"(viii) the plan of the applicant for—

"(I) employing residents in the area impacted by the project through targeted hiring programs, in partnership with registered apprenticeship programs, if applicable; and

"(II) contracting and subcontracting with disadvantaged business enterprises.

"(5) MINIMUM AWARD AMOUNTS.—A capital construction grant shall be in an amount not less than $5,000,000 per recipient.

"(6) FEDERAL SHARE.—

"(A) IN GENERAL.—Subject to subparagraph (B), a capital construction grant may not exceed 50 percent of the total cost of the project for which the grant is awarded.

"(B) MAXIMUM FEDERAL INVOLVEMENT.—Federal assistance other than a capital construction grant may be used to satisfy the non-Federal share of the cost of a project for which the grant is awarded, except that the total Federal assistance provided for a project for which the grant is awarded may not exceed 80 percent of the total cost of the project.

"(7) COMMUNITY ADVISORY BOARD.—

"(A) IN GENERAL.—To help achieve inclusive economic development benefits with respect to the project for which a grant is awarded, a grant recipient may form a community advisory board, which shall—

"(i) facilitate community engagement with respect to the project; and

"(ii) track progress with respect to commitments of the grant recipient to inclusive employment, contracting, and economic development under the project.

"(B) MEMBERSHIP.—If a grant recipient forms a community advisory board under subparagraph (A), the community advisory board shall be composed of representatives of—

"(i) the community;

"(ii) owners of businesses that serve the community;

"(iii) labor organizations that represent workers that serve the community; and

"(iv) State and local government.

"(e) REPORTS.—

"(1) USDOT REPORT ON PROGRAM.—Not later than January 1, 2026, 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 report that evaluates the program under this section, including—

"(A) information about the level of applicant interest in planning grants, technical assistance under subsection (c)(3), and capital construction grants, including the extent to which overall demand exceeded available funds; and

"(B) for recipients of capital construction grants, the outcomes and impacts of the highway removal project, including—

"(i) any changes in the overall level of mobility, congestion, access, and safety in the project area; and

"(ii) environmental impacts and economic development opportunities in the project area.

"(2) GAO REPORT ON HIGHWAY REMOVALS.—Not later than 2 years after the date of enactment of this Act [Nov. 15, 2021], the Comptroller General of the United States shall issue a report that—

"(A) identifies examples of projects to remove highways using Federal highway funds;

"(B) evaluates the effect of highway removal projects on the surrounding area, including impacts to the local economy, congestion effects, safety outcomes, and impacts on the movement of freight and people;

"(C) evaluates the existing Federal-aid program eligibility under title 23, United States Code, for highway removal projects;

"(D) analyzes the costs and benefits of and barriers to removing underutilized highways that are nearing the end of their useful life compared to replacing or reconstructing the highway; and

"(E) provides recommendations for integrating those assessments into transportation planning and decision-making processes.

"(f) TECHNICAL ASSISTANCE.—Of the funds made available to carry out this section for planning grants, the Secretary may use not more than $15,000,000 during the period of fiscal years 2022 through 2026 to provide technical assistance under subsection (c)(3).

"(g) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, a project assisted under this section shall be treated as a project on a Federal-aid highway under chapter 1 of title 23, United States Code."

CYBERSECURITY TOOL; CYBER COORDINATOR

Pub. L. 117–58, div. A, title I, §11510, Nov. 15, 2021, 135 Stat. 592, provided that:

"(a) DEFINITIONS.—In this section:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Highway Administration.

"(2) CYBER INCIDENT.—The term 'cyber incident' has the meaning given the term 'incident' in section 3552 of title 44, United States Code.

"(3) TRANSPORTATION AUTHORITY.—The term 'transportation authority' means—

"(A) a public authority (as defined in section 101(a) of title 23, United States Code);

"(B) an owner or operator of a highway (as defined in section 101(a) of title 23, United States Code);

"(C) a manufacturer that manufactures a product related to transportation; and

"(D) a division office of the Federal Highway Administration.

"(b) CYBERSECURITY TOOL.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [Nov. 15, 2021], the Administrator shall develop a tool to assist transportation authorities in identifying, detecting, protecting against, responding to, and recovering from cyber incidents.

"(2) REQUIREMENTS.—In developing the tool under paragraph (1), the Administrator shall—

"(A) use the cybersecurity framework established by the National Institute of Standards and Technology and required by Executive Order 13636 of February 12, 2013 (78 Fed. Reg. 11739; relating to improving critical infrastructure cybersecurity) [6 U.S.C. 121 note];

"(B) establish a structured cybersecurity assessment and development program;

"(C) coordinate with the Transportation Security Administration and the Cybersecurity and Infrastructure Security Agency;

"(D) consult with appropriate transportation authorities, operating agencies, industry stakeholders, and cybersecurity experts; and

"(E) provide for a period of public comment and review on the tool.

"(c) DESIGNATION OF CYBER COORDINATOR.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Administrator shall designate an office as a 'cyber coordinator', which shall be responsible for monitoring, alerting, and advising transportation authorities of cyber incidents.

"(2) REQUIREMENTS.—The office designated under paragraph (1) shall, in coordination with the Transportation Security Administration and the Cybersecurity and Infrastructure Security Agency—

"(A) provide to transportation authorities a secure method of notifying the Federal Highway Administration of cyber incidents;

"(B) share the information collected under subparagraph (A) with the Transportation Security Administration and the Cybersecurity and Infrastructure Security Agency;

"(C) monitor cyber incidents that affect transportation authorities;

"(D) alert transportation authorities to cyber incidents that affect those transportation authorities;

"(E) investigate unaddressed cyber incidents that affect transportation authorities; and

"(F) provide to transportation authorities educational resources, outreach, and awareness on fundamental principles and best practices in cybersecurity for transportation systems."

FEDERAL EMPLOYEE COMPENSATION FOLLOWING HIGHWAY TRUST FUND EXPIRATION

Pub. L. 117–44, title I, §108, Oct. 2, 2021, 135 Stat. 386, as amended by Pub. L. 117–52, §3, Oct. 31, 2021, 135 Stat. 409, provided that:

"(a) IN GENERAL.—Each employee of the United States Government furloughed as a result of a covered lapse in Highway Trust Fund expenditure authority shall be paid for the period of the covered lapse, and each excepted employee who is required to perform work during a covered lapse shall be paid for such work, at the employee's standard rate of pay, at the earliest date possible after the covered lapse ends, regardless of scheduled pay dates, and subject to availability of funds.

"(b) COVERED LAPSE.—In this section, the term 'covered lapse in Highway Trust Fund expenditure authority' means any lapse in authority to make expenditures from the Highway Trust Fund that begins on—

"(1) October 1, 2021, and ends on or before the date of enactment of this Act [Oct. 2, 2021]; or

"(2) November 1, 2021, and ends on or before the date of enactment of the Further Surface Transportation Extension Act of 2021 [Oct. 31, 2021]."

EXTENSION OF FEDERAL SURFACE TRANSPORTATION PROGRAMS

Pub. L. 119–103, div. C, §3002, title I, §3101, Sept. 2, 2026, 140 Stat. 1003, 1004, provided that:

"SEC. 3002. DEFINITIONS.

"In this division [see Short Title of 2026 Amendment note set out above]:

"(1) COVERED LAW.—The term 'covered law' means any of the following:

"(A) Division A, division B, and division C of the Infrastructure Investment and Jobs Act (Public Law 117–58; 135 Stat. 429) [see Tables for classification].

"(B) Titles I, II, III, IV, V, VI, VII, VIII, XI, and XXIV of the FAST Act (Public Law 114–94; 129 Stat. 1312) [see Tables for classification].

"(C) Division A, division B, subtitle A of title I and title II of division C, and division E of MAP–21 (Public Law 112–141; 126 Stat. 405) [see Tables for classification].

"(D) Titles I, II, and III of the SAFETEA–LU Technical Corrections Act of 2008 (Public Law 110–244; 122 Stat. 1572) [see Tables for classification].

"(E) Titles I, II, III, IV, V, and VI of SAFETEA–LU (Public Law 109–59; 119 Stat. 1144) [see Tables for classification].

"(F) Titles I, II, III, IV, and V of the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 107) [see Tables for classification].

"(G) Titles II, III, and IV of the National Highway System Designation Act of 1995 (Public Law 104–59; 109 Stat. 568) [see Tables for classification].

"(H) Titles I, II, III, IV, V, and VI of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1914) [see Tables for classification].

"(I) Title 23, United States Code.

"(J) Sections 116, 117, 330, 5128, 5505, and 24905 and chapters 53, 67, 139, 303, 311, 313, 701, and 702 of title 49, United States Code.

"(2) EXTENSION END DATE.—The term 'extension end date' means December 11, 2026.

"(3) EXTENSION FRACTION.—The term 'extension fraction' means the quotient, expressed as a fraction, obtained by dividing—

"(A) the number of days in the extension period; by

"(B) 365.

"(4) EXTENSION PERIOD.—The term 'extension period' means the period that begins on October 1, 2026, and ends on the extension end date.

"(5) HIGHWAY ACCOUNT.—The term 'Highway Account' means the portion of the Highway Trust Fund that is not the Mass Transit Account.

"(6) MASS TRANSIT ACCOUNT.—The term 'Mass Transit Account' means the portion of the Highway Trust Fund established under section 9503(e)(1) of the Internal Revenue Code of 1986.

"SEC. 3101. EXTENSION OF FEDERAL SURFACE TRANSPORTATION PROGRAMS.

"(a) IN GENERAL.—Except as otherwise provided in this division, the requirements, authorities, conditions, eligibilities, limitations, and other provisions authorized under the covered laws, which would otherwise expire on or cease to apply after September 30, 2026, are incorporated by reference and shall continue in effect through the extension end date.

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) HIGHWAY TRUST FUND.—

"(A) HIGHWAY ACCOUNT.—There is authorized to be appropriated from the Highway Account for fiscal year 2027, for each program with respect to which amounts are authorized to be appropriated from such account for fiscal year 2026, an amount equal to the extension fraction of the amount authorized for appropriation with respect to the program from such account under the covered laws for fiscal year 2026.

"(B) MASS TRANSIT ACCOUNT.—There is authorized to be appropriated from the Mass Transit Account for fiscal year 2027, for each program with respect to which amounts are authorized to be appropriated from such account for fiscal year 2026, an amount equal to the extension fraction of the amount authorized for appropriation with respect to the program from such account under the covered laws for fiscal year 2026.

"(2) GENERAL FUND.—There is authorized to be appropriated for fiscal year 2027, for each program under the covered laws with respect to which amounts are authorized to be appropriated for fiscal year 2026 from an account other than the Highway Account or the Mass Transit Account, an amount that is not less than the extension fraction of the amount authorized for appropriation with respect to the program under the covered laws for fiscal year 2026.

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—Amounts authorized to be appropriated for fiscal year 2027 with respect to a program under subsection (b) shall be distributed, administered, limited, and made available for obligation in the same manner as amounts authorized to be appropriated with respect to the program for fiscal year 2026 under the covered laws.

"(2) APPORTIONMENT NOTICE TO STATES.—Section 104(e)(2) of title 23, United States Code, shall not apply for fiscal year 2027.

"(d) OBLIGATION LIMITATION.—A program for which amounts are authorized to be appropriated under subsection (b)(1) shall be subject to a limitation on obligations for fiscal year 2027 in an amount equal to the extension fraction of the limitation on obligations for the program for fiscal year 2026 and in the same manner as the limitation applicable with respect to the program for fiscal year 2026."

Pub. L. 117–44, §2, title I, §101, Oct. 2, 2021, 135 Stat. 382, 383, as amended by Pub. L. 117–52, §2, Oct. 31, 2021, 135 Stat. 409, provided that:

"SEC. 2. DEFINITIONS.

"In this Act [see Short Title of 2021 Amendment note set out above]:

"(1) COVERED LAW.—The term 'covered law' means any of the following:

"(A) Titles I, II, III, IV, V, VI, VII, VIII, XI, and XXIV of the FAST Act (Public Law 114–94; 129 Stat. 1312) [see Tables for classification].

"(B) Division A, division B, subtitle A of title I and title II of division C, and division E of MAP–21 (Public Law 112–141; 126 Stat. 405) [see Tables for classification].

"(C) Titles I, II, and III of the SAFETEA–LU Technical Corrections Act of 2008 (Public Law 110–244; 122 Stat. 1572) [see Tables for classification].

"(D) Titles I, II, III, IV, V, and VI of SAFETEA–LU (Public Law 109–59; 119 Stat. 1144) [see Tables for classification].

"(E) Titles I, II, III, IV, and V of the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 107) [see Tables for classification].

"(F) Titles II, III, and IV of the National Highway System Designation Act of 1995 (Public Law 104–59; 109 Stat. 568) [see Tables for classification].

"(G) Titles I, II, III, IV, V, and VI of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1914) [see Tables for classification].

"(H) Title 23, United States Code.

"(I) Sections 116, 117, 330, 5128, 5505, and 24905 and chapters 53, 139, 303, 311, 313, 701, and 702 of title 49, United States Code.

"(J) Division B of the Continuing Appropriations Act, 2021 and Other Extensions Act (Public Law 116–159; 134 Stat. 725) [see Tables for classification].

"(2) EXTENSION END DATE.—The term 'extension end date' means December 3, 2021.

"(3) EXTENSION FRACTION.—The term 'extension fraction' means the quotient, expressed as a fraction, obtained by dividing—

"(A) the number of days in the extension period; by

"(B) 365.

"(4) EXTENSION PERIOD.—The term 'extension period' means the period that begins on October 1, 2021, and ends on the extension end date.

"(5) HIGHWAY ACCOUNT.—The term 'Highway Account' means the portion of the Highway Trust Fund that is not the Mass Transit Account.

"(6) MASS TRANSIT ACCOUNT.—The term 'Mass Transit Account' means the portion of the Highway Trust Fund established under section 9503(e)(1) of the Internal Revenue Code of 1986.

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

"(8) STATE.—The term 'State' means the 50 States and the District of Columbia.

"SEC. 101. EXTENSION OF FEDERAL SURFACE TRANSPORTATION PROGRAMS.

"(a) IN GENERAL.—Except as otherwise provided in this Act, the requirements, authorities, conditions, eligibilities, limitations, and other provisions authorized under the covered laws, which would otherwise expire on or cease to apply after September 30, 2021, are incorporated by reference and shall continue in effect through the extension end date.

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) HIGHWAY TRUST FUND.—

"(A) HIGHWAY ACCOUNT.—There is authorized to be appropriated from the Highway Account for fiscal year 2022, for each program with respect to which amounts are authorized to be appropriated from such account for fiscal year 2021, an amount equal to the extension fraction of the

amount authorized for appropriation with respect to the program from such account under the covered laws for fiscal year 2021.

"(B) MASS TRANSIT ACCOUNT.—There is authorized to be appropriated from the Mass Transit Account for fiscal year 2022, for each program with respect to which amounts are authorized to be appropriated from such account for fiscal year 2021, an amount equal to the extension fraction of the amount authorized for appropriation with respect to the program from such account under the covered laws for fiscal year 2021.

"(2) GENERAL FUND.—There is authorized to be appropriated for fiscal year 2022, for each program under the covered laws with respect to which amounts are authorized to be appropriated for fiscal year 2021 from an account other than the Highway Account or the Mass Transit Account, an amount that is not less than the extension fraction of the amount authorized for appropriation with respect to the program under the covered laws for fiscal year 2021.

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—Except as described in paragraph (2), amounts authorized to be appropriated for fiscal year 2022 with respect to a program under subsection (b) shall be distributed, administered, limited, and made available for obligation in the same manner as amounts authorized to be appropriated with respect to the program for fiscal year 2021 under the covered laws.

"(2) APPORTIONMENT TO STATES.—

"(A) IN GENERAL.—Notwithstanding subsections (c)(2) or (e)(1) of section 104 of title 23, United States Code, the Secretary—

"(i) shall not apportion on October 1, 2021, amounts authorized to be appropriated for fiscal year 2022 under subsection (b)(1)(A) with a respect to a program described in subparagraph (B); and

"(ii) shall not apportion such amounts before October 15, 2021.

"(B) PROGRAMS DESCRIBED.—A program referred to in subparagraph (A)(i) is a program—

"(i) for which amounts are authorized to be appropriated under subsection (b)(1)(A); and

"(ii) under which amounts described in clause (i) will be apportioned to States as described in section 104 of title 23, United States Code.

"(C) NOTICE TO STATES.—Section 104(e)(2) of title 23, United States Code, shall not apply for fiscal year 2022.

"(d) OBLIGATION LIMITATION.—

"(1) IN GENERAL.—Subject to paragraph (2), a program for which amounts are authorized to be appropriated under subsection (b)(1) shall be subject to a limitation on obligations for fiscal year 2022 in an amount equal to the extension fraction of the limitation on obligations for the program for fiscal year 2021 and in the same manner as the limitation applicable with respect to the program for fiscal year 2021.

"(2) FEDERAL-AID HIGHWAYS.—

"(A) IN GENERAL.—In distributing a limitation on obligations for Federal-aid highways for qualifying programs, the Secretary—

"(i) shall reserve, for qualifying programs, an amount of the limitation on obligations for Federal-aid highways equal to the amount calculated for the extension period for qualifying programs in effect on the date of enactment of this Act [Oct. 2, 2021]; and

"(ii) if H.R. 3684 (117th Congress) is enacted, may distribute the amount determined under clause (i) among qualifying programs (including any qualifying programs established pursuant to such H.R. 3684) in a manner determined to be appropriate by the Secretary.

"(B) CALCULATION.—Notwithstanding the enactment of H.R. 3684 (117th Congress), the Secretary shall calculate the amount under subparagraph (A)(i) in the manner described in section 120(a)(4) of division L of the Consolidated Appropriations Act, 2021 (Public Law 116–260) [23 U.S.C. 104 note].

"(C) DEFINITION OF QUALIFYING PROGRAM.—In this paragraph, the term 'qualifying program' means a program for Federal-aid highways that is—

"(i) allocated by the Secretary under—

"(I) title 23, United States Code;

"(II) subsection (c)(1); or

"(III) H.R. 3684 (117th Congress), if enacted; or

"(ii) apportioned by the Secretary under section 202 or 204 of title 23, United States Code."

Pub. L. 116–159, div. B, title I, §1101, Oct. 1, 2020, 134 Stat. 725, provided that:

"(a) IN GENERAL.—Except as otherwise provided in this division [amending sections 117 and 403 of this title, sections 9502 to 9504 and 9508 of Title 26, Internal Revenue Code, sections 14703 and 14704 of Title 40, Public Buildings, Property, and Works, former section 822 of Title 45, Railroads, and section 24321 of

Title 49, Transportation], the requirements, authorities, conditions, eligibilities, limitations, and other provisions authorized under the covered laws, which would otherwise expire on or cease to apply after September 30, 2020, are incorporated by reference and shall continue in effect through September 30, 2021.

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) HIGHWAY TRUST FUND.—

"(A) HIGHWAY ACCOUNT.—There is authorized to be appropriated from the Highway Account for fiscal year 2021, for each program with respect to which amounts are authorized to be appropriated from such account for fiscal year 2020, an amount equal to the amount authorized for appropriation with respect to the program from such account under the covered laws for fiscal year 2020.

"(B) MASS TRANSIT ACCOUNT.—There is authorized to be appropriated from the Mass Transit Account for fiscal year 2021, for each program with respect to which amounts are authorized to be appropriated from such account for fiscal year 2020, an amount equal to the amount authorized for appropriation with respect to the program from such account under the covered laws for fiscal year 2020.

"(2) GENERAL FUND.—There is authorized to be appropriated for fiscal year 2021, for each program under the covered laws with respect to which amounts are authorized to be appropriated for fiscal year 2020 from an account other than the Highway Account or the Mass Transit Account, an amount that is not less than the amount authorized for appropriation with respect to the program under the covered laws for fiscal year 2020.

"(c) USE OF FUNDS.—Amounts authorized to be appropriated for fiscal year 2021 with respect to a program under subsection (b) shall be distributed, administered, limited, and made available for obligation in the same manner as amounts authorized to be appropriated with respect to the program for fiscal year 2020 under the covered laws.

"(d) OBLIGATION LIMITATION.—A program for which amounts are authorized to be appropriated under subsection (b)(1) shall be subject to a limitation on obligations for fiscal year 2021 in the same amount and in the same manner as the limitation applicable with respect to the program for fiscal year 2020.

"(e) DEFINITIONS.—In this section:

"(1) COVERED LAWS.—The term 'covered laws' means the following:

"(A) Titles I, II, III, IV, V, VI, VII, VIII, XI, and XXIV of the FAST Act (Public Law 114–94) [see Tables for classification].

"(B) Division A, division B, subtitle A of title I and title II of division C, and division E of MAP–21 (Public Law 112–141) [see Tables for classification].

"(C) Titles I, II, and III of the SAFETEA–LU Technical Corrections Act of 2008 (Public Law 110–244) [see Tables for classification].

"(D) Titles I, II, III, IV, V, and VI of SAFETEA–LU (Public Law 109–59) [see Tables for classification].

"(E) Titles I, II, III, IV, and V of the Transportation Equity Act for the 21st Century (Public Law 105–178) [see Tables for classification].

"(F) Titles II, III, and IV of the National Highway System Designation Act of 1995 (Public Law 104–59) [see Tables for classification].

"(G) Titles I, II, III, IV, V, and VI of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240) [see Tables for classification].

"(H) Title 23, United States Code.

"(I) Sections 116, 117, 330, 5128, 5505, and 24905 and chapters 53, 139, 303, 311, 313, 701, and 702 of title 49, United States Code.

"(2) HIGHWAY ACCOUNT.—The term 'Highway Account' means the portion of the Highway Trust Fund that is not the Mass Transit Account.

"(3) MASS TRANSIT ACCOUNT.—The term 'Mass Transit Account' means the portion of the Highway Trust Fund established under section 9503(e)(1) of the Internal Revenue Code of 1986 [26 U.S.C. 9503(e)(1)]."

FLEXIBILITY FOR PROJECTS

Pub. L. 114–94, div. A, title I, §1420, Dec. 4, 2015, 129 Stat. 1423, as amended by Pub. L. 117–58, div. A, title I, §11306, Nov. 15, 2021, 135 Stat. 532, provided that:

"(a) AUTHORITY.—With respect to projects eligible for funding under title 23, United States Code, subject to subsection (b), on request by a State, and if in the public interest (as determined by the Secretary [of Transportation]), the Secretary shall exercise all existing flexibilities under—

"(1) the requirements of title 23, United States Code; and

"(2) other requirements administered by the Secretary, in whole or in part.

"(b) MAINTAINING PROTECTIONS.—Nothing in this section—

"(1) waives the requirements of section 113 or 138 of title 23, United States Code;

"(2) supersedes, amends, or modifies—

"(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other Federal environmental law (including regulations); or

"(B) any requirement of title 23 or title 49, United States Code; or

"(3) affects the responsibility of any Federal officer to comply with or enforce any law or requirement described in this subsection."

PRODUCTIVE AND TIMELY EXPENDITURE OF FUNDS

Pub. L. 114–94, div. A, title I, §1421, Dec. 4, 2015, 129 Stat. 1424, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Dec. 4, 2015], the Secretary [of Transportation] shall develop guidance that encourages the use of programmatic approaches to project delivery, expedited and prudent procurement techniques, and other best practices to facilitate productive, effective, and timely expenditure of funds for projects eligible for funding under title 23, United States Code.

"(b) IMPLEMENTATION.—The Secretary shall work with States to ensure that any guidance developed under subsection (a) is consistently implemented by States and the Federal Highway Administration to—

"(1) avoid unnecessary delays in completing projects;

"(2) minimize cost overruns; and

"(3) ensure the effective use of Federal funding."

USE OF DURABLE, RESILIENT, AND SUSTAINABLE MATERIALS AND PRACTICES

Pub. L. 114–94, div. A, title I, §1428, Dec. 4, 2015, 129 Stat. 1426, provided that: "To the extent practicable, the Secretary [of Transportation] shall encourage the use of durable, resilient, and sustainable materials and practices, including the use of geosynthetic materials and other innovative technologies, in carrying out the activities of the Federal Highway Administration."

EVERY DAY COUNTS INITIATIVE

Pub. L. 114–94, div. A, title I, §1444, Dec. 4, 2015, 129 Stat. 1436, provided that:

"(a) IN GENERAL.—It is in the national interest for the Department [of Transportation], State departments of transportation, and all other recipients of Federal transportation funds—

"(1) to identify, accelerate, and deploy innovation aimed at shortening project delivery, enhancing the safety of the roadways of the United States, and protecting the environment;

"(2) to ensure that the planning, design, engineering, construction, and financing of transportation projects is done in an efficient and effective manner;

"(3) to promote the rapid deployment of proven solutions that provide greater accountability for public investments and encourage greater private sector involvement; and

"(4) to create a culture of innovation within the highway community.

"(b) EVERY DAY COUNTS INITIATIVE.—To advance the policy described in subsection (a), the Administrator of the Federal Highway Administration shall continue the Every Day Counts initiative to work with States, local transportation agencies, and industry stakeholders to identify and deploy proven innovative practices and products that—

"(1) accelerate innovation deployment;

"(2) shorten the project delivery process;

"(3) improve environmental sustainability;

"(4) enhance roadway safety; and

"(5) reduce congestion.

"(c) INNOVATION DEPLOYMENT.—

"(1) IN GENERAL.—At least every 2 years, the Administrator shall work collaboratively with stakeholders to identify a new collection of innovations, best practices, and data to be deployed to highway stakeholders through case studies, webinars, and demonstration projects.

"(2) REQUIREMENTS.—In identifying a collection described in paragraph (1), the Secretary shall take into account market readiness, impacts, benefits, and ease of adoption of the innovation or practice.

"(d) PUBLICATION.—Each collection identified under subsection (c) shall be published by the Administrator on a publicly available Web site."

FINDINGS

Pub. L. 113–159, §2, Aug. 8, 2014, 128 Stat. 1839, provided that: "Congress finds that—

"(1) the existing Highway Trust Fund system is unsustainable and unable to meet our Nation's 21st century transportation needs;

"(2) MAP–21 [Pub. L. 112–141, see Tables for classification] included important reforms that must be built upon in the next reauthorization bill to increase the efficient and effective utilization of Federal funding;

"(3) these reforms should include the elimination of duplicative Federal regulations and increase the authority and responsibility of the States to safely and efficiently build, operate, and fund transportation systems that best serve the needs of their citizens, including the ability of each State to implement innovative solutions, while also maintaining the appropriate Federal role in transportation; and

"(4) Congress should enact and the President should sign a surface transportation reauthorization and reform bill prior to the expiration of this Act [probably means expiration of program extensions provided by Pub. L. 113–159]."

DECLARATION OF POLICY AND PROJECT DELIVERY INITIATIVE

Pub. L. 112–141, div. A, title I, §1301(a), (b), July 6, 2012, 126 Stat. 527, provided that:

"(a) IN GENERAL.—It is the policy of the United States that—

"(1) it is in the national interest for the Department [of Transportation], State departments of transportation, transit agencies, and all other recipients of Federal transportation funds—

"(A) to accelerate project delivery and reduce costs; and

"(B) to ensure that the planning, design, engineering, construction, and financing of transportation projects is done in an efficient and effective manner, promoting accountability for public investments and encouraging greater private sector involvement in project financing and delivery while enhancing safety and protecting the environment;

"(2) delay in the delivery of transportation projects increases project costs, harms the economy of the United States, and impedes the travel of the people of the United States and the shipment of goods for the conduct of commerce; and

"(3) the Secretary [of Transportation] shall identify and promote the deployment of innovation aimed at reducing the time and money required to deliver transportation projects while enhancing safety and protecting the environment.

"(b) PROJECT DELIVERY INITIATIVE.—

"(1) IN GENERAL.—To advance the policy described in subsection (a), the Secretary [of Transportation] shall carry out a project delivery initiative under this section [amending this section and enacting this note].

"(2) PURPOSES.—The purposes of the project delivery initiative shall be—

"(A) to develop and advance the use of best practices to accelerate project delivery and reduce costs across all modes of transportation and expedite the deployment of technology and innovation;

"(B) to implement provisions of law designed to accelerate project delivery; and

"(C) to select eligible projects for applying experimental features to test innovative project delivery techniques.

"(3) ADVANCING THE USE OF BEST PRACTICES.—

"(A) IN GENERAL.—In carrying out the initiative under this section, the Secretary shall identify and advance best practices to reduce delivery time and project costs, from planning through construction, for transportation projects and programs of projects regardless of mode and project size.

"(B) ADMINISTRATION.—To advance the use of best practices, the Secretary shall—

"(i) engage interested parties, affected communities, resource agencies, and other stakeholders to gather information regarding opportunities for accelerating project delivery and reducing costs;

"(ii) establish a clearinghouse for the collection, documentation, and advancement of existing and new innovative approaches and best practices;

"(iii) disseminate information through a variety of means to transportation stakeholders on new innovative approaches and best practices; and

"(iv) provide technical assistance to assist transportation stakeholders in the use of flexibility authority to resolve project delays and accelerate project delivery if feasible.

"(4) IMPLEMENTATION OF ACCELERATED PROJECT DELIVERY.—The Secretary shall ensure that the provisions of this subtitle [subtitle C (§§1301–1323) of title I of div. A of Pub. L. 112–141, see Tables for classification] designed to accelerate project delivery are fully implemented, including—

"(A) expanding eligibility of early acquisition of property prior to completion of environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(B) allowing the use of the construction manager or general contractor method of contracting in the Federal-aid highway system; and

"(C) establishing a demonstration program to streamline the relocation process by permitting a lump-sum payment for acquisition and relocation if elected by the displaced occupant."

INNOVATIVE PROJECT DELIVERY METHODS POLICY

Pub. L. 112–141, div. A, title I, §1304(a), July 6, 2012, 126 Stat. 532, provided that:

"(1) IN GENERAL.—Congress declares that it is in the national interest to promote the use of innovative technologies and practices that increase the efficiency of construction of, improve the safety of, and extend the service life of highways and bridges.

"(2) INCLUSIONS.—The innovative technologies and practices described in paragraph (1) include state-of-the-art intelligent transportation system technologies, elevated performance standards, and new highway construction business practices that improve highway safety and quality, accelerate project delivery, and reduce congestion related to highway construction."

REPORT ON HIGHWAY TRUST FUND EXPENDITURES

Pub. L. 114–94, div. A, title I, §1433, Dec. 4, 2015, 129 Stat. 1430, which required periodic reports describing the administrative expenses of the Federal Highway Administration funded from the Highway Trust Fund, was repealed by Pub. L. 117–58, div. A, title I, §11125(a), Nov. 15, 2021, 135 Stat. 506.

Pub. L. 112–141, div. A, title I, §1535, July 6, 2012, 126 Stat. 584, provided that:

"(a) INITIAL REPORT.—Not later than 150 days after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes above], the Comptroller General of the United States shall submit to Congress a report describing the activities funded from the Highway Trust Fund during each of fiscal years 2009 through 2011, including for purposes other than construction and maintenance of highways and bridges.

"(b) UPDATES.—Not later than 5 years after the date on which the report is submitted under subsection (a) and every 5 years thereafter, the Comptroller General of the United States shall submit to Congress a report that updates the information provided in the report under that subsection for the applicable 5-year period.

"(c) INCLUSIONS.—A report submitted under subsection (a) or (b) shall include information similar to the information included in the report of the Government Accountability Office numbered 'GAO–09–729R' and entitled 'Highway Trust Fund Expenditures on Purposes Other Than Construction and Maintenance of Highways and Bridges During Fiscal Years 2004–2008'."

PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE

Pub. L. 109–59, title I, §1301, Aug. 10, 2005, 119 Stat. 1198, as amended by Pub. L. 110–244, title I, §103(a), June 6, 2008, 122 Stat. 1578; Pub. L. 112–141, div. A, title I, §1120, July 6, 2012, 126 Stat. 492, which provided for the establishment of a program to provide grants to eligible applicants for surface transportation programs of national and regional significance, set out criteria for selection for such grants and grant requirements, and authorized appropriations for the implementation of the program, was repealed by Pub. L. 114–94, div. A, title I, §1105(c), Dec. 4, 2015, 129 Stat. 1337.

NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROGRAM

Pub. L. 109–59, title I, §1302, Aug. 10, 2005, 119 Stat. 1204, as amended by Pub. L. 110–244, title I, §§101(d), 103(b), June 6, 2008, 122 Stat. 1573, 1578, which related to the National Corridor Infrastructure Improvement Program, was repealed by Pub. L. 112–141, div. A, title I, §1519(b)(2), July 6, 2012, 126 Stat. 575.

DELTA REGION TRANSPORTATION DEVELOPMENT PROGRAM

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

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

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

"(2) provide for transportation project development;

"(3) facilitate transportation decisionmaking; and

"(4) support transportation construction.

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

"(c) ELIGIBLE ACTIVITIES.—The Secretary [of Transportation] shall make allocations under the

program for multistate highway planning, development, and construction projects.

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

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

"(1) whether the project is located—

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

"(B) on a Federal-aid highway;

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

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

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

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

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

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

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

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

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

"(h) FUNDING.—

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

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

MOTORCYCLIST ADVISORY COUNCIL

Pub. L. 114–94, div. A, title I, §1426, Dec. 4, 2015, 129 Stat. 1426, which related to the establishment of a Motorcyclist Advisory Council, was repealed by Pub. L. 117–58, div. B, title IV, §24111(c)(1), Nov. 15, 2021, 135 Stat. 815. See section 355 of Title 49, Transportation.

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

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

"(1) barrier design;

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

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

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

"(1) at least—

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

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

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

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

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

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

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

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

NATIONAL CORRIDOR PLANNING AND DEVELOPMENT PROGRAM

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(i) use of innovative financing;

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

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

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

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

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

"(1) Feasibility studies.

"(2) Comprehensive corridor planning and design activities.

"(3) Location and routing studies.

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

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

"(A) environmental review; and

"(B) construction.

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

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

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

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

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

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

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

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

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

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

BORDER INFRASTRUCTURE

Pub. L. 114–94, div. A, title I, §1437, Dec. 4, 2015, 129 Stat. 1432, provided that:

"(a) IN GENERAL.—After consultation with relevant transportation planning organizations, the Governor of a State that shares a land border with Canada or Mexico may designate for each fiscal year not more than 5 percent of the funds made available to the State under section 133(d)(1)(B) of title 23, United States Code, for border infrastructure projects eligible under section 1303 of SAFETEA–LU (23 U.S.C. 101 note; 119 Stat. 1207).

"(b) USE OF FUNDS.—Funds designated under this section shall be available under the requirements of section 1303 of SAFETEA–LU (23 U.S.C. 101 note; 119 Stat. 1207).

"(c) CERTIFICATION.—Before making a designation under subsection (a), the Governor shall certify that the designation is consistent with transportation planning requirements under title 23, United States Code.

"(d) NOTIFICATION.—Not later than 30 days after making a designation under subsection (a), the Governor shall submit to the relevant transportation planning organizations within the border region a written notification of any suballocated or distributed amount of funds available for obligation by jurisdiction.

"(e) LIMITATION.—This section applies only to funds apportioned to a State after the date of enactment of this Act [Dec. 4, 2015].

"(f) DEADLINE FOR DESIGNATION.—A designation under subsection (a) shall—

"(1) be submitted to the Secretary [of Transportation] not later than 30 days before the first day of the fiscal year for which the designation is being made; and

"(2) remain in effect for the funds designated under subsection (a) for a fiscal year until the Governor of the State notifies the Secretary of the termination of the designation.

"(g) UNOBLIGATED FUNDS AFTER TERMINATION.—Effective beginning on the date of a termination under subsection (f)(2), all remaining unobligated funds that were designated under subsection (a) for the fiscal year for which the designation is being terminated shall be made available to the State for the purposes described in section 133(d)(1)(B) of title 23, United States Code."

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

"(a) GENERAL AUTHORITY.—The Secretary [of Transportation] shall implement a coordinated border 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, §1119, June 9, 1998, 112 Stat. 163, provided that:

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

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

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

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

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

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

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

"(6) activities of Federal inspection agencies.

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

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

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

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

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

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

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

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

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

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

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

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

section and section 1118 [set out above] to the Administrator of General Services for the construction of transportation infrastructure necessary for law enforcement in border States.

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

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

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

HIGHWAY ECONOMIC REQUIREMENT SYSTEM

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

"(1) METHODOLOGY.—

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

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

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

"(2) STATE INVESTMENT PLANS.—

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

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

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

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

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

SOUTHWEST BORDER TRANSPORTATION INFRASTRUCTURE

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

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

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

"(A) the Secretary of State;

"(B) the Attorney General;

"(C) the Secretary of the Treasury;

"(D) the Commandant of the Coast Guard;

"(E) the Administrator of General Services;

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

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

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

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

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

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

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

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

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

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

legislative and administrative recommendations."

TRANSPORTATION, COMMUNITY, AND SYSTEM PRESERVATION PROGRAM

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

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

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

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

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

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

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

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

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

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

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

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

"(A) Transit-oriented development plans.

"(B) Traffic calming measures.

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

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

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

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

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

"(C) promote innovative private sector strategies;

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

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

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

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

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

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

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

TRANSPORTATION ASSISTANCE FOR OLYMPIC CITIES

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

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

"(b) PRIORITY FOR TRANSPORTATION PROJECTS RELATING TO OLYMPIC, PARALYMPIC, AND SPECIAL OLYMPIC EVENTS.—Notwithstanding any other provision of law, from funds available to carry out [former] sections 118(c) and 144(g)(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 [former] sections 118(c) and 144(g)(1) of such title.

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

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

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

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

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

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

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

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

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

DISCRETIONARY GRANT SELECTION CRITERIA AND PROCESS

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

842, provided that:

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

"(b) SELECTION PROCESS.—

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

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

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

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

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

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

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

"(5) The national scenic byways program.

"(6) The Interstate discretionary program.

"(7) The discretionary bridge program."

COMPLIANCE WITH BUY AMERICAN ACT

Pub. L. 104–59, title III, §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. 117–58, div. A, title I, §11101(e), Nov. 15, 2021, 135 Stat. 448, provided that:

"(1) FINDINGS.—Congress finds that—

"(A) while significant progress has occurred due to the establishment of the disadvantaged business enterprise program, discrimination and related barriers continue to pose significant obstacles for minority- and women-owned businesses seeking to do business in Federally assisted surface transportation markets across the United States;

"(B) the continuing barriers described in subparagraph (A) merit the continuation of the disadvantaged business enterprise program;

"(C) Congress has received and reviewed testimony and documentation of race and gender discrimination from numerous sources, including congressional hearings and roundtables, scientific reports, reports issued by public and private agencies, news stories, reports of discrimination by organizations and individuals, and discrimination lawsuits, which show that race- and gender-neutral efforts alone are insufficient to address the problem;

"(D) the testimony and documentation described in subparagraph (C) demonstrate that discrimination across the United States poses a barrier to full and fair participation in surface transportation-related businesses of women business owners and minority business owners and has impacted firm development and many aspects of surface transportation-related business in the public and private markets; and

"(E) the testimony and documentation described in subparagraph (C) provide a strong basis that there is a compelling need for the continuation of the disadvantaged business enterprise program to address race and gender discrimination in surface transportation-related business.

"(2) DEFINITIONS.—In this subsection:

"(A) SMALL BUSINESS CONCERN.—

"(i) IN GENERAL.—The term 'small business concern' means a small business concern (as the term is used in section 3 of the Small Business Act (15 U.S.C. 632)).

"(ii) EXCLUSIONS.—The term 'small business concern' does not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals that have average annual gross receipts during the preceding 3 fiscal years in excess of $26,290,000, as adjusted annually by the Secretary [of Transportation] for inflation.

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

"(3) AMOUNTS FOR SMALL BUSINESS CONCERNS.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under this division [see Tables for classification] (other than section 14004 [amending section 202 of this title]), division C [amending section 601 of this title and sections 5302 to 5305, 5309, 5311, 5312, 5318, 5323, 5324, 5329, and 5334 to 5339 of Title 49, Transportation, enacting provisions set out as notes under sections 5312, 5329, and 5336 of Title 49, and amending provisions set out as notes under sections 5303 and 5309 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.

"(4) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually—

"(A) survey and compile a list of the small business concerns referred to in paragraph (3) in the State, including the location of the small business concerns in the State; and

"(B) notify the Secretary, in writing, of the percentage of the small business concerns that are controlled by—

"(i) women;

"(ii) socially and economically disadvantaged individuals (other than women); and

"(iii) individuals who are women and are otherwise socially and economically disadvantaged individuals.

"(5) UNIFORM CERTIFICATION.—

"(A) IN GENERAL.—The Secretary shall establish minimum uniform criteria for use by State governments in certifying whether a concern qualifies as a small business concern for the purpose of this subsection.

"(B) INCLUSIONS.—The minimum uniform criteria established under subparagraph (A) shall include, with respect to a potential small business concern—

"(i) on-site visits;

"(ii) personal interviews with personnel;

"(iii) issuance or inspection of licenses;

"(iv) analyses of stock ownership;

"(v) listings of equipment;

"(vi) analyses of bonding capacity;

"(vii) listings of work completed;

"(viii) examination of the resumes of principal owners;

"(ix) analyses of financial capacity; and

"(x) analyses of the type of work preferred.

"(6) REPORTING.—The Secretary shall establish minimum requirements for use by State governments in reporting to the Secretary—

"(A) information concerning disadvantaged business enterprise awards, commitments, and achievements; and

"(B) such other information as the Secretary determines to be appropriate for the proper monitoring of the disadvantaged business enterprise program.

"(7) COMPLIANCE WITH COURT ORDERS.—Nothing in this subsection limits the eligibility of an individual or entity to receive funds made available under this division, division C, and section 403 of title 23, United States Code, if the entity or person is prevented, in whole or in part, from complying with paragraph (3) because a Federal court issues a final order in which the court finds that a requirement or the implementation of paragraph (3) is unconstitutional.

"(8) SENSE OF CONGRESS ON PROMPT PAYMENT OF DBE SUBCONTRACTORS.—It is the sense of Congress that—

"(A) the Secretary should take additional steps to ensure that recipients comply with section 26.29 of title 49, Code of Federal Regulations (the disadvantaged business enterprises prompt payment rule), or any

corresponding regulation, in awarding Federally funded transportation contracts under laws and regulations administered by the Secretary; and

"(B) such additional steps should include increasing the ability of the Department [of Transportation] to track and keep records of complaints and to make that information publicly available."

Similar provisions were contained in the following prior acts:

Pub. L. 114–94, div. A, title I, §1101(b), Dec. 4, 2015, 129 Stat. 1323.

Pub. L. 112–141, div. A, title I, §1101(b), July 6, 2012, 126 Stat. 414.

Pub. L. 111–147, title IV, §451, Mar. 18, 2010, 124 Stat. 96.

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

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

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

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

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

Similar provisions were contained in the following prior acts:

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

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

HIGHWAY USE TAX EVASION PROJECTS

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

SCENIC BYWAYS PROGRAM

Pub. L. 102–240, title I, §1047, Dec. 18, 1991, 105 Stat. 1996, as amended by Pub. L. 105–130, §5(c)(2), Dec. 1, 1997, 111 Stat. 2557, provided that:

"(a) SCENIC BYWAYS ADVISORY COMMITTEE.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(f) INTERIM SCENIC BYWAYS PROGRAM.—

"(1) GRANT PROGRAM.—During fiscal years 1992, 1993, and 1994, the Secretary may make grants

to any State which has a scenic highway program for carrying out eligible projects on highways which the State has designated as scenic byways.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Pub. L. 102–240, title VI, §6012, Dec. 18, 1991, 105 Stat. 2180, provided that:

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

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

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

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

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

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

deemed to refer, on and after such date, to The Dwight D. Eisenhower System of Interstate and Defense Highways."

SIGNS IDENTIFYING FUNDING SOURCES

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

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

Pub. L. 97–424, title I, §128, Jan. 6, 1983, 96 Stat. 2118, 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

Pub. L. 97–424, title I, §135, Jan. 6, 1983, 96 Stat. 2125, 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

Pub. L. 97–424, title I, §139, Jan. 6, 1983, 96 Stat. 2127, as amended by Pub. L. 100–457, title III, §348, Sept. 30, 1988, 102 Stat. 2156, provided that:

"(a) Notwithstanding the provisions of section 4(b) of the Federal-Aid Highway Act of 1981 [section 4(b) of Pub. L. 97–134, which amended section 108(b) of the Federal-Aid Highway Act of 1956, set out as a note under this section] the Secretary of Transportation may approve a change in location of any Interstate route or segment and approve, in lieu thereof, the construction of such Interstate route or segment on a new location if the original location of such route or segment meets the following criteria: (1) it has been designated under [former] 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 Amendment 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 [former] 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 [former] 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 [former] 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 [Pub. L. 95–599, formerly set out as notes 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 [former] section 118(b)(2)(B) of title 23, United States Code."

BUY AMERICA

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

USE OF ARTICLES MINED OR MANUFACTURED IN UNITED STATES

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

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

Pub. L. 94–280, title I, §102(b), May 5, 1976, 90 Stat. 425, 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

Pub. L. 94–280, title I, §102(c), May 5, 1976, 90 Stat. 426, 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

Pub. L. 94–280, title I, §150, May 5, 1976, 90 Stat. 447, 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

Pub. L. 94–280, title I, §153, May 5, 1976, 90 Stat. 448, 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.

Pub. L. 94–280, title I, §154, May 5, 1976, 90 Stat. 448, as amended by Pub. L. 95–599, title I, §137(a), (b)(1), Nov. 6, 1978, 92 Stat. 2710, established National Transportation Policy Study Commission; directed Commission, not later than July 1, 1979, to make an investigation and study and report to the President and Congress on the transportation needs and the resources, requirements, and policies of the United States to meet such expected needs; and provided for the Commission to terminate six months after the report.

CONSENT OF GOVERNING BODY FOR EXPENDITURE OF FUNDS

Pub. L. 93–643, §102(d), Jan. 4, 1975, 88 Stat. 2282, 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

Pub. L. 93–643, §120(b), Jan. 4, 1975, 88 Stat. 2289, relating to grants for demonstration projects designed to encourage the use of carpools in urban areas, was repealed by Pub. L. 95–599, title I, §126(b), Nov. 6, 1978, 92 Stat. 2706. See section 146 of this title.

EMERGENCY HIGHWAY ENERGY CONSERVATION

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

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

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

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

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

FUTURE HIGHWAY NEEDS: REPORTS TO CONGRESS

Pub. L. 91–605, title I, §121, Dec. 31, 1970, 84 Stat. 1725, provided that:

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

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

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

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

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

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

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

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

REPORT AND RECOMMENDATIONS OF SECRETARY OF COMMERCE

Pub. L. 85–767, §5, Aug. 27, 1958, 72 Stat. 921, 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

Act June 29, 1956, ch. 462, title I, §108(b), 70 Stat. 378, as amended by Pub. L. 85–381, §7(a), Apr. 16, 1958, 72 Stat. 93; Pub. L. 86–342, title I, §102, Sept. 21, 1959, 73 Stat. 611; Pub. L. 87–61, title I §103, June 29, 1961, 75 Stat. 122; Pub. L. 89–139, §1, Aug. 28, 1965, 79 Stat. 578; Pub. L. 89–574, §2, Sept. 13, 1966, 80 Stat. 766; Pub. L. 90–495, §2, Aug. 23, 1968, 82 Stat. 815; Pub. L. 91–605 title I, §§102, 106(b)(1), Dec. 31, 1970, 84 Stat. 1714, 1716; Pub. L. 93–87, title I, §102, Aug. 13, 1973, 87 Stat. 250; Pub. L. 94–280, title I, §102(a), May 5, 1976, 90 Stat. 425; Pub. L. 95–599, title I, §102, Nov. 6, 1978, 92 Stat. 2689; Pub. L. 97–134, §4(a), (b), Dec. 29, 1981, 95 Stat. 1700; Pub. L. 97–327, §2, Oct. 15, 1982, 96 Stat. 1611; Pub. L. 97–424, title I, §§102, 127(a), Jan. 6, 1983, 96 Stat. 2097, 2117; Pub. L. 100–17, title I, §§104, 138, Apr. 2, 1987, 101 Stat. 142, 175; Pub. L. 102–240, title I, §1001(f), Dec. 18, 1991, 105 Stat. 1916; Pub. L. 103–331, title III, §335(c), Sept. 30, 1994, 108 Stat. 2494, provided that: "For the purpose of expediting the construction, reconstruction, or improvement, inclusive of necessary bridges and tunnels, of the Interstate System, including extensions thereof through urban areas, designated in accordance with the provisions of [former] subsection (e) of section 103 of title 23, United States Code, there is hereby authorized to be appropriated the additional sum of $1,000,000,000 for the fiscal year ending June 30, 1957, which sum shall be in addition to the authorization heretofore made for that year, the additional sum of $1,700,000,000 for the fiscal year ending June 30, 1958, the additional sum of $2,200,000,000 for the fiscal year ending June 30, 1959, the additional sum of $2,500,000,000 for the fiscal year ending June 30, 1960, the additional sum of $1,800,000,000 for the fiscal year ending June 30, 1961, the additional sum of $2,200,000,000 for the fiscal year ending June 30, 1962, the additional sum of $2,400,000,000 for the fiscal year ending June 30, 1963, the additional sum of $2,600,000,000 for the fiscal year ending June 30, 1964, the additional sum of $2,700,000,000 for the fiscal year ending June 30, 1965, the additional sum of $2,800,000,000 for the fiscal year ending June 30, 1966, the additional sum of $3,000,000,000 for the fiscal year ending June 30, 1967, the additional sum of $3,400,000,000 for the fiscal year ending June 30, 1968, the additional sum of $3,800,000,000 for the fiscal year ending June 30, 1969, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1970, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1971, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1972, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1973, the additional sum of $2,600,000,000 for the fiscal year ending June 30, 1974, the additional sum of $3,000,000,000 for the fiscal year ending June 30, 1975, the additional sum of $3,000,000,000 for the fiscal year ending June 30, 1976, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1977, the additional sum of $3,250,000,000 for the fiscal year ending September 30, 1978, the additional sum of $3,250,000,000 for the fiscal year ending September 30, 1979, the additional sum of $3,250,000,000 for the fiscal year ending September 30, 1980, the additional sum of $3,500,000,000 for the fiscal year ending September 30, 1981, the additional sum of $3,500,000,000 for the fiscal year ending September 30, 1982, the additional sum of $3,100,000,000 for the fiscal year ending September 30, 1983, the

additional sum of $4,000,000,000 for the fiscal year ending September 30, 1984, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1985, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1986, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1987, the additional sum of $3,000,000,000 for the fiscal year ending September 30, 1988, the additional sum of $3,150,000,000 for the fiscal year ending September 30, 1989, the additional sum of $3,150,000,000 for the fiscal year ending September 30, 1990, the additional sum of $3,150,000,000 for the fiscal year ending September 30, 1991, the additional sum of $3,150,000,000 for the fiscal year ending September 30, 1992, the additional sum of $1,800,000,000 for the fiscal year ending September 30, 1993, the additional sum of $1,800,000,000 for the fiscal year ending September 30, 1994, the additional sum of $1,800,000,000 for the fiscal year ending September 30, 1995, and the additional sum of $1,800,000,000, reduced by the amount made available under section 1045(b)(1)(B) of the Intermodal Surface Transportation Efficiency Act of 1991 [Pub. L. 102–240, as amended by Pub. L. 103–331, title III, §335(a), Sept. 30, 1994, 108 Stat. 2494, which is not classified to the Code], for the fiscal year ending September 30, 1996. Nothing in this subsection shall be construed to authorize the appropriation of any sums to carry out sections 131, 136, or 319(b) of title 23, United States Code, or any provision of law relating to highway safety enacted after May 1, 1966. Beginning with funds authorized to be appropriated for fiscal year 1980, no such funds shall be available for projects to expand or clear zones immediately adjacent to the paved roadway of routes designed prior to February, 1967. Effective on and after the date of enactment of this sentence [Dec. 29, 1981], the obligation of funds authorized by this subsection, except for advance construction interstate projects approved before the date of enactment of this sentence, shall be limited to the construction necessary to provide a minimum level of acceptable service on the Interstate System which shall consist of (1) full access control; (2) a pavement design to accommodate the types and volumes of traffic anticipated for the twenty-year period from date of authorization of the initial basic construction contract; (3) essential environmental requirements; (4) a design of not more than six lanes (exclusive of high occupancy vehicle lanes) in rural areas and all urbanized areas under four hundred thousand population, and up to eight lanes (exclusive of high occupancy vehicle lanes) in urbanized areas of four hundred thousand population or more as shown in the 1980 Federal census; and (5) those high occupancy vehicle lanes (including approaches and all directly related facilities) included in the interstate cost estimate for fiscal year 1981. The obligation of funds authorized by this subsection shall be further limited to the actual costs of only those design concepts, locations, geometrics, and other construction features included in the 1981 interstate cost estimate, except in any case where the Secretary of Transportation determines that a provision of Federal law requires a different design, location, geometric, or other construction feature of a type authorized by this subsection. Notwithstanding any other provision of law, including any other provision of this subsection, where a project is to be constructed (1) to provide parking garage ramps in conjunction with high occupancy vehicle lanes which flow into a distributor system emptying directly into ramps for off-street parking with preferential parking for carpools, vanpools, and buses and the ramps are part of an environmental mitigation effort and are designed to feed into an aerial walkway system, or (2) to provide a parking lot near the terminus of an Interstate System spur route which radiates from an Interstate System beltway which will be used as an intermodal transfer facility for a light rail transit project to be constructed in the median of the spur route and the parking lot is part of an environmental mitigation effort, or (3) to provide a parking garage and associated facilities as part of an intermodal transfer facility with a transit system near or within an Interstate System route right-of-way which will have direct and indirect access to the facility by way of local streets and the parking garage and associated facilities are part of an environmental mitigation effort, or (4) to provide for the comprehensive upgrading of existing high occupancy vehicle lanes, new ramps and parking facilities at mass transit intermodal transfer points on an existing Interstate System route which has temporary high occupancy vehicle lanes in the median and the parking facilities and ramps are part of an environmental mitigation effort, the costs of such parking garage ramps, parking lots, parking garages, associated interchange ramps, high occupancy vehicle lanes, and other associated work eligible under title 23, United States Code, shall be eligible for funds authorized by this subsection as if the costs for these projects were included in the 1981 interstate cost estimate and shall be included as eligible projects in any future interstate cost estimate. For purposes of this subsection, construction necessary to provide a minimum level of acceptable service on the Interstate System shall include, but not be limited to, any construction on the Interstate System which is required under a court order issued before the date of enactment of this sentence. Notwithstanding the fifth sentence of this subsection, the costs of a project which will upgrade an interstate route and will complete a gap on the Interstate System providing access to an international airport and which was described as the preferred alternative in a final environmental impact statement submitted to the Secretary of Transportation on September 30, 1983, shall be eligible for funds authorized by this subsection as if such costs were included in the 1981 interstate cost estimate and shall be included as eligible costs in any future interstate cost estimate, except that (1) such costs may be further

developed in the design and environmental process under normal Federal-aid interstate procedures, and (2) the amount of such costs shall not include the portion of the project between High Street and Causeway Street."

Pub. L. 97–424, title I, §127(b), Jan. 6, 1983, 96 Stat. 2118, provided that: "Notwithstanding the provisions of section 108(b) of the Federal-Aid Highway Act of 1956, as amended [set out above], the Secretary of Transportation may approve the expenditure of funds authorized under such section for the construction of a previously approved project which provides for improvements to and reconstruction of ramps and service roads which are being developed as part of a roadway system to relieve a severely congested segment on an Interstate route. Such expenditures shall be limited (1) to work necessary to provide more effective and safe operation of such Interstate route, and (2) to a section of an Interstate route which proceeded to construction contract prior to the date of enactment of such Act and which Interstate route, together with service roads, was constructed without the expenditure of any funds authorized by such section."

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

Pub. L. 117–58, div. A, §10002, Nov. 15, 2021, 135 Stat. 443, provided that: "In this division [see Tables for classification]:

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

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

Pub. L. 114–94, div. A, §1001, Dec. 4, 2015, 129 Stat. 1321, provided that: "In this division [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. 112–141, §2, July 6, 2012, 126 Stat. 413, 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. 112–141, div. C, title I, §31002, July 6, 2012, 126 Stat. 732, provided that: "In this title [see Tables for classification], the term 'Secretary' means the Secretary of Transportation."

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

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

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

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

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

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

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

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

Pub. L. 104–59, §2, Nov. 28, 1995, 109 Stat. 569, provided that: "In this Act [See Short Title of 1995 Amendment note above], the term 'Secretary' means the Secretary of Transportation."

Pub. L. 100–17, §2, Apr. 2, 1987, 101 Stat. 134, provided that: "As used in this Act [see Short Title of 1987 Amendment note above], the term 'Secretary' means the Secretary of Transportation."

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 14052

Ex. Ord. No. 14052, Nov. 15, 2021, 86 F.R. 64335, as amended by Ex. Ord. No. 14082, §4(c), Sept. 12, 2022, 87 F.R. 56863, which related to implementation of the Infrastructure Investment and Jobs Act (Pub. L. 117–58, see Tables for classification), was revoked by Ex. Ord. No. 14148, §2(pp), Jan. 20, 2025, 90 F.R. 8239.

§102. Program efficiencies

(a) ACCESS OF MOTORCYCLES.—No State or political subdivision of a State may enact or enforce a law that applies only to motorcycles and the principal purpose of which is to restrict the access of motorcycles to any highway or portion of a highway for which Federal-aid highway funds have been utilized for planning, design, construction, or maintenance.

(b) SAVINGS PROVISION.—Nothing in this section shall affect the authority of a State or political subdivision of a State to regulate motorcycles for safety.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 887; Pub. L. 102–240, title I, §1016(a), Dec. 18, 1991, 105 Stat. 1945; Pub. L. 105–178, title I, §§1206, 1209, 1212(a)(2)(A)(i), 1304, June 9, 1998, 112 Stat. 185, 186, 193, 227; Pub. L. 109–59, title I, §1121(b)(1), Aug. 10, 2005, 119 Stat. 1195; Pub. L. 112–141, div. A, title I, §1502, July 6, 2012, 126 Stat. 561; Pub. L. 117–58, div. A, title I, §11310(a), Nov. 15, 2021, 135 Stat. 536.)

EDITORIAL NOTES

AMENDMENTS

2021—Pub. L. 117–58 designated second sentence of subsec. (a) as subsec. (b), inserted heading, and struck out former subsec. (b). Prior to amendment, text of subsec. (b) read as follows: "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 reimbursed for the preliminary engineering. The Secretary shall deposit in such Fund all amounts paid to the Secretary under this section."

2012—Subsec. (b). Pub. L. 112–141 substituted "reimbursed for the preliminary engineering" for "made available for such engineering".

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

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

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

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

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

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

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

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

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

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment 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.

§103. National Highway System

(a) IN GENERAL.—For the purposes of this title, the Federal-aid system is the National Highway System, which includes the Interstate System.

(b) NATIONAL HIGHWAY SYSTEM.—

(1) DESCRIPTION.—The National Highway System consists of the highway routes and connections to transportation facilities that 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 and commerce.

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

(A) The National Highway System depicted on the map submitted by the Secretary of Transportation to Congress with the report entitled "Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals" and dated May 24, 1996, and modifications approved by the Secretary before the date of enactment of the MAP–21.

(B) Other urban and rural principal arterial routes, and border crossings on those routes, that were not included on the National Highway System before the date of enactment of the MAP–21.

(C) Other connector highways (including toll facilities) that were not included in the National Highway System before the date of enactment of the MAP–21 but that provide motor vehicle access between arterial routes on the National Highway System and a major intermodal transportation facility.

(D) A strategic highway network that—

(i) consists of a network of highways that are important to the United States strategic defense policy, that provide defense access, continuity, and emergency capabilities for the movement of personnel, materials, and equipment in both peacetime and wartime, and that were not included on the National Highway System before the date of enactment of the MAP–21;

(ii) may include highways on or off the Interstate System; and

(iii) shall be designated by the Secretary, in consultation with appropriate Federal agencies and the States.

(E) Major strategic highway network connectors that—

(i) consist of highways that provide motor vehicle access between major military

installations and highways that are part of the strategic highway network but were not included on the National Highway System before the date of enactment of the MAP–21; and

(ii) shall be designated by the Secretary, in consultation with appropriate Federal agencies and the States.

(3) MODIFICATIONS TO NHS.—

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

(i) meets the criteria established for the National Highway System under this title after the date of enactment of the MAP–21; and

(ii)(I) enhances the national transportation characteristics of the National Highway System; or

(II) in the case of the withdrawal of a road, is reasonable and appropriate.

(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.

(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.—Subject to clauses (ii) through (vi), 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.—A designation under clause (i) shall be made only upon the written agreement of each State described in that clause that the highway will be constructed to meet all standards of a highway on the Interstate System by not later than the date that is 25 years after the date of the agreement.

(iii) FAILURE TO COMPLETE CONSTRUCTION.—If a State described in clause (i) has not substantially completed the construction of a highway designated under this subparagraph by the date specified in clause (ii), the Secretary shall remove the designation of the highway as a future Interstate System route.

(iv) EFFECT OF REMOVAL.—Removal of the designation of a highway under clause (iii) 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.

(v) RETROACTIVE EFFECT.—An agreement described in clause (ii) that is entered into before August 10, 2005, shall be deemed to include the 25-year time limitation described in that clause, regardless of any earlier construction completion date in the agreement.

(vi) REFERENCES.—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, and no such highway shall be signed or marked, as a highway on the Interstate System, until such time as the highway—

(I) is constructed to the geometric and construction standards for the Interstate System; and

(II) 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)—

(i) the Secretary shall determine, through the administrative process established for exempting the Interstate System from section 306108 of title 54, 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); and

(ii) those elements shall be considered to be historic sites 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, preservation, 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 306108 of title 54.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 887; Pub. L. 86–70, §21(d)(1), June 25, 1959, 73 Stat. 145; Pub. L. 86–624, §17(b), (c), July 12, 1960, 74 Stat. 415; Pub. L. 87–866, §8(a), Oct. 23, 1962, 76 Stat. 1147; Pub. L. 90–238, Jan. 2, 1968, 81 Stat. 772; Pub. L. 90–495, §§14, 21, Aug. 23, 1968, 82 Stat. 822, 826; Pub. L. 91–605, title I, §§106(b), 124, Dec. 31, 1970, 84 Stat. 1716, 1729; Pub. L. 93–87, title I, §§109(a), 110(a), (b), 137, 148(a)–(c), (e), Aug. 13, 1973, 87 Stat. 255, 256, 268, 274; Pub. L. 93–643, §125, Jan. 4, 1975, 88 Stat. 2290; Pub. L. 94–280, title I, §§109, 110, 111(a), May 5, 1976, 90 Stat. 431, 433; Pub. L. 95–599, title I, §107(a), (b), (f)(1), Nov. 6, 1978, 92 Stat. 2694, 2695; Pub. L. 96–106, §§1, 2(a), (c), Nov. 9, 1979, 93 Stat. 796; Pub. L. 96–144, §2, Dec. 13, 1979, 93 Stat. 1084; Pub. L. 97–424, title I, §§107(a)–(c)(1), (d), (e), 108(f), Jan. 6, 1983, 96 Stat. 2101–2104; Pub. L. 100–17, title I, §103(b), (f)(1), Apr. 2, 1987, 101 Stat. 136, 141; Pub. L. 102–240, title I, §§1006(a), (b), (d), 1011, title III, §3003(b), Dec. 18, 1991, 105 Stat. 1923, 1925, 1935, 2088; Pub. L. 103–272, §5(f)(1), July 5, 1994, 108 Stat. 1374; Pub. L. 103–429, §§3(1), 7(a)(4)(B), Oct. 31, 1994, 108 Stat. 4377, 4389; Pub. L. 104–59, title I, §101, title III, §301(a), Nov. 28, 1995, 109 Stat. 569, 578; Pub. L. 104–287, §2, Oct. 11, 1996, 110 Stat. 3388; Pub. L. 105–178, title I, §1106(b), June 9, 1998, 112 Stat. 131; Pub. L. 109–59, title I, §§1106, 1118(b)(1), title VI, §§6006(a)(1), 6007, Aug. 10, 2005, 119 Stat. 1166, 1181, 1872, 1873; Pub. L. 112–141, div. A, title I, §1104(a), July 6, 2012, 126 Stat. 422; Pub. L. 113–287, §5(f)(1), Dec. 19, 2014, 128 Stat. 3268; Pub. L. 114–94, div. A, title I, §1122(e), Dec. 4, 2015, 129 Stat. 1369.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the MAP–21, referred to in subsec. (b)(2)(B)–(D)(i), (E)(i), (3)(A)(i), is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title.

CODIFICATION

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

AMENDMENTS

2015—Subsec. (b)(3)(A). Pub. L. 114–94, §1122(e)(1), in introductory provisions, struck out ", including any modification consisting of a connector to a major intermodal terminal," after "any modification" and inserted ", including any modification consisting of a connector to a major intermodal terminal or the withdrawal of a road from that system," after "the National Highway System".

Subsec. (b)(3)(A)(ii). Pub. L. 114–94, §1122(e)(2), designated existing provisions as subcl. (I) and added subcl. (II).

2014—Subsec. (c)(5)(B)(i). Pub. L. 113–287, §5(f)(1)(A), substituted "section 306108 of title 54" for "section 106 of the National Historic Preservation Act (16 U.S.C. 470f)".

Subsec. (c)(5)(C). Pub. L. 113–287, §5(f)(1)(B), substituted "section 306108 of title 54" for "section 106 of the National Historic Preservation Act (16 U.S.C. 470f)".

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to Federal-aid systems.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subsec. (e)(4)(L). Pub. L. 102–240, §3003(b), substituted "FTA" for "UMTA" in heading and "Federal Transit Act" for "Urban Mass Transportation Act of 1964" in cls. (i) and (ii).

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

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

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

Subsec. (e)(4). Pub. L. 100–17, §103(b), amended par. (4) generally, revising and restating as subpars. (A)

to (P) provisions formerly contained in a single paragraph.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subsec. (e)(5) to (7). Pub. L. 95–599, §107(f)(1)(B), (C), redesignated par. (5) as (7) and added pars. (5) and (6).

1976—Subsec. (e)(2). Pub. L. 94–280, §§109(a), 111(a), struck out from second sentence "prior to the enactment of this paragraph" after "with this title," and in fourth sentence, substituted provision respecting limitation of cost to United States for aggregate of mileage for route withdrawals which read as follows: "or if the cost of any such withdrawn route was not included in such 1972 Interstate System cost estimate, the cost of such withdrawn route as set forth in the last Interstate System cost estimate before such 1972 cost estimate which was approved by Congress and which included the cost of such withdrawn route, increased or decreased, as the case may be, as determined by the Secretary, based on changes in construction costs of such route or portion thereof, which, (i) in the case of a withdrawn route the cost of which was not included in the 1972 cost estimate but in an earlier cost estimate, have occurred between such earlier cost estimate and the date of enactment of the Federal-Aid Highway Act of 1976, and (ii) in the case of a withdrawn route the cost of which was included in the 1972 cost estimate, have occurred between the 1972 cost estimate and the date of enactment of the Federal-Aid Highway Act of 1976, or the date of withdrawal of approval, whichever date is later, and in each case costs shall be based on that design of such route or portion thereof which is the basis of the applicable cost estimate" for "increased or decreased, as the case may be, as determined by the Secretary, based on changes in construction costs of such route or portion thereof as of the date of withdrawal of approval under this paragraph and in accordance with that design of such route or portion thereof which is the basis of such 1972 cost estimate."

Subsec. (e)(4). Pub. L. 94–280, §110(a), in revising par. (4), substituting provisions set out in text for prior provisions set out in note hereunder, among other changes: authorized the Secretary to withdraw approval of route or portion thereof on Interstate System which passes through and connects urbanized areas within a State and to incur obligations for Federal share of projects authorized under any highway assistance program under section 103 of this title; provided for determination of Federal share of substitute projects as provided in section 120 of this title applicable to the highway program of which the substitute project is a part; made specific reference to section 4 of, for prior general reference to, Urban Mass Transportation Act of 1964, as source of Federal share for mass transit projects; authorized sums available for obligation to remain available until obligated; made sums obligated for mass transit projects part of, to be administered through, Urban Mass Transportation Fund; authorized appropriations out of general fund of the Treasury for liquidation of obligations incurred under this paragraph; made amended par. (4) effective Aug. 13, 1973; and deleted provisions making route withdrawn mileage available for designation on Interstate System in any other State, prohibition against obligation under this paragraph of general funds after June 30, 1981, and requirement that for nonhighway public mass transit project, the Secretary receive State assurance that public mass transportation system will fully utilize the proposed project.

Pub. L. 94–280, §110(b), inserted provision for application of sums to a permissible transportation project when paid to a State for a route or portion of the Interstate System in event of withdrawal of approval for the route or portion instead of making of refund to Highway Trust Fund.

Subsec. (e)(5). Pub. L. 94–280, §109(b), added par. (5).

1975—Subsec. (e)(2), (4). Pub. L. 93–643 inserted ", increased or decreased, as the case may be, as determined by the Secretary, based on changes in construction costs of such route or portion thereof as of the date of withdrawal of approval under this paragraph and in accordance with that design of such route or portion thereof which is the basis of such 1972 cost estimate" after "House Report Numbered 92–1443".

1973—Subsec. (b). Pub. L. 93–87, §148(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 93–87, §148(b), (e), designated existing provisions as par. (1), inserted "access roads to airports," after "local rural roads", and added par. (2).

Subsec. (d)(1). Pub. L. 93–87, §§109(a), 148(c), authorized establishment of Federal-aid urban system in such other urban areas as the State highway department may designate, substituted "shall include high traffic volume arterial and collector routes, including access roads to airports and other transportation terminals" for "designed taking into consideration the highest traffic volume corridors, and the longest trips within such area and shall be selected so as to best serve the goals and objectives of the community as determined by the responsible local officials of such urbanized area based upon the planning process required pursuant to the

provisions of section 134 of this title", reenacted third sentence without change, inserted "to the extent feasible" in the text reading "Each route of the system to the extent feasible shall connect with another route", substituted "Routes . . . shall be selected by the appropriate local officials so as to serve the goals and objectives of the community, with the concurrence of the State highway departments, and, in urbanized areas, also in accordance with the planning process under section 134 of this title" for "Routes . . . shall be selected by the appropriate local officials and the State highway departments in cooperation with each other subject to the approval of the Secretary as provided in subsection (f) of this section", and inserted preceding last sentence "Designation of the Federal-aid urban system shall be subject to the approval of the Secretary as provided in subsection (f) of this section", and designated provisions, as amended, as par. (1), respectively.

Subsec. (d)(2). Pub. L. 93–87, §148(c), added par. (2).

Subsec. (e)(2). Pub. L. 93–87, §137(a), substituted in first sentence "additional mileage for the Interstate System of five hundred miles" for "additional mileage for the Interstate System of two hundred miles"; in fourth sentence "1972 Interstate System cost estimate set forth in House Public Works Committee Print Numbered 92–29, as revised in House Report Numbered 92–1443" for "1968 Interstate System cost estimate set forth in House Document Numbered 199, Ninetieth Congress, as revised"; and in fifth sentence "preference, along with due regard for interstate highway type needs on a nationwide basis," for "due regard", respectively.

Subsec. (e)(4). Pub. L. 93–87, §137(b), added par. (4).

Subsec. (g). Pub. L. 93–87, §110(a), substituted first sentence reading "the Secretary, on July 1, 1974, shall remove from designation as a part of the Interstate System each segment of such system for which a State has not notified the Secretary that such State intends to construct such segment, and which the Secretary finds is not essential to completion of a unified and connected Interstate System." for "The Secretary, on July 1, 1973, shall remove from designation as a part of the Interstate System every segment of such System for which a State has not established a schedule for the expenditure of funds for completion of construction of such segment within the period of availability of funds authorized to be appropriated for completion of the Interstate System, and with respect to which the State has not provided the Secretary with assurances satisfactory to him that such schedule will be met."; deleted former second sentence reading "Nothing in the preceding sentence shall be construed to prohibit the substitution prior to July 1, 1973, of alternative segments of the Interstate System which will meet the requirements of this title."; substituted "Any segment of the Interstate System, with respect to which a State has not submitted by July 1, 1975, a schedule for the expenditure of funds for completion of construction of such segment or alternative segment within the period of availability of funds authorized to be appropriated for completion of the Interstate System, and with respect to which the State has not provided the Secretary with assurances satisfactory to him such schedule will be met," for "Any segment of the Interstate System with respect to which a State has not submitted plans, specifications, and estimates for approval by the Secretary by July 1, 1975," before "shall be removed from designation as a part of the Interstate System"; authorized the Secretary to designate as a part of the Interstate System any segment previously removed from the System when necessary in the interest of national defense or for other reasons of national interest; and made subsec. (g) inapplicable to any segment of the Interstate System referred to in section 23(a) of the Federal-Aid Highway Act of 1968.

Subsec. (h). Pub. L. 93–87, §110(b), added subsec. (h).

1970—Subsec. (a). Pub. L. 91–605, §106(b)(3), substituted "four" for "three" and added the urban system to the list of Federal-aid systems.

Subsecs. (b), (c). Pub. L. 91–605, §106(b)(1), substituted "subsection (f)" for "subsection (e)".

Subsecs. (d), (e). Pub. L. 91–605, §106(b)(1), added subsec. (d), redesignated former subsec. (d) as (e) and substituted "subsection (f)" for "subsection (e)". Former subsec. (e) redesignated (f).

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

Subsec. (g). Pub. L. 91–605, §124, added subsec. (g).

1968—Subsec. (d)(1). Pub. L. 90–495, §14(a), inserted provision making allowance for an exception in pars. (2) and (3) to the forty-one thousand mile total extent of the Interstate system.

Subsec. (d)(2). Pub. L. 90–495, §21, substituted "1968 Interstate System cost estimate set forth in House Document Numbered 199, Ninetieth Congress, as revised" for "1965 Interstate System cost estimate set forth in House Document Numbered 42, Eighty-ninth Congress".

Subsec. (d)(3). Pub. L. 90–495, §14(b), added par. (3).

Subsec. (d). Pub. L. 90–238 redesignated existing provision as par. (1) and added par. (2).

1962—Subsec. (c). Pub. L. 87–866 substituted "This system may be located both in rural and urban areas, but any extension of the system into urban areas shall be subject to the condition that such extension pass through the urban area or connect with another Federal-aid system within the urban area" for "This system

shall be confined to rural areas, except (1) that in any State having a population density of more than two hundred per square mile as shown by the latest available Federal census, the system may include mileage in urban areas as well as rural, and (2) that the system may be extended into urban areas subject to the conditions that any such extension passes through the urban area or connects with another Federal-aid system within the urban area, and that Federal participation in projects on such extensions is limited to urban funds".

1960—Subsec. (d). Pub. L. 86–624, §17(c), substituted "within the United States, including the District of Columbia, and" for "within the continental United States and", and inserted "to the greatest extent possible" in two places.

1959—Subsec. (f). Pub. L. 86–70 repealed subsec. (f) which related to determination of roads in the Territory of Alaska on which Federal-aid funds could be expended.

Subsec. (g). Pub. L. 86–624, §17(b), repealed subsec. (g) which provided that the systems of highways on which funds apportioned to the Territory of Hawaii under this chapter shall be expended may be determined and agreed upon by the Governor of said Territory and the Secretary.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–429, §7(a), Oct. 31, 1994, 108 Stat. 4388, 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

Pub. L. 95–599, title I, §107(c), Nov. 6, 1978, 92 Stat. 2694, provided that: "The amendment made by subsection (a) of this section [amending this section] shall apply to each route or portion thereof designated under [former] 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."

Pub. L. 95–599, title I, §107(f)(2), Nov. 6, 1978, 92 Stat. 2695, which provided that the amendments made by section 107(f)(1) of Pub. L. 95–599 to this section apply to any withdrawal of approval before Nov. 6, 1978, was repealed by Pub. L. 96–106, §2(b), Nov. 9, 1979, 93 Stat. 796.

EFFECTIVE DATE OF 1973 AMENDMENT

Pub. L. 93–87, title I, §110(c), Aug. 13, 1973, 87 Stat. 256, 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

Pub. L. 87–866, §8(b), Oct. 23, 1962, 76 Stat. 1147, 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

Pub. L. 86–70, §21(d), June 25, 1959, 73 Stat. 145, 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.

STATE FLEXIBILITY FOR NATIONAL HIGHWAY SYSTEM MODIFICATIONS

Pub. L. 114–94, div. A, title I, §1122(a)–(d), Dec. 4, 2015, 129 Stat. 1368, 1369, provided that:

"(a) NATIONAL HIGHWAY SYSTEM FLEXIBILITY.—Not later than 90 days after the date of enactment of this Act [Dec. 4, 2015], the Secretary [of Transportation] shall issue guidance relating to working with State departments of transportation that request assistance from the division offices of the Federal Highway Administration—

"(1) to review roads classified as principal arterials in the State that were added to the National Highway System as of October 1, 2012, so as to comply with section 103 of title 23, United States Code; and

"(2) to identify any necessary functional classification changes to rural and urban principal arterials.

"(b) ADMINISTRATIVE ACTIONS.—The Secretary shall direct the division offices of the Federal Highway Administration to work with the applicable State department of transportation that requests assistance under this section—

"(1) to assist in the review of roads in accordance with guidance issued under subsection (a);

"(2) to expeditiously review and facilitate requests from States to reclassify roads classified as principal arterials; and

"(3) in the case of a State that requests the withdrawal of reclassified roads from the National Highway System under section 103(b)(3) of title 23, United States Code, to carry out that withdrawal if the inclusion of the reclassified road in the National Highway System is not consistent with the needs and priorities of the community or region in which the reclassified road is located.

"(c) NATIONAL HIGHWAY SYSTEM MODIFICATION REGULATIONS.—The Secretary shall—

"(1) review the National Highway System modification process described in appendix D of part 470 of title 23, Code of Federal Regulations (or successor regulations); and

"(2) take any action necessary to ensure that a State may submit to the Secretary a request to modify the National Highway System by withdrawing a road from the National Highway System.

"(d) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, 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 report that includes a description of—

"(1) each request for reclassification of National Highway System roads;

"(2) the status of each request; and

"(3) if applicable, the justification for the denial by the Secretary of a request."

REAL-TIME SYSTEM MANAGEMENT INFORMATION PROGRAM

Pub. L. 109–59, title I, §1201, Aug. 10, 2005, 119 Stat. 1196, provided that:

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary [of Transportation] shall establish a real-time system management information program to provide, in all States, the capability to monitor, in real-time, the traffic and travel conditions of the major highways of the United States and to share that information to improve the security of the surface transportation system, to address congestion problems, to support improved response to weather events and surface transportation incidents, and to facilitate national and regional highway traveler information.

"(2) PURPOSES.—The purposes of the real-time system management information program are to—

"(A) establish, in all States, a system of basic real-time information for managing and operating the surface transportation system;

"(B) identify longer range real-time highway and transit monitoring needs and develop plans and strategies for meeting such needs; and

"(C) provide the capability and means to share that data with State and local governments and the traveling public.

"(b) DATA EXCHANGE FORMATS.—Not later than 2 years after the date of enactment of this Act [Aug. 10, 2005], the Secretary [of Transportation] shall establish data exchange formats to ensure that the data provided by highway and transit monitoring systems, including statewide incident reporting systems, can readily be exchanged across jurisdictional boundaries, facilitating nationwide availability of information.

"(c) REGIONAL INTELLIGENT TRANSPORTATION SYSTEM ARCHITECTURE.—

"(1) ADDRESSING INFORMATION NEEDS.—As State and local governments develop or update

regional intelligent transportation system architectures, described in section 940.9 of title 23, Code of Federal Regulations, such governments shall explicitly address real-time highway and transit information needs and the systems needed to meet such needs, including addressing coverage, monitoring systems, data fusion and archiving, and methods of exchanging or sharing highway and transit information.

"(2) DATA EXCHANGE.—States shall incorporate the data exchange formats established by the Secretary [of Transportation] under subsection (b) to ensure that the data provided by highway and transit monitoring systems may readily be exchanged with State and local governments and may be made available to the traveling public.

"(d) ELIGIBILITY.—Subject to project approval by the Secretary [of Transportation], a State may obligate funds apportioned to the State under [former] sections 104(b)(1), 104(b)(2), and 104(b)(3) of title 23, United States Code, for activities relating to the planning and deployment of real-time monitoring elements that advance the goals and purposes described in subsection (a).

"(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as altering or otherwise affecting the applicability of the requirements of chapter 1 of title 23, United States Code (including requirements relating to the eligibility of a project for assistance under the program, the location of the project, and the Federal-share payable on account of the project), to amounts apportioned to a State for a program under section 104(b) that are obligated by the State for activities and projects under this section.

"(f) STATEWIDE INCIDENT REPORTING SYSTEM DEFINED.—In this section, the term 'statewide incident reporting system' means a statewide system for facilitating the real-time electronic reporting of surface transportation incidents to a central location for use in monitoring the event, providing accurate traveler information, and responding to the incident as appropriate."

FREIGHT INTERMODAL DISTRIBUTION PILOT GRANT PROGRAM

Pub. L. 109–59, title I, §1306, Aug. 10, 2005, 119 Stat. 1215, which related to the Freight Intermodal Distribution Pilot Grant Program, was repealed by Pub. L. 112–141, div. A, title I, §1519(b)(2), July 6, 2012, 126 Stat. 575.

ADMINISTRATION OF NATIONAL HIGHWAY SYSTEM AND INTERSTATE MAINTENANCE PROGRAM

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

UNOBLIGATED BALANCES OF INTERSTATE SUBSTITUTE FUNDS

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

INTERMODAL FREIGHT CONNECTORS STUDY

Pub. L. 105–178, title I, §1106(d), June 9, 1998, 112 Stat. 136, required the Secretary, not later than 2 years after June 9, 1998, to review and report to Congress on the condition of and improvements made to connectors on the National Highway System that serve seaports, airports, and other intermodal freight transportation facilities since the designation of the National Highway System.

FUNCTIONAL RECLASSIFICATION OF HIGHWAYS

Pub. L. 102–240, title I, §1006(c), Dec. 18, 1991, 105 Stat. 1925, 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

Pub. L. 100–17, title I, §103(a), Apr. 2, 1987, 101 Stat. 136, 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

Pub. L. 100–17, title I, §103(c), Apr. 2, 1987, 101 Stat. 141, increased the cost of completing substitute transit projects under subsec. (e)(4)(B) of this section by $100,000,000 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

Pub. L. 100–17, title I, §137, Apr. 2, 1987, 101 Stat. 174, 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

Pub. L. 97–424, title I, §107(c)(2), Jan. 6, 1983, 96 Stat. 2012, as amended by Pub. L. 100–17, title I, §103(f)(2), Apr. 2, 1987, 101 Stat. 142, provided that certain sums determined under former subsec. (e)(4)(B) of this section for withdrawn Interstate System routes would be made available to the Secretary based on 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

Pub. L. 96–144, §3, Dec. 13, 1979, 93 Stat. 1084, provided that when the Secretary withdrew approval for an Interstate System route, the sum available for a substitute project would be equal to the Federal share of the cost to complete the withdrawn route based on the 1975 estimate, subject to certain discretionary adjustments.

NECESSITY OF ENVIRONMENTAL IMPACT STATEMENT PRIOR TO ROUTE CONSTRUCTION ON THE DWIGHT D. EISENHOWER SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

Pub. L. 95–599, title I, §107(d), Nov. 6, 1978, 92 Stat. 2694, as amended by Pub. L. 101–427, Oct. 15, 1990, 104 Stat. 927, prohibited construction of an Interstate System route or portion thereof for which an environmental impact statement under the National Environmental Policy Act of 1969 had not been submitted to the Secretary by September 30, 1983.

TIME LIMIT FOR COMMENCEMENT OF, OR CONTRACT FOR, CONSTRUCTION; REMOVAL FROM DESIGNATION AS PART OF INTERSTATE SYSTEM

Pub. L. 95–599, title I, §107(e), Nov. 6, 1978, 92 Stat. 2694, as amended by Pub. L. 97–424, title I, §107(g), Jan. 6, 1983, 96 Stat. 2103; Pub. L. 100–17, title I, §103(d)(1), Apr. 2, 1987, 101 Stat. 141, required routes on the Interstate System to be either under construction or under contract for construction by Sept. 30, 1986, and directed the Secretary to remove any route that did not meet such requirement from Interstate System designation.

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

Pub. L. 94–280, title I, §111(b), May 5, 1976, 90 Stat. 433, provided that the amendment made by section 111(a) of Pub. L. 94–280 to this section would apply to Interstate System routes approval of which was withdrawn by the Secretary under former subsec. (e)(2) of this section.

INTERSTATE SYSTEM SUBSECTION (E)(4) PROVISIONS IN EFFECT PRIOR TO AMENDMENT BY PUB. L. 94–280, §110; ROUTE WITHDRAWALS WITHIN URBANIZED AREAS; AVAILABILITY OF MILEAGE IN OTHER STATES; PUBLIC MASS TRANSIT NONHIGHWAY PROJECTS; GENERAL FUNDS UNAVAILABLE FOR OBLIGATION AFTER JUNE 30, 1981; SUPPLEMENTARY FUNDS; URBAN MASS TRANSPORTATION PROVISIONS APPLICABLE

Section 103(e)(4) of this title, as added Pub. L. 93–87, title I, §137(b), Aug. 13, 1973, 87 Stat. 269, and amended Pub. L. 93–643, §125(b), Jan. 4, 1975, 88 Stat. 2290, read prior to amendment by section 110 of Pub. L. 94–280 [see 1976 Amendment notes above] 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

Pub. L. 93–87, title I, §148(d), Aug. 13, 1973, 87 Stat. 274, provided that: "Federal-aid systems realignment shall be based upon anticipated functional usage in the year 1980 or a planned connected system."

§104. Apportionment

(a) ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—There is 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) $490,964,697 for fiscal year 2022;
(B) $500,783,991 for fiscal year 2023;
(C) $510,799,671 for fiscal year 2024;
(D) $521,015,664 for fiscal year 2025; and
(E) $531,435,977 for fiscal year 2026.

(2) PURPOSES.—The amounts authorized to be appropriated by this subsection shall be used—

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

(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; and

(C) to reimburse, as appropriate, 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.

(3) AVAILABILITY.—The amounts made available under paragraph (1) shall remain available until expended.

(b) DIVISION AMONG PROGRAMS OF STATE'S SHARE OF BASE APPORTIONMENT .—The Secretary shall distribute the amount of the base apportionment apportioned to a State for a fiscal year under subsection (c) among the national highway performance program, the surface transportation block grant program, the highway safety improvement program, the congestion mitigation and air quality improvement program, the national highway freight program, the carbon reduction program under section 175, to carry out subsection (c) of the PROTECT program under section 176, and to carry out section 134 as follows:

(1) NATIONAL HIGHWAY PERFORMANCE PROGRAM.—For the national highway performance program, 59.0771195921461 percent of the amount remaining after distributing amounts under paragraphs (4), (5), and (6).

(2) SURFACE TRANSPORTATION BLOCK GRANT PROGRAM.—For the surface transportation block grant program, 28.7402203421251 percent of the amount remaining after distributing amounts under paragraphs (4), (5), and (6).

(3) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program, 6.70605141316253 percent of the amount remaining after distributing amounts under paragraphs (4), (5), and (6).

(4) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—

(A) IN GENERAL.—For the congestion mitigation and air quality improvement program, an amount determined for the State under subparagraphs (B) and (C).

(B) TOTAL AMOUNT.—The total amount for the congestion mitigation and air quality improvement program for all States shall be—

(i) $2,536,490,803 for fiscal year 2022;
(ii) $2,587,220,620 for fiscal year 2023;
(iii) $2,638,965,032 for fiscal year 2024;
(iv) $2,691,744,332 for fiscal year 2025; and
(v) $2,745,579,213 for fiscal year 2026.

(C) STATE SHARE.—For each fiscal year, the Secretary shall distribute among the States

the total amount for the congestion mitigation and air quality improvement program under subparagraph (B) so that each State receives an amount equal to the proportion that—

(i) the amount apportioned to the State for the congestion mitigation and air quality improvement program for fiscal year 2020; bears to

(ii) the total amount of funds apportioned to all States for that program for fiscal year 2020.

(5) NATIONAL HIGHWAY FREIGHT PROGRAM.—

(A) IN GENERAL.—For the national highway freight program under section 167, the Secretary shall set aside from the base apportionment determined for a State under subsection (c) an amount determined for the State under subparagraphs (B) and (C).

(B) TOTAL AMOUNT.—The total amount set aside for the national highway freight program for all States shall be—

(i) $1,373,932,519 for fiscal year 2022;
(ii) $1,401,411,169 for fiscal year 2023;
(iii) $1,429,439,392 for fiscal year 2024;
(iv) $1,458,028,180 for fiscal year 2025; and
(v) $1,487,188,740 for fiscal year 2026.

(C) STATE SHARE.—For each fiscal year, the Secretary shall distribute among the States the total set-aside amount for the national highway freight program under subparagraph (B) so that each State receives the amount equal to the proportion that—

(i) the total base apportionment determined for the State under subsection (c); bears to
(ii) the total base apportionments for all States under subsection (c).

(6) METROPOLITAN PLANNING.—

(A) IN GENERAL.—To carry out section 134, an amount determined for the State under subparagraphs (B) and (C).

(B) TOTAL AMOUNT.—The total amount for metropolitan planning for all States shall be—

(i) $438,121,139 for fiscal year 2022;
(ii) $446,883,562 for fiscal year 2023;
(iii) $455,821,233 for fiscal year 2024;
(iv) $464,937,657 for fiscal year 2025; and
(v) $474,236,409 for fiscal year 2026.

(C) STATE SHARE.—For each fiscal year, the Secretary shall distribute among the States the total amount to carry out section 134 under subparagraph (B) so that each State receives an amount equal to the proportion that—

(i) the amount apportioned to the State to carry out section 134 for fiscal year 2020; bears to

(ii) the total amount of funds apportioned to all States to carry out section 134 for fiscal year 2020.

(7) CARBON REDUCTION PROGRAM.—For the carbon reduction program under section 175, 2.56266964565637 percent of the amount remaining after distributing amounts under paragraphs (4), (5), and (6).

(8) PROTECT FORMULA PROGRAM.—To carry out subsection (c) of the PROTECT program under section 176, 2.91393900690991 percent of the amount remaining after distributing amounts under paragraphs (4), (5), and (6).

(c) CALCULATION OF AMOUNTS.—

(1) STATE SHARE.—For fiscal year 2022 and each fiscal year thereafter, the amount for each State shall be determined as follows:

(A) INITIAL AMOUNTS.—The initial amounts for each State shall be determined by multiplying—

(i) the base apportionment; by

(ii) the share for each State, which shall be equal to the proportion that—

(I) the amount of apportionments that the State received for fiscal year 2021; bears to

(II) the amount of those apportionments received by all States for that fiscal year.

(B) GUARANTEED AMOUNTS.—The initial amounts resulting from the calculation under subparagraph (A) shall be adjusted to ensure that each State receives an aggregate apportionment that is—

(i) equal to at least 95 percent of the estimated tax payments paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available that are—

(I) attributable to highway users in the State; and

(II) associated with taxes in effect on July 1, 2019, and only up to the rate those taxes were in effect on that date;

(ii) at least 2 percent greater than the apportionment that the State received for fiscal year 2021; and

(iii) at least 1 percent greater than the apportionment that the State received for the previous fiscal year.

(2) STATE APPORTIONMENT.—On October 1 of fiscal year 2022 and each fiscal year thereafter, the Secretary shall apportion the sums authorized to be appropriated for expenditure on the national highway performance program under section 119, the surface transportation block grant program under section 133, the highway safety improvement program under section 148, the congestion mitigation and air quality improvement program under section 149, the national highway freight program under section 167, the carbon reduction program under section 175, to carry out subsection (c) of the PROTECT program under section 176, and to carry out section 134 in accordance with paragraph (1).

(d) METROPOLITAN PLANNING.—

(1) USE OF AMOUNTS.—

(A) USE.—

(i) IN GENERAL.—Except as provided in clause (ii), the amounts apportioned to a State under subsection (b)(6) shall be made available by the State to the metropolitan planning organizations responsible for carrying out section 134 in the State.

(ii) STATES RECEIVING MINIMUM APPORTIONMENT.—A State that received the minimum apportionment for use in carrying out section 134 for fiscal year 2009 may, subject to the approval of the Secretary, use the funds apportioned under subsection (b)(6) to fund 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.

(2) DISTRIBUTION OF AMOUNTS WITHIN STATES.—

(A) IN GENERAL.—The distribution within any State of the planning funds made available to organizations under paragraph (1) shall be in accordance with a formula that—

(i) is developed by each State and approved by the Secretary; and

(ii) takes into consideration, at a minimum, 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 section 134 and other applicable

requirements of Federal law.

(B) REIMBURSEMENT.—Not later than 15 business 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 amounts distributed under this paragraph to the metropolitan planning organization by the State, the metropolitan planning organization for those expenditures.

(3) DETERMINATION OF POPULATION FIGURES.—For the purpose of determining population figures under this subsection, the Secretary shall use the latest available data from the decennial census conducted under section 141(a) of title 13, United States Code.

(e) CERTIFICATION OF APPORTIONMENTS.—

(1) IN GENERAL.—The Secretary shall—

(A) on October 1 of each fiscal year, certify to each of the State transportation departments the amount that has been apportioned to the State under this section for the fiscal year; and

(B) to permit the States to develop adequate plans for the use of amounts apportioned under this section, advise each State of the amount that will be apportioned to the State under this section for a fiscal year not later than 90 days before the beginning of the fiscal year for which the sums to be apportioned are authorized.

(2) NOTICE TO STATES.—If the Secretary has not made an apportionment under this section for a fiscal year beginning after September 30, 1998, by not later than the date that is the twenty-first day of that fiscal year, the Secretary shall submit, by not later than that date, 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 the apportionment in a timely manner.

(3) APPORTIONMENT CALCULATIONS.—

(A) IN GENERAL.—The calculation of official apportionments of funds to the States under this title is a primary responsibility of the Department and shall be carried out only by employees (and not contractors) of the Department.

(B) PROHIBITION ON USE OF FUNDS TO HIRE CONTRACTORS.—None of the funds made available under this title shall be used to hire contractors to calculate the apportionments of funds to States.

(f) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

(1) TRANSFER OF HIGHWAY FUNDS FOR TRANSIT PROJECTS.—

(A) IN GENERAL.—Subject to subparagraph (B), amounts 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 amounts transferred under subparagraph (A).

(2) TRANSFER OF TRANSIT FUNDS FOR HIGHWAY PROJECTS.—

(A) IN GENERAL.—Subject to subparagraph (B), amounts 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 amounts transferred under subparagraph (A).

(3) TRANSFER OF FUNDS AMONG STATES OR TO AN OPERATING ADMINISTRATION OF THE DEPARTMENT OF TRANSPORTATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may, at the request of a

State, transfer amounts apportioned or allocated under this title to the State to another State, or to an operating administration of the Department of Transportation, for the purpose of funding 1 or more projects that are eligible for assistance with amounts so apportioned or allocated.

(B) APPORTIONMENT.—The transfer shall have no effect on any apportionment of amounts to a State under this section.

(C) FUNDS SUBALLOCATED TO URBANIZED AREAS.—Amounts that are apportioned or allocated to a State under subsection (b)(3) (as in effect on the day before the date of enactment of the MAP–21) or subsection (b)(2) and attributed to an urbanized area of a State with a population of more than 200,000 individuals under section 133(d) 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 amounts transferred under this subsection shall be transferred in the same manner and amount as the amounts for the projects that are transferred under this section.

(g) HIGHWAY TRUST FUND TRANSPARENCY AND ACCOUNTABILITY REPORTS.—

(1) COMPILATION OF DATA.—Not later than 180 days after the date of enactment of the FAST Act, the Secretary shall compile data in accordance with this subsection on the use of Federal-aid highway funds made available under this title.

(2) REQUIREMENTS.—The Secretary shall ensure that the reports required under this subsection are made available in a user-friendly manner on the public Internet website of the Department of Transportation and can be searched and downloaded by users of the website.

(3) CONTENTS OF REPORTS.—

(A) APPORTIONED AND ALLOCATED PROGRAMS.—On a semiannual basis, the Secretary shall make available a report on funding apportioned and allocated to the States under this title that describes—

(i) the amount of funding obligated by each State, year-to-date, for the current fiscal year;

(ii) the amount of funds remaining available for obligation by each State;

(iii) changes in the obligated, unexpended balance for each State, year-to-date, during the current fiscal year, including the obligated, unexpended balance at the end of the preceding fiscal year and current fiscal year expenditures;

(iv) the amount and program category of unobligated funding, year-to-date, available for expenditure at the discretion of the Secretary;

(v) the rates of obligation on and off the National Highway System, year-to-date, for the current fiscal year of funds apportioned, allocated, or set aside under this section, according to—

(I) program;

(II) funding category or subcategory;

(III) type of improvement;

(IV) State; and

(V) sub-State geographical area, including urbanized and rural areas, on the basis of the population of each such area; and

(vi) the amount of funds transferred by each State, year-to-date, for the current fiscal year between programs under section 126.

(B) PROJECT DATA.—On an annual basis, the Secretary shall make available a report that provides, for any project funded under this title (excluding projects for which funds are transferred to agencies other than the Federal Highway Administration) with an estimated total cost as of the start of construction greater than $25,000,000, and to the maximum extent practicable, other projects funded under this title, project data describing—

(i) the specific location of the project;

(ii) the total cost of the project;
(iii) the amount of Federal funding obligated for the project;
(iv) the program or programs from which Federal funds have been obligated for the project;
(v) the type of improvement being made, such as categorizing the project as—
(I) a road reconstruction project;
(II) a new road construction project;
(III) a new bridge construction project;
(IV) a bridge rehabilitation project; or
(V) a bridge replacement project;

(vi) the ownership of the highway or bridge;
(vii) whether the project is located in an area of the State with a population of—
(I) less than 5,000 individuals;
(II) 5,000 or more individuals but less than 50,000 individuals;
(III) 50,000 or more individuals but less than 200,000 individuals; or
(IV) 200,000 or more individuals; and

(viii) available information on the estimated cost of the project as of the start of project construction, or the revised cost estimate based on a description of revisions to the scope of work or other factors affecting project cost other than cost overruns.

(h) BASE APPORTIONMENT DEFINED.—In this section, the term "base apportionment" means the combined amount authorized for appropriation for the national highway performance program under section 119, the surface transportation block grant program under section 133, the highway safety improvement program under section 148, the congestion mitigation and air quality improvement program under section 149, the national highway freight program under section 167, the carbon reduction program under section 175, to carry out subsection (c) of the PROTECT program under section 176, and to carry out section 134.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 889; Pub. L. 86–70, §21(e)(2), June 25, 1959, 73 Stat. 146; Pub. L. 86–657, §8(g), July 14, 1960, 74 Stat. 525; Pub. L. 87–866, §10(a), Oct. 23, 1962, 76 Stat. 1148; Pub. L. 88–157, §§2, 3, Oct. 24, 1963, 77 Stat. 276; Pub. L. 88–423, §4(a), Aug. 13, 1964, 78 Stat. 397; Pub. L. 89–574, §4(b), Sept. 13, 1966, 80 Stat. 767; Pub. L. 90–495, §4(b), Aug. 23, 1968, 82 Stat. 816; Pub. L. 91–605, title I, §§104(b), 106(c), Dec. 31, 1970, 84 Stat. 1714, 1717; Pub. L. 93–87, title I, §§106(b), 111(a), 112, title II, §227, Aug. 13, 1973, 87 Stat. 254, 256, 257, 292; Pub. L. 94–280, title I, §§106(b), 107(b), 112(a)–(g), 113(a), title II, §206, May 5, 1976, 90 Stat. 429, 430, 433–435, 453; Pub. L. 95–599, title I, §§108–110, 116(b), Nov. 6, 1978, 92 Stat. 2695, 2696, 2699; Pub. L. 97–134, §§4(c), 5, Dec. 29, 1981, 95 Stat. 1700; Pub. L. 100–17, title I, §§102(b)(1), (2), 114(e)(1), Apr. 2, 1987, 101 Stat. 135, 153; Pub. L. 100–202, §101(l) [title III, §347(a)], Dec. 22, 1987, 101 Stat. 1329–358, 1329–388; Pub. L. 101–516, title III, §333 (part), Nov. 5, 1990, 104 Stat. 2184; Pub. L. 102–143, title III, §333(c), Oct. 28, 1991, 105 Stat. 947; Pub. L. 102–240, title I, §§1001(c)–(e), 1003(e), 1006(e), (f), 1007(b), 1008(b), 1009(d), 1010, 1024(b), (c)(2), 1028(g), Dec. 18, 1991, 105 Stat. 1915, 1916, 1926, 1930, 1932, 1934, 1962, 1968; Pub. L. 104–59, title III, §§302, 319(a)(2), 337(f), title IV, §410, Nov. 28, 1995, 109 Stat. 578, 589, 603, 633; Pub. L. 105–130, §§4(a)(3), 5(b), Dec. 1, 1997, 111 Stat. 2556; Pub. L. 105–178, title I, §§1103(a)–(k), (o), 1212(a)(2)(A), June 9, 1998, 112 Stat. 118–125, 193; Pub. L. 105–206, title IX, §9002(c)(3), July 22, 1998, 112 Stat. 835; Pub. L. 106–159, title I, §101(b), Dec. 9, 1999, 113 Stat. 1751; Pub. L. 108–178, §4(d), Dec. 15, 2003, 117 Stat. 2641; Pub. L. 109–59, title I, §§1103, 1107–1109(a), 1118(b)(2), 1401(a)(3)(A), (b), Aug. 10, 2005, 119 Stat. 1161, 1166–1168, 1181, 1225; Pub. L. 110–244, title I, §101(i), (m)(3)(A), June 6, 2008, 122 Stat. 1574, 1576; Pub. L. 112–141, div. A, title I, §§1105(a), 1519(c)(3), July 6, 2012, 126 Stat. 427, 575; Pub. L. 114–94, div. A, title I, §§1104(a)–(e)(1), 1402(a), 1446(d)(5)(A), Dec. 4, 2015, 129 Stat. 1329–1332, 1405, 1438; Pub. L. 117–58, div. A, title I, §§11104, 11525(b), Nov. 15, 2021, 135 Stat. 454, 607.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subsection (b)(3) (as in effect on the day before the date of enactment of the MAP–21) referred to in subsec. (f)(3)(C), means subsec. (b)(3) of this section as in effect on the day before the date of enactment of Pub. L. 112–141, which amended this section generally. The date of enactment of the MAP–21 is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title.

The date of enactment of the FAST Act, referred to in subsec. (g)(1), is the date of enactment of Pub. L. 114–94, which was approved Dec. 4, 2015.

CODIFICATION

Another section 1003(e) of Pub. L. 102–240, as added by Pub. L. 105–130, §2(d), is not classified to the Code.

AMENDMENTS

2021—Subsec. (a)(1)(A) to (E). Pub. L. 117–58, §11104(a), added subpars. (A) to (E) and struck out former subpars. (A) to (E) which authorized appropriations for fiscal years 2016 to 2020.

Subsec. (b). Pub. L. 117–58, §11104(b)(1), in introductory provisions, inserted "the carbon reduction program under section 175, to carry out subsection (c) of the PROTECT program under section 176," before "and to carry out section 134".

Subsec. (b)(1). Pub. L. 117–58, §11104(b)(2), substituted "59.0771195921461 percent" for "63.7 percent".

Subsec. (b)(2). Pub. L. 117–58, §11104(b)(3), substituted "28.7402203421251 percent" for "29.3 percent".

Subsec. (b)(3). Pub. L. 117–58, §11104(b)(4), substituted "6.70605141316253 percent" for "7 percent".

Subsec. (b)(4). Pub. L. 117–58, §11104(b)(5), added par. (4) and struck out former par. (4) which provided a means for determining the State's share of base apportionment for the congestion mitigation and air quality improvement program.

Subsec. (b)(5)(B). Pub. L. 117–58, §11104(b)(6)(A), added subpar. (B) and struck out former subpar. (B) which specified amounts set aside for the national highway freight program for fiscal years 2016 to 2020.

Subsec. (b)(5)(D). Pub. L. 117–58, §11104(b)(6)(B), struck out subpar. (D). Text read as follows: "Of the amount set aside under this paragraph for a State, the Secretary shall use to carry out section 134 an amount determined by multiplying the set-aside amount by the proportion that—

"(i) the amount apportioned to the State to carry out section 134 for fiscal year 2009; bears to

"(ii) the total amount of funds apportioned to the State for that fiscal year for the programs referred to in section 105(a)(2) (except for the high priority projects program referred to in section 105(a)(2)(H)), as in effect on the day before the date of enactment of MAP–21 (Public Law 112–141; 126 Stat. 405)."

Subsec. (b)(6) to (8). Pub. L. 117–58, §11104(b)(7), added pars. (6) to (8) and struck out former par. (6) which related to determination of amount to carry out section 134 of this title regarding metropolitan planning.

Subsec. (c)(1). Pub. L. 117–58, §11104(c)(1)(A), substituted "fiscal year 2022 and each fiscal year thereafter" for "each of fiscal years 2016 through 2020" in introductory provisions.

Subsec. (c)(1)(A)(i). Pub. L. 117–58, §11104(c)(1)(B)(i), added cl. (i) and struck out former cl. (i) which read as follows: "each of—

"(I) the base apportionment;

"(II) supplemental funds reserved under subsection (h)(1) for the national highway performance program; and

"(III) supplemental funds reserved under subsection (h)(2) for the surface transportation block grant program; by".

Subsec. (c)(1)(A)(ii)(I). Pub. L. 117–58, §11104(c)(1)(B)(ii), substituted "fiscal year 2021" for "fiscal year 2015".

Subsec. (c)(1)(B). Pub. L. 117–58, §11104(c)(1)(C), added subpar. (B) and struck out former subpar. (B). Prior to amendment, text read as follows: "The initial amounts resulting from the calculation under subparagraph (A) shall be adjusted to ensure that each State receives an aggregate apportionment equal to at least 95 percent of 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."

Subsec. (c)(2). Pub. L. 117–58, §11104(c)(2), substituted "fiscal year 2022 and each fiscal year thereafter" for "fiscal years 2016 through 2020" and inserted "the carbon reduction program under section 175, to carry out subsection (c) of the PROTECT program under section 176," before "and to carry out section 134".

Subsec. (d)(1)(A). Pub. L. 117–58, §11104(d), substituted "subsection (b)(6)" for "paragraphs (5)(D) and (6) of subsection (b)" in cls. (i) and (ii).

Subsec. (f)(3). Pub. L. 117–58, §11525(b)(1), substituted "AN OPERATING ADMINISTRATION OF THE DEPARTMENT OF TRANSPORTATION" for "FEDERAL HIGHWAY ADMINISTRATION" in heading.

Subsec. (f)(3)(A). Pub. L. 117–58, §11525(b)(2), substituted "an operating administration of the Department of Transportation" for "the Federal Highway Administration".

Subsec. (h). Pub. L. 117–58, §11104(f), redesignated subsec. (i) as (h), struck out dash after "means" and par. (1) designation before "the combined amount", substituted "the carbon reduction program under section 175, to carry out subsection (c) of the PROTECT program under section 176, and to carry out section 134." for "and to carry out section 134; minus", and struck out par. (2) which read as follows: "supplemental funds reserved under subsection (h) for the national highway performance program and the surface transportation block grant program." Former subsec. (h) struck out.

Pub. L. 117–58, §11104(e), struck out subsec. (h) which related to reservation of supplemental funds for the national highway performance program and the surface transportation block grant program.

Subsec. (i). Pub. L. 117–58, §11104(f)(1), redesignated subsec. (i) as (h).

2015—Subsec. (a)(1). Pub. L. 114–94, §1104(a), amended par. (1) generally. Prior to amendment, text read as follows: "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) $454,180,326 for fiscal year 2013; and

"(B) $440,000,000 for fiscal year 2014."

Subsec. (b). Pub. L. 114–94, §1104(b)(1), amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: "The Secretary shall distribute the amount apportioned to a State for a fiscal year under subsection (c) among the national highway performance program, the surface transportation program, the highway safety improvement program, and the congestion mitigation and air quality improvement program, and to carry out section 134 as follows:".

Subsec. (b)(1). Pub. L. 114–94, §1104(b)(2), substituted "paragraphs (4), (5), and (6)" for "paragraphs (4) and (5)".

Subsec. (b)(2). Pub. L. 114–94, §1104(b)(2), (3), substituted "SURFACE TRANSPORTATION BLOCK GRANT PROGRAM" for "SURFACE TRANSPORTATION PROGRAM" in heading, "paragraphs (4), (5), and (6)" for "paragraphs (4) and (5)", and "surface transportation block grant program" for "surface transportation program".

Subsec. (b)(3). Pub. L. 114–94, §1104(b)(2), substituted "paragraphs (4), (5), and (6)" for "paragraphs (4) and (5)".

Subsec. (b)(4). Pub. L. 114–94, §1104(b)(4), substituted "the amount of the base apportionment remaining for the State under subsection (c) after making the set aside in accordance with paragraph (5)" for "the amount determined for the State under subsection (c)" in introductory provisions.

Subsec. (b)(5). Pub. L. 114–94, §1104(b)(6), added par. (5). Former par. (5) redesignated (6).

Subsec. (b)(6). Pub. L. 114–94, §1104(b)(5), (7), redesignated former par. (5) as (6), and substituted "the amount of the base apportionment remaining for a State under subsection (c) after making the set aside in accordance with paragraph (5)" for "the amount determined for the State under subsection (c)" in introductory provisions.

Subsec. (c). Pub. L. 114–94, §1104(c), amended subsec. (c) generally. Prior to amendment, subsec. (c) related to calculation of State amounts.

Subsec. (d)(1)(A). Pub. L. 114–94, §1104(e)(1), substituted "paragraphs (5)(D) and (6) of subsection (b)" for "subsection (b)(5)" in two places.

Subsec. (e). Pub. L. 114–94, §1446(d)(5)(A), repealed amendment by Pub. L. 112–141, §1519(c)(3). See 2012 Amendment note below.

Subsec. (g). Pub. L. 114–94, §1402(a), amended subsec. (g) generally. Prior to amendment, subsec. (g) related to reports to Congress for each fiscal year.

Subsecs. (h), (i). Pub. L. 114–94, §1104(d), added subsecs. (h) and (i).

2012—Pub. L. 112–141, §1105(a), amended section generally. Prior to amendment, section related to apportionment and consisted of subsecs. (a) to (l).

Subsec. (e). Pub. L. 112–141, §1519(c)(3), which directed amendment of subsec. (e) by striking out ", 105," and could not be executed, was repealed by Pub. L. 114–94, §1446(d)(5)(A).

2008—Subsec. (b)(5)(A)(iii). Pub. L. 110–244, §101(i), substituted "Federal-aid highways" for "the Federal-aid system" in subcls. (I) and (II).

Subsec. (f)(1). Pub. L. 110–244, §101(m)(3)(A), struck out "replacement and rehabilitation" after "highway bridge".

2005—Subsec. (a). Pub. L. 109–59, §1103(a)(1), reenacted heading without change and amended text of subsec. (a) generally, substituting provisions authorizing appropriations for administrative expenses of the Federal Highway Administration and provisions relating to uses and availability of funds for provisions relating to deduction for administrative activities from sums made available under certain programs and provisions relating to consideration of unobligated balances, availability of sums, and limitation on transferability.

Subsec. (b). Pub. L. 109–59, §§1103(a)(2)(A), 1401(b)(1), in introductory provisions, substituted "the set-asides authorized by subsections (d) and (f) and section 130(e)" for "the deduction authorized by subsection (a) and the set-aside authorized by subsection (f)" and inserted "the highway safety improvement program," after "Improvement program,".

Subsec. (b)(1)(A). Pub. L. 109–59, §§1103(b), (c), 1118(b)(2), in introductory provisions, substituted "$40,000,000 for each of fiscal years 2005 and 2006 and $50,000,000 for each of fiscal years 2007 through 2009 for the territorial highway program under section 215, $30,000,000 for each of fiscal years 2005 through 2009" for "$36,400,000 for each fiscal year to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands, $18,800,000 for each of fiscal years 1998 through 2002".

Subsec. (b)(2)(B)(i). Pub. L. 109–59, §1103(d)(1)(A), added cl. (i) and struck out former cl. (i) which read as follows: "0.8 if—

"(I) at the time of the apportionment, the area is a maintenance area; or

"(II) at the time of the apportionment, the area is classified as a submarginal ozone nonattainment area under the Clean Air Act (42 U.S.C. 7401 et seq.);".

Subsec. (b)(2)(B)(viii). Pub. L. 109–59, §1103(d)(1)(B)–(D), added cl. (viii).

Subsec. (b)(2)(C). Pub. L. 109–59, §1103(d)(2), added subpar. (C) and struck out former subpar. (C), which required that the weighted nonattainment or maintenance area population of the area for a carbon monoxide nonattainment area be further multiplied by a factor of 1.2 and that the weighted nonattainment or maintenance area population of the area for a carbon monoxide maintenance area be further multiplied by a factor of 1.1.

Subsec. (b)(5). Pub. L. 109–59, §1401(b)(2), added par. (5).

Subsec. (d)(1). Pub. L. 109–59, §1103(f)(1), added par. (1) and struck out heading and text of former par. (1). Text read as follows: "Before making an apportionment under subsection (b)(3) of this section for a fiscal year, the Secretary shall set aside $500,000 for such fiscal year for carrying out a public information and education program to help prevent and reduce motor vehicle accidents, injuries, and fatalities and to improve driver performance at railway-highway crossings."

Subsec. (d)(2). Pub. L. 109–59, §1103(f)(1), reenacted heading without change.

Subsec. (d)(2)(A). Pub. L. 109–59, §1103(f)(1), added subpar. (A) and struck out heading and text of former subpar. (A). Text read as follows: "Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside $5,250,000 of the funds made available for the surface transportation program for the fiscal year for elimination of hazards of railway-highway crossings."

Subsec. (d)(2)(E). Pub. L. 109–59, §1103(f)(2), substituted "Of such set-aside, not less than $250,000 for fiscal year 2005, $1,000,000 for fiscal year 2006, $1,750,000 for fiscal year 2007, $2,250,000 for fiscal year 2008, and $3,000,000 for fiscal year 2009" for "Not less than $250,000 of such set-aside" and struck out "per fiscal year" after "shall be available".

Subsec. (e)(1). Pub. L. 109–59, §1103(a)(2)(B), struck out ", and also the sums which he has deducted for administration pursuant to subsection (a) of this section" after "such fiscal year".

Subsec. (f)(1). Pub. L. 109–59, §1107(1), added par. (1) and struck out heading and text of former par. (1). Text read as follows: "On October 1 of each fiscal year, the Secretary, after making the deduction authorized by subsection (a) of this section, shall set aside not to exceed 1 percent of the remaining funds authorized to be appropriated for expenditure upon programs authorized under this title, for the purpose of carrying out the requirements of section 134 of this title."

Subsec. (f)(2). Pub. L. 109–59, §1107(2), substituted "percent" for "per centum".

Subsec. (f)(3). Pub. L. 109–59, §1107(3), designated first sentence as subpar. (A), inserted heading, and substituted subpar. (B) for second sentence which read as follows: "These funds shall be matched in accordance with section 120(b) unless the Secretary determines that the interests of the Federal-aid highway program would be best served without such matching."

Subsec. (f)(4). Pub. L. 109–59, §1107(4), designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (g). Pub. L. 109–59, §1401(a)(3)(A), substituted "sections 130 and 144" for "sections 130, 144, and

152 of this title".

Subsec. (h)(1). Pub. L. 109–59, §1109(a)(1), substituted "Before apportioning sums authorized to be appropriated to carry out the recreational trails program under section 206, the Secretary shall deduct for administrative, research, technical assistance, and training expenses for such program $840,000 for each of fiscal years 2005 through 2009." for "Whenever an apportionment is made of the sums authorized to be appropriated to carry out the recreational trails program under section 206, the Secretary shall deduct an amount, not to exceed 1½ percent of the sums authorized, to cover the cost to the Secretary for administration of and research and technical assistance under the recreational trails program and for administration of the National Recreational Trails Advisory Committee."

Subsec. (h)(2). Pub. L. 109–59, §1109(a)(2), substituted "The Secretary shall apportion the sums" for "After making the deduction authorized by paragraph (1) of this subsection, the Secretary shall apportion the remainder of the sums" in introductory provisions.

Subsec. (i). Pub. L. 109–59, §1103(a)(2)(C), substituted "made available" for "deducted".

Subsec. (j). Pub. L. 109–59, §1103(e), substituted "submit to Congress a report, and also make such report available to the public in a user-friendly format via the Internet," for "submit to Congress a report" in introductory provisions.

Subsec. (k). Pub. L. 109–59, §1108, reenacted heading without change and amended text of subsec. (k) generally. Prior to amendment, text read as follows:

"(1) TRANSFER OF HIGHWAY FUNDS.—Funds made available under this title and transferred for transit projects of a type described in section 133(b)(2) shall be administered by the Secretary in accordance with chapter 53 of title 49, except that the provisions of this title relating to the non-Federal share shall apply to the transferred funds.

"(2) TRANSFER OF TRANSIT FUNDS.—Funds made available under chapter 53 of title 49 and transferred for highway projects shall be administered by the Secretary in accordance with this title, except that the provisions of such chapter relating to the non-Federal share shall apply to the transferred funds.

"(3) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority provided for projects described in paragraphs (1) and (2) shall be transferred in the same manner and amount as the funds for the projects are transferred."

2003—Subsec. (a)(1). Pub. L. 108–178 substituted "section 14501 of title 40" for "section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.)" in introductory provisions.

1999—Subsec. (a)(1). Pub. L. 106–159, §101(b)(1)–(3), substituted "exceed—" for "exceed 1½ percent of all sums so made available, as the Secretary determines necessary—" in introductory provisions, added introductory provisions of subpar. (A), redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (A), substituted "; and" for the period at end of cl. (ii), and added subpar. (B).

Subsec. (a)(4). Pub. L. 106–159, §101(b)(4), which directed amendment of subsec. (a)(1) by adding par. (4) at the end, was executed by adding par. (4) at the end of subsec. (a), to reflect the probable intent of Congress.

1998—Subsec. (a). Pub. L. 105–178, §1103(a), added subsec. (a) and struck out former subsec. (a) which read as follows: "Whenever an apportionment is made of the sums authorized to be appropriated for expenditure on the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, and the Interstate System, the Secretary shall deduct a sum, in such amount not to exceed 3¾ per centum of all sums so authorized as the Secretary may deem necessary for administering the provisions of law to be financed from appropriations for the Federal-aid systems and for carrying on the research authorized by subsections (a) and (b) of section 307 of this title. In making such determination, the Secretary shall take into account the unexpended balance of any sums deducted for such purposes in prior years. The sum so deducted shall be available for expenditure from the unexpended balance of any appropriation made at any time for expenditure upon the Federal-aid systems, until such sum has been expended."

Subsec. (a)(1). Pub. L. 105–178, §1103(o)(1), as added by Pub. L. 105–206, §9002(c)(3), struck out "under section 103" after "National Highway System program" in introductory provisions.

Subsec. (b). Pub. L. 105–178, §1103(b), inserted heading and amended text of subsec. (b) generally. Prior to amendment, text related to Secretary's apportionment among various States of sums authorized to be appropriated for surface transportation program, congestion mitigation and air quality improvement program, National Highway System, and Interstate System each fiscal year.

Subsec. (b)(1)(A). Pub. L. 105–178, §1103(o)(2)(A), as added by Pub. L. 105–206, §9002(c)(3), substituted "1998 through 2002" for "1999 through 2003".

Subsec. (b)(4)(B)(i). Pub. L. 105–178, §1103(o)(2)(B), as added by Pub. L. 105–206, §9002(c)(3), substituted "on Interstate System routes open to traffic in each State" for "on lanes on Interstate System routes designated under—

"(I) section 103;

"(II) section 139(a) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) before March 9, 1984 (other than routes on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)); and

"(III) section 139(c) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century);

in each State".

Subsec. (d)(1). Pub. L. 105–178, §1103(c)(1), substituted "Before making an apportionment under subsection (b)(3) of this section for a fiscal year, the Secretary shall set aside $500,000 for such" for "The Secretary shall expend, from administrative funds deducted under subsection (a), $300,000 for each".

Subsec. (d)(2). Pub. L. 105–178, §1103(c)(2), added par. (2) and struck out former par. (2) which read as follows:

"(2) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—(A) Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside $5,000,000 of the funds authorized to be appropriated for the surface transportation program for such fiscal year for elimination of hazards of railway-highway crossings in not to exceed 5 railway corridors selected by the Secretary in accordance with the criteria set forth in this paragraph.

"(B) A corridor selected by the Secretary under subparagraph (A) must include rail lines where railroad speeds of 90 miles per hour are occurring or can reasonably be expected to occur in the future."

Subsec. (d)(3). Pub. L. 105–178, §1103(c)(2), struck out par. (3) which read as follows: "In making the determination required by paragraph (2)(A), the Secretary shall consider projected rail ridership volumes in such corridors, the percentage of the corridor over which a train will be capable of operating at its maximum cruise speed taking into account such factors as topography and other traffic on the line, projected benefits to nonriders such as congestion relief on other modes of transportation serving the corridors (including congestion in heavily traveled air passenger corridors), the amount of State and local financial support that can reasonably be anticipated for the improvement of the line and related facilities, and the cooperation of the owner of the right-of-way that can reasonably be expected in the operation of high speed rail passenger service in such corridors."

Subsec. (e). Pub. L. 105–178, §1103(d), inserted heading, designated existing provisions as par. (1), inserted heading, struck out "(other than under subsection (b)(5) of this section)" after "apportioned hereunder" and "and research" before "pursuant to subsection (a) of this section" in first sentence, struck out second sentence which read "On October 1 of the year preceding the fiscal year for which authorized, the Secretary shall certify to each of the State highway departments the sums which he has apportioned under subsection (b)(5) of this section to each State for such fiscal year, and also the sums which he has deducted for administration and research pursuant to subsection (a) of this section.", realigned margins, and added par. (2).

Subsec. (e)(1). Pub. L. 105–178, §1212(a)(2)(A)(ii), substituted "State transportation departments" for "State highway departments".

Subsec. (e)(2). Pub. L. 105–178, §1103(o)(3), as added by Pub. L. 105–206, §9002(c)(3), substituted "104, 105, or 144" for "104, 144, or 157".

Subsec. (f). Pub. L. 105–178, §1103(k)(1), inserted heading.

Subsec. (f)(1). Pub. L. 105–178, §1103(k)(2), which directed the amendment of par. (1) by striking out " ', except that' and all that follows through 'programs' ", was executed by striking out ", except that the amount from which such set aside is made shall not include funds authorized to be appropriated for the recreational trails program" after "section 134 of this title" to reflect the probable intent of Congress and the amendment by Pub. L. 105–178, §1103(e)(1). See below.

Pub. L. 105–178, §1103(k)(1), (6), inserted heading and realigned margins.

Pub. L. 105–178, §1103(e)(1), substituted "recreational trails program" for "Interstate construction and Interstate substitute programs".

Subsec. (f)(2). Pub. L. 105–178, §1103(k)(3), (6), inserted heading and realigned margins.

Subsec. (f)(3). Pub. L. 105–178, §1103(e)(2), (k)(4), (6), inserted heading, substituted "section 120(b)" for "section 120(j) of this title", and realigned margins.

Subsec. (f)(4). Pub. L. 105–178, §1103(k)(5), (6), inserted heading and realigned margins.

Subsec. (f)(5). Pub. L. 105–178, §1103(k)(6), realigned margins.

Subsec. (g). Pub. L. 105–178, §1212(a)(2)(A)(i), substituted "State transportation department" for "State highway department" wherever appearing.

Subsec. (h). Pub. L. 105–178, §1103(f), amended heading and text of subsec. (h) generally. Prior to amendment, text read as follows: "In addition to funds made available from the National Recreational Trails Trust Fund, the Secretary shall obligate, from administrative funds (contract authority) deducted under

subsection (a), to carry out section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261) $15,000,000 for each of fiscal years 1996 and 1997 and $7,500,000 for the period of October 1, 1997, through March 31, 1998."

Subsec. (i). Pub. L. 105–178, §1103(g), added subsec. (i) and struck out former subsec. (i) which read as follows:

"(i) WOODROW WILSON MEMORIAL BRIDGE.—

"(1) EXPENDITURE.—From any available administrative funds deducted under subsection (a), the Secretary shall obligate such sums as are necessary for each of fiscal years 1996 and 1997, and for the period of October 1, 1997, through March 31, 1998, for the rehabilitation of the Woodrow Wilson Memorial Bridge and for environmental studies and documentation, planning, preliminary engineering and design, and final engineering for a new crossing of the Potomac River as part of the Project, as defined by section 404 of the Woodrow Wilson Memorial Bridge Authority Act of 1995.

"(2) FEDERAL SHARE.—The Federal share of the cost of any project funded with amounts expended under paragraph (1) shall be 100 percent."

Subsec. (j). Pub. L. 105–178, §1103(h), added subsec. (j) and struck out former subsec. (j) which read as follows: "The Secretary shall submit to Congress not later than the 20th day of each calendar month which begins after the date of enactment of this subsection a report on (1) the amount of obligation, by State, for Federal-aid highways and the highway safety construction programs during the preceding calendar month, (2) the cumulative amount of obligation, by State, for that fiscal year, (3) the balance as of the last day of such preceding month of the unobligated apportionment of each State by fiscal year, and (4) the balance of unobligated sums available for expenditure at the discretion of the Secretary for such highways and programs for that fiscal year."

Subsec. (k). Pub. L. 105–178, §1103(i), added subsec. (k).

Subsec. (l). Pub. L. 105–178, §1103(j), added subsec. (l).

1997—Subsec. (h). Pub. L. 105–130, §5(b), added Pub. L. 102–240, §1003(e). See 1991 Amendment note below.

Subsec. (i)(1). Pub. L. 105–130, §4(a)(3), inserted ", and for the period of October 1, 1997, through March 31, 1998," after "fiscal years 1996 and 1997".

1995—Subsec. (b)(2). Pub. L. 104–59, §319(a)(2), in second sentence of introductory provisions substituted "was a nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2))) for ozone during any part of fiscal year 1994" for "is a nonattainment area (as defined in the Clean Air Act) for ozone" and in first sentence of closing provisions substituted "If the area was also" for "If the area is also", and inserted "during any part of fiscal year 1994" after "area for carbon monoxide".

Subsec. (g). Pub. L. 104–59, §302, substituted "exceed 50 percent" for "exceed 40 percent" in third sentence.

Subsecs. (h) to (j). Pub. L. 104–59, §§337(f), 410, added subsecs. (h) and (i) and redesignated former subsec. (h) as (j).

1991—Subsec. (a). Pub. L. 102–240, §1007(b)(2)(A), substituted "on the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, and the Interstate System" for "upon the Federal-aid systems" and was executed by making the substitution for the first reference to "upon the Federal-aid systems".

Subsec. (a)(2), (3). Pub. L. 102–143, §333(c), repealed Pub. L. 101–516, §333. See 1990 Amendment note below.

Subsec. (b). Pub. L. 102–240, §1007(b)(2), in introductory provisions, substituted "paragraph (5)(A)" for "paragraphs (4) and (5)", "and section 307" for "and sections 118(c) and 307(d)", and "on the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, and the Interstate System" for "upon the Federal-aid systems".

Pub. L. 102–143, §333(c), repealed Pub. L. 101–516, §333. See 1990 Amendment note below.

Subsec. (b)(1). Pub. L. 102–240, §1006(e), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "For the Federal-aid primary system (including extensions in urban areas and priority primary routes)—

"Two-thirds according to the following formula: one-third in the ratio which the area of each State bears to the total area of all the States, one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States as shown by the latest available Federal census, and one-third in the ratio which the mileage of rural delivery routes and intercity mail routes where service is performed by motor vehicles in each State bear to the total mileage of rural delivery and intercity mail routes where service is performed by motor vehicles, as shown by a certificate of the Postmaster General, which he is directed to make and furnish annually to the Secretary; and one-third as follows: in the

ratio which the population in urban areas in each State bears to the total population in urban areas in all the States as shown by the latest Federal census. No State (other than the District of Columbia) shall receive less than one-half of 1 per centum of each year's apportionment."

Subsec. (b)(2). Pub. L. 102–240, §1008(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "For the Federal-aid secondary system:

"One-third in the ratio which the area of each State bears to the total area of all the States; one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States as shown by the latest available Federal census; and one-third in the ratio which the mileage of rural delivery and intercity mail routes where service is performed by motor vehicles, certified as above provided, in each State bears to the total mileage of rural delivery and intercity mail routes where service is performed by motor vehicles in all the States. No State (other than the District of Columbia) shall receive less than one-half of 1 per centum of each year's apportionment."

Subsec. (b)(3). Pub. L. 102–240, §1007(b)(1), which directed that par. (3) "is amended to read as follows", was executed by adding par. (3) to reflect the probable intent of Congress, because prior par. (3) had been repealed. See 1976 Amendment note below.

Subsec. (b)(5)(A). Pub. L. 102–240, §1001(c)–(e), substituted "1960 through 1996" for "1960 through 1990" wherever appearing, and "As soon as practicable after the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991 for fiscal year 1992, and on October 1 of each of fiscal years 1993, 1994, and 1995, the Secretary shall make the apportionment required by this subparagraph for all States (other than Massachusetts) using the Federal share of the last estimate submitted to Congress, adjusted to reflect (i) all previous credits, apportionments of interstate construction funds, and lapses of previous apportionments of interstate construction funds, (ii) previous withdrawals of interstate segments, (iii) previous allocations of interstate discretionary funds, and (iv) transfers of interstate construction funds" for "On October 1 of each of fiscal years 1988, 1989, 1990, and 1991, whenever Congress has not approved a cost estimate under this subparagraph, the Secretary shall make the apportionment required by this subparagraph using the Federal share of the last estimate submitted to Congress, adjusted to reflect (i) all previous credits, apportionments of interstate construction funds and lapses of previous apportionments of interstate construction funds, (ii) previous withdrawals of interstate segments, (iii) previous allocations of interstate discretionary funds, and (iv) transfers of interstate construction funds", and inserted before last sentence: "Notwithstanding any other provision of this subparagraph or any cost estimate approved or adjusted pursuant to this subparagraph, subject to the deductions under this section, the amounts to be apportioned to the State of Massachusetts pursuant to this subparagraph for fiscal years 1993, 1994, 1995, and 1996 shall be as follows: $450,000,000 for fiscal year 1993, $800,000,000 for fiscal year 1994, $800,000,000 for fiscal year 1995, and $500,000,000 for fiscal year 1996."

Subsec. (b)(5)(B). Pub. L. 102–240, §1009(d), inserted "and routes on the Interstate System designated under section 139(a) of this title before March 9, 1984," in two places.

Subsec. (c). Pub. L. 102–240, §1006(f), added subsec. (c) and struck out former subsec. (c) which read as follows:

"(1) Subject to subsection (d), the amount apportioned in any fiscal year, commencing with the apportionment of funds authorized to be appropriated under subsection (a) of section 102 of the Federal-Aid Highway Act of 1956 (70 Stat. 374), to each State in accordance with paragraph (1) or (2) of subsection (b) of this section may be transferred from the apportionment under one paragraph to the apportionment under the other paragraph if such a transfer is requested by the State highway department and is approved by the Governor of such State and the Secretary as being in the public interest.

"(2) Subject to subsection (d), the amount apportioned in any fiscal year to each State in accordance with paragraph (1) or (6) of subsection (b) of this section may be transferred from the apportionment under one paragraph to the apportionment under the other paragraph if such transfer is requested by the State highway department and is approved by the Governor of such State and the Secretary as being in the public interest. Funds apportioned in accordance with paragraph (6) of subsection (b) of this section shall not be transferred from their allocation to any urbanized area of two hundred thousand population or more under section 150 of this title, without the approval of the local officials of such urbanized area."

Pub. L. 102–143, §333(c), repealed Pub. L. 101–516, §333. See 1990 Amendment note below.

Subsec. (d). Pub. L. 102–240, §1010, amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "Each transfer of apportionments under subsection (c) of this section shall be subject to the following conditions:

"(1) In the case of transfers under paragraph (1), the total of all transfers during any fiscal year to any apportionment shall not increase the original amount of such apportionment for such fiscal year by more than 50 per centum. Not more than 50 per centum of the original amount of an apportionment for any fiscal

year shall be transferred to other apportionments.

"(2) In the case of transfers under paragraph (2), the total of all transfers during any fiscal year to any apportionment shall not increase the original amount of such apportionment for such fiscal year by more than 50 per centum. Not more than 50 per centum of the original amount of an apportionment for any fiscal year shall be transferred to other apportionments.

"(3) No transfer shall be made from an apportionment during any fiscal year if during such fiscal year a transfer has been made to such apportionment.

"(4) No transfer shall be made to an apportionment during any fiscal year if during such fiscal year a transfer has been made from such apportionment."

Subsec. (f)(1). Pub. L. 102–240, §1024(b)(1)–(3), substituted "1 percent" for "one-half per centum", "programs authorized under this title" for "the Federal-aid systems", and "except that the amount from which such set aside is made shall not include funds authorized to be appropriated for the Interstate construction and Interstate substitute programs" for "except that in the case of funds authorized for apportionment on the Interstate System, the Secretary shall set aside that portion of such funds (subject to the overall limitation of one-half of 1 per centum) on October 1 of the year next preceding the fiscal year for which such funds are authorized for such System".

Subsec. (f)(3). Pub. L. 102–240, §1024(b)(4), (c)(2), substituted "120(j)" for "120" and struck out "designated by the State as being" after "organizations".

Subsec. (f)(4). Pub. L. 102–240, §1024(b)(5), inserted provisions relating to attainment of air quality standards and provisions relating to other factors necessary to provide appropriate distribution of funds to carry out section 134 and other requirements of Federal law.

Subsec. (f)(5). Pub. L. 102–240, §1024(b)(6), added par. (5).

Subsec. (g). Pub. L. 102–240, §1028(g), inserted before last sentence "A State may transfer not to exceed 40 percent of the State's apportionment under section 144 in any fiscal year to the apportionment of such State under subsection (b)(1) or subsection (b)(3) of this section. Any transfer to subsection (b)(3) shall not be subject to section 133(d)."

Subsec. (h). Pub. L. 102–240, §1003(e), as added by Pub. L. 105–130, §5(b), inserted before period at end "and $7,500,000 for the period of October 1, 1997, through March 31, 1998".

1990—Subsec. (a)(2), (3). Pub. L. 101–516, §333 [part], which added pars. (2) and (3) to read as follows:

"(2) The Secretary shall withhold 10 per centum (including any amounts withheld under paragraph (1)) of the amount required to be apportioned to any State under each of paragraphs (1), (2), (5), and (6) of section 104(b) on the first day of each fiscal year which begins after the fourth full calendar year following the date of enactment of this section if the State does not meet the requirements of paragraph (3) on the first day of such fiscal year.

"(3) A State meets the requirements of this paragraph if—

"(A) the State has enacted and is enforcing a law that requires in all circumstances, or requires in the absence of compelling circumstances warranting an exception—

"(i) the revocation, or suspension for at least 6 months, of the driver's license of any individual who is convicted, after the enactment of such law, of—

"(I) any violation of the Controlled Substances Act, or

"(II) any drug offense, and

"(ii) a delay in the issuance or reinstatement of a driver's license to such an individual for at least 6 months after the individual applies for the issuance or reinstatement of a driver's license if the individual does not have a driver's license, or the driver's license of the individual is suspended, at the time the individual is so convicted, or

"(B) The Governor of the State—

"(i) submits to the Secretary no earlier than the adjournment sine die of the first regularly scheduled session of the State's legislature which begins after the date of enactment of this section a written certification stating that he is opposed to the enactment or enforcement in his State of a law described in subparagraph (A) relating to the revocation, suspension, issuance, or reinstatement of driver's licenses to convicted drug offenders; and

"(ii) submits to the Secretary a written certification that the legislature (including both Houses where applicable) has adopted a resolution expressing its opposition to a law described in clause (i)."

was repealed by Pub. L. 102–143, §333(c). See Construction of 1990 Amendment note below and section 159(a)(2), (3) of this title.

Subsec. (b). Pub. L. 101–516, §333 [part], which amended subsec. (b) generally to read as follows:

"(1)(A) Any funds withheld under subsection (a) from apportionment to any State on or before September 30, 1995, shall remain available for apportionment to such State as follows:

"(i) If such funds would have been apportioned under section 104(b)(5)(A) but for this section, such funds shall remain available until the end of the fiscal year for which such funds are authorized to be appropriated.

"(ii) If such funds would have been apportioned under section 104(b)(5)(B) but for this section, such funds shall remain available until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(iii) If such funds would have been apportioned under paragraph (1), (2), or (6) of section 104(b) but for this section, such funds shall remain available until the end of the third fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(B) No funds withheld under this section from apportionment to any State after September 30, 1995, shall be available for apportionment to such State.

"(2) If, before the last day of the period for which funds withheld under subsection (a) from apportionment are to remain available for apportionment to a State under paragraph (1), the State meets the requirements of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirements of subsection (a)(3), apportion to the State the funds withheld under subsection (a) that remain available for apportionment to the State.

"(3) Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure as follows:

"(A) Funds originally apportioned under section 104(b)(5)(A) shall remain available until the end of the fiscal year succeeding the fiscal year in which such funds are apportioned under paragraph (2).

"(B) Funds originally apportioned under paragraph (1), (2), (5)(B), or (6) of section 104(b) shall remain available until the end of the third fiscal year succeeding the fiscal year in which such funds are so apportioned.

Sums not obligated at the end of such period shall lapse or, in the case of funds apportioned under section 104(b)(5), shall lapse and be made available by the Secretary for projects in accordance with section 118(b).

"(4) If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment to a State under paragraph (1), the State does not meet the requirements of subsection (a)(3), such funds shall lapse or, in the case of funds withheld from apportionment under section 104(b)(5), such funds shall lapse and be made available by the Secretary for projects in accordance with section 118(b)."

was repealed by Pub. L. 102–143, §333(c). See Construction of 1990 Amendment note below and section 159(b) of this title.

Subsec. (c). Pub. L. 101–516, §333 [part], which amended subsec. (c) generally to read as follows: "For purposes of this section—

"(1) The term 'driver's license' means a license issued by a State to any individual that authorizes the individual to operate a motor vehicle on highways.

"(2) The term 'drug offense' means any criminal offense which proscribes—

"(A) the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the Controlled Substances Act, or

"(B) the operation of a motor vehicle under the influence of such a substance.

"(3) The term 'convicted' includes adjudicated under juvenile proceedings."

was repealed by Pub. L. 102–143, §333(c). See Construction of 1990 Amendment note below and section 159(c) of this title.

1987—Subsec. (b). Pub. L. 100–17, §114(e)(1), inserted "and the set asides authorized by subsection (f) of this section and sections 118(c) and 307(d) of this title" after "subsection (a) of this section" in introductory provisions.

Subsec. (b)(5)(A). Pub. L. 100–17, §102(b)(1), inserted after "September 30, 1990." the following: "The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within 10 days subsequent to January 2, 1989. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years 1991 and 1992. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within 10 days subsequent to January 2, 1991. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal year 1993."

Pub. L. 100–17, §102(b)(2), inserted at end "On October 1 of each of fiscal years 1988, 1989, 1990, and

1991, whenever Congress has not approved a cost estimate under this subparagraph, the Secretary shall make the apportionment required by this subparagraph using the Federal share of the last estimate submitted to Congress, adjusted to reflect (i) all previous credits, apportionments of interstate construction funds and lapses of previous apportionments of interstate construction funds, (ii) previous withdrawals of interstate segments, (iii) previous allocations of interstate discretionary funds, and (iv) transfers of interstate construction funds. If, before apportionment of funds under this subparagraph for any fiscal year, the Secretary and a State highway department agree that a portion of the apportionment to such State is not needed for such fiscal year, the amount of such portion shall be made available under section 118(b)(2) of this title."

Subsec. (g). Pub. L. 100–202 substituted "sections 130, 144, and 152 of this title" for "sections 144, 152, and 153 of this title, or section 203(d) of the Highway Safety Act of 1973," and struck out "All or any part of the funds apportioned in any fiscal year to a State in accordance with section 203(d) of the Highway Safety Act of 1973 from funds authorized in section 203(c) of such Act, may be transferred from that apportionment to the apportionment made under section 219 of this title if such transfer is requested by the State highway department and is approved by the Secretary after he has received satisfactory assurances from such department that the purposes of such section 203 have been met."

1981—Subsec. (b)(5)(A). Pub. L. 97–134, §4(c), inserted provision that the Secretary shall include only those costs eligible for funds authorized by section 108(b) of the Federal Highway Act of 1956 in making the revised estimate of completing Interstate System for the purpose of transmitting it to the Congress within ten days subsequent to Jan. 2, 1983 or thereafter.

Subsec. (b)(5)(B). Pub. L. 97–134, §5, inserted reference to reconstruction in opening par., substituted "55 per centum in the ratio that lane miles on the Interstate routes designated under sections 103 and 139(c) of this title (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each State bears to the total of all such lane miles in all States; and 45 per centum in the ratio that vehicle miles traveled on lanes on the Interstate routes designated under sections 103 and 139(c) of this title" for "Seventy-five per centum in the ratio that lane miles in use for more than five years on the Interstate System (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each State bears to the total of all such lane miles in all States; and 25 per centum in the ratio that vehicle miles traveled on lanes in use for more than five years on the Interstate System" and inserted provision that no State excluding any State that has no interstate lane miles shall receive less than one-half of 1 per centum of the total apportionment made by this subparagraph for any fiscal year.

1978—Subsec. (b)(5)(A). Pub. L. 95–599, §108, inserted provision relating to deadline for inclusion of estimate.

Subsec. (b)(5)(B). Pub. L. 95–599, §116(b), substituted provisions limiting apportionment of funds ratio to seventy-five percent of lane miles ratio and twenty-five of miles traveled ratio for provision establishing a straight ratio for such apportionment.

Subsec. (d). Pub. L. 95–599, §109, substituted "50" for "40" and "20" wherever appearing.

Subsec. (h). Pub. L. 95–599, §110, added subsec. (h).

1976—Subsec. (b). Pub. L. 94–280, §112(a), substituted "On October 1 of each fiscal year" for "On or before January 1 next preceding the commencement of each fiscal year,".

Subsec. (b)(1). Pub. L. 94–280, §112(b), inserted in introductory text "(including extensions in urban areas and priority primary routes)", made existing provisions applicable for a two-third apportionment of monies, striking out "in all the States at the close of the next preceding calendar year" before "as shown by a certificate of the Postmaster General" and inserted provision for a one-third apportionment in the ratio which the population in urban areas in each State bears to the total population in urban areas in all the States as shown by the latest Federal census.

Subsec. (b)(3). Pub. L. 94–280, §112(c), repealed provisions respecting apportionment of monies for extensions of the Federal-aid primary and Federal-aid secondary systems within urban areas in the ratio which the population in municipalities and other urban places of five thousand or more in each State bears to the total population in municipalities and other urban places of five thousand or more in all of the States as shown by the latest available Federal census.

Subsec. (b)(5)(A). Pub. L. 94–280, §§106(b), 107(b), 112(g), designated existing provisions as subpar. (A) and inserted introductory phrase "Except as provided in subparagraph B—"; substituted wherever appearing in introductory phrase and second and third sentences "1990" for "1979"; substituted provision for apportionment for fiscal year ending September 30, 1977, for prior provision for fiscal year ending June 30, 1977, substituted provision for apportionment for fiscal year ending September 30, 1978, in accordance with section 103 of Federal-Aid Highway Act of 1976, for prior provision for apportionment for fiscal year ending June 30, 1978, substituted provision for apportionment for fiscal year ending September 30, 1979, for prior

provision for fiscal year ending June 30, 1979, provided for apportionment for fiscal year ending September 30, 1980, and inserted provisions for revised estimates of completion costs and transmittal thereof to Congress within ten days subsequent to January 2, 1979, 1981, 1983, 1985, and 1987 for apportionments for fiscal years ending September 30, 1981 and 1982, 1983 and 1984, 1985 and 1986, 1987 and 1988, and 1989 and 1990; and substituted in third sentence "October 1 of the year preceding the fiscal year for which authorized" for "a date as far in advance of the beginning of the fiscal year for which authorized as practicable but in no case more than eighteen months prior to the beginning of the fiscal year for which authorized".

Subsec. (b)(5)(B). Pub. L. 94–280, §106(b), added subpar. (B).

Subsec. (c). Pub. L. 94–280, §113(a), designated existing provisions as par. (1), substituted "Subject to subsection (d), the amount" for "Not more than 40 per centum of the amount" and "transferred from the apportionment under one paragraph to the apportionment under the other paragraph" for "transferred from the apportionment under one paragraph to the apportionment under any other of such paragraphs" and struck out former last sentence reading "The total of such transfers shall not increase the original apportionment under any of such paragraphs by more than 40 per centum.", and incorporated former subsec. (d) provisions in a new par. (2), substituting "Subject to subsection (d), the amount" for "Not more than 40 per centum of the amount" and paragraph "(1)" for "(3)" and striking out former last sentence reading "The total of such transfers shall not increase the original apportionment under either of such paragraphs by more than 40 per centum."

Subsec. (d). Pub. L. 94–280, §113(a), inserted provisions respecting conditions for transfer of apportionments under subsec. (c) of this section and struck out prior subsec. (d) provisions respecting transfer of certain apportionments, now incorporated in subsec. (c)(2) of this section.

Subsec. (e). Pub. L. 94–280, §112(d), in first sentence, substituted "On October 1" for "On or before January 1 preceding the commencement" and inserted "(other than under subsection (b)(5) of this section)" after "hereunder" and inserted certification provision respecting sums apportioned under subsec. (b)(5) of this section to each State highway department and amount of deductions for administration and research; and inserted provisions advising the States not less than ninety days before the beginning of the fiscal year of amounts to be apportioned to the States and in the case of the Interstate System ninety days prior to the apportionment of funds.

Subsec. (f)(1). Pub. L. 94–280, §112(e), substituted "On October 1" for "On or before January 1 next preceding the commencement" and inserted exception provision.

Subsec. (f)(3). Pub. L. 94–280, §112(f), authorized State use of apportioned funds to finance transportation planning outside of urbanized areas.

Subsec. (g). Pub. L. 94–280, §206, increased percentage limitation to "40 per centum" from "30 per centum"; authorized approval by Secretary of transfer of apportionments when requested by the State highway department and approved by the Secretary as being in the public interest; and provided for transfer of apportionments under section 203(c) and (d) of the Highway Safety Act of 1973, to apportionments under section 219 of this title, and clarified the authority for apportionment of Highway Trust Fund funds.

1973—Subsec. (b)(1). Pub. L. 93–87, §111(a)(1), (2), substituted "intercity mail routes where service is performed by motor vehicles" for "star routes" in two places, "one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States" for "one-third in the ratio which the population of each State bears to the total population of all the States", and "No State (other than the District of Columbia) shall receive" for "No State shall receive".

Subsec. (b)(2). Pub. L. 93–87, §111(a)(1), (3), substituted "intercity mail routes where service is performed by motor vehicles" for "star routes" in two places, "one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all of the States" for "one-third in the ratio which the rural population of each State bears to the total rural population of all the States", and "No State (other than the District of Columbia) shall receive" for "No State shall receive".

Subsec. (b)(5). Pub. L. 93–87, §106(b), extended from 1976 to 1979, the date for completion of the Interstate System; and authorized the Secretary to use the Federal share of the approved estimate in making apportionments for fiscal years ending June 30, 1976, 1977, 1978, and 1979, reenacted requirement that Secretary make a revised estimate of cost of completing the then designated Interstate System, substituting Jan. 2, 1975, for Jan. 2, 1974, as the commencing date for the ten day period for transmittal of the revised cost estimate, and reenacted provisions of last sentence without change, respectively.

Subsec. (b)(6). Pub. L. 93–87, §111(a)(4), substituted "urban areas" for "urbanized areas" in two places and mandated that no State shall receive less than one-half of 1 per centum of each year's apportionment.

Subsec. (c). Pub. L. 93–87, §111(a)(5), (7), substituted "40" for "20" per centum in two places and struck out reference to par. (3) of subsec. (b) of this section and provision of last sentence that nothing contained in subsec. (c) shall alter or impair the authority contained in subsec. (d) of this section.

Subsec. (d). Pub. L. 93–87, §111(a)(6), substituted provisions respecting transfer of apportionment of funds

under pars. (3) and (6) of subsec. (b) of this section from one paragraph to the other when requested by the State highway department and approved as in the public interest by the Governor of the State and the Secretary for former provisions which authorized expenditure of subsec. (b)(2) funds apportioned for Federal-aid secondary system to a State for projects on another Federal-aid system when the State highway department and the Secretary were in joint agreement as to such other expenditure.

Subsec. (f). Pub. L. 93–87, §112, incorporated provisions of former subsec. (f) that "Not to exceed 50 per centum of the amounts apportioned in accordance with paragraph (3) of subsection (b) of this section may be expended for projects on the Federal-aid urban system" in provisions designated as par. (1) and stating that "On or before January 1 next preceding the commencement of each fiscal year, the Secretary, after making the deduction authorized by subsection (a) of this section, shall set aside not to exceed one-half per centum of the remaining funds authorized to be appropriated for expenditure upon the Federal-aid systems, for the purpose of carrying out the requirements of section 134 of this title." and added pars. (2)–(4).

Subsec. (g). Pub. L. 93–87, §227, added subsec. (g).

1970—Subsec. (b)(5). Pub. L. 91–605, §104(b), extended from 1974 to 1976 the date for completion of the Interstate System, substituted "on April 20, 1970" for "within ten days subsequent to January 2, 1970" as the date for submission by the Secretary to Congress of a revised completion cost estimate of the Interstate System, struck out reference of finality as applied to this estimate, deleted June 30, 1974 from the enumerated list of fiscal years for which the Secretary shall use the Federal share of the approved 1970 estimate in making apportionments, inserted provision directing the Secretary to submit to Congress a revised Interstate System completion cost estimate within 10 days from Jan. 2, 1972 with apportionments to be made by the Secretary for use in the fiscal years 1974 and 1975 from the Federal share of the approved estimate, and inserted provision directing the Secretary to submit to Congress another cost estimate within 10 days from Jan. 2, 1974 to be used for making apportionments for the fiscal year 1976.

Subsec. (b)(6). Pub. L. 91–605, §106(c)(2), added par. (6).

Subsec. (f). Pub. L. 91–605, §106(c)(1), added subsec. (f).

1968—Subsec. (b)(5). Pub. L. 90–495 extended from 1972 to 1974 the date for completion of the Interstate System, added the fiscal year ending June 30, 1971, to the enumeration of fiscal years for which the Secretary may use the Federal share of approval estimates in making apportionments, substituted January 2, 1970, for January 2, 1969, as the date for commencement of the 10–day period during which the Secretary shall transmit to Congress his final revised estimate of the cost of completing the Interstate system, and added the fiscal years ending June 30, 1973, and June 30, 1974, to the enumerated list of fiscal years for which the Secretary shall use the Federal share of the approved estimate in making apportionments.

1966—Subsec. (b)(5). Pub. L. 89–574 substituted "1972" for "1971" wherever appearing except in provision requiring the Secretary, with the approval of Congress, to use the Federal share of the approved estimates in making apportionments for the fiscal year ending June 30, 1971, and, in such provision, retained the authority of the Secretary to use the Federal share of the approved estimates in making apportionments for the fiscal year ending June 30, 1971, but extended the authority of the Secretary to use the Federal share of the approved estimates in making apportionments for the fiscal year ending June 30, 1972, as well.

1964—Subsec. (b)(5). Pub. L. 88–423 substituted "January 2, 1961" for "January 2, 1962".

1963—Subsec. (b)(3). Pub. L. 88–157, §2, struck out provision which considered Connecticut and Vermont towns as municipalities for the purposes of par. (3) regardless of their incorporated status.

Subsec. (b)(5). Pub L. 88–157, §3, substituted "1971" for "1969" in introductory text and 3d sentence; inserted "For the fiscal years 1960 through 1966," and substituted "such State" for "each State" in 1st sentence; inserted 2d sentence respecting apportionment for fiscal years 1967 through 1971; substituted in 9th sentence "January 2, 1965" for "January 2, 1966, and annually thereafter through and including January 2, 1968"; substituted in 10th sentence "Upon the approval of such estimate by the Congress" for "Upon approval of any such estimate by the Congress by concurrent resolution" and "fiscal years ending June 30, 1967; June 30, 1968; and June 30, 1969" for "fiscal year which begins next following the fiscal year in which such report is transmitted to the Senate and the House of Representatives" and inserted "the Federal share of" before "such approved estimate"; and inserted 11th through 14th sentences, respecting revised cost estimate for completion of the Interstate System and its submission to Congress within 10 days after Jan. 2, 1968, apportionment for fiscal year ending June 30, 1970, final revised cost estimate for completion of the Interstate System and its submission to Congress within 10 days after Jan. 2, 1969, and apportionment for fiscal year ending June 30, 1971, respectively.

1962—Subsec. (b)(1). Pub. L. 87–866 substituted "preceding calendar year" for "preceding fiscal year".

1960—Subsec. (b)(5). Pub L. 86–657 struck out provisions which required, in making the estimates of cost for completing the Interstate System, exclusion of the cost of completing any mileage designated from the one thousand additional miles authorized by section 108(1) of the Federal-Aid Highway Act of 1956.

1959—Subsec. (b). Pub. L. 86–70 struck out ", except that only one-third of the area of Alaska shall be included" after "total area of all States" in pars. (1) and (2).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Except as otherwise provided, amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

Pub. L. 114–94, div. A, title I, §1446(d), Dec. 4, 2015, 129 Stat. 1438, provided that the amendment made by section 1446(d)(5)(A) is effective as of July 6, 2012, and as if included in Pub. L. 112–141 as enacted.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–244, title I, §101(i), June 6, 2008, 122 Stat. 1574, provided that the amendment made by section 101(i) is effective Oct. 1, 2007.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–178 effective Aug. 21, 2002, see section 5 of Pub. L. 108–178, set out as a note under section 5334 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–159 effective Jan. 1, 2000, see section 107(a) of Pub. L. 106–159, set out as a note under section 104 of Title 49, Transportation.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102–240, title I, §1100, Dec. 18, 1991, 105 Stat. 2026, 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 [former] 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 [former] 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 [former] 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

Pub. L. 94–280, title I, §113(b), May 5, 1976, 90 Stat. 435, 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 [former] 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

Pub. L. 87–866, §10(b), Oct. 23, 1962, 76 Stat. 1148, 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

Pub. L. 102–143, title III, §333(d), Oct. 28, 1991, 105 Stat. 947, 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."

TRANSPARENCY AND ACCOUNTABILITY

Pub. L. 112–141, div. A, title I, §1503(c), July 6, 2012, 126 Stat. 564, which directed the Secretary of Transportation to compile and make available on the public website of the Department of Transportation the annual expenditure data for funds made available under this title and chapter 53 of Title 49, Transportation, and to annually submit a report to Congress containing a summary of such data, was repealed by Pub. L. 114–94, div. A, title I, §1402(b), Dec. 4, 2015, 129 Stat. 1407.

EVACUATION ROUTES

Pub. L. 112–141, div. A, title I, §1526, July 6, 2012, 126 Stat. 580, provided that: "Each State shall give adequate consideration to the needs of evacuation routes in the State, including such routes serving or adjacent to facilities operated by the Armed Forces, when allocating funds apportioned to the State under title 23, United States Code, for the construction of Federal-aid highways."

FEDERAL-AID HIGHWAYS APPROPRIATIONS

Pub. L. 109–289, div. B, title II, §21010, as added by Pub. L. 110–5, §2, Feb. 15, 2007, 121 Stat. 48, provided that: "Notwithstanding section 101 [42 U.S.C. 12651i note, 121 Stat. 8], the level for 'Federal Highway Administration, Federal-Aid Highways (Limitation on Obligations) (Highway Trust Fund)' shall be $39,086,464,683."

[For definition of "level" as used in section 21010 of Pub. L. 109–289, set out above, see section 101(b) of Pub. L. 109–289, set out as a note under section 12651i of Title 42, The Public Health and Welfare.]

ADJUSTMENTS FOR SURFACE TRANSPORTATION EXTENSION ACT OF 1997

Pub. L. 105–178, title I, §1103(m), June 9, 1998, 112 Stat. 126, made certain reductions in State apportionments under Pub. L. 105–178 for fiscal year 1998 based on State apportionments under section 1003(d)(1) of Pub. L. 102–240.

ADVANCES

Pub. L. 109–59, title I, §1936, Aug. 10, 2005, 119 Stat. 1510, provided that: "Notwithstanding any other provision of law, funds apportioned to a State under [former] 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 [former] sections 117 and 144(g) of title 23, United States Code, in an

amount not to exceed the amount authorized for that project, only from a program under which the project would be eligible, except that any amounts obligated to carry out the project shall be restored from funds allocated for the project."

Pub. L. 108–310, §2, Sept. 30, 2004, 118 Stat. 1144, as amended by Pub. L. 109–14, §2(a)–(b)(2), (d), May 31, 2005, 119 Stat. 324; Pub. L. 109–20, §2(a), (b)(1), (d), July 1, 2005, 119 Stat. 346; Pub. L. 109–35, §2(a), (b)(1), (d), July 20, 2005, 119 Stat. 379; Pub. L. 109–37, §2(a), (b)(1), (d), July 22, 2005, 119 Stat. 394; Pub. L. 109–40, §2(a), (b)(1), (d), July 28, 2005, 119 Stat. 410; Pub. L. 109–42, §2(b), July 30, 2005, 119 Stat. 435, provided that:

"(a) IN GENERAL.—

"(1) APPORTIONMENT RATIO.—Except as provided in paragraph (2), the Secretary of Transportation shall apportion funds made available under section 1101(l) of the Transportation Equity Act for the 21st Century [Pub. L. 105–178] (112 Stat. 111; 118 Stat. 876 [118 Stat. 1145]), as amended by this Act, the Surface Transportation Extension Act of 2005 [Pub. L. 109–14],,[sic] the Surface Transportation Extension Act of 2005, Part II [Pub. L. 109–20][,] the Surface Transportation Extension Act of 2005, Part III [Pub. L. 109–35], the Surface Transportation Extension Act of 2005, Part IV [Pub. L. 109–37], and the Surface Transportation Extension Act of 2005, Part V [Pub. L. 109–40], to each State in the ratio that—

"(A) the State's total fiscal year 2004 obligation authority for funds apportioned for the Federal-aid highway program; bears to

"(B) all States' total fiscal year 2004 obligation authority for funds apportioned for the Federal-aid highway program.

"(2) EXCEPTION.—The ratios determined under this subsection shall be subject to the same adjustments as the adjustments made under [former] 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 [now the surface transportation block grant 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: [former] 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).

"(4) SPECIAL RULES FOR MINIMUM GUARANTEE.—In carrying out the minimum guarantee under [former] 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 Amendment note set out under section 101 of this title], the Surface Transportation Extension Act of 2005 [Pub. L. 109–14],,[sic] the Surface Transportation Extension Act of 2005, Part II [Pub. L. 109–20][,] the Surface Transportation Extension Act of 2005, Part III [Pub. L. 109–35], the Surface Transportation Extension Act of 2005, Part IV [Pub. L. 109–37], and the Surface Transportation Extension Act of 2005, Part V [Pub. L. 109–40] (including any amendments made by this Act and such Act[s]); or

"(B) 83 percent of the funding provided for or limitation set on such program, project, or activity in title I of division H of the Consolidated Appropriations Act, 2005 [Pub. L. 108–447, see Tables for classification].

"(2) LIMITATION ON TOTAL AMOUNT OF AUTHORITY DISTRIBUTED.—The total amount of obligation limitation distributed under paragraph (1) for the period of October 1, 2004, through July 30, 2005, shall not exceed $28,801,000,000; except that this limitation shall not apply to $530,370,000 in obligations for minimum guarantee for such period.

"(3) TIME PERIOD FOR OBLIGATIONS OF FUNDS.—After August 14, 2005, no funds shall be obligated for any Federal-aid highway program project until the date of enactment of a law reauthorizing the Federal-aid highway program.

"(4) TREATMENT OF OBLIGATIONS.—Any obligation of obligation authority distributed under this subsection shall be considered to be an obligation for Federal-aid highways and highway safety construction programs for fiscal year 2005 for the purposes of the matter under the heading 'federal-aid highways' in title I of division H of the Consolidated Appropriations Act, 2005 [Pub. L. 108–447] (23 U.S.C. 104 note; 118 Stat. 3204)."

Pub. L. 108–88, §2, Sept. 30, 2003, 117 Stat. 1110, as amended by Pub. L. 108–202, §2(a), (b)(1), (2), (d), Feb. 29, 2004, 118 Stat. 478; Pub. L. 108–224, §2(a), (b)(1), (d), Apr. 30, 2004, 118 Stat. 627; Pub. L. 108–263, §2(a), (b)(1), (d), June 30, 2004, 118 Stat. 698; Pub. L. 108–280, §§2(a), (b)(1), (d), 3, July 30, 2004, 118 Stat. 876, 877; Pub. L. 108–310, §12(a), (c), (e)(1), Sept. 30, 2004, 118 Stat. 1161, 1162, provided that:

"(a) IN GENERAL.—The Secretary of Transportation shall apportion funds made available under section 1101(c) of the Transportation Equity Act for the 21st Century [Pub. L. 105–178] (112 Stat. 116), as amended by this Act [117 Stat. 1111], the Surface Transportation Extension Act of 2004 [Pub. L. 108–202], the Surface Transportation Extension Act of 2004, Part II [Pub. L. 108–224], the Surface Transportation Extension Act of 2004, Part III [Pub. L. 108–263], the Surface Transportation Extension Act of 2004, Part IV [Pub. L. 108–280], and the Surface Transportation Extension Act of 2004, Part V [Pub. L. 108–310], to each State in the ratio that—

"(1) the State's total fiscal year 2003 obligation authority for funds apportioned for the Federal-aid highway program; bears to

"(2) all States' total fiscal year 2003 obligation authority for funds apportioned for the Federal-aid highway program.

"(b) PROGRAMMATIC DISTRIBUTIONS.—

"(1) PROGRAMS.—Of the funds to be apportioned to each State under subsection (a), the Secretary shall ensure that the State is apportioned an amount of the funds, determined under paragraph (2), for the Interstate maintenance program, the National Highway System program, the bridge program, the surface transportation program [now the surface transportation block grant 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: [former] 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).

"(4) SPECIAL RULES FOR MINIMUM GUARANTEE.—In carrying out the minimum guarantee under [former] section 105(c) of title 23, United States Code, with funds apportioned under this section for the minimum guarantee, the $2,800,000,000 set forth in paragraph (1) of such section 105(c) shall be treated as being $2,800,000,000 and the aggregate of amounts apportioned to the States under this section for the minimum guarantee shall be treated, for purposes of such section 105(c), as amounts made available under section 105 of such title.

"(5) EXTENSION OF OFF-SYSTEM BRIDGE SETASIDE.—[Amended section 144 of this title.]

"[(c) Repealed. Pub. L. 108–310, §12(e)(1), Sept. 30, 2004, 118 Stat. 1162.]

"(d) AUTHORIZATION OF CONTRACT AUTHORITY.—[Amended section 1101 of Pub. L. 105–178, 112 Stat. 111.]

"(e) LIMITATION ON OBLIGATIONS.—

"(1) DISTRIBUTION OF OBLIGATION AUTHORITY.—For the fiscal year 2004, the Secretary shall distribute the obligation limitation made available for Federal-aid highways and highway safety construction programs under the heading 'Federal-aid highways' in the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (division F of Public Law 108–199; 118 Stat. 291 [290]; 118 Stat. 1013), in accordance with section 110 of such Act [23 U.S.C. 104 note].

"(2) CALCULATION OF RATIO.—For purposes of the calculation of the ratio under section 110(a)(3) of the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (division F of Public Law 108–199; 118 Stat. 291; 23 U.S.C. 104 note)—

"(A) the obligation limitation for Federal-aid Highways referred to in section 110(a)(3)(A) of such Act shall be deemed to be the obligation limitation for Federal-aid highways and highway safety construction programs for fiscal year 2004 identified under the heading 'FEDERAL-AID HIGHWAYS' in such Act (118 Stat. 290); and

"(B) the total of sums authorized to be appropriated for Federal-aid highways and highway safety construction programs (other than sums authorized to be appropriated for sections set forth in paragraphs (1) through (7) of section 110(b) of such Act and sums authorized to be appropriated for [former] 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."

Pub. L. 105–130, §2, Dec. 1, 1997, 111 Stat. 2552, 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 [now the surface transportation block grant program], the congestion mitigation and air quality improvement program, minimum allocation under [former] section 157 of title 23, United States Code, Interstate reimbursement under [former] 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, formerly 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 [former] section 104(a) of title 23, United States Code, the set-asides under [former] section 104(b)(1) of that title for the territories and under section [former] 104(f)(1) of that title for metropolitan planning, and the expenditure required under section [former] 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 Pub. L. 102–240, title I, §1003, Dec. 18, 1991, 105 Stat. 1918.]

"(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

Pub. L. 104–59, title III, §319(c), Nov. 28, 1995, 109 Stat. 589, 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, formerly set out below]."

COMPLETION OF INTERSTATE SYSTEM

Pub. L. 102–240, title I, §1001(a), Dec. 18, 1991, 105 Stat. 1915, 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

Pub. L. 102–240, title I, §1015, Dec. 18, 1991, 105 Stat. 1943, provided for adjustments to surface transportation program funds apportioned to each State for fiscal years 1992 to 1997, with certain conditions and additional allocations, and authorized appropriations.

ALLOCATION FORMULA STUDY

Pub. L. 102–240, title I, §1098, Dec. 18, 1991, 105 Stat. 2025, as amended by Pub. L. 104–59, title III, §325(g), Nov. 28, 1995, 109 Stat. 592, directed General Accounting Office in conjunction with Bureau of Transportation Statistics to conduct thorough study and recommend to Congress within 2 years after Dec. 18, 1991, a fair and equitable apportionment formula for allocation of Federal-aid highway funds that best directs highway funds to places of greatest need for highway maintenance and enhancement based on extent of these highway systems, their present use, and increases in their use, with results of study to be presented to Congress on or before Jan. 1, 1994, and to be considered by Congress in the 1996 reauthorization of surface transportation program.

STUDY ON IMPACT OF CLIMATIC CONDITIONS

Pub. L. 102–240, title I, §§1101–1102, Dec. 18, 1991, 105 Stat. 2027, directed Secretary of Transportation to conduct a study of effects of climatic conditions on costs of highway construction and maintenance and to transmit to Congress, not later than Sept. 30, 1993, a report on the results of the study, prior to repeal by Pub. L. 105–362, title XV, §1501(d), Nov. 10, 1998, 112 Stat. 3294.

WITHHOLDING OF FIVE PER CENTUM OF FUNDS FOR STATES FAILING TO MEET REQUIREMENTS

Pub. L. 101–516, title III, §333, Nov. 5, 1990, 104 Stat. 2184, which provided in part that 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 former section 104(b) of this title on the first day of each fiscal year which begins after the second full calendar year following Nov. 5, 1990, if State does not meet the requirements of paragraph (3) on such date, was repealed by Pub. L. 102–143, title III, §333(c), Oct. 28, 1991, 105 Stat. 947.

REDUCTION IN AMOUNT STATES FAILING TO AUTHORIZE TAX-BASED SOURCES OF REVENUE MAY OBLIGATE

Pub. L. 101–516, title III, §341, Nov. 5, 1990, 104 Stat. 2189, as amended by Pub. L. 102–240, title III, §3003(b), Dec. 18, 1991, 105 Stat. 2088, provided that States not authorizing tax-based sources of revenue to

pay the non-Federal share for certain mass transportation projects by Oct. 1, 1991, would have a 25 percent reduction in amounts available for obligation for Federal-aid highways and highway safety construction programs for the period from Jan. 1, 1992, through Dec. 31, 1992.

Pub. L. 102–27, title IV, §404(b), Apr. 10, 1991, 105 Stat. 155, provided that: "The Secretary of Transportation shall restore any reductions in obligation authority made under section 329 [of Pub. L. 101–516, formerly set out below] prior to its repeal."

Similar provisions were contained in Pub. L. 101–516, title III, §329, Nov. 5, 1990, 104 Stat. 2183, which was repealed by Pub. L. 102–27, title IV, §404(a), Apr. 10, 1991, 105 Stat. 155.

IMPLEMENTATION OF CERTAIN PRESIDENTIAL ORDERS REQUIRING PERCENTAGE REDUCTION FOR FEDERAL-AID HIGHWAY, MASS TRANSIT, AND HIGHWAY SAFETY PROGRAMS

Pub. L. 100–17, title I, §136, Apr. 2, 1987, 101 Stat. 174, provided that: "In implementing any order issued by the President which provides for or requires a percentage reduction in new budget authority, unobligated balances, obligated balances, new loan guarantee commitments, new direct loan obligations, spending authority, or obligation limitations for the Federal-aid highway, mass transit and highway safety programs and with respect to which the budget account activity as identified in the program and financing schedule contained in the Appendix to the Budget of the United States Government for such programs includes more than one specific highway, mass transit, or highway safety program or project for which budget authority is provided by this Act or an amendment made by this Act [see Short Title of 1987 Amendment note set out under section 101 of this title], the Secretary shall apply the percentage reduction equally to each such specific program or project."

FEDERAL-AID PRIMARY FORMULA FOR AMOUNTS AUTHORIZED FOR FISCAL YEARS 1983 THROUGH 1991

Pub. L. 97–424, title I, §108(a)–(e), Jan. 6, 1983, 96 Stat. 2103, as amended by Pub. L. 100–17, title I, §§107, 133(a)(1), Apr. 2, 1987, 101 Stat. 146, 170, set forth an alternate apportionment formula for amounts authorized for fiscal years 1983 to 1991 for the Federal-aid primary system.

MATCHING FUND WAIVER FOR PERIOD JANUARY 6, 1983, THROUGH SEPTEMBER 30, 1984

Pub. L. 97–424, title I, §145, Jan. 6, 1983, 96 Stat. 2130, provided that the Federal share of certain qualifying projects approved by the Secretary of Transportation under sections 106(a) and 117 of this title between Jan. 6, 1983, and Sept. 30, 1984, would be up to and including 100 percent of the construction cost as requested by the State highway department.

FEDERAL-AID HIGHWAYS AND HIGHWAY SAFETY CONSTRUCTION PROGRAMS; MAXIMUM LIMITS ON TOTAL OBLIGATIONS; EXCEPTIONS; STATE ALLOCATIONS

Pub. L. 117–58, div. A, title I, §11102, Nov. 15, 2021, 135 Stat. 450, provided that:

"(a) GENERAL LIMITATION.—Subject to subsection (e), and notwithstanding any other provision of law, the obligations for Federal-aid highway and highway safety construction programs shall not exceed—

"(1) $57,473,430,072 for fiscal year 2022;

"(2) $58,764,510,674 for fiscal year 2023;

"(3) $60,095,782,888 for fiscal year 2024;

"(4) $61,314,170,545 for fiscal year 2025; and

"(5) $62,657,105,821 for fiscal year 2026.

"(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] ([former] 23 U.S.C. 144 note; 92 Stat. 2714);

"(3) section 9 of the Federal-Aid Highway Act of 1981 (95 Stat. 1701);

"(4) subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 (96 Stat. 2119);

"(5) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 198);

"(6) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027);

"(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 (112 Stat. 107) [Pub. L. 105–178, see Tables for classification] or subsequent Acts for multiple years or to remain available until expended, but only to the extent that the obligation authority has not lapsed or been used;

"(10) section 105 of title 23, United States Code (as in effect for fiscal years 2005 through 2012, but only in an amount equal to $639,000,000 for each of those fiscal years);

"(11) section 1603 of SAFETEA–LU [Pub. L. 109–59] (23 U.S.C. 118 note; 119 Stat. 1248), 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;

"(12) section 119 of title 23, United States Code (as in effect for fiscal years 2013 through 2015, but only in an amount equal to $639,000,000 for each of those fiscal years);

"(13) section 119 of title 23, United States Code (as in effect for fiscal years 2016 through 2021, but only in an amount equal to $639,000,000 for each of those fiscal years); and

"(14) section 119 of title 23, United States Code (but, for fiscal years 2022 through 2026, only in an amount equal to $639,000,000 for each of those fiscal years).

"(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—For each of fiscal years 2022 through 2026, 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; and

"(B) amounts authorized for 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—

"(A) made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway safety construction programs for previous fiscal years the funds for which are allocated by the Secretary (or apportioned by the Secretary under section 202 or 204 of title 23, United States Code); and

"(B) for which obligation authority was provided in a previous fiscal year;

"(3) shall determine the proportion 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) of this subsection; 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 (13) of subsection (b) and sums authorized to be appropriated for section 119 of title 23, United States Code, equal to the amount referred to in subsection (b)(14) for the fiscal year), less the aggregate of the amounts not distributed under paragraphs (1) and (2) of this subsection;

"(4) 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 (other than programs to which paragraph (1) applies) that are allocated by the Secretary under this division [see Tables for classification] and title 23, United States Code, or apportioned by the Secretary under section 202 or 204 of that title, by multiplying—

"(A) the proportion determined under paragraph (3); by

"(B) the amounts authorized to be appropriated for each such program for the fiscal year; and

"(5) 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 paragraph (4), for Federal-aid highway and highway safety construction programs that are apportioned by the Secretary under title 23, United States Code (other than the amounts apportioned for the national highway performance program in section 119 of title 23, United States Code, that are exempt from the limitation under subsection (b)(14) and the amounts apportioned under sections 202 and 204 of that title) in the proportion that—

"(A) amounts authorized to be appropriated for the programs that are apportioned under title 23, United States Code, to each State for the fiscal year; bears to

"(B) the total of the amounts authorized to be appropriated for the programs that are apportioned under title 23, United States Code, to all States for the fiscal year.

"(d) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (c), the Secretary shall, after August 1 of each of fiscal years 2022 through 2026—

"(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 144 (as in effect on the day before the date of enactment of MAP–21 (Public Law 112–141; 126 Stat. 405) [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title]) and 104 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 chapter 5 of title 23, United States Code.

"(2) EXCEPTION.—Obligation authority made available under paragraph (1) shall—

"(A) remain available for a period of 4 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 2022 through 2026, the Secretary shall distribute to the States any funds (excluding funds authorized for the program under section 202 of title 23, United States Code) 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 (or will not be apportioned to the States under section 204 of title 23, United States Code), and will not be available for obligation, for the fiscal year because of the imposition of any obligation limitation for the fiscal year.

"(2) RATIO.—Funds shall be distributed under paragraph (1) in the same proportion as the distribution of obligation authority under subsection (c)(5).

"(3) AVAILABILITY.—Funds distributed to each State under paragraph (1) shall be available for any purpose described in section 133(b) of title 23, United States Code."

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

Pub. L. 114–94, div. A, title I, §1102, Dec. 4, 2015, 129 Stat. 1326.

Pub. L. 112–141, div. A, title I, §1102, July 6, 2012, 126 Stat. 416, as amended by Pub. L. 113–159, title I, §1001(c)(3), Aug. 8, 2014, 128 Stat. 1841; Pub. L. 114–21, title I, §1001(c)(2), May 29, 2015, 129 Stat. 219; Pub. L. 114–41, title I, §1001(c)(2), July 31, 2015, 129 Stat. 445; Pub. L. 114–73, title I, §1001(c)(2), Oct. 29, 2015, 129 Stat. 569; Pub. L. 114–87, title I, §1001(c)(2), Nov. 20, 2015, 129 Stat. 678.

Pub. L. 109–59, title I, §1102, Aug. 10, 2005, 119 Stat. 1157, as amended by Pub. L. 110–244, title I, §101(b), June 6, 2008, 122 Stat. 1573.

Pub. L. 105–178, title I, §1102, June 9, 1998, 112 Stat. 115, as amended by Pub. L. 105–206, title IX, §9002(b), July 22, 1998, 112 Stat. 834; Pub. L. 106–159, title I, §103(b)(2), Dec. 9, 1999, 113 Stat. 1753.

Pub. L. 119–75, div. D, title I, Feb. 3, 2026, 140 Stat. 342, provided in part: "Funds available for the implementation or execution of authorized Federal-aid highway and highway safety construction programs shall not exceed total obligations of $62,657,105,821 for fiscal year 2026".

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

Pub. L. 118–42, div. F, title I, Mar. 9, 2024, 138 Stat. 315.

Pub. L. 117–328, div. L, title I, Dec. 29, 2022, 136 Stat. 5109.

Pub. L. 117–103, div. L, title I, Mar. 15, 2022, 136 Stat. 698.

Pub. L. 116–260, div. L, title I, Dec. 27, 2020, 134 Stat. 1835.

Pub. L. 116–94, div. H, title I, Dec. 20, 2019, 133 Stat. 2945.

Pub. L. 116–6, div. G, title I, Feb. 15, 2019, 133 Stat. 407.

Pub. L. 115–141, div. L, title I, Mar. 23, 2018, 132 Stat. 982.

Pub. L. 115–31, div. K, title I, May 5, 2017, 131 Stat. 735.

Pub. L. 114–113, div. L, title I, Dec. 18, 2015, 129 Stat. 2844.

Pub. L. 113–235, div. K, title I, Dec. 16, 2014, 128 Stat. 2705.

Pub. L. 113–76, div. L, title I, Jan. 17, 2014, 128 Stat. 583.

Pub. L. 112–55, div. C, title I, Nov. 18, 2011, 125 Stat. 650.

Pub. L. 119–75, div. D, title I, §120, Feb. 3, 2026, 140 Stat. 350, provided that:

"(a) For fiscal year 2026, the Secretary of Transportation shall—

"(1) not distribute from the obligation limitation for Federal-aid highways—

"(A) amounts authorized for administrative expenses and programs by section 104(a) of title 23, United States Code; and

"(B) amounts authorized for 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—

"(A) made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway safety construction programs for previous fiscal years the funds for which are allocated by the Secretary (or apportioned by the Secretary under section 202 or 204 of title 23, United States Code); and

"(B) for which obligation limitation was provided in a previous fiscal year;

"(3) determine the proportion that—

"(A) the obligation limitation for Federal-aid highways, less the aggregate of amounts not distributed under paragraphs (1) and (2) of this subsection; 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 (11) of subsection (b) and sums authorized to be appropriated for section 119 of title 23, United States Code, equal to the amount referred to in subsection (b)(12) for such fiscal year), less the aggregate of the amounts not distributed under paragraphs (1) and (2) of this subsection;

"(4) distribute the obligation limitation for Federal-aid highways, less the aggregate amounts not distributed under paragraphs (1) and (2), for each of the programs (other than programs to which paragraph (1) applies) that are allocated by the Secretary under authorized Federal-aid highway and highway safety construction programs, or apportioned by the Secretary under section 202 or 204 of title 23, United States Code, by multiplying—

"(A) the proportion determined under paragraph (3); by

"(B) the amounts authorized to be appropriated for each such program for such fiscal year; and

"(5) distribute the obligation limitation for Federal-aid highways, less the aggregate amounts not distributed under paragraphs (1) and (2) and the amounts distributed under paragraph (4), for Federal-aid highway and highway safety construction programs that are apportioned by the Secretary under title 23, United States Code (other than the amounts apportioned for the national highway performance program in section 119 of title 23, United States Code, that are exempt from the limitation under subsection (b)(12) and the amounts apportioned under sections 202 and 204 of that title) in the proportion that—

"(A) amounts authorized to be appropriated for the programs that are apportioned under title 23, United States Code, to each State for such fiscal year; bears to

"(B) the total of the amounts authorized to be appropriated for the programs that are apportioned under title 23, United States Code, to all States for such fiscal year.

"(b) EXCEPTIONS FROM OBLIGATION LIMITATION.—The obligation limitation for Federal-aid highways 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] ([former] 23 U.S.C. 144 note; 92 Stat. 2714);

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

"(4) subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 [Pub. L. 97–424] (96 Stat. 2119);

"(5) 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);

"(6) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 [Pub. L. 102–240, see Tables for classification] (105 Stat. 2027);

"(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 [Pub. L. 105–178, see Tables for classification] (112 Stat. 107) or subsequent Acts for multiple years or to remain available until expended, but only to the extent that the obligation authority has not lapsed or been used;

"(10) [former] section 105 of title 23, United States Code (as in effect for fiscal years 2005 through 2012, but only in an amount equal to $639,000,000 for each of those fiscal years);

"(11) section 1603 of SAFETEA–LU [Pub. L. 109–59] (23 U.S.C. 118 note; 119 Stat. 1248), 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; and

"(12) section 119 of title 23, United States Code (but, for each of fiscal years 2013 through 2026, only

in an amount equal to $639,000,000).

"(c) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (a), the Secretary shall, after August 1 of such fiscal year—

"(1) revise a distribution of the obligation limitation made available under subsection (a) 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 144 (as in effect on the day before the date of enactment of Public Law 112–141 [July 6, 2012]) and 104 of title 23, United States Code.

"(d) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the obligation limitation for Federal-aid highways shall apply to contract authority for transportation research programs carried out under—

"(A) chapter 5 of title 23, United States Code;

"(B) title VI of the Fixing America's Surface Transportation Act [title VI of Pub. L. 114–94, see Tables for classification]; and

"(C) title III of division A of the Infrastructure Investment and Jobs Act (Public Law 117–58).

"(2) EXCEPTION.—Obligation authority made available under paragraph (1) shall—

"(A) remain available for a period of 4 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.

"(e) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—

"(1) IN GENERAL.—Not later than 30 days after the date of distribution of obligation limitation under subsection (a), the Secretary shall distribute to the States any funds (excluding funds authorized for the program under section 202 of title 23, United States Code) that—

"(A) are authorized to be appropriated for such fiscal year for Federal-aid highway programs; and

"(B) the Secretary determines will not be allocated to the States (or will not be apportioned to the States under section 204 of title 23, United States Code), and will not be available for obligation, for such fiscal year because of the imposition of any obligation limitation for such fiscal year.

"(2) RATIO.—Funds shall be distributed under paragraph (1) in the same proportion as the distribution of obligation authority under subsection (a)(5).

"(3) AVAILABILITY.—Funds distributed to each State under paragraph (1) shall be available for any purpose described in section 133(b) of title 23, United States Code."

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

Pub. L. 118–42, div. F, title I, §120, Mar. 9, 2024, 138 Stat. 319.
Pub. L. 117–328, div. L, title I, §120, Dec. 29, 2022, 136 Stat. 5114.
Pub. L. 117–103, div. L, title I, §120, Mar. 15, 2022, 136 Stat. 701.
Pub. L. 116–260, div. L, title I, §120, Dec. 27, 2020, 134 Stat. 1839.
Pub. L. 116–94, div. H, title I, §120, Dec. 20, 2019, 133 Stat. 2948.
Pub. L. 116–6, div. G, title I, §120, Feb. 15, 2019, 133 Stat. 409.
Pub. L. 115–141, div. L, title I, §120, Mar. 23, 2018, 132 Stat. 984.
Pub. L. 115–31, div. K, title I, §120, May 5, 2017, 131 Stat. 736.
Pub. L. 114–113, div. L, title I, §120, Dec. 18, 2015, 129 Stat. 2844.
Pub. L. 113–235, div. K, title I, §120, Dec. 16, 2014, 128 Stat. 2705.
Pub. L. 113–76, div. L, title I, §120, Jan. 17, 2014, 128 Stat. 583.
Pub. L. 112–55, div. C, title I, §120, Nov. 18, 2011, 125 Stat. 651.
Pub. L. 111–117, div. A, title I, Dec. 16, 2009, 123 Stat. 3044.
Pub. L. 111–117, div. A, title I, §120, Dec. 16, 2009, 123 Stat. 3045.
Pub. L. 111–8, div. I, title I, Mar. 11, 2009, 123 Stat. 923.
Pub. L. 111–8, div. I, title I, §120, Mar. 11, 2009, 123 Stat. 924.
Pub. L. 110–161, div. K, title I, Dec. 26, 2007, 121 Stat. 2383.
Pub. L. 110–161, div. K, title I, §120, Dec. 26, 2007, 121 Stat. 2385.
Pub. L. 109–115, div. A, title I, Nov. 30, 2005, 119 Stat. 2402.
Pub. L. 109–115, div. A, title I, §110, Nov. 30, 2005, 119 Stat. 2403.
Pub. L. 108–447, div. H, title I, Dec. 8, 2004, 118 Stat. 3204.
Pub. L. 108–447, div. H, title I, §110, Dec. 8, 2004, 118 Stat. 3209.
Pub. L. 108–199, div. F, title I, Jan. 23, 2004, 118 Stat. 285.
Pub. L. 108–199, div. F, title I, §110, Jan. 23, 2004, 118 Stat. 290, as amended by Pub. L. 108–202, §8(b),

Feb. 29, 2004, 118 Stat. 484; Pub. L. 108–287, title X, §14003(a) Aug. 5, 2004, 118 Stat. 1013.
Pub. L. 108–7, div. I, title I, title III, §310, Feb. 20, 2003, 117 Stat. 393, 407.
Pub. L. 107–87, title I, title III, §310, Dec. 18, 2001, 115 Stat. 841, 855.
Pub. L. 106–346, §101(a) [title I, title III, §310], Oct. 23, 2000, 114 Stat. 1356, 1356A–7, 1356A–24.
Pub. L. 106–69, title I, title III, §310, Oct. 9, 1999, 113 Stat. 994, 1016.
Pub. L. 105–277, div. A, §101(g) [title I, title III, §310], Oct. 21, 1998, 112 Stat. 2681–439, 2681–446, 2681–465.
Pub. L. 105–66, title I, title III, §310, Oct. 27, 1997, 111 Stat. 1431, 1442.
Pub. L. 104–205, title I, title III, §310, Sept. 30, 1996, 110 Stat. 2958, 2969.
Pub. L. 104–50, title I, title III, §310, Nov. 15, 1995, 109 Stat. 443, 454.
Pub. L. 103–331, title I, Sept. 30, 1994, 108 Stat. 2477; Pub. L. 104–19, title I, July 27, 1995, 109 Stat. 223.
Pub. L. 103–331, title III, §310, Sept. 30, 1994, 108 Stat. 2489, as amended by Pub. L. 104–59, title III, §338(c)(3), Nov. 28, 1995, 109 Stat. 605.
Pub. L. 103–122, title I, title III, §310, Oct. 27, 1993, 107 Stat. 1206, 1220, as amended by Pub. L. 103–211, title II, Feb. 12, 1994, 108 Stat. 20.
Pub. L. 102–388, title I, title III, §310, Oct. 6, 1992, 106 Stat. 1528, 1544.
Pub. L. 102–240, title I, §1002(a)–(g), Dec. 18, 1991, 105 Stat. 1916–1918.
Pub. L. 102–143, title I, title III, §310, Oct. 28, 1991, 105 Stat. 925, 940.
Pub. L. 101–516, title I, title III, §310, Nov. 5, 1990, 104 Stat. 2163, 2179.
Pub. L. 101–164, title I, title III, §310, Nov. 21, 1989, 103 Stat. 1077, 1092.
Pub. L. 100–457, title I, title III, §310, Sept. 30, 1988, 102 Stat. 2132, 2146.
Pub. L. 100–202, §101(l) [title I, title III, §310], Dec. 22, 1987, 101 Stat. 1329–358, 1329–365, 1329–378.
Pub. L. 100–17, title I, §105(a)–(g), Apr. 2, 1987, 101 Stat. 142–144.
Pub. L. 99–500, §101(l) [H.R. 5205, title I, title III, §313(a)–(d)], Oct. 18, 1986, 100 Stat. 1783–308, and Pub. L. 99–591, §101(l) [H.R. 5205, title I, title III, §313(a)–(d)], Oct. 30, 1986, 100 Stat. 3341–308.
Pub. L. 99–272, title IV, §4102(a)–(e), Apr. 7, 1986, 100 Stat. 112, 113.
Pub. L. 99–190, §101(e) [title I, title III, §313], Dec. 19, 1985, 99 Stat. 1267, 1275, 1285.
Pub. L. 98–473, title I, §101(i) [title I, title III, §315], Oct. 12, 1984, 98 Stat. 1944, 1951, 1962.
Pub. L. 98–78, title I, title III, §322, Aug. 15, 1983, 97 Stat. 460, 474.
Pub. L. 98–8, title I, Mar. 24, 1983, 97 Stat. 14.
Pub. L. 97–424, title I, §104(a)–(d), Jan. 6, 1983, 96 Stat. 2098.
Pub. L. 97–134, §3, Dec. 29, 1981, 95 Stat. 1699, as amended by Pub. L. 97–216, title I, July 19, 1982, 96 Stat. 187.
Pub. L. 97–35, title XI, §1106, Aug. 13, 1981, 95 Stat. 624, as amended by Pub. L. 97–424, title I, §104(e), Jan. 6, 1983, 96 Stat. 2099.

APPORTIONMENT FACTORS FOR EXPENDITURES ON SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

Provisions requiring the Secretary of Transportation to apportion for specific fiscal years sums authorized to be appropriated for such fiscal years by section 108(b) of the Federal-Aid Highway Act of 1956, set out as a note under section 101 of this title, for expenditures on the National System of Interstate and Defense Highways [now Dwight D. Eisenhower System of Interstate and Defense Highways] using the apportionment factors contained in certain tables in particular committee prints of the Committee on Public Works and Transportation of the House of Representatives were contained in the following acts:
Pub. L. 102–240, title I, §1001(b), Dec. 18, 1991, 105 Stat. 1915.
Pub. L. 100–17, title I, §102(a), Apr. 2, 1987, 101 Stat. 135.
Pub. L. 99–104, §1, Sept. 30, 1985, 99 Stat. 474.
Pub. L. 99–4, §1, Mar. 13, 1985, 99 Stat. 6.
Pub. L. 98–229, §1, Mar. 9, 1984, 98 Stat. 55.
Pub. L. 97–327, §3, Oct. 15, 1982, 96 Stat. 1611.
Pub. L. 97–134, §2, Dec. 29, 1981, 95 Stat. 1699.
Pub. L. 96–144, §1, Dec. 13, 1979, 93 Stat. 1084.
Pub. L. 95–599, title I, §103, Nov. 6, 1978, 92 Stat. 2689.
Pub. L. 94–280, title I, §103, May 5, 1976, 90 Stat. 426.
Pub. L. 93–87, title I, §103, Aug. 13, 1973, 87 Stat. 250.
Pub. L. 91–605, title I, §103, Dec. 31, 1970, 84 Stat. 1714.
Pub. L. 90–495, §3, Aug. 23, 1968, 82 Stat. 815.
Pub. L. 89–574, §3, Sept. 13, 1966, 80 Stat. 766.

Pub. L. 89–139, §2, Aug. 28, 1965, 79 Stat. 578.

MINIMUM APPORTIONMENT TO EACH STATE; EXPENDITURE OF EXCESS AMOUNTS

Provisions entitling each State, for specific fiscal years, to receive at least one-half of 1 per centum of the total apportionment for the Interstate System under former 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 former section 104(b)(1), (2), and (6) of this title may be expended or for carrying out section 152 of this title were contained in the following acts:

Pub. L. 100–17, title I, §102(c), Apr. 2, 1987, 101 Stat. 135, as amended by Pub. L. 102–240, title I, §1001(h), Dec. 18, 1991, 105 Stat. 1916.

Pub. L. 97–424, title I, §103(a), Jan. 6, 1983, 96 Stat. 2097.

Pub. L. 97–327, §4(b), Oct. 15, 1982, 96 Stat. 1612; repealed Pub. L. 97–424, title I, §103(b), Jan. 6, 1983, 96 Stat. 2098.

Pub. L. 95–599, title I, §104(b)(1), Nov. 6, 1978, 92 Stat. 2691.

Pub. L. 94–280, title I, §105(b)(1), May 5, 1976, 90 Stat. 428.

Pub. L. 93–87, title I, §104(b), Aug. 13, 1973, 87 Stat. 252.

Pub. L. 91–605, title I, §105(b), Dec. 31, 1970, 84 Stat. 1716.

PUBLIC BOAT LAUNCHING AREAS; ACCESS RAMPS

Pub. L. 94–280, title I, §147, May 5, 1976, 90 Stat. 446, provided that: "Funds apportioned to States under [former] subsections (b)(1), (b)(2), and (b)(6) of section 104 of title 23, United States Code, may be used upon the application of the State and the approval of the Secretary of Transportation for construction of access ramps from bridges under construction or which are being reconstructed, replaced, repaired, or otherwise altered on the Federal-aid primary, secondary, or urban system to public boat launching areas adjacent to such bridges. Approval of the Secretary shall be in accordance with guidelines developed jointly by the Secretary of Transportation and the Secretary of the Interior."

USE OF FEDERAL FUNDS DURING PERIOD BEGINNING FEBRUARY 12, 1975, AND ENDING SEPTEMBER 30, 1975

Pub. L. 94–30, §3, June 4, 1975, 89 Stat. 171, sanctioned the use of any money apportioned under former 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

Pub. L. 93–87, title I, §111(b), Aug. 13, 1973, 87 Stat. 257, provided that no State (other than the District of Columbia) would receive an apportionment for the primary system less than the apportionment the State received for the fiscal year ending June 30, 1973, and made additional appropriations for the Federal-aid primary system.

SECTION 102(A) OF THE FEDERAL-AID HIGHWAY ACT OF 1956

Act June 29, 1956, ch. 462, title I, §102(a), 70 Stat. 374, authorized, for the purpose of carrying out the provisions of the Federal-Aid Road Act approved July 11, 1916, additional appropriations of $125,000,000 for the fiscal year ending June 30, 1957, $850,000,000 for the fiscal year ending June 30, 1958, and $875,000,000 for the fiscal year ending June 30, 1959, and provided for the percentage allocation of these funds for primary, secondary and urban systems and the manner of apportionment among the States.

APPROVAL OF ESTIMATE OF COST OF COMPLETING THE INTERSTATE SYSTEM AS BASIS FOR APPORTIONMENT OF FUNDS FOR FISCAL YEARS 1963 TO 1966

Pub. L. 87–61, title I, §102, June 29, 1961, 75 Stat. 122, approved the estimate of cost of completing the Interstate System in each State, transmitted to the Congress on Jan. 11, 1961, as the basis for making the apportionment of funds authorized for the fiscal years ending June 30, 1963, 1964, 1965, and 1966.

APPROVAL OF ESTIMATE OF COST OF COMPLETING THE INTERSTATE SYSTEM AS BASIS FOR APPORTIONMENT OF FUNDS FOR FISCAL YEARS 1960–1962

Pub. L. 85–381, §8, Apr. 16, 1958, 72 Stat. 94, as amended by Pub. L. 85–899, §1, Sept. 2, 1958, 72 Stat.

1725; Pub. L. 86–342, title I, §103, Sept. 21, 1959, 73 Stat. 611, approved the estimate of cost of completing the Interstate System in each State, transmitted to the Congress on Jan. 7, 1958, as the basis for making the apportionment of funds authorized for the fiscal years ending June 30, 1960, 1961, and 1962.

APPORTIONMENTS FOR SUBSEQUENT YEARS BASED ON REVISED ESTIMATES OF COST

Act June 29, 1956, ch. 462, title I, §108(d), 70 Stat. 379, as amended by act Sept. 2, 1958, Pub. L. 85–899, §2, 72 Stat. 1725, provided that the sums authorized for the fiscal years 1960 through 1969 be apportioned among the several States in the ratio which the estimated cost of completing the Interstate System had to the sum of the estimated cost of completing the Interstate System in all of the States, and required the Secretary of Commerce, in cooperation with State highway departments, to make detailed revised estimates of the cost of completion of the system and to supply Congress with such revised estimate.

[§105. Repealed. Pub. L. 117–58, div. A, title I, §11501(a), Nov. 15, 2021, 135 Stat. 578]

Section, added Pub. L. 114–94, div. A, title I, §1403(a), Dec. 4, 2015, 129 Stat. 1407, related to availability of additional amounts of contract authority based on additional deposits into the Highway Trust Fund.

A prior section 105, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 891; Pub. L. 86–624, §17(b), July 12, 1960, 74 Stat. 415; Pub. L. 89–564, title II, §206, Sept. 9, 1966, 80 Stat. 736; Pub. L. 91–605, title I, §§106(d), 132, Dec. 31, 1970, 84 Stat. 1717, 1732; Pub. L. 93–87, title I, §109(b), Aug. 13, 1973, 87 Stat. 255; Pub. L. 95–599, title I, §§111, 112, Nov. 6, 1978, 92 Stat. 2696; Pub. L. 97–424, title I, §109(a), Jan. 6, 1983, 96 Stat. 2104; Pub. L. 102–240, title I, §1105(g)(7), Dec. 18, 1991, 105 Stat. 2036; Pub. L. 105–178, title I, §1104(a), (c), June 9, 1998, 112 Stat. 127; Pub. L. 105–206, title IX, §9002(d), July 22, 1998, 112 Stat. 835; Pub. L. 109–59, title I, §1104(a), Aug. 10, 2005, 119 Stat. 1163; Pub. L. 110–244, title I, §101(m)(3)(B), June 6, 2008, 122 Stat. 1576, related to the equity bonus program, prior to repeal by Pub. L. 112–141, div. A, title I, §1519(b)(1)(A), July 6, 2012, 126 Stat. 575, effective Oct. 1, 2012.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as an Effective Date of 2021 Amendment note under section 101 of this title.

§106. Project approval and oversight

(a) IN GENERAL.—

(1) SUBMISSION OF PLANS, SPECIFICATIONS, AND ESTIMATES.—Except as otherwise provided in this section, each State transportation department shall submit to the Secretary for approval such plans, specifications, and estimates for each proposed project as the Secretary may require.

(2) PROJECT AGREEMENT.—The Secretary shall act on the plans, specifications, and estimates as soon as practicable after the date of their submission and shall enter into a formal project agreement with the State transportation department recipient 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 (including payments made pursuant to a long-term concession agreement, such as availability

payments) 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) NHS PROJECTS.—For projects under this title that are on the National Highway System, including projects 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 with respect to the projects unless the Secretary determines that the 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 INTERSTATE PROJECTS.—

(A) IN GENERAL.—The Secretary shall not assign any responsibilities to a State for projects the Secretary determines to be in a high risk category, as defined under subparagraph (B).

(B) HIGH RISK CATEGORIES.—The Secretary may define the high risk categories under this subparagraph on a national basis, a State-by-State basis, or a national and State-by-State basis, as determined to be appropriate by the Secretary.

(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 planning and design phases, by a multidisciplinary 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 lifecycle 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 for—

(A) each project on the National Highway System receiving Federal assistance with an estimated total cost of $50,000,000 or more;

(B) a bridge project on the National Highway System receiving Federal assistance with an

estimated total cost of $40,000,000 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.—

(A) VALUE ENGINEERING PROGRAM.—The State shall develop and carry out a value engineering program that—

(i) establishes and documents value engineering program policies and procedures;

(ii) ensures that the required value engineering analysis is conducted before completing the final design of a project;

(iii) ensures that the value engineering analysis that is conducted, and the recommendations developed and implemented for each project, are documented in a final value engineering report; and

(iv) monitors, evaluates, and annually submits to the Secretary a report that describes the results of the value analyses that are conducted and the recommendations implemented for each of the projects described in paragraph (2) that are completed in the State.

(B) BRIDGE PROJECTS.—The value engineering analysis for a bridge project under paragraph (2) shall—

(i) include bridge superstructure and substructure requirements based on construction material; and

(ii) be evaluated by the State—

(I) on engineering and economic bases, taking into consideration acceptable designs for bridges; and

(II) using an analysis of lifecycle costs and duration of project construction.

(5) DESIGN-BUILD PROJECTS.—A requirement to provide a value engineering analysis under this subsection shall not apply to a project delivered using the design-build method of 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.—

(A) IN GENERAL.—The Secretary shall perform 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.

(B) FREQUENCY.—

(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the Secretary shall carry out a review under subparagraph (A) not less frequently than once every 2 years.

(ii) CONSULTATION WITH STATE.—The Secretary, after consultation with a State, may make a determination to carry out a review under subparagraph (A) for that State less frequently than provided under clause (i).

(iii) CAUSE.—If the Secretary determines that there is a specific reason to require a review more frequently than provided under clause (i) with respect to a State, the Secretary may carry out a review more frequently than provided under that clause.

(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, including a phasing plan when applicable.

(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—

(A) shall be based on detailed estimates of the cost to complete the project;

(B) shall 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;

(C) may include a phasing plan that identifies fundable incremental improvements or phases that will address the purpose and the need of the project in the short term in the event there are insufficient financial resources to complete the entire project. If a phasing plan is adopted for a project pursuant to this section, the project shall be deemed to satisfy the fiscal constraint requirements in the statewide and metropolitan planning requirements in sections 134 and 135;

(D) for a project in which the project sponsor intends to carry out the project through a public-private partnership agreement, shall include a detailed value for money analysis or similar comparative analysis for the project; and

(E) shall assess the appropriateness of a public-private partnership to deliver 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.

(j) USE OF ADVANCED MODELING TECHNOLOGIES.—

(1) DEFINITION OF ADVANCED MODELING TECHNOLOGY.—In this subsection, the term "advanced modeling technology" means an available or developing technology, including 3-dimensional digital modeling, that can—

(A) accelerate and improve the environmental review process;

(B) increase effective public participation;

(C) enhance the detail and accuracy of project designs;

(D) increase safety;

(E) accelerate construction, and reduce construction costs; or

(F) otherwise expedite project delivery with respect to transportation projects that receive Federal funding.

(2) PROGRAM.—With respect to transportation projects that receive Federal funding, the Secretary shall encourage the use of advanced modeling technologies during environmental, planning, financial management, design, simulation, and construction processes of the projects.

(3) ACTIVITIES.—In carrying out paragraph (2), the Secretary shall—

(A) compile information relating to advanced modeling technologies, including industry best practices with respect to the use of the technologies;

(B) disseminate to States information relating to advanced modeling technologies, including industry best practices with respect to the use of the technologies; and

(C) promote the use of advanced modeling technologies.

(4) COMPREHENSIVE PLAN.—The Secretary shall develop and publish on the public website of the Department of Transportation a detailed and comprehensive plan for the implementation of paragraph (2).

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 892; Pub. L. 88–157, §7(a), Oct. 24, 1963, 77 Stat. 278; Pub. L. 91–605, title I, §§106(e), 142, Dec. 31, 1970, 84 Stat. 1717, 1737; Pub. L. 94–280, title I, §114, May 5, 1976, 90 Stat. 436; Pub. L. 100–17, title I, §133(b)(4), Apr. 2, 1987, 101 Stat. 171; Pub. L. 102–240, title I, §§1016(b), 1018(a), Dec. 18, 1991, 105 Stat. 1945, 1948; Pub. L. 104–59, title III, §303, Nov. 28, 1995, 109 Stat. 578; Pub. L. 105–178, title I, §1305(a)–(c), June 9, 1998, 112 Stat. 227–229; Pub. L. 109–59, title I, §1904(a), Aug. 10, 2005, 119 Stat. 1465; Pub. L. 112–141, div. A, title I, §1503(a), July 6, 2012, 126 Stat. 561; Pub. L. 114–94, div. A, title II, §2002(b), Dec. 4, 2015, 129 Stat. 1446; Pub. L. 117–58, div. A, title I, §§11307(f), 11508(d)(1), Nov. 15, 2021, 135 Stat. 534, 587.)

EDITORIAL NOTES

REFERENCES IN TEXT

Executive Order No. 12893, referred to in subsec. (f)(1), is set out as a note under section 501 of Title 31, Money and Finance.

AMENDMENTS

2021—Subsec. (g)(3). Pub. L. 117–58, §11307(f), designated existing provisions as subpar. (A) and inserted heading, struck out "annual" before "reviews", and added subpar. (B).

Subsec. (h)(3)(D), (E). Pub. L. 117–58, §11508(d)(1), added subpar. (D) and redesignated former subpar. (D) as (E).

2015—Subsec. (b)(1). Pub. L. 114–94 inserted "(including payments made pursuant to a long-term concession agreement, such as availability payments)" after "construction of the project".

2012—Subsec. (a)(2). Pub. L. 112–141, §1503(a)(1), inserted "recipient" before "formalizing".

Subsec. (c)(1). Pub. L. 112–141, §1503(a)(2)(A)(ii), (iii), substituted ", including projects on the Interstate System" for "but not on the Interstate System" and "with respect to the projects unless the Secretary determines that the assumption is not appropriate." for "of projects unless the State or the Secretary determines that such assumption is not appropriate."

Pub. L. 112–141, §1503(a)(2)(A)(i), struck out "NON-INTERSTATE" before "NHS" in heading. Resulting initial word was editorially changed to "NHS" to conform to style of paragraph headings.

Subsec. (c)(4). Pub. L. 112–141, §1503(a)(2)(B), added par. (4) and struck out former par. (4). Prior to amendment, text read as follows: "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."

Subsec. (e)(1)(A). Pub. L. 112–141, §1503(a)(3)(A)(i), substituted "planning" for "concept" and "multidisciplinary" for "multidisciplined" in introductory provisions.

Subsec. (e)(1)(A)(i). Pub. L. 112–141, §1503(a)(3)(A)(ii), added cl. (i) and struck out former cl. (i) which read as follows: "providing the needed functions safely, reliably, and at the lowest overall cost;".

Subsec. (e)(2). Pub. L. 112–141, §1503(a)(3)(B)(i), struck out "or other cost-reduction analysis" after "engineering analysis" in introductory provisions.

Subsec. (e)(2)(A). Pub. L. 112–141, §1503(a)(3)(B)(ii), substituted "National Highway System receiving Federal assistance" for "Federal-aid system" and "$50,000,000" for "$25,000,000".

Subsec. (e)(2)(B). Pub. L. 112–141, §1503(a)(3)(B)(iii), inserted "on the National Highway System receiving Federal assistance" after "a bridge project" and substituted "$40,000,000" for "$20,000,000".

Subsec. (e)(4), (5). Pub. L. 112–141, §1503(a)(3)(C), added pars. (4) and (5) and struck out former par. (4). Prior to amendment, text read as follows: "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."

Subsec. (h)(1)(B). Pub. L. 112–141, §1503(a)(4)(A), inserted ", including a phasing plan when applicable" after "financial plan".

Subsec. (h)(3). Pub. L. 112–141, §1503(a)(4)(B), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: "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."

Subsec. (j). Pub. L. 112–141, §1503(a)(5), added subsec. (j).

2005—Subsec. (e). Pub. L. 109–59, §1904(a)(1), added subsec. (e) and struck out heading and text of former subsec. (e). Text read as follows: "For such projects as the Secretary determines advisable, plans, specifications, and estimates for proposed projects on any Federal-aid highway shall be accompanied by a value engineering analysis or other cost reduction analysis."

Subsecs. (g) to (i). Pub. L. 109–59, §1904(a)(2), added subsecs. (g) to (i) and struck out former subsecs. (g) and (h) which related to establishment of a value engineering analysis program for projects with an estimated total cost of $25,000,000 or more and requirement that recipient of assistance for a project with an estimated total cost of $1,000,000,000 or more submit an annual financial plan for the project.

1998—Pub. L. 105–178, §1305(a)(1), substituted "Project approval and oversight" for "Plans, specifications, and estimates" in section catchline.

Subsecs. (a) to (d). Pub. L. 105–178, §1305(a)(3), added subsecs. (a) to (d) and struck out former subsecs. (a) to (d) which related to requirement for State highway departments to submit to Secretary for approval plans, specifications, and estimates for each proposed highway project, special rules relating to resurfacing,

restoring, and rehabilitating projects on National Highway System, to low-cost National Highway System projects, and to non-National Highway System projects, limitation on estimates for construction engineering, and provisions relating to value engineering or other cost reduction analysis.

Subsec. (e). Pub. L. 105–178, §1305(a)(3), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 105–178, §1305(c), added subsec. (f) and struck out former subsec. (f) which read as follows:

"(f) LIFE-CYCLE COST ANALYSIS.—

"(1) ESTABLISHMENT.—The Secretary shall establish a program to require States to conduct an analysis of the life-cycle costs of each usable project segment on the National Highway System with a cost of $25,000,000 or more.

"(2) ANALYSIS OF THE LIFE-CYCLE COSTS DEFINED.—In this subsection, the term 'analysis of the life-cycle costs' means a process for evaluating the total economic worth of a usable project segment by analyzing initial costs and discounted future costs, such as maintenance, reconstruction, rehabilitation, restoring, and resurfacing costs, over the life of the project segment."

Pub. L. 105–178, §1305(a)(2), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 105–178, §1305(a)(2), redesignated subsec. (f) as (g).

Subsec. (h). Pub. L. 105–178, §1305(b), added subsec. (h).

1995—Subsecs. (e), (f). Pub. L. 104–59 added subsecs. (e) and (f).

1991—Subsec. (a). Pub. L. 102–240, §1016(b)(1), inserted "this section and" before "section 117".

Subsec. (b). Pub. L. 102–240, §1016(b)(2), added subsec. (b) and struck out former subsec. (b) which read as follows: "In addition to the approval required under subsection (a) of this section, proposed specifications for projects for construction on (1) the Federal-aid secondary system, except in States where all public roads and highways are under the control and supervision of the State highway department, and (2) the Federal-aid urban system, shall be determined by the State highway department and the appropriate local road officials in cooperation with each other."

Subsec. (c). Pub. L. 102–240, §1018(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "Items included in any such estimate for construction engineering shall not exceed 15 percent of the total estimated cost of a project financed with Federal-aid highway funds, after excluding from such total estimate cost, the estimated costs of rights-of-way, preliminary engineering, and construction engineering."

1987—Subsec. (c). Pub. L. 100–17 substituted "15 percent" for "10 per centum" and struck out at end "However, this limitation shall be 15 per centum in any State with respect to which the Secretary finds such higher limitation to be necessary."

1976—Subsec. (c). Pub. L. 94–280 substituted "Federal-aid highway funds" for "Federal-aid primary, secondary, or urban funds" and "such total estimate cost" for "such total estimated cost" and struck out 10 per centum limitation for any project financed with interstate funds.

1970—Subsec. (b). Pub. L. 91–605, §106(e), inserted reference to the Federal-aid urban system.

Subsec. (d). Pub. L. 91–605, §142, added subsec. (d).

1963—Subsec. (c). Pub. L. 88–157 substituted "a project financed with Federal-aid primary, secondary, or urban funds" for "the project" and provided for limitation, on items included in estimates for construction engineering on projects financed with Federal-aid primary, secondary, or urban funds, of 15 percent of total estimated cost of the project where found by the Secretary to be necessary and for 10-percent limitation on projects financed with interstate funds.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, except as otherwise provided, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

Amendment by section 11508(d)(1) of Pub. L. 117–58 only applicable to a public-private partnership agreement entered into on or after Nov. 15, 2021, see section 11508(e) of Pub. L. 117–58, set out in a Requirements for Transportation Projects Carried Out Through Public-Private Partnerships note below.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment 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.

IMPROVED FEDERAL-STATE STEWARDSHIP AND OVERSIGHT AGREEMENTS

Pub. L. 117–58, div. A, title I, §11307(a)–(e), Nov. 15, 2021, 135 Stat. 532–534, provided that:

"(a) DEFINITION OF TEMPLATE.—In this section, the term 'template' means a template created by the Secretary [of Transportation] for Federal-State stewardship and oversight agreements that—

"(1) includes all standard terms found in stewardship and oversight agreements, including any terms in an attachment to the agreement;

"(2) is developed in accordance with section 106 of title 23, United States Code, or any other applicable authority; and

"(3) may be developed with consideration of relevant regulations, guidance, or policies.

"(b) REQUEST FOR COMMENT.—

"(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act [Nov. 15, 2021], the Secretary shall publish in the Federal Register the template and a notice requesting public comment on ways to improve the template.

"(2) COMMENT PERIOD.—The Secretary shall provide a period of not less than 60 days for public comment on the notice under paragraph (1).

"(3) CERTAIN ISSUES.—The notice under paragraph (1) shall allow comment on any aspect of the template and shall specifically request public comment on—

"(A) whether the template should be revised to delete standard terms requiring approval by the Secretary of the policies, procedures, processes, or manuals of the States, or other State actions, if Federal law (including regulations) does not specifically require an approval;

"(B) opportunities to modify the template to allow adjustments to the review schedules for State practices or actions, including through risk-based approaches, program reviews, process reviews, or other means; and

"(C) any other matters that the Secretary determines to be appropriate.

"(c) NOTICE OF ACTION; UPDATES.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, after considering the comments received in response to the Federal Register notice under subsection (b), the Secretary shall publish in the Federal Register a notice that—

"(A) describes any proposed changes to be made, and any alternatives to such changes, to the template;

"(B) addresses comments in response to which changes were not made to the template; and

"(C) prescribes a schedule and a plan to execute a process for implementing the changes referred to in subparagraph (A).

"(2) APPROVAL REQUIREMENTS.—In addressing comments under paragraph (1)(B), the Secretary shall include an explanation of the basis for retaining any requirement for approval of State policies, procedures, processes, or manuals, or other State actions, if Federal law (including regulations) does not specifically require the approval.

"(3) IMPLEMENTATION.—

"(A) IN GENERAL.—Not later than 60 days after the date on which the notice under paragraph (1) is published, the Secretary shall make changes to the template in accordance with—

"(i) the changes described in the notice under paragraph (1)(A); and

"(ii) the schedule and plan described in the notice under paragraph (1)(C).

"(B) UPDATES.—Not later than 1 year after the date on which the revised template under subparagraph (A) is published, the Secretary shall update existing agreements with States according to the template updated under subparagraph (A).

"(d) INCLUSION OF NON-STANDARD TERMS.—Nothing in this section precludes the inclusion in a Federal-State stewardship and oversight agreement of non-standard terms to address a State-specific matter, including risk-based stewardship and Department [of Transportation] oversight involvement in individual projects of division interest.

"(e) COMPLIANCE WITH NON-STATUTORY TERMS.—

"(1) IN GENERAL.—The Secretary shall not enforce or otherwise require a State to comply with approval requirements that are not required by Federal law (including regulations) in a Federal-State stewardship and oversight agreement.

"(2) APPROVAL AUTHORITY.—Notwithstanding any other provision of law, the Secretary shall not assert approval authority over any matter in a Federal-State stewardship and oversight agreement reserved to States."

REQUIREMENTS FOR TRANSPORTATION PROJECTS CARRIED OUT THROUGH PUBLIC-PRIVATE PARTNERSHIPS

Pub. L. 117–58, div. A, title I, §11508, Nov. 15, 2021, 135 Stat. 587, provided that:

"(a) DEFINITIONS.—In this section:

"(1) PROJECT.—The term 'project' means a project (as defined in section 101 of title 23, United States Code) that—

"(A) is carried out, in whole or in part, using Federal financial assistance; and

"(B) has an estimated total cost of $100,000,000 or more.

"(2) PUBLIC-PRIVATE PARTNERSHIP.—The term 'public-private partnership' means an agreement between a public agency and a private entity to finance, build, and maintain or operate a project.

"(b) REQUIREMENTS FOR PROJECTS CARRIED OUT THROUGH PUBLIC-PRIVATE PARTNERSHIPS.—With respect to a public-private partnership, as a condition of receiving Federal financial assistance for a project, the Secretary [of Transportation] shall require the public partner, not later than 3 years after the date of opening of the project to traffic—

"(1) to conduct a review of the project, including a review of the compliance of the private partner with the terms of the public-private partnership agreement;

"(2)(A) to certify to the Secretary that the private partner of the public-private partnership is meeting the terms of the public-private partnership agreement for the project; or

"(B) to notify the Secretary that the private partner of the public-private partnership has not met 1 or more of the terms of the public-private partnership agreement for the project, including a brief description of each violation of the public-private partnership agreement; and

"(3) to make publicly available the certification or notification, as applicable, under paragraph (2) in a form that does not disclose any proprietary or confidential business information.

"(c) NOTIFICATION.—If the Secretary provides Federal financial assistance to a project carried out through a public-private partnership, not later than 30 days after the date on which the Federal financial assistance is first obligated, 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 notification of the Federal financial assistance made available for the project.

"(d) VALUE FOR MONEY ANALYSIS.—

"(1) PROJECT APPROVAL AND OVERSIGHT.—[Amended this section.]

"(2) SURFACE TRANSPORTATION BLOCK GRANT PROGRAM.—[Amended section 133 of this title.]

"(3) TIFIA.—[Amended section 602 of this title.]

"(e) APPLICABILITY.—This section and the amendments made by this section shall only apply to a public-private partnership agreement entered into on or after the date of enactment of this Act [Nov. 15, 2021]."

ASSUMPTION OF AUTHORITIES

Pub. L. 114–94, div. A, title I, §1316, Dec. 4, 2015, 129 Stat. 1403, provided that:

"(a) IN GENERAL.—The Secretary [of Transportation] shall use the authority under section 106(c) of title 23, United States Code, to the maximum extent practicable, to allow a State to assume the responsibilities of the Secretary for project design, plans, specifications, estimates, contract awards, and inspection of projects, on both a project-specific and programmatic basis.

"(b) SUBMISSION OF RECOMMENDATIONS.—Not later than 18 months after the date of enactment of this Act [Dec. 4, 2015], the Secretary, in cooperation with the States, 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 recommendations for legislation to permit the assumption of additional authorities by States, including with respect to real estate acquisition and project design."

CONSOLIDATION OF GRANTS

Pub. L. 112–141, div. A, title I, §1527, July 6, 2012, 126 Stat. 581, provided that:

"(a) DEFINITIONS.—In this section, the term 'recipient' means—

"(1) a State, local, or tribal government, including—

"(A) a territory of the United States;

"(B) a transit agency;

"(C) a port authority;

"(D) a metropolitan planning organization; or

"(E) any other political subdivision of a State or local government;

"(2) a multistate or multijurisdictional group, if each member of the group is an entity described in paragraph (1); and

"(3) a public-private partnership, if both parties are engaged in building the project.

"(b) CONSOLIDATION.—

"(1) IN GENERAL.—A recipient that receives multiple grant awards from the Department [of Transportation] to support 1 multimodal project may request that the Secretary [of Transportation] designate 1 modal administration in the Department to be the lead administering authority for the overall project.

"(2) NEW STARTS.—Any project that includes funds awarded under section 5309 of title 49, United States Code, shall be exempt from consolidation under this section unless the grant recipient requests the Federal Transit Administration to be the lead administering authority.

"(3) REVIEW.—

"(A) IN GENERAL.—Not later than 30 days after the date on which a request under paragraph (1) is made, the Secretary shall review the request and approve or deny the designation of a single modal administration as the lead administering authority and point of contact for the Department.

"(B) NOTIFICATION.—

"(i) IN GENERAL.—The Secretary shall notify the requestor of the decision of the Secretary under subparagraph (A) in such form and at such time as the Secretary and the requestor agree.

"(ii) DENIAL.—If a request is denied, the Secretary shall provide the requestor with a detailed explanation of the reasoning of the Secretary with the notification under clause (i).

"(c) DUTIES.—

"(1) IN GENERAL.—A modal administration designated as a lead administering authority under this section shall—

"(A) be responsible for leading and coordinating the integrated project management team, which shall consist of all of the other modal administrations in the Department [of Transportation] relating to the multimodal project; and

"(B) to the extent feasible during the first 30 days of carrying out the multimodal project, identify overlapping or duplicative regulatory requirements that exist for the project and propose a single, streamlined approach to meeting all of the applicable regulatory requirements through the activities described in subsection (d).

"(2) ADMINISTRATION.—

"(A) IN GENERAL.—The Secretary [of Transportation] shall transfer all amounts that have been awarded for the multimodal project to the modal administration designated as the lead administering authority.

"(B) OPTION.—

"(i) IN GENERAL.—Participation under this section shall be optional for recipients, and no recipient shall be required to participate.

"(ii) SECRETARIAL DUTIES.—The Secretary is not required to identify every recipient that may be eligible to participate under this section.

"(d) COOPERATION.—

"(1) IN GENERAL.—The Secretary [of Transportation] and modal administrations with relevant jurisdiction over a multimodal project should cooperate on project review and delivery activities at the earliest practicable time.

"(2) PURPOSES.—The purposes of the cooperation under paragraph (1) are—

"(A) to avoid delays and duplication of effort later in the process;

"(B) to prevent potential conflicts; and

"(C) to ensure that planning and project development decisions are made in a streamlined manner and consistent with applicable law.

"(e) APPLICABILITY.—Nothing in this section shall—

"(1) supersede, amend, or modify the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other Federal environmental law; or

"(2) affect the responsibility of any Federal officer to comply with or enforce any law described in paragraph (1)."

STUDY OF VALUE ENGINEERING

Pub. L. 102–240, title I, §1091, Dec. 18, 1991, 105 Stat. 2024, required the Secretary to study the effectiveness and benefits of value engineering review programs applied to Federal-aid highway projects and to report to Congress, no later than 1 year after Dec. 18, 1991, on the results of the study, including recommendations on how value engineering could be utilized and improved in Federal-aid highway projects.

MODIFICATION OF PROJECT AGREEMENTS TO EFFECTUATE REQUIREMENT OF FOUR-LANES OF TRAFFIC

Pub. L. 89–574, §5(b), Sept. 13, 1966, 80 Stat. 767, as amended by Pub. L. 97–449, §2(a), Jan. 12, 1983, 96 Stat. 2439, authorized Secretary to modify project agreements entered into prior to Sept. 13, 1966, pursuant to section 106 of this title for purpose of effectuating amendment made by this section (amending section 109(b) of this title to add a requirement of four lanes of traffic) with respect to as much of National System of Interstate and Defense Highways [now Dwight D. Eisenhower System of Interstate and Defense Highways] as may be possible.

§107. Acquisition of rights-of-way—Interstate System

(a) In any case in which the Secretary is requested by a State to acquire lands or interests in lands (including within the term "interests in lands", the control of access thereto from adjoining lands) required by such State for right-of-way or other purposes in connection with the prosecution of any project for the construction, reconstruction, or improvement of any section of the Interstate System, the Secretary is authorized, in the name of the United States and prior to the approval of title by the Attorney General, to acquire, enter upon, and take possession of such lands or interests in lands by purchase, donation, condemnation, or otherwise in accordance with the laws of the United States (including sections 3114 to 3116 and 3118 of title 40), if—

(1) the Secretary has determined either that the State is unable to acquire necessary lands or interests in lands, or is unable to acquire such lands or interests in lands with sufficient promptness; and

(2) the State has agreed with the Secretary to pay, at such time as may be specified by the Secretary an amount equal to 10 per centum of the costs incurred by the Secretary, in acquiring such lands or interests in lands, or such lesser percentage which represents the State's pro rata share of project costs as determined in accordance with subsection (c) [1] of section 120 of this title.

The authority granted by this section shall also apply to lands and interests in lands received as grants of land from the United States and owned or held by railroads or other corporations.

(b) The costs incurred by the Secretary in acquiring any such lands or interests in lands may include the cost of examination and abstract of title, certificate of title, advertising, and any fees incidental to such acquisition. All costs incurred by the Secretary in connection with the acquisition of any such lands or interests in lands shall be paid from the funds for construction, reconstruction, or improvement of the Interstate System apportioned to the State upon the request of which such lands or interests in lands are acquired, and any sums paid to the Secretary by such State as its share of the costs of acquisition of such lands or interests in lands shall be deposited in the Treasury to the credit of the appropriation for Federal-aid highways and shall be credited to the amount apportioned to such State as its apportionment of funds for construction, reconstruction, or improvement of the Interstate System, or shall be deducted from other moneys due the State for reimbursement from funds authorized to be appropriated under section 108(b) of the Federal-Aid Highway Act of 1956.

(c) The Secretary is further authorized and directed by proper deed, executed in the name of the United States, to convey any such lands or interests in lands acquired in any State under the provisions of this section, except the outside five feet of any such right-of-way in any State which does not provide control of access, to the State transportation department of such State or such political subdivision thereof as its laws may provide, upon such terms and conditions as to such lands

or interests in lands as may be agreed upon by the Secretary and the State transportation department or political subdivisions to which the conveyance is to be made. Whenever the State makes provision for control of access satisfactory to the Secretary, the outside five feet then shall be conveyed to the State by the Secretary, as herein provided.

(d) Whenever rights-of-way, including control of access, on the Interstate System are required over lands or interests in lands owned by the United States, the Secretary may make such arrangements with the agency having jurisdiction over such lands as may be necessary to give the State or other person constructing the projects on such lands adequate rights-of-way and control of access thereto from adjoining lands, and any such agency is directed to cooperate with the Secretary in this connection.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 892; Pub. L. 105–178, title I, §1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 193; Pub. L. 109–284, §3(1), Sept. 27, 2006, 120 Stat. 1211.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subsection (c) of section 120 of this title, referred to in subsec. (a)(2), was struck out and a new subsec. (c) was added by Pub. L. 102–240, title I, §1021(a), Dec. 18, 1991, 105 Stat. 1950.

The Federal-Aid Highway Act of 1956, referred to in subsec. (b), is act June 29, 1956, ch. 462, 70 Stat. 374. For complete classification of this Act to the Code, see Tables. Section 108(b) of the Federal-Aid Highway Act of 1956 is set out as a note under section 101 of this title.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–284 substituted "sections 3114 to 3116 and 3118 of title 40" for "the Act of February 26, 1931, 46 Stat. 1421".

1998—Subsec. (c). Pub. L. 105–178 substituted "State transportation department" for "State highway department" in two places.

[1] *See References in Text note below.*

§108. Advance acquisition of real property

(a) IN GENERAL.—

(1) AVAILABILITY OF FUNDS.—For the purpose of facilitating the timely and economical acquisition of real property interests 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 interests, 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 interests 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 real property interests 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) STATE-FUNDED EARLY ACQUISITION OF REAL PROPERTY INTERESTS.—

(1) IN GENERAL.—A State may carry out, at the expense of the State, acquisitions of interests in real property for a project before completion of the review process required for the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) without affecting subsequent approvals required for the project by the State or any Federal agency.

(2) ELIGIBILITY FOR REIMBURSEMENT.—Subject to paragraph (3), 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 real property interests, acquired in advance of any Federal approval or authorization, if the real property interests are subsequently incorporated into a project eligible for surface transportation block grant program funds; and

(B) costs incurred by the State for the acquisition of land necessary to preserve environmental and scenic values.

(3) TERMS AND CONDITIONS.—The Federal share payable of the costs described in paragraph (2) shall be eligible for reimbursement out of funds apportioned to a State under this title when the real property interests acquired are incorporated into a project eligible for surface transportation block grant 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 real property interest 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 of 1969 (42 U.S.C. 4321 et seq.) has been completed for the project for which the real property interest was acquired by the State, and the acquisition has been approved by the Secretary under this title, 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, the Secretary has determined 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.

(d) FEDERALLY FUNDED EARLY ACQUISITION OF REAL PROPERTY INTERESTS.—

(1) DEFINITION OF ACQUISITION OF A REAL PROPERTY INTEREST.—In this subsection, the term "acquisition of a real property interest" includes the acquisition of—

(A) any interest in land;

(B) a contractual right to acquire any interest in land; or

(C) any other similar action to acquire or preserve rights-of-way for a transportation facility.

(2) AUTHORIZATION.—The Secretary may authorize the use of funds apportioned to a State under this title for the acquisition of a real property interest by a State.

(3) STATE CERTIFICATION.—A State requesting Federal funding for an acquisition of a real property interest shall certify in writing, with concurrence by the Secretary, that—

(A) the State has authority to acquire the real property interest under State law; and

(B) the acquisition of the real property interest—

(i) is for a transportation purpose;

(ii) will not cause any significant adverse environmental impact;

(iii) will not limit the choice of reasonable alternatives for the project or otherwise influence the decision of the Secretary on any approval required for the project;

(iv) does not prevent the lead agency from making an impartial decision as to whether to accept an alternative that is being considered in the environmental review process;

(v) is consistent with the State transportation planning process under section 135;

(vi) complies with other applicable Federal laws (including regulations);

(vii) will be acquired through negotiation, without the threat of condemnation; and

(viii) will not result in a reduction or elimination of benefits or assistance to a displaced person required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(4) ENVIRONMENTAL COMPLIANCE.—

(A) IN GENERAL.—Before authorizing Federal funding for an acquisition of a real property interest, the Secretary shall complete the review process under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the acquisition of the real property interest.

(B) INDEPENDENT UTILITY.—The acquisition of a real property interest—

(i) shall be treated as having independent utility for purposes of the review process under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(ii) shall not limit consideration of alternatives for future transportation improvements with respect to the real property interest.

(5) PROGRAMMING.—

(A) IN GENERAL.—The acquisition of a real property interest for which Federal funding is requested shall be included as a project in an applicable transportation improvement program under sections 134 and 135 and sections 5303 and 5304 of title 49.

(B) ACQUISITION PROJECT.—The acquisition project may consist of the acquisition of a specific parcel, a portion of a transportation corridor, or an entire transportation corridor.

(6) DEVELOPMENT.—Real property interests acquired under this subsection may not be developed in anticipation of a project until all required environmental reviews for the project have been completed.

(7) REIMBURSEMENT.—If Federal-aid reimbursement is made for real property interests acquired early under this section and the real property interests are not subsequently incorporated into a project eligible for surface transportation funds within the time allowed by subsection (a)(2), the Secretary shall offset the amount reimbursed against funds apportioned to the State.

(8) OTHER REQUIREMENTS AND CONDITIONS.—

(A) APPLICABLE LAW.—The acquisition of a real property interest shall be carried out in compliance with all requirements applicable to the acquisition of real property interests for federally funded transportation projects.

(B) ADDITIONAL CONDITIONS.—The Secretary may establish such other conditions or restrictions on acquisitions under this subsection as the Secretary determines to be appropriate.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 893; Pub. L. 86–35, §1, May 29, 1959, 73 Stat. 62; Pub. L. 90–495, §7(a), (b), Aug. 23, 1968, 82 Stat. 818; Pub. L. 93–87, title I, §113, Aug. 13, 1973, 87 Stat. 257; Pub. L. 94–280, title I, §115, May 5, 1976, 90 Stat. 436; Pub. L. 102–240, title I, §1017(a), (b), Dec. 18, 1991, 105 Stat. 1947; Pub. L. 102–388, title III, §346, Oct. 6, 1992, 106 Stat. 1553; Pub. L. 103–429, §3(2), Oct. 31, 1994, 108 Stat. 4377; Pub. L. 105–178, title I, §§1211(e)(1), 1301(a), June 9, 1998, 112 Stat. 188, 225; Pub. L. 112–141, div. A, title I, §1302, July 6, 2012, 126 Stat. 528; Pub. L. 114–94, div. A, title I, §1109(c)(5), Dec. 4, 2015, 129 Stat. 1343; Pub. L. 117–58, div. A, title I, §11525(c), Nov. 15, 2021, 135 Stat. 607.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (c)(1), (3)(F) and (d)(4)(A), (B)(i), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title

note set out under section 4321 of Title 42 and Tables.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, referred to in subsecs. (c)(3)(A) and (d)(3)(B)(viii), is act Jan. 2, 1971, Pub. L. 91–646, 84 Stat. 1894, and which is classified principally to chapter 61 (§4601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of Title 42 and Tables.

The Civil Rights Act of 1964, referred to in subsecs. (c)(3)(B) and (d)(3)(B)(viii), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

Section 7 of the Endangered Species Act, referred to in subsec. (c)(3)(F), probably means section 7 of the Endangered Species Act of 1973, which is classified to section 1536 of Title 16, Conservation.

AMENDMENTS

2021—Subsec. (c)(3)(F). Pub. L. 117–58 inserted "of 1969 (42 U.S.C. 4321 et seq.)" after "Policy Act" and substituted "this title" for "this Act".

2015—Subsec. (c)(2)(A), (3). Pub. L. 114–94 substituted "surface transportation block grant program" for "surface transportation program" in par. (2)(A) and in introductory provisions of par. (3).

2012—Subsec. (a). Pub. L. 112–141, §1302(a)(1), substituted "real property interests" for "real property" wherever appearing.

Subsec. (b). Pub. L. 112–141, §1302(a)(3), substituted "real property interests" for "rights-of-way".

Subsec. (c). Pub. L. 112–141, §1302(b)(1), substituted "STATE-FUNDED EARLY ACQUISITION OF REAL PROPERTY INTERESTS" for "EARLY ACQUISITION OF RIGHTS-OF-WAY" in heading.

Pub. L. 112–141, §1302(a)(2), (3), substituted "real property interest" for "right-of-way" and "real property interests" for "rights-of-way" wherever appearing.

Subsec. (c)(1) to (3). Pub. L. 112–141, §1302(b)(2)–(5)(A), added par. (1) and redesignated former pars. (1) and (2) as (2) and (3), respectively; in par. (2), substituted "ELIGIBILITY FOR REIMBURSEMENT" for " GENERAL RULE" in heading and "Subject to paragraph (3)" for "Subject to paragraph (2)" in introductory provisions; and, in par. (3), substituted "in paragraph (2)" for "in paragraph (1)" in introductory provisions.

Subsec. (c)(3)(G). Pub. L. 112–141, §1302(b)(5)(B), substituted "the Secretary has determined" for "both the Secretary and the Administrator of the Environmental Protection Agency have concurred".

Subsec. (d). Pub. L. 112–141, §1302(c), added subsec. (d).

1998—Pub. L. 105–178, §1301(a), substituted "Advance acquisition of real property" for "Advance acquisition of rights-of-way" in section catchline.

Subsec. (a). Pub. L. 105–178, §1301(a), added subsec. (a) and struck out former subsec. (a) which read as follows: "For the purpose of facilitating the acquisition of rights-of-way on any Federal-aid highway in the most expeditious and economical manner, and recognizing that the acquisition of rights-of-way requires lengthy planning and negotiations if it is to be done at a reasonable cost, the Secretary, upon the request of the State highway department, is authorized to make available the funds apportioned to any State which may be expended on such highway for acquisition of rights-of-way, in anticipation of construction and under such rules and regulations as the Secretary may prescribe. The agreement between the Secretary and the State highway department for the reimbursement of the cost of such rights-of-way shall provide for the actual construction of a road on such rights-of-way within a period not exceeding 20 years following the fiscal year in which such request is made unless a longer period is determined to be reasonable by the Secretary."

Subsecs. (c), (d). Pub. L. 105–178, §1211(e)(1), redesignated subsec. (d) as (c) and struck out former subsec. (c) which related to establishment and administration of right-of-way revolving fund.

1994—Subsec. (d)(2)(F). Pub. L. 103–429 substituted "section 303 of title 49" for "section 4(f) of the Department of Transportation Act".

1992—Subsec. (a). Pub. L. 102–388, §346(1), (2), substituted "Federal-aid highway" for "of the Federal-aid highway systems, including the Interstate System," and "which may be expended on such highway" for "for expenditure on any of the Federal-aid highway systems, including the Interstate System,".

Subsec. (c)(2). Pub. L. 102–388, §346(3), inserted "and passenger transit facilities".

Subsec. (c)(3). Pub. L. 102–388, §346(5), which directed the substitution of "of the type funded" for "on the federal-aid system of which such project is to be part," was executed by making the substitution for "on the Federal-aid system of which such project is to be a part," to reflect the probable intent of Congress.

Pub. L. 102–388, §346(4), substituted "project" for "highway" after "construction of a" in first and second sentences.

1991—Subsecs. (a), (c)(3). Pub. L. 102–240, §1017(a), substituted "20" for "ten".

Subsec. (d). Pub. L. 102–240, §1017(b), added subsec. (d).

1976—Subsec. (a). Pub. L. 94–280, §115(b), inserted "unless a longer period is determined to be reasonable by the Secretary" after "request is made" in last sentence.

Subsec. (c)(2). Pub. L. 94–280, §115(a), struck out "made pursuant to section 133 or chapter 5 of this title" after "relocation payments" in last sentence.

Subsec. (c)(3). Pub. L. 94–280, §115(c), inserted "or later" after "earlier" in first sentence.

1973—Subsec. (a). Pub. L. 93–87, §113(a), substituted "ten" for "seven" years in last sentence.

Subsec. (c)(3). Pub. L. 93–87, §113(b), substituted "ten" for "seven" years in first sentence.

1968—Subsec. (b). Pub. L. 90–495, §7(a), substituted "subsection (a) of this section" for "this section".

Subsec. (c). Pub. L. 90–495, §7(b), added subsec. (c).

1959—Subsec. (a). Pub. L. 86–35 increased from five to seven years the period in which actual construction shall commence on rights-of-way acquired in anticipation of such construction.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

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

EFFECTIVE DATE OF 1968 AMENDMENT

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

TRANSITION PROVISIONS

Pub. L. 105–178, title I, §1211(e)(2), June 9, 1998, 112 Stat. 188, provided that:

"(A) IN GENERAL.—Funds advanced to a State by the Secretary from the right-of-way revolving fund established by section 108(c) of title 23, United States Code, prior to the date of enactment of this Act [June 9, 1998] shall remain available to the State for use on the projects for which the funds were advanced for a period of 20 years from the date on which the funds were advanced.

"(B) CREDIT TO HIGHWAY TRUST FUND.—With respect to a project for which funds have been advanced from the right-of-way revolving fund, upon the termination of the 20-year period referred to in subparagraph (A), when actual construction is commenced, or upon approval by the Secretary of the plans, specifications, and estimates for the actual construction of the project on the right-of-way, whichever occurs first—

"(i) the Highway Trust Fund (other than the Mass Transit Account) shall be credited with an amount equal to the Federal share of the funds advanced, as provided in section 120 of title 23, United States Code, out of any Federal-aid highway funds apportioned to the State in which the project is located and available for obligation for projects of the type funded; and

"(ii) the State shall reimburse the Secretary in an amount equal to the non-Federal share of the funds advanced for deposit in, and credit to, the Highway Trust Fund (other than the Mass Transit Account)."

PRESERVATION OF TRANSPORTATION CORRIDORS REPORT

Pub. L. 102–240, title I, §1017(c), Dec. 18, 1991, 105 Stat. 1948, 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

Pub. L. 90–495, §7(c)–(e), Aug. 23, 1968, 82 Stat. 819, provided that $100,000,000 for the fiscal year ending June 30, 1970, $100,000,000 for the fiscal year ending June 30, 1971, and $100,000,000 for the fiscal year ending June 30, 1972, be transferred from the highway trust fund to the right-of-way revolving fund established by subsec. (c) of this section, authorized the Secretary to apportion these funds and required that funds apportioned to a State remain available for obligation for advances until Oct. 1 of the fiscal year in which the apportionment was made and any funds not advanced or obligated by such date revert to the right-of-way revolving fund for distribution to other States.

STUDY OF ADVANCE ACQUISITION OF RIGHTS-OF-WAY

Pub. L. 89–574, §10, Sept. 13, 1966, 80 Stat. 769, as amended by Pub. L. 97–449, §2(a), Jan. 12, 1983, 96 Stat. 2439, directed the Secretary to make a full and complete investigation and study of the advance acquisition of rights-of-way for future construction of highways on the Federal-aid highway systems, with particular reference to the provision of adequate time for the removal and disposal of improvements located on rights-of-way and the relocation of affected individuals, businesses, institutions, and organizations, the tax status of such property after acquisition and before its use for highway purposes, and the methods for financing advance right-of-way acquisition by both the State governments and the Federal Government, including the possible creation of revolving funds for such purpose. The Secretary was required to submit a report of results of such study to Congress not later than July 1, 1967, together with his recommendations.

INCREASED LIMITATION PERIOD APPLICABLE TO CERTAIN CONTRACTS

Pub. L. 86–35, §2, May 29, 1959, 73 Stat. 63, provided that agreements entered into before May 29, 1959 by the Secretary of Commerce and a State highway department under authority of section 110(a) of the Federal-Aid Highway Act of 1956, or section 108(a) of title 23 of the United States Code shall be deemed to provide for actual construction of a road on such rights-of-way within a period of seven years following the fiscal year in which such request was made.

§109. Standards

(a) IN GENERAL.—The Secretary shall ensure that the plans and specifications for each proposed highway project under this chapter provide for a facility that will—

(1) adequately serve the existing and planned future traffic of the highway in a manner that is conducive to safety, durability, and economy of maintenance; and

(2) be designed and constructed in accordance with criteria best suited to accomplish the objectives described in paragraph (1) and to conform to the particular needs of each locality.

(b) The geometric and construction standards to be adopted for the Interstate System shall be those approved by the Secretary in cooperation with the State transportation departments. Such standards, as applied to each actual construction project, shall be adequate to enable such project to accommodate the types and volumes of traffic anticipated for such project for the twenty-year period commencing on the date of approval by the Secretary, under section 106 of this title, of the plans, specifications, and estimates for actual construction of such project. Such standards shall in all cases provide for at least four lanes of traffic. The right-of-way width of the Interstate System shall be adequate to permit construction of projects on the Interstate System to such standards. The Secretary shall apply such standards uniformly throughout all the States.

(c) DESIGN CRITERIA FOR NATIONAL HIGHWAY SYSTEM.—

(1) IN GENERAL.—A design for new construction, reconstruction, resurfacing (except for maintenance resurfacing), restoration, or rehabilitation of a highway on the National Highway System (other than a highway also on the Interstate System) shall consider, 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;

(C) cost savings by utilizing flexibility that exists in current design guidance and regulations; and

(D) 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";

(D) the publication entitled "Highway Safety Manual" of the American Association of State Highway and Transportation Officials;

(E) the publication entitled "Urban Street Design Guide" of the National Association of City Transportation Officials;

(F) the publication of the Federal Highway Administration entitled "Wildlife Crossing Structure Handbook: Design and Evaluation in North America" and dated March 2011; and

(G) any other material that the Secretary determines to be appropriate.

(d) MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES.—

(1) IN GENERAL.—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 safety, inclusion, and mobility of all users and efficient utilization of the highways.

(2) UPDATES.—Not later than 18 months after the date of enactment of the Surface Transportation Reauthorization Act of 2021 and not less frequently than every 4 years thereafter, the Secretary shall update the Manual on Uniform Traffic Control Devices.

(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, pedestrian walkways, gutters, ditches, and side slopes, and of sufficient width to provide service roads for adjacent property to permit safe access at controlled locations in order to expedite traffic, promote safety, and minimize roadside parking.

(g) Not later than January 30, 1971, the Secretary shall issue guidelines for minimizing possible soil erosion from highway construction. Such guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines.

(h) Not later than July 1, 1972, the Secretary, after consultation with appropriate Federal and State officials, shall submit to Congress, and not later than 90 days after such submission, promulgate guidelines designed to assure that possible adverse economic, social, and environmental effects relating to any proposed project on any Federal-aid system have been fully considered in developing such project, and that the final decisions on the project are made in the best overall public interest, taking into consideration the need for fast, safe and efficient transportation, public services, and the costs of eliminating or minimizing such adverse effects and the following:

(1) air, noise, and water pollution;

(2) destruction or disruption of man-made and natural resources, aesthetic values, community cohesion and the availability of public facilities and services;

(3) adverse employment effects, and tax and property value losses;

(4) injurious displacement of people, businesses and farms; and

(5) disruption of desirable community and regional growth.

Such guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines.

(i) The Secretary, after consultation with appropriate Federal, State, and local officials, shall develop and promulgate standards for highway noise levels compatible with different land uses and after July 1, 1972, shall not approve plans and specifications for any proposed project on any Federal-aid system for which location approval has not yet been secured unless he determines that such plans and specifications include adequate measures to implement the appropriate noise level standards. The Secretary, after consultation with the Administrator of the Environmental Protection Agency and appropriate Federal, State, and local officials, may promulgate standards for the control of highway noise levels for highways on any Federal-aid system for which project approval has been secured prior to July 1, 1972. The Secretary may approve any project on a Federal-aid system to which noise-level standards are made applicable under the preceding sentence for the purpose of carrying out such standards. Such project may include, but is not limited to, the acquisition of additional rights-of-way, the construction of physical barriers, and landscaping. Sums apportioned for the Federal-aid system on which such project will be located shall be available to finance the Federal share of such project. Such project shall be deemed a highway project for all purposes of this title.

(j) The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall develop and promulgate guidelines to assure that highways constructed pursuant to this title are consistent with any approved plan for—

(1) the implementation of a national ambient air quality standard for each pollutant for which an area is designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or

(2) the maintenance of a national ambient air quality standard in an area that was designated as a nonattainment area but that was later redesignated by the Administrator as an attainment area for the standard and that is required to develop a maintenance plan under section 175A of the Clean Air Act (42 U.S.C. 7505a).

(k) The Secretary shall not approve any project involving approaches to a bridge under this title, if such project and bridge will significantly affect the traffic volume and the highway system of a

contiguous State without first taking into full consideration the views of that State.

(l)(1) In determining whether any right-of-way on any Federal-aid highway should be used for accommodating any utility facility, the Secretary shall—

(A) first ascertain the effect such use will have on highway and traffic safety, since in no case shall any use be authorized or otherwise permitted, under this or any other provision of law, which would adversely affect safety;

(B) evaluate the direct and indirect environmental and economic effects of any loss of productive agricultural land or any impairment of the productivity of any agricultural land which would result from the disapproval of the use of such right-of-way for the accommodation of such utility facility; and

(C) consider such environmental and economic effects together with any interference with or impairment of the use of the highway in such right-of-way which would result from the use of such right-of-way for the accommodation of such utility facility.

(2) For the purpose of this subsection—

(A) the term "utility facility" means any privately, publicly, or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, which directly or indirectly serves the public; and

(B) the term "right-of-way" means any real property, or interest therein, acquired, dedicated, or reserved for the construction, operation, and maintenance of a highway.

(m) PROTECTION OF NONMOTORIZED TRANSPORTATION TRAFFIC.—The Secretary shall not approve any project or take any regulatory action under this title that will result in the severance of an existing major route or have significant adverse impact on the safety for nonmotorized transportation traffic and light motorcycles, unless such project or regulatory action provides for a reasonable alternate route or such a route exists.

(n) It is the intent of Congress that any project for resurfacing, restoring, or rehabilitating any highway, other than a highway access to which is fully controlled, in which Federal funds participate shall be constructed in accordance with standards to preserve and extend the service life of highways and enhance highway safety.

(o) COMPLIANCE WITH STATE LAWS FOR NON-NHS PROJECTS.—

(A) [1] IN GENERAL.—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.

(B) [1] LOCAL JURISDICTIONS.—Notwithstanding subparagraph (A), a local jurisdiction may use a roadway design guide recognized by the Federal Highway Administration and adopted by the local jurisdiction that is different from the roadway design guide used by the State in which the local jurisdiction is located for the design of projects on all roadways under the ownership of the local jurisdiction (other than a highway on the National Highway System) for which the local jurisdiction is the project sponsor, provided that the design complies with all other applicable Federal laws.

(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 a statewide transportation improvement program approved by the Secretary.

(r) PAVEMENT MARKINGS.—The Secretary shall not approve any pavement markings project that includes the use of glass beads containing more than 200 parts per million of arsenic or lead, as determined in accordance with Environmental Protection Agency testing methods 3052, 6010B, or 6010C.

(s) ELECTRIC VEHICLE CHARGING STATIONS.—

(1) STANDARDS.—Electric vehicle charging infrastructure installed using funds provided under this title shall provide, at a minimum—

(A) non-proprietary charging connectors that meet applicable industry safety standards; and

(B) open access to payment methods that are available to all members of the public to ensure secure, convenient, and equal access to the electric vehicle charging infrastructure that shall not be limited by membership to a particular payment provider.

(2) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, a project to install electric vehicle charging infrastructure using funds provided under this title shall be treated as if the project is located on a Federal-aid highway.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 894; Pub. L. 88–157, §4, Oct. 24, 1963, 77 Stat. 277; Pub. L. 89–574, §§5(a), 14, Sept. 13, 1966, 80 Stat. 767, 771; Pub. L. 91–605, title I, §136(a), (b), Dec. 31, 1970, 84 Stat. 1734; Pub. L. 93–87, title I, §§114, 152(2), 156, Aug. 13, 1973, 87 Stat. 257, 276, 277; Pub. L. 95–599, title I, §§113, 116(d), 141(f), (g), Nov. 6, 1978, 92 Stat. 2696, 2699, 2711; Pub. L. 96–106, §3, Nov. 9, 1979, 93 Stat. 797; Pub. L. 97–424, title I, §110(a), Jan. 6, 1983, 96 Stat. 2105; Pub. L. 102–240, title I, §1016(c)–(f)(1), Dec. 18, 1991, 105 Stat. 1946; Pub. L. 104–59, title III, §§304, 305(a), Nov. 28, 1995, 109 Stat. 579, 580; Pub. L. 105–178, title I, §§1202(c), 1212(a)(2)(A), 1306, June 9, 1998, 112 Stat. 169, 193, 229; Pub. L. 109–59, title I, §1110(a), (c), title VI, §6008, Aug. 10, 2005, 119 Stat. 1170, 1171, 1874; Pub. L. 112–141, div. A, title I, §§1504, 1519(c)(3), formerly §1519(c)(4), July 6, 2012, 126 Stat. 564, 575, renumbered §1519(c)(3), Pub. L. 114–94, div. A, title I, §1446(d)(5)(B), Dec. 4, 2015, 129 Stat. 1438; Pub. L. 114–94, div. A, title I, §1404(a), Dec. 4, 2015, 129 Stat. 1409; Pub. L. 117–58, div. A, title I, §§11123(d), 11129, Nov. 15, 2021, 135 Stat. 506, 508.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Surface Transportation Reauthorization Act of 2021, referred to in subsec. (d)(2), is the date of enactment of div. A of Pub. L. 117–58, which was approved Nov. 15, 2021.

AMENDMENTS

2021—Subsec. (c)(2)(F), (G). Pub. L. 117–58, §11123(d), added subpar. (F) and redesignated former subpar. (F) as (G).

Subsec. (d). Pub. L. 117–58, §11129(1), inserted subsec. heading, designated existing provisions as par. (1) and inserted par. heading, substituted "promote the safety, inclusion, and mobility of all users" for "promote the safe", and added par. (2).

Subsec. (o). Pub. L. 117–58, §11129(2), designated existing provisions as par. (A), inserted heading, and added par. (B).

Subsec. (s). Pub. L. 117–58, §11129(3), added subsec. (s).

2015—Subsec. (c)(1). Pub. L. 114–94, §1404(a)(1)(A)(i), substituted "shall consider" for "may take into account" in introductory provisions.

Subsec. (c)(1)(C), (D). Pub. L. 114–94, §1404(a)(1)(A)(ii)–(iv), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (c)(2)(D) to (F). Pub. L. 114–94, §1404(a)(1)(B), added subpars. (D) and (E) and redesignated former subpar. (D) as (F).

Subsec. (f). Pub. L. 114–94, §1404(a)(2), inserted "pedestrian walkways," after "bikeways,".

Subsec. (q). Pub. L. 114–94, §1446(d)(5)(B), amended Pub. L. 112–141, §1519(c). See 2012 Amendment note below.

2012—Subsec. (q). Pub. L. 112–141, §1519(c)(3), formerly §1519(c)(4), as renumbered by Pub. L. 114–94, §1446(d)(5)(B), struck out "in accordance with section 303 or" after "system established".

Subsec. (r). Pub. L. 112–141, §1504, added subsec. (r).

2005—Subsec. (c)(2). Pub. L. 109–59, §6008, inserted dash after "Secretary shall consider" and subpar. (A) designation before "the results", substituted semicolon for period, and added subpars. (B) to (D).

Subsec. (e). Pub. L. 109–59, §1110(a), inserted subsec. heading, designated existing provisions as par. (1), inserted par. heading, and added par. (2).

Subsec. (g). Pub. L. 109–59, §1110(c), substituted "Not later than January 30, 1971, the Secretary shall issue" for "The Secretary shall issue within 30 days after the day of enactment of the Federal-Aid Highway Act of 1970".

1998—Subsecs. (b), (c)(2). Pub. L. 105–178, §1212(a)(2)(A)(ii), substituted "State transportation departments" for "State highway departments".

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

Subsec. (m). Pub. L. 105–178, §1306(a), redesignated subsec. (n) as (m) and struck out former subsec. (m) which read as follows: "The Secretary shall issue guidelines describing the criteria applicable to the Interstate System in order to insure that the condition of these routes is maintained at the level required by the purposes for which they were designed. The initial guidelines shall be issued no later than October 1, 1979."

Subsec. (n). Pub. L. 105–178, §1306(a)(2), redesignated subsec. (o) as (n). Former subsec. (n) redesignated (m).

Pub. L. 105–178, §1202(c), inserted heading and amended text of subsec. (n) generally. Prior to amendment, text read as follows: "The Secretary shall not approve any project under this title that will result in the severance or destruction of an existing major route for nonmotorized transportation traffic and light motorcycles, unless such project provides a reasonably alternate route or such a route exists."

Subsecs. (o) to (q). Pub. L. 105–178, §1306(a)(2), (b), added subsec. (q) and redesignated former subsecs. (p) and (q) as (o) and (p), respectively. Former subsec. (o) redesignated (n).

1995—Subsec. (a). Pub. L. 104–59, §304(1), added subsec. (a) and struck out former subsec. (a) which read as follows: "The Secretary shall not approve plans and specifications for proposed highway projects under this chapter if they fail to provide for a facility (1) that will adequately meet the existing and probable future traffic needs and conditions in a manner conducive to safety, durability, and economy of maintenance; (2) that will be designed and constructed in accordance with standards best suited to accomplish the foregoing objectives and to conform to the particular needs of each locality."

Subsec. (c). Pub. L. 104–59, §304(2), added subsec. (c) and struck out former subsec. (c) which read as follows:

"(c) DESIGN AND CONSTRUCTION STANDARDS FOR NHS.—Design and construction standards to be adopted for new construction on the National Highway System, for reconstruction on the National Highway System, and for resurfacing, restoring, and rehabilitating multilane limited access highways on the National Highway System shall be those approved by the Secretary in cooperation with the State highway departments. All eligible work for such projects shall meet or exceed such standards."

Subsec. (j). Pub. L. 104–59, §305(a), substituted "plan for—" and pars. (1) and (2) for "plan for the 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, §304(3), added subsec. (q) and struck out former subsec. (q) which read as follows:

"(q) HISTORIC AND SCENIC VALUES.—If a proposed project under sections 103(e)(4), 133, or 144 involves a historic facility or is located in an area of historic or scenic value, the Secretary may approve such project notwithstanding the requirements of subsections (a) and (b) of this section and section 133(c) if such project is designed to standards that allow for the preservation of such historic or scenic value and such project is designed with mitigation measures to allow preservation of such value and ensure safe use of the facility."

1991—Subsec. (a). Pub. L. 102–240, §1016(f)(1)(A), substituted "highway projects under this chapter" for "projects on any Federal-aid system".

Subsec. (c). Pub. L. 102–240, §1016(c), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "Projects on the Federal-aid secondary system in which Federal funds participate shall be constructed according to specifications that will provide all-weather service and permit maintenance at a reasonable cost."

Subsec. (l)(1). Pub. L. 102–240, §1016(f)(1)(B), substituted "highway" for "system" in introductory provisions.

Subsecs. (p), (q). Pub. L. 102–240, §1016(d), (e), added subsecs. (p) and (q).

1983—Subsec. (o). Pub. L. 97–424 added subsec. (o).

1979—Subsec. (l)(1)(A). Pub. L. 96–106 struck out "any aspect of" after "adversely affect".

1978—Subsec. (f). Pub. L. 95–599, §141(f), inserted "bikeways" after "surfaces, median strips,".

Subsec. (l). Pub. L. 95–599, §113, added subsec. (l).

Subsec. (m). Pub. L. 95–599, §116(d), added subsec. (m).

Subsec. (n). Pub. L. 95–599, §141(g), added subsec. (n).

1973—Subsec. (g). Pub. L. 93–87, §152(2), substituted "Act" for "Rct", thus correcting the popular name to read "Federal-Aid Highway Act of 1970".

Subsec. (i). Pub. L. 93–87, §114, authorized promulgation of noise-level standards for highways on any Federal-aid system for which project approval has been secured prior to July 1, 1972, and approval of any project on a Federal-aid system to which noise-level standards are made applicable, described the range of the projects, made money available for financing Federal share of the project, and deemed such project a highway project for all purposes of this title.

Subsec. (k). Pub. L. 93–87, §156, added subsec. (k).

1970—Subsec. (g). Pub. L. 91–605, §136(a), substituted provisions ordering the Secretary to issue within 30 days after Dec. 31, 1970, guidelines, which will apply to all proposed projects approved by the Secretary after their issuance, for minimizing soil erosion from highway construction for provisions authorizing the Secretary to consult with the Secretary of Agriculture respecting guidelines for minimizing soil erosion from highway construction and report such guidelines to Congress not later than July 1, 1967.

Subsecs. (h) to (j). Pub. L. 91–605, §136(b), added subsecs. (h) to (j).

1966—Subsec. (b). Pub. L. 89–574, §5(a), required that in all cases the standards provide for at least four lanes of traffic.

Subsec. (g). Pub. L. 89–574, §14, added subsec. (g).

1963—Subsec. (b). Pub. L. 88–157 substituted "Such standards, as applied to each actual construction project, shall be adequate to enable such project to accommodate the types and volumes of traffic anticipated for such project for the twenty-year period commencing on the date of approval by the Secretary, under section 106 of this title, of the plans, specifications, and estimates for actual construction of such project" for "Such standards shall be adequate to accommodate the types and volumes of traffic forecast for the year 1975", struck out "up" before "to such standards" and inserted "all" in phrase "throughout all the States".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Except as otherwise provided, amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

Pub. L. 114–94, div. A, title I, §1446(d), Dec. 4, 2015, 129 Stat. 1438, provided that the amendment made by section 1446(d)(5)(B) is effective as of July 6, 2012, and as if included in Pub. L. 112–141 as enacted.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment 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.

UPDATES TO MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES

Pub. L. 117–58, div. A, title I, §11135, Nov. 15, 2021, 135 Stat. 516, provided that: "In carrying out the first update to the Manual on Uniform Traffic Control Devices under section 109(d)(2) of title 23, United States Code, to the greatest extent practicable, the Secretary [of Transportation] shall include updates necessary to provide for—

"(1) the protection of vulnerable road users (as defined in section 148(a) of title 23, United States Code);

"(2) supporting the safe testing of automated vehicle technology and any preparation necessary for the

safe integration of automated vehicles onto public streets;

"(3) appropriate use of variable message signs to enhance public safety;

"(4) the minimum retroreflectivity of traffic control devices and pavement markings; and

"(5) any additional recommendations made by the National Committee on Uniform Traffic Control Devices that have not been incorporated into the Manual on Uniform Traffic Control Devices."

ROADSIDE HIGHWAY SAFETY HARDWARE

Pub. L. 117–58, div. A, title I, §11517, Nov. 15, 2021, 135 Stat. 601, provided that:

"(a) IN GENERAL.—To the maximum extent practicable, the Secretary [of Transportation] shall develop a process for third party verification of full-scale crash testing results from crash test labs, including a method for formally verifying the testing outcomes and providing for an independent pass/fail determination. In establishing such a process, the Secretary shall seek to ensure the independence of crash test labs by ensuring that those labs have a clear separation between device development and testing in cases in which lab employees test devices that were developed within the parent organization of the employee.

"(b) CONTINUED ISSUANCE OF ELIGIBILITY LETTERS.—Until the implementation of the process described in subsection (a) is complete, the Secretary may, and is encouraged to, ensure that the Administrator of the Federal Highway Administration continues to issue Federal-aid reimbursement eligibility letters for roadside safety hardware as a service to States.

"(c) REPORT TO CONGRESS.—

"(1) IN GENERAL.—If the Secretary seeks to discontinue issuing the letters described in subsection (b), 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 report at least 1 year before discontinuing the letters.

"(2) INCLUSIONS.—The report described in paragraph (1) shall include a summary of the third-party verification process described in subsection (a) that will replace the Federal Highway Administration issuance of eligibility letters and any other relevant information that the Secretary deems necessary."

STORMWATER BEST MANAGEMENT PRACTICES REPORTS

Pub. L. 117–58, div. A, title I, §11521, Nov. 15, 2021, 135 Stat. 603, provided that:

"(a) DEFINITIONS.—In this section:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Highway Administration.

"(2) BEST MANAGEMENT PRACTICES REPORT.—The term 'best management practices report' means—

"(A) the 2014 report sponsored by the Administrator entitled 'Determining the State of the Practice in Data Collection and Performance Measurement of Stormwater Best Management Practices'; and

"(B) the 1997 report sponsored by the Administrator entitled 'Stormwater Best Management Practices in an Ultra-Urban Setting: Selection and Monitoring'.

"(b) REISSUANCE.—Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], the Administrator shall update and reissue each best management practices report to reflect new information and advancements in stormwater management.

"(c) UPDATES.—Not less frequently than once every 5 years after the date on which the Administrator reissues a best management practices report described in subsection (b), the Administrator shall update and reissue the best management practices report until the earlier of the date on which—

"(1) the best management practices report is withdrawn; or

"(2) the contents of the best management practices report are incorporated (including by reference) into applicable regulations of the Administrator."

RETROACTIVE APPLICATION OF ADJUSTMENT TO CRITERIA FOR CATEGORICAL EXCLUSION FOR PROJECTS OF LIMITED FEDERAL ASSISTANCE

Pub. L. 114–94, div. A, title I, §1314(b), Dec. 4, 2015, 129 Stat. 1403, provided that: "The first adjustment made pursuant to the amendments made by subsection (a) [amending section 1317 of Pub. L. 112–141, set out under this section] shall—

"(1) be carried out not later than 60 days after the date of enactment of this Act [Dec. 4, 2015]; and

"(2) reflect the increase in the Consumer Price Index since July 1, 2012."

CATEGORICAL EXCLUSION DETERMINATIONS

Pub. L. 114–94, div. A, title I, §1315(b), Dec. 4, 2015, 129 Stat. 1403, provided that: "Not later than 30

days after the date of enactment of this Act [Dec. 4, 2015], the Secretary [of Transportation] shall revise section 771.117(g) of title 23, Code of Federal Regulations, to allow a programmatic agreement under this section [see section 1318(e) of Pub. L. 112–141, set out under this section] to include responsibility for making categorical exclusion determinations—

"(1) for actions described in subsections (c) and (d) of section 771.117 of title 23, Code of Federal Regulations; and

"(2) that meet the criteria for a categorical exclusion under section 1508.4 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act), and are identified in the programmatic agreement."

ROADWAY DESIGN STANDARD FLEXIBILITY

Pub. L. 114–94, div. A, title I, §1404(b), Dec. 4, 2015, 129 Stat. 1409, provided that: "Notwithstanding section 109(o) of title 23, United States Code, a State may allow a local jurisdiction to use a roadway design publication that is different from the roadway design publication used by the State in which the local jurisdiction is located for the design of a project on a roadway under the ownership of the local jurisdiction (other than a highway on the Interstate System) if—

"(1) the local jurisdiction is a direct recipient of Federal funds for the project;

"(2) the roadway design publication—

"(A) is recognized by the Federal Highway Administration; and

"(B) is adopted by the local jurisdiction; and

"(3) the design complies with all other applicable Federal laws."

EMERGENCY EXEMPTIONS

Pub. L. 114–94, div. A, title I, §1432, Dec. 4, 2015, 129 Stat. 1429, provided that:

"(a) IN GENERAL.—Any road, highway, railway, bridge, or transit facility that is damaged by an emergency that is declared by the Governor of the State, with the concurrence of the Secretary of Homeland Security, or declared as an emergency by the President pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), and that is in operation or under construction on the date on which the emergency occurs may be reconstructed in the same location with the same capacity, dimensions, and design as before the emergency subject to the exemptions and expedited procedures under subsection (b).

"(b) EXEMPTIONS AND EXPEDITED PROCEDURES.—

"(1) ALTERNATIVE ARRANGEMENTS.—Alternative arrangements for an emergency under section 1506.11 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act [Dec. 4, 2015]) shall apply to reconstruction under subsection (a), and the reconstruction shall be considered necessary to control the immediate impacts of the emergency.

"(2) STORMWATER DISCHARGE PERMITS.—A general permit for stormwater discharges from construction activities, if available, issued by the Administrator of the Environmental Protection Agency or the director of a State program under section 402(p) of the Federal Water Pollution Control Act (33 U.S.C. 1342(p)), as applicable, shall apply to reconstruction under subsection (a), on submission of a notice of intent to be subject to the permit.

"(3) EMERGENCY PROCEDURES.—The emergency procedures for issuing permits in accordance with section 325.2(e)(4) of title 33, Code of Federal Regulations (as in effect on the date of enactment of this Act) shall apply to reconstruction under subsection (a), and the reconstruction shall be considered an emergency under that regulation.

"(4) NATIONAL HISTORIC PRESERVATION ACT EXEMPTION.—Reconstruction under subsection (a) is eligible for an exemption from the requirements of the National Historic Preservation Act of 1966 [Pub. L. 89–665, see Tables for classification] pursuant to part 78 of title 36, Code of Federal Regulations (as in effect on the date of enactment of this Act).

"(5) ENDANGERED SPECIES ACT EXEMPTION.—An exemption from the requirements of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) pursuant to section 7(p) of that Act (16 U.S.C. 1536(p)) shall apply to reconstruction under subsection (a) and, if the President makes the determination required under section 7(p) of that Act, the determinations required under subsections (g) and (h) of that section shall be deemed to be made.

"(6) EXPEDITED CONSULTATION UNDER ENDANGERED SPECIES ACT.—Expedited consultation pursuant to section 402.05 of title 50, Code of Federal Regulations (as in effect on the date of enactment of this Act) shall apply to reconstruction under subsection (a).

"(7) OTHER EXEMPTIONS.—Any reconstruction that is exempt under paragraph (5) shall also be exempt from requirements under—

"(A) the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.);
"(B) the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.); and
"(C) the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.)."

SAFETY FOR USERS

Pub. L. 114–94, div. A, title I, §1442, Dec. 4, 2015, 129 Stat. 1436, provided that:

"(a) IN GENERAL.—The Secretary [of Transportation] shall encourage each State and metropolitan planning organization to adopt standards for the design of Federal surface transportation projects that provide for the safe and adequate accommodation (as determined by the State) of all users of the surface transportation network, including motorized and nonmotorized users, in all phases of project planning, development, and operation.

"(b) REPORT.—Not later than 2 years after the date of enactment of this Act [Dec. 4, 2015], the Secretary shall make available to the public a report cataloging examples of State law or State transportation policy that provide for the safe and adequate accommodation of all users of the surface transportation network, in all phases of project planning, development, and operation.

"(c) BEST PRACTICES.—Based on the report under subsection (b), the Secretary shall identify and disseminate examples of best practices where States have adopted measures that have successfully provided for the safe and adequate accommodation of all users of the surface transportation network in all phases of project planning, development, and operation."

CATEGORICAL EXCLUSIONS IN EMERGENCIES

Pub. L. 112–141, div. A, title I, §1315, July 6, 2012, 126 Stat. 549, provided that:

"(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title], for the repair or reconstruction of any road, highway, or bridge that is in operation or under construction when damaged by an emergency declared by the Governor of the State and concurred in by the Secretary [of Transportation], or for a disaster or emergency declared by the President pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Secretary shall publish a notice of proposed rulemaking to treat any such repair or reconstruction activity as a class of action categorically excluded from the requirements relating to environmental assessments or environmental impact statements under section 1508.4 of title 40, Code of Federal Regulations, and section 771.117 of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act) if such repair or reconstruction activity is—

"(1) in the same location with the same capacity, dimensions, and design as the original road, highway, or bridge as before the declaration described in this section; and

"(2) commenced within a 2-year period beginning on the date of a declaration described in this section.

"(b) RULEMAKING.—

"(1) IN GENERAL.—The Secretary [of Transportation] shall ensure that the rulemaking helps to conserve Federal resources and protects public safety and health by providing for periodic evaluations to determine if reasonable alternatives exist to roads, highways, or bridges that repeatedly require repair and reconstruction activities.

"(2) REASONABLE ALTERNATIVES.—The reasonable alternatives described in paragraph (1) include actions that could reduce the need for Federal funds to be expended on such repair and reconstruction activities, better protect public safety and health and the environment, and meet transportation needs as described in relevant and applicable Federal, State, local and tribal plans."

CATEGORICAL EXCLUSIONS FOR PROJECTS WITHIN THE RIGHT-OF-WAY

Pub. L. 112–141, div. A, title I, §1316, July 6, 2012, 126 Stat. 549, provided that:

"(a) IN GENERAL.—The Secretary [of Transportation] shall—

"(1) not later than 180 days after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title], designate any project (as defined in section 101(a) of title 23, United States Code) within an existing operational right-of-way as an action categorically excluded from the requirements relating to environmental assessments or environmental impact statements under section 1508.4 of title 40, Code of Federal Regulations, and section 771.117(c) of title 23, Code of Federal Regulations; and

"(2) not later than 150 days after the date of enactment of this Act, promulgate regulations to carry out paragraph (1).

"(b) DEFINITION OF AN OPERATIONAL RIGHT-OF-WAY.—In this section, the term 'operational right-of-way' means all real property interests acquired for the construction, operation, or mitigation of a

project (as defined in section 101(a) of title 23, United States Code), including the locations of the roadway, bridges, interchanges, culverts, drainage, clear zone, traffic control signage, landscaping, and any rest areas with direct access to a controlled access highway."

CATEGORICAL EXCLUSION FOR PROJECTS OF LIMITED FEDERAL ASSISTANCE

Pub. L. 112–141, div. A, title I, §1317, July 6, 2012, 126 Stat. 550, as amended by Pub. L. 114–94, div. A, title I, §1314(a), Dec. 4, 2015, 129 Stat. 1402; Pub. L. 117–58, div. A, title I, §11317, Nov. 15, 2021, 135 Stat. 543, provided that: "Not later than 180 days after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title], the Secretary [of Transportation] shall—

"(1) designate as an action categorically excluded from the requirements relating to environmental assessments or environmental impact statements under section 1508.4 of title 40, Code of Federal Regulations, and section 771.117(c) of title 23, Code of Federal Regulations, any project—

"(A) that receives less than $6,000,000 (as adjusted annually by the Secretary [of Transportation] to reflect any increases in the Consumer Price Index prepared by the Department of Labor) of Federal funds; or

"(B) with a total estimated cost of not more than $35,000,000 (as adjusted annually by the Secretary to reflect any increases in the Consumer Price Index prepared by the Department of Labor) and Federal funds comprising less than 15 percent of the total estimated project cost; and

"(2) not later than 150 days after the date of enactment of this Act, promulgate regulations to carry out paragraph (1)."

PROGRAMMATIC AGREEMENTS AND ADDITIONAL CATEGORICAL EXCLUSIONS

Pub. L. 112–141, div. A, title I, §1318, July 6, 2012, 126 Stat. 550, as amended by Pub. L. 114–94, div. A, title I, §1315(a), Dec. 4, 2015, 129 Stat. 1403, provided that:

"(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title], the Secretary [of Transportation] shall—

"(1) survey the use by the Department [of Transportation] of categorical exclusions in transportation projects since 2005;

"(2) publish a review of the survey that includes a description of—

"(A) the types of actions categorically excluded; and

"(B) any requests previously received by the Secretary for new categorical exclusions; and

"(3) solicit requests from State departments of transportation, transit authorities, metropolitan planning organizations, or other government agencies for new categorical exclusions.

"(b) NEW CATEGORICAL EXCLUSIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall publish a notice of proposed rulemaking to propose new categorical exclusions received by the Secretary under subsection (a), to the extent that the categorical exclusions meet the criteria for a categorical exclusion under section 1508.4 of title 40, Code of Federal Regulations, and section 771.117(a) of title 23, Code of Federal Regulations (as those regulations are in effect on the date of the notice).

"(c) ADDITIONAL ACTIONS.—The Secretary shall issue a proposed rulemaking to move the following types of actions from subsection (d) of section 771.117 of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act), to subsection (c) of that section, to the extent that such movement complies with the criteria for a categorical exclusion under section 1508.4 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act):

"(1) Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (including parking, weaving, turning, and climbing).

"(2) Highway safety or traffic operations improvement projects, including the installation of ramp metering control devices and lighting.

"(3) Bridge rehabilitation, reconstruction, or replacement or the construction of grade separation to replace existing at-grade railroad crossings.

"(d) PROGRAMMATIC AGREEMENTS.—

"(1) IN GENERAL.—The Secretary shall seek opportunities to enter into programmatic agreements with the States that establish efficient administrative procedures for carrying out environmental and other required project reviews.

"(2) INCLUSIONS.—Programmatic agreements authorized under paragraph (1) may include agreements that allow a State to determine on behalf of the Federal Highway Administration whether a project is categorically excluded from the preparation of an environmental assessment or environmental

impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(3) DETERMINATIONS.—An agreement described in paragraph (2) may include determinations by the Secretary [of Transportation] of the types of projects categorically excluded (consistent with section 1508.4 of title 40, Code of Federal Regulations) in the State in addition to the types listed in subsections (c) and (d) of section 771.117 of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act).

"(e) PROGRAMMATIC AGREEMENT TEMPLATE.—

"(1) IN GENERAL.—The Secretary [of Transportation] shall develop a template programmatic agreement described in subsection (d) that provides for efficient and adequate procedures for evaluating Federal actions described in section 771.117(c) of title 23, Code of Federal Regulations (as in effect on the date of enactment of this subsection [Dec. 4, 2015]).

"(2) USE OF TEMPLATE.—The Secretary—

"(A) on receipt of a request from a State, shall use the template programmatic agreement developed under paragraph (1) in carrying out this section; and

"(B) on consent of the applicable State, may modify the template as necessary to address the unique needs and characteristics of the State.

"(3) OUTCOME MEASUREMENTS.—The Secretary shall establish a method to verify that actions described in section 771.117(c) of title 23, Code of Federal Regulations (as in effect on the date of enactment of this subsection), are evaluated and documented in a consistent manner by the State that uses the template programmatic agreement under this subsection."

ENGINEERING JUDGMENT

Pub. L. 112–141, div. A, title I, §1529, July 6, 2012, 126 Stat. 583, provided that: "Not later than 90 days after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title], the Secretary [of Transportation] shall issue guidance to State transportation departments clarifying that the standards, guidance, and options for design and application of traffic control devices provided in the Manual on Uniform Traffic Control Devices should not be considered a substitute for engineering judgment."

HIGHWAY SIGNS RELATING TO VETERANS CEMETERIES

Pub. L. 108–29, §3, May 29, 2003, 117 Stat. 772, provided that:

"(a) IN GENERAL.—Notwithstanding the terms of any agreement entered into by the Secretary of Transportation and a State under section 109(d) or 402(a) of title 23, United States Code, a veterans cemetery shall be treated as a site for which a supplemental guide sign may be placed on any Federal-aid highway.

"(b) APPLICABILITY.—Subsection (a) shall apply to an agreement entered into before, on, or after the date of the enactment of this Act [May 29, 2003]."

INTERNATIONAL ROUGHNESS INDEX

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

"(1) STUDY.—The Comptroller General of the United States shall conduct a study on the international roughness index that is used as an indicator of pavement quality on the Federal-aid highway system.

"(2) REQUIRED ELEMENTS.—The study shall specify the extent of usage of the index and the extent to which the international roughness index measurement is reliable across different manufacturers and types of pavement.

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

ENVIRONMENTAL STREAMLINING

Pub. L. 105–178, title I, §1309, June 9, 1998, 112 Stat. 232, as amended by Pub. L. 105–206, title IX, §9004(c), July 22, 1998, 112 Stat. 843, which directed the Secretary of Transportation to develop and implement a coordinated environmental review process for highway construction and mass transit projects, was repealed by Pub. L. 109–59, title VI, §6002(d), Aug. 10, 2005, 119 Stat. 1865.

ROADSIDE SAFETY TECHNOLOGIES

Pub. L. 105–178, title I, §1402, June 9, 1998, 112 Stat. 236, as amended by Pub. L. 105–206, title IX, §9005(c), July 22, 1998, 112 Stat. 848, provided that:

"(a) CRASH CUSHIONS.—

"(1) GUIDANCE.—Not later than 18 months after the date of enactment of this Act [June 9, 1998], the Secretary shall issue guidance regarding the benefits and safety performance of redirective and

nonredirective crash cushions in different road applications, taking into consideration roadway conditions, operating speed limits, the location of the crash cushion in the right-of-way, and any other relevant factors. The guidance shall include recommendations on the most appropriate circumstances for utilization of redirective and nonredirective crash cushions.

"(2) USE OF GUIDANCE.—States shall use the guidance issued under this subsection in evaluating the safety and cost-effectiveness of utilizing different crash cushion designs and determining whether redirective or nonredirective crash cushions or other safety appurtenances should be installed at specific highway locations.

"(b) TRAFFIC FLOW AND SAFETY APPLICATIONS OF ROAD BARRIERS.—

"(1) STUDY.—The Secretary shall conduct a study on the technologies and methods to enhance safety, streamline construction, and improve capacity by providing positive separation at all times between traffic, equipment, and workers on highway construction projects. The study shall also address how such technologies can be used to improve capacity and safety at those specific highway, bridge, and other appropriate locations where reversible lane, contraflow, and high occupancy vehicle lane operations are implemented during peak traffic periods.

"(2) USES TO CONSIDER.—In conducting the study, the Secretary shall consider, at a minimum, uses of positive separation technologies related to—

"(A) separating workers from traffic flow when work is in progress;

"(B) providing additional safe work space by utilizing adjacent and available traffic lanes during off-peak hours;

"(C) rapid deployment to allow for daily or periodic restoration of lanes for use by traffic during peak hours as needed;

"(D) mitigating congestion caused by construction by—

"(i) opening all adjacent and available lanes to traffic during peak traffic hours; or

"(ii) using reversible lanes to optimize capacity of the highway by adjusting to directional traffic flow; and

"(E) permanent use of positive separation technologies to create contraflow or reversible lanes to increase the capacity of congested highways, bridges, and tunnels.

"(3) REPORT.—Not later than 18 months after the date of enactment of this Act [June 9, 1998], the Secretary shall submit to Congress a report on the results of the study. The report shall include findings and recommendations for the use of the technologies referred to in paragraph (2) to provide positive separation on appropriate projects."

METRIC REQUIREMENTS

Pub. L. 104–59, title II, §205(c), Nov. 28, 1995, 109 Stat. 577, as amended by Pub. L. 105–178, title I, §1211(d), June 9, 1998, 112 Stat. 188, provided that:

"(1) PLACEMENT AND MODIFICATION OF SIGNS.—The Secretary shall not require the States to expend any Federal or State funds to construct, erect, or otherwise place or to modify any sign relating to a speed limit, distance, or other measurement on a highway for the purpose of having such sign establish such speed limit, distance, or other measurement using the metric system.

"(2) OTHER ACTIONS.—The Secretary shall not require that any State use or plan to use the metric system with respect to designing or advertising, or preparing plans, specifications, estimates, or other documents, for a Federal-aid highway project eligible for assistance under title 23, United States Code.

"(3) DEFINITIONS.—In this subsection, the following definitions apply:

"(A) HIGHWAY.—The term 'highway' has the meaning such term has under section 101 of title 23, United States Code.

"(B) METRIC SYSTEM.—The term 'metric system' has the meaning the term 'metric system of measurement' has under section 4 of the Metric Conversion Act of 1975 (15 U.S.C. 205c)."

TYPE II NOISE BARRIERS

Pub. L. 104–59, title III, §339(b), Nov. 28, 1995, 109 Stat. 605, 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

Pub. L. 104–59, title III, §359(b), Nov. 28, 1995, 109 Stat. 626, 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

Pub. L. 102–240, title I, §1038, Dec. 18, 1991, 105 Stat. 1987, as amended by Pub. L. 104–59, title II, §205(b), title III, §327, Nov. 28, 1995, 109 Stat. 577, 592, provided that:

"(a) ASPHALT PAVEMENT CONTAINING RECYCLED RUBBER DEMONSTRATION PROGRAM .—Notwithstanding any other provision of title 23, United States Code, or regulation or policy of the Department of Transportation, the Secretary (or a State acting as the Department's agent) may not disapprove a highway project under chapter 1 of title 23, United States Code, on the ground that the project includes the use of asphalt pavement containing recycled rubber. Under this subsection, a patented application process for recycled rubber shall be eligible for approval under the same conditions that an unpatented process is eligible for approval.

"(b) STUDIES.—

"(1) IN GENERAL.—The Secretary and the Administrator of the Environmental Protection Agency shall coordinate and conduct, in cooperation with the States, a study to determine—

"(A) the threat to human health and the environment associated with the production and use of asphalt pavement containing recycled rubber;

"(B) the degree to which asphalt pavement containing recycled rubber can be recycled; and

"(C) the performance of the asphalt pavement containing recycled rubber under various climate and use conditions.

"(2) DIVISION OF RESPONSIBILITIES.—The Administrator shall conduct the part of the study relating to paragraph (1)(A) and the Secretary shall conduct the part of the study relating to paragraph (1)(C). The Administrator and the Secretary shall jointly conduct the study relating to paragraph (1)(B).

"(3) ADDITIONAL STUDY.—The Secretary and the Administrator, in cooperation with the States, shall jointly conduct a study to determine the economic savings, technical performance qualities, threats to human health and the environment, and environmental benefits of using recycled materials in highway devices and appurtenances and highway projects, including asphalt containing over 80 percent reclaimed asphalt, asphalt containing recycled glass, and asphalt containing recycled plastic.

"(4) ADDITIONAL ELEMENTS.—In conducting the study under paragraph (3), the Secretary and the Administrator shall examine utilization of various technologies by States and shall examine the current practices of all States relating to the reuse and disposal of materials used in federally assisted highway projects.

"(5) REPORT.—Not later than 18 months after the date of the enactment of this Act [Dec. 18, 1991], the Secretary and the Administrator shall transmit to Congress a report on the results of the studies conducted under this subsection, including a detailed analysis of the economic savings and technical performance qualities of using such recycled materials in federally assisted highway projects and the environmental benefits of using such recycled materials in such highway projects in terms of reducing air emissions, conserving natural resources, and reducing disposal of the materials in landfills.

"(c) DOT GUIDANCE.—

"(1) INFORMATION GATHERING AND DISTRIBUTION.—The Secretary shall gather information and recommendations concerning the use of asphalt containing recycled rubber in highway projects from those States that have extensively evaluated and experimented with the use of such asphalt and implemented such projects and shall make available such information and recommendations on the use of such asphalt to those States which indicate an interest in the use of such asphalt.

"(2) ENCOURAGEMENT OF USE.—The Secretary should encourage the use of recycled materials determined to be appropriate by the studies pursuant to subsection (b) in federally assisted highway projects. Procuring agencies shall comply with all applicable guidelines or regulations issued by the Administrator of the Environmental Protection Agency.

"(d) ASPHALT PAVEMENT CONTAINING RECYCLED RUBBER.—

"(1) CRUMB RUBBER MODIFIER RESEARCH.—Not later than 180 days after the date of the enactment of the National Highway System Designation Act of 1995 [Nov. 28, 1995], the Secretary shall develop testing procedures and conduct research to develop performance grade classifications, in

accordance with the strategic highway research program carried out under section 307(d) of title 23, United States Code, for crumb rubber modifier binders. The testing procedures and performance grade classifications should be developed in consultation with representatives of the crumb rubber modifier industry and other interested parties (including the asphalt paving industry) with experience in the development of the procedures and classifications.

"(2) CRUMB RUBBER MODIFIER PROGRAM DEVELOPMENT.—

"(A) IN GENERAL.—The Secretary may make grants to States to develop programs to use crumb rubber from scrap tires to modify asphalt pavements.

"(B) USE OF GRANT FUNDS.—Grant funds made available to States under this paragraph shall be used—

"(i) to develop mix designs for crumb rubber modified asphalt pavements;

"(ii) for the placement and evaluation of crumb rubber modified asphalt pavement field tests; and

"(iii) for the expansion of State crumb rubber modifier programs in existence on the date the grant is made available.

"(e) DEFINITIONS.—For purpose of this section—

"(1) the term 'asphalt pavement containing recycled rubber' means any mixture of asphalt and crumb rubber derived from whole scrap tires, such that the physical properties of the asphalt are modified through the mixture, for use in pavement maintenance, rehabilitation, or construction applications; and

"(2) the term 'recycled rubber' is any crumb rubber derived from processing whole scrap tires or shredded tire material taken from automobiles, trucks, or other equipment owned and operated in the United States."

SURVEY AND REPORT ON UPGRADING OF DESIGN STANDARDS

Pub. L. 102–240, title I, §1049, Dec. 18, 1991, 105 Stat. 2000, directed Secretary to conduct a survey to identify current State standards relating to geometric design, traffic control devices, roadside safety, safety appurtenance design, uniform traffic control devices, and sign legibility and directional clarity for all Federal-aid highways and, not later than 2 years after Dec. 18, 1991, to transmit to Congress a report on the results of the survey and the crashworthiness of traffic lights, traffic signs, guardrails, impact attenuators, concrete barrier treatments, and breakaway utility poles for bridges and roadways currently used by States.

EROSION CONTROL GUIDELINES

Pub. L. 102–240, title I, §1057, Dec. 18, 1991, 105 Stat. 2002, provided that:

"(a) DEVELOPMENT.—The Secretary shall develop erosion control guidelines for States to follow in carrying out construction projects funded in whole or in part under this title [see Tables for classification].

"(b) MORE STRINGENT STATE REQUIREMENTS.—Guidelines developed under subsection (a) shall not preempt any requirement made by or under State law if such requirement is more stringent than the guidelines.

"(c) CONSISTENCY WITH OTHER PROGRAMS.—Guidelines developed under subsection (a) shall be consistent with nonpoint source management programs under section 319 of the Federal Water Pollution Control Act [33 U.S.C. 1329] and coastal nonpoint pollution control guidance under section 6217(g) of the Omnibus Budget Reconciliation Act of 1990 [16 U.S.C. 1455b(g)]."

ROADSIDE BARRIER TECHNOLOGY

Pub. L. 102–240, title I, §1058, Dec. 18, 1991, 105 Stat. 2003, as amended by Pub. L. 104–59, title III, §328, Nov. 28, 1995, 109 Stat. 593, provided that:

"(a) REQUIREMENT FOR INNOVATIVE BARRIERS.—Not less than 2½ percent of the mileage of new or replacement permanent or temporary crashworthy barriers included in awarded contracts along Federal-aid highways within the boundaries of a State in each calendar year shall be innovative crashworthy safety barriers.

"(b) CERTIFICATION.—Each State shall annually certify to the Secretary its compliance with the requirements of this section.

"(c) DEFINITION OF INNOVATIVE CRASHWORTHY SAFETY BARRIER.—For purposes of this section, the term 'innovative crashworthy safety barrier' means a barrier, other than a guardrail or guiderail, classified by the Federal Highway Administration as 'experimental' or that was classified as 'operational' after January 1, 1985, and that meets or surpasses the requirements of the National Cooperative Highway Research Program 350 for longitudinal barriers."

ROADSIDE BARRIERS AND SAFETY APPURTENANCES

Pub. L. 102–240, title I, §1073, Dec. 18, 1991, 105 Stat. 2012, provided that:

"(a) INITIATION OF RULEMAKING PROCEEDING.—Not later than 30 days after the date of the enactment of this Act [Dec. 18, 1991], the Secretary shall initiate a rulemaking proceeding to revise the guidelines and establish standards for installation of roadside barriers and other safety appurtenances, including longitudinal barriers, end terminals, and crash cushions. Such rulemaking shall reflect state-of-the-art designs, testing, and evaluation criteria contained in the National Cooperative Highway Research Program Report 230, relating to approval standards which provide an enhanced level of crashworthy performance to accommodate vans, mini-vans, pickup trucks, and 4-wheel drive vehicles.

"(b) FINAL RULE.—Not later than 1 year after the date of the enactment of this Act [Dec. 18, 1991], the Secretary shall complete the rulemaking proceeding initiated under subsection (a), and issue a final rule regarding the implementation of revised guidelines and standards for acceptable roadside barriers and other safety appurtenances, including longitudinal barriers, end terminals, and crash cushions. Such revised guidelines and standards shall accommodate vans, mini-vans, pickup trucks, and 4-wheel drive vehicles and shall be applicable to the refurbishment and replacement of existing roadside barriers and safety appurtenances as well as to the installation of new roadside barriers and safety appurtenances."

STUDIES RELATING TO ESTABLISHMENT OF STANDARDS FOR RESURFACING, RESTORATION, AND REHABILITATION OF HIGHWAYS AND TO ESTABLISHMENT OF UNIFORM STANDARDS AND CRITERIA FOR TESTING AND INSPECTING HIGHWAYS AND BRIDGES

Pub. L. 97–424, title I, §110(b), (c), Jan. 6, 1983, 96 Stat. 2105, provided that:

"(b) The Secretary of Transportation shall enter into appropriate arrangements with the National Academy of Sciences (1) to conduct a study of the safety cost-effectiveness of geometric design criteria of standards currently in effect for construction and reconstruction of highways, other than highways access to which is fully controlled, to determine the most appropriate minimum standards to apply to resurfacing, restoration, and rehabilitation projects on such highways, which study shall include a study of the cost effectiveness of the hot dip galvanizing process for the installation, repair, or replacement of exposed structural and miscellaneous steel, and (2) to propose standards to preserve and extend the service life of such highways and enhance highway safety. The National Academy of Sciences shall conduct such study in cooperation with the National Transportation Safety Board, the Congressional Budget Office, and the American Association of State Highway and Transportation Officials. Upon completion of such study, the National Academy of Sciences shall submit such study and its proposed standards to the Secretary of Transportation for review. Within ninety days after submission of such standards to the Secretary of Transportation, the Secretary shall submit such study and the proposed standards of the National Academy of Sciences, together with the recommendations of the Secretary, to Congress for approval.

"(c)(1) The Secretary of Transportation is directed to coordinate a study with the National Bureau of Standards, the American Society for Testing and Materials, and other organizations as deemed appropriate, (A) to determine the existing quality of design, construction, products, use, and systems for highways and bridges; (B) to determine the need for uniform standards and criteria for design, processing, products, and applications, including personnel training and implementation of enforcement techniques; and (C) to determine the manpower needs and costs of developing a national system for the evaluation and accreditation of testing and inspection agencies.

"(2) The Secretary shall submit such study to the Congress not later than one year after the date of enactment of this section [Jan. 6, 1983]."

EXPENDITURE OF FEDERAL FUNDS FOR HIGHWAY SIGNS USING METRIC SYSTEM

Pub. L. 95–599, title I, §144, Nov. 6, 1978, 92 Stat. 2713, as amended by Pub. L. 96–106, §14, Nov. 9, 1979, 93 Stat. 798, which prohibited use of Federal funds for signing solely in the metric system, was repealed by Pub. L. 102–240, title I, §1053, Dec. 18, 1991, 105 Stat. 2001.

MODIFICATION OF PROJECT AGREEMENTS TO EFFECTUATE REQUIREMENT OF FOUR-LANES OF TRAFFIC

Authorization to modify projects agreements entered into prior to September 13, 1966, to effectuate the amendment of this section by Pub. L. 89–574 which added the requirement of four-lanes of traffic, see section 5(b) of Pub. L. 89–574, set out as a note under section 106 of this title.

[1] *Designations so in original.*

[§110. Repealed. Pub. L. 112–141, div. A, title I, §1519(b)(1)(A), July 6, 2012, 126 Stat. 575]

Section, added and amended Pub. L. 105–178, title I, §1105(a), (c), June 9, 1998, 112 Stat. 130; Pub. L. 105–206, title IX, §9002(e), July 22, 1998, 112 Stat. 835; Pub. L. 106–113, div. B, §1000(a)(5) [title III, §304], Nov. 29, 1999, 113 Stat. 1536, 1501A–306; Pub. L. 106–159, title I, §102(a)(2), Dec. 9, 1999, 113 Stat. 1752; Pub. L. 109–59, title I, §1105(a)–(e), Aug. 10, 2005, 119 Stat. 1165, 1166, related to revenue aligned budget authority.

Another section 110 was renumbered section 126 of this title.

A prior section 110, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 894, related to project agreements, prior to repeal by Pub. L. 105–178, title I, §1105(a), June 9, 1998, 112 Stat. 130.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§111. Agreements relating to use of and access to rights-of-way—Interstate System

(a) IN GENERAL.—All agreements between the Secretary and the State transportation department for the construction of projects on the Interstate System shall contain a clause providing that the State will not add any points of access to, or exit from, the project in addition to those approved by the Secretary in the plans for such project, without the prior approval of the Secretary. Such agreements shall also contain a clause providing that the State will not permit automotive service stations or other commercial establishments for serving motor vehicle users to be constructed or located on the rights-of-way of the Interstate System and will not change the boundary of any right-of-way on the Interstate System to accommodate construction of, or afford access to, an automotive service station or other commercial establishment. Such agreements may, however, authorize a State or political subdivision thereof to use or permit the use of the airspace above and below the established grade line of the highway pavement for such purposes as will not impair the full use and safety of the highway, as will not require or permit vehicular access to such space directly from such established grade line of the highway, or otherwise interfere in any way with the free flow of traffic on the Interstate System. Nothing in this section, or in any agreement entered into under this section, shall require the discontinuance, obstruction, or removal of any establishment for serving motor vehicle users on any highway which has been, or is hereafter, designated as a highway or route on the Interstate System (1) if such establishment (A) was in existence before January 1, 1960, (B) is owned by a State, and (C) is operated through concessionaries or otherwise, and (2) if all access to, and exits from, such establishment conform to the standards established for such a highway under this title.

(b) REST AREAS.—

(1) IN GENERAL.—Notwithstanding subsection (a), the Secretary shall permit a State to acquire, construct, operate, and maintain a rest area along a highway on the Interstate System in such State.

(2) LIMITED ACTIVITIES.—The Secretary shall permit limited commercial activities within a rest area under paragraph (1), if the activities are available only to customers using the rest area and are limited to—

(A) commercial advertising and media displays if such advertising and displays are—

(i) exhibited solely within any facility constructed in the rest area; and

(ii) not legible from the main traveled way;

(B) items designed to promote tourism in the State, limited to books, DVDs, and other media;

(C) tickets for events or attractions in the State of a historical or tourism-related nature;

(D) travel-related information, including maps, travel booklets, and hotel coupon booklets; and

(E) lottery machines, provided that the priority afforded to blind vendors under subsection (c) applies to this subparagraph.

(3) PRIVATE OPERATORS.—A State may permit a private party to operate such commercial activities.

(4) LIMITATION ON USE OF REVENUES.—A State shall use any revenues received from the commercial activities in a rest area under this section to cover the costs of acquiring, constructing, operating, and maintaining rest areas in the State.

(c) VENDING MACHINES.—Notwithstanding subsection (a), any State may permit the placement of vending machines in rest and recreation areas, and in safety rest areas, constructed or located on rights-of-way of the Interstate System in such State. Such vending machines may only dispense such food, drink, and other articles as the State transportation department determines are appropriate and desirable. Such vending machines may only be operated by the State. In permitting the placement of vending machines, the State shall give priority to vending machines which are operated through the State licensing agency designated pursuant to section 2(a)(5) of the Act of June 20, 1936, commonly known as the "Randolph-Sheppard Act" (20 U.S.C. 107a(a)(5)). The costs of installation, operation, and maintenance of vending machines shall not be eligible for Federal assistance under this title.

(d) MOTORIST CALL BOXES.—

(1) IN GENERAL.—Notwithstanding subsection (a), a State may permit the placement of motorist call boxes on rights-of-way of the National Highway System. Such motorist call boxes may include the identification and sponsorship logos of such call boxes.

(2) SPONSORSHIP LOGOS.—

(A) APPROVAL BY STATE AND LOCAL AGENCIES.—All call box installations displaying sponsorship logos under this subsection shall be approved by the highway agencies having jurisdiction of the highway on which they are located.

(B) SIZE ON BOX.—A sponsorship logo may be placed on the call box in a dimension not to exceed the size of the call box or a total dimension in excess of 12 inches by 18 inches.

(C) SIZE ON IDENTIFICATION SIGN.—Sponsorship logos in a dimension not to exceed 12 inches by 30 inches may be displayed on a call box identification sign affixed to the call box post.

(D) SPACING OF SIGNS.—Sponsorship logos affixed to an identification sign on a call box post may be located on the rights-of-way at intervals not more frequently than 1 per every 5 miles.

(E) DISTRIBUTION THROUGHOUT STATE.—Within a State, at least 20 percent of the call boxes displaying sponsorship logos shall be located on highways outside of urbanized areas with a population greater than 50,000.

(3) NONSAFETY HAZARDS.—The call boxes and their location, posts, foundations, and mountings shall be consistent with requirements of the Manual on Uniform Traffic Control Devices or any requirements deemed necessary by the Secretary to assure that the call boxes shall not be a safety hazard to motorists.

(e) JUSTIFICATION REPORTS.—If the Secretary requests or requires a justification report for a project that would add a point of access to, or exit from, the Interstate System (including new or modified freeway-to-crossroad interchanges inside a transportation management area), the Secretary may permit a State transportation department to approve the report.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 895; Pub. L. 87–61, title I, §104(a), June 29, 1961, 75 Stat. 122; Pub. L. 95–599, title I, §114, Nov. 6, 1978, 92 Stat. 2697; Pub. L. 100–17, title I, §110(a), Apr.

2, 1987, 101 Stat. 146; Pub. L. 104–59, title III, §306, Nov. 28, 1995, 109 Stat. 580; Pub. L. 105–178, title I, §1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 193; Pub. L. 109–59, title I, §1412, Aug. 10, 2005, 119 Stat. 1234; Pub. L. 110–244, title I, §104, June 6, 2008, 122 Stat. 1578; Pub. L. 112–141, div. A, title I, §§1505, 1539(a), July 6, 2012, 126 Stat. 564, 587; Pub. L. 114–94, div. A, title I, §1405, Dec. 4, 2015, 129 Stat. 1410.)

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (e). Pub. L. 114–94 inserted "(including new or modified freeway-to-crossroad interchanges inside a transportation management area)" after "the Interstate System".

2012—Subsec. (a). Pub. L. 112–141, §1539(a)(1), inserted "and will not change the boundary of any right-of-way on the Interstate System to accommodate construction of, or afford access to, an automotive service station or other commercial establishment" before period at end of second sentence.

Subsecs. (b) to (d). Pub. L. 112–141, §1539(a)(2), (3), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

Subsec. (e). Pub. L. 112–141, §1505, added subsec. (e).

2008—Subsec. (d). Pub. L. 110–244 struck out subsec. (d) which related to idling reduction facilities in rights-of-way of Interstate System.

2005—Subsec. (d). Pub. L. 109–59 added subsec. (d).

1998—Subsecs. (a), (b). Pub. L. 105–178 substituted "State transportation department" for "State highway department".

1995—Subsec. (c). Pub. L. 104–59 added subsec. (c).

1987—Pub. L. 100–17 designated existing provision as subsec. (a), inserted heading for subsec. (a), and added subsec. (b).

1978—Pub. L. 95–599 inserted provision listing situations which would not require the discontinuance, obstruction, or removal of any establishment for serving motor vehicle users.

1961—Pub. L. 87–61 substituted "to use or permit the use of the airspace above and below the established grade line of the highway pavement for such purposes as will not impair the full use and safety of the highway, as will not require or permit vehicular access to such space directly from such established grade line of the highway, or otherwise interfere" for "to use the airspace above and below the established grade line of the highway pavement for the parking of motor vehicles provided such use does not interfere".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

INTERSTATE OASIS PROGRAM

Pub. L. 109–59, title I, §1310, Aug. 10, 2005, 119 Stat. 1219, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section [Aug. 10, 2005], in consultation with the States and other interested parties, the Secretary [of Transportation] shall—

"(1) establish an interstate oasis program; and

"(2) after providing an opportunity for public comment, develop standards for designating, as an interstate oasis, a facility that—

"(A) offers—

"(i) products and services to the public;

"(ii) 24-hour access to restrooms; and

"(iii) parking for automobiles and heavy trucks; and

"(B) meets other standards established by the Secretary.

"(b) STANDARDS FOR DESIGNATION.—The standards for designation under subsection (a) shall include standards relating to—

"(1) the appearance of a facility; and

"(2) the proximity of the facility to the Dwight D. Eisenhower National System of Interstate and Defense Highways.

"(c) ELIGIBILITY FOR DESIGNATION.—If a State (as defined in section 101(a) of title 23, United States Code) elects to participate in the interstate oasis program, any facility meeting the standards established by the Secretary [of Transportation] shall be eligible for designation under this section.

"(d) LOGO.—The Secretary [of Transportation] shall design a logo to be displayed by a facility designated under this section."

VENDING MACHINES; PLACEMENT IN REST, RECREATION, AND SAFETY REST AREAS; STATE OPERATION OF MACHINES

Pub. L. 97–424, title I, §111, Jan. 6, 1983, 96 Stat. 2106, provided that notwithstanding section 111 of this title before Oct. 1, 1983, any State could permit placement of vending machines in rest and recreation areas and in safety rest areas constructed or located on rights-of-way of National System of Interstate and Defense Highways [now Dwight D. Eisenhower System of Interstate and Defense Highways] in such State. Such vending machines could only dispense such food, drink, and other articles as the State highway department determined were appropriate and desirable. Such vending machines could only be operated by the State. In permitting the placement of vending machines under this section, the State had to give priority to vending machines which were operated through the State licensing agency designated pursuant to section 2(a)(5) of the Act of June 20, 1936, known as the Randolph-Sheppard Act (20 U.S.C. 107a(a)(5)).

DEMONSTRATION PROJECT FOR VENDING MACHINES IN REST AND RECREATION AREAS

Pub. L. 95–599, title I, §153, Nov. 6, 1978, 92 Stat. 2716, authorized Secretary of Transportation to implement a demonstration project respecting placement of vending machines in rest and recreation areas and to report not later than two years after Nov. 6, 1978, on results of such project.

REVISION OF AGREEMENTS RELATING TO UTILIZATION OF SPACE ON RIGHTS-OF-WAY

Pub. L. 87–61, title I, §104(b), June 29, 1961, 75 Stat. 123, authorized Secretary of Commerce [now Transportation], on application, to revise any agreement made prior to June 29, 1961, to extent that such agreement relates to utilization of space on rights-of-way on National System of Interstate and Defense Highways [now Dwight D. Eisenhower System of Interstate and Defense Highways] to conform to section 111 of this title as amended by subsection (a).

§112. Letting of contracts

(a) In all cases where the construction is to be performed by the State transportation department or under its supervision, a request for submission of bids shall be made by advertisement unless some other method is approved by the Secretary. The Secretary shall require such plans and specifications and such methods of bidding as shall be effective in securing competition.

(b) BIDDING REQUIREMENTS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), construction of each project, subject to the provisions of subsection (a) of this section, shall be performed by contract awarded by competitive bidding, unless the State transportation department demonstrates, to the satisfaction of the Secretary, that some other method is more cost effective or that an emergency exists. Contracts for the construction of each project shall be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting established criteria of responsibility. No requirement or obligation shall be imposed as a condition precedent to the award of a contract to such bidder for a project, or to the Secretary's concurrence in the award of a contract to such bidder, unless such requirement or obligation is otherwise lawful and is specifically set forth in the advertised specifications.

(2) CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.—

(A) GENERAL RULE.—Subject to paragraph (3), each contract for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or architectural related services with respect to a project subject to the provisions of subsection (a) of this section shall be awarded in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40.

(B) PERFORMANCE AND AUDITS.—Any contract or subcontract awarded in accordance with subparagraph (A), whether funded in whole or in part with Federal-aid highway funds, shall be performed and audited in compliance with cost principles contained in the Federal Acquisition Regulations of part 31 of title 48, Code of Federal Regulations.

(C) INDIRECT COST RATES.—Instead of performing its own audits, a recipient of funds under a contract or subcontract awarded in accordance with subparagraph (A) shall accept indirect cost rates established in accordance with the Federal Acquisition Regulations for 1-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute.

(D) APPLICATION OF RATES.—Once a firm's indirect cost rates are accepted under this paragraph, the recipient of the funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment and shall not be limited by administrative or de facto ceilings of any kind.

(E) PRENOTIFICATION; CONFIDENTIALITY OF DATA.—A recipient of funds requesting or using the cost and rate data described in subparagraph (D) shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided, in whole or in part, to another firm or to any government agency which is not part of the group of agencies sharing cost data under this paragraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

(F) EXCLUSION.—Subparagraphs (B), (C), (D) and (E) herein shall not apply to the States of West Virginia or Minnesota.

(3) DESIGN-BUILD CONTRACTING.—

(A) IN GENERAL.—A State transportation department or local transportation agency may award a design-build contract for a qualified project described in subparagraph (C) using any procurement process permitted by applicable State and local law.

(B) LIMITATION ON FINAL DESIGN.—Final design under a design-build contract referred to in subparagraph (A) shall not commence before compliance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(C) QUALIFIED PROJECTS.—A qualified project referred to in subparagraph (A) is a project under this chapter (including intermodal projects) for which the Secretary has approved the use of design-build contracting under criteria specified in regulations issued by the Secretary.

(D) REGULATORY PROCESS.—Not later than 90 days after the date of enactment of the SAFETEA–LU, the Secretary shall issue revised regulations under section 1307(c) of the Transportation Equity Act for 21st Century (23 U.S.C. 112 note; 112 Stat. 230) that—

(i) do not preclude a State transportation department or local transportation agency, prior to compliance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), from—

(I) issuing requests for proposals;

(II) proceeding with awards of design-build contracts; or

(III) issuing notices to proceed with preliminary design work under design-build contracts;

(ii) require that the State transportation department or local transportation agency receive concurrence from the Secretary before carrying out an activity under clause (i); and

(iii) preclude the design-build contractor from proceeding with final design or construction of any permanent improvement prior to completion of the process under such section 102.

(E) DESIGN-BUILD CONTRACT DEFINED.—In this paragraph, the term "design-build contract" means an agreement that provides for design and construction of a project by a contractor, regardless of whether the agreement is in the form of a design-build contract, a

franchise agreement, or any other form of contract approved by the Secretary.

(4) METHOD OF CONTRACTING.—

(A) IN GENERAL.—

(i) 2-PHASE CONTRACT.—A contracting agency may award a 2-phase contract to a construction manager or general contractor for preconstruction and construction services.

(ii) PRECONSTRUCTION SERVICES PHASE.—In the preconstruction services phase of a contract under this paragraph, the contractor shall provide the contracting agency with advice for scheduling, work sequencing, cost engineering, constructability, cost estimating, and risk identification.

(iii) AGREEMENT.—Prior to the start of the construction services phase, the contracting agency and the contractor may agree to a price and other factors specified in regulation for the construction of the project or a portion of the project.

(iv) CONSTRUCTION PHASE.—If an agreement is reached under clause (iii), the contractor shall be responsible for the construction of the project or portion of the project at the negotiated price and in compliance with the other factors specified in the agreement.

(B) SELECTION.—A contract shall be awarded to a contractor under this paragraph using a competitive selection process based on qualifications, experience, best value, or any other combination of factors considered appropriate by the contracting agency.

(C) TIMING.—

(i) RELATIONSHIP TO NEPA PROCESS.—Prior to the completion of the environmental review process required under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), a contracting agency may—

(I) issue requests for proposals;

(II) proceed with the award of a contract for preconstruction services under subparagraph (A)(ii); and

(III) issue notices to proceed with a preliminary design and any work related to preliminary design, to the extent that those actions do not limit any reasonable range of alternatives.

(ii) CONSTRUCTION SERVICES PHASE.—A contracting agency shall not proceed with the award of the construction services phase of a contract under subparagraph (A)(iv) and shall not proceed, or permit any consultant or contractor to proceed, with final design or construction until completion of the environmental review process required under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(iii) APPROVAL REQUIREMENT.—Prior to authorizing construction activities, the Secretary shall approve—

(I) the price estimate of the contracting agency for the entire project; and

(II) any price agreement with the general contractor for the project or a portion of the project.

(iv) DESIGN ACTIVITIES.—

(I) IN GENERAL.—A contracting agency may proceed, at the expense of the contracting agency, with design activities at any level of detail for a project before completion of the review process required for the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) without affecting subsequent approvals required for the project.

(II) REIMBURSEMENT.—Design activities carried out under subclause (I) shall be eligible for Federal reimbursement as a project expense in accordance with the requirements under section 109(r).

(v) TERMINATION PROVISION.—The Secretary shall require a contract to include an

appropriate termination provision in the event that a no-build alternative is selected.

(c) The Secretary shall require as a condition precedent to his approval of each contract awarded by competitive bidding pursuant to subsection (b) of this section, and subject to the provisions of this section, a sworn statement, executed by, or on behalf of, the person, firm, association, or corporation to whom such contract is to be awarded, certifying that such person, firm, association, or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with such contract.

(d) No contract awarded by competitive bidding pursuant to subsection (b) of this section, and subject to the provisions of this section, shall be entered into by any State transportation department or local subdivision of the State without compliance with the provisions of this section, and without the prior concurrence of the Secretary in the award thereof.

(e) STANDARDIZED CONTRACT CLAUSE CONCERNING SITE CONDITIONS.—

(1) GENERAL RULE.—The Secretary shall issue regulations establishing and requiring, for inclusion in each contract entered into with respect to any project approved under section 106 of this title a contract clause, developed in accordance with guidelines established by the Secretary, which equitably addresses each of the following:

(A) Site conditions.

(B) Suspensions of work ordered by the State (other than a suspension of work caused by the fault of the contractor or by weather).

(C) Material changes in the scope of work specified in the contract.

The guidelines established by the Secretary shall not require arbitration.

(2) LIMITATION ON APPLICABILITY.—

(A) STATE LAW.—Paragraph (1) shall apply in a State except to the extent that such State adopts or has adopted by statute a formal procedure for the development of a contract clause described in paragraph (1) or adopts or has adopted a statute which does not permit inclusion of such a contract clause.

(B) DESIGN-BUILD CONTRACTS.—Paragraph (1) shall not apply to any design-build contract approved under subsection (b)(3).

(f) SELECTION PROCESS.—A State may procure, under a single contract, the services of a consultant to prepare any environmental impact assessments or analyses required for a project, including environmental impact statements, as well as subsequent engineering and design work on the project if the State conducts a review that assesses the objectivity of the environmental assessment, environmental analysis, or environmental impact statement prior to its submission to the Secretary.

(g) TEMPORARY TRAFFIC CONTROL DEVICES.—

(1) ISSUANCE OF REGULATIONS.—The Secretary, after consultation with appropriate Federal and State officials, shall issue regulations establishing the conditions for the appropriate use of, and expenditure of funds for, uniformed law enforcement officers, positive protective measures between workers and motorized traffic, and installation and maintenance of temporary traffic control devices during construction, utility, and maintenance operations.

(2) EFFECTS OF REGULATIONS.—Based on regulations issued under paragraph (1), a State shall—

(A) develop separate pay items for the use of uniformed law enforcement officers, positive protective measures between workers and motorized traffic, and installation and maintenance of temporary traffic control devices during construction, utility, and maintenance operations; and

(B) incorporate such pay items into contract provisions to be included in each contract entered into by the State with respect to a highway project to ensure compliance with section 109(e)(2).

(3) LIMITATION.—Nothing in the regulations shall prohibit a State from implementing

standards that are more stringent than those required under the regulations.

(4) POSITIVE PROTECTIVE MEASURES DEFINED.—In this subsection, the term "positive protective measures" means temporary traffic barriers, crash cushions, and other strategies to avoid traffic accidents in work zones, including full road closures.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 895; Pub. L. 90–495, §22(c), Aug. 23, 1968, 82 Stat. 827; Pub. L. 96–470, title I, §112(b)(1), Oct. 19, 1980, 94 Stat. 2239; Pub. L. 97–424, title I, §112, Jan. 6, 1983, 96 Stat. 2106; Pub. L. 100–17, title I, §111, Apr. 2, 1987, 101 Stat. 147; Pub. L. 104–59, title III, §307(a), Nov. 28, 1995, 109 Stat. 581; Pub. L. 105–178, title I, §§1205, 1212(a)(2)(A)(i), 1307(a), (b), June 9, 1998, 112 Stat. 184, 193, 229, 230; Pub. L. 107–217, §3(e)(1), Aug. 21, 2002, 116 Stat. 1299; Pub. L. 109–59, title I, §§1110(b), 1503, Aug. 10, 2005, 119 Stat. 1170, 1238; Pub. L. 109–115, div. A, title I, §174, Nov. 30, 2005, 119 Stat. 2426; Pub. L. 112–141, div. A, title I, §1303(a), July 6, 2012, 126 Stat. 531; Pub. L. 117–58, div. A, title I, §11525(d), Nov. 15, 2021, 135 Stat. 607.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the SAFETEA–LU, referred to in subsec. (b)(3)(D), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

Section 1307(c) of the Transportation Equity Act for 21st Century, referred to in subsec. (b)(3)(D), is section 1307(c) of Pub. L. 105–178, which is set out as a note below.

The National Environmental Policy Act of 1969, referred to in subsec. (b)(4)(C)(iv)(I), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2021—Subsec. (b)(2)(F). Pub. L. 117–58 substituted "(F)" for "(F)(F)" in subpar. designation and inserted heading.

2012—Subsec. (b)(4). Pub. L. 112–141 added par. (4).

2005—Subsec. (b)(2)(A). Pub. L. 109–115, §174(1), substituted "title 40" for "title 40 or equivalent State qualifications-based requirements".

Subsec. (b)(2)(B) to (D). Pub. L. 109–115, §174(2), (3), redesignated subpars. (C) to (E) as (B) to (D), respectively, and struck out heading and text of former subpar. (B). Text read as follows:

"(i) IN A COMPLYING STATE.—If, on the date of the enactment of this paragraph, the services described in subparagraph (A) may be awarded in a State in the manner described in subparagraph (A), subparagraph (A) shall apply in such State beginning on such date of enactment.

"(ii) IN A NONCOMPLYING STATE.—In the case of any other State, subparagraph (A) shall apply in such State beginning on the earlier of (I) August 1, 1989, or (II) the 10th day following the close of the 1st regular session of the legislature of a State which begins after the date of the enactment of this paragraph."

Subsec. (b)(2)(E). Pub. L. 109–115, §174(3), (4), redesignated subpar. (F) as (E) and substituted "subparagraph (D)" for "subparagraph (E)". Former subpar. (E) redesignated (D).

Subsec. (b)(2)(F). Pub. L. 109–115, §174(5), which directed that subpar. (F) be amended by substituting "(F) Subparagraphs (B), (C), (D) and (E) herein shall not apply to the States of West Virginia or Minnesota." for " 'State Option' and all that follows through the period", was executed by making the substitution for " STATE OPTION.—Subparagraphs (C), (D), (E), and (F) shall take effect 1 year after the date of the enactment of this subparagraph; except that if a State, during such 1-year period, adopts by statute an alternative process intended to promote engineering and design quality and ensure maximum competition by professional companies of all sizes providing engineering and design services, such subparagraphs shall not apply with respect to the State. If the Secretary determines that the legislature of the State did not convene and adjourn a full regular session during such 1-year period, the Secretary may extend such 1-year period until the adjournment of the next regular session of the legislature.", to reflect the probable intent of Congress.

Pub. L. 109–115, §174(3), redesignated subpar. (G) as (F). Former subpar. (F) redesignated (E).

Subsec. (b)(2)(G). Pub. L. 109–115, §174(3), redesignated subpar. (G) as (F).

Subsec. (b)(3)(C) to (E). Pub. L. 109–59, §1503, added subpars. (C) and (D), redesignated former subpar. (D) as (E), and struck out former subpar. (C), which described a qualified project as one for which the

Secretary had approved the use of design-build contracting under criteria specified in regulations and for which total costs had been estimated to exceed specified amounts.

Subsecs. (f), (g). Pub. L. 109–59, §1110(b), added subsec. (g), redesignated former subsec. (g) as (f), and struck out former subsec. (f) which read as follows: "The provisions of this section shall not be applicable to contracts for projects on the Federal-aid secondary system in those States where the Secretary has discharged his responsibility pursuant to section 117 of this title, except where employees of a political subdivision of a State are working on a project outside of such political subdivision."

2002—Subsec. (b)(2)(A). Pub. L. 107–217 substituted "chapter 11 of title 40" for "title IX of the Federal Property and Administrative Services Act of 1949".

1998—Subsec. (a). Pub. L. 105–178, §1212(a)(2)(A)(i), substituted "State transportation department" for "State highway department".

Subsec. (b)(1). Pub. L. 105–178, §1307(a)(1), substituted "paragraphs (2) and (3)" for "paragraph (2)".

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

Subsec. (b)(2)(A). Pub. L. 105–178, §1307(a)(2), substituted "Subject to paragraph (3), each contract" for "Each contract".

Subsec. (b)(2)(B)(i). Pub. L. 105–178, §1205(a), struck out before period at end ", except to the extent that such State adopts by statute a formal procedure for the procurement of such services".

Subsec. (b)(2)(B)(ii). Pub. L. 105–178, §1205(a), struck out before period at end ", except to the extent that such State adopts or has adopted by statute a formal procedure for the procurement of the services described in subparagraph (A)".

Subsec. (b)(3). Pub. L. 105–178, §1307(a)(3), added par. (3).

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

Subsec. (e)(2). Pub. L. 105–178, §1307(b), designated existing provisions as subpar. (A), inserted heading, realigned margins, and added subpar. (B).

Subsec. (g). Pub. L. 105–178, §1205(b), added subsec. (g).

1995—Subsec. (b)(2)(C) to (G). Pub. L. 104–59 added subpars. (C) to (G).

1987—Subsec. (b). Pub. L. 100–17, §111(a), (b), (d), inserted subsec. heading, designated existing provisions as par. (1), inserted par. (1) heading, substituted "Subject to paragraph (2), construction" for "Construction" and inserted "or that an emergency exists", added par. (2), and realigned margins.

Subsecs. (e), (f). Pub. L. 100–17, §111(c), added subsec. (e) and redesignated former subsec. (e) as (f).

1983—Subsec. (b). Pub. L. 97–424, §112(1), substituted "unless the State highway department demonstrates, to the satisfaction of the Secretary, that some other method is more cost effective" for "unless the Secretary shall affirmatively find that, under the circumstances relating to such project, some other method is in the public interest" after "by competitive bidding,".

Subsec. (e). Pub. L. 97–424, §112(2), inserted exception relating to a situation where employees of a political subdivision of a State are working on a project outside of such political subdivision.

1980—Subsec. (b). Pub. L. 96–470 struck out provision that all findings by the Secretary that a method other than competitive bidding is in the public interest be reported in writing to the Committees on Public Works of the Senate and the House of Representatives.

1968—Subsec. (b). Pub. L. 90–495 required that contracts for the construction of each project be awarded only on the basis of the lowest responsive bid by a bidder meeting established criteria of responsibility and required that, to be imposed as a condition precedent, requirements and obligations have been specifically set forth in the advertised specifications.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–178, title I, §1307(e), June 9, 1998, 112 Stat. 231, provided that:

"(1) IN GENERAL.—The amendments made by this section [amending this section] take effect 3 years after the date of enactment of this Act [June 9, 1998].

"(2) TRANSITION PROVISION.—

"(A) IN GENERAL.—During the period before issuance of the regulations under subsection (c) [set out below], the Secretary may approve, in accordance with an experimental program described in subsection (d) [set out below], design-build contracts to be awarded using any process permitted by applicable State and local law; except that final design under any such contract shall not commence before compliance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

"(B) PREVIOUSLY AWARDED CONTRACTS.—The Secretary may approve design-build contracts awarded before the date of enactment of this Act.

"(C) DESIGN-BUILD CONTRACT DEFINED.—In this paragraph, the term 'design-build contract' means an agreement that provides for design and construction of a project by a contractor, regardless of whether the agreement is in the form of a design-build contract, a franchise agreement, or any other form of contract approved by the Secretary."

EFFECTIVE DATE OF 1968 AMENDMENT

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

REGULATIONS

Pub. L. 112–141, div. A, title I, §1303(b), July 6, 2012, 126 Stat. 532, provided that: "The Secretary [of Transportation] shall promulgate such regulations as are necessary to carry out the amendment made by subsection (a) [amending this section]."

Pub. L. 105–178, title I, §1307(c), June 9, 1998, 112 Stat. 230, provided that:

"(1) IN GENERAL.—Not later than the effective date specified in subsection (e) [see Effective Date of 1998 Amendment note above], after consultation with the American Association of State Highway and Transportation Officials and representatives from affected industries, the Secretary shall issue regulations to carry out the amendments made by this section [amending this section].

"(2) CONTENTS.—The regulations shall—

"(A) identify the criteria to be used by the Secretary in approving the use by a State transportation department or local transportation agency of design-build contracting; and

"(B) establish the procedures to be followed by a State transportation department or local transportation agency for obtaining the Secretary's approval of the use of design-build contracting by the department or agency."

EFFECT ON EXPERIMENTAL PROGRAM

Pub. L. 112–141, div. A, title I, §1303(c), July 6, 2012, 126 Stat. 532, provided that: "Nothing in this section [amending this section and enacting provisions set out as a note under this section] or the amendment made by this section affects the authority to carry out, or any project carried out under, any experimental program concerning construction manager risk that is being carried out by the Secretary [of Transportation] as of the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title].

Pub. L. 105–178, title I, §1307(d), June 9, 1998, 112 Stat. 231, provided that: "Nothing in this section [amending this section and enacting provisions set out as notes under this section] or the amendments made by this section affects the authority to carry out, or any project carried out under, any experimental program concerning design-build contracting that is being carried out by the Secretary as of the date of enactment of this Act [June 9, 1998]."

REPORT TO CONGRESS

Pub. L. 105–178, title I, §1307(f), June 9, 1998, 112 Stat. 231, provided that, not later than 5 years after June 9, 1998, the Secretary was to submit to Congress a report on the effectiveness of design-build contracting procedures.

PRIVATE SECTOR INVOLVEMENT PROGRAM

Pub. L. 102–240, title I, §1060, Dec. 18, 1991, 105 Stat. 2003, provided that:

"(a) ESTABLISHMENT.—The Secretary shall establish a private sector involvement program to encourage States to contract with private firms for engineering and design services in carrying out Federal-aid highway projects when it would be cost effective.

"(b) GRANTS TO STATES.—

"(1) IN GENERAL.—In conducting the program under this section, the Secretary may make grants in each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 to not less than 3 States which the Secretary determines have implemented in the fiscal year preceding the fiscal year of the grant the most effective programs for increasing the percentage of funds expended for contracting with private firms (including small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals) for engineering and design services in carrying out Federal-aid highway projects.

"(2) USE OF GRANTS.—A grant received by a State under this subsection may be used by the State only for awarding contracts for engineering and design services to carry out projects and activities for which Federal funds may be obligated under title 23, United States Code.

"(3) FUNDING.—There are authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 1992 through 1997. Such sums shall remain available until expended.

"(c) REPORT BY FHWA.—Not later than 120 days after the date of the enactment of this Act [Dec. 18, 1991], the Administrator of the Federal Highway Administration shall submit to the Secretary a report on the amount of funds expended by each State in fiscal years 1980 through 1990 on contracts with private sector engineering and design firms in carrying out Federal-aid highway projects. The Secretary shall use information in the report to evaluate State engineering and design programs for the purpose of awarding grants under subsection (b).

"(d) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of this Act [Dec. 18, 1991], the Secretary shall transmit to Congress a report on implementation of the program established under this section.

"(e) ENGINEERING AND DESIGN SERVICES DEFINED.—The term 'engineering and design services' means any category of service described in section 112(b) of title 23, United States Code.

"(f) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 1991], the Secretary shall issue regulations to carry out this section."

PILOT PROGRAM FOR UNIFORM AUDIT PROCEDURES

Pub. L. 102–240, title I, §1092, Dec. 18, 1991, 105 Stat. 2024, directed Secretary to establish pilot program to include no more than 10 States under which any contract or subcontract awarded in accordance with subsec. (b)(2)(A) of this section was to be performed and audited in compliance with cost principles contained in Federal acquisition regulations of part 41 of title 48 of Code of Federal Regulations, provided for indirect cost rates in lieu of performing audits, and required each State participating in pilot program to report to Secretary not later than 3 years after Dec. 18, 1991, on results of program, prior to repeal by Pub. L. 104–59, title III, §307(b), Nov. 28, 1995, 109 Stat. 582. See subsec. (b)(2)(C) to (F) of this section.

EVALUATION OF STATE PROCUREMENT PRACTICES

Pub. L. 102–240, title VI, §6014, Dec. 18, 1991, 105 Stat. 2181, directed Secretary to conduct a study to evaluate whether or not current procurement practices of State departments and agencies were adequate to ensure that highway and transit systems were designed, constructed, and maintained so as to achieve a high quality for such systems at the lowest overall cost and, not later than 2 years after Dec. 18, 1991, to transmit to Congress a report on the results of the study, together with an assessment of the need for establishing a national policy on transportation quality assurance and recommendations for appropriate legislative and administrative actions.

§113. Prevailing rate of wage

(a) The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on the construction work performed on highway projects on the Federal-aid highways authorized under the highway laws providing for the expenditure of Federal funds upon Federal-aid highways, shall be paid wages at rates not less than those prevailing on the same type of work on similar construction in the immediate locality as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40.

(b) In carrying out the duties of subsection (a) of this section, the Secretary of Labor shall consult with the highway department of the State in which a project on any Federal-aid highway is to be performed. After giving due regard to the information thus obtained, he shall make a predetermination of the minimum wages to be paid laborers and mechanics in accordance with the

provisions of subsection (a) of this section which shall be set out in each project advertisement for bids and in each bid proposal form and shall be made a part of the contract covering the project.

(c) The provisions of the section shall not be applicable to employment pursuant to apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting equal employment opportunity in connection with Federal-aid highway construction programs.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 895; Pub. L. 90–495, §12(a), Aug. 23, 1968, 82 Stat. 821; Pub. L. 97–424, title I, §149, Jan. 6, 1983, 96 Stat. 2131; Pub. L. 100–17, title I, §133(b)(5), Apr. 2, 1987, 101 Stat. 171; Pub. L. 102–240, title I, §1006(g)(2), Dec. 18, 1991, 105 Stat. 1927; Pub. L. 107–217, §3(e)(2), Aug. 21, 2002, 116 Stat. 1299; Pub. L. 112–141, div. A, title I, §1104(c)(2), July 6, 2012, 126 Stat. 427.)

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–141, §1104(c)(2)(A), substituted "Federal-aid highways" for "the Federal-aid systems".

Subsec. (b). Pub. L. 112–141, §1104(c)(2)(B), substituted "Federal-aid highway" for "of the Federal-aid systems".

2002—Subsec. (a). Pub. L. 107–217 substituted "sections 3141–3144, 3146, and 3147 of title 40" for "the Act of March 3, 1931, known as the Davis-Bacon Act (40 U.S.C. 276a)".

1991—Subsec. (a). Pub. L. 102–240, which directed substitution of "highways" for "systems, the primary and secondary, as well as their extension in urban areas, and the Interstate system," was executed by making the substitution for the quoted words which in the original contained the word "extensions" rather than "extension", to reflect the probable intent of Congress.

1987—Subsec. (a). Pub. L. 100–17 substituted "March 3, 1931" for "August 30, 1935" and "276a" for "267a".

1983—Subsec. (a). Pub. L. 97–424 struck out "initial" after "subcontractors on the".

1968—Subsec. (a). Pub. L. 90–495 extended wage rate provisions to the construction of all Federal-aid highway projects by amending provisions limiting them only to the Interstate System.

Subsec. (b). Pub. L. 90–495 substituted "any of the Federal-aid systems" for "the Interstate System".

Subsec. (c). Pub. L. 90–495 added subsec. (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

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

EFFECTIVE DATE OF 1968 AMENDMENT

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

§114. Construction

(a) CONSTRUCTION WORK IN GENERAL.—The construction of any Federal-aid highway or a portion of a Federal-aid highway shall be undertaken by the respective State transportation departments or under their direct supervision. The Secretary shall have the right to conduct such inspections and take such corrective action as the Secretary determines to be appropriate. The

construction work and labor in each State shall be performed under the direct supervision of the State transportation department and in accordance with the laws of that State and applicable Federal laws. Construction may be begun as soon as funds are available for expenditure pursuant to subsection (a) of section 118 of this title. After July 1, 1973, the State transportation department shall not erect on any project where actual construction is in progress and visible to highway users any informational signs other than official traffic control devices conforming with standards developed by the Secretary of Transportation.

(b) CONVICT LABOR AND CONVICT PRODUCED MATERIALS.—

(1) LIMITATION ON CONVICT LABOR.—Convict labor shall not be used in construction of Federal-aid highways or portions of Federal-aid highways unless the labor is performed by convicts who are on parole, supervised release, or probation.

(2) LIMITATION ON CONVICT PRODUCED MATERIALS.—Materials produced after July 1, 1991, by convict labor may only be used in such construction—

(A) if such materials are produced by convicts who are on parole, supervised release, or probation from a prison; or

(B) if such materials are produced by convicts in a qualified prison facility and the amount of such materials produced in such facility for use in such construction during any 12-month period does not exceed the amount of such materials produced in such facility for use in such construction during the 12-month period ending July 1, 1987.

(3) QUALIFIED PRISON FACILITY DEFINED.—As used in this subsection, "qualified prison facility" means any prison facility in which convicts, during the 12-month period ending July 1, 1987, produced materials for use in construction of highways or portions of highways located on a Federal-aid system in existence during that period.

(c) CONSTRUCTION WORK IN ALASKA.—

(1) IN GENERAL.—The Secretary shall ensure that a worker who is employed on a remote project for the construction of a highway or portion of a highway located on a Federal-aid system in the State of Alaska and who is not a domiciled resident of the locality shall receive meals and lodging.

(2) LODGING.—The lodging under paragraph (1) shall be in accordance with section 1910.142 of title 29, Code of Federal Regulations (relating to temporary labor camp requirements).

(3) PER DIEM.—

(A) IN GENERAL.—Contractors are encouraged to use commercial facilities and lodges on remote projects, however, when such facilities are not available, per diem in lieu of room and lodging may be paid on remote Federal highway projects at a basic rate of $75.00 per day or part of a day the worker is employed on the project. Where the contractor provides or furnishes room and lodging or pays a per diem, the cost of the amount shall not be considered a part of wages and shall be excluded from the calculation of wages.

(B) SECRETARY OF LABOR.—Such per diem rate shall be adopted by the Secretary of Labor for all applicable remote Federal highway projects in Alaska.

(C) EXCEPTION.—Per diem shall not be allowed on any of the following remote projects for the construction of a highway or portion of a highway located on a Federal-aid system:

(i) West of Livengood on the Elliot Highway.

(ii) Mile 0 on the Dalton Highway to the North Slope of Alaska; north of Mile 20 on the Taylor Highway.

(iii) East of Chicken on the Top of the World Highway and south of Tetlin Junction to the Alaska Canadian border.

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

(A) REMOTE.—The term "remote", as used with respect to a project, means that the project is 65 road miles or more from the international airport in Fairbanks, Anchorage, or Juneau, Alaska, as the case may be, or is inaccessible by road in a 2-wheel drive vehicle.

(B) RESIDENT.—The term "resident", as used with respect to a project, means a person living within 65 road miles of the midpoint of the project for at least 12 consecutive months prior to the award of the project.

(d) VETERANS EMPLOYMENT.—

(1) IN GENERAL.—Subject to paragraph (2), a recipient of Federal financial assistance under this chapter shall, to the extent practicable, encourage contractors working on a highway project funded using the assistance to make a best faith effort in the hiring or referral of laborers on any project for the construction of a highway to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract.

(2) ADMINISTRATION.—This subsection shall not—

(A) apply to projects subject to section 140(d); or

(B) be administered or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, a female, or any equally qualified former employee.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 896; Pub. L. 86–657, §8(f), July 14, 1960, 74 Stat. 525; Pub. L. 93–87, title I, §115, Aug. 13, 1973, 87 Stat. 258; Pub. L. 97–424, title I, §148, Jan. 6, 1983, 96 Stat. 2131; Pub. L. 98–473, title II, §226, Oct. 12, 1984, 98 Stat. 2030; Pub. L. 100–17, title I, §112(a), (b)(1), Apr. 2, 1987, 101 Stat. 148; Pub. L. 102–240, title I, §1019, Dec. 18, 1991, 105 Stat. 1948; Pub. L. 105–178, title I, §1212(a)(2)(A), June 9, 1998, 112 Stat. 193; Pub. L. 109–59, title I, §§1409(d), 1904(b), Aug. 10, 2005, 119 Stat. 1232, 1467; Pub. L. 112–141, div. A, title I, §1506, July 6, 2012, 126 Stat. 564.)

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (b)(1). Pub. L. 112–141, §1506(1)(A), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: "Convict labor shall not be used in construction of highways or portions of highways located on a Federal-aid system unless it is labor performed by convicts who are on parole, supervised release, or probation."

Subsec. (b)(3). Pub. L. 112–141, §1506(1)(B), inserted "in existence during that period" after "located on a Federal-aid system".

Subsec. (d). Pub. L. 112–141, §1506(2), added subsec. (d).

2005—Subsec. (a). Pub. L. 109–59, §1904(b), substituted "Federal-aid highway or a portion of a Federal-aid highway" for "highways or portions of highways located on a Federal-aid system" and "The Secretary shall have the right to conduct such inspections and take such corrective action as the Secretary determines to be appropriate." for "Except as provided in section 117 of this title, such construction shall be subject to the inspection and approval of the Secretary."

Subsec. (c). Pub. L. 109–59, §1409(d), added subsec. (c).

1998—Subsec. (a). Pub. L. 105–178 substituted "State transportation department" for "State highway department" in two places and "State transportation departments" for "State highway departments".

1991—Subsec. (b)(2). Pub. L. 102–240, inserted "after July 1, 1991," after "Materials produced" in introductory provisions.

1987—Subsec. (a). Pub. L. 100–17, §112(b)(1), inserted heading.

Subsec. (b). Pub. L. 100–17, §112(b)(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Convict labor or materials produced by convict labor shall not be used in such construction unless it is labor performed by convicts who are on parole or probation."

1984—Subsec. (b). Pub. L. 98–473 which directed the insertion of ", supervised release," after "parole" effective Nov. 1, 1987, was not executed, because of intervening general amendment of subsec. (b) by Pub. L. 100–17, §112(a), which contained ", supervised release," after "parole" wherever appearing.

1983—Subsec. (b). Pub. L. 97–424 inserted "or materials produced by convict labor" after "Convict labor".

1973—Subsec. (a). Pub. L. 93–87 amended last sentence generally. Prior to amendment, last sentence read as follows: "On any project where actual construction is in progress and visible to highway users, the State highway department shall erect such informational sign or signs as prescribed by the Secretary, identifying the project and the respective amounts contributed therefor by the State and Federal Governments."

1960—Subsec. (a). Pub. L. 86–657 required State highway departments to erect, on any project where actual construction is in progress and visible to highway users, such informational sign or signs as prescribed by the Secretary, identifying the project and the respective contributions therefor by the State and Federal Governments.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

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

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of this amendment, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure.

LOCAL HIRING PREFERENCE FOR CONSTRUCTION JOBS

Pub. L. 117–58, div. B, title V, §25019, Nov. 15, 2021, 135 Stat. 875, provided that:

"(a) AUTHORIZATION.—

"(1) IN GENERAL.—A recipient or subrecipient of a grant provided by the Secretary [of Transportation] under title 23 or 49, United States Code, may implement a local or other geographical or economic hiring preference relating to the use of labor for construction of a project funded by the grant, including prehire agreements, subject to any applicable State and local laws, policies, and procedures.

"(2) TREATMENT.—The use of a local or other geographical or economic hiring preference pursuant to paragraph (1) in any bid for a contract for the construction of a project funded by a grant described in paragraph (1) shall not be considered to unduly limit competition.

"(b) WORKFORCE DIVERSITY REPORT.—Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], the Secretary shall submit to Congress a report describing methods—

"(1) to ensure preapprenticeship programs are established and implemented to meet the needs of employers in transportation and transportation infrastructure construction industries, including with respect to the formal connection of the preapprenticeship programs to registered apprenticeship programs;

"(2) to address barriers to employment (within the meaning of the Workforce Innovation and Opportunity Act (29 U.S.C. 3101 et seq.)) in transportation and transportation infrastructure construction industries for—

"(A) individuals who are former offenders (as defined in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102));

"(B) individuals with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)); and

"(C) individuals that represent populations that are traditionally underrepresented in the workforce; and

"(3) to encourage a recipient or subrecipient implementing a local or other geographical or economic hiring preference pursuant to subsection (a)(1) to establish, in coordination with nonprofit organizations that represent employees, outreach and support programs that increase diversity within the workforce, including expanded participation from individuals described in subparagraphs (A) through (C) of paragraph (2).

"(c) MODEL PLAN.—Not later than 1 year after the date of submission of the report under subsection (b), the Secretary shall establish, and publish on the website of the Department [of Transportation], a model plan for use by States, units of local government, and private sector entities to address the issues described in that subsection."

HIGHWAYS FOR LIFE PILOT PROGRAM

Pub. L. 109–59, title I, §1502, Aug. 10, 2005, 119 Stat. 1236, provided that:

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary [of Transportation] shall establish and implement a pilot program to be known as the 'Highways for LIFE Pilot Program'.

"(2) PURPOSE.—The purpose of the pilot program shall be to advance longer-lasting highways using innovative technologies and practices to accomplish the fast construction of efficient and safe highways and bridges.

"(3) OBJECTIVES.—Under the pilot program, the Secretary shall provide leadership and incentives to demonstrate and promote state-of-the-art technologies, elevated performance standards, and new business practices in the highway construction process that result in improved safety, faster construction, reduced congestion from construction, and improved quality and user satisfaction.

"(b) PROJECTS.—

"(1) APPLICATIONS.—To be eligible to participate in the pilot program, a State shall submit to the Secretary [of Transportation] an application that is in such form and contains such information as the Secretary requires. Each application shall contain a description of proposed projects to be carried by the State under the pilot program.

"(2) ELIGIBILITY.—A proposed project shall be eligible for assistance under the pilot program if the project—

"(A) constructs, reconstructs, or rehabilitates a route or connection on a Federal-aid highway eligible for assistance under chapter 1 of title 23, United States Code;

"(B) uses innovative technologies, manufacturing processes, financing, or contracting methods that improve safety, reduce congestion due to construction, and improve quality; and

"(C) meets additional criteria as determined by the Secretary.

"(3) PROJECT PROPOSAL.—A project proposal submitted under paragraph (1) shall contain—

"(A) an identification and description of the projects to be delivered;

"(B) a description of how the projects will result in improved safety, faster construction, reduced congestion due to construction, user satisfaction, and improved quality;

"(C) a description of the innovative technologies, manufacturing processes, financing, and contracting methods that will be used for the proposed projects; and

"(D) such other information as the Secretary may require.

"(4) SELECTION CRITERIA.—In selecting projects for approval under this section, the Secretary shall ensure that the projects provide an evaluation of a broad range of technologies in a wide variety of project types and shall give priority to the projects that—

"(A) address achieving the Highways for LIFE performance standards for quality, safety, and speed of construction;

"(B) deliver and deploy innovative technologies, manufacturing processes, financing, contracting practices, and performance measures that will demonstrate substantial improvements in safety, congestion, quality, and cost-effectiveness;

"(C) include innovation that will lead to change in the administration of the State's transportation program to more quickly construct long-lasting, high-quality, cost-effective projects that improve safety and reduce congestion;

"(D) are or will be ready for construction within 1 year of approval of the project proposal; and

"(E) meet such other criteria as the Secretary determines appropriate.

"(5) FINANCIAL ASSISTANCE.—

"(A) FUNDS FOR HIGHWAYS FOR LIFE PROJECTS.—Out of amounts made available to carry out this section for a fiscal year, the Secretary may allocate to a State up to 20 percent, but not more than $5,000,000, of the total cost of a project approved under this section. Notwithstanding any other provision of law, funds allocated to a State under this subparagraph may be applied to the non-Federal share of the cost of construction of a project under title 23, United States Code.

"(B) USE OF APPORTIONED FUNDS.—A State may obligate not more than 10 percent of the amount apportioned to the State under one or more of [former] paragraphs (1), (2), (3), and (4) of section 104(b) of title 23, United States Code, for a fiscal year for projects approved under this section.

"(C) INCREASED FEDERAL SHARE.—Notwithstanding sections 120 and 129 of title 23, United States Code, the Federal share payable on account of any project constructed with Federal funds allocated under this section, or apportioned under [former] section 104(b) of such title, to a State under such title and approved under this section may amount to 100 percent of the cost of construction of such project.

"(D) LIMITATION ON STATUTORY CONSTRUCTION.—Except as provided in subparagraph (C), nothing in this subsection shall be construed as altering or otherwise affecting the applicability of the requirements of chapter 1 of title 23, United States Code (including requirements

relating to the eligibility of a project for assistance under the program and the location of the project), to amounts apportioned to a State for a program under [former] section 104(b) that are obligated by the State for projects approved under this subsection.

"(6) PROJECT SELECTIONS.—In the period of fiscal years 2005 through 2009, the Secretary, to the maximum extent possible, shall approve at least 1 project in each State for participation in the pilot program and for financial assistance under paragraph (5) if the State submits an application and the project meets the eligibility requirements and selection criteria under this subsection.

"(7) MAXIMUM NUMBER OF PROJECTS.—The maximum number of projects for which the Secretary may allocate funds under this subsection in a fiscal year is 15.

"(c) TECHNOLOGY PARTNERSHIPS.—

"(1) IN GENERAL.—The Secretary [of Transportation] may make grants or enter into cooperative agreements or other transactions to foster the development, improvement, and creation of innovative technologies and facilities to improve safety, enhance the speed of highway construction, and improve the quality and durability of highways.

"(2) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this subsection shall not exceed 80 percent.

"(d) TECHNOLOGY TRANSFER AND INFORMATION DISSEMINATION.—

"(1) IN GENERAL.—The Secretary [of Transportation] shall conduct a highways for life technology transfer program.

"(2) AVAILABILITY OF INFORMATION.—The Secretary shall ensure that the information and technology used, developed, or deployed under this subsection is made available to the transportation community and the public.

"(e) STAKEHOLDER INPUT AND INVOLVEMENT.—The Secretary [of Transportation] shall establish a process for stakeholder input and involvement in the development, implementation, and evaluation of the Highways for LIFE Pilot Program. The process may include participation by representatives of State departments of transportation and other interested persons.

"(f) PROJECT MONITORING AND EVALUATION.—The Secretary [of Transportation] shall monitor and evaluate the effectiveness of any activity carried out under this section.

"(g) CONTRACT AUTHORITY.—Except as otherwise provided in this section, funds authorized to be appropriated to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

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

MATERIALS PRODUCED BY CONVICT LABOR

Pub. L. 101–162, title II, §202, Nov. 21, 1989, 103 Stat. 1002, provided that: "During fiscal year 1990 and hereafter, materials produced by convict labor may be used in the construction of any highways or portion of highways located on Federal-aid systems, as described in section 103 of title 23, United States Code."

Similar fiscal year provisions were contained in the following appropriation acts:

Pub. L. 100–459, title II, §202, Oct. 1, 1988, 102 Stat. 2199.

Pub. L. 100–202, §101(a) [title II, §202], Dec. 22, 1987, 101 Stat. 1329, 1329–15.

Pub. L. 99–500, §101(b) [title II, §202], Oct. 18, 1986, 100 Stat. 1783–39, 1783–51, and Pub. L. 99–591, §101(b) [title II, §202], Oct. 30, 1986, 100 Stat. 3341–39, 3341–51.

Pub. L. 99–180, title II, §202, Dec. 13, 1985, 99 Stat. 1146.

Pub. L. 98–411, title II, §202, Aug. 30, 1984, 98 Stat. 1558, repealed by Pub. L. 100–17, title I, §112(b)(2), Apr. 2, 1987, 101 Stat. 149.

Pub. L. 98–166, title II, §202, Nov. 28, 1983, 97 Stat. 1085.

ACCELERATION OF PROJECTS

Pub. L. 97–424, title I, §129, Jan. 6, 1983, 96 Stat. 2118, provided that: "The Secretary of Transportation shall by rule or regulation establish, as soon as practicable, alternative methods for processing projects under title 23, United States Code, so as to reduce the time required from the request for project approval through the completion of construction. In carrying out this section the Secretary shall utilize the knowledge and experience resulting from the demonstration project authorized by and carried out under section 141 of the Federal-Aid Highway Act of 1976 [Pub. L. 94–280, title I, §141, May 5, 1976, 90 Stat. 444, formerly set out as a note under former section 124 of this title]."

§115. Advance construction

(a) IN GENERAL.—The Secretary may authorize a State to proceed with a project authorized under this title—

(1) without the use of Federal funds; and

(2) in accordance with all procedures and requirements applicable to the project other than those procedures and requirements that limit the State to implementation of a project—

(A) with the aid of Federal funds previously apportioned or allocated to the State; or

(B) with obligation authority previously allocated to the State.

(b) OBLIGATION OF FEDERAL SHARE.—The Secretary, on the request of a State and execution of a project agreement, may obligate all or a portion of the Federal share of a project authorized to proceed under this section from any category of funds for which the project is eligible.

(c) INCLUSION IN TRANSPORTATION IMPROVEMENT PROGRAM.—The Secretary may approve an application for a project under this section only if the project is included in the transportation improvement program of the State developed under section 135(g).

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 896; Pub. L. 90–495, §25(a), (b), Aug. 23, 1968, 82 Stat. 828, 829; Pub. L. 93–643, §111, Jan. 4, 1975, 88 Stat. 2285; Pub. L. 96–106, §4, Nov. 9, 1979, 93 Stat. 797; Pub. L. 97–424, title I, §113, Jan. 6, 1983, 96 Stat. 2106; Pub. L. 100–17, title I, §113(a)–(d)(1), Apr. 2, 1987, 101 Stat. 149, 150; Pub. L. 102–302, §103, June 22, 1992, 106 Stat. 252; Pub. L. 104–59, title III, §308, Nov. 28, 1995, 109 Stat. 582; Pub. L. 105–178, title I, §§1103(l)(3)(A), 1106(c)(1)(A), 1226(a), title V, §5119(d), June 9, 1998, 112 Stat. 126, 136, 452; Pub. L. 105–206, title IX, §9003(a), July 22, 1998, 112 Stat. 837; Pub. L. 109–59, title I, §1501(a), Aug. 10, 2005, 119 Stat. 1235; Pub. L. 110–244, title I, §101(j), June 6, 2008, 122 Stat. 1574; Pub. L. 117–58, div. A, title I, §11525(e), Nov. 15, 2021, 135 Stat. 607.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (c). Pub. L. 117–58 substituted "section 135(g)" for "section 135(f)".

2008—Subsecs. (c), (d). Pub. L. 110–244 redesignated subsec. (d) as (c).

2005—Subsecs. (a), (b). Pub. L. 109–59, §1501(a)(2), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b), which related to payment of the Federal share of the cost of congestion mitigation and air quality improvement, surface transportation, bridge, planning, and research projects and Interstate and National Highway System projects which have been subject to advance construction by a State.

Subsecs. (c), (d). Pub. L. 109–59, §1501(a)(1), redesignated subsec. (c) as (d).

1998—Subsec. (a). Pub. L. 105–178, §1106(c)(1)(A)(i), struck out "Substitute," before "Congestion" in heading.

Subsec. (a)(1)(A)(i). Pub. L. 105–178, §§1106(c)(1)(A)(ii), 5119(d), struck out "103(e)(4)(H)," after "under section" and substituted "or 505" for "or 307".

Subsec. (b). Pub. L. 105–178, §1226(a)(1), as added by Pub. L. 105–206, §9003(a), struck out designation and heading of par. (1), redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, realigned margins, and struck out former pars. (2) and (3), which related to bond interest for projects under construction on Jan. 1, 1983, and directed that Federal share of cost of construction would include amount of bond interest but not in excess of estimated costs over actual costs.

Subsec. (b)(1). Pub. L. 105–178, §1103(l)(3)(A), substituted "104(b)(4)" for "104(b)(5)".

Subsecs. (c), (d). Pub. L. 105–178, §1226(a)(2), (3), as added by Pub. L. 105–206, §9003(a), redesignated subsec. (d) as (c) and struck out heading and text of former subsec. (c). Text read as follows: "In determining the apportionment for any fiscal year under the provisions of section 103(e)(4), 104, 134, 144,, or 307 of this title, any such project constructed by a State without the aid of Federal funds shall not be considered completed until an application under the provisions of this section with respect to such project has been approved by the Secretary."

1995—Subsec. (d). Pub. L. 104–59 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows:

"(d) LIMITATION ON ADVANCED FUNDING.—The Secretary may not approve an application under this section unless an authorization for section 103(e)(4), 104, 144, or 307 of this title, as the case may be, is in

effect for the fiscal year for which the application is sought beyond the currently authorized funds for each State. No applications may be approved which will exceed the State's expected apportionment of such authorizations."

1992—Subsec. (a). Pub. L. 102–302, §103(1), in heading substituted "SUBSTITUTE, CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT, SURFACE TRANSPORTATION, BRIDGE, PLANNING, AND RESEARCH PROJECTS" for "SUBSTITUTE, URBAN, SECONDARY, BRIDGE, PLANNING, RESEARCH, AND SAFETY CONSTRUCTION PROJECTS".

Subsec. (a)(1)(A)(i). Pub. L. 102–302, §103(2)(A), added cl. (i) and struck out former cl. (i) which read as follows: "has obligated all funds apportioned or allocated to it under section 103(e)(4)(H), section 104(b)(2), section 104(b)(6), section 104(f), section 130, section 144, section 152, or section 307 of this title, or".

Subsec. (a)(2)(A). Pub. L. 102–302, §103(2)(B), added subpar. (A) and struck out former subpar. (A) which read as follows: "prior to commencement of the project the Secretary approves the plans and specifications therefor in the same manner as other projects, and".

Subsec. (a)(3). Pub. L. 102–302, §103(2)(C), struck out par. (3) which read as follows: "LIMITATION WITH RESPECT TO CURRENTLY AUTHORIZED FUNDS.—The Secretary may not approve an application under this section unless an authorization for section 103(e)(4), 104, 130, 144, 152, or 307 of this title, as the case may be, is in effect for the fiscal year for which the application is sought beyond the currently authorized funds for such State. No application may be approved which will exceed the State's expected apportionment of such authorizations. This paragraph shall have no effect during the period beginning January 1, 1987, and ending September 30, 1990."

Subsec. (b). Pub. L. 102–302, §103(3), (4), in heading substituted "NATIONAL HIGHWAY SYSTEM" for "PRIMARY" and in par. (1) substituted "National Highway System" for "Federal-aid primary system".

Subsec. (c). Pub. L. 102–302, §103(5), struck out "152" after "144,".

Subsec. (d). Pub. L. 102–302, §103(6), added subsec. (d) and struck out former subsec. (d) which read as follows: "LIMITATION ON ADVANCED FUNDING FOR FISCAL YEARS 1987–1990.—The Secretary may not approve an application of a State under this section with respect to a project with funds apportioned, or currently authorized to be apportioned, under section 103(e)(4)(H), 104, 130, 144, 152, or 307 if the amount of approved applications with respect to such projects exceeds the total of unobligated funds apportioned or allocated to the State under such section, plus such State's expected apportionment under such section from existing authorizations plus an amount equal to such State's expected apportionment under such section (other than section 104(b)(5)(A)) for one additional fiscal year. This subsection shall only be effective during the period beginning January 1, 1987, and ending September 30, 1990."

1987—Pub. L. 100–17, §113(d)(1)(A), substituted "Advance construction" for "Construction by States in advance of apportionment" in section catchline.

Subsec. (a). Pub. L. 100–17, §113(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

"(1) When a State has obligated all funds apportioned or allocated to it under section 103(e)(4), 104, or 144 of this title, other than Interstate funds, and proceeds to construct any highway substitute, Federal-aid system, or bridge project, respectively, other than an Interstate project funded under section 104(b)(5) of this title, without the aid of Federal funds in accordance with all procedures and all requirements applicable to such a project, except insofar as such procedures and requirements limit a State to the construction of projects with the aid of Federal funds previously apportioned to it, the Secretary, upon application by such State and his approval of such application, is authorized to pay to such State the Federal share of the costs of construction of such project when additional funds are apportioned to such State under section 103(e)(4), 104, or 144, respectively, of this title if—

"(A) prior to the construction of the project the Secretary approves the plans and specifications therefor in the same manner as other projects, and

"(B) the project conforms to the applicable standards adopted under section 109 of this title.

"(2) The Secretary may not approve an application under this section unless an authorization for section 103(e)(4), 104, or 144 of this title, as the case may be, is in effect for the fiscal year for which the application is sought beyond the currently authorized funds for such State. No application may be approved which will exceed the State's expected apportionment of such authorizations."

Subsec. (b). Pub. L. 100–17, §113(b), inserted heading.

Subsec. (b)(1). Pub. L. 100–17, §113(b), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "When a State proceeds to construct any project on the Interstate System without the aid of Federal funds, as that System may be designated at that time, in accordance with all procedures and all requirements applicable to projects on such System, except insofar as such procedures and requirements limit a State to the construction of projects with the aid of Federal funds previously apportioned to it, the Secretary, upon

application by such State and his approval of such application, is authorized to pay to such State the Federal share of the cost of construction of such project when additional funds are apportioned to such State under section 104 of this title if—

"(A) prior to the construction of the project the Secretary approves the plans and specifications therefor in the same manner as other projects on the Interstate System, and

"(B) the project conforms to the applicable standards under section 109 of this title."

Subsec. (b)(2), (3). Pub. L. 100–17, §113(d)(1)(B)–(D), inserted headings and aligned pars. (2) and (3) with par. (1), as amended.

Subsec. (c). Pub. L. 100–17, §113(d)(1)(E), (F), inserted heading and substituted "134, 144, 152, or 307" for "or 144".

Subsec. (d). Pub. L. 100–17, §113(c), added subsec. (d).

1983—Subsec. (a). Pub. L. 97–424, §113(c), designated existing provisions as pars. (1) and (2) and designated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1); in par. (1) as so redesignated, substituted "When a State has obligated all funds appropriated or allocated to it under section 103(e)(4), 104, or 144 of this title, other than "interstate funds, and proceeds to construct any highway substitute, Federal-aid system, or bridge project, respectively, other than an Interstate project funded under section 104(b)(5) of this title, without the aid of Federal funds in accordance with all procedures and all requirements applicable to such a project, except insofar as such procedures and requirements limit a State to the construction of projects with the aid of Federal funds previously apportioned to it, the Secretary, upon application by such State and his approval of such application, is authorized to pay to such State the Federal share of the costs of construction of such project when additional funds are apportioned to such State under section 103(e)(4), 104, or 144, respectively, of this title if—", for "When a State has obligated all funds for any of the Federal-aid systems, other than the Interstate System, apportioned to it under section 104 of this title, and proceeds to construct any project without the aid of Federal funds, including one or more parts of any project, on any of the Federal-aid systems in such State, other than the Interstate System, as any of those systems may be designated at that time, in accordance with all procedures and all requirements applicable to projects on any such system, except insofar as such procedures and requirements limit a State to the construction of projects with the aid of Federal funds previously apportioned to it, the Secretary, upon application by such State and his approval of such application, is authorized to pay to such State the Federal share of the costs of construction of such project when additional funds are apportioned to such State under section 104 of this title if—"; in subpar. (A) thereof struck out "on the Federal-aid system involved" after "other projects"; and in par. (2) as so designated inserted "for section 103(e)(4), 104, or 144 of this title, as the case may be," after "unless authorization", and made a new sentence of existing provisions, beginning with "No application".

Subsec. (b)(2). Pub. L. 97–424, §113(a), substituted "1983" for "1978" wherever appearing.

Subsec. (b)(3). Pub. L. 97–424, §113(b), added par. (3).

Subsec. (c). Pub. L. 97–424, §113(d), substituted "section 103(e)(4), 104, or 144" for "section 104" after "provisions of".

1979—Subsec. (b). Pub. L. 96–106 designated existing provisions as par. (1) and cls. (1) and (2) thereof as subpars. (A) and (B) and added par. (2).

1975—Subsec. (a). Pub. L. 93–643, §111(a), substituted "other than the Interstate System" for "including the Interstate System" in two places.

Subsecs. (b), (c). Pub. L. 93–643, §111(b), added subsec. (b) and redesignated former subsec. (b) as (c).

1968—Subsec. (a). Pub. L. 90–495, §25(a), extended advance construction authority to all the Federal-aid highway systems rather than just the Interstate System but provided that anticipation of future apportionments by States should only be permitted for those years for which authorizations have been established by law.

Subsec. (b). Pub. L. 90–495, §25(b), struck out reference to subsec. (b)(5) of section 104 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section

9016 of Pub. L. 105–206, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

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

§116. Maintenance

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

(1) PREVENTIVE MAINTENANCE.—The term "preventive maintenance" includes pavement preservation programs and activities.

(2) PAVEMENT PRESERVATION PROGRAMS AND ACTIVITIES.—The term "pavement preservation programs and activities" means programs and activities employing a network level, long-term strategy that enhances pavement performance by using an integrated, cost-effective set of practices that extend pavement life, improve safety, and meet road user expectations.

(b) It shall be the duty of the State transportation department or other direct recipient to maintain, or cause to be maintained, any project constructed under the provisions of this chapter or constructed under the provisions of prior Acts.

(c) AGREEMENT.—In any State in which the State transportation department or other direct recipient is without legal authority to maintain a project described in subsection (b), the transportation department or direct recipient shall enter into a formal agreement with the appropriate officials of the county or municipality in which the project is located to provide for the maintenance of the project.

(d) If at any time the Secretary shall find that any project constructed under the provisions of this chapter, or constructed under the provisions of prior Acts, is not being properly maintained, he shall call such fact to the attention of the State transportation department or other direct recipient. If, within ninety days after receipt of such notice, such project has not been put in proper condition of maintenance, the Secretary shall withhold approval of further projects of all types in the State highway district, municipality, county, other political or administrative subdivision of the State, or the entire State in which such project is located, whichever the Secretary deems most appropriate, until such project shall have been put in proper condition of maintenance.

(e) PREVENTIVE MAINTENANCE.—A preventive maintenance activity shall be eligible for Federal assistance under this title if the State demonstrates to the satisfaction of the Secretary that the activity is a cost-effective means of extending the useful life of a Federal-aid highway.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 896; Pub. L. 86–70, §21(d)(2), (e)(3), June 25, 1959, 73 Stat. 145, 146; Pub. L. 90–495, §26, Aug. 23, 1968, 82 Stat. 829; Pub. L. 95–599, title I, §124(d), Nov. 6, 1978, 92 Stat. 2705; Pub. L. 97–424, title I, §114, Jan. 6, 1983, 96 Stat. 2107; Pub. L. 100–17, title I, §125(b)(2), Apr. 2, 1987, 101 Stat. 167; Pub. L. 104–59, title III, §309, Nov. 28, 1995, 109 Stat. 582; Pub. L. 105–178, title I, §1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 193; Pub. L. 109–59, title I, §1111(b)(1), Aug. 10, 2005, 119 Stat. 1171; Pub. L. 112–141, div. A, title I, §1507, July 6, 2012, 126 Stat. 565.)

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–141, §1507(2), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 112–141, §1507(1), (3), redesignated subsec. (a) as (b), inserted "or other direct recipient" before "to maintain", and struck out at end "The State's obligation to the United States to maintain any such project shall cease when it no longer constitutes a part of a Federal-aid system." Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 112–141, §1507(4), added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: "In any State wherein the State transportation department is without legal authority to maintain a project constructed on the Federal-aid secondary system, or within a municipality, such

transportation department shall enter into a formal agreement for its maintenance with the appropriate officials of the county or municipality in which such project is located."

Pub. L. 112–141, §1507(1), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 112–141, §1507(1), (5), redesignated subsec. (c) as (d) and inserted "or other direct recipient" after "State transportation department". Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 112–141, §1507(1), redesignated subsec. (d) as (e).

2005—Subsec. (b). Pub. L. 109–59 substituted "such transportation department" for "such highway department".

1998—Subsecs. (a) to (c). Pub. L. 105–178 substituted "State transportation department" for "State highway department".

1995—Subsec. (d). Pub. L. 104–59 added subsec. (d).

1987—Subsecs. (d), (e). Pub. L. 100–17 struck out subsecs. (d) and (e) which read as follows:

"(d) The Secretary in consultation with the State highway departments and interested and knowledgeable private organizations and individuals shall as soon as possible establish national bridge inspection standards in order to provide for the proper safety inspection of bridges. Such standards shall specify in detail the method by which inspections shall be conducted by the State highway departments, the maximum time lapse between inspections and the qualifications for those charged with the responsibility for carrying out such inspections. Each State shall be required to maintain written reports to be available to the Secretary pursuant to such inspections together with a notation of the action taken pursuant to the findings of such inspections. Each State shall be required to maintain a current inventory of all bridges.

"(e) The Secretary shall establish in cooperation with the State highway departments a program designed to train appropriate employees of the Federal Government and the State governments to carry out bridge inspections. Such a program shall be revised from time to time in light of new or improved techniques. For the purposes of this section the Secretary may use funds made available pursuant to the provisions of section 104(a) and section 307(a) of this title."

1983—Subsec. (c). Pub. L. 97–424 substituted "State highway district, municipality, county, other political or administrative subdivision of the State, or the entire State in which such project is located, whichever the Secretary deems most appropriate," for "entire State" after "all types in the", and struck out exception for a situation where such project was subject to an agreement pursuant to subsection (b) of this section, in which case approval was to have been withheld only for secondary or urban projects in the county or municipality where such project is located.

1978—Subsec. (d). Pub. L. 95–599 struck out provisions limiting provisions of the subsection to the Federal-aid system.

1968—Subsecs. (d), (e). Pub. L. 90–495 added subsecs. (d) and (e).

1959—Subsec. (a). Pub. L. 86–70, §21(e)(3), substituted "It" for "Except as provided in subsection (d) of this section, it".

Subsec. (d). Pub. L. 86–70, §21(d)(2), repealed subsec. (d) which related to expenditure of funds apportioned to the Territory of Alaska and contributed by the Territory for the maintenance of roads.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

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

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by section 21(d)(2) of Pub. L. 86–70 effective July 1, 1959, see section 21(d) of Pub. L. 86–70, set out as a note under section 103 of this title.

Amendment by section 21(e)(3) of Pub. L. 86–70 effective July 1, 1959, see section 21(e) of Pub. L. 86–70, set out as a note under section 101 of this title.

PILOT PROGRAM

Pub. L. 114–94, div. A, title I, §1424, Dec. 4, 2015, 129 Stat. 1425, provided that:

"(a) IN GENERAL.—The Administrator of the Federal Highway Administration (referred to in this section

as the 'Administrator') may establish a pilot program that allows a State to utilize innovative approaches to maintain the right-of-way of Federal-aid highways within the State.

"(b) LIMITATION.—A pilot program established under subsection (a) shall—

"(1) terminate after not more than 4 years;

"(2) include not more than 5 States; and

"(3) be subject to guidelines published by the Administrator.

"(c) REPORT.—If the Administrator establishes a pilot program under subsection (a), the Administrator shall, not more than 1 year after the completion of the pilot program, 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 on the results of the pilot program.

"(d) SAVINGS PROVISION.—Nothing in this section may be construed to affect the requirements of section 111 of title 23, United States Code."

ESTABLISHMENT OF MINIMUM FEDERAL GUIDELINES FOR MAINTENANCE; STUDY BY NATIONAL ACADEMY OF SCIENCES AND REPORT

Pub. L. 100–17, title I, §163, Apr. 2, 1987, 101 Stat. 213, directed Secretary to enter into appropriate arrangements with the National Academy of Sciences to conduct a complete investigation of the appropriateness of establishing minimum Federal guidelines for maintenance of the Federal-aid primary, secondary, and urban systems and, not later than 18 months after entering into appropriate arrangements, the National Academy of Sciences was to submit to Secretary and Congress a report on the results of the investigation and study together with recommendations (including legislative and administrative recommendations) concerning establishment of minimum Federal guidelines for maintenance of the Federal-aid primary, secondary, and urban systems.

§117. Nationally significant multimodal freight and highway projects

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a nationally significant freight and highway projects program to provide financial assistance for projects of national or regional significance.

(2) GOALS.—The goals of the program shall be to—

(A) improve the safety, efficiency, and reliability of the movement of freight and people in and across rural and urban areas;

(B) generate national or regional economic benefits and an increase in the global economic competitiveness of the United States;

(C) reduce highway or freight congestion and bottlenecks;

(D) improve connectivity between modes of freight transportation;

(E) enhance the resiliency of critical highway or freight infrastructure and help protect the environment;

(F) improve roadways vital to national energy security, including highways that support movement of energy equipment; and

(G) address the impact of population growth on the movement of people and freight.

(b) GRANT AUTHORITY.—

(1) IN GENERAL.—In carrying out the program established in subsection (a), the Secretary may make grants, on a competitive basis, in accordance with this section.

(2) GRANT AMOUNT.—Except as otherwise provided, each grant made under this section shall be in an amount that is at least $25,000,000.

(3) GRANT ADMINISTRATION.—The Secretary may—

(A) retain not more than a total of 2 percent of the funds made available to carry out this section for the National Surface Transportation and Innovative Finance Bureau to review applications for grants under this section; and

(B) transfer portions of the funds retained under subparagraph (A) to the relevant Administrators to fund the award and oversight of grants provided under this section.

(c) ELIGIBLE APPLICANTS.—

(1) IN GENERAL.—The Secretary may make a grant under this section to the following:

(A) A State or a group of States.

(B) A metropolitan planning organization that serves an urbanized area (as defined by the Bureau of the Census) with a population of more than 200,000 individuals.

(C) A unit of local government or a group of local governments.

(D) A political subdivision of a State or local government.

(E) A special purpose district or public authority with a transportation function, including a port authority.

(F) A Federal land management agency that applies jointly with a State or group of States.

(G) A tribal government or a consortium of tribal governments.

(H) A multistate corridor organization.

(I) A multistate or multijurisdictional group of entities described in this paragraph.

(2) APPLICATIONS.—To be eligible for a grant under this section, an entity specified in paragraph (1) shall submit to the Secretary an application in such form, at such time, and containing such information as the Secretary determines is appropriate.

(d) ELIGIBLE PROJECTS.—

(1) IN GENERAL.—Except as provided in subsection (e), the Secretary may make a grant under this section only for a project that—

(A) is—

(i) a highway freight project carried out on the National Highway Freight Network established under section 167;

(ii) a highway or bridge project carried out on the National Highway System, including—

(I) a project to add capacity to the Interstate System to improve mobility; or

(II) a project in a national scenic area;

(iii) a freight project that is—

(I) a freight intermodal or freight rail project; or

(II) within the boundaries of a public or private freight rail, water (including ports), or intermodal facility and that is a surface transportation infrastructure project necessary to facilitate direct intermodal interchange, transfer, or access into or out of the facility;

(iv) a railway-highway grade crossing or grade separation project;

(v) a wildlife crossing project;

(vi) a surface transportation infrastructure project that—

(I) is located within the boundaries of or functionally connected to an international border crossing area in the United States;

(II) improves a transportation facility owned by a Federal, State, or local government entity; and

(III) increases throughput efficiency of the border crossing described in subclause (I), including—

(aa) a project to add lanes;

(bb) a project to add technology; and

(cc) other surface transportation improvements;

(vii) a project for a marine highway corridor designated by the Secretary under section 55601(c) of title 46 (including an inland waterway corridor), if the Secretary determines that the project—

(I) is functionally connected to the National Highway Freight Network; and

(II) is likely to reduce on-road mobile source emissions; or

(viii) a highway, bridge, or freight project carried out on the National Multimodal Freight

Network established under section 70103 of title 49; and

(B) has eligible project costs that are reasonably anticipated to equal or exceed the lesser of—
(i) $100,000,000; or
(ii) in the case of a project—
(I) located in 1 State, 30 percent of the amount apportioned under this chapter to the State in the most recently completed fiscal year; or
(II) located in more than 1 State, 50 percent of the amount apportioned under this chapter to the participating State with the largest apportionment under this chapter in the most recently completed fiscal year.

(2) LIMITATION.—
(A) IN GENERAL.—Not more than 30 percent of the amounts made available for grants under this section for each of fiscal years 2022 through 2026 may be used to make grants for projects described in paragraph (1)(A)(iii) and such a project may only receive a grant under this section if—
(i) the project will make a significant improvement to freight movements on the National Highway Freight Network; and
(ii) the Federal share of the project funds only elements of the project that provide public benefits.

(B) EXCLUSIONS.—The limitation under subparagraph (A)—
(i) shall not apply to a railway-highway grade crossing or grade separation project; and
(ii) with respect to a multimodal project, shall apply only to the non-highway portion or portions of the project.

(e) SMALL PROJECTS.—
(1) IN GENERAL.—The Secretary shall reserve not less than 15 percent of the amounts made available for grants under this section each fiscal year to make grants for projects described in subsection (d)(1)(A) that do not satisfy the minimum threshold under subsection (d)(1)(B).
(2) GRANT AMOUNT.—Each grant made under this subsection shall be in an amount that is at least $5,000,000.
(3) PROJECT SELECTION CONSIDERATIONS.—In addition to other applicable requirements, in making grants under this subsection the Secretary shall consider—
(A) the cost effectiveness of the proposed project;
(B) the effect of the proposed project on mobility in the State and region in which the project is carried out; and
(C) the effect of the proposed project on safety on freight corridors with significant hazards, such as high winds, heavy snowfall, flooding, rockslides, mudslides, wildfire, wildlife crossing onto the roadway, or steep grades.

(4) REQUIREMENT.—Of the amounts reserved under paragraph (1), not less than 30 percent shall be used for projects in rural areas (as defined in subsection (i)(3)).

(f) ELIGIBLE PROJECT COSTS.—Grant amounts received for a project under this section may be used for—
(1) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities; and
(2) construction, reconstruction, rehabilitation, acquisition of real property (including land related to the project and improvements to the land), environmental mitigation (including a project

to replace or rehabilitate a culvert, or to reduce stormwater runoff for the purpose of improving habitat for aquatic species), construction contingencies, acquisition of equipment, and operational improvements directly related to improving system performance.

(g) PROJECT REQUIREMENTS.—The Secretary may select a project described under this section (other than subsection (e)) for funding under this section only if the Secretary determines that—

(1) the project will generate national or regional economic, mobility, or safety benefits;

(2) the project will be cost effective;

(3) the project will contribute to the accomplishment of 1 or more of the national goals described under section 150 of this title;

(4) the project is based on the results of preliminary engineering;

(5) with respect to related non-Federal financial commitments—

(A) 1 or more stable and dependable sources of funding and financing are available to construct, maintain, and operate the project; and

(B) contingency amounts are available to cover unanticipated cost increases;

(6) the project cannot be easily and efficiently completed without other Federal funding or financial assistance available to the project sponsor; and

(7) the project is reasonably expected to begin construction not later than 18 months after the date of obligation of funds for the project.

(h) ADDITIONAL CONSIDERATIONS.—In making a grant under this section, the Secretary shall consider—

(1) utilization of nontraditional financing, innovative design and construction techniques, or innovative technologies;

(2) utilization of non-Federal contributions;

(3) contributions to geographic diversity among grant recipients, including the need for a balance between the needs of rural and urban communities;

(4) enhancement of freight resilience to natural hazards or disasters, including high winds, heavy snowfall, flooding, rockslides, mudslides, wildfire, wildlife crossing onto the roadway, or steep grades;

(5) whether the project will improve the shared transportation corridor of a multistate corridor organization, if applicable; and

(6) prioritizing projects located in States in which neither the State nor an eligible entity in that State has been awarded a grant under this section.

(i) RURAL AREAS.—

(1) IN GENERAL.—The Secretary shall reserve not less than 25 percent of the amounts made available for grants under this section, including the amounts made available under subsection (e), each fiscal year to make grants for projects located in rural areas.

(2) EXCESS FUNDING.—In any fiscal year in which qualified applications for grants under this subsection will not allow for the amount reserved under paragraph (1) to be fully utilized, the Secretary shall use the unutilized amounts to make grants under subsection (e).

(3) RURAL AREA DEFINED.—In this subsection, the term "rural area" means an area that is outside an urbanized area with a population of over 200,000.

(j) FEDERAL ASSISTANCE.—

(1) FEDERAL SHARE.—

(A) IN GENERAL.—Except as provided in subparagraph (B) or for a grant under subsection (q), the Federal share of the cost of a project assisted with a grant under this section may not exceed 60 percent.

(B) SMALL PROJECTS.—In the case of a project described in subsection (e)(1), the Federal

share of the cost of the project shall be 80 percent.

(2) MAXIMUM FEDERAL INVOLVEMENT.—Except for grants under subsection (q), Federal assistance other than a grant under this section may be used to satisfy the non-Federal share of the cost of a project for which such a grant is made, except that—

(A) for a State with a population density of not more than 80 persons per square mile of land area, based on the 2010 census, the maximum share of the total Federal assistance provided for a project receiving a grant under this section shall be the applicable share under section 120(b); and

(B) for a State not described in subparagraph (A), the total Federal assistance provided for a project receiving a grant under this section may not exceed 80 percent of the total project cost.

(3) FEDERAL LAND MANAGEMENT AGENCIES.—Notwithstanding any other provision of law, any Federal funds other than those made available under this title or title 49 may be used to pay the non-Federal share of the cost of a project carried out under this section by a Federal land management agency, as described under subsection (c)(1)(F).

(k) EFFICIENT USE OF NON-FEDERAL FUNDS.—

(1) IN GENERAL.—Notwithstanding any other provision of law and subject to approval by the Secretary under paragraph (2)(B), in the case of any grant for a project under this section, during the period beginning on the date on which the grant recipient is selected and ending on the date on which the grant agreement is signed—

(A) the grant recipient may obligate and expend non-Federal funds with respect to the project for which the grant is provided; and

(B) any non-Federal funds obligated or expended in accordance with subparagraph (A) shall be credited toward the non-Federal cost share for the project for which the grant is provided.

(2) REQUIREMENTS.—

(A) APPLICATION.—In order to obligate and expend non-Federal funds under paragraph (1), the grant recipient shall submit to the Secretary a request to obligate and expend non-Federal funds under that paragraph, including—

(i) a description of the activities the grant recipient intends to fund;

(ii) a justification for advancing the activities described in clause (i), including an assessment of the effects to the project scope, schedule, and budget if the request is not approved; and

(iii) the level of risk of the activities described in clause (i).

(B) APPROVAL.—The Secretary shall approve or disapprove each request submitted under subparagraph (A).

(C) COMPLIANCE WITH APPLICABLE REQUIREMENTS.—Any non-Federal funds obligated or expended under paragraph (1) shall comply with all applicable requirements, including any requirements included in the grant agreement.

(3) EFFECT.—The obligation or expenditure of any non-Federal funds in accordance with this subsection shall not—

(A) affect the signing of a grant agreement or other applicable grant procedures with respect to the applicable grant;

(B) create an obligation on the part of the Federal Government to repay any non-Federal funds if the grant agreement is not signed; or

(C) affect the ability of the recipient of the grant to obligate or expend non-Federal funds to meet the non-Federal cost share for the project for which the grant is provided after the period described in paragraph (1).

(l) TREATMENT OF FREIGHT PROJECTS.—Notwithstanding any other provision of law, a freight project carried out under this section shall be treated as if the project is located on a Federal-aid highway.

(m) TIFIA PROGRAM.—At the request of an eligible applicant under this section, the Secretary may use amounts awarded to the entity to pay subsidy and administrative costs necessary to provide the entity Federal credit assistance under chapter 6 with respect to the project for which the grant was awarded.

(n) CONGRESSIONAL NOTIFICATION.—

(1) IN GENERAL.—Not later than 60 days before the date on which a grant is provided for a project under this section, the Secretary shall submit to the Committees on Commerce, Science, and Transportation and Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing the proposed grant, including—

(A) an evaluation and justification for the applicable project; and

(B) a description of the amount of the proposed grant award.

(2) CONGRESSIONAL DISAPPROVAL.—The Secretary may not make a grant or any other obligation or commitment to fund a project under this section if a joint resolution is enacted disapproving funding for the project before the last day of the 60-day period described in paragraph (1).

(o) APPLICANT NOTIFICATION.—

(1) IN GENERAL.—Not later than 60 days after the date on which a grant recipient for a project under this section is selected, the Secretary shall provide to each eligible applicant not selected for that grant a written notification that the eligible applicant was not selected.

(2) INCLUSION.—A written notification under paragraph (1) shall include an offer for a written or telephonic debrief by the Secretary that will provide—

(A) detail on the evaluation of the application of the eligible applicant; and

(B) an explanation of and guidance on the reasons the application was not selected for a grant under this section.

(3) RESPONSE.—

(A) IN GENERAL.—Not later than 30 days after the eligible applicant receives a written notification under paragraph (1), if the eligible applicant opts to receive a debrief described in paragraph (2), the eligible applicant shall notify the Secretary that the eligible applicant is requesting a debrief.

(B) DEBRIEF.—If the eligible applicant submits a request for a debrief under subparagraph (A), the Secretary shall provide the debrief by not later than 60 days after the date on which the Secretary receives the request for a debrief.

(p) REPORTS.—

(1) ANNUAL REPORT.—

(A) IN GENERAL.—Notwithstanding any other provision of law, not later than 30 days after the date on which the Secretary selects a project for funding under this section, 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 report that describes the reasons for selecting the project, based on any criteria established by the Secretary in accordance with this section.

(B) INCLUSIONS.—The report submitted under subparagraph (A) shall specify each criterion established by the Secretary that the project meets.

(C) AVAILABILITY.—The Secretary shall make available on the website of the Department of Transportation the report submitted under subparagraph (A).

(D) APPLICABILITY.—This paragraph applies to all projects described in subparagraph (A)

that the Secretary selects on or after October 1, 2021.

(2) COMPTROLLER GENERAL.—

(A) ASSESSMENT.—The Comptroller General of the United States shall conduct an assessment of the establishment, solicitation, selection, and justification process with respect to the funding of projects under this section.

(B) REPORT.—Not later than 1 year after the date of enactment of the Surface Transportation Reauthorization Act of 2021 and annually thereafter, the Comptroller General of the United States shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes, for each project selected to receive funding under this section—

(i) the process by which each project was selected;

(ii) the factors that went into the selection of each project; and

(iii) the justification for the selection of each project based on any criteria established by the Secretary in accordance with this section.

(3) INSPECTOR GENERAL.—Not later than 1 year after the date of enactment of the Surface Transportation Reauthorization Act of 2021 and annually thereafter, the Inspector General of the Department of Transportation shall—

(A) conduct an assessment of the establishment, solicitation, selection, and justification process with respect to the funding of projects under this section; and

(B) 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 final report that describes the findings of the Inspector General of the Department of Transportation with respect to the assessment conducted under subparagraph (A).

(q) STATE INCENTIVES PILOT PROGRAM.—

(1) ESTABLISHMENT.—There is established a pilot program to award grants to eligible applicants for projects eligible for grants under this section (referred to in this subsection as the "pilot program").

(2) PRIORITY.—In awarding grants under the pilot program, the Secretary shall give priority to an application that offers a greater non-Federal share of the cost of a project relative to other applications under the pilot program.

(3) FEDERAL SHARE.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Federal share of the cost of a project assisted with a grant under the pilot program may not exceed 50 percent.

(B) NO FEDERAL INVOLVEMENT.—

(i) IN GENERAL.—For grants awarded under the pilot program, except as provided in clause (ii), an eligible applicant may not use Federal assistance to satisfy the non-Federal share of the cost under subparagraph (A).

(ii) EXCEPTION.—An eligible applicant may use funds from a secured loan (as defined in section 601(a)) to satisfy the non-Federal share of the cost under subparagraph (A) if the loan is repayable from non-Federal funds.

(4) RESERVATION.—

(A) IN GENERAL.—Of the amounts made available to provide grants under this section, the Secretary shall reserve for each fiscal year $150,000,000 to provide grants under the pilot program.

(B) UNUTILIZED AMOUNTS.—In any fiscal year during which applications under this subsection are insufficient to effect an award or allocation of the entire amount reserved under subparagraph (A), the Secretary shall use the unutilized amounts to provide other grants under this section.

(5) SET-ASIDES.—

(A) SMALL PROJECTS.—

(i) IN GENERAL.—Of the amounts reserved under paragraph (4)(A), the Secretary shall reserve for each fiscal year not less than 10 percent for projects eligible for a grant under subsection (e).

(ii) REQUIREMENT.—For a grant awarded from the amount reserved under clause (i)—

(I) the requirements of subsection (e) shall apply; and

(II) the requirements of subsection (g) shall not apply.

(B) RURAL PROJECTS.—

(i) IN GENERAL.—Of the amounts reserved under paragraph (4)(A), the Secretary shall reserve for each fiscal year not less than 25 percent for projects eligible for a grant under subsection (i).

(ii) REQUIREMENT.—For a grant awarded from the amount reserved under clause (i), the requirements of subsection (i) shall apply.

(6) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall submit to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the administration of the pilot program, including—

(A) the number, types, and locations of eligible applicants that have applied for grants under the pilot program;

(B) the number, types, and locations of grant recipients under the pilot program;

(C) an assessment of whether implementation of the pilot program has incentivized eligible applicants to offer a greater non-Federal share for grants under the pilot program; and

(D) any recommendations for modifications to the pilot program.

(r) MULTISTATE CORRIDOR ORGANIZATION DEFINED.—For purposes of this section, the term "multistate corridor organization" means an organization of a group of States developed through cooperative agreements, coalitions, or other arrangements to promote regional cooperation, planning, and shared project implementation for programs and projects to improve transportation system management and operations for a shared transportation corridor.

(s) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made available from the Highway Trust Fund, there are authorized to be appropriated to carry out this section, to remain available for a period of 3 fiscal years following the fiscal year for which the amounts are appropriated—

(1) $1,000,000,000 for fiscal year 2022;

(2) $1,100,000,000 for fiscal year 2023;

(3) $1,200,000,000 for fiscal year 2024;

(4) $1,300,000,000 for fiscal year 2025; and

(5) $1,400,000,000 for fiscal year 2026.

(Added Pub. L. 114–94, div. A, title I, §1105(a), Dec. 4, 2015, 129 Stat. 1332; amended Pub. L. 116–159, div. B, title I, §1102, Oct. 1, 2020, 134 Stat. 726; Pub. L. 117–58, div. A, title I, §11110(a), Nov. 15, 2021, 135 Stat. 468.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Surface Transportation Reauthorization Act of 2021 and the date of enactment of this subsection, referred to in subsecs. (p)(2)(B), (3) and (q)(6), are the date of enactment of div. A of Pub. L. 117–58, which was approved Nov. 15, 2021.

PRIOR PROVISIONS

A prior section 117, added Pub. L. 105–178, title I, §1601(a), June 9, 1998, 112 Stat. 255; amended Pub. L. 106–346, §101(a) [title III, §363], Oct. 23, 2000, 114 Stat. 1356, 1356A–36; Pub. L. 109–59, title I, §1701(a)–(d), Aug. 10, 2005, 119 Stat. 1254–1256; Pub. L. 110–244, title I, §101(k), June 6, 2008, 122 Stat. 1574, related to high priority projects program, prior to repeal by Pub. L. 112–141, div. A, title I, §1519(b)(1)(A), July 6, 2012, 126 Stat. 575, effective Oct. 1, 2012.

Another prior section 117, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 897; Pub. L. 93–87, title I, §116(a), Aug. 13, 1973, 87 Stat. 258; Pub. L. 94–280, title I, §116, May 5, 1976, 90 Stat. 436; Pub. L. 97–449, §5(d)(1), Jan. 12, 1983, 96 Stat. 2442; Pub. L. 102–240, title I, §1016(f)(2), Dec. 18, 1991, 105 Stat. 1946, related to certification acceptance, prior to repeal by Pub. L. 105–178, title I, §1601(a), June 9, 1998, 112 Stat. 255.

AMENDMENTS

2021—Pub. L. 117–58, §11110(a)(1), inserted "multimodal" before "freight" in section catchline.

Subsec. (a)(2)(A). Pub. L. 117–58, §11110(a)(2)(A), inserted "in and across rural and urban areas" after "people".

Subsec. (a)(2)(C). Pub. L. 117–58, §11110(a)(2)(B), inserted "or freight" after "highway".

Subsec. (a)(2)(E). Pub. L. 117–58, §11110(a)(2)(C), inserted "or freight" after "highway".

Subsec. (a)(2)(F). Pub. L. 117–58, §11110(a)(2)(D), inserted ", including highways that support movement of energy equipment" after "security".

Subsec. (b)(3). Pub. L. 117–58, §11110(a)(3), added par. (3).

Subsec. (c)(1)(H), (I). Pub. L. 117–58, §11110(a)(4), added subpar. (H) and redesignated former subpar. (H) as (I).

Subsec. (d)(1)(A)(v) to (viii). Pub. L. 117–58, §11110(a)(5)(A), added cls. (v) to (viii).

Subsec. (d)(2)(A). Pub. L. 117–58, §11110(a)(5)(B)(ii), which directed substitution of "each of fiscal years 2022 through 2026" for "fiscal years 2016 through 2020, in the aggregate," in introductory provisions, was executed by making the substitution for "fiscal years 2016 through 2021, in the aggregate," to reflect the probable intent of Congress and the intervening amendment by Pub. L. 116–159. See 2020 Amendment note below.

Pub. L. 117–58, §11110(a)(5)(B)(i), substituted "30 percent" for "$600,000,000" in introductory provisions.

Subsec. (e)(1). Pub. L. 117–58, §11110(a)(6)(A), substituted "not less than 15 percent" for "10 percent".

Subsec. (e)(3)(C). Pub. L. 117–58, §11110(a)(6)(B), added subpar. (C).

Subsec. (e)(4). Pub. L. 117–58, §11110(a)(6)(C), added par. (4).

Subsec. (f)(2). Pub. L. 117–58, §11110(a)(7), inserted "(including a project to replace or rehabilitate a culvert, or to reduce stormwater runoff for the purpose of improving habitat for aquatic species)" after "environmental mitigation".

Subsec. (h)(4) to (6). Pub. L. 117–58, §11110(a)(8), added pars. (4) to (6).

Subsec. (i)(2). Pub. L. 117–58, §11110(a)(9), substituted "grants under subsection (e)" for "other grants under this section".

Subsec. (j). Pub. L. 117–58, §11110(a)(10)(A), substituted "Federal Assistance" for "Federal Share" in heading.

Subsec. (j)(1). Pub. L. 117–58, §11110(a)(10)(A), (B), substituted "Federal share" for "In general" in par. heading, designated existing provisions as subpar. (A), inserted subpar. heading, and substituted "Except as provided in subparagraph (B) or for a grant under subsection (q), the Federal share" for "The Federal share", and added subpar. (B).

Subsec. (j)(2). Pub. L. 117–58, §11110(a)(10)(C), substituted "Except for grants under subsection (q), Federal assistance other" for "Federal assistance other", inserted dash after "except that", added subpar. (A), and inserted subpar. (B) designation and "for a State not described in subparagraph (A)," before "the total Federal".

Subsecs. (k) to (n). Pub. L. 117–58, §11110(a)(11), (12), added subsec. (k) and redesignated former subsecs. (k) to (m) as (l) to (n), respectively. Former subsec. (n) redesignated (p) and subsequently struck out.

Subsec. (n)(1). Pub. L. 117–58, §11110(a)(13), added par. (1) and struck out former par. (1) which related to congressional notification regarding certain grants.

Subsec. (o). Pub. L. 117–58, §11110(a)(14), added subsec. (o).

Subsec. (p). Pub. L. 117–58, §11110(a)(11), (15), redesignated subsec. (n) as (p), struck it out, and added a new subsec. (p). Prior to amendment, subsec. related to annual reports on projects by the Secretary and assessments and reports by the Comptroller General.

Subsecs. (q) to (s). Pub. L. 117–58, §11110(a)(15), added subsecs. (q) to (s).

2020—Subsec. (d)(2)(A). Pub. L. 116–159 substituted "$600,000,000" for "$500,000,000" and "2021" for

"2020" in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

EFFICIENT USE OF NON-FEDERAL FUNDS

Pub. L. 117–58, div. A, title I, §11110(c), Nov. 15, 2021, 135 Stat. 475, provided that:

"(1) IN GENERAL.—Notwithstanding any other provision of law, in the case of a grant described in paragraph (2), section 117(k) of title 23, United States Code, shall apply to the grant as if the grant was a grant provided under that section.

"(2) GRANT DESCRIBED.—A grant referred to in paragraph (1) is a grant that is—

"(A) provided under a competitive discretionary grant program administered by the Federal Highway Administration;

"(B) for a project eligible under title 23, United States Code; and

"(C) in an amount greater than $5,000,000."

§118. Availability of funds

(a) DATE AVAILABLE FOR OBLIGATION.—Except as otherwise specifically provided, authorizations from the Highway Trust Fund (other than the Mass Transit Account) to carry out this title shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

(b) PERIOD OF AVAILABILITY.—Except as otherwise specifically provided, funds apportioned or allocated pursuant to this title in a State shall remain available for obligation in that State for a period of 3 years after the last day of the fiscal year for which the funds are authorized. Any amounts so apportioned or allocated that remain unobligated at the end of that period shall lapse.

(c) OBLIGATION AND RELEASE OF FUNDS.—

(1) IN GENERAL.—Funds apportioned or allocated to a State for a purpose for any fiscal year shall be considered to be obligated if a sum equal to the total of the funds apportioned or allocated to the State for that purpose for that fiscal year and previous fiscal years is obligated.

(2) RELEASED FUNDS.—Any funds released by the final payment for a project, or by modifying the project agreement for a project, shall be—

(A) credited to the same class of funds previously apportioned or allocated to the State for the project; and

(B) immediately available for obligation.

(3) NET OBLIGATIONS.—Notwithstanding any other provision of law (including a regulation), obligations recorded against funds made available under this subsection shall be recorded and reported as net obligations.

(d) Funds made available to the State of Alaska and the Commonwealth of Puerto Rico under this title may be expended for construction of access and development roads that will serve resource development, recreational, residential, commercial, industrial, or other like purposes.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 897; Pub. L. 89–574, §7(a), Sept. 13, 1966, 80 Stat. 768; Pub. L. 94–280, title I, §117(a), May 5, 1976, 90 Stat. 436; Pub. L. 95–599, title I, §115(a), Nov. 6, 1978, 92 Stat. 2697; Pub. L. 96–106, §5(a), Nov. 9, 1979, 93 Stat. 797; Pub. L. 97–424, title I, §115, Jan. 6, 1983, 96 Stat. 2107; Pub. L. 100–17, title I, §§114(a)–(c), (e)(2)–(4), 115, Apr. 2, 1987, 101

Stat. 150–153; Pub. L. 102–240, title I, §1020, Dec. 18, 1991, 105 Stat. 1948; Pub. L. 102–388, title IV, §409, Oct. 6, 1992, 106 Stat. 1565; Pub. L. 105–178, title I, §§1106(c)(1)(B), 1107(b), 1226(b), June 9, 1998, 112 Stat. 136, 137; Pub. L. 105–206, title IX, §9003(a), July 22, 1998, 112 Stat. 837; Pub. L. 109–59, title I, §§1111(a), 1501(b), Aug. 10, 2005, 119 Stat. 1171, 1235; Pub. L. 112–141, div. A, title I, §1519(b)(1)(B), (c)(4), formerly (c)(5), July 6, 2012, 126 Stat. 575, renumbered §1519(c)(4), Pub. L. 114–94, div. A, title I, §1446(d)(5)(B), Dec. 4, 2015, 129 Stat. 1438.)

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (b). Pub. L. 114–94 amended Pub. L. 112–141, §1519(c). See 2012 Amendment note below.

2012—Subsec. (b). Pub. L. 112–141, §1519(c)(4), formerly §1519(c)(5), as renumbered by Pub. L. 114–94, §1446(d)(5)(B), designated par. (2) as subsec. (b), struck out "(other than for Interstate construction)" after "this title", and struck out former par. (1) relating to interstate construction funds and heading of former par. (2) which read "OTHER FUNDS".

Subsecs. (c) to (e). Pub. L. 112–141, §1519(b)(1)(B), redesignated subsecs. (d) and (e) as (c) and (d), respectively, and struck out former subsec. (c) which related to set asides for interstate discretionary projects.

2005—Subsec. (c)(1). Pub. L. 109–59, §1111(a), substituted "$100,000,000 for each of fiscal years 2005 through 2009" for "$50,000,000 in fiscal year 1998 and $100,000,000 in each of fiscal years 1999 through 2003".

Subsec. (d). Pub. L. 109–59, §1501(b), amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows: "Any Federal-aid highway funds released by the final payment on a project, or by the modification of the project agreement, shall be credited to the same program funding category previously apportioned to the State and shall be immediately available for expenditure."

1998—Subsec. (b). Pub. L. 105–178, §1226(b)(1), as added by Pub. L. 105–206, §9003(a), struck out "; Discretionary Projects" after "Availability" in heading.

Subsec. (c). Pub. L. 105–178, §1107(b), reenacted heading without change and amended text of subsec. (c) generally. Prior to amendment, text related to set asides for interstate discretionary projects, including set asides for construction projects and for 4R projects.

Subsec. (d). Pub. L. 105–178, §1106(c)(1)(B), which directed the redesignation of subsec. (e) as (d) and the striking out of former subsec. (d), was executed by redesignating the subsec. (e) added by Pub. L. 105–178, §1226(b)(2), as (d), and striking out former subsec. (d), to reflect the probable intent of Congress. Former subsec. (d) read as follows: "In addition to amounts otherwise available to carry out this section, an amount equal to the amount by which the unobligated apportionment for the Interstate System in any State is reduced under section 103(e)(4) of this title on account of the withdrawal of a route or portion thereof on the Interstate System, which withdrawal is approved after the date of enactment of this subsection, shall be available to the Secretary for obligation in accordance with subsection (b)(1) of this section."

Subsec. (e). Pub. L. 105–178, §1106(c)(1)(B)(ii), redesignated subsec. (f) as (e). Subsec. (e) as added by Pub. L. 105–178, §1226(b)(2), redesignated (d), to reflect the probable intent of Congress.

Pub. L. 105–178, §1226(b)(2), as added by Pub. L. 105–226, §9003(a), which directed the addition of subsec. (e) and the striking out of former subsec. (e), was executed by adding subsec. (e) and striking out the former subsec. (e) as in effect before the redesignation of subsecs. (e) and (f) as (d) and (e), respectively, by Pub. L. 105–178, §1106(c)(1)(B)(ii), to reflect the probable intent of Congress. Former subsec. (e) read as follows: "The total payments to any State shall not at any time during a current fiscal year exceed the total of all apportionments to such State in accordance with section 104 of this title for such fiscal year and all preceding fiscal years."

Subsec. (f). Pub. L. 105–178, §1106(c)(1)(B)(ii), redesignated subsec. (f) as (e).

1992—Subsec. (b)(1). Pub. L. 102–388 substituted "construction in a State (other than Massachusetts)" for "construction in a State" and "after October 1, 1989" for "before October 1, 1989".

1991—Subsec. (a). Pub. L. 102–240, §1020(a), added subsec. (a) and struck out former subsec. (a) which read as follows: "On and after the date that the Secretary has certified to each State highway department the sums apportioned to each Federal-aid system or part thereof pursuant to an authorization under this title, or under prior Acts, such sums shall be available for expenditure under the provisions of this title."

Subsec. (b). Pub. L. 102–240, §1020(a), added subsec. (b) and struck out former subsec. (b) which contained provisions relating to periods of availability of non-Interstate funds, Interstate construction funds, and funds for resurfacing, restoring, rehabilitating and reconstructing Interstate System, and provisions

deeming obligation of funds as equivalent to expenditure and relating to effect of release of funds.

Subsec. (c)(1). Pub. L. 102–240, §1020(b)(1), (2), substituted "1992" for "1983" and "$100,000,000" for "$300,000,000".

Subsec. (c)(2). Pub. L. 102–240, §1020(b)(3), added par. (2) and struck out former par. (2) which read as follows: "SET ASIDE FOR 4R PROJECTS.—Before any apportionment is made under section 104(b)(5)(B) of this title, the Secretary shall set aside $200,000,000 for obligation by the Secretary in accordance with subsection (b)(3) of this section and subject to section 149(d) of the Federal-Aid Highway Act of 1987."

Subsec. (d). Pub. L. 102–240, §1020(c), substituted "(b)(1)" for "(b)(2)".

Subsec. (f). Pub. L. 102–240, §1020(d), struck out "on a Federal-aid system" after "roads".

1987—Pub. L. 100–17, §114(e)(2), substituted "Availability of funds" for "Availability of sums apportioned" in section catchline.

Subsec. (b). Pub. L. 100–17, §114(e)(3)(A), inserted heading.

Subsec. (b)(1). Pub. L. 100–17, §114(e)(3)(B), (D), inserted heading and aligned par. (1) with par. (2) as amended.

Subsec. (b)(2). Pub. L. 100–17, §114(a), amended par. (2) generally, revising and restating as subpars. (A) to (F) provisions formerly contained in an undivided paragraph.

Subsec. (b)(3). Pub. L. 100–17, §114(c), amended par. (3) generally, revising and restating as subpars. (A) to (D) provisions formerly contained in an undivided paragraph.

Subsec. (b)(4). Pub. L. 100–17, §114(e)(3)(C), (D), inserted heading and aligned par. (4) with par. (2) as amended.

Subsec. (c). Pub. L. 100–17, §114(b), (e)(4), inserted heading, designated existing provisions as par. (1), inserted par. (1) heading, substituted "Subject to section 149(d) of the Federal-Aid Highway Act of 1987, such amount" for "Such amount" in par. (1), added par. (2), and aligned par. (1) with par. (2).

Subsec. (f). Pub. L. 100–17, §115, inserted "and the Commonwealth of Puerto Rico" after "the State of Alaska".

1983—Subsec. (b). Pub. L. 97–424, §115(a), designated existing provisions as pars. (1) through (4), in par. (2) as so designated, substituted "for projects on the Interstate System (other than projects for which sums are apportioned under section 104(b)(5)(B)) in accordance with the following priorities: First, for high cost projects which directly contribute to the completion of an Interstate segment which is not open to traffic; and second, for projects of high cost in relation to a State's apportionment. Sums may only be made available under this paragraph in any State" for "to any other State applying for such funds for the Interstate System," after "available by the Secretary", struck out former cl. (1), which had required readiness to obligate funds within one year of the date the funds are made available, redesignated former cls. (2) and (3) as (A) and (B), respectively; and in par. (3) as so designated, struck out "and any amounts so apportioned remaining unexpended at the end of such period shall lapse" after "such sums are authorized", inserted provision relating to the disposition of funds not obligated within the prescribed time period, and inserted further provision that sums made available under this paragraph shall remain available until expended.

Subsecs. (c) to (f). Pub. L. 97–424, §115(b), added subsecs. (c) and (d) and redesignated former subsecs. (c) and (d) as (e) and (f), respectively.

1979—Subsec. (b). Pub. L. 96–106 substituted "shall continue to be available for expenditure in that State for a period of two years after the close of the fiscal year for which such sums are authorized and any amounts so apportioned remaining unexpended at the end of such period shall lapse" for "remaining unexpended at the end of the period of its availability shall lapse".

1978—Subsec. (b). Pub. L. 95–599 substituted provisions relating to the availability of funds until the end of the fiscal year for provisions relating to the availability of funds until two years after the close of the fiscal year and substituted provisions establishing requirements for eligibility for funds for provisions calling for immediate reapportionment of unexpended funds.

1976—Subsec. (b). Pub. L. 94–280, in revising text, provided for a separate three year period of availability of sums apportioned to a Federal-aid system (other than the Interstate System), increased from the previously applicable two year period; continued the existing two year period for sums apportioned to the Interstate System; substituted provision for reapportionment of sums, apportioned to the States for the Interstate System under section 104(b)(4)(A), under section 104(b)(5)(A) of this title and for lapse of sums apportioned to the Interstate System under section 104(b)(4)(B) of this title for prior provision for reapportionment of sums, apportioned to the States for the Interstate System under section 104(b)(4) and (5), under section 104(b)(5) of this title; and substituted provisions deeming there to be an expenditure of sums apportioned to a Federal-aid system if a sum equal to the total of the sums apportioned to the State for the fiscal year and previous fiscal years is obligated for prior provision deeming an expenditure to exist if a sum equal to the total of the sums apportioned to the States for the fiscal year and previous fiscal years is covered by formal project agreements

providing for the expenditure of funds authorized by each Act which contains provisions authorizing the appropriation of funds for Federal-aid highways.

1966—Subsec. (d). Pub. L. 89–574 added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–94, div. A, title I, §1446(d), Dec. 4, 2015, 129 Stat. 1438, provided that the amendment made by section 1446(d)(5)(B) is effective as of July 6, 2012, and as if included in Pub. L. 112–141 as enacted.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

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

EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96–106, §5(b), Nov. 9, 1979, 93 Stat. 797, provided that: "The amendment made by subsection (a) of this section [amending this section] shall apply to all amounts apportioned under [former] section 104(b)(5)(B) of title 23, United States Code, for the fiscal year 1978 and for subsequent fiscal years."

USE OF EXCESS FUNDS AND FUNDS FOR INACTIVE PROJECTS

Pub. L. 109–59, title I, §1603, Aug. 10, 2005, 119 Stat. 1248, provided that:

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

"(1) ELIGIBLE FUNDS.—

"(A) IN GENERAL.—The term 'eligible funds' means excess funds or inactive funds for a specific transportation project or activity that were—

"(i) allocated before fiscal year 1991; and

"(ii) designated in a public law, or a report accompanying a public law, for allocation for the specific surface transportation project or activity.

"(B) INCLUSION.—The term 'eligible funds' includes funds described in subparagraph (A) that were allocated and designated for a demonstration project.

"(2) EXCESS FUNDS.—The term 'excess funds' means—

"(A) funds obligated for a specific transportation project or activity that remain available for the project or activity after the project or activity has been completed or canceled; or

"(B) an unobligated balance of funds allocated for a transportation project or activity that the State in which the project or activity was to be carried out certifies are no longer needed for the project or activity.

"(3) INACTIVE FUNDS.—The term 'inactive funds' means—

"(A) an obligated balance of Federal funds for an eligible transportation project or activity against which no expenditures have been charged during any 1-year period beginning after the date of obligation of the funds; and

"(B) funds that are available to carry out a transportation project or activity in a State, but, as certified by the State, are unlikely to be advanced for the project or activity during the 1-year period beginning on the date of certification.

"(b) AVAILABILITY FOR STP PURPOSES.—Eligible funds shall be—

"(1) made available in accordance with this section to the State that originally received the funds; and

"(2) available for obligation for any eligible purpose under section 133 of title 23, United States Code.

"(c) RETENTION FOR ORIGINAL PURPOSE.—

"(1) IN GENERAL.—The Secretary [of Transportation] may determine that eligible funds identified as inactive funds shall remain available for the purpose for which the funds were initially made available if the applicable State certifies that the funds are necessary for that initial purpose.

"(2) REPORT.—A certification provided by a State under paragraph (1) shall include a report on the status of, and an estimated completion date for, the project that is the subject of the certification.

"(d) AUTHORITY TO OBLIGATE.—Notwithstanding the original source or period of availability of eligible funds, the Secretary [of Transportation] may, on the request by a State—

"(1) obligate the funds for any eligible purpose under section 133 of title 23, United States Code; or

"(2)(A) deobligate the funds; and

"(B) reobligate the funds for any eligible purpose under that section.

"(e) APPLICABILITY.—

"(1) IN GENERAL.—Subject to paragraph (2), this section applies only to eligible funds.

"(2) DISCRETIONARY ALLOCATIONS; SECTION 125 PROJECTS.—This section does not apply to funds that are—

"(A) allocated at the discretion of the Secretary [of Transportation] and for which the Secretary has the authority to withdraw the allocation for use on other projects; or

"(B) made available to carry out projects under section 125 of title 23, United States Code.

"(f) PERIOD OF AVAILABILITY; TITLE 23 REQUIREMENTS.—

"(1) IN GENERAL.—Notwithstanding the original source or period of availability of eligible funds obligated, or deobligated and reobligated, under subsection (d), the eligible funds—

"(A) shall remain available for obligation for a period of 3 fiscal years after the fiscal year in which this Act is enacted; and

"(B) except as provided in paragraph (2), shall be subject to the requirements of title 23, United States Code, that apply to section 133 of that title, including provisions relating to Federal share.

"(2) EXCEPTION.—With respect to eligible funds described in paragraph (1)—

"(A) section 133(d) of title 23, United States Code, shall not apply; and

"(B) the period of availability of the eligible funds shall be determined in accordance with this section.

"(g) REPORT.—Not later than 1 year after the date of enactment of this Act [Aug. 10, 2005], and annually thereafter, the Secretary [of Transportation] shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing any action taken by the Secretary under this section.

"(h) SENSE OF CONGRESS REGARDING USE OF ELIGIBLE FUNDS.—It is the sense of Congress that eligible funds made available under this Act [see Tables for classification] or title 23, United States Code, should be available for obligation for transportation projects and activities in the same geographic region for which the eligible funds were initially made available."

§119. National highway performance program

(a) ESTABLISHMENT.—The Secretary shall establish and implement a national highway performance program under this section.

(b) PURPOSES.—The purposes of the national highway performance program shall be—

(1) to provide support for the condition and performance of the National Highway System;

(2) to provide support for the construction of new facilities on the National Highway System;

(3) to ensure that investments of Federal-aid funds in highway construction are directed to support progress toward the achievement of performance targets established in an asset management plan of a State for the National Highway System; and

(4) to provide support for activities to increase the resiliency of the National Highway System to mitigate the cost of damages from sea level rise, extreme weather events, flooding, wildfires, or other natural disasters.

(c) ELIGIBLE FACILITIES.—Except as provided in subsection (d), to be eligible for funding apportioned under section 104(b)(1) to carry out this section, a facility shall be located on the National Highway System, as defined in section 103.

(d) ELIGIBLE PROJECTS.—Funds apportioned to a State to carry out the national highway

performance program may be obligated only for a project on an eligible facility that is—

(1)(A) a project or part of a program of projects supporting progress toward the achievement of national performance goals for improving infrastructure condition, safety, congestion reduction, system reliability, or freight movement on the National Highway System; and

(B) consistent with sections 134 and 135; and

(2) for 1 or more of the following purposes:

(A) Construction, reconstruction, resurfacing, restoration, rehabilitation, preservation, or operational improvement of segments of the National Highway System.

(B) Construction, replacement (including replacement with fill material), rehabilitation, preservation, and protection (including scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) of bridges on the National Highway System.

(C) Construction, replacement (including replacement with fill material), rehabilitation, preservation, and protection (including impact protection measures, security countermeasures, and protection against extreme events) of tunnels on the National Highway System.

(D) Inspection and evaluation, as described in section 144, of bridges and tunnels on the National Highway System, and inspection and evaluation of other highway infrastructure assets on the National Highway System, including signs and sign structures, earth retaining walls, and drainage structures.

(E) Training of bridge and tunnel inspectors, as described in section 144.

(F) Construction, rehabilitation, or replacement of existing ferry boats and ferry boat facilities, including approaches, that connect road segments of the National Highway System.

(G) Construction, reconstruction, resurfacing, restoration, rehabilitation, and preservation 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 project 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 reduce delays or produce travel time savings 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, as determined by benefit-cost analysis, than an improvement to the fully access-controlled highway described in clause (i).

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

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

(J) Capital and operating costs for traffic and traveler information monitoring, management, and control facilities and programs.

(K) Development and implementation of a State asset management plan for the National Highway System in accordance with this section, including data collection, maintenance, and integration and the cost associated with obtaining, updating, and licensing software and equipment required for risk-based asset management and performance-based management.

(L) Infrastructure-based intelligent transportation systems capital improvements, including the installation of vehicle-to-infrastructure communication equipment.

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

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

(O) Environmental mitigation efforts related to projects funded under this section, as described in subsection (g).

(P) Construction of publicly owned intracity or intercity bus terminals servicing the National Highway System.

(Q) Undergrounding public utility infrastructure carried out in conjunction with a project otherwise eligible under this section.

(R) Resiliency improvements on the National Highway System, including protective features described in subsection (k)(2).

(S) Implement activities to protect segments of the National Highway System from cybersecurity threats.

(e) STATE PERFORMANCE MANAGEMENT.—

(1) IN GENERAL.—A State shall develop a risk-based asset management plan for the National Highway System to improve or preserve the condition of the assets and the performance of the system.

(2) PERFORMANCE DRIVEN PLAN.—A State asset management plan shall include strategies leading to a program of projects that would make progress toward achievement of the State targets for asset condition and performance of the National Highway System in accordance with section 150(d) and supporting the progress toward the achievement of the national goals identified in section 150(b).

(3) SCOPE.—In developing a risk-based asset management plan, the Secretary shall encourage States to include all infrastructure assets within the right-of-way corridor in such plan.

(4) PLAN CONTENTS.—A State asset management plan shall, at a minimum, be in a form that the Secretary determines to be appropriate and include—

(A) a summary listing of the pavement and bridge assets on the National Highway System in the State, including a description of the condition of those assets;

(B) asset management objectives and measures;

(C) performance gap identification;

(D) lifecycle cost and risk management analyses, both of which shall take into consideration extreme weather and resilience;

(E) a financial plan; and

(F) investment strategies.

(5) REQUIREMENT FOR PLAN.—

(A) IN GENERAL.—Notwithstanding section 120, each fiscal year, if the Secretary determines that a State has not developed and implemented a State asset management plan consistent with this section, the Federal share payable on account of any project or activity for which funds are obligated by the State in that fiscal year under this section shall be 65 percent.

(B) DETERMINATION.—The Secretary shall make the determination under subparagraph (A) for a fiscal year not later than the day before the beginning of such fiscal year.

(6) CERTIFICATION OF PLAN DEVELOPMENT PROCESS.—

(A) IN GENERAL.—Not later than 90 days after the date on which a State submits a request for approval of the process used by the State to develop the State asset management plan for the National Highway System, the Secretary shall—

(i) review the process; and

(ii)(I) certify that the process meets the requirements established by the Secretary; or

(II) deny certification and specify actions necessary for the State to take to correct deficiencies in the State process.

(B) RECERTIFICATION.—Not less frequently than once every 4 years, the Secretary shall review and recertify that the process used by a State to develop and maintain the State asset management plan for the National Highway System meets the requirements for the process, as established by the Secretary.

(C) OPPORTUNITY TO CURE.—If the Secretary denies certification under subparagraph (A), the Secretary shall provide the State with—

(i) not less than 90 days to cure the deficiencies of the plan, during which time period all penalties and other legal impacts of a denial of certification shall be stayed; and

(ii) a written statement of the specific actions the Secretary determines to be necessary for

the State to cure the plan.

(7) PERFORMANCE ACHIEVEMENT.—A State that does not achieve or make significant progress toward achieving the targets of the State for performance measures described in section 150(d) for the National Highway System shall include as part of the performance target report under section 150(e) a description of the actions the State will undertake to achieve the targets.

(8) PROCESS.—Not later than 18 months after the date of enactment of the MAP–21, the Secretary shall, by regulation and in consultation with State departments of transportation, establish the process to develop the State asset management plan described in paragraph (1).

(f) INTERSTATE SYSTEM AND NHS BRIDGE CONDITIONS.—

(1) CONDITION OF INTERSTATE SYSTEM.—

(A) PENALTY.—If a State reports that the condition of the Interstate System, excluding bridges on the Interstate System, has fallen below the minimum condition level established by the Secretary under section 150(c)(3), the State shall be required, during the following fiscal year—

(i) to obligate, from the amounts apportioned to the State under section 104(b)(1), an amount that is not less than the amount of funds apportioned to the State for fiscal year 2009 under the Interstate maintenance program for the purposes described in this section (as in effect on the day before the date of enactment of the MAP–21), except that for each year after fiscal year 2013, the amount required to be obligated under this clause shall be increased by 2 percent over the amount required to be obligated in the previous fiscal year; and

(ii) to transfer, from the amounts apportioned to the State under section 104(b)(2) (other than amounts suballocated to metropolitan areas and other areas of the State under section 133(d)) to the apportionment of the State under section 104(b)(1), an amount equal to 10 percent of the amount of funds apportioned to the State for fiscal year 2009 under the Interstate maintenance program for the purposes described in this section (as in effect on the day before the date of enactment of the MAP–21).

(B) RESTORATION.—The obligation requirement for the Interstate System in a State required by subparagraph (A) for a fiscal year shall remain in effect for each subsequent fiscal year until such time as the condition of the Interstate System in the State exceeds the minimum condition level established by the Secretary.

(2) CONDITION OF NHS BRIDGES.—

(A) PENALTY.—If the Secretary determines that, for the 3-year-period preceding the date of the determination, more than 10 percent of the total deck area of bridges in the State on the National Highway System is located on bridges that have been classified as in poor condition, an amount equal to 50 percent of funds apportioned to such State for fiscal year 2009 to carry out section 144 (as in effect the day before enactment of MAP–21) shall be set aside from amounts apportioned to a State for a fiscal year under section 104(b)(1) only for eligible projects on bridges on the National Highway System.

(B) RESTORATION.—The set-aside requirement for bridges on the National Highway System in a State under subparagraph (A) for a fiscal year shall remain in effect for each subsequent fiscal year until such time as less than 10 percent of the total deck area of bridges in the State on the National Highway System is located on bridges that have been classified as in poor condition, as determined by the Secretary.

(g) ENVIRONMENTAL MITIGATION.—

(1) ELIGIBLE ACTIVITIES.—In accordance with all applicable Federal law (including regulations), environmental mitigation efforts referred to in subsection (d)(2)(O) include participation in natural habitat and wetlands mitigation efforts relating to projects funded under this title, which may include—

(A) participation in mitigation banking or other third-party mitigation arrangements, such as—

(i) the purchase of credits from commercial mitigation banks;

(ii) the establishment and management of agency-sponsored mitigation banks; and

(iii) the purchase of credits or establishment of in-lieu fee mitigation programs;

(B) contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetlands; and

(C) the development of statewide and regional environmental protection plans, including natural habitat and wetland conservation and restoration plans.

(2) INCLUSION OF OTHER ACTIVITIES.—The banks, efforts, and plans described in paragraph (1) include any such banks, efforts, and plans developed in accordance with applicable law (including regulations).

(3) TERMS AND CONDITIONS.—The following terms and conditions apply to natural habitat and wetlands mitigation efforts under this subsection:

(A) Contributions to the mitigation effort may—

(i) take place concurrent with, or in advance of, commitment of funding under this title to a project or projects; and

(ii) occur in advance of project construction only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and State transportation planning processes.

(B) Credits from any agency-sponsored mitigation bank that are attributable to funding under this section may be used only for projects funded under this title, unless the agency pays to the Secretary an amount equal to the Federal funds attributable to the mitigation bank credits the agency uses for purposes other than mitigation of a project funded under this title.

(4) PREFERENCE.—At the discretion of the project sponsor, preference shall be given, to the maximum extent practicable, to mitigating an environmental impact through the use of a mitigation bank, in-lieu fee, or other third-party mitigation arrangement, if the use of credits from the mitigation bank or in-lieu fee, or the other third-party mitigation arrangement for the project, is approved by the applicable Federal agency.

(h) TIFIA PROGRAM.—Upon Secretarial approval of credit assistance under chapter 6, the Secretary, at the request of a State, may allow the State to use funds apportioned under section 104(b)(1) to pay subsidy and administrative costs necessary to provide an eligible entity Federal credit assistance under chapter 6 with respect to a project eligible for assistance under this section.

(i) ADDITIONAL FUNDING ELIGIBILITY FOR CERTAIN BRIDGES.—

(1) IN GENERAL.—Funds apportioned to a State to carry out the national highway performance program may be obligated for a project for the reconstruction, resurfacing, restoration, rehabilitation, or preservation of a bridge not on the National Highway System, if the bridge is on a Federal-aid highway.

(2) LIMITATION.—A State required to make obligations under subsection (f) shall ensure such requirements are satisfied in order to use the flexibility under paragraph (1).

(j) CRITICAL INFRASTRUCTURE.—

(1) CRITICAL INFRASTRUCTURE DEFINED.—In this subsection, the term "critical infrastructure" means those facilities the incapacity or failure of which would have a debilitating impact on national or regional economic security, national or regional energy security, national or regional public health or safety, or any combination of those matters.

(2) CONSIDERATION.—The asset management plan of a State may include consideration of critical infrastructure from among those facilities in the State that are eligible under subsection (c).

(3) RISK REDUCTION.—A State may use funds apportioned under this section for projects intended to reduce the risk of failure of critical infrastructure in the State.

(k) PROTECTIVE FEATURES.—

(1) IN GENERAL.—A State may use not more than 15 percent of the funds apportioned to the State under section 104(b)(1) for each fiscal year for 1 or more protective features on a Federal-aid highway or bridge not on the National Highway System, if the protective feature is designed to mitigate the risk of recurring damage or the cost of future repairs from extreme weather events, flooding, or other natural disasters.

(2) PROTECTIVE FEATURES DESCRIBED.—A protective feature referred to in paragraph (1) includes—

(A) raising roadway grades;

(B) relocating roadways in a base floodplain to higher ground above projected flood elevation levels or away from slide prone areas;

(C) stabilizing slide areas;

(D) stabilizing slopes;

(E) lengthening or raising bridges to increase waterway openings;

(F) increasing the size or number of drainage structures;

(G) replacing culverts with bridges or upsizing culverts;

(H) installing seismic retrofits on bridges;

(I) adding scour protection at bridges, installing riprap, or adding other scour, stream stability, coastal, or other hydraulic countermeasures, including spur dikes; and

(J) the use of natural infrastructure to mitigate the risk of recurring damage or the cost of future repair from extreme weather events, flooding, or other natural disasters.

(3) SAVINGS PROVISION.—Nothing in this subsection limits the ability of a State to carry out a project otherwise eligible under subsection (d) using funds apportioned under section 104(b)(1).

(Added Pub. L. 95–599, title I, §116(a), Nov. 6, 1978, 92 Stat. 2698; amended Pub. L. 96–106, §18, Nov. 9, 1979, 93 Stat. 799; Pub. L. 97–134, §§6, 7, Dec. 29, 1981, 95 Stat. 1701; Pub. L. 97–424, title I, §116(a)(1), (2), (b), (c), Jan. 6, 1983, 96 Stat. 2109; Pub. L. 98–229, §8(b), Mar. 9, 1984, 98 Stat. 56; Pub. L. 99–190, §101(e) [title III, §327], Dec. 19, 1985, 99 Stat. 1267, 1289; Pub. L. 100–17, title I, §116(a)–(c)(1), Apr. 2, 1987, 101 Stat. 154, 155; Pub. L. 100–202, §101(l) [title III, §347(b)], Dec. 22, 1987, 101 Stat. 1329–358, 1329–388; Pub. L. 102–240, title I, §1009(a), (b), (e)(1), (3)–(5), Dec. 18, 1991, 105 Stat. 1933, 1934; Pub. L. 105–178, title I, §1107(a), (d), June 9, 1998, 112 Stat. 137; Pub. L. 105–206, title IX, §9002(f), July 22, 1998, 112 Stat. 836; Pub. L. 112–141, div. A, title I, §1106(a), July 6, 2012, 126 Stat. 432; Pub. L. 114–94, div. A, title I, §§1106, 1406(a), 1407(a), 1446(a)(1), Dec. 4, 2015, 129 Stat. 1337, 1410, 1437; Pub. L. 116–94, div. H, title I, §129A, Dec. 20, 2019, 133 Stat. 2953; Pub. L. 117–58, div. A, title I, §§11105, 11524(a), Nov. 15, 2021, 135 Stat. 457, 606.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the MAP–21, referred to in subsecs. (e)(8) and (f)(1)(A), is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title.

Section 144 (as in effect the day before enactment of MAP–21), referred to in subsec. (f)(2)(A), means section 144 of this title as in effect the day before the enactment of Pub. L. 112–141, which amended section 144 generally. Prior to amendment by Pub. L. 112–141, section 144 related to the highway bridge program.

PRIOR PROVISIONS

A prior section 119, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 899, related to administration of Federal aid for highways in Alaska, prior to repeal by Pub. L. 86–70, §21(d)(3), June 25, 1959, 73 Stat. 145, effective July

1, 1959.

AMENDMENTS

2021—Subsec. (b)(4). Pub. L. 117–58, §11105(1), added par. (4).

Subsec. (d)(2)(Q) to (S). Pub. L. 117–58, §11105(2), added subpars. (Q) to (S).

Subsec. (e)(4)(D). Pub. L. 117–58, §11105(3), substituted "analyses, both of which shall take into consideration extreme weather and resilience" for "analysis".

Subsec. (f)(2). Pub. L. 117–58, §11524(a), substituted "in poor condition" for "structurally deficient" in subpars. (A) and (B).

Subsec. (k). Pub. L. 117–58, §11105(4), added subsec. (k).

2019—Subsec. (e)(5). Pub. L. 116–94 amended par. (5) generally. Prior to amendment, text read as follows: "Notwithstanding section 120, with respect to the second fiscal year beginning after the date of establishment of the process established in paragraph (8) or any subsequent fiscal year, if the Secretary determines that a State has not developed and implemented a State asset management plan consistent with this section, the Federal share payable on account of any project or activity carried out by the State in that fiscal year under this section shall be 65 percent."

2015—Subsec. (d)(1)(A). Pub. L. 114–94, §1446(a)(1), substituted "congestion reduction, system reliability," for "mobility,".

Subsec. (d)(2)(L). Pub. L. 114–94, §1407(a), inserted ", including the installation of vehicle-to-infrastructure communication equipment" after "capital improvements".

Subsec. (e)(7). Pub. L. 114–94, §1406(a)(1), substituted "shall include as part of the performance target report under section 150(e)" for "for 2 consecutive reports submitted under this paragraph shall include in the next report submitted".

Subsec. (f)(1)(A). Pub. L. 114–94, §1406(a)(2), substituted "If a State reports that the condition of the Interstate System, excluding bridges on the Interstate System, has fallen" for "If, during 2 consecutive reporting periods, the condition of the Interstate System, excluding bridges on the Interstate System, in a State falls" in introductory provisions.

Subsecs. (h) to (j). Pub. L. 114–94, §1106, added subsecs. (h) to (j).

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to interstate maintenance program.

1998—Subsec. (a). Pub. L. 105–178, §1107(a)(1), added subsec. (a) and struck out former subsec. (a) which read as follows: "The Secretary may approve projects for resurfacing, restoring and rehabilitating routes on the Interstate System designated under sections 103 and 139(c) of this title and routes on the Interstate System designated before the date of enactment of this sentence under section 139(a) and (b) of this title; except that the Secretary may only approve a project pursuant to this subsection on a toll road if such road is subject to a Secretarial agreement provided for in subsection (e). Sums authorized to be appropriated for this section shall be out of the Highway Trust Fund and shall be apportioned in accordance with section 104(b)(5)(B) of this title."

Subsec. (b). Pub. L. 105–178, §1107(d)(1), as added by Pub. L. 105–206, §9002(f), substituted "104(b)(4)" for "104(b)(5)(B)" in first sentence and "104(b)(5)(A) (as in effect on the date before the date of enactment of the Transportation Equity Act for the 21st Century)" for "104(b)(5)(A)" in two places.

Pub. L. 105–178, §1107(a)(2), (3), redesignated subsec. (d) as (b) and struck out former subsec. (b) which read as follows: "Not later than one year after the date of issuance of initial guidelines under section 109(m) of this title each State shall have a program for the Interstate system in accordance with such guidelines. Each State shall certify on January 1st of each year that it has such a program and the Interstate system is maintained in accordance with that program. If a State fails to certify as required or if the Secretary determines a State is not adequately maintaining the Interstate system in accordance with such program then the next apportionment of funds to such State for the Interstate system shall be reduced by amounts equal to 10 per centum of the amount which would otherwise be apportioned to such State under section 104 of this title. If, within one year from the date the apportionment for a State is reduced under this subsection, the Secretary determines that such State is maintaining the Interstate system in accordance with the guidelines the apportionment of such State shall be increased by an amount equal to the reduction. If the Secretary does not make such a determination within such one year period the amount so withheld shall be reapportioned to all other eligible States."

Subsec. (c). Pub. L. 105–178, §1107(d)(2), as added by Pub. L. 105–206, §9002(f), substituted "104(b)(4)" for "104(b)(5)(B)" wherever appearing.

Pub. L. 105–178, §1107(a)(2), (3), redesignated subsec. (f) as (c) and struck out heading and text of former subsec. (c). Text read as follows: "Activities authorized in subsection (a) may include the reconstruction of

bridges, interchanges, and over crossings along existing Interstate routes, including the acquisition of right-of-way where necessary, but shall not include the construction of new travel lanes other than high occupancy vehicle lanes or auxiliary lanes."

Subsec. (d). Pub. L. 105–178, §1107(a)(3), redesignated subsec. (g) as (d). Former subsec. (d) redesignated (b).

Subsec. (e). Pub. L. 105–178, §1107(a)(2), struck out heading and text of subsec. (e). Text read as follows: "Preventive maintenance activities shall be eligible under this section when a State can demonstrate, through its pavement management system, that such activities are a cost-effective means of extending Interstate pavement life."

Subsecs. (f), (g). Pub. L. 105–178, §1107(a)(3), redesignated subsecs. (f) and (g) as (c) and (d), respectively.

1991—Pub. L. 102–240, §1009(e)(1), substituted "maintenance program" for "System resurfacing" in section catchline.

Subsec. (a). Pub. L. 102–240, §1009(e)(5)(A), (B), substituted "and rehabilitating" for ", rehabilitating, and reconstructing" and struck out at end "The Federal share for any project under this subsection shall be that set forth in section 120(c) of this title."

Subsec. (c). Pub. L. 102–240, §1009(e)(3), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "Reconstructing as authorized in subsection (a) of this section may include, but is not limited to, the addition of travel lanes and the construction and reconstruction of interchanges and overcrossings along existing completed interstate routes, including the acquisition of right-of-way where necessary."

Subsec. (e). Pub. L. 102–240, §1009(e)(4), amended subsec. (e) generally, substituting present provisions for provisions authorizing Secretary to approve projects on toll roads only after reaching agreement with State highway department and public authorities that road will become free upon collection of tolls sufficient to liquidate cost of road and outstanding bonds and cost of maintenance, operation and debt service during period of toll collections, provisions relating to repayment to Federal Treasury, or reduction in apportionment, if road did not become free after collection of sufficient tolls, and provisions requiring pre-existing agreements to be treated as agreements under subsec. (e).

Subsec. (f). Pub. L. 102–240, §1009(e)(5)(C), substituted "Surface Transportation Program" for "Primary System" in heading.

Subsec. (f)(1). Pub. L. 102–240, §1009(b), (e)(5)(D), (E), substituted "or rehabilitating" for "rehabilitating, or reconstructing", substituted "sections 104(b)(1) and 104(b)(3)" for "section 104(b)(1)", and inserted "the State is adequately maintaining the Interstate System and" after "routes and".

Subsec. (f)(2). Pub. L. 102–240, §1009(e)(5)(E), substituted "sections 104(b)(1) and 104(b)(3)" for "section 104(b)(1)" in introductory provisions.

Subsec. (g). Pub. L. 102–240, §1009(a), added subsec. (g).

1987—Subsec. (a). Pub. L. 100–17, §116(c)(1), substituted "subsection (e)" for "section 105 of the Federal-Aid Highway Act of 1978".

Subsec. (d). Pub. L. 100–17, §116(a), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "Upon application by a State and approval by the Secretary, the Secretary may authorize the transfer of so much of the amount apportioned to such State for any fiscal year under paragraph (5)(A) of subsection (b) of section 104 of this title, as does not exceed the Federal share of the cost of segments of the Interstate System open to traffic in such State (other than high occupancy vehicle lanes), in the most recent cost estimate, to the apportionment under paragraph (5)(B) of subsection (b) of section 104 of this title, except that not more than 50 per centum of the total apportionment under such paragraph (5)(A) for a fiscal year shall be transferred under this subsection for such fiscal year. The next cost estimate submitted to Congress under paragraph (5)(A) of subsection (b) of such section 104 of the cost of completing segments of the Interstate System open to traffic in that State (other than high occupancy vehicle lanes) shall be reduced for such State in an amount equal to the amount transferred under this subsection. Notwithstanding any other provision of law, and for the purposes of this subsection, the phrase 'segments of the interstate system open to traffic' shall include a proposed four-lane, limited access highway, 6.4 miles in length, the construction of which will relocate to a southern alignment a portion of an existing interstate highway which was originally built without the aid of funds authorized by section 108(b) of the Federal-Aid Highway Act of 1956, as amended, and which connects to the east with an interstate highway on which tolls are charged. The construction of the proposed highway shall include a bridge over the Monongahela River."

Subsec. (e). Pub. L. 100–17, §116(b), added subsec. (e).

Subsec. (f). Pub. L. 100–202 substituted "amount not to exceed" for "amount equal to" in par. (2)(B).

Pub. L. 100–17, §116(b), added subsec. (f).

1985—Subsec. (d). Pub. L. 99–190 inserted provisions which brought within the phrase "segments of the

interstate system open to traffic" a proposed four-lane limited access highway, 6.4 miles in length, the construction of which will relocate to a southern alignment a portion of an existing highway originally built without the aid of Federal funds, connecting to the east with an interstate highway on which tolls are charged, with the proposed highway to include a bridge over the Monongahela River.

1984—Subsec. (a). Pub. L. 98–229 substituted provision authorizing the Secretary to approve projects designated under sections 103 and 139(c) of this title and routes on the Interstate System designated before Mar. 9, 1984, under section 139(a) and (b) of this title for provision authorizing the Secretary, beginning with funds apportioned for the fiscal year 1980, to approve projects under sections 103 and 139(c) of this title and, beginning with funds apportioned for fiscal year 1984, to approve routes or portions thereof on the Interstate System designated before Jan. 6, 1983, under section 139(a) of this title, which routes or portions were so designated in conjunction with the withdrawal of approval of another route or portion on the Interstate System under section 103(e)(4) of this title and provision that the Federal share be that as set forth in section 120(c) of this title for provision that the Federal share be that as set forth in section 120(a) of this title and that effective on or after Dec. 29, 1981, the Federal share be that as set forth in section 120(c) of this title.

1983—Subsec. (a). Pub. L. 97–424, §116(a)(1), inserted provision that, additionally, beginning with funds apportioned for fiscal year 1984, the Secretary may approve projects for resurfacing, restoring, rehabilitating, and reconstructing those routes or portions thereof on the Interstate System designated before Jan. 6, 1983, under section 139(a) of this title (other than routes on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) which routes or portions were so designated in conjunction with the withdrawal of approval of another route or portion thereof on the Interstate System under section 103(e)(4) of this title.

Pub. L. 97–424, §116(a)(2), substituted "under this subsection" for "designated under sections 103 and 139(c) of this title" before "shall be that set forth in section 120(c) of this title".

Subsecs. (b), (c). Pub. L. 97–424, §116(b), redesignated the second of two sections designated (b) as (c).

Subsec. (d). Pub. L. 97–424, §116(c), added subsec. (d).

1981—Subsec. (a). Pub. L. 97–134, §§6(a), 7, substituted "rehabilitating, and reconstructing routes of the Interstate System designated under sections 103 and 139(c) of this title" for "and rehabilitating those lanes in use for more than five years on the Interstate System", and inserted provision that effective on and after Dec. 29, 1981, the Federal share for projects financed by funds apportioned under section 104(b)(5)(B) of this title for resurfacing, restoring, rehabilitating, and reconstructing routes of the Interstate System designated under sections 103 and 139(c) of this title shall be that set forth in section 120(c) of this title.

Subsec. (b). Pub. L. 97–134, §6(b), added subsec. (b) providing that reconstruction may include the addition of travel lanes and the construction and reconstruction of interchanges and overcrossings along existing completed interstate routes, including the acquisition of right-of-way where necessary.

1979—Subsec. (b). Pub. L. 96–106 substituted "January 1st" for "October 1st" and "next apportionment of funds to such State" for "funds apportioned to such State for that fiscal year".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 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.

TRANSITION PERIOD

Pub. L. 112–141, div. A, title I, §1106(b), July 6, 2012, 126 Stat. 437, provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), until such date as a State has in effect an approved asset management plan and has established performance targets as described in sections 119 and 150 of title 23, United States Code, that will contribute to achieving the national goals for the condition and performance of the National Highway System, but not later than 18 months after the date on which the Secretary [of Transportation] promulgates the final regulation required under section 150(c) of that title, the Secretary shall approve obligations of funds apportioned to a State to carry out the national highway performance program under section 119 of that title, for projects that otherwise meet the requirements of that section.

"(2) EXTENSION.—The Secretary may extend the transition period for a State under paragraph (1) if the Secretary determines that the State has made a good faith effort to establish an asset management plan and performance targets referred to in that paragraph."

INTERSTATE NEEDS STUDY

Pub. L. 105–178, title I, §1107(c), June 9, 1998, 112 Stat. 138, directed the Secretary, in cooperation with States and metropolitan planning organizations, to conduct a study on the future condition of and needed improvements to the Interstate System and to transmit a report on the study no later than Jan. 1, 2000.

GUIDANCE TO STATES

Pub. L. 102–240, title I, §1009(c), Dec. 18, 1991, 105 Stat. 1933, directed the Secretary to develop guidance to states regarding how much project funding was attributable to expanding Interstate highway or bridge capacity and how to determine adequate maintenance of the Interstate System.

INNOVATIVE TECHNOLOGIES

Pub. L. 97–424, title I, §142, Jan. 6, 1983, 96 Stat. 2128, authorized the Secretary, for fiscal years through Sept. 30, 1985, to increase by 5 percent the Federal share of funding for certain projects using significant amounts of asphalt additives or recycled materials.

§120. Federal share payable

(a) INTERSTATE SYSTEM PROJECTS.—

(1) IN GENERAL.—Except as otherwise provided in this chapter, the Federal share payable on account of any project on the Interstate System (including a project to add high occupancy vehicle lanes and a project to add auxiliary lanes but excluding a project to add any other lanes) shall be 90 percent of the total cost thereof, plus a percentage of the remaining 10 percent of such cost in any State containing unappropriated and unreserved public lands and nontaxable Indian lands, individual and tribal, exceeding 5 percent of the total area of all lands therein, equal to the percentage that the area of such lands in such State is of its total area; except that such Federal share payable on any project in any State shall not exceed 95 percent of the total cost of such project.

(2) STATE-DETERMINED LOWER FEDERAL SHARE.—In the case of any project subject to paragraph (1), a State may determine a lower Federal share than the Federal share determined under such paragraph.

(b) OTHER PROJECTS.—Except as otherwise provided in this title, the Federal share payable on account of any project or activity carried out under this title (other than a project subject to subsection (a)) shall be—

(1) 80 percent of the cost thereof, except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 percent of the total

area of all lands therein, the Federal share, for purposes of this chapter, shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State, is of its total area; or

(2) 80 percent of the cost thereof, except that in the case of any State containing nontaxable Indian lands, individual and tribal, public domain lands (both reserved and unreserved), national forests, and national parks and monuments, the Federal share, for purposes of this chapter, shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area;

except that the Federal share payable on any project in a State shall not exceed 95 percent of the total cost of any such project. In any case where a State elects to have the Federal share provided in paragraph (2) of this subsection, the State must enter into an agreement with the Secretary covering a period of not less than 1 year, requiring such State to use solely for purposes eligible for assistance under this title (other than paying its share of projects approved under this title) during the period covered by such agreement the difference between the State's share as provided in paragraph (2) and what its share would be if it elected to pay the share provided in paragraph (1) for all projects subject to such agreement. In the case of any project subject to this subsection, a State may determine a lower Federal share than the Federal share determined under the preceding sentences of this subsection.

(c) INCREASED FEDERAL SHARE.—

(1) CERTAIN SAFETY PROJECTS.—The Federal share payable on account of any project for traffic control signalization, maintaining minimum levels of retroreflectivity of highway signs or pavement markings, traffic circles (also known as "roundabouts"), safety rest areas, pavement marking, shoulder and centerline rumble strips and stripes, commuter carpooling and vanpooling, rail-highway crossing closure, or installation of traffic signs, traffic lights, guardrails, impact attenuators, concrete barrier endtreatments, breakaway utility poles, vehicle-to-infrastructure communication equipment, or priority control systems for emergency vehicles or transit vehicles at signalized intersections may amount to 100 percent of the cost of construction of such projects; except that not more than 10 percent of all sums apportioned for all the Federal-aid programs for any fiscal year in accordance with section 104 of this title shall be used under this subsection. In this subsection, the term "safety rest area" means an area where motor vehicle operators can park their vehicles and rest, where food, fuel, and lodging services are not available, and that is located on a segment of highway with respect to which the Secretary determines there is a shortage of public and private areas at which motor vehicle operators can park their vehicles and rest.

(2) CMAQ PROJECTS.—The Federal share payable on account of a project or program carried out under section 149 with funds obligated in fiscal year 2008 or 2009, or both, shall be not less than 80 percent and, at the discretion of the State, may be up to 100 percent of the cost thereof.

(3) INNOVATIVE PROJECT DELIVERY.—

(A) IN GENERAL.—Except as provided in subparagraph (C), the Federal share payable on account of a project, program, or activity carried out with funds apportioned under paragraph (1), (2), (5)(D), or (6) of section 104(b) may, at the discretion of the State, be up to 100 percent for any such project, program, or activity that the Secretary determines—

(i) contains innovative project delivery methods that improve work zone safety for motorists or workers and the quality of the facility;

(ii) contains innovative technologies, engineering or design approaches, manufacturing processes, financing, or contracting or project delivery methods that improve the quality of, extend the service life of, or decrease the long-term costs of maintaining highways and bridges;

(iii) accelerates project delivery while complying with other applicable Federal laws (including regulations) and not causing any significant adverse environmental impact; or

(iv) reduces congestion related to highway construction.

(B) EXAMPLES.—Projects, programs, and activities described in subparagraph (A) may

include the use of—

(i) prefabricated bridge elements and systems and other technologies to reduce bridge construction time;

(ii) innovative construction equipment, materials, or techniques, including the use of in-place recycling technology and digital 3-dimensional modeling technologies;

(iii) innovative contracting methods, including the design-build and the construction manager-general contractor contracting methods and alternative bidding;

(iv) intelligent compaction equipment;

(v) innovative pavement materials that have a demonstrated life cycle of 75 or more years, are manufactured with reduced greenhouse gas emissions, and reduce construction-related congestion by rapidly curing;

(vi) contractual provisions that provide safety contingency funds to incorporate safety enhancements to work zones prior to or during roadway construction activities; or

(vii) contractual provisions that offer a contractor an incentive payment for early completion of the project, program, or activity, subject to the condition that the incentives are accounted for in the financial plan of the project, when applicable.

(C) LIMITATIONS.—

(i) IN GENERAL.—In each fiscal year, a State may use the authority under subparagraph (A) for up to 10 percent of the combined apportionments of the State under paragraphs (1), (2), (5)(D), and (6) of section 104(b).

(ii) FEDERAL SHARE INCREASE.—The Federal share payable on account of a project, program, or activity described in subparagraph (A) may be increased by up to 5 percent of the total project cost.

(4) POOLED FUNDING.—Notwithstanding any other provision of law, the Secretary may waive the non-Federal share of the cost of a project or activity under section 502(b)(6) that is carried out with amounts apportioned under section 104(b)(2) after considering appropriate factors, including whether—

(A) decreasing or eliminating the non-Federal share would best serve the interests of the Federal-aid highway program; and

(B) the project or activity addresses national or regional high priority research, development, and technology transfer problems in a manner that would benefit multiple States or metropolitan planning organizations.

(d) The Secretary may rely on a statement from the Secretary of the Interior as to the area of the lands referred to in subsections (a) and (b) of this section. The Secretary of the Interior is authorized and directed to provide such statement annually.

(e) EMERGENCY RELIEF.—The Federal share payable for any repair or reconstruction provided for by funds made available under section 125 for any project on a Federal-aid highway, including the Interstate System, shall not exceed the Federal share payable on a project on the system as provided in subsections (a) and (b), except that—

(1) the Federal share payable for eligible emergency repairs to minimize damage, protect facilities, or restore essential traffic accomplished within 270 days after the actual occurrence of the natural disaster or catastrophic failure may amount to 100 percent of the cost of the repairs;

(2) the Federal share payable for any repair or reconstruction of Federal land transportation facilities, other Federally owned roads that are open to public travel, and tribal transportation facilities may amount to 100 percent of the cost of the repair or reconstruction;

(3) the Secretary shall extend the time period in paragraph (1) taking into consideration any delay in the ability of the State to access damaged facilities to evaluate damage and the cost of repair; and

(4) the Federal share payable for eligible repairs to restore damaged facilities to predisaster condition may amount to 90 percent of the cost of the repairs if the eligible expenses incurred by

the State due to natural disasters or catastrophic failures in a Federal fiscal year exceeds the annual apportionment of the State under section 104 for the fiscal year in which the disasters or failures occurred.

(f) The Secretary is authorized to cooperate with the State transportation departments and with the Department of the Interior in the construction of Federal-aid highways within Indian reservations and national parks and monuments under the jurisdiction of the Department of the Interior and to pay the amount assumed therefor from the funds apportioned in accordance with section 104 of this title to the State wherein the reservations and national parks and monuments are located.

(g) Notwithstanding any other provision of this section or of this title, the Federal share payable on account of any project under this title in the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands shall be 100 per centum of the total cost of the project.

(h) INCREASED NON-FEDERAL SHARE.—Notwithstanding any other provision of this title and subject to such criteria as the Secretary may establish, a State may contribute an amount in excess of the non-Federal share of a project under this title so as to decrease the Federal share payable on such project.

(i) CREDIT FOR NON-FEDERAL SHARE.—

(1) ELIGIBILITY.—

(A) IN GENERAL.—A State may use as a credit toward the non-Federal share requirement for any funds made available to carry out this title (other than the emergency relief program authorized by section 125) or chapter 53 of title 49 toll revenues that are generated and used by public, quasi-public, and private agencies to build, improve, or maintain highways, bridges, or tunnels that serve the public purpose of interstate commerce.

(B) SPECIAL RULE FOR USE OF FEDERAL FUNDS.—If the public, quasi-public, or private agency has built, improved, or maintained the facility using Federal funds, the credit under this paragraph shall be reduced by a percentage equal to the percentage of the total cost of building, improving, or maintaining the facility that was derived from Federal funds.

(C) FEDERAL FUNDS DEFINED.—In this paragraph, the term "Federal funds" does not include loans of Federal funds or other financial assistance that must be repaid to the Government.

(2) MAINTENANCE OF EFFORT.—

(A) IN GENERAL.—The credit for any non-Federal share provided under this subsection shall not reduce nor replace State funds required to match Federal funds for any program under this title.

(B) CONDITION ON RECEIPT OF CREDIT.—To receive a credit under paragraph (1) for a fiscal year, a State shall enter into such agreement as the Secretary may require to ensure that the State will maintain its non-Federal transportation capital expenditures in such fiscal year at or above the average level of such expenditures for the preceding 3 fiscal years; except that if, for any 1 of the preceding 3 fiscal years, the non-Federal transportation capital expenditures of the State were at a level that was greater than 130 percent of the average level of such expenditures for the other 2 of the preceding 3 fiscal years, the agreement shall ensure that the State will maintain its non-Federal transportation capital expenditures in the fiscal year of the credit at or above the average level of such expenditures for the other 2 fiscal years.

(C) TRANSPORTATION CAPITAL EXPENDITURES DEFINED.—In subparagraph (B), the term "non-Federal transportation capital expenditures" includes any payments made by the State for issuance of transportation-related bonds.

(3) TREATMENT.—

(A) LIMITATION ON LIABILITY.—Use of a credit for a non-Federal share under this subsection that is received from a public, quasi-public, or private agency—

(i) shall not expose the agency to additional liability, additional regulation, or additional

administrative oversight; and

(ii) shall not subject the agency to any additional Federal design standards or laws (including regulations) as a result of providing the non-Federal share other than those to which the agency is already subject.

(B) CHARTERED MULTISTATE AGENCIES.—When a credit that is received from a chartered multistate agency is applied to a non-Federal share under this subsection, such credit shall be applied equally to all charter States.

(j) USE OF FEDERAL AGENCY FUNDS.—Notwithstanding any other provision of law, any Federal funds other than those made available under this title and title 49 may be used to pay the non-Federal share of the cost of any transportation project that is within, adjacent to, or provides access to Federal land, the Federal share of which is funded under this title or chapter 53 of title 49.

(k) USE OF FEDERAL LAND AND TRIBAL TRANSPORTATION FUNDS.—Notwithstanding any other provision of law, the funds authorized to be appropriated to carry out the tribal transportation program under section 202 and the Federal lands transportation program under section 203 may be used to pay the non-Federal share of the cost of any project that is funded under this title or chapter 53 of title 49 and that provides access to or within Federal or tribal land.

(l) FEDERAL SHARE FLEXIBILITY PILOT PROGRAM.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall establish a pilot program (referred to in this subsection as the "pilot program") to give States additional flexibility with respect to the Federal requirements under this section.

(2) PROGRAM.—

(A) IN GENERAL.—Notwithstanding any other provision of law, a State participating in the pilot program (referred to in this subsection as a "participating State") may determine the Federal share on a project, multiple-project, or program basis for projects under any of the following:

(i) The national highway performance program under section 119.

(ii) The surface transportation block grant program under section 133.

(iii) The highway safety improvement program under section 148.

(iv) The congestion mitigation and air quality improvement program under section 149.

(v) The national highway freight program under section 167.

(vi) The carbon reduction program under section 175.

(vii) Subsection (c) of the PROTECT program under section 176.

(B) REQUIREMENTS.—

(i) MAXIMUM FEDERAL SHARE.—Subject to clause (iii), the Federal share of the cost of an individual project carried out under a program described in subparagraph (A) by a participating State and to which the participating State is applying the Federal share requirements under the pilot program may be up to 100 percent.

(ii) MINIMUM FEDERAL SHARE.—No individual project carried out under a program described in subparagraph (A) by a participating State and to which the participating State is applying the Federal share requirements under the pilot program shall have a Federal share of 0 percent.

(iii) DETERMINATION.—The average annual Federal share of the total cost of all projects authorized under a program described in subparagraph (A) to which a participating State is applying the Federal share requirements under the pilot program shall be not more than the average of the maximum Federal share of those projects if those projects were not carried out under the pilot program.

(C) SELECTION.—

(i) APPLICATION.—A State seeking to be a participating State shall—

(I) submit to the Secretary an application in such form, at such time, and containing such information as the Secretary may require; and

(II) have in place adequate financial controls to allow the State to determine the average annual Federal share requirements under the pilot program.

(ii) REQUIREMENT.—For each of fiscal years 2022 through 2026, the Secretary shall select not more than 10 States to be participating States.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 898; Pub. L. 86–70, §21(d)(4), (e)(4), June 25, 1959, 73 Stat. 145, 146; Pub. L. 86–342, title I, §107(b), Sept. 21, 1959, 73 Stat. 613; Pub. L. 86–657, §3, July 14, 1960, 74 Stat. 522; Pub. L. 88–658, Oct. 13, 1964, 78 Stat. 1090; Pub. L. 89–574, §9(a), Sept. 13, 1966, 80 Stat. 769; Pub. L. 90–495, §§27(b), 34, Aug. 23, 1968, 82 Stat. 829, 835; Pub. L. 91–605, title I, §§106(f), 108(a), 109(b), 128, Dec. 31, 1970, 84 Stat. 1718, 1719, 1731; Pub. L. 95–599, title I, §§117, 129(a)–(c), (i), Nov. 6, 1978, 92 Stat. 2699, 2707, 2708; Pub. L. 97–424, title I, §§109(b), 117, 123(a), 153(f), 156(c), Jan. 6, 1983, 96 Stat. 2105, 2109, 2113, 2133, 2134; Pub. L. 98–78, title III, §318, Aug. 15, 1983, 97 Stat. 473; Pub. L. 100–17, title I, §117(a)–(c)(1), (d), (e), Apr. 2, 1987, 101 Stat. 155, 156; Pub. L. 102–240, title I, §§1021(a), (b), 1022(a), Dec. 18, 1991, 105 Stat. 1950, 1951; Pub. L. 104–59, title III, §310(a), Nov. 28, 1995, 109 Stat. 582; Pub. L. 104–205, title III, §353(a), Sept. 30, 1996, 110 Stat. 2980; Pub. L. 105–178, title I, §§1111(a)–(c), 1113(a), (c), formerly (d), 1115(a), (f)(1), 1212(a)(2)(A)(ii), June 9, 1998, 112 Stat. 145, 151, 152, 154, 193; Pub. L. 105–206, title IX, §§9002(i), 9006(a)(2), July 22, 1998, 112 Stat. 836, 848; Pub. L. 109–59, title I, §§1111(b)(2), 1116(c), 1119(a), 1905, 1947, Aug. 10, 2005, 119 Stat. 1171, 1177, 1181, 1467, 1513; Pub. L. 110–140, title XI, §1131, Dec. 19, 2007, 121 Stat. 1763; Pub. L. 112–141, div. A, title I, §§1304(b), 1508, July 6, 2012, 126 Stat. 532, 565; Pub. L. 114–94, div. A, title I, §§1104(e)(2), 1408, Dec. 4, 2015, 129 Stat. 1332, 1410; Pub. L. 117–58, div. A, title I, §11107, Nov. 15, 2021, 135 Stat. 459.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Surface Transportation Reauthorization Act of 2021, referred to in subsec. (l)(1), is the date of enactment of div. A of Pub. L. 117–58, which was approved Nov. 15, 2021.

AMENDMENTS

2021—Subsec. (c)(1). Pub. L. 117–58, §11107(1)(A), inserted "vehicle-to-infrastructure communication equipment," after "breakaway utility poles,".

Subsec. (c)(3)(B)(vi), (vii). Pub. L. 117–58, §11107(1)(B), added cl. (vi) and redesignated former cl. (vi) as (vii).

Subsec. (c)(4). Pub. L. 117–58, §11107(1)(C), added par. (4).

Subsec. (e)(1). Pub. L. 117–58, §11107(2)(A), substituted "270 days" for "180 days".

Subsec. (e)(4). Pub. L. 117–58, §11107(2)(B), struck out "permanent" before "repairs to restore".

Subsec. (l). Pub. L. 117–58, §11107(3), added subsec. (l).

2015—Subsec. (c)(3)(A). Pub. L. 114–94, §1104(e)(2)(A), substituted "(5)(D), or (6)" for "or (5)" in introductory provisions.

Subsec. (c)(3)(A)(ii). Pub. L. 114–94, §1408(a)(1), inserted "engineering or design approaches," after "technologies," and "or project delivery" after "or contracting".

Subsec. (c)(3)(B)(iii). Pub. L. 114–94, §1408(a)(2)(A), inserted "and alternative bidding" before semicolon at end.

Subsec. (c)(3)(B)(v), (vi). Pub. L. 114–94, §1408(a)(2)(B)–(D), added cl. (v) and redesignated former cl. (v) as (vi).

Subsec. (c)(3)(C)(i). Pub. L. 114–94, §1104(e)(2)(B), substituted "(5)(D), and (6)" for "and (5)".

Subsec. (e)(2). Pub. L. 114–94, §1408(b), substituted "other Federally owned roads that are open to public travel" for "Federal land access transportation facilities".

2012—Subsec. (c)(1). Pub. L. 112–141, §1508(1), inserted "maintaining minimum levels of retroreflectivity of highway signs or pavement markings," after "traffic control signalization," and "shoulder and centerline rumble strips and stripes," after "pavement marking," and substituted "Federal-aid programs"

for "Federal-aid systems".

Subsec. (c)(3). Pub. L. 112–141, §1304(b), added par. (3).

Subsec. (e). Pub. L. 112–141, §1508(2), added subsec. (e) and struck out former subsec. (e). Prior to amendment, text read as follows: "The Federal share payable on account of any repair or reconstruction provided for by funds made available under section 125 of this title on account of any project on a Federal-aid highway, including the Interstate System, shall not exceed the Federal share payable on a project on such highway as provided in subsections (a) and (b) of this section; except that (1) the Federal share payable for eligible emergency repairs to minimize damage, protect facilities, or restore essential traffic accomplished within 180 days after the actual occurrence of the natural disaster or catastrophic failure may amount to 100 percent of the costs thereof; and (2) the Federal share payable on account of any repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads may amount to 100 percent of the cost thereof. The total cost of a project may not exceed the cost of repair or reconstruction of a comparable facility. As used in this section with respect to bridges and in section 144 of this title, 'a comparable facility' shall mean a facility which meets the current geometric and construction standards required for the types and volume of traffic which such facility will carry over its design life."

Subsecs. (g), (h). Pub. L. 112–141, §1508(3), redesignated subsecs. (h) and (i) as (g) and (h), respectively, and struck out former subsec. (g). Prior to amendment, text of subsec. (g) read as follows: "At the request of any State, the Secretary may from time to time enter into agreements with such State to reimburse the State for the Federal share of the costs of preliminary and construction engineering at an agreed percentage of actual construction costs for each project, in lieu of the actual engineering costs for such project. The Secretary shall annually review each such agreement to insure that such percentage reasonably represents the engineering costs actually incurred by such State."

Subsec. (i). Pub. L. 112–141, §1508(3), (4), redesignated subsec. (j) as (i) and struck out "and the Appalachian development highway system program under section 14501 of title 40" after "authorized by section 125" in par. (1)(A).

Subsecs. (j), (k). Pub. L. 112–141, §1508(5), added subsecs. (j) and (k) and struck out former subsecs. (j) and (k) which read as follows:

"(j) USE OF FEDERAL LAND MANAGEMENT AGENCY FUNDS.—Notwithstanding any other provision of law, the funds appropriated to any Federal land management agency may be used to pay the non-Federal share of the cost of any project the Federal share of which is funded under this title or chapter 53 of title 49.

"(k) USE OF FEDERAL LANDS HIGHWAYS PROGRAM FUNDS.—Notwithstanding any other provision of law, the funds authorized to be appropriated to carry out the Federal lands highways program under section 204 may be used to pay the non-Federal share of the cost of any project that is funded under this title or chapter 53 of title 49 and that provides access to or within Federal or Indian lands."

Pub. L. 112–141, §1508(3), redesignated subsecs. (k) and (l) as (j) and (k), respectively.

Subsec. (l). Pub. L. 112–141, §1508(3), redesignated subsec. (l) as (k).

2007—Subsec. (c). Pub. L. 110–140 struck out "for Certain Safety Projects" after "Share" in subsec. heading, designated existing provisions as par. (1), inserted par. (1) heading, and added par. (2).

2005—Subsec. (c). Pub. L. 109–59, §1947, inserted "traffic circles (also known as 'roundabouts')," after "traffic control signalization,".

Subsec. (e). Pub. L. 109–59, §1111(b)(2), substituted "such highway" for "such system" in first sentence.

Subsec. (j). Pub. L. 109–59, §1116(c), inserted "and the Appalachian development highway system program under section 14501 of title 40" after "section 125".

Subsec. (j)(1). Pub. L. 109–59, §1905, designated existing provisions as subpar. (A), inserted heading, and substituted subpars. (B) and (C) for "Such public, quasi-public, or private agencies shall have built, improved, or maintained such facilities without Federal funds."

Subsec. (k). Pub. L. 109–59, §1119(a)(1), struck out "Federal-aid highway" before "project" and substituted "this title or chapter 53 of title 49" for "section 104".

Subsec. (l). Pub. L. 109–59, §1119(a)(2), substituted "this title or chapter 53 of title 49" for "section 104".

1998—Subsec. (a). Pub. L. 105–178, §1111(a)(1), designated existing provisions as par. (1), inserted heading, realigned margins, and added par. (2).

Subsec. (b). Pub. L. 105–178, §1111(a)(2), inserted at end of concluding provisions "In the case of any project subject to this subsection, a State may determine a lower Federal share than the Federal share determined under the preceding sentences of this subsection."

Subsec. (c). Pub. L. 105–178, §1111(b), inserted "or transit vehicles" after "emergency vehicles" in first sentence.

Subsec. (e). Pub. L. 105–178, §1113(c), formerly §1113(d), renumbered §1113(c) by Pub. L. 105–206, §9006(a)(2), substituted "and (b)" for "and (c)" and "180 days" for "90 days".

Pub. L. 105–178, §1113(a), substituted "highway" for "highway system" in first sentence.

Subsec. (f). Pub. L. 105–178, §1212(a)(2)(A)(ii), substituted "State transportation departments" for "State highway departments".

Subsec. (j). Pub. L. 105–178, §1115(f)(1), as added by Pub. L. 105–206, §9002(i), redesignated subsec. (j), relating to use of Federal land management agency funds, as (k).

Pub. L. 105–178, §1115(a), added subsec. (j) relating to use of Federal land management agency funds.

Pub. L. 105–178, §1111(c), added subsec. (j) relating to credit for non-Federal share.

Subsec. (k). Pub. L. 105–178, §1115(f)(1), as added by Pub. L. 105–206, §9002(i), redesignated subsec. (j), relating to use of Federal land management agency funds, as (k). Former subsec. (k) redesignated (l).

Pub. L. 105–178, §1115(a), added subsec. (k).

Subsec. (l). Pub. L. 105–178, §1115(f)(1), as added by Pub. L. 105–206, §9002(i), redesignated subsec. (k) as (l).

1996—Subsec. (c). Pub. L. 104–205 inserted "rail-highway crossing closure," after "carpooling and vanpooling,".

1995—Subsec. (c). Pub. L. 104–59 inserted "safety rest areas," after "signalization," and inserted sentence at end defining "safety rest area".

1991—Subsecs. (a) to (c). Pub. L. 102–240, §1021(a), added subsecs. (a) to (c) and struck out former subsec. (a) which contained provisions relating to Federal share of Federal-aid primary, secondary and urban system projects, former subsec. (b) which contained provisions relating to Federal share of Interstate System projects financed with funds authorized to be appropriated prior to June 29, 1956, and former subsec. (c) which contained provisions relating to Federal share of Interstate System projects financed with funds made available under section 108(b) of the Federal-Aid Highway Act of 1956.

Subsec. (d). Pub. L. 102–240, §1022(a), which directed the substitution of "180 days" for "90 days" in subsec. (d) as redesignated, could not be executed because the phrase "90 days" does not appear in subsec. (d) as redesignated.

Pub. L. 102–240, §1021(b)(3), which directed the substitution of "and (b)" for "and (c)" in subsec. (d) as redesignated, could not be executed because the phrase "and (c)" does not appear in subsec. (d) as redesignated.

Pub. L. 102–240, §1021(a), (b)(2), redesignated subsec. (e) as (d) and struck out former subsec. (d) which related to Federal share for projects for railway-highway crossing elimination, traffic control signalization, pavement marking, carpooling and vanpooling, and installation of traffic signs, highway lights, guardrails, and impact attenuators.

Subsec. (e). Pub. L. 102–240, §1021(b)(2), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsecs. (f) to (h). Pub. L. 102–240, §1021(b)(2), redesignated subsecs. (g) to (i) as (f) to (h), respectively. Former subsec. (f) redesignated (e).

Subsec. (i). Pub. L. 102–240, §1021(b)(2), redesignated subsec. (n) as (i). Former subsec. (i) redesignated (h).

Subsecs. (j) to (m). Pub. L. 102–240, §1021(b)(1), struck out subsec. (j) which related to Federal share of project financed under section 307(c) of this title, subsec. (k) which related to Federal share of projects under sections 143 and 155 of this title and projects for priority primary routes under section 147 of this title, subsec. (l) which related to Federal share of projects to reconstruct, resurface, restore and rehabilitate highways which incurred substantial use as result of transportation activities to meet national energy requirements, and subsec. (m) which related to Federal share of Great River Road projects under section 148 of this title.

Subsec. (n). Pub. L. 102–240, §1021(b)(2), redesignated subsec. (n) as (i).

1987—Subsec. (d). Pub. L. 100–17, §117(a), inserted "or for installation of traffic signs, highway lights, guardrails, or impact attenuators" after "vanpooling".

Subsec. (f). Pub. L. 100–17, §117(c)(1), inserted heading and amended first sentence generally. Prior to amendment, first sentence read as follows: "The Federal share payable on account of any repair or reconstruction provided for by funds made available under section 125 of this title shall not exceed 100 per centum of the cost thereof: *Provided*, That the Federal share payable on account of any repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads may amount to 100 per centum of the cost thereof."

Subsecs. (i), (j). Pub. L. 100–17, §117(b), redesignated subsec. (i) relating to Federal share payable on account of any project financed under section 307(c) of this title, as subsec. (j). Former subsec. (j)

redesignated (k).

Subsec. (k). Pub. L. 100–17, §117(b), (d)(1), redesignated former subsec. (j) as (k) and substituted "(j)" for "(i)", "and 155" for ", 148, and 155," and "100–3" for "97–61". Former subsec. (k) redesignated (l).

Subsec. (l). Pub. L. 100–17, §117(b), redesignated former subsec. (k) as (l).

Subsec. (m). Pub. L. 100–17, §117(d)(2), added subsec. (m).

Subsec. (n). Pub. L. 100–17, §117(e), added subsec. (n).

1983—Subsec. (j). Pub. L. 98–78 inserted ", and for funds allocated under the provisions of section 155 of this title and obligated subsequent to January 6, 1983," after "Representatives".

1983—Subsec. (c). Pub. L. 97–424, §117(a), inserted provision at end that, notwithstanding subsection (a) of this section, the Federal share payable on account of any project financed with primary funds on the Interstate System for resurfacing, restoring, rehabilitating, and reconstructing shall be the percentage provided in this subsection.

Subsec. (d). Pub. L. 97–424, §117(b), inserted "or for pavement marking" after "signalization", and provision that the Federal share payable on account of any project for traffic control signalization under section 103(e)(4) of this title may amount to 100 per centum of the cost of construction of such project.

Pub. L. 97–424, §123(a), inserted "or for commuter carpooling and vanpooling" before ", may amount to 100 per centum".

Subsec. (f). Pub. L. 97–424, §153(f), substituted "100 per centum" for "75 per centum" after "shall not exceed", struck out provision that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments exceeding 5 per centum of the total area of all lands therein, the Federal share would be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area, struck out ", whether or not such highways, roads, or trails are on any Federal-aid highway system" after "may amount to 100 per centum of the cost thereof", substituted provision that the total cost of a project may not exceed the cost of repair or reconstruction of a comparable facility for provision that the Secretary might increase the Federal share payable on account of any repair or reconstruction under this section up to 100 per centum of the replacement cost of a comparable facility if he determined it to be in the public interest, and struck out provision that any project agreement for which the final voucher had not been approved by the Secretary on or before the date of this Act might be modified to provide for the Federal share authorized herein.

Subsec. (i). Pub. L. 97–424, §156(c), added subsec. (i) relating to Federal share payable for any project financed under section 307(c) of this title.

Subsec. (j). Pub. L. 97–424, §117(c), added subsec. (j).

Subsec. (k). Pub. L. 97–424, §109(b), added subsec. (k).

1978—Subsec. (a). Pub. L. 95–599, §129(a), substituted "75 per centum" for "70 per centum" wherever appearing.

Subsec. (d). Pub. L. 95–599 §§117, 129(b), inserted "and for any project for traffic control signalization," after "section 130 of this title,", and substituted "75 per centum" for "70 per centum."

Subsec. (f). Pub. L. 95–599, §129(c), substituted "75 per centum" for "70 per centum" wherever appearing.

Subsec. (i). Pub. L. 95–599, §129(i), added subsec. (i) relating to Federal share payable for any project in the Virgin Islands, etc.

1970—Subsec. (a). Pub. L. 91–605, §§106(f), 108(a), inserted reference to the Federal-aid urban system, and substituted "70 per centum" for "50 per centum" in two places.

Subsec. (d). Pub. L. 91–605, §108(a), substituted "70 per centum" for "50 per centum".

Subsec. (f). Pub. L. 91–605, §§108(a), 109(b), inserted definition of "a comparable facility" and substituted "70 per centum" for "50 per centum".

Subsec. (h). Pub. L. 91–605, §128, added subsec. (h).

1968—Subsec. (a). Pub. L. 90–495, §34, made provision for an election by the States as to the formula it desired to have its Federal share computed under by adding an optional formula permitting an increase in the Federal share by a percentage of the remaining cost equal to the percentage that the area of specified lands is of the State's total, but not so as to increase the share beyond 95 percent of the total cost of the project, with States exercising the option required to enter into an agreement to use the difference solely for highway construction purposes.

Subsec. (f). Pub. L. 90–495, §27(b), authorized the Secretary to increase the Federal share payable on account of any repair or reconstruction under this section up to 100 per centum of the replacement cost of a comparable facility if he determines that it is in the public interest.

1966—Subsec. (f). Pub. L. 89–574 added parkways, public land highways, public lands development roads, and trails to the list of road projects on the repair or reconstruction of which the Federal share payable may

amount to 100 per centum of the cost.

1964—Subsec. (f). Pub. L. 88–658 provided that in case of any State containing nontaxable Indian lands, and public domain lands exclusive of national forests and national parks and monuments exceeding 5 per centum of the total area of all lands therein, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State, is of its total area.

1960—Subsec. (a). Pub. L. 86–657 substituted "nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments" for "unappropriated and unreserved public lands and nontaxable Indian lands, individual and tribal".

1959—Subsec. (a). Pub. L. 86–70, §21(e)(4), substituted "subsection (d) of this section" for "subsections (d) and (h) of this section".

Subsec. (f). Pub. L. 86–342 provided that the Federal share payable on account of any repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, and Indian reservation roads may amount to 100 per centum of the cost thereof, whether or not such highways, roads or trails are on any Federal-aid highway system.

Subsec. (h). Pub. L. 86–70, §21(d)(4), repealed subsec. (h) which related to contributions by the Territory of Alaska and to the expenditure of Federal funds apportioned to the Territory of Alaska and funds contributed by the Territory.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Except as otherwise provided, amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

Pub. L. 114–94, div. A, title I, §1408(c), as added by Pub. L. 114–113, div. L, title IV, §421, Dec. 18, 2015, 129 Stat. 2908, provided that: "The amendment made by subsection (b) [amending this section] shall apply to projects to repair or reconstruct facilities damaged as a result of a natural disaster or catastrophic failure described in section 125(a) of title 23, United States Code, occurring on or after October 1, 2015."

[Pub. L. 114–113, div. L, title IV, §421, Dec. 18, 2015, 129 Stat. 2908, provided that the enactment by section 421 of section 1408(c) of Pub. L. 114–94, set out above, is effective as of Dec. 4, 2015, and as if included in Pub. L. 114–94 as enacted.]

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 1021 of Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of this title.

Pub. L. 102–240, title I, §1022(c), Dec. 18, 1991, 105 Stat. 1951, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 125 of this title] shall only apply to natural disasters and catastrophic failures occurring after the date of the enactment of this Act [Dec. 18, 1991]."

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–17, title I, §117(c)(2), Apr. 2, 1987, 101 Stat. 155, provided that: "The amendment made by paragraph (1) [amending this section] shall apply to all natural disasters and catastrophic failures which occur after the date of the enactment of this Act [Apr. 2, 1987]."

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–599, title I, §129(h), Nov. 6, 1978, 92 Stat. 2708, provided that: "The amendments made by subsections (a) through (g) of this section [amending this section and sections 148, 155, 215, and 406 of this title] shall take effect with respect to obligations incurred after the date of enactment of this section [Nov. 6, 1978]."

EFFECTIVE DATE OF 1970 AMENDMENT

Pub. L. 91–605, title I, §108(b), Dec. 31, 1970, 84 Stat. 1718, as amended by Pub. L. 93–87, title I, §153, Aug. 13, 1973, 87 Stat. 276, provided that: "The amendments made by subsection (a) of this section [amending this section] shall take effect with respect to all obligations incurred after June 30, 1973."

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by section 27(b) of Pub. L. 90–495 applicable to repair or construction with respect to which project agreements have been entered into on or before Jan. 1, 1968, see section 27(c) of Pub. L. 90–495, set out as a note under section 125 of this title.

Amendment by section 34 of Pub. L. 90–495 effective Aug. 23, 1968, see section 37 of Pub. L. 90–495, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by section 21(d)(4) of Pub. L. 86–70 effective July 1, 1959, see section 21(d) of Pub. L. 86–70, set out as a note under section 103 of this title.

Amendment by section 21(e)(4) of Pub. L. 86–70 effective July 1, 1959, see section 12(e) of Pub. L. 86–70, set out as a note under section 101 of this title.

TRANSFER AND SALE OF TOLL CREDITS

Pub. L. 117–58, div. A, title I, §11503, Nov. 15, 2021, 135 Stat. 578, provided that:

"(a) DEFINITIONS.—In this section:

"(1) ORIGINATING STATE.—The term 'originating State' means a State that—

"(A) is eligible to use a credit under section 120(i) of title 23, United States Code; and

"(B) has been selected by the Secretary [of Transportation] under subsection (d)(2).

"(2) PILOT PROGRAM.—The term 'pilot program' means the pilot program established under subsection (b).

"(3) RECIPIENT STATE.—The term 'recipient State' means a State that receives a credit by transfer or by sale under this section from an originating State.

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

"(b) ESTABLISHMENT OF PILOT PROGRAM.—The Secretary shall establish and implement a toll credit exchange pilot program in accordance with this section.

"(c) PURPOSES.—The purposes of the pilot program are—

"(1) to identify the extent of the demand to purchase toll credits;

"(2) to identify the cash price of toll credits through bilateral transactions between States;

"(3) to analyze the impact of the purchase or sale of toll credits on transportation expenditures;

"(4) to test the feasibility of expanding the pilot program to allow all States to participate on a permanent basis; and

"(5) to identify any other repercussions of the toll credit exchange.

"(d) SELECTION OF ORIGINATING STATES.—

"(1) APPLICATION.—In order to participate in the pilot program as an originating State, a State shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including, at a minimum, such information as is required for the Secretary to verify—

"(A) the amount of unused toll credits for which the State has submitted certification to the Secretary that are available to be sold or transferred under the pilot program, including—

"(i) toll revenue generated and the sources of that revenue;

"(ii) toll revenue used by public, quasi-public, and private agencies to build, improve, or maintain highways, bridges, or tunnels that serve the public purpose of interstate commerce; and

"(iii) an accounting of any Federal funds used by the public, quasi-public, or private agency to build, improve, or maintain the toll facility, to validate that the credit has been reduced by a percentage equal to the percentage of the total cost of building, improving, or maintaining the facility that was derived from Federal funds;

"(B) the documentation of maintenance of effort for toll credits earned by the originating State; and

"(C) the accuracy of the accounting system of the State to earn and track toll credits.

"(2) SELECTION.—Of the States that submit an application under paragraph (1), the Secretary may select not more than 10 States to be designated as an originating State.

"(3) LIMITATION ON SALES.—At any time, the Secretary may limit the amount of unused toll credits that may be offered for sale under the pilot program.

"(e) TRANSFER OR SALE OF CREDITS.—

"(1) IN GENERAL.—In carrying out the pilot program, the Secretary shall provide that an originating State may transfer or sell to a recipient State a credit not previously used by the originating State under section 120(i) of title 23, United States Code.

"(2) WEBSITE SUPPORT.—The Secretary shall make available a publicly accessible website on which originating States shall post the amount of toll credits, verified under subsection (d)(1)(A), that are available for sale or transfer to a recipient State.

"(3) BILATERAL TRANSACTIONS.—An originating State and a recipient State may enter into a bilateral transaction to sell or transfer verified toll credits.

"(4) NOTIFICATION.—Not later than 30 days after the date on which a credit is transferred or sold, the originating State and the recipient State shall jointly submit to the Secretary a written notification of the transfer or sale, including details on—

"(A) the amount of toll credits that have been sold or transferred;

"(B) the price paid or other value transferred in exchange for the toll credits;

"(C) the intended use by the recipient State of the toll credits, if known;

"(D) the intended use by the originating State of the cash or other value transferred;

"(E) an update on the toll credit balance of the originating State and the recipient State; and

"(F) any other information about the transaction that the Secretary may require.

"(5) USE OF CREDITS BY TRANSFEREE OR PURCHASER.—A recipient State may use a credit received under paragraph (1) toward the non-Federal share requirement for any funds made available to carry out title 23 or chapter 53 of title 49, United States Code, in accordance with section 120(i) of title 23, United States Code.

"(6) USE OF PROCEEDS FROM SALE OF CREDITS.—An originating State shall use the proceeds from the sale of a credit under paragraph (1) for the construction costs of any project in the originating State that is eligible under title 23, United States Code.

"(f) REPORTING REQUIREMENTS.—

"(1) INITIAL REPORT.—Not later than 1 year after the date on which the pilot program is established, 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 report on the progress of the pilot program.

"(2) FINAL REPORT.—Not later than 3 years after the date on which the pilot program is established, the Secretary shall—

"(A) submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

"(i) determines whether a toll credit marketplace is viable and cost-effective;

"(ii) describes the buying and selling activities under the pilot program;

"(iii) describes the average sale price of toll credits;

"(iv) determines whether the pilot program could be expanded to more States or all States or to non-State operators of toll facilities;

"(v) provides updated information on the toll credit balance accumulated by each State; and

"(vi) describes the list of projects that were assisted by the pilot program; and

"(B) make the report under subparagraph (A) publicly available on the website of the Department [of Transportation].

"(g) TERMINATION.—

"(1) IN GENERAL.—The Secretary may terminate the pilot program or the participation of any State in the pilot program if the Secretary determines that—

"(A) the pilot program is not serving a public benefit; or

"(B) it is not cost effective to carry out the pilot program.

"(2) PROCEDURES.—The termination of the pilot program or the participation of a State in the pilot program shall be carried out consistent with Federal requirements for project closeout, adjustment, and continuing responsibilities."

CREDIT FOR NON-FEDERAL SHARE

Pub. L. 102–240, title I, §1044, Dec. 18, 1991, 105 Stat. 1994, provided that:

"(a) ELIGIBILITY.—A State may use as a credit toward the non-Federal matching share requirement for all programs under this Act [see Short Title of 1991 Amendment note set out under section 101 of Title 49, Transportation] and title 23, United States Code, toll revenues that are generated and used by public, quasi-public and private agencies to build, improve, or maintain highways, bridges, or tunnels that serve the public purpose of interstate commerce. Such public, quasi-public or private agencies shall have built, improved, or maintained such facilities without Federal funds.

"(b) MAINTENANCE OF EFFORT.—The credit for any non-Federal share shall not reduce nor replace State monies required to match Federal funds for any program pursuant to this Act or title 23, United States Code. In receiving a credit for non-Federal capital expenditures under this section, a State shall enter into such agreements as the Secretary may require to ensure that such State will maintain its non-Federal transportation capital expenditures at or above the average level of such expenditures for the preceding three fiscal years.

"(c) TREATMENT.—Use of such credit for a non-Federal share shall not expose such agencies from which the credit is received to additional liability, additional regulation or additional administrative oversight. When credit is applied from chartered multi-State agencies, such credit shall be applied equally to all charter States. The public, quasi-public, and private agencies from which the credit for which the non-Federal share is calculated shall not be subject to any additional Federal design standards, laws or regulations as a result of providing non-Federal match other than those to which such agency is already subject."

TEMPORARY MATCHING FUND WAIVER

Pub. L. 102–240, title I, §1054, Dec. 18, 1991, 105 Stat. 2001, provided that:

"(a) WAIVER OF MATCHING SHARE.—Notwithstanding any other provision of law, the Federal share of any qualifying project approved by the Secretary under title 23, United States Code, and of any qualifying project for which the United States becomes obligated to pay under title 23, United States Code, during the period beginning on October 1, 1991, and ending September 30, 1993, shall be the percentage of the construction cost as the State requests, up to and including 100 percent.

"(b) REPAYMENT.—The total amount of increases in the Federal share made pursuant to subsection (a) for any State shall be repaid to the United States by the State on or before March 30, 1994. Payments shall be deposited in the Highway Trust Fund and repaid amounts shall be credited to the appropriate apportionment accounts of the State.

"(c) DEDUCTION FROM APPORTIONMENTS.—If a State has not made the repayment as required by subsection (b), the Secretary shall deduct from funds apportioned to the State under title 23, United States Code, in each of the fiscal years 1995 and 1996, a pro rata share of each category of apportioned funds. The amount which shall be deducted in each fiscal year shall be equal to 50 percent of the amount needed for repayment. Any amount deducted under this subsection shall be reapportioned for fiscal years 1995 and 1996 in accordance with title 23, United States Code, to those States which have not received a higher Federal share under this section and to those States which have made the repayment required by subsection (b).

"(d) QUALIFYING PROJECT DEFINED.—For purposes of this section, the term 'qualifying project' means a project approved by the Secretary after the effective date of this title [Dec. 18, 1991], or a project for which the United States becomes obligated to pay after such effective date, and for which the Governor of the State submitting the project has certified, in accordance with regulations established by the Secretary, that sufficient funds are not available to pay the cost of the non-Federal share of the project."

INCENTIVE PROGRAM FOR USE OF COAL ASH

Pub. L. 100–17, title I, §117(f), Apr. 2, 1987, 101 Stat. 156, provided that in fiscal years 1987 to 1991, the Federal share of the cost of highway or bridge construction projects using significant amounts of coal ash would be increased by 5 percent, but not to exceed 95 percent of the cost.

OBLIGATIONS FOR PROJECTS RESULTING FROM NATURAL DISASTERS OR CATASTROPHIC FAILURES; EMERGENCY RELIEF; FEDERAL SHARE

Pub. L. 97–424, title I, §153(g), Jan. 6, 1983, 96 Stat. 2133, provided that: "All obligations for projects resulting from a natural disaster or catastrophic failure which the Secretary finds to be eligible for emergency relief subsequent to the date of enactment of this subsection [Jan. 6, 1983] shall provide for the Federal share

required by subsection (f) of section 120 of title 23, United States Code, as amended by this section."

FEDERAL SHARE OF PROJECTS APPROVED DURING PERIOD BEGINNING FEBRUARY 12, 1975, AND ENDING SEPTEMBER 30, 1975

Pub. L. 94–30, §§1, 2, June 4, 1975, 89 Stat. 171, as amended by Pub. L. 94–280, title I, §145, May 5, 1976, 90 Stat. 446, provided for Federal share of projects approved under section 106(a) of this title, and projects for which United States becomes obligated under former section 117 of this title during the period beginning Feb. 12, 1975, and ending Sept. 30, 1975, and repayment schedule for States from Jan. 1, 1977, through Jan. 1, 1979.

REVIEW AND ANALYSIS OF EXCISE TAXES DEDICATED TO HIGHWAY TRUST FUND

Pub. L. 95–599, title V, §507, Nov. 6, 1978, 92 Stat. 2761, provided that:

"(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Secretary of Transportation and the staff of the Joint Committee on Taxation, shall—

"(1) review and analyze each excise tax now dedicated to the Highway Trust Fund with respect to such factors as ease or difficulty of administration of such tax and the compliance burdens imposed on taxpayers by such tax, and

"(2) on or before April 15, 1982, report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate as to the matters set forth in paragraph (1) and other findings, as well as recommendations on—

"(A) improvements in excise taxation which would enhance tax administration, equity, and compliance, or

"(B) a new system of raising revenues to fund the Highway Trust Fund which would meet the objectives set forth in subparagraph (A).

The recommendations described in paragraph (2) shall be formulated in conjunction with the recommendations of the cost allocation study under section 506 set out as note under section 307 of this title of the equitable distribution of the highway excise taxes.

"(b) INTERIM REPORTS.—The Secretary of the Treasury, in consultation with the Secretary of Transportation and the staff of the Joint Committee on Taxation, shall file an interim report with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on or before April 15, 1980, and a second interim report on or before April 15, 1981."

HIGHWAY TRUST FUND

Act June 29, 1956, ch. 462, title II, §209, 70 Stat. 397, as amended by Pub. L. 86–342, title II, §202, Sept. 21, 1959, 73 Stat. 615; Pub. L. 86–346, title I, §104(5), Sept. 22, 1959, 73 Stat. 622; Pub. L. 86–440, §1(c), Apr. 22, 1960, 74 Stat. 81; Pub. L. 87–61, title II, §207, June 29, 1961, 75 Stat. 128; Pub. L. 88–578, title II, §202, Sept. 3, 1964, 78 Stat. 904; Pub. L. 89–44, title II, §210, title VIII, §809(e), June 21, 1965, 79 Stat. 144, 168; Pub. L. 91–258, title II, §§207(e), 208(g), May 21, 1970, 84 Stat. 249, 252; Pub. L. 91–605, title III, §301, Dec. 31, 1970, 84 Stat. 1743; Pub. L. 94–273, §18, Apr. 21, 1976, 90 Stat. 379; Pub. L. 94–280, title III, §301, May 5, 1976, 90 Stat. 456; Pub. L. 95–599, title V, §§503(a), 504(a), Nov. 6, 1978, 92 Stat. 2757; Pub. L. 95–618, title II, §233(b)(2)(E), Nov. 9, 1978, 92 Stat. 3191; Pub. L. 96–451, title II, §203(a), Oct. 14, 1980, 94 Stat. 1988; Pub. L. 97–424, title V, §531(b), Jan. 6, 1983, 96 Stat. 2191; Pub. L. 97–449, §2(a), Jan. 12, 1983, 96 Stat. 2439, provided that:

"(a) [Repealed. Pub. L. 97–424, title V, §531(b), Jan. 6, 1983, 96 Stat. 2191. Subsec. (a) provided for the creation of a Highway Trust Fund.]

"(b) DECLARATION OF POLICY.—It is hereby declared to be the policy of the Congress that if it hereafter appears—

"(1) that the total receipts of the Trust Fund (exclusive of advances under subsection (d) will be less than the total expenditures from such Fund (exclusive of repayments of such advances); or

"(2) that the distribution of the tax burden among the various classes of persons using the Federal-aid highways, or otherwise deriving benefits from such highways, is not equitable, the Congress shall enact legislation in order to bring about a balance of total receipts and total expenditures, or such equitable distribution, as the case may be.

"(c) to (g) [Repealed. Pub. L. 97–424, title V, §531(b), Jan. 6, 1983, 96 Stat. 2191. Subsecs. (c) to (g) provided generally for the transfer of the equivalent of the receipts of certain taxes to the Fund, for additional appropriations to the Fund, for its management, methods and purposes of expenditures, and for adjustment of apportionments regarding the Fund.]"

Pub. L. 96–451, title II, §203(b), Oct. 14, 1980, 94 Stat. 1988, provided that: "The amendment made by subsection (a) [amending former subsec. (f)(5) of section 209 of Act June 29, 1956] shall apply to taxes

received on or after October 1, 1980."

Pub. L. 95–599, title V, §504(b), Nov. 6, 1978, 92 Stat. 2758, provided that: "The amendment made by subsection (a) [amending former subsec. (g) of section 209 of Act June 29, 1956] shall apply to fiscal years beginning after September 30, 1978."

Pub. L. 91–258, title II, §208(g), May 21, 1970, 84 Stat. 252, which added subsec. (c)(5) of section 209 of the Act of June 29, 1956, ch. 462, title II, 70 Stat. 397, was repealed by Pub. L. 97–248, title II, §281(b), Sept. 3, 1982, 96 Stat. 566.

PERCENTAGE OF FUNDS CONTRIBUTED BY ALASKA

Pub. L. 86–70, §21(d)(4), June 25, 1959, 73 Stat. 145, which repealed subsec. (h) of this section, provided in part that the provisions of subsec. (h) relating to the percentage of funds to be contributed by Alaska shall continue to apply to funds apportioned to Alaska for fiscal year 1960 and prior fiscal years.

§121. Payment to States for construction

(a) IN GENERAL.—The Secretary, from time to time as the work progresses, may make payments to a State for costs of construction incurred by the State on a project (including payments made pursuant to a long-term concession agreement, such as availability payments). Such payments may also be made for the value of the materials—

(1) that have been stockpiled in the vicinity of the construction in conformity to plans and specifications for the projects; and

(2) that are not in the vicinity of the construction if the Secretary determines that because of required fabrication at an off-site location the material cannot be stockpiled in such vicinity.

(b) PROJECT AGREEMENT.—No payment shall be made under this chapter except for a project covered by a project agreement. After completion of the project in accordance with the project agreement, a State shall be entitled to payment out of the appropriate sums apportioned or allocated to the State of the unpaid balance of the Federal share payable for such project.

(c) Such payments shall be made to such official or officials or depository as may be designated by the State transportation department and authorized under the laws of the State to receive public funds of the State.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 899; Pub. L. 88–157, §7(b), Oct. 24, 1963, 77 Stat. 278; Pub. L. 93–87, title I, §117, Aug. 13, 1973, 87 Stat. 259; Pub. L. 94–280, title I, §118(a), May 5, 1976, 90 Stat. 437; Pub. L. 100–17, title I, §133(b)(6), Apr. 2, 1987, 101 Stat. 171; Pub. L. 102–240, title I, §1018(b), Dec. 18, 1991, 105 Stat. 1948; Pub. L. 105–178, title I, §§1212(a)(2)(A)(i), 1302, June 9, 1998, 112 Stat. 193, 226; Pub. L. 114–94, div. A, title II, §2002(a), Dec. 4, 2015, 129 Stat. 1446.)

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–94 inserted "(including payments made pursuant to a long-term concession agreement, such as availability payments)" after "a project" in introductory provisions.

1998—Subsec. (a). Pub. L. 105–178, §1302(1), added subsec. (a) and struck out former subsec. (a) which read as follows: "The Secretary may, in his discretion, from time to time as the work progresses, make payments to a State for costs of construction incurred by it on a project. These payments shall at no time exceed the Federal share of the costs of construction incurred to the date of the voucher covering such payment plus the Federal share of the value of the materials which have been stockpiled in the vicinity of such construction in conformity to plans and specifications for the project. Such payments may also be made in the case of any such materials not in the vicinity of such construction if the Secretary determines that because of required fabrication at an off-site location the materials cannot be stockpiled in such vicinity."

Subsec. (b). Pub. L. 105–178, §1302(1), added subsec. (b) and struck out former subsec. (b) which read as follows: "After completion of a project in accordance with the plans and specifications, and approval of the final voucher by the Secretary, a State shall be entitled to payment out of the appropriate sums apportioned to it of the unpaid balance of the Federal share payable on account of such project."

Subsec. (c). Pub. L. 105–178, §1302(2), (3), redesignated subsec. (e) as (c) and struck out former subsec. (c) which read as follows: "No payment shall be made under this chapter, except for a project located on a Federal-aid system and covered by a project agreement. No final payment shall be made to a State for its costs of construction of a project until the completion of the construction has been approved by the Secretary following inspections pursuant to section 114(a) of this title."

Subsec. (d). Pub. L. 105–178, §1302(2), struck out subsec. (d) which read as follows: "In making payments pursuant to this section, the Secretary shall be bound by the limitations with respect to the permissible amounts of such payments continued in sections 106(c), 120, and 130 of this title."

Subsec. (e). Pub. L. 105–178, §1302(3), redesignated subsec. (e) as (c).

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

1991—Subsec. (d). Pub. L. 102–240 substituted "106(c), 120," for "120" and struck out at end "Payments for construction engineering on any project financed with Federal-aid highway funds shall not exceed 15 percent of the Federal share of the cost of construction of such project after excluding from the cost of construction the costs of rights-of-way, preliminary engineering, and construction engineering."

1987—Subsec. (d). Pub. L. 100–17 substituted "15 percent" for "10 per centum" and struck out at end "However, this limitation shall be 15 per centum in any State with respect to which the Secretary finds such higher limitation to be necessary."

1976—Subsec. (d). Pub. L. 94–280 substituted "Federal-aid highway funds" for "Federal-aid primary, secondary, or urban funds" and struck out 10 per centum limitation provision for any project financed with interstate funds.

1973—Subsec. (a). Pub. L. 93–87 authorized payments to be made for materials not in the construction vicinity where the Secretary determines that because of required fabrication at an off-site location the materials cannot be stockpiled in such vicinity.

1963—Subsec. (d). Pub. L. 88–157 substituted "any project financed with Federal-aid primary, secondary, or urban funds" for "any one project" and provided for limitation, on payments for construction engineering on projects financed with Federal-aid primary, secondary, or urban funds, of 15 percent of Federal share of cost of construction of the project where found by the Secretary to be necessary and for 10–percent limitation on projects financed with interstate funds.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

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.

AT-RISK PROJECT PREAGREEMENT AUTHORITY

Pub. L. 114–94, div. A, title I, §1440, Dec. 4, 2015, 129 Stat. 1434, provided that:

"(a) DEFINITION OF PRELIMINARY ENGINEERING.—In this section, the term 'preliminary engineering' means allowable preconstruction project development and engineering costs.

"(b) AT-RISK PROJECT PREAGREEMENT AUTHORITY.—A recipient or subrecipient of Federal-aid funds under title 23, United States Code, may—

"(1) incur preliminary engineering costs for an eligible project under title 23, United States Code, before receiving project authorization from the State, in the case of a subrecipient, and the Secretary [of Transportation] to proceed with the project; and

"(2) request reimbursement of applicable Federal funds after the project authorization is received.

"(c) ELIGIBILITY.—The Secretary may reimburse preliminary engineering costs incurred by a recipient or subrecipient under subsection (b)—

"(1) if the costs meet all applicable requirements under title 23, United States Code, at the time the costs are incurred and the Secretary concurs that the requirements have been met;

"(2) in the case of a project located within a designated nonattainment or maintenance area for air quality, if the conformity requirements of the Clean Air Act (42 U.S.C. 7401 et seq.) have been met; and

"(3) if the costs would have been allowable if incurred after the date of the project authorization by the Department.

"(d) AT-RISK.—A recipient or subrecipient that elects to use the authority provided under this section shall—

"(1) assume all risk for preliminary engineering costs incurred prior to project authorization; and

"(2) be responsible for ensuring and demonstrating to the Secretary that all applicable cost eligibility conditions are met after the authorization is received.

"(e) RESTRICTIONS.—Nothing in this section—

"(1) allows a recipient or subrecipient to use the authority under this section to advance a project beyond preliminary engineering prior to the completion of the environmental review process;

"(2) waives the applicability of Federal requirements to a project other than the reimbursement of preliminary engineering costs incurred prior to an authorization to proceed in accordance with this section; or

"(3) guarantees Federal funding of the project or the eligibility of the project for future Federal-aid highway funding."

SUBMISSION OF RECOMMENDATIONS TO CONGRESS FOR REIMBURSEMENT OF STATES FOR CERTAIN HIGHWAYS

Pub. L. 85–845, Aug. 28, 1958, 72 Stat. 1083, required Secretary of Commerce, within ten days after first day of first session of Eighty-sixth Congress, to submit to Congress recommendations for legislation for purpose of assisting Congress to determine whether or not to reimburse each State of any portion of a toll or free highway (1) which was on National System of Interstate and Defense Highways [now Dwight D. Eisenhower System of Interstate and Defense Highways], (2) which met standards required by Federal-Aid Highway Act of 1956 for such System of Interstate and Defense Highways, and (3) construction of which had been completed since Aug. 2, 1947, or which had been in actual use or under construction by contract, for completion, awarded not later than June 30, 1957.

§122. Payments to States for bond and other debt instrument financing

(a) DEFINITION OF ELIGIBLE DEBT FINANCING INSTRUMENT.—In this section, the term "eligible debt financing instrument" means a bond or other debt financing instrument, including a note, certificate, mortgage, or lease agreement, issued by a State or political subdivision of a State or a public authority, the proceeds of which are used for an eligible project under this title.

(b) FEDERAL REIMBURSEMENT.—Subject to subsections (c) and (d), the Secretary may reimburse a State for expenses and costs incurred by the State or a political subdivision of the State and reimburse a public authority for expenses and costs incurred by the public authority for—

(1) interest payments under an eligible debt financing instrument;

(2) the retirement of principal of an eligible debt financing instrument;

(3) the cost of the issuance of an eligible debt financing instrument;

(4) the cost of insurance for an eligible debt financing instrument; and

(5) any other cost incidental to the sale of an eligible debt financing instrument (as determined by the Secretary).

(c) CONDITIONS ON PAYMENT.—The Secretary may reimburse a State or public authority under subsection (b) with respect to a project funded by an eligible debt financing instrument after the State or public authority has complied with this title with respect to the project to the extent and in the manner that would be required if payment were to be made under section 121.

(d) FEDERAL SHARE.—The Federal share of the cost of a project payable under this section shall not exceed the Federal share of the cost of the project as determined under section 120.

(e) STATUTORY CONSTRUCTION.—Notwithstanding any other provision of law, the eligibility of an eligible debt financing instrument for reimbursement under subsection (b) shall not—

(1) constitute a commitment, guarantee, or obligation on the part of the United States to provide for payment of principal or interest on the eligible debt financing instrument; or

(2) create any right of a third party against the United States for payment under the eligible debt

financing instrument.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 900; Pub. L. 95–599, title I, §115(b), Nov. 6, 1978, 92 Stat. 2698; Pub. L. 97–424, title I, §107(f), Jan. 6, 1983, 96 Stat. 2103; Pub. L. 100–17, title I, §133(b)(7), Apr. 2, 1987, 101 Stat. 171; Pub. L. 104–59, title III, §311(a), Nov. 28, 1995, 109 Stat. 583.)

EDITORIAL NOTES

AMENDMENTS

1995—Pub. L. 104–59 amended section generally, substituting present provisions for provisions which authorized States to use portion of Federal highway payments to retire principal of bonds proceeds of which were used for certain Federal highway projects.

1987—Pub. L. 100–17 inserted "or for substitute highway projects approved under section 103(e)(4) of this title" before "and the retirement" in first sentence.

1983—Pub. L. 97–424 inserted "or for substitute highway projects approved under section 103(e)(4) of this title," after "highway systems in urban areas," and "or on highway projects approved under section 103(e)(4) of this title" after "expenditure on such system".

1978—Pub. L. 95–599 inserted provisions relating to the retirement of bonds the proceeds of which were used for program projects, provisions that section was not to be construed as a commitment on the part of the United States to pay the principal of any such bonds, and provisions prohibiting inclusion of interest and incidental costs of bonds in estimated cost of completion.

STATUTORY NOTES AND RELATED SUBSIDIARIES

PAYMENT OF INTEREST ON BONDS ISSUED PRIOR TO AND AFTER NOVEMBER 6, 1978

Pub. L. 95–599, title I, §115(c), Nov. 6, 1978, 92 Stat. 2698, provided that: "No interest shall be paid under authority of section 122 of title 23, United States Code, on any bonds issued prior to the date of enactment of this Act [Nov. 6, 1978], unless such bonds were issued for projects which were under construction on January 1, 1978. Interest on bonds issued in any fiscal year by a State after the date of enactment of this Act may be paid under authority of section 122 of title 23, United States Code, only if (1) such State was eligible to obligate funds of another State under subsection (a) of this section during such fiscal year and (2) the Secretary of Transportation certifies that such eligible State utilized, or will utilize, to the fullest extent possible during such fiscal year its authority to obligate funds under such subsection (a) of this section [amending section 118(b) of this title]. No interest shall be paid under section 122 of title 23, United States Code, on that part of the proceeds of bonds issued after the date of enactment of this Act used to retire or otherwise refinance bonds issued prior to such date."

§123. Relocation of utility facilities

(a) DEFINITIONS.—In this section:

(1) COST OF RELOCATION.—The term "cost of relocation" includes the entire amount paid by a utility properly attributable to the relocation of a utility facility, minus any increase in the value of the new facility and any salvage value derived from the old facility.

(2) EARLY UTILITY RELOCATION PROJECT.—The term "early utility relocation project" means utility relocation activities identified by the State for performance before completion of the environmental review process for the transportation project.

(3) ENVIRONMENTAL REVIEW PROCESS.—The term "environmental review process" has the meaning given the term in section 139(a).

(4) TRANSPORTATION PROJECT.—The term "transportation project" means a project.

(5) UTILITY FACILITY.—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, stormwater not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, that directly or indirectly serves the public.

(6) UTILITY RELOCATION ACTIVITY.—The term "utility relocation activity" means an

activity necessary for the relocation of a utility facility, including preliminary and final design, surveys, real property acquisition, materials acquisition, and construction.

(b) REIMBURSEMENT TO STATES.—

(1) IN GENERAL.—If a State pays for the cost of relocation of a utility facility necessitated by the construction of a transportation project, Federal funds may be used to reimburse the State for the cost of relocation in the same proportion as Federal funds are expended on the transportation project.

(2) LIMITATION.—Federal funds shall not be used to reimburse a State under this section if the payment to the utility—

(A) violates the law of the State; or

(B) violates a legal contract between the utility and the State.

(3) REQUIREMENT.—A reimbursement under paragraph (1) shall be made only if the State demonstrates to the satisfaction of the Secretary that the State paid the cost of the utility relocation activity from funds of the State with respect to transportation projects for which Federal funds are obligated subsequent to April 16, 1958, for work, including utility relocation activities.

(4) REIMBURSEMENT ELIGIBILITY FOR EARLY RELOCATION PRIOR TO TRANSPORTATION PROJECT ENVIRONMENTAL REVIEW PROCESS.—

(A) IN GENERAL.—In addition to the requirements under paragraphs (1) through (3), a State may carry out, at the expense of the State, an early utility relocation project for a transportation project before completion of the environmental review process for the transportation project.

(B) REQUIREMENTS FOR REIMBURSEMENT.—Funds apportioned to a State under this title may be used to pay the costs incurred by the State for an early utility relocation project only if the State demonstrates to the Secretary, and the Secretary finds that—

(i) the early utility relocation project is necessary to accommodate a transportation project;

(ii) the State provides adequate documentation to the Secretary of eligible costs incurred by the State for the early utility relocation project;

(iii) before the commencement of the utility relocation activities, an environmental review process was completed for the early utility relocation project that resulted in a finding that the early utility relocation project—

(I) would not result in significant adverse environmental impacts; and

(II) would comply with other applicable Federal environmental requirements;

(iv) the early utility relocation project did not influence—

(I) the environmental review process for the transportation project;

(II) the decision relating to the need to construct the transportation project; or

(III) the selection of the transportation project design or location;

(v) the early utility relocation project complies with all applicable provisions of law, including regulations issued pursuant to this title;

(vi) the early utility relocation project follows applicable financial procedures and requirements, including documentation of eligible costs and the requirements under section 109(l), but not including requirements applicable to authorization and obligation of Federal funds;

(vii) the transportation project for which the early utility relocation project was necessitated was included in the applicable transportation improvement program under section 134 or 135;

(viii) before the cost incurred by a State is approved for Federal participation, environmental compliance pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been completed for the transportation project for which the early utility relocation project was necessitated; and

(ix) the transportation project that necessitated the utility relocation activity is approved for construction.

(C) SAVINGS PROVISION.—Nothing in this paragraph affects other eligibility requirements or authorities for Federal participation in payment of costs incurred for utility relocation activities.

(c) APPLICABILITY OF OTHER PROVISIONS.—Nothing in this section affects the applicability of other requirements that would otherwise apply to an early utility relocation project, including any applicable requirements under—

(1) section 138;

(2) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.), including regulations under part 24 of title 49, Code of Federal Regulations (or successor regulations);

(3) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); or

(4) an environmental review process.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 900; Pub. L. 100–17, title I, §133(b)(8), Apr. 2, 1987, 101 Stat. 171; Pub. L. 112–141, div. A, title I, §1104(c)(3), July 6, 2012, 126 Stat. 427; Pub. L. 117–58, div. A, title I, §11315, Nov. 15, 2021, 135 Stat. 540.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (b)(4)(B)(viii), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

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

The Civil Rights Act of 1964, referred to in subsec. (c)(3), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

AMENDMENTS

2021—Pub. L. 117–58 amended section generally. Prior to amendment, section related to reimbursement to States for relocation of utility facilities.

2012—Subsec. (a). Pub. L. 112–141 substituted "on any Federal-aid highway" for "on any Federal-aid system".

1987—Subsec. (a). Pub. L. 100–17 substituted "any Federal-aid system," for "the Federal-aid primary or secondary systems or on the Interstate System, including extensions thereof within urban areas,".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

STUDY OF PROCUREMENT PRACTICES AND PROJECT DELIVERY

Pub. L. 105–178, title I, §1213(e), June 9, 1998, 112 Stat. 201, directed the Comptroller General to conduct a study to assess the impact that a utility company's failure to relocate its facilities in a timely manner has on the delivery and cost of Federal-aid highway and bridge projects, including an assessment of methods States use to mitigate such delays, and directed the Comptroller General to transmit to Congress a report on the results of the study with any appropriate recommendations not later than 1 year after June 9, 1998.

§124. Bridge investment program

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE PROJECT.—

(A) IN GENERAL.—The term "eligible project" means a project to replace, rehabilitate, preserve, or protect 1 or more bridges on the National Bridge Inventory under section 144(b).

(B) INCLUSIONS.—The term "eligible project" includes—

(i) a bundle of projects described in subparagraph (A), regardless of whether the bundle of projects meets the requirements of section 144(j)(5); and

(ii) a project to replace or rehabilitate culverts for the purpose of improving flood control and improved habitat connectivity for aquatic species.

(2) LARGE PROJECT.—The term "large project" means an eligible project with total eligible project costs of greater than $100,000,000.

(3) PROGRAM.—The term "program" means the bridge investment program established by subsection (b)(1).

(b) ESTABLISHMENT OF BRIDGE INVESTMENT PROGRAM.—

(1) IN GENERAL.—There is established a bridge investment program to provide financial assistance for eligible projects under this section.

(2) GOALS.—The goals of the program shall be—

(A) to improve the safety, efficiency, and reliability of the movement of people and freight over bridges;

(B) to improve the condition of bridges in the United States by reducing—

(i) the number of bridges—

(I) in poor condition; or

(II) in fair condition and at risk of falling into poor condition within the next 3 years;

(ii) the total person miles traveled over bridges—

(I) in poor condition; or

(II) in fair condition and at risk of falling into poor condition within the next 3 years;

(iii) the number of bridges that—

(I) do not meet current geometric design standards; or

(II) cannot meet the load and traffic requirements typical of the regional transportation network; and

(iv) the total person miles traveled over bridges that—

(I) do not meet current geometric design standards; or

(II) cannot meet the load and traffic requirements typical of the regional transportation network; and

(C) to provide financial assistance that leverages and encourages non-Federal contributions from sponsors and stakeholders involved in the planning, design, and construction of eligible projects.

(c) GRANT AUTHORITY.—

(1) IN GENERAL.—In carrying out the program, the Secretary may award grants, on a competitive basis, in accordance with this section.

(2) GRANT AMOUNTS.—Except as otherwise provided, a grant under the program shall be—

(A) in the case of a large project, in an amount that is—

(i) adequate to fully fund the project (in combination with other financial resources identified in the application); and

(ii) not less than $50,000,000; and

(B) in the case of any other eligible project, in an amount that is—

(i) adequate to fully fund the project (in combination with other financial resources identified in the application); and

(ii) not less than $2,500,000.

(3) MAXIMUM AMOUNT.—Except as otherwise provided, for an eligible project receiving assistance under the program, the amount of assistance provided by the Secretary under this section, as a share of eligible project costs, shall be—

(A) in the case of a large project, not more than 50 percent; and

(B) in the case of any other eligible project, not more than 80 percent.

(4) FEDERAL SHARE.—

(A) MAXIMUM FEDERAL INVOLVEMENT.—Federal assistance other than a grant under the program may be used to satisfy the non-Federal share of the cost of a project for which a grant is made, except that the total Federal assistance provided for a project receiving a grant under the program may not exceed the Federal share for the project under section 120.

(B) OFF-SYSTEM BRIDGES.—In the case of an eligible project for an off-system bridge (as defined in section 133(f)(1))—

(i) Federal assistance other than a grant under the program may be used to satisfy the non-Federal share of the cost of a project; and

(ii) notwithstanding subparagraph (A), the total Federal assistance provided for the project shall not exceed 90 percent of the total eligible project costs.

(C) FEDERAL LAND MANAGEMENT AGENCIES AND TRIBAL GOVERNMENTS .—Notwithstanding any other provision of law, Federal funds other than Federal funds made available under this section may be used to pay the remaining share of the cost of a project under the program by a Federal land management agency or a Tribal government or consortium of Tribal governments.

(5) CONSIDERATIONS.—

(A) IN GENERAL.—In awarding grants under the program, the Secretary shall consider—

(i) in the case of a large project, the ratings assigned under subsection (g)(5)(A);

(ii) in the case of an eligible project other than a large project, the quality rating assigned under subsection (f)(3)(A)(ii);

(iii) the average daily person and freight throughput supported by the eligible project;

(iv) the number and percentage of bridges within the same State as the eligible project that are in poor condition;

(v) the extent to which the eligible project demonstrates cost savings by bundling multiple bridge projects;

(vi) in the case of an eligible project of a Federal land management agency, the extent to which the grant would reduce a Federal liability or Federal infrastructure maintenance backlog;

(vii) geographic diversity among grant recipients, including the need for a balance between the needs of rural and urban communities; and

(viii) the extent to which a bridge that would be assisted with a grant—

(I) is, without that assistance—

(aa) at risk of falling into or remaining in poor condition; or

(bb) in fair condition and at risk of falling into poor condition within the next 3 years;

(II) does not meet current geometric design standards based on—

(aa) the current use of the bridge; or

(bb) load and traffic requirements typical of the regional corridor or local network in which the bridge is located; or

(III) does not meet current seismic design standards.

(B) REQUIREMENT.—The Secretary shall—

(i) give priority to an application for an eligible project that is located within a State for which—

(I) 2 or more applications for eligible projects within the State were submitted for the current fiscal year and an average of 2 or more applications for eligible projects within the State were submitted in prior fiscal years of the program; and

(II) fewer than 2 grants have been awarded for eligible projects within the State under the program;

(ii) during the period of fiscal years 2022 through 2026, for each State described in clause (i), select—

(I) not fewer than 1 large project that the Secretary determines is justified under the evaluation under subsection (g)(4); or

(II) 2 eligible projects that are not large projects that the Secretary determines are justified under the evaluation under subsection (f)(3); and

(iii) not be required to award a grant for an eligible project that the Secretary does not determine is justified under an evaluation under subsection (f)(3) or (g)(4).

(6) CULVERT LIMITATION.—Not more than 5 percent of the amounts made available for each fiscal year for grants under the program may be used for eligible projects that consist solely of culvert replacement or rehabilitation.

(d) ELIGIBLE ENTITY.—The Secretary may make a grant under the program to any of the following:

(1) A State or a group of States.

(2) A metropolitan planning organization that serves an urbanized area (as designated by the Bureau of the Census) with a population of over 200,000.

(3) A unit of local government or a group of local governments.

(4) A political subdivision of a State or local government.

(5) A special purpose district or public authority with a transportation function.

(6) A Federal land management agency.

(7) A Tribal government or a consortium of Tribal governments.

(8) A multistate or multijurisdictional group of entities described in paragraphs (1) through (7).

(e) ELIGIBLE PROJECT REQUIREMENTS.—The Secretary may make a grant under the program only to an eligible entity for an eligible project that—

(1) in the case of a large project, the Secretary recommends for funding in the annual report on funding recommendations under subsection (g)(6), except as provided in subsection (g)(1)(B);

(2) is reasonably expected to begin construction not later than 18 months after the date on which funds are obligated for the project; and

(3) is based on the results of preliminary engineering.

(f) COMPETITIVE PROCESS AND EVALUATION OF ELIGIBLE PROJECTS OTHER THAN LARGE PROJECTS.—

(1) COMPETITIVE PROCESS.—

(A) IN GENERAL.—The Secretary shall—

(i) for the first fiscal year for which funds are made available for obligation under the program, not later than 60 days after the date on which the template under subparagraph (B)(i) is developed, and in subsequent fiscal years, not later than 60 days after the date on which amounts are made available for obligation under the program, solicit grant applications for eligible projects other than large projects; and

(ii) not later than 120 days after the date on which the solicitation under clause (i) expires, conduct evaluations under paragraph (3).

(B) REQUIREMENTS.—In carrying out subparagraph (A), the Secretary shall—

(i) develop a template for applicants to use to summarize project needs and benefits, including benefits described in paragraph (3)(B)(i); and

(ii) enable applicants to use data from the National Bridge Inventory under section 144(b) to populate templates described in clause (i), as applicable.

(2) APPLICATIONS.—An eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(3) EVALUATION.—

(A) IN GENERAL.—Prior to providing a grant under this subsection, the Secretary shall—

(i) conduct an evaluation of each eligible project for which an application is received under this subsection; and

(ii) assign a quality rating to the eligible project on the basis of the evaluation under clause (i).

(B) REQUIREMENTS.—In carrying out an evaluation under subparagraph (A), the Secretary shall—

(i) consider information on project benefits submitted by the applicant using the template developed under paragraph (1)(B)(i), including whether the project will generate, as determined by the Secretary—

(I) costs avoided by the prevention of closure or reduced use of the bridge to be improved by the project;

(II) in the case of a bundle of projects, benefits from executing the projects as a bundle compared to as individual projects;

(III) safety benefits, including the reduction of accidents and related costs;

(IV) person and freight mobility benefits, including congestion reduction and reliability improvements;

(V) national or regional economic benefits;

(VI) benefits from long-term resiliency to extreme weather events, flooding, or other natural disasters;

(VII) benefits from protection (as described in section 133(b)(10)), including improving seismic or scour protection;

(VIII) environmental benefits, including wildlife connectivity;

(IX) benefits to nonvehicular and public transportation users;

(X) benefits of using—

(aa) innovative design and construction techniques; or

(bb) innovative technologies; or

(XI) reductions in maintenance costs, including, in the case of a federally-owned bridge, cost savings to the Federal budget; and

(ii) consider whether and the extent to which the benefits, including the benefits described in clause (i), are more likely than not to outweigh the total project costs.

(g) COMPETITIVE PROCESS, EVALUATION, AND ANNUAL REPORT FOR LARGE PROJECTS.—

(1) IN GENERAL.—

(A) APPLICATIONS.—The Secretary shall establish an annual date by which an eligible entity submitting an application for a large project shall submit to the Secretary such information as the Secretary may require, including information described in paragraph (2), in order for a large project to be considered for a recommendation by the Secretary for funding in the next annual report under paragraph (6).

(B) FIRST FISCAL YEAR.—Notwithstanding subparagraph (A), for the first fiscal year for which funds are made available for obligation for grants under the program, the Secretary may establish a date by which an eligible entity submitting an application for a large project shall submit to the Secretary such information as the Secretary may require, including information described in paragraph (2), in order for a large project to be considered for immediate execution of a grant agreement.

(2) INFORMATION REQUIRED.—The information referred to in paragraph (1) includes—

(A) all necessary information required for the Secretary to evaluate the large project; and

(B) information sufficient for the Secretary to determine that—

(i) the large project meets the applicable requirements under this section; and

(ii) there is a reasonable likelihood that the large project will continue to meet the requirements under this section.

(3) DETERMINATION; NOTICE.—On making a determination that information submitted to the Secretary under paragraph (1) is sufficient, the Secretary shall provide a written notice of that determination to—

(A) the eligible entity that submitted the application;

(B) the Committee on Environment and Public Works of the Senate; and

(C) the Committee on Transportation and Infrastructure of the House of Representatives.

(4) EVALUATION.—The Secretary may recommend a large project for funding in the annual report under paragraph (6), or, in the case of the first fiscal year for which funds are made available for obligation for grants under the program, immediately execute a grant agreement for a large project, only if the Secretary evaluates the proposed project and determines that the project is justified because the project—

(A) addresses a need to improve the condition of the bridge, as determined by the Secretary, consistent with the goals of the program under subsection (b)(2);

(B) will generate, as determined by the Secretary—

(i) costs avoided by the prevention of closure or reduced use of the bridge to be improved by the project;

(ii) in the case of a bundle of projects, benefits from executing the projects as a bundle compared to as individual projects;

(iii) safety benefits, including the reduction of accidents and related costs;

(iv) person and freight mobility benefits, including congestion reduction and reliability improvements;

(v) national or regional economic benefits;

(vi) benefits from long-term resiliency to extreme weather events, flooding, or other natural disasters;

(vii) benefits from protection (as described in section 133(b)(10)), including improving seismic or scour protection;

(viii) environmental benefits, including wildlife connectivity;
(ix) benefits to nonvehicular and public transportation users;
(x) benefits of using—
(I) innovative design and construction techniques; or
(II) innovative technologies; or

(xi) reductions in maintenance costs, including, in the case of a federally-owned bridge, cost savings to the Federal budget;

(C) is cost effective based on an analysis of whether the benefits and avoided costs described in subparagraph (B) are expected to outweigh the project costs;
(D) is supported by other Federal or non-Federal financial commitments or revenues adequate to fund ongoing maintenance and preservation; and
(E) is consistent with the objectives of an applicable asset management plan of the project sponsor, including a State asset management plan under section 119(e) in the case of a project on the National Highway System that is sponsored by a State.

(5) RATINGS.—
(A) IN GENERAL.—The Secretary shall develop a methodology to evaluate and rate a large project on a 5-point scale (the points of which include "high", "medium-high", "medium", "medium-low", and "low") for each of—
(i) paragraph (4)(B);
(ii) paragraph (4)(C); and
(iii) paragraph (4)(D).

(B) REQUIREMENT.—To be considered justified and receive a recommendation for funding in the annual report under paragraph (6), a project shall receive a rating of not less than "medium" for each rating required under subparagraph (A).
(C) INTERIM METHODOLOGY.—In the first fiscal year for which funds are made available for obligation for grants under the program, the Secretary may establish an interim methodology to evaluate and rate a large project for each of—
(i) paragraph (4)(B);
(ii) paragraph (4)(C); and
(iii) paragraph (4)(D).

(6) ANNUAL REPORT ON FUNDING RECOMMENDATIONS FOR LARGE PROJECTS.—
(A) IN GENERAL.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Environment and Public Works and Appropriations of the Senate a report that includes—
(i) a list of large projects that have requested a recommendation for funding under a new grant agreement from funds anticipated to be available to carry out this subsection in the next fiscal year;
(ii) the evaluation under paragraph (4) and ratings under paragraph (5) for each project referred to in clause (i);
(iii) the grant amounts that the Secretary recommends providing to large projects in the next fiscal year, including—
(I) scheduled payments under previously signed multiyear grant agreements under subsection (j);
(II) payments for new grant agreements, including single-year grant agreements and multiyear grant agreements; and
(III) a description of how amounts anticipated to be available for the program from the

Highway Trust Fund for that fiscal year will be distributed; and

(iv) for each project for which the Secretary recommends a new multiyear grant agreement under subsection (j), the proposed payout schedule for the project.

(B) LIMITATIONS.—

(i) IN GENERAL.—The Secretary shall not recommend in an annual report under this paragraph a new multiyear grant agreement provided from funds from the Highway Trust Fund unless the Secretary determines that the project can be completed using funds that are anticipated to be available from the Highway Trust Fund in future fiscal years.

(ii) GENERAL FUND PROJECTS.—The Secretary—

(I) may recommend for funding in an annual report under this paragraph a large project using funds from the general fund of the Treasury; but

(II) shall not execute a grant agreement for that project unless—

(aa) funds other than from the Highway Trust Fund have been made available for the project; and

(bb) the Secretary determines that the project can be completed using funds other than from the Highway Trust Fund that are anticipated to be available in future fiscal years.

(C) CONSIDERATIONS.—In selecting projects to recommend for funding in the annual report under this paragraph, or, in the case of the first fiscal year for which funds are made available for obligation for grants under the program, projects for immediate execution of a grant agreement, the Secretary shall—

(i) consider the amount of funds available in future fiscal years for multiyear grant agreements as described in subparagraph (B); and

(ii) assume the availability of funds in future fiscal years for multiyear grant agreements that extend beyond the period of authorization based on the amount made available for large projects under the program in the last fiscal year of the period of authorization.

(D) PROJECT DIVERSITY.—In selecting projects to recommend for funding in the annual report under this paragraph, the Secretary shall ensure diversity among projects recommended based on—

(i) the amount of the grant requested; and

(ii) grants for an eligible project for 1 bridge compared to an eligible project that is a bundle of projects.

(h) ELIGIBLE PROJECT COSTS.—A grant received for an eligible project under the program may be used for—

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

(2) construction, reconstruction, rehabilitation, acquisition of real property (including land related to the project and improvements to the land), environmental mitigation, construction contingencies, acquisition of equipment, and operational improvements directly related to improving system performance; and

(3) expenses related to the protection (as described in section 133(b)(10)) of a bridge, including seismic or scour protection.

(i) TIFIA PROGRAM.—On the request of an eligible entity carrying out an eligible project, the Secretary may use amounts awarded to the entity to pay subsidy and administrative costs necessary to provide to the entity Federal credit assistance under chapter 6 with respect to the eligible project for which the grant was awarded.

(j) MULTIYEAR GRANT AGREEMENTS FOR LARGE PROJECTS.—

(1) IN GENERAL.—A large project that receives a grant under the program in an amount of not less than $100,000,000 may be carried out through a multiyear grant agreement in accordance with this subsection.

(2) REQUIREMENTS.—A multiyear grant agreement for a large project described in paragraph (1) shall—

(A) establish the terms of participation by the Federal Government in the project;

(B) establish the maximum amount of Federal financial assistance for the project in accordance with paragraphs (3) and (4) of subsection (c);

(C) establish a payout schedule for the project that provides for disbursement of the full grant amount by not later than 4 fiscal years after the fiscal year in which the initial amount is provided;

(D) determine the period of time for completing the project, even if that period extends beyond the period of an authorization; and

(E) attempt to improve timely and efficient management of the project, consistent with all applicable Federal laws (including regulations).

(3) SPECIAL FINANCIAL RULES.—

(A) IN GENERAL.—A multiyear grant agreement under this subsection—

(i) shall obligate an amount of available budget authority specified in law; and

(ii) 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.

(B) STATEMENT OF CONTINGENT COMMITMENT.—The agreement shall state that the contingent commitment is not an obligation of the Federal Government.

(C) INTEREST AND OTHER FINANCING COSTS.—

(i) IN GENERAL.—Interest and other financing costs of carrying out a part of the project within a reasonable time shall be considered a cost of carrying out the project under a multiyear 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.

(ii) CERTIFICATION.—The applicant shall certify to the Secretary that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

(4) ADVANCE PAYMENT.—Notwithstanding any other provision of law, an eligible entity carrying out a large project under a multiyear grant agreement—

(A) may use funds made available to the eligible entity under this title for eligible project costs of the large project until the amount specified in the multiyear grant agreement for the project for that fiscal year becomes available for obligation; and

(B) if the eligible entity uses funds as described in subparagraph (A), the funds used shall be reimbursed from the amount made available under the multiyear grant agreement for the project.

(k) UNDERTAKING PARTS OF PROJECTS IN ADVANCE UNDER LETTERS OF NO PREJUDICE.—

(1) IN GENERAL.—The Secretary may pay to an applicant all eligible project costs under the program, including costs for an activity for an eligible project incurred prior to the date on which the project receives funding under the program if—

(A) before the applicant carries out the activity, the Secretary approves through a letter to the applicant the activity in the same manner as the Secretary approves other activities as eligible under the program;

(B) a record of decision, a finding of no significant impact, or a categorical exclusion under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued for the eligible project; and

(C) the activity is carried out without Federal assistance and in accordance with all applicable procedures and requirements.

(2) INTEREST AND OTHER FINANCING COSTS.—

(A) IN GENERAL.—For purposes of paragraph (1), the cost of carrying out an activity for an eligible project includes the amount of interest and other financing costs, including any interest earned and payable on bonds, to the extent interest and other financing costs are expended in carrying out the activity for the eligible project, except that interest and other financing costs may not be more than the cost of the most favorable financing terms reasonably available for the eligible project at the time of borrowing.

(B) CERTIFICATION.—The applicant shall certify to the Secretary that the applicant has shown reasonable diligence in seeking the most favorable financing terms under subparagraph (A).

(3) NO OBLIGATION OR INFLUENCE ON RECOMMENDATIONS.—An approval by the Secretary under paragraph (1)(A) shall not—

(A) constitute an obligation of the Federal Government; or

(B) alter or influence any evaluation under subsection (f)(3)(A)(i) or (g)(4) or any recommendation by the Secretary for funding under the program.

(l) FEDERALLY-OWNED BRIDGES.—

(1) DIVESTITURE CONSIDERATION.—In the case of a bridge owned by a Federal land management agency for which that agency applies for a grant under the program, the agency—

(A) shall consider options to divest the bridge to a State or local entity after completion of the project; and

(B) may apply jointly with the State or local entity to which the bridge may be divested.

(2) TREATMENT.—Notwithstanding any other provision of law, section 129 shall apply to a bridge that was previously owned by a Federal land management agency and has been transferred to a non-Federal entity under paragraph (1) in the same manner as if the bridge was never federally owned.

(m) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, a project assisted under this section shall be treated as a project on a Federal-aid highway under this chapter.

(n) CONGRESSIONAL NOTIFICATION.—Not later than 30 days before making a grant for an eligible project under the program, the Secretary 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 written notification of the proposed grant that includes—

(1) an evaluation and justification for the eligible project; and

(2) the amount of the proposed grant.

(o) REPORTS.—

(1) ANNUAL REPORT.—Not later than August 1 of each fiscal year, the Secretary shall make available on the website of the Department of Transportation an annual report that lists each eligible project for which a grant has been provided under the program during the fiscal year.

(2) GAO ASSESSMENT AND REPORT.—Not later than 3 years after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Comptroller General of the United States shall—

(A) conduct an assessment of the administrative establishment, solicitation, selection, and justification process with respect to the funding of grants under the program; and

(B) 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 describes—

(i) the adequacy and fairness of the process under which each eligible project that received a grant under the program was selected; and

(ii) the justification and criteria used for the selection of each eligible project.

(p) LIMITATION.—

(1) LARGE PROJECTS.—Of the amounts made available out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section for each of fiscal years 2022 through 2026, not less than 50 percent, in aggregate, shall be used for large projects.

(2) UNUTILIZED AMOUNTS.—If, in fiscal year 2026, the Secretary determines that grants under the program will not allow for the requirement under paragraph (1) to be met, the Secretary shall use the unutilized amounts to make other grants under the program during that fiscal year.

(q) TRIBAL TRANSPORTATION FACILITY BRIDGE SET ASIDE.—

(1) IN GENERAL.—Of the amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for a fiscal year to carry out this section, the Secretary shall use, to carry out section 202(d)—

(A) $16,000,000 for fiscal year 2022;

(B) $18,000,000 for fiscal year 2023;

(C) $20,000,000 for fiscal year 2024;

(D) $22,000,000 for fiscal year 2025; and

(E) $24,000,000 for fiscal year 2026.

(2) TREATMENT.—For purposes of section 201, funds made available for section 202(d) under paragraph (1) shall be considered to be part of the tribal transportation program.

(Added Pub. L. 117–58, div. A, title I, §11118(a), Nov. 15, 2021, 135 Stat. 484.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (k)(1)(B), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The date of enactment of the Surface Transportation Reauthorization Act of 2021, referred to in subsec. (o)(2), is the date of enactment of div. A of Pub. L. 117–58, which was approved Nov. 15, 2021.

PRIOR PROVISIONS

A prior section 124, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 901; Pub. L. 95–599, title I, §118, Nov. 6, 1978, 92 Stat. 2699; Pub. L. 105–178, title I, §§1212(a)(2)(A)(i), 1226(c), June 9, 1998, 112 Stat. 193; Pub. L. 105–206, title IX, §9003(a), July 22, 1998, 112 Stat. 837, related to advances to States, prior to repeal by Pub. L. 112–141, §3(a), div. A, title I, §1519(b)(1)(A), July 6, 2012, 126 Stat. 413, 575, effective Oct. 1, 2012.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as an Effective Date of 2021 Amendment note under section 101 of this title.

§125. Emergency relief

(a) IN GENERAL.—Subject to this section and section 120, an emergency fund is authorized for expenditure by the Secretary for the repair or reconstruction of highways, roads, and trails, in any area of the United States, including Indian reservations, that the Secretary finds have suffered serious

damage as a result of—

(1) a natural disaster over a wide area, such as by a flood, hurricane, tidal wave, earthquake, severe storm, wildfire, or landslide; or

(2) catastrophic failure from any external cause.

(b) RESTRICTION ON ELIGIBILITY.—Funds under this section shall not be used for the repair or reconstruction of a bridge that has been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to a structural deficiency or physical deterioration.

(c) FUNDING.—

(1) IN GENERAL.—Subject to the limitations described in paragraph (2), there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to establish the fund authorized by this section and to replenish that fund on an annual basis.

(2) LIMITATIONS.—The limitations referred to in paragraph (1) are that—

(A) not more than $100,000,000 is authorized to be obligated in any 1 fiscal year commencing after September 30, 1980, to carry out this section, except that, if for any fiscal year the total of all obligations under this section is less than the amount authorized to be obligated for the fiscal year, the unobligated balance of that amount shall—

(i) remain available until expended; and

(ii) be in addition to amounts otherwise available to carry out this section for each year; and

(B)(i) pending such appropriation or replenishment, the Secretary may obligate from any funds appropriated at any time for obligation in accordance with this title, including existing Federal-aid appropriations, such sums as are necessary for the immediate prosecution of the work herein authorized; and

(ii) funds obligated under this subparagraph shall be reimbursed from the appropriation or replenishment.

(d) ELIGIBILITY.—

(1) IN GENERAL.—The Secretary may expend funds from the emergency fund authorized by this section only for the repair or reconstruction of highways on Federal-aid highways in accordance with this chapter, except that—

(A) no funds shall be so expended unless an emergency has been declared by the Governor of the State with concurrence by the Secretary, unless the President has declared the emergency to be a major disaster for the purposes of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) for which concurrence of the Secretary is not required; and

(B) the Secretary has received an application from the State transportation department that includes a comprehensive list of all eligible project sites and repair costs by not later than 2 years after the natural disaster or catastrophic failure.

(2) COST LIMITATION.—

(A) DEFINITION OF COMPARABLE FACILITY.—In this paragraph, the term "comparable facility" means a facility that—

(i) meets the current geometric and construction standards required for the types and volume of traffic that the facility will carry over its design life; and

(ii) incorporates economically justifiable improvements that will mitigate the risk of recurring damage from extreme weather, flooding, and other natural disasters.

(B) LIMITATION.—The total cost of a project funded under this section may not exceed the cost of repair or reconstruction of a comparable facility.

(3) PROTECTIVE FEATURES.—

(A) IN GENERAL.—The cost of an improvement that is part of a project under this section shall be an eligible expense under this section if the improvement is a protective feature that will mitigate the risk of recurring damage or the cost of future repair from extreme weather, flooding, and other natural disasters.

(B) PROTECTIVE FEATURES DESCRIBED.—A protective feature referred to in subparagraph (A) includes—

(i) raising roadway grades;

(ii) relocating roadways in a floodplain to higher ground above projected flood elevation levels or away from slide prone areas;

(iii) stabilizing slide areas;

(iv) stabilizing slopes;

(v) lengthening or raising bridges to increase waterway openings;

(vi) increasing the size or number of drainage structures;

(vii) replacing culverts with bridges or upsizing culverts;

(viii) installing seismic retrofits on bridges;

(ix) adding scour protection at bridges, installing riprap, or adding other scour, stream stability, coastal, or other hydraulic countermeasures, including spur dikes; and

(x) the use of natural infrastructure to mitigate the risk of recurring damage or the cost of future repair from extreme weather, flooding, and other natural disasters.

(4) DEBRIS REMOVAL.—The costs of debris removal shall be an eligible expense under this section only for—

(A) an event not declared a major disaster or emergency by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);

(B) an event declared a major disaster or emergency by the President under that Act if the debris removal is not eligible for assistance under section 403, 407, or 502 of that Act (42 U.S.C. 5170b, 5173, 5192); or

(C) projects eligible for assistance under this section located on tribal transportation facilities, Federal lands transportation facilities, or other federally owned roads that are open to public travel (as defined in subsection (e)(1)).

(5) SUBSTITUTE TRAFFIC.—Notwithstanding any other provision of this section, actual and necessary costs of maintenance and operation of ferryboats or additional transit service providing temporary substitute highway traffic service, less the amount of fares charged for comparable service, may be expended from the emergency fund authorized by this section for Federal-aid highways.

(e) TRIBAL TRANSPORTATION FACILITIES, FEDERAL LANDS TRANSPORTATION FACILITIES, AND PUBLIC ROADS ON FEDERAL LANDS.—

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

(A) OPEN TO PUBLIC TRAVEL.—The term "open to public travel" means, with respect to a road, that, except during scheduled periods, extreme weather conditions, or emergencies, the road—

(i) is maintained;

(ii) is open to the general public; and

(iii) can accommodate travel by a standard passenger vehicle, without restrictive gates or prohibitive signs or regulations, other than for general traffic control or restrictions based on size, weight, or class of registration.

(B) STANDARD PASSENGER VEHICLE.—The term "standard passenger vehicle" means a vehicle with 6 inches of clearance from the lowest point of the frame, body, suspension, or

differential to the ground.

(2) EXPENDITURE OF FUNDS.—Notwithstanding subsection (d)(1), the Secretary may expend funds from the emergency fund authorized by this section, independently or in cooperation with any other branch of the Federal Government, a State agency, a tribal government, an organization, or a person, for the repair or reconstruction of tribal transportation facilities, Federal lands transportation facilities, and other federally owned roads that are open to public travel, whether or not those facilities are Federal-aid highways.

(3) REIMBURSEMENT.—

(A) IN GENERAL.—The Secretary may reimburse Federal and State agencies (including political subdivisions) for expenditures made for projects determined eligible under this section, including expenditures for emergency repairs made before a determination of eligibility.

(B) TRANSFERS.—With respect to reimbursements described in subparagraph (A)—

(i) those reimbursements to Federal agencies and Indian tribal governments shall be transferred to the account from which the expenditure was made, or to a similar account that remains available for obligation; and

(ii) the budget authority associated with the expenditure shall be restored to the agency from which the authority was derived and shall be available for obligation until the end of the fiscal year following the year in which the transfer occurs.

(f) TREATMENT OF TERRITORIES.—For purposes of this section, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be considered to be States and parts of the United States, and the chief executive officer of each such territory shall be considered to be a Governor of a State.

(g) PROTECTING PUBLIC SAFETY AND MAINTAINING ROADWAYS.—The Secretary may use not more than 5 percent of amounts from the emergency fund authorized by this section to carry out projects that the Secretary determines are necessary to protect the public safety or to maintain or protect roadways that are included within the scope of an emergency declaration by the Governor of the State or by the President, in accordance with this section, and the Governor deems to be an ongoing concern in order to maintain vehicular traffic on the roadway.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 901; Pub. L. 86–342, title I, §107(a), Sept. 21, 1959, 73 Stat. 612; Pub. L. 89–574, §9(b), (c), Sept. 13, 1966, 80 Stat. 769; Pub. L. 90–495, §27(a), Aug. 23, 1968, 82 Stat. 829; Pub. L. 91–605, title I, §109(a), Dec. 31, 1970, 84 Stat. 1718; Pub. L. 92–361, Aug. 3, 1972, 86 Stat. 503; Pub. L. 94–280, title I, §119, May 5, 1976, 90 Stat. 437; Pub. L. 95–599, title I, §119, Nov. 6, 1978, 92 Stat. 2700; Pub. L. 96–106, §19, Nov. 9, 1979, 93 Stat. 799; Pub. L. 97–424, title I, §153(a), (c), (d), (h), Jan. 6, 1983, 96 Stat. 2132, 2133; Pub. L. 99–190, §101(e) [title III, §334], Dec. 19, 1985, 99 Stat. 1267, 1290; Pub. L. 99–272, title IV, §4103, Apr. 7, 1986, 100 Stat. 114; Pub. L. 100–17, title I, §§118(a)(1), (b)(1), (2), 133(b)(9), Apr. 2, 1987, 101 Stat. 156, 171; Pub. L. 100–707, §109(k), Nov. 23, 1988, 102 Stat. 4709; Pub. L. 102–240, title I, §1022(b), Dec. 18, 1991, 105 Stat. 1951; Pub. L. 102–302, §101, June 22, 1992, 106 Stat. 252; Pub. L. 105–178, title I, §§1113(b), 1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 151, 193; Pub. L. 112–141, div. A, title I, §1107, July 6, 2012, 126 Stat. 437; Pub. L. 114–94, div. A, title I, §1107, Dec. 4, 2015, 129 Stat. 1337; Pub. L. 116–94, div. H, title I, §127, Dec. 20, 2019, 133 Stat. 2953; Pub. L. 117–58, div. A, title I, §11106, Nov. 15, 2021, 135 Stat. 458.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (d)(1)(A), (4)(A), (B), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

AMENDMENTS

2021—Subsec. (a)(1). Pub. L. 117–58, §11106(1), inserted "wildfire," after "severe storm,".

Subsec. (b). Pub. L. 117–58, §11106(2), added subsec. (b) and struck out former subsec. (b) which restricted eligibility of funds for bridge repair or reconstruction in certain cases.

Subsec. (d)(2)(A). Pub. L. 117–58, §11106(3)(A), inserted dash after "a facility that" and cl. (i) designation before "meets the current" and added cl. (ii).

Subsec. (d)(3), (4). Pub. L. 117–58, §11106(3)(B), (C), added par. (3) and redesignated former par. (3) as (4).

2019—Subsec. (d)(4). Pub. L. 116–94 struck out par. (4). Text read as follows: "The total obligations for projects under this section for any fiscal year in the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not exceed $20,000,000."

2015—Subsec. (d)(3)(C). Pub. L. 114–94, §1107(a), added subpar. (C).

Subsec. (e)(1). Pub. L. 114–94, §1107(b), amended par. (1) generally. Prior to amendment, text read as follows: "In this subsection, the term 'open to public travel' means, with respect to a road, that, except during scheduled periods, extreme weather conditions, or emergencies, the road is open to the general public for use with a standard passenger vehicle, without restrictive gates or prohibitive signs or regulations, other than for general traffic control or restrictions based on size, weight, or class of registration."

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to emergency relief and consisted of subsecs. (a) to (f).

1998—Subsec. (a). Pub. L. 105–178, §1113(b)(2), added subsec. (a) and struck out former subsec. (a) which authorized expenditures by Secretary from emergency fund for repair or reconstruction of highways, roads, or trails which have suffered serious damage from natural disasters or catastrophic failures from external sources, including provisions relating to restrictions on eligibility and funding.

Subsecs. (b), (c). Pub. L. 105–178, §1113(b)(1), (2), added subsecs. (b) and (c) and redesignated former subsecs. (b) and (c) as (d) and (e), respectively.

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

Pub. L. 105–178, §1113(b)(3), substituted "reconstruction of highways on Federal-aid highways in accordance" for "reconstruction of highways on the Federal-aid highway systems, including the Interstate System, in accordance" in first sentence, "subsection (e) of this section" for "subsection (c) of this section" in two places, "authorized on Federal-aid highways" for "authorized on the Federal-aid highway systems, including the Interstate System" before period at end of second sentence, and "Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)" for "Disaster Relief and Emergency Assistance Act (Public Law 93–288)" in third sentence.

Pub. L. 105–178, §1113(b)(1), redesignated subsec. (b) as (d). Former subsec. (d) redesignated (f).

Subsec. (e). Pub. L. 105–178, §1113(b)(4), substituted "Federal-aid highways" for "on any of the Federal-aid highway systems" before period at end.

Pub. L. 105–178, §1113(b)(1), redesignated subsec. (c) as (e).

Subsec. (f). Pub. L. 105–178, §1113(b)(1), redesignated subsec. (d) as (f).

1992—Subsec. (b). Pub. L. 102–302, which directed the substitution of "on Federal-aid highways" for "on the Federal-aid highway systems including the Interstate System" in two places, could not be executed because phrase "on the Federal-aid highway systems including the Interstate System" did not appear in text.

1991—Subsec. (b)(2). Pub. L. 102–240 substituted "$20,000,000" for "$5,000,000".

1988—Subsec. (b). Pub. L. 100–707 substituted "and Emergency Assistance Act" for "Act of 1974".

1987—Subsec. (b). Pub. L. 100–17, §133(b)(9)(A), substituted "the Federal-aid highway systems, including the Interstate System" for "the Interstate System, the Primary System, and on any routes functionally classified as arterials or major collectors" in two places.

Pub. L. 100–17, §118(a)(1), substituted "in a State shall not exceed $100,000,000." for "shall not exceed $30,000,000 ($55,000,000 for projects in connection with disasters or failures occurring in calendar year 1985) in any State."

Pub. L. 100–17, §118(b)(2), designated existing provisions related to limitations placed upon obligations for projects under this section as cl. (1) and added cl. (2).

Subsec. (c). Pub. L. 100–17, §133(b)(9)(B), substituted "on any of the Federal-aid highway systems" for "routes functionally classified as arterials or major collectors".

Subsec. (d). Pub. L. 100–17, §118(b)(1), added subsec. (d).

1986—Subsec. (b). Pub. L. 99–272 inserted parenthetical provision allowing obligations not exceeding $55,000,000 for projects in connection with disasters or failures occurring in calendar year 1985.

1985—Pub. L. 99–190 amended section in manner substantially identical to amendment by Pub. L. 99–272.

1983—Subsec. (a). Pub. L. 97–424, §153(a)(1), inserted "(1)" before "the repair or reconstruction of

highways", and substituted "Secretary" for "he" before "shall find have suffered"; (A) and (B) for (1) and (2), respectively; "In no event shall funds be used pursuant to this section for the" for "and (2)"; and "or responsible local official" for "after December 31, 1967, and prior to December 31, 1970,".

Pub. L. 97–424, §153(a)(2), inserted "from the Highway Trust Fund" after "appropriated".

Pub. L. 97–424, §153(c), inserted "and not more than $100,000,000 is authorized to be expended in any one fiscal year commencing after September 30, 1980," after "after September 30, 1976,".

Subsec. (b). Pub. L. 97–424, §153(d), inserted proviso establishing a $30,000,000 limit for obligations relating to a single natural disaster in any one State.

Pub. L. 97–424, §153(h)(1), substituted "the Interstate System, the Primary System, and on any routes functionally classified as arterials or major collectors," for "the Federal-aid highway systems, including the Interstate System", wherever appearing.

Subsec. (c). Pub. L. 97–424, §153(h)(2), substituted "routes functionally classified as arterials or major collectors" for "on any of the Federal-aid highway systems".

1979—Subsec. (b). Pub. L. 96–106 inserted provision that notwithstanding any provision of this chapter actual and necessary costs of maintenance and operation of ferryboats providing temporary substitute highway traffic service, less the amount of fares charged, may be expended from the emergency fund herein authorized on the Federal-aid highway systems, including the Interstate System.

1978—Subsec. (a). Pub. L. 95–599 inserted "prior to the fiscal year ending September 30, 1978" after "such years, and (2)", and inserted provision authorizing appropriations of 100 percent of expenditures out of the Highway Trust Fund.

1976—Subsec. (a). Pub. L. 94–280, §119(a)(1)–(3), inserted ", and ending before June 1, 1976," after "June 30, 1972,", authorized expenditure of not more than $25,000,000 for the three-month period beginning July 1, 1976, and ending September 30, 1976, and not more than $100,000,000 in any one fiscal year commencing after September 30, 1976, and inserted provision that for the purposes of this section the period beginning July 1, 1976, and ending September 30, 1976, shall be deemed to be a part of the fiscal year ending September 30, 1977.

Subsec. (b). Pub. L. 94–280, §119(b), excepted from the requirement of a concurrence by the Secretary an emergency declared by the President to be a major disaster for purposes of the Disaster Relief Act of 1974.

1972—Subsec. (a). Pub. L. 92–361 substituted provisions setting forth maximum expendable amounts for fiscal years ending July 1, 1972 and for fiscal years commencing after June 30, 1972 and an additional amount for fiscal year ending June 30, 1973 for provisions setting forth maximum expendable amount for any fiscal year.

1970—Subsec. (a). Pub. L. 91–605 provided emergency relief for the repair or reconstruction of bridges which have been permanently closed to all vehicular traffic by the State after December 31, 1967, and prior to December 31, 1970, because of imminent danger of collapse due to structural deficiencies or physical deterioration.

1968—Subsec. (a). Pub. L. 90–495 permitted the use of the emergency fund for repair or construction caused by other than natural catastrophes.

1966—Subsec. (a). Pub. L. 89–574, §9(c), raised from $30,000,000 to $50,000,000 the upper limit on allowable annual appropriations to establish and replenish the fund, provided that, if, in any fiscal year the total of all expenditures under this section is less than $50,000,000, the unexpended balance of such amount shall remain available for expenditure during the next two succeeding fiscal years in addition to amount otherwise available, and provided that 60 per centum of the expenditures under this section are authorized to be appropriated from the Highway Trust Fund and the remaining 40 per centum of such expenditures are authorized to be appropriated only from any monies in the Treasury not otherwise appropriated.

Subsec. (c). Pub. L. 89–574, §9(b), added parkways, public lands highways, public lands development roads, and trails to the list of types of roads the repair or reconstruction of which may be paid for out of the emergency fund.

1959—Pub. L. 86–342, among other changes, made expenditures from the emergency fund subject to the provisions of section 120 of this title, and permitted the Secretary to expend funds from the emergency fund, either independently or in cooperation with any other branch of the Government, State agency, organization, or person, for the repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, and Indian reservation roads, whether or not such highways, roads, or trails are on any of the Federal-aid highway systems.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–240 applicable only to natural disasters and catastrophic failures occurring after Dec. 18, 1991, see section 1022(c) of Pub. L. 102–240, set out as a note under section 120 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–17, title I, §118(a)(2), Apr. 2, 1987, 101 Stat. 156, provided that: "The amendment made by paragraph (1) [amending this section] shall apply with respect to natural disasters and catastrophic failures occurring after December 31, 1985."

Pub. L. 100–17, title I, §118(b)(3), Apr. 2, 1987, 101 Stat. 156, provided that: "The amendments made by paragraphs (1) and (2) [amending this section] shall take effect on the date of the enactment of this Act [Apr. 2, 1987]."

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 97–424, title I, §153(e), Jan. 6, 1983, 96 Stat. 2133, provided that: "The amendments made by subsection (d) of this section [amending this section] shall apply to natural disasters or catastrophic failures which the Secretary finds eligible for emergency relief subsequent to the date of enactment of this section [Jan. 6, 1983]."

EFFECTIVE DATE OF 1968 AMENDMENT

Pub. L. 90–495, §27(c), Aug. 23, 1968, 82 Stat. 829, provided that: "The amendments made by this section [amending this section and section 120 of this title] shall be applicable to repair or reconstruction with respect to which project agreements have been entered into on or after January 1, 1968."

EFFECTIVE DATE OF 1966 AMENDMENT

Pub. L. 89–574, §9(d), Sept. 13, 1966, 80 Stat. 769, provided that: "The amendments made by this section [amending this section] shall take effect July 1, 1966."

EMERGENCY RELIEF PROJECTS

Pub. L. 117–58, div. A, title I, §11519, Nov. 15, 2021, 135 Stat. 602, provided that:

"(a) DEFINITION OF EMERGENCY RELIEF PROJECT.—In this section, the term 'emergency relief project' means a project carried out under the emergency relief program under section 125 of title 23, United States Code.

"(b) IMPROVING THE EMERGENCY RELIEF PROGRAM.—Not later than 90 days after the date of enactment of this Act [Nov. 15, 2021], the Secretary shall—

"(1) revise the emergency relief manual of the Federal Highway Administration—

"(A) to include and reflect the definition of the term 'resilience' (as defined in section 101(a) of title 23, United States Code);

"(B) to identify procedures that States may use to incorporate resilience into emergency relief projects; and

"(C) to encourage the use of Complete Streets design principles and consideration of access for moderate- and low-income families impacted by a declared disaster;

"(2) develop best practices for improving the use of resilience in—

"(A) the emergency relief program under section 125 of title 23, United States Code; and

"(B) emergency relief efforts;

"(3) provide to division offices of the Federal Highway Administration and State departments of transportation information on the best practices developed under paragraph (2); and

"(4) develop and implement a process to track—

"(A) the consideration of resilience as part of the emergency relief program under section 125 of

title 23, United States Code; and

"(B) the costs of emergency relief projects."

EXPENDITURES MADE PRIOR TO FISCAL YEAR ENDING SEPTEMBER 30, 1978; APPROPRIATION FROM HIGHWAY TRUST FUND

Pub. L. 97–424, title I, §153(b), Jan. 6, 1983, 96 Stat. 2133, provided that all expenditures made under this section prior to the fiscal year ending Sept. 30, 1978, were authorized to have been appropriated from the Highway Trust Fund.

§126. Transferability of Federal-aid highway funds

(a) IN GENERAL.—Notwithstanding any other provision of law, subject to subsection (b), a State may transfer from an apportionment under section 104(b) not to exceed 50 percent of the amount apportioned for the fiscal year to any other apportionment of the State under that section.

(b) APPLICATION TO CERTAIN SET-ASIDES.—

(1) IN GENERAL.—Funds that are subject to sections 104(d) and 133(d)(1)(A) shall not be transferred under this section.

(2) FUNDS TRANSFERRED BY STATES.—Funds transferred by a State under this section of the funding set aside for a State under section 133(h) for a fiscal year—

(A) may only come from the portion of those funds that are available for obligation in any area of the State under section 133(h); and

(B) may only be transferred if the Secretary certifies that the State—

(i) held a competition in compliance with the guidance issued to carry out section 133(h) and provided sufficient time for applicants to apply;

(ii) offered to each eligible entity, and provided on request of an eligible entity, technical assistance; and

(iii) demonstrates that there were not sufficiently suitable applications from eligible entities to use the funds to be transferred.

(Added Pub. L. 105–178, title I, §1310(a), June 9, 1998, 112 Stat. 234, §110; renumbered §126, Pub. L. 106–159, title I, §102(a)(1), Dec. 9, 1999, 113 Stat. 1752; amended Pub. L. 109–59, title I, §1401(a)(3)(B), Aug. 10, 2005, 119 Stat. 1225; Pub. L. 112–141, div. A, title I, §1509(a), July 6, 2012, 126 Stat. 567; Pub. L. 114–94, div. A, title I, §§1109(c)(1), 1446(a)(2), Dec. 4, 2015, 129 Stat. 1343, 1437; Pub. L. 117–58, div. A, title I, §11109(b)(2), Nov. 15, 2021, 135 Stat. 468.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 126, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 901; Pub. L. 93–87, title I, §152(3), Aug. 13, 1973, 87 Stat. 276, related to providing Federal aid for highway construction only to States that used at least amounts provided by law on June 18, 1934, for such purposes, prior to repeal by Pub. L. 105–178, title I, §1226(d), as added by Pub. L. 105–206, title IX, §9003(a), July 22, 1998, 112 Stat. 837.

AMENDMENTS

2021—Subsec. (b)(2). Pub. L. 117–58, §11109(b)(2)(A), (B), which directed substitution of "set aside for a State under section 133(h) for a fiscal year—

"(A) may"

for "reserved for a State under section 133(h) for a fiscal year may", was executed by making the substitution for "reserved for the State under section 133(h) for a fiscal year may" to reflect the probable intent of Congress.

Subsec. (b)(2)(B). Pub. L. 117–58, §11109(b)(2)(A), (C), added subpar. (B).

2015—Subsec. (b)(1). Pub. L. 114–94, §1446(a)(2), substituted "133(d)(1)(A)" for "133(d)".

Subsec. (b)(2). Pub. L. 114–94, §1109(c)(1), substituted "for the State under section 133(h)" for "for the State under section 213" and "of the State under section 133(h)" for "of the State under section 213(c)(1)(B)".

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to uniform transferability of Federal-aid highway funds.

2005—Subsec. (a). Pub. L. 109–59, which directed insertion of "under" after "State's apportionment", was executed by making the insertion after "State's apportionment" the second place it appeared, to reflect the probable intent of Congress.

1999—Pub. L. 106–159 renumbered section 110 of this title as this section.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§127. Vehicle weight limitations—Interstate System

(a) IN GENERAL.—

(1) The Secretary shall withhold 50 percent of the apportionment of a State under section 104(b)(1) in any fiscal year in which the State does not permit the use of The Dwight D. Eisenhower System of Interstate and Defense Highways within its boundaries by vehicles with a weight of twenty thousand pounds carried on any one axle, including enforcement tolerances, or with a tandem axle weight of thirty-four thousand pounds, including enforcement tolerances, or a gross weight of at least eighty thousand pounds for vehicle combinations of five axles or more.

(2) However, the maximum gross weight to be allowed by any State for vehicles using The Dwight D. Eisenhower System of Interstate and Defense Highways shall be twenty thousand pounds carried on one axle, including enforcement tolerances, and a tandem axle weight of thirty-four thousand pounds, including enforcement tolerances and with an overall maximum gross weight, including enforcement tolerances, on a group of two or more consecutive axles produced by application of the following formula:

$$W=500\left(\frac{LN}{N1}+12N+36\right)$$

where W equals overall gross weight on any group of two or more consecutive axles to the nearest five hundred pounds, L equals distance in feet between the extreme of any group of two or more consecutive axles, and N equals number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles (1) is thirty-six feet or more, or (2) in the case of a motor vehicle hauling any tank trailer, dump trailer, or ocean transport container before September 1, 1989, is 30 feet or more: *Provided*, That such overall gross weight may not exceed eighty thousand pounds, including all enforcement tolerances, except for vehicles using Interstate Route 29 between Sioux City, Iowa, and the border between Iowa and South Dakota or vehicles using Interstate Route 129 between Sioux City, Iowa, and the border between Iowa and Nebraska, and except for those vehicles and loads which cannot be easily dismantled or divided and which have been issued special permits in accordance with applicable State laws, or the corresponding maximum weights permitted for vehicles using the public highways of such State under laws or regulations established by appropriate State authority in effect on July 1, 1956, except in the case of the overall gross weight of any group of two or

more consecutive axles on any vehicle (other than a vehicle comprised of a motor vehicle hauling any tank trailer, dump trailer, or ocean transport container on or after September 1, 1989), on the date of enactment of the Federal-Aid Highway Amendments of 1974, whichever is the greater.

(3) Any amount which is withheld from apportionment to any State pursuant to the foregoing provisions shall lapse if not released and obligated within the availability period specified in section 118(b).

(4) This section shall not be construed to deny apportionment to any State allowing the operation within such State of any vehicles or combinations thereof, other than vehicles or combinations subject to subsection (d) of this section, which the State determines could be lawfully operated within such State on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974.

(5) With respect to the State of Hawaii, laws or regulations in effect on February 1, 1960, shall be applicable for the purposes of this section in lieu of those in effect on July 1, 1956.

(6) With respect to the State of Colorado, vehicles designed to carry 2 or more precast concrete panels shall be considered a nondivisible load.

(7) With respect to the State of Michigan, laws or regulations in effect on May 1, 1982, shall be applicable for the purposes of this subsection.

(8) With respect to the State of Maryland, laws and regulations in effect on June 1, 1993, shall be applicable for the purposes of this subsection.

(9) The State of Louisiana may allow, by special permit, the operation of vehicles with a gross vehicle weight of up to 100,000 pounds for the hauling of sugarcane during the harvest season, not to exceed 100 days annually.

(10) With respect to Interstate Routes 89, 93, and 95 in the State of New Hampshire—

(A) State laws (including regulations) concerning vehicle weight limitations that were in effect on January 1, 1987, and are applicable to State highways other than the Interstate System, shall be applicable in lieu of the requirements of this subsection; and

(B) effective June 30, 2016, a combination of truck-tractor and dump trailer equipped with 6 axles or more with a gross weight of up to 99,000 pounds shall be permitted if the distances between the extreme axles, excluding the steering axle, is 28 feet or more.

(11)(A) With respect to all portions of the Interstate Highway System in the State of Maine, laws (including regulations) of that State concerning vehicle weight limitations applicable to other State highways shall be applicable in lieu of the requirements under this subsection.

(B) With respect to all portions of the Interstate Highway System in the State of Vermont, laws (including regulations) of that State concerning vehicle weight limitations applicable to other State highways shall be applicable in lieu of the requirements under this subsection.

(12) HEAVY DUTY VEHICLES.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in order to promote reduction of fuel use and emissions because of engine idling, the maximum gross vehicle weight limit and the axle weight limit for any heavy-duty vehicle equipped with an idle reduction technology shall be increased by a quantity necessary to compensate for the additional weight of the idle reduction system.

(B) MAXIMUM WEIGHT INCREASE.—The weight increase under subparagraph (A) shall be not greater than 550 pounds.

(C) PROOF.—On request by a regulatory agency or law enforcement agency, the vehicle operator shall provide proof (through demonstration or certification) that—

(i) the idle reduction technology is fully functional at all times; and

(ii) the 550-pound gross weight increase is not used for any purpose other than the use of idle reduction technology described in subparagraph (A).

(13) MILK PRODUCTS.—A vehicle carrying fluid milk products shall be considered a load that cannot be easily dismantled or divided.

(b) REASONABLE ACCESS.—No State may enact or enforce any law denying reasonable access to motor vehicles subject to this title to and from the Interstate Highway System to terminals and facilities for food, fuel, repairs, and rest.

(c) OCEAN TRANSPORT CONTAINER DEFINED.—For purposes of this section, the term "ocean transport container" has the meaning given the term "freight container" by the International Standards Organization in Series 1, Freight Containers, 3rd Edition (reference number IS0668–1979(E)) as in effect on the date of the enactment of this subsection.

(d) LONGER COMBINATION VEHICLES.—

(1) PROHIBITION.—

(A) GENERAL CONTINUATION RULE.—A longer combination vehicle may continue to operate only if the longer combination vehicle configuration type was authorized by State officials pursuant to State statute or regulation conforming to this section and in actual lawful operation on a regular or periodic basis (including seasonal operations) on or before June 1, 1991, or pursuant to section 335 of the Department of Transportation and Related Agencies Appropriations Act, 1991 (104 Stat. 2186).

(B) APPLICABILITY OF STATE LAWS AND REGULATIONS.—All such operations shall continue to be subject to, at the minimum, all State statutes, regulations, limitations and conditions, including, but not limited to, routing-specific and configuration-specific designations and all other restrictions, in force on June 1, 1991; except that subject to such regulations as may be issued by the Secretary pursuant to paragraph (5) of this subsection, the State may make minor adjustments of a temporary and emergency nature to route designations and vehicle operating restrictions in effect on June 1, 1991, for specific safety purposes and road construction.

(C) WYOMING.—In addition to those vehicles allowed under subparagraph (A), the State of Wyoming may allow the operation of additional vehicle configurations not in actual operation on June 1, 1991, but authorized by State law not later than November 3, 1992, if such vehicle configurations comply with the single axle, tandem axle, and bridge formula limits set forth in subsection (a) and do not exceed 117,000 pounds gross vehicle weight.

(D) OHIO.—In addition to vehicles which the State of Ohio may continue to allow to be operated under subparagraph (A), such State may allow longer combination vehicles with 3 cargo carrying units of 28½ feet each (not including the truck tractor) not in actual operation on June 1, 1991, to be operated within its boundaries on the 1-mile segment of Ohio State Route 7 which begins at and is south of exit 16 of the Ohio Turnpike.

(E) ALASKA.—In addition to vehicles which the State of Alaska may continue to allow to be operated under subparagraph (A), such State may allow the operation of longer combination vehicles which were not in actual operation on June 1, 1991, but which were in actual operation prior to July 5, 1991.

(F) IOWA.—In addition to vehicles that the State of Iowa may continue to allow to be operated under subparagraph (A), the State may allow longer combination vehicles that were not in actual operation on June 1, 1991, to be operated on Interstate Route 29 between Sioux City, Iowa, and the border between Iowa and South Dakota or Interstate Route 129 between Sioux City, Iowa, and the border between Iowa and Nebraska.

(2) ADDITIONAL STATE RESTRICTIONS.—

(A) IN GENERAL.—Nothing in this subsection shall prevent any State from further restricting in any manner or prohibiting the operation of longer combination vehicles otherwise authorized under this subsection; except that such restrictions or prohibitions shall be consistent with the requirements of sections 31111–31114 of title 49.

(B) MINOR ADJUSTMENTS.—Any State further restricting or prohibiting the operations of longer combination vehicles or making minor adjustments of a temporary and emergency nature

as may be allowed pursuant to regulations issued by the Secretary pursuant to paragraph (5) of this subsection, shall, within 30 days, advise the Secretary of such action, and the Secretary shall publish a notice of such action in the Federal Register.

(3) PUBLICATION OF LIST.—

(A) SUBMISSION TO SECRETARY.—Within 60 days of the date of the enactment of this subsection, each State (i) shall submit to the Secretary for publication in the Federal Register a complete list of (I) all operations of longer combination vehicles being conducted as of June 1, 1991, pursuant to State statutes and regulations; (II) all limitations and conditions, including, but not limited to, routing-specific and configuration-specific designations and all other restrictions, governing the operation of longer combination vehicles otherwise prohibited under this subsection; and (III) such statutes, regulations, limitations, and conditions; and (ii) shall submit to the Secretary copies of such statutes, regulations, limitations, and conditions.

(B) INTERIM LIST.—Not later than 90 days after the date of the enactment of this subsection, the Secretary shall publish an interim list in the Federal Register, consisting of all information submitted pursuant to subparagraph (A). The Secretary shall review for accuracy all information submitted by the States pursuant to subparagraph (A) and shall solicit and consider public comment on the accuracy of all such information.

(C) LIMITATION.—No statute or regulation shall be included on the list submitted by a State or published by the Secretary merely on the grounds that it authorized, or could have authorized, by permit or otherwise, the operation of longer combination vehicles, not in actual operation on a regular or periodic basis on or before June 1, 1991.

(D) FINAL LIST.—Except as modified pursuant to paragraph (1)(C) of this subsection, the list shall be published as final in the Federal Register not later than 180 days after the date of the enactment of this subsection. In publishing the final list, the Secretary shall make any revisions necessary to correct inaccuracies identified under subparagraph (B). After publication of the final list, longer combination vehicles may not operate on the Interstate System except as provided in the list.

(E) REVIEW AND CORRECTION PROCEDURE.—The Secretary, on his or her own motion or upon a request by any person (including a State), shall review the list issued by the Secretary pursuant to subparagraph (D). If the Secretary determines there is cause to believe that a mistake was made in the accuracy of the final list, the Secretary shall commence a proceeding to determine whether the list published pursuant to subparagraph (D) should be corrected. If the Secretary determines that there is a mistake in the accuracy of the list the Secretary shall correct the publication under subparagraph (D) to reflect the determination of the Secretary.

(4) LONGER COMBINATION VEHICLE DEFINED.—For purposes of this section, the term "longer combination vehicle" means any combination of a truck tractor and 2 or more trailers or semitrailers which operates on the Interstate System at a gross vehicle weight greater than 80,000 pounds.

(5) REGULATIONS REGARDING MINOR ADJUSTMENTS.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall issue regulations establishing criteria for the States to follow in making minor adjustments under paragraph (1)(B).

(e) OPERATION OF CERTAIN SPECIALIZED HAULING VEHICLES ON INTERSTATE ROUTE 68.—The single axle, tandem axle, and bridge formula limits set forth in subsection (a) shall not apply to the operation on Interstate Route 68 in Garrett and Allegany Counties, Maryland, of any specialized vehicle equipped with a steering axle and a tridem axle and used for hauling coal, logs, and pulpwood if such vehicle is of a type of vehicle as was operating in such counties on United States Route 40 or 48 for such purpose on August 1, 1991.

(f) OPERATION OF CERTAIN SPECIALIZED HAULING VEHICLES ON CERTAIN WISCONSIN HIGHWAYS.—If the 104-mile portion of Wisconsin State Route 78 and United

States Route 51 between Interstate Route 94 near Portage, Wisconsin, and Wisconsin State Route 29 south of Wausau, Wisconsin, is designated as part of the Interstate System under section 103(c)(4)(A), the single axle weight, tandem axle weight, gross vehicle weight, and bridge formula limits set forth in subsection (a) shall not apply to the 104-mile portion with respect to the operation of any vehicle that could legally operate on the 104-mile portion before the date of the enactment of this subsection.

(g) OPERATION OF CERTAIN SPECIALIZED HAULING VEHICLES ON CERTAIN PENNSYLVANIA HIGHWAYS.—If the segment of United States Route 220 between Bedford and Bald Eagle, Pennsylvania, is designated as part of the Interstate System, the single axle weight, tandem axle weight, gross vehicle weight, and bridge formula limits set forth in subsection (a) shall not apply to that segment with respect to the operation of any vehicle which could have legally operated on that segment before the date of the enactment of this subsection.

(h) WAIVER FOR A ROUTE IN STATE OF MAINE DURING PERIODS OF NATIONAL EMERGENCY.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, the Secretary, in consultation with the Secretary of Defense, may waive or limit the application of any vehicle weight limit established under this section with respect to the portion of Interstate Route 95 in the State of Maine between Augusta and Bangor for the purpose of making bulk shipments of jet fuel to the Air National Guard Base at Bangor International Airport during a period of national emergency in order to respond to the effects of the national emergency.

(2) APPLICABILITY.—Emergency limits established under paragraph (1) shall preempt any inconsistent State vehicle weight limits.

(i) SPECIAL PERMITS DURING PERIODS OF NATIONAL EMERGENCY.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, a State may issue special permits during an emergency to overweight vehicles and loads that can easily be dismantled or divided if—

(A) the President has declared the emergency to be a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);

(B) the permits are issued in accordance with State law; and

(C) the permits are issued exclusively to vehicles and loads that are delivering relief supplies.

(2) EXPIRATION.—A permit issued under paragraph (1) shall expire not later than 120 days after the date of the declaration of emergency under subparagraph (A) of that paragraph.

(j) OPERATION OF VEHICLES ON CERTAIN OTHER WISCONSIN HIGHWAYS.—If any segment of the United States Route 41 corridor, as described in section 1105(c)(57) of the Intermodal Surface Transportation Efficiency Act of 1991, is designated as a route on the Interstate System, a vehicle that could operate legally on that segment before the date of such designation may continue to operate on that segment, without regard to any requirement under subsection (a).

(k) OPERATION OF VEHICLES ON CERTAIN MISSISSIPPI HIGHWAYS.—If any segment of United States Route 78 in Mississippi from mile marker 0 to mile marker 113 is designated as part of the Interstate System, no limit established under this section may apply to that segment with respect to the operation of any vehicle that could have legally operated on that segment before such designation.

(l) OPERATION OF VEHICLES ON CERTAIN KENTUCKY HIGHWAYS.—

(1) IN GENERAL.—If any segment of highway described in paragraph (2) is designated as a route on the Interstate System, a vehicle that could operate legally on that segment before the date of such designation may continue to operate on that segment, without regard to any requirement under subsection (a).

(2) DESCRIPTION OF HIGHWAY SEGMENTS.—The highway segments referred to in paragraph (1) are as follows:

(A) Interstate Route 69 in Kentucky (formerly the Wendell H. Ford (Western Kentucky) Parkway) from the Interstate Route 24 Interchange, near Eddyville, to the Edward T. Breathitt

(Pennyrile) Parkway Interchange.

(B) The Edward T. Breathitt (Pennyrile) Parkway (to be designated as Interstate Route 69) in Kentucky from the Wendell H. Ford (Western Kentucky) Parkway Interchange to near milepost 77, and on new alignment to an interchange on the Audubon Parkway, if the segment is designated as part of the Interstate System.

(3) ADDITIONAL HIGHWAY SEGMENTS.—

(A) IN GENERAL.—If any segment of highway described in clauses (i) through (v) is designated as a route of the Interstate System, a vehicle that could operate legally on that segment before the date of such designation may continue to operate on that segment, without regard to any requirement under subsection (a), except that such vehicle shall not exceed a gross vehicle weight of 120,000 pounds. The highway segments referred to in this paragraph are as follows:

(i) The William H. Natcher Parkway (to be designated as a spur of Interstate Route 65) from Interstate Route 65 in Bowling Green, Kentucky, to United States Route 60 in Owensboro, Kentucky.

(ii) The Julian M. Carroll (Purchase) Parkway (to be designated as Interstate Route 69) in Kentucky from the Tennessee state line to the interchange with Interstate Route 24, near Calvert City.

(iii) The Wendell H. Ford (Western Kentucky) Parkway (to be designated as a spur of Interstate Route 69) from the interchange with the William H. Natcher Parkway in Ohio County, Kentucky, west to the interchange of the Western Kentucky Parkway with the Edward T. Breathitt (Pennyrile) Parkway.

(iv) The Edward T. Breathitt (Pennyrile) Parkway (to be designated as a spur of Interstate Route 69) from Interstate 24, north to Interstate 69.

(v) The Louie B. Nunn Cumberland Expressway (to be designated as a spur of Interstate Route 65) from the interchange with Interstate Route 65 in Barren County, Kentucky, east to the interchange with United States Highway 27 in Somerset, Kentucky.

(B) NONDIVISIBLE LOAD OR VEHICLE.—Nothing in this paragraph shall prohibit the State from issuing a permit for a nondivisible load or vehicle with a gross vehicle weight that exceeds 120,000 pounds.

(m) COVERED HEAVY-DUTY TOW AND RECOVERY VEHICLES.—

(1) IN GENERAL.—The vehicle weight limitations set forth in this section do not apply to a covered heavy-duty tow and recovery vehicle.

(2) COVERED HEAVY-DUTY TOW AND RECOVERY VEHICLE DEFINED.—In this subsection, the term "covered heavy-duty tow and recovery vehicle" means a vehicle that—

(A) is transporting a disabled vehicle from the place where the vehicle became disabled to the nearest appropriate repair facility; and

(B) has a gross vehicle weight that is equal to or exceeds the gross vehicle weight of the disabled vehicle being transported.

(n) OPERATION OF VEHICLES ON CERTAIN HIGHWAYS IN THE STATE OF TEXAS.—If any segment in the State of Texas of United States Route 59, United States Route 77, United States Route 281, United States Route 84, Texas State Highway 44, or another roadway is designated as Interstate Route 69, a vehicle that could operate legally on that segment before the date of the designation may continue to operate on that segment, without regard to any requirement under this section.

(o) CERTAIN LOGGING VEHICLES IN THE STATE OF WISCONSIN.—

(1) IN GENERAL.—The Secretary shall waive, with respect to a covered logging vehicle, the application of any vehicle weight limit established under this section.

(2) COVERED LOGGING VEHICLE DEFINED.—In this subsection, the term "covered

logging vehicle" means a vehicle that—

(A) is transporting raw or unfinished forest products, including logs, pulpwood, biomass, or wood chips;

(B) has a gross vehicle weight of not more than 98,000 pounds;

(C) has not less than 6 axles; and

(D) is operating on a segment of Interstate Route 39 in the State of Wisconsin from mile marker 175.8 to mile marker 189.

(p) OPERATION OF CERTAIN SPECIALIZED VEHICLES ON CERTAIN HIGHWAYS IN THE STATE OF ARKANSAS.—If any segment of United States Route 63 between the exits for highways 14 and 75 in the State of Arkansas is designated as part of the Interstate System, the single axle weight, tandem axle weight, gross vehicle weight, and bridge formula limits under subsection (a) and the width limitation under section 31113(a) of title 49 shall not apply to that segment with respect to the operation of any vehicle that could operate legally on that segment before the date of the designation.

(q) CERTAIN LOGGING VEHICLES IN THE STATE OF MINNESOTA.—

(1) IN GENERAL.—The Secretary shall waive, with respect to a covered logging vehicle, the application of any vehicle weight limit established under this section.

(2) COVERED LOGGING VEHICLE DEFINED.—In this subsection, the term "covered logging vehicle" means a vehicle that—

(A) is transporting raw or unfinished forest products, including logs, pulpwood, biomass, or wood chips;

(B) has a gross vehicle weight of not more than 99,000 pounds;

(C) has not less than 6 axles; and

(D) is operating on a segment of Interstate Route 35 in the State of Minnesota from mile marker 235.4 to mile marker 259.552.

(r) EMERGENCY VEHICLES.—

(1) IN GENERAL.—Notwithstanding subsection (a), a State shall not enforce against an emergency vehicle a vehicle weight limit (up to a maximum gross vehicle weight of 86,000 pounds) of less than—

(A) 24,000 pounds on a single steering axle;

(B) 33,500 pounds on a single drive axle;

(C) 62,000 pounds on a tandem axle; or

(D) 52,000 pounds on a tandem rear drive steer axle.

(2) EMERGENCY VEHICLE DEFINED.—In this subsection, the term "emergency vehicle" means a vehicle designed to be used under emergency conditions—

(A) to transport personnel and equipment; and

(B) to support the suppression of fires and mitigation of other hazardous situations.

(s) NATURAL GAS AND ELECTRIC BATTERY VEHICLES.—A vehicle, if operated by an engine fueled primarily by natural gas or powered primarily by means of electric battery power, may exceed the weight limit on the power unit by up to 2,000 pounds (up to a maximum gross vehicle weight of 82,000 pounds) under this section.

(t) VEHICLES IN IDAHO.—A vehicle limited or prohibited under this section from operating on a segment of the Interstate System in the State of Idaho may operate on such a segment if such vehicle–

(1) has a gross vehicle weight of 129,000 pounds or less;

(2) other than gross vehicle weight, complies with the single axle, tandem axle, and bridge formula limits set forth in subsection (a); and

(3) is authorized to operate on such segment under Idaho State law.

(u) VEHICLES IN NORTH DAKOTA.—A vehicle limited or prohibited under this section from operating on a segment of the Interstate System in the State of North Dakota may operate on such a segment if such vehicle—

(1) has a gross vehicle weight of 129,000 pounds or less;

(2) other than gross vehicle weight, complies with the single axle, tandem axle, and bridge formula limits set forth in subsection (a); and

(3) is authorized to operate on such segment under North Dakota State law.

(v) OPERATION OF VEHICLES ON CERTAIN NORTH CAROLINA HIGHWAYS.—If any segment in the State of North Carolina of United States Route 17, United States Route 29, United States Route 52, United States Route 64, United States Route 70, United States Route 74, United States Route 117, United States Route 220, United States Route 264, or United States Route 421 is designated as a route on the Interstate System, a vehicle that could operate legally on that segment before the date of such designation may continue to operate on that segment, without regard to any requirement under subsection (a).

(w) OPERATION OF VEHICLES ON CERTAIN OKLAHOMA HIGHWAYS.—If any segment of the highway referred to in paragraph (96) of section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2032) is designated as a route on the Interstate System, a vehicle that could operate legally on that segment before the date of such designation may continue to operate on that segment, without any regard to any requirement under this section.

(x) CERTAIN AGRICULTURAL VEHICLES IN THE STATE OF MISSISSIPPI.—

(1) IN GENERAL.—The State of Mississippi may allow, by special permit, the operation of a covered agricultural vehicle on the Interstate System in the State of Mississippi if such vehicle does not exceed—

(A) a gross vehicle weight of 88,000 pounds; and

(B) 110 percent of the maximum weight on any axle or axle group described in subsection (a)(2), including any enforcement tolerance.

(2) COVERED AGRICULTURAL VEHICLE DEFINED.—In this subsection, the term "covered agricultural vehicle" means a vehicle that is transporting unprocessed agricultural crops used for food, feed or fiber, or raw or unfinished forest products, including logs, pulpwood, biomass or wood chips.

(y) OPERATION OF CERTAIN VEHICLES IN WEST VIRGINIA.—

(1) IN GENERAL.—The State of West Virginia may allow, by special permit, the operation of a vehicle that is transporting materials and equipment on the Interstate System in the State of West Virginia if such vehicle does not exceed 110 percent of the maximum weight on any axle or axle group described in subsection (a)(2), including any enforcement tolerance, provided the remaining gross vehicle weight requirements of subsection (a) are met.

(2) DEFINITION.—In this subsection, the term "materials and equipment" means materials and equipment that are used on a project eligible under this chapter.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 902; Pub. L. 86–624, §17(e), July 12, 1960, 74 Stat. 416; Pub. L. 93–643, §106, Jan. 4, 1975, 88 Stat. 2283; Pub. L. 94–280, title I, §120, May 5, 1976, 90 Stat. 438; Pub. L. 97–424, title I, §133, formerly §133(a), Jan. 6, 1983, 96 Stat. 2123, renumbered §133, Pub. L. 100–17, title I, §133(a)(3), Apr. 2, 1987, 101 Stat. 170; Pub. L. 100–17, title I, §119, Apr. 2, 1987, 101 Stat. 157; Pub. L. 100–202, §101(l) [title III, §347(c)], Dec. 22, 1987, 101 Stat. 1329–358, 1329–388; Pub. L. 101–427, Oct. 15, 1990, 104 Stat. 927; Pub. L. 102–240, title I, §1023(a), (b), (d), Dec. 18, 1991, 105 Stat. 1951, 1952, 1954; Pub. L. 103–331, title III, §332, Sept. 30, 1994, 108 Stat. 2493; Pub. L. 103–429, §3(3), Oct. 31, 1994, 108 Stat. 4377; Pub. L. 104–59, title III, §312(a)(1), (2), (b), Nov. 28, 1995, 109 Stat. 584; Pub. L. 104–88, title IV, §§404, 405(a)(1), Dec. 29, 1995, 109 Stat. 956; Pub. L. 105–178, title I, §§1106(c)(2)(B), 1212(d)(1), June 9, 1998, 112 Stat. 136, 194; Pub. L. 107–107, div. A, title X, §1064, Dec. 28, 2001, 115 Stat. 1233; Pub. L.

108–447, div. J, title I, §121, Dec. 8, 2004, 118 Stat. 3347; Pub. L. 109–58, title VII, §756(c), Aug. 8, 2005, 119 Stat. 832; Pub. L. 109–59, title I, §1111(b)(3), Aug. 10, 2005, 119 Stat. 1171; Pub. L. 111–117, div. A, title I, §194(a), (c), (d), (f), Dec. 16, 2009, 123 Stat. 3072, 3073; Pub. L. 112–55, div. C, title I, §125, Nov. 18, 2011, 125 Stat. 655; Pub. L. 112–141, div. A, title I, §§1404(a), 1510, 1511, July 6, 2012, 126 Stat. 557, 567; Pub. L. 113–235, div. K, title I, §125, Dec. 16, 2014, 128 Stat. 2709; Pub. L. 114–94, div. A, title I, §§1409, 1410, 1446(a)(3), Dec. 4, 2015, 129 Stat. 1411, 1437; Pub. L. 114–113, div. L, title I, §124, Dec. 18, 2015, 129 Stat. 2847; Pub. L. 115–141, div. L, title I, §§127, 129A, Mar. 23, 2018, 132 Stat. 988; Pub. L. 116–6, div. G, title IV, §§421, 422, Feb. 15, 2019, 133 Stat. 474; Pub. L. 116–94, div. H, title IV, §425(a), Dec. 20, 2019, 133 Stat. 3018; Pub. L. 117–58, div. A, title I, §11515, Nov. 15, 2021, 135 Stat. 599; Pub. L. 118–42, div. F, title IV, §425, Mar. 9, 2024, 138 Stat. 395.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of Federal-Aid Highway Amendments of 1974, referred to in subsec. (a)(2), (4), means Jan. 4, 1975, the date on which Pub. L. 93–643 was approved.

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

Section 335 of the Department of Transportation and Related Agencies Appropriations Act, 1991, referred to in subsec. (d)(1)(A), is section 335 of Pub. L. 101–516, which is not classified to the Code.

The date of the enactment of this subsection, referred to in subsec. (d)(3)(A), (B), (D), (5), is the date of the enactment of Pub. L. 102–240, which was approved Dec. 18, 1991.

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

The date of the enactment of this subsection, referred to in subsec. (g), is the date of enactment of Pub. L. 104–88, which was approved Dec. 29, 1995.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (i)(1)(A), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsecs. (j) and (w), is section 1105(c) of Pub. L. 102–240, which is not classified to the Code. Par. (57) was added by Pub. L. 109–59, title I, §1304(b)(5), Aug. 10, 2005, 119 Stat. 1211. Par. (96) was added by Pub. L. 117–58, div. A, title I, §11514(a)(2), Nov. 15, 2021, 135 Stat. 597.

CODIFICATION

Amendments by section 194(c), (f) of Pub. L. 111–117 were executed as if the amendments by section 194(a), (d) of Pub. L. 111–117 were still in effect, notwithstanding section 194(b), (e) of Pub. L. 111–117 which provided that the amendments by section 194(a), (d) were only effective during the 1-year period beginning on the date of enactment of Pub. L. 111–117. See 2009 Amendment notes and Effective and Termination Dates of 2009 Amendment notes below.

AMENDMENTS

2024—Subsecs. (x), (y). Pub. L. 118–42 added subsecs. (x) and (y).

2021—Subsec. (l)(3)(A). Pub. L. 117–58, §11515(1)(A), substituted "clauses (i) through (v)" for "clauses (i) through (iv) of this subparagraph" in introductory provisions.

Subsec. (l)(3)(A)(v). Pub. L. 117–58, §11515(1)(B), added cl. (v).

Subsecs. (v), (w). Pub. L. 117–58, §11515(2), added subsecs. (v) and (w).

2019—Subsec. (l)(3). Pub. L. 116–6, §421, added par. (3).

Subsec. (l)(3)(A). Pub. L. 116–94, §425(a)(1), substituted "clauses (i) through (iv)" for "clause (i) or (ii)" in introductory provisions.

Subsec. (l)(3)(A)(iii), (iv). Pub. L. 116–94, §425(a)(2), added cls. (iii) and (iv).

Subsec. (s). Pub. L. 116–6, §422, in heading, substituted "Natural Gas and Electric Battery Vehicles" for "Natural Gas Vehicles", in introductory provisions, inserted "or powered primarily by means of electric

battery power" after "by natural gas" and substituted "the weight limit on the power unit by up to 2,000 pounds" for "any vehicle weight limit" and a period for "by an amount that is equal to the difference between—," and struck out pars. (1) and (2) which read as follows:

"(1) the weight of the vehicle attributable to the natural gas tank and fueling system carried by that vehicle; and

"(2) the weight of a comparable diesel tank and fueling system."

2018—Subsec. (a)(10). Pub. L. 115–141, §129A, amended par. (10) generally. Prior to amendment, par. (10) read as follows: "With respect to Interstate Routes 89, 93, and 95 in the State of New Hampshire, State laws (including regulations) concerning vehicle weight limitations that were in effect on January 1, 1987, and are applicable to State highways other than the Interstate System, shall be applicable in lieu of the requirements of this subsection."

Subsec. (u). Pub. L. 115–141, §127, added subsec. (u).

2015—Subsec. (a)(3). Pub. L. 114–94, §1446(a)(3), substituted "118(b)" for "118(b)(2) of this title".

Subsec. (a)(11). Pub. L. 114–113, §124(1), struck out "through December 31, 2031" before period at end in subpars. (A) and (B).

Subsec. (a)(13). Pub. L. 114–94, §1409, added par. (13).

Subsecs. (m) to (s). Pub. L. 114–94, §1410, added subsecs. (m) to (s).

Subsec. (t). Pub. L. 114–113, §124(2), added subsec. (t).

2014—Subsecs. (j) to (l). Pub. L. 113–235 added subsecs. (j) to (l).

2012—Subsec. (a)(1). Pub. L. 112–141, §1404(a), substituted "The Secretary shall withhold 50 percent of the apportionment of a State under section 104(b)(1) in any fiscal year in which the State" for "No funds shall be apportioned in any fiscal year under section 104(b)(1) of this title to any State which".

Subsec. (a)(12)(B). Pub. L. 112–141, §1510(1), substituted "550" for "400".

Subsec. (a)(12)(C)(ii). Pub. L. 112–141, §1510(2), substituted "550-pound" for "400-pound".

Subsec. (i). Pub. L. 112–141, §1511, added subsec. (i).

2011—Subsec. (a)(11). Pub. L. 112–55 amended par. (11) generally. Prior to amendment, par. (11) read as follows: "With respect to that portion of the Maine Turnpike designated Route 95 and 495, and that portion of Interstate Route 95 from the southern terminus of the Maine Turnpike to the New Hampshire State line, laws (including regulations) of the State of Maine concerning vehicle weight limitations that were in effect on October 1, 1995, and are applicable to State highways other than the Interstate System, shall be applicable in lieu of the requirements of this subsection."

2009—Subsec. (a)(11). Pub. L. 111–117, §194(c), substituted "that portion of the Maine Turnpike designated Route 95 and 495, and that portion of Interstate Route 95 from the southern terminus of the Maine Turnpike to the New Hampshire State line, laws (including regulations)" for "all portions of the Interstate Highway System in the State, laws (including regulations)". See Codification note above.

Pub. L. 111–117, §194(a), (b), which directed temporary substitution of "all portions of the Interstate Highway System in the State, laws (including regulations)" for "that portion of the Maine Turnpike designated Route 95 and 495, and that portion of Interstate Route 95 from the southern terminus of the Maine Turnpike to the New Hampshire State line, laws (including regulations)", was executed by making the temporary substitution for "that portion of the Maine Turnpike designated Interstate Route 95 and 495, and that portion of Interstate Route 95 from the southern terminus of the Maine Turnpike to the New Hampshire State line, laws (including regulations)" to reflect the probable intent of Congress. See Effective and Termination Dates of 2009 Amendment note below.

Subsec. (a)(13). Pub. L. 111–117, §194(f), struck out par. (13), which consisted of subpar. (A) only. Text read as follows: "With respect to Interstate Routes 89, 91, and 93 in the State of Vermont, laws (including regulations) of that State concerning vehicle weight limitations applicable to State highways other than the Interstate system shall be applicable in lieu of the requirements of this subsection." See Codification note above.

Pub. L. 111–117, §194(d), (e), temporarily added par. (13). See Effective and Termination Dates of 2009 Amendment note below.

2005—Subsec. (a). Pub. L. 109–58 designated first to eleventh sentences as pars. (1) to (11), respectively, and added par. (12).

Subsec. (a)(3). Pub. L. 109–59 substituted "118(b)(2)" for "118(b)(1)".

2004—Subsec. (a). Pub. L. 108–447 substituted "Interstate Routes 89, 93, and 95 in the State of New Hampshire" for "Interstate Route 95 in the State of New Hampshire" in the penultimate sentence.

2001—Subsec. (h). Pub. L. 107–107 added subsec. (h).

1998—Subsec. (a). Pub. L. 105–178, §1212(d)(1), inserted before penultimate sentence "With respect to the State of Colorado, vehicles designed to carry 2 or more precast concrete panels shall be considered a

nondivisible load." and inserted at end "The State of Louisiana may allow, by special permit, the operation of vehicles with a gross vehicle weight of up to 100,000 pounds for the hauling of sugarcane during the harvest season, not to exceed 100 days annually. With respect to Interstate Route 95 in the State of New Hampshire, State laws (including regulations) concerning vehicle weight limitations that were in effect on January 1, 1987, and are applicable to State highways other than the Interstate System, shall be applicable in lieu of the requirements of this subsection. With respect to that portion of the Maine Turnpike designated Interstate Route 95 and 495, and that portion of Interstate Route 95 from the southern terminus of the Maine Turnpike to the New Hampshire State line, laws (including regulations) of the State of Maine concerning vehicle weight limitations that were in effect on October 1, 1995, and are applicable to State highways other than the Interstate System, shall be applicable in lieu of the requirements of this subsection."

Subsec. (f). Pub. L. 105–178, §1106(c)(2)(B), substituted "section 103(c)(4)(A)" for "section 139(a)".

1995—Subsec. (a). Pub. L. 104–59, §312(a)(1), in proviso of second sentence substituted "except for vehicles using Interstate Route 29 between Sioux City, Iowa, and the border between Iowa and South Dakota or vehicles using Interstate Route 129 between Sioux City, Iowa, and the border between Iowa and Nebraska, and except for those" for "except for those".

Subsec. (d)(1)(F). Pub. L. 104–59, §312(a)(2), added subpar. (F).

Subsec. (f). Pub. L. 104–59, §312(b), as amended by Pub. L. 104–88, §405(a)(1), added subsec. (f).

Subsec. (g). Pub. L. 104–88, §404, added subsec. (g).

1994—Subsec. (a). Pub. L. 103–331 inserted at end "With respect to the State of Maryland, laws and regulations in effect on June 1, 1993, shall be applicable for the purposes of this subsection."

Subsec. (d)(2)(A). Pub. L. 103–429 substituted "sections 31111–31114 of title 49" for "sections 411, 412, and 416 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311, 2312, and 2316)".

1991—Subsec. (a). Pub. L. 102–240, §1023(a), substituted "funds shall be apportioned in any fiscal year under section 104(b)(1) of this title" for "funds authorized to be appropriated for any fiscal year under provisions of the Federal-Aid Highway Act of 1956 shall be apportioned" in first sentence and inserted ", other than vehicles or combinations subject to subsection (d) of this section," after "thereof" in fourth sentence.

Subsecs. (d), (e). Pub. L. 102–240, §1023(b), (d), added subsecs. (d) and (e).

1990—Subsec. (a). Pub. L. 101–427 substituted "The Dwight D. Eisenhower System of Interstate and Defense Highways" for "the National System of Interstate and Defense Highways" in two places.

1987—Subsec. (a). Pub. L. 100–202 substituted "September 1, 1989" for "September 1, 1988" in two places.

Pub. L. 100–17, §119(d)(1), inserted heading.

Pub. L. 100–17, §119(a)(1), (2), which directed that second sentence be amended by inserting "(1)" before "is 36 feet or more" and by inserting cl. (2) after such phrase, was executed by making the insertions before and after "is thirty-six feet or more" to reflect the probable intent of Congress.

Pub. L. 100–17, §119(a)(3), (b), inserted "on any vehicle (other than a vehicle comprised of a motor vehicle hauling any tank trailer, dump trailer, or ocean transport container on or after September 1, 1988)" after last reference to "consecutive axles" in second sentence and substituted "lapse if not released and obligated within the availability period specified in section 118(b)(1) of this title." for "lapse."

Subsec. (b). Pub. L. 100–17, §119(d)(2), inserted heading.

Subsec. (c). Pub. L. 100–17, §119(c), added subsec. (c).

1983—Pub. L. 97–424 struck out "and width" after "weight" in section catchline.

Subsec. (a). Pub. L. 97–424 designated existing provisions as subsec. (a) and substituted provisions relating to authority to appropriate funds for any fiscal year under the Federal-Aid Highway Act of 1956 with respect to apportionment to any State not permitting the use of the National System of Interstate and Defense Highways within its boundaries by vehicles with specified weights, provisions setting forth formula of maximum gross weight to be allowed by any State for vehicles using such Highways, and provisions setting forth further limitations for apportionment, for provisions relating to authority to appropriate funds for any fiscal year under section 108(b) of the Federal-Aid Highway Act of 1956 with respect to apportionment to any State not permitting the use of the Interstate System within its boundaries by vehicles with specified weights, provisions setting forth formula for determination of overall gross weight, provisions relating to maximum widths permitted for vehicles, and provisions setting forth further limitations for apportionment.

Subsec. (b). Pub. L. 97–424 added subsec. (b).

1976—Pub. L. 94–280 authorized a State to permit any bus with a width of 102 inches or less to operate on any lane of twelve feet or more in width on the Interstate System.

1975—Pub. L. 93–643 substituted weight limitations of 20,000 lbs. carried on any one axle, including all enforcement tolerances, for 18,000 lbs. carried on any one axle, of 34,000 lbs. for tandem axle weight,

including all enforcement tolerances, for 32,000 lbs. for tandem axle weight, overall gross weight limitation of 80,000, including enforcement tolerances, for overall gross weight of 73,280 lbs. prescribed a formula for determination of overall gross weight on a group of two or more consecutive axles, authorized a gross load of 34,000 lbs. each for two consecutive sets of tandem axles having an overall distance of 36 or more feet between such axles, excepted from the new weight limitations cases of overall gross weight of any group of two or more consecutive axles, on Jan. 4, 1975, and inserted ", except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974" in third sentence.

1960—Pub. L. 86–624 made the laws or regulation in effect on Feb. 1, 1960, applicable, with respect to the State of Hawaii, for the purposes of this section, in lieu of those in effect on July 1, 1956.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE AND TERMINATION DATES OF 2009 AMENDMENT

Pub. L. 111–117, div. A, title I, §194(b), Dec. 16, 2009, 123 Stat. 3072, provided that: "The amendment made by subsection (a) [amending this section] shall be in effect during the 1-year period beginning on the date of enactment of this Act [Dec. 16, 2009]."

Pub. L. 111–117, div. A, title I, §194(c), Dec. 16, 2009, 123 Stat. 3072, provided that the amendment made by section 194(c) is effective as of the date that is 366 days after Dec. 16, 2009.

Pub. L. 111–117, div. A, title I, §194(e), Dec. 16, 2009, 123 Stat. 3073, provided that: "The amendment made by subsection (d) [amending this section] shall be in effect during the 1-year period beginning on the date of enactment of this Act [Dec. 16, 2009]."

Pub. L. 111–117, div. A, title I, §194(f), Dec. 16, 2009, 123 Stat. 3073, provided that the amendment made by section 194(f) is effective as of the date that is 366 days after Dec. 16, 2009.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by section 404 of Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of Title 49, Transportation.

Pub. L. 104–88, title IV, §405(a), Dec. 29, 1995, 109 Stat. 956, provided that the amendment made by that section is effective Nov. 28, 1995.

EFFECTIVE DATE OF 1991 AMENDMENT

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

SPECIALIZED HAULING VEHICLES

Pub. L. 105–178, title I, §1213(f), June 9, 1998, 112 Stat. 201, provided that:

"(1) STUDY.—The Secretary shall conduct a study to examine the impact of the truck weight standards on specialized hauling vehicles. The study shall include, at a minimum, an analysis of the economic, safety, and infrastructure impacts of the standards.

"(2) REPORT.—Not later than 2 years after the date of enactment of this Act [June 9, 1998], the Secretary shall transmit to Congress a report on the results of the study with any recommendations the Secretary determines appropriate as a result of the study."

VEHICLE WEIGHT ENFORCEMENT

Pub. L. 105–178, title I, §1213(h), June 9, 1998, 112 Stat. 202, provided that:

"(1) STUDY.—The Secretary shall conduct a study of State laws (including regulations) relating to penalties for violation of State commercial motor vehicle weight laws.

"(2) PURPOSE.—The purpose of the study shall be to determine the effectiveness of State penalties as a deterrent to illegally overweight trucking operations. The study shall evaluate fine structures, innovative roadside enforcement techniques, and a State's ability to penalize shippers and carriers as well as drivers and shall examine the effectiveness of administrative and judicial procedures utilized to enforce vehicle weight laws.

"(3) REPORT.—Not later than 2 years after the date of enactment of this Act [June 9, 1998], the Secretary shall transmit to Congress a report on the results of the study with any legislative recommendations of the Secretary."

COMMERCIAL MOTOR VEHICLE STUDY

Pub. L. 105–178, title I, §1213(i), June 9, 1998, 112 Stat. 202, provided that:

"(1) IN GENERAL.—The Secretary shall request the Transportation Research Board of the National Academy of Sciences to conduct a study regarding the regulation of weights, lengths, and widths of commercial motor vehicles operating on Federal-aid highways to which Federal regulations apply on the date of enactment of this Act [June 9, 1998]. In conducting the study, the Board shall review law, regulations, studies (including Transportation Research Board Special Report 225), and practices and develop recommendations regarding any revisions to law and regulations that the Board determines appropriate.

"(2) FACTORS TO CONSIDER AND EVALUATE.—In developing recommendations under paragraph (1), the Board shall consider and evaluate the impact of the recommendations described in paragraph (1) on the economy, the environment, safety, and service to communities.

"(3) CONSULTATION.—In carrying out the study, the Board shall consult with the Department of Transportation, States, the motor carrier industry, freight shippers, highway safety groups, air quality and natural resource management groups, commercial motor vehicle driver representatives, and other appropriate entities.

"(4) REPORT.—Not later than 2 years after the date of enactment of this Act [June 9, 1998], the Board shall transmit to Congress and the Secretary a report on the results of the study conducted under this subsection.

"(5) RECOMMENDATIONS.—Not later than 180 days after the date of receipt of the report under paragraph (4), the Secretary may transmit to Congress a report containing comments or recommendations of the Secretary regarding the Board's report.

"(6) FUNDING.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $250,000 for each of fiscal years 1999 and 2000 to carry out this subsection.

"(7) APPLICABILITY OF TITLE 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of the study under this subsection shall be 100 percent and such funds shall remain available until expended."

OVER-THE-ROAD BUSES AND PUBLIC TRANSIT VEHICLES

Pub. L. 102–240, title I, §1023(h), as added by Pub. L. 102–388, title III, §341, Oct. 6, 1992, 106 Stat. 1552; amended by Pub. L. 104–59, title III, §326, Nov. 28, 1995, 109 Stat. 592; Pub. L. 105–178, title I, §1212(c), June 9, 1998, 112 Stat. 194; Pub. L. 108–7, div. I, title III, §347, Feb. 20, 2003, 117 Stat. 419; Pub. L. 108–447, div. H, title V, §530, Dec. 8, 2004, 118 Stat. 3271; Pub. L. 109–59, title I, §1309, Aug. 10, 2005, 119 Stat. 1219; Pub. L. 109–115, div. A, title I, §115, Nov. 30, 2005, 119 Stat. 2408; Pub. L. 112–141, div. A, title I, §1522, July 6, 2012, 126 Stat. 579, provided that:

"(1) EXEMPTION.—The second sentence of section 127 of title 23, United States Code, relating to axle weight limitations for vehicles using the Dwight D. Eisenhower System of Interstate and Defense Highways, shall not apply to—

"(A) any over-the-road bus (as defined in section 301 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181));

"(B) any vehicle that is regularly and exclusively used as an intrastate public agency transit passenger bus; or

"(C) any motor home (as defined in section 571.3 of title 49, Code of Federal Regulations (or successor regulation)).

"(2) STATE ACTION.—

"(A) WEIGHT LIMITATIONS.—A covered State, including any political subdivision of such State, may not enforce a single axle weight limitation of less than 24,000 pounds, including enforcement

tolerances, on any vehicle referred to in paragraph (1) in any case in which the vehicle is using the Interstate System.

"(B) COVERED STATE DEFINED.—In this paragraph, the term 'covered State' means a State that has enforced, in the period beginning on October 6, 1992, and ending on the date of enactment of this subparagraph [Nov. 30, 2005], a single axle weight limitation of 20,000 pounds or greater but less than 24,000 pounds, including enforcement tolerances, on any vehicle referred to in paragraph (1) in any case in which the vehicle is using the Interstate System."

TEMPORARY EXEMPTION FOR FIREFIGHTING VEHICLES

Pub. L. 102–240, title I, §1023(e), Dec. 18, 1991, 105 Stat. 1954, provided that:

"(1) TEMPORARY EXEMPTION.—The second sentence of section 127 of title 23, United States Code, relating to axle weight limitations and the bridge formula for vehicles using the National System of Interstate and Defense Highways, shall not apply, in the 2-year period beginning on the date of the enactment of this Act [Dec. 18, 1991], to any existing vehicle which is used for the purpose of protecting persons and property from fires and other disasters that threaten public safety and which is in actual operation before such date of enactment and to any new vehicle to be used for such purpose while such vehicle is being delivered to a firefighting agency. The Secretary may extend such 2-year period for an additional year.

"(2) STUDY.—The Secretary shall conduct a study—

"(A) of State laws regulating the use on the National System of Interstate and Defense Highways [now Dwight D. Eisenhower System of Interstate and Defense Highways] of vehicles which are used for the purpose of protecting persons and property from fires and other disasters that threaten public safety and which are being delivered to or operated by a firefighting agency; and

"(B) of the issuance of permits by States which exempt such vehicles from the requirements of the second sentence of section 127 of title 23, United States Code.

"(3) PURPOSES.—The purposes of the study under this subsection are to determine whether or not such State laws and such section 127 need to be modified with regard to such vehicles and whether or not a permanent exemption should be made for such vehicles from the requirements of such laws and section 127 or whether or not the bridge formula set forth in such section should be modified as it applies to such vehicles.

"(4) REPORT.—Not later than 18 months after the date of the enactment of this Act [Dec. 18, 1991], the Secretary shall submit to the Congress a report on the results of the study conducted under paragraph (2), together with recommendations."

STUDY PERTAINING TO TRANSPORTERS OF WATER WELL DRILLING RIGS

Pub. L. 102–240, title I, §1023(g), Dec. 18, 1991, 105 Stat. 1955, directed Secretary to conduct a study of State and Federal regulations pertaining to transporters of water well drilling rigs on public highways for the purpose of identifying requirements which place a burden on such transporters without enhancing safety or preservation of public highways, and, not later than 2 years after Dec. 18, 1991, report to Congress on the results of the study, together with any legislative and administrative recommendations.

MOTOR VEHICLE STUDY BY TRANSPORTATION RESEARCH BOARD; REPORT

Pub. L. 100–17, title I, §158, Apr. 2, 1987, 101 Stat. 210, directed Secretary, within 6 months after Apr. 2, 1987, to enter into appropriate arrangements with the Transportation Research Board of the National Academy of Sciences to conduct a study of the following motor vehicle issues, including an analysis of the impacts of the various positions that have been put forth with respect to each issue and best estimates of effects on pavement, bridges, highway revenue and cost responsibility, and highway safety, and changes in transportation costs and other measures of productivity for various segments of the trucking industry resulting from adoption of each of the positions: (1) elimination of existing, grandfather provisions of 23 U.S.C. 127 which allow higher axle loads and gross vehicle weights than the 20,000-pound single axle load limit, 34,000-pound tandem axle load limit, and 80,000-pound gross vehicle weight limit maximums authorized by Pub. L. 93–643, (2) analysis of alternative methods of determining gross vehicle weight limit and axle loadings for all types of motor carrier vehicles, (3) analysis of the bridge formula contained in 23 U.S.C. 127 in view of current vehicle configurations, pavement and bridge stresses in accord with 1986 design and construction practices, and existing bridges on and off the Interstate System, (4) establishment of nationwide policy regarding the provisions of 'reasonable access' to the National Network for combination vehicles established pursuant to Pub. L. 97–424, and (5) recommendation of appropriate treatment for specialized hauling vehicles which do not comply with the existing Federal bridge formula and submit a final report to Secretary and Congress, not later than 30 months after appropriate arrangements were entered into.

STATE-IMPOSED VEHICLE WIDTH LIMITATIONS

Pub. L. 97–369, title III, §321, Dec. 18, 1982, 96 Stat. 1784, related to State-imposed vehicle width limitations, prior to repeal by Pub. L. 98–17, §2, Apr. 5, 1983, 97 Stat. 60. See section 31113 of Title 49, Transportation.

STEERING AXLE STUDY; REPORT TO CONGRESS

Pub. L. 94–280, title II, §210, May 5, 1976, 90 Stat. 455, directed Secretary of Transportation to conduct an investigation into relationship between gross load on front steering axles of truck tractors and safety of operation of vehicle combinations of which such truck tractors are a part, such investigation to be conducted in cooperation with representatives of (A) manufacturers of truck tractors and related equipment, (B) labor, and (C) users of such equipment, and the results of such study to be reported to Congress not later than July 1, 1977.

§128. Public hearings

(a) Any State transportation department which submits plans for a Federal-aid highway project involving the by passing of or, going through any city, town, or village, either incorporated or unincorporated, shall certify to the Secretary that it has had public hearings, or has afforded the opportunity for such hearings, and has considered the economic and social effects of such a location, its impact on the environment, and its consistency with the goals and objectives of such urban planning as has been promulgated by the community. Any State transportation department which submits plans for an Interstate System project shall certify to the Secretary that it has had public hearings at a convenient location, or has afforded the opportunity for such hearings for the purpose of enabling persons in rural areas through or contiguous to whose property the highway will pass to express any objections they may have to the proposed locations of such highway. Such certification shall be accompanied by a report which indicates the consideration given to the economic, social, environmental and other effects of the plan or highway location or design and various alternatives which were raised during the hearing or which were otherwise considered.

(b) When hearings have been held under subsection (a), the State transportation department shall submit a copy of the transcript of said hearings to the Secretary, together with the certification and report.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 902; Pub. L. 90–495, §24, Aug. 23, 1968, 82 Stat. 828; Pub. L. 91–605, title I, §135, Dec. 31, 1970, 84 Stat. 1734; Pub. L. 105–178, title I, §1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 193.)

EDITORIAL NOTES

AMENDMENTS

1998—Pub. L. 105–178 substituted "State transportation department" for "State highway department" wherever appearing.

1970—Subsec. (a). Pub. L. 91–605, §135(a), provided for submission of a report by the State highway department involved indicating consideration given to economic, social, environmental, and other effects of the plan or highway location or design plus the various alternatives which were considered.

Subsec. (b). Pub. L. 91–605, §135(b), inserted reference to report to be submitted by the State highway department together with the certification of public hearings.

1968—Subsec. (a). Pub. L. 90–495 inserted social effect of projects, the impact on environment, and their consistency with the goals and objectives of such urban planning as has been promulgated by the community to the list of factors to be considered by State highway departments in looking over projects involving the bypassing or passing through of municipalities.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1968 AMENDMENT

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

§129. Toll roads, bridges, tunnels, and ferries

(a) BASIC PROGRAM.—

(1) AUTHORIZATION FOR FEDERAL PARTICIPATION.—Subject to the provisions of this section, Federal participation shall be permitted on the same basis and in the same manner as construction of toll-free highways is permitted under this chapter in the—

(A) initial construction of a toll highway, bridge, or tunnel or approach to the highway, bridge, or tunnel;

(B) initial construction of 1 or more lanes or other improvements that increase capacity of a highway, bridge, or tunnel (other than a highway on the Interstate System) and conversion of that highway, bridge, or tunnel to a tolled facility, if the number of toll-free lanes, excluding auxiliary lanes, after the construction is not less than the number of toll-free lanes, excluding auxiliary lanes, before the construction;

(C) initial construction of 1 or more lanes or other improvements that increase the capacity of a highway, bridge, or tunnel on the Interstate System and conversion of that highway, bridge, or tunnel to a tolled facility, if the number of toll-free non-HOV lanes, excluding auxiliary lanes, after such construction is not less than the number of toll-free non-HOV lanes, excluding auxiliary lanes, before such construction;

(D) reconstruction, resurfacing, restoration, rehabilitation, or replacement of a toll highway, bridge, or tunnel or approach to the highway, bridge, or tunnel;

(E) reconstruction or replacement of a toll-free bridge or tunnel and conversion of the bridge or tunnel to a toll facility;

(F) reconstruction of a toll-free Federal-aid highway (other than a highway on the Interstate System) and conversion of the highway to a toll facility;

(G) reconstruction, restoration, or rehabilitation of a highway on the Interstate System if the number of toll-free non-HOV lanes, excluding auxiliary lanes, after reconstruction, restoration, or rehabilitation is not less than the number of toll-free non-HOV lanes, excluding auxiliary lanes, before reconstruction, restoration, or rehabilitation;

(H) conversion of a high occupancy vehicle lane on a highway, bridge, or tunnel to a toll facility; and

(I) preliminary studies to determine the feasibility of a toll facility for which Federal participation is authorized under this paragraph.

(2) OWNERSHIP.—Each highway, bridge, tunnel, or approach to the highway, bridge, or tunnel constructed under this subsection shall—

(A) be publicly owned; or

(B) be privately owned if the public authority with jurisdiction over the highway, bridge, tunnel, or approach has entered into a contract with 1 or more private persons to design, finance, construct, and operate the facility and the public authority will be responsible for complying with all applicable requirements of this title with respect to the facility.

(3) LIMITATIONS ON USE OF REVENUES.—

(A) IN GENERAL.—A public authority with jurisdiction over a toll facility shall ensure that all toll revenues received from operation of the toll facility are used only for—

(i) debt service with respect to the projects on or for which the tolls are authorized, including funding of reasonable reserves and debt service on refinancing;

(ii) a reasonable return on investment of any private person financing the project, as determined by the State or interstate compact of States concerned;

(iii) any costs necessary for the improvement and proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation;

(iv) if the toll facility is subject to a public-private partnership agreement, payments that the party holding the right to toll revenues owes to the other party under the public-private

partnership agreement; and

(v) if the public authority certifies annually that the tolled facility is being adequately maintained, any other purpose for which Federal funds may be obligated by a State under this title.

(B) ANNUAL AUDIT.—

(i) IN GENERAL.—A public authority with jurisdiction over a toll facility shall conduct or have an independent auditor conduct an annual audit of toll facility records to verify adequate maintenance and compliance with subparagraph (A), and report the results of the audits, together with the results of the audit under paragraph (9)(C), to the Secretary.

(ii) RECORDS.—On reasonable notice, the public authority shall make all records of the public authority pertaining to the toll facility available for audit by the Secretary.

(C) NONCOMPLIANCE.—If the Secretary concludes that a public authority has not complied with the limitations on the use of revenues described in subparagraph (A), the Secretary may require the public authority to discontinue collecting tolls until an agreement with the Secretary is reached to achieve compliance with the limitation on the use of revenues described in subparagraph (A).

(4) SPECIAL RULE FOR FUNDING.—

(A) IN GENERAL.—In the case of a toll facility under the jurisdiction of a public authority of a State (other than the State transportation department), on request of the State transportation department and subject to such terms and conditions as the department and public authority may agree, the Secretary, working through the State department of transportation, shall reimburse the public authority for the Federal share of the costs of construction of the project carried out on the toll facility under this subsection in the same manner and to the same extent as the department would be reimbursed if the project was being carried out by the department.

(B) SOURCE.—The reimbursement of funds under this paragraph shall be from sums apportioned to the State under this chapter and available for obligations on projects on the Federal-aid highways in the State on which the project is being carried out.

(5) LIMITATION ON FEDERAL SHARE.—The Federal share payable for a project described in paragraph (1) shall be a percentage determined by the State, but not to exceed 80 percent.

(6) MODIFICATIONS.—If a public authority (including a State transportation department) with jurisdiction over a toll facility subject to an agreement under this section or section 119(e), as in effect on the day before the effective date of title I of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1915), requests modification of the agreement, the Secretary shall modify the agreement to allow the continuation of tolls in accordance with paragraph (3) without repayment of Federal funds.

(7) LOANS.—

(A) IN GENERAL.—

(i) LOANS.—Using amounts made available under this title, a State may loan to a public or private entity constructing or proposing to construct under this section a toll facility or non-toll facility with a dedicated revenue source an amount equal to all or part of the Federal share of the cost of the project if the project has a revenue source specifically dedicated to the project.

(ii) DEDICATED REVENUE SOURCES.—Dedicated revenue sources for non-toll facilities include excise taxes, sales taxes, motor vehicle use fees, tax on real property, tax increment financing, and such other dedicated revenue sources as the Secretary determines appropriate.

(B) COMPLIANCE WITH FEDERAL LAWS.—As a condition of receiving a loan under this paragraph, the public or private entity that receives the loan shall ensure that the project will

be carried out in accordance with this title and any other applicable Federal law, including any applicable provision of a Federal environmental law.

(C) SUBORDINATION OF DEBT.—The amount of any loan received for a project under this paragraph may be subordinated to any other debt financing for the project.

(D) OBLIGATION OF FUNDS LOANED.—Funds loaned under this paragraph may only be obligated for projects under this paragraph.

(E) REPAYMENT.—The repayment of a loan made under this paragraph shall commence not later than 5 years after date on which the facility that is the subject of the loan is open to traffic.

(F) TERM OF LOAN.—The term of a loan made under this paragraph shall not exceed 30 years from the date on which the loan funds are obligated.

(G) INTEREST.—A loan made under this paragraph shall bear interest at or below market interest rates, as determined by the State, to make the project that is the subject of the loan feasible.

(H) REUSE OF FUNDS.—Amounts repaid to a State from a loan made under this paragraph may be obligated—

(i) for any purpose for which the loan funds were available under this title; and

(ii) for the purchase of insurance or for use as a capital reserve for other forms of credit enhancement for project debt in order to improve credit market access or to lower interest rates for projects eligible for assistance under this title.

(I) GUIDELINES.—The Secretary shall establish procedures and guidelines for making loans under this paragraph.

(8) STATE LAW PERMITTING TOLLING.—If a State does not have a highway, bridge, or tunnel toll facility as of the date of enactment of the MAP–21, before commencing any activity authorized under this section, the State shall have in effect a law that permits tolling on a highway, bridge, or tunnel.

(9) EQUAL ACCESS FOR OVER-THE-ROAD BUSES.—

(A) IN GENERAL.—An over-the-road bus that serves the public shall be provided access to a toll facility under the same rates, terms, and conditions as public transportation vehicles.

(B) REPORTS.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this subparagraph, a public authority that operates a toll facility shall report to the Secretary any rates, terms, or conditions for access to the toll facility by public transportation vehicles that differ from the rates, terms, or conditions applicable to over-the-road buses.

(ii) UPDATES.—A public authority that operates a toll facility shall report to the Secretary any change to the rates, terms, or conditions for access to the toll facility by public transportation vehicles that differ from the rates, terms, or conditions applicable to over-the-road buses by not later than 30 days after the date on which the change takes effect.

(iii) PUBLICATION.—The Secretary shall publish information reported to the Secretary under clauses (i) and (ii) on a publicly accessible internet website.

(C) ANNUAL AUDIT.—

(i) IN GENERAL.—A public authority (as defined in section 101(a)) with jurisdiction over a toll facility shall—

(I) conduct or have an independent auditor conduct an annual audit of toll facility records to verify compliance with this paragraph; and

(II) report the results of the audit, together with the results of the audit under paragraph (3)(B), to the Secretary.

(ii) RECORDS.—After providing reasonable notice, a public authority described in clause (i) shall make all records of the public authority pertaining to the toll facility available for

audit by the Secretary.

(iii) NONCOMPLIANCE.—If the Secretary determines that a public authority described in clause (i) has not complied with this paragraph, the Secretary may require the public authority to discontinue collecting tolls until an agreement with the Secretary is reached to achieve compliance.

(10) HIGH OCCUPANCY VEHICLE USE OF CERTAIN TOLL FACILITIES .—Notwithstanding section 102(a), in the case of a toll facility that is on the Interstate System and that is constructed or converted after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the public authority with jurisdiction over the toll facility shall allow high occupancy vehicles, transit, and paratransit vehicles to use the facility at a discount rate or without charge, unless the public authority, in consultation with the Secretary, determines that the number of those vehicles using the facility reduces the travel time reliability of the facility.

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

(A) HIGH OCCUPANCY VEHICLE; HOV.—The term "high occupancy vehicle" or "HOV" means a vehicle with not fewer than 2 occupants.

(B) INITIAL CONSTRUCTION.—

(i) IN GENERAL.—The term "initial construction" means the construction of a highway, bridge, tunnel, or other facility at any time before it is open to traffic.

(ii) EXCLUSIONS.—The term "initial construction" does not include any improvement to a highway, bridge, tunnel, or other facility after it is open to traffic.

(C) OVER-THE-ROAD BUS.—The term "over-the-road bus" has the meaning given the term in section 301 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181).

(D) PUBLIC AUTHORITY.—The term "public authority" means a State, interstate compact of States, or public entity designated by a State.

(E) TOLL FACILITY.—The term "toll facility" means a toll highway, bridge, or tunnel or approach to the highway, bridge, or tunnel constructed under this subsection.

(b) Notwithstanding the provisions of section 301 of this title, the Secretary may permit Federal participation under this title in the construction of a project constituting an approach to a ferry, whether toll or free, the route of which is a public road and has not been designated as a route on the Interstate System. Such ferry may be either publicly or privately owned and operated, but the operating authority and the amount of fares charged for passage shall be under the control of a State agency or official, and all revenues derived from publicly owned or operated ferries shall be applied to payment of the cost of construction or acquisition thereof, including debt service, and to actual and necessary costs of operation, maintenance, repair, and replacement.

(c) Notwithstanding section 301 of this title, the Secretary may permit Federal participation under this title in the construction of ferry boats and ferry terminal facilities (including ferry maintenance facilities), whether toll or free, and the procurement of transit vehicles used exclusively as an integral part of an intermodal ferry trip, subject to the following conditions:

(1) It is not feasible to build a bridge, tunnel, combination thereof, or other normal highway structure in lieu of the use of such ferry.

(2) The operation of the ferry shall be on a route classified as a public road within the State and which has not been designated as a route on the Interstate System or on a public transit ferry eligible under chapter 53 of title 49. Projects under this subsection may be eligible for both ferry boats carrying cars and passengers and ferry boats carrying passengers only.

(3)(A) The ferry boat or ferry terminal facility shall be publicly owned or operated or majority publicly owned if the Secretary determines with respect to a majority publicly owned ferry or ferry terminal facility that such ferry boat or ferry terminal facility provides substantial public benefits.

(B) Any Federal participation shall not involve the construction or purchase, for private ownership, of a ferry boat, ferry terminal facility, or other eligible project under this section.

(4) The operating authority and the amount of fares charged for passage on such ferry shall be

under the control of the State or other public entity, and all revenues derived therefrom shall be applied to actual and necessary costs of operation, maintenance, repair, debt service, negotiated management fees, and, in the case of a privately operated toll ferry, for a reasonable rate of return.

(5) Such ferry may be operated only within the State (including the islands which comprise the State of Hawaii and the islands which comprise any territory of the United States) or between adjoining States or between a point in a State and a point in the Dominion of Canada. Except with respect to operations between the islands which comprise the State of Hawaii, operations between the islands which comprise any territory of the United States, operations between a point in a State and a point in the Dominion of Canada, and operations between any two points in Alaska and between Alaska and Washington, including stops at appropriate points in the Dominion of Canada, no part of such ferry operation shall be in any foreign or international waters.

(6) The ferry service shall be maintained in accordance with section 116.

(7)(A) No ferry boat or ferry terminal with Federal participation under this title may be sold, leased, or otherwise disposed of, except in accordance with part 200 of title 2, Code of Federal Regulations.

(B) The Federal share of any proceeds from a disposition referred to in subparagraph (A) shall be used for eligible purposes under this title.

(d) CONGESTION RELIEF PROGRAM.—

(1) DEFINITIONS.—In this subsection:

(A) ELIGIBLE ENTITY.—The term "eligible entity" means any of the following:

(i) A State, for the purpose of carrying out a project in an urbanized area with a population of more than 1,000,000.

(ii) A metropolitan planning organization, city, or municipality, for the purpose of carrying out a project in an urbanized area with a population of more than 1,000,000.

(B) INTEGRATED CONGESTION MANAGEMENT SYSTEM.—The term "integrated congestion management system" means a system for the integration of management and operations of a regional transportation system that includes, at a minimum, traffic incident management, work zone management, traffic signal timing, managed lanes, real-time traveler information, and active traffic management, in order to maximize the capacity of all facilities and modes across the applicable region.

(C) PROGRAM.—The term "program" means the congestion relief program established under paragraph (2).

(2) ESTABLISHMENT.—The Secretary shall establish a congestion relief program to provide discretionary grants to eligible entities to advance innovative, integrated, and multimodal solutions to congestion relief in the most congested metropolitan areas of the United States.

(3) PROGRAM GOALS.—The goals of the program are to reduce highway congestion, reduce economic and environmental costs associated with that congestion, including transportation emissions, and optimize existing highway capacity and usage of highway and transit systems through—

(A) improving intermodal integration with highways, highway operations, and highway performance;

(B) reducing or shifting highway users to off-peak travel times or to nonhighway travel modes during peak travel times; and

(C) pricing of, or based on, as applicable—

(i) parking;

(ii) use of roadways, including in designated geographic zones; or

(iii) congestion.

(4) ELIGIBLE PROJECTS.—Funds from a grant under the program may be used for a project or an integrated collection of projects, including planning, design, implementation, and

construction activities, to achieve the program goals under paragraph (3), including—

(A) deployment and operation of an integrated congestion management system;

(B) deployment and operation of a system that implements or enforces high occupancy vehicle toll lanes, cordon pricing, parking pricing, or congestion pricing;

(C) deployment and operation of mobility services, including establishing account-based financial systems, commuter buses, commuter vans, express operations, paratransit, and on-demand microtransit; and

(D) incentive programs that encourage travelers to carpool, use nonhighway travel modes during peak period, or travel during nonpeak periods.

(5) APPLICATION; SELECTION.—

(A) APPLICATION.—To be eligible to receive a grant under the program, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(B) PRIORITY.—In providing grants under the program, the Secretary shall give priority to projects in urbanized areas that are experiencing a high degree of recurrent congestion.

(C) FEDERAL SHARE.—The Federal share of the cost of a project carried out with a grant under the program shall not exceed 80 percent of the total project cost.

(D) MINIMUM AWARD.—A grant provided under the program shall be not less than $10,000,000.

(6) USE OF TOLLING.—

(A) IN GENERAL.—Notwithstanding subsection (a)(1) and section 301 and subject to subparagraphs (B) and (C), the Secretary shall allow the use of tolls on the Interstate System as part of a project carried out with a grant under the program.

(B) REQUIREMENTS.—The Secretary may only approve the use of tolls under subparagraph (A) if—

(i) the eligible entity has authority under State, and if applicable, local, law to assess the applicable toll;

(ii) the maximum toll rate for any vehicle class is not greater than the product obtained by multiplying—

(I) the toll rate for any other vehicle class; and

(II) 5;

(iii) the toll rates are not charged or varied on the basis of State residency;

(iv) the Secretary determines that the use of tolls will enable the eligible entity to achieve the program goals under paragraph (3) without a significant impact to safety or mobility within the urbanized area in which the project is located; and

(v) the use of toll revenues complies with subsection (a)(3).

(C) LIMITATION.—The Secretary may not approve the use of tolls on the Interstate System under the program in more than 10 urbanized areas.

(7) FINANCIAL EFFECTS ON LOW-INCOME DRIVERS.—A project under the program—

(A) shall include, if appropriate, an analysis of the potential effects of the project on low-income drivers; and

(B) may include mitigation measures to deal with any potential adverse financial effects on low-income drivers.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 902; Pub. L. 86–657, §§5, 8(a), July 14, 1960, 74 Stat. 523, 524; Pub. L. 90–495, §28, Aug. 23, 1968, 82 Stat. 829; Pub. L. 91–605, title I, §§133, 139, Dec. 31, 1970, 84 Stat. 1732, 1736; Pub. L. 92–434, §7, Sept. 26, 1972, 86 Stat. 732; Pub. L. 93–87, title I, §§118, 132, 139, Aug. 13, 1973, 87 Stat. 259, 267, 270; Pub. L. 93–643, §108, Jan. 4, 1975, 88 Stat. 2284; Pub. L. 94–280, title I, §121, May 5, 1976, 90 Stat. 438; Pub. L. 95–599, title I, §120, Nov. 6,

1978, 92 Stat. 2700; Pub. L. 100–17, title I, §120(a), (b), Apr. 2, 1987, 101 Stat. 157, 158; Pub. L. 100–202, §101(l) [title III, §347(d)], Dec. 22, 1987, 101 Stat. 1329–358, 1329–388; Pub. L. 100–457, title III, §§326, 335, Sept. 30, 1988, 102 Stat. 2150, 2153; Pub. L. 102–240, title I, §1012(a), (c), Dec. 18, 1991, 105 Stat. 1936, 1938; Pub. L. 102–388, title IV, §410, Oct. 6, 1992, 106 Stat. 1565; Pub. L. 104–59, title III, §313(a)–(c), Nov. 28, 1995, 109 Stat. 585, 586; Pub. L. 105–178, title I, §§1106(c)(1)(C), 1207(a), 1211(f), formerly 1211(g), June 9, 1998, 112 Stat. 136, 185, 189; Pub. L. 105–206, title IX, §9003(d)(5), July 22, 1998, 112 Stat. 840; Pub. L. 109–59, title I, §1801(f), Aug. 10, 2005, 119 Stat. 1456; Pub. L. 112–141, div. A, title I, §1512(a), July 6, 2012, 126 Stat. 567; Pub. L. 114–94, div. A, title I, §§1112(c), 1411(a), Dec. 4, 2015, 129 Stat. 1346, 1412; Pub. L. 117–58, div. A, title I, §§11117(a), 11404, 11523, Nov. 15, 2021, 135 Stat. 483, 558, 605.)

EDITORIAL NOTES

REFERENCES IN TEXT

For the effective date of title I of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (a)(6), see section 1100 of Pub. L. 102–240, set out as an Effective Date of 1991 Amendment note under section 104 of this title.

The date of enactment of the MAP–21, referred to in subsec. (a)(8), is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title.

The date of enactment of this subparagraph and the date of enactment of the Surface Transportation Reauthorization Act of 2021, referred to in subsec. (a)(9)(B)(i), (10), is the date of enactment of div. A of Pub. L. 117–58, which was approved Nov. 15, 2021.

AMENDMENTS

2021—Subsec. (a)(3)(B)(i). Pub. L. 117–58, §11523(1), inserted ", together with the results of the audit under paragraph (9)(C)," after "the audits".

Subsec. (a)(9). Pub. L. 117–58, §11523(2), designated existing provisions as subpar. (A), inserted heading, substituted "public transportation vehicles" for "public transportation buses", and added subpars. (B) and (C).

Subsec. (a)(10), (11). Pub. L. 117–58, §11404(b), added par. (10) and redesignated former par. (10) as (11).

Subsec. (c). Pub. L. 117–58, §11117(a), in introductory provisions, substituted "the construction of ferry boats and ferry terminal facilities (including ferry maintenance facilities), whether toll or free, and the procurement of transit vehicles used exclusively as an integral part of an intermodal ferry trip," for "the construction of ferry boats and ferry terminal facilities, whether toll or free,".

Subsec. (d). Pub. L. 117–58, §11404(a), added subsec. (d).

2015—Subsec. (a)(3)(A). Pub. L. 114–94, §1411(a)(1), in introductory provisions, substituted "shall ensure that" for "shall use" and inserted "are used" before "only for".

Subsec. (a)(4). Pub. L. 114–94, §1411(a)(2), redesignated par. (5) as (4) and struck out former par. (4) which related to limitations on conversion of high occupancy vehicle facilities on interstate system.

Subsec. (a)(4)(B). Pub. L. 114–94, §1411(a)(3), substituted "Federal-aid highways" for "Federal-aid system".

Subsec. (a)(5) to (8). Pub. L. 114–94, §1411(a)(2), redesignated pars. (6) to (9) as (5) to (8), respectively. Former par. (5) redesignated (4).

Subsec. (a)(9). Pub. L. 114–94, §1411(a)(4), added par. (9). Former par. (9) redesignated (8).

Subsec. (a)(10)(C) to (E). Pub. L. 114–94, §1411(a)(5), added subpar. (C) and redesignated former subpars. (C) and (D) as (D) and (E), respectively.

Subsec. (c)(2). Pub. L. 114–94, §1112(c)(1), inserted "or on a public transit ferry eligible under chapter 53 of title 49" after "Interstate System".

Subsec. (c)(3). Pub. L. 114–94, §1112(c)(2), designated existing provisions as subpar. (A), substituted "The ferry" for "Such ferry", and added subpar. (B).

Subsec. (c)(4). Pub. L. 114–94, §1112(c)(3), substituted "repair," for "and repair,".

Subsec. (c)(6), (7). Pub. L. 114–94, §1112(c)(4), added pars. (6) and (7) and struck out former par. (6) which read as follows: "No such ferry shall be sold, leased, or otherwise disposed of without the approval of the Secretary. The Federal share of any proceeds from such a disposition shall be credited to the unprogramed balance of Federal-aid highway funds of the same class last apportioned to such State. Any amount so credited shall be in addition to all other funds then apportioned to such State and available for expenditure in accordance with the provisions of this title."

2012—Subsec. (a). Pub. L. 112–141 amended subsec. (a) generally. Prior to amendment, subsec. (a) related to basic program and consisted of pars. (1) to (8).

2005—Subsec. (c)(5). Pub. L. 109–59 substituted "any territory of the United States" for "the Commonwealth of Puerto Rico" in two places.

1998—Subsec. (b). Pub. L. 105–178, §1106(c)(1)(C), substituted "which is a public road and has not" for "which has been classified as a public road and has not" in first sentence.

Subsec. (c)(3). Pub. L. 105–178, §1207(a), substituted "owned or operated or majority publicly owned if the Secretary determines with respect to a majority publicly owned ferry or ferry terminal facility that such ferry boat or ferry terminal facility provides substantial public benefits." for "owned."

Subsec. (d). Pub. L. 105–178, §1211(f), formerly §1211(g), as renumbered by Pub. L. 105–206, §9003(d)(5), struck out subsec. (d) which related to pilot toll collection program.

1995—Subsec. (a)(5). Pub. L. 104–59, §313(a), amended par. (5) generally. Prior to amendment, par. (5) read as follows:

"(5) LIMITATION ON FEDERAL SHARE.—Except as otherwise provided in this paragraph, the Federal share payable for construction of a highway, bridge, tunnel, or approach thereto or conversion of a highway, bridge, or tunnel to a toll facility under this subsection shall be such percentage as the State determines but not to exceed 50 percent. The Federal share payable for construction of a new bridge, tunnel, or approach thereto or for reconstruction or replacement of a bridge, tunnel, or approach thereto shall be such percentage as the Secretary determines but not to exceed 80 percent. In the case of a toll facility subject to an agreement under section 119 or 129, the Federal share payable on any project for resurfacing, restoring, rehabilitating, or reconstructing such facility shall be 80 percent until the scheduled expiration of such agreement (as in effect on the day before the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991)."

Subsec. (a)(7). Pub. L. 104–59, §313(b), amended par. (7) generally. Prior to amendment, par. (7) read as follows:

"(7) LOANS.—A State may loan all or part of the Federal share of a toll project under this section to a public or private agency constructing a toll facility. Such loan may be made only after all Federal environmental requirements have been complied with and permits obtained. The amount loaned shall be subordinated to other debt financing for the facility except for loans made by the State or any other public agency to the agency constructing the facility. Funds loaned pursuant to this section may be obligated for projects eligible under this section. The repayment of any such loan shall commence not more than 5 years after the facility has opened to traffic. Any such loan shall bear interest at the average rate the State's pooled investment fund earned in the 52 weeks preceding the start of repayment. The term of any such loan shall not exceed 30 years from the time the loan was obligated. Amounts repaid to a State from any loan made under this section may be obligated for any purpose for which the loaned funds were available. The Secretary shall establish procedures and guidelines for making such loans."

Subsec. (c)(5). Pub. L. 104–59, §313(c), inserted before period at end of first sentence "or between a point in a State and a point in the Dominion of Canada" and in second sentence substituted "Hawaii," for "Hawaii and" and inserted ", operations between a point in a State and a point in the Dominion of Canada," after "Puerto Rico".

1992—Subsec. (b). Pub. L. 102–388, §410(1), which directed the substitution of "classified as a public road" for "approved under section 103(b) or (b) of this title as a part of one of the Federal-aid systems", was executed by making the substitution for "approved under section 103(b) or (c) of this title as a part of one of the Federal-aid systems" to reflect the probable intent of Congress.

Subsec. (c)(2). Pub. L. 102–388, §410(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The operation of the ferry shall be on a route which has been approved under section 103(b) or (c) of this title as a part of one of the Federal-aid systems within the State and has not been designated as a route on the Interstate System."

1991—Subsec. (a). Pub. L. 102–240, §1012(a), amended subsec. (a) generally, substituting present provisions for provisions authorizing Federal participation in construction or acquisition of toll bridges, tunnels and approaches, provided that facility was publicly owned and operated by State or public authority, and State or authority agreed that all tolls, less those used to offset cost of operation and maintenance, were to be applied to repayment of State or authority for cost of construction or acquisition, that no tolls were to be charged after such repayment, and that facility was to be free of charge thereafter, except in case of bridge connecting United States with foreign country.

Subsec. (b). Pub. L. 102–240, §1012(c)(1), (2), redesignated subsec. (f) as (b) and struck out former subsec. (b) which authorized Secretary to approve toll roads, bridges and tunnels as part of Interstate System, authorized expenditure of Federal-aid highway funds on toll roads after they became toll-free, and required

agreements between Secretary and State highway departments on construction of Interstate projects to forbid construction of toll roads, but not toll bridges and tunnels, on interstate highway route without official concurrence of Secretary, after June 30, 1968.

Subsec. (c). Pub. L. 102–240, §1012(c), redesignated subsec. (g) as (c), inserted "and ferry terminal facilities" after "boats" in introductory provisions, added par. (3) and struck out former par. (3) which read as follows: "Such ferry shall be publicly owned and operated.", in par. (4), inserted "or other public entity" after "State" and ", debt service, negotiated management fees, and, in the case of a privately operated toll ferry, for a reasonable rate of return" before period at end, and struck out former subsec. (c) which made available funds authorized for expenditure on Federal-aid highway systems for projects approaching toll roads, bridges or tunnels up to point where project had use irrespective of use for toll road, bridge or tunnel.

Subsec. (d). Pub. L. 102–240, §1012(c)(1), (2), redesignated subsec. (j) as (d) and struck out former subsec. (d) which made available funds authorized for expenditure on Interstate System for Interstate System projects approaching toll road and having no other use, if agreement was reached that section of toll road would become free to public upon collection of tolls sufficient to liquidate cost of road and outstanding bonds and cost of maintenance, operation and debt service during period of toll collection, and that there was a reasonably satisfactory alternative free route available to bypass toll section.

Subsec. (e). Pub. L. 102–240, §1012(c)(1), struck out subsec. (e) which authorized Secretary to permit Federal participation in reconstruction and improvement of two-lane toll road designated as part of the Interstate System before June 30, 1973, as necessary to bring such road to standards of Interstate System, provided that toll road authority agreed that no new indebtedness to be liquidated by tolls was to be incurred, that all tolls be used for operation and maintenance and to repay outstanding bonds, and that, upon liquidation of such bonds, the road was to become free to public.

Subsecs. (f), (g). Pub. L. 102–240, §1012(c)(2), redesignated subsecs. (f) and (g) as (b) and (c), respectively.

Subsec. (h). Pub. L. 102–240, §1012(c)(1), struck out subsec. (h) which provided that, in case of interstate toll bridge on Federal-aid primary system, except Interstate System, owned by State or political subdivision, that became toll-free by Jan. 1, 1975, because of purchase or construction by State before Jan. 1, 1975, funds would be made available under section 104(b)(1) and (3) of this title to pay Federal share of lesser of value of bridge (after deducting portion of value already attributable to Federal funds) or amount by which principal amount of outstanding unpaid bonds issued for construction or acquisition of bridge exceeded amount accumulated for their amortization, on date bridge became free to public.

Subsec. (i). Pub. L. 102–240, §1012(c)(1), struck out subsec. (i) which authorized Secretary to permit Federal participation, through funds for Federal-aid highway system, other than Interstate System, in engineering and fiscal assessments, traffic analyses, network studies, etc., to determine whether privately owned toll bridges should be acquired by a State or subdivision.

Subsec. (j). Pub. L. 102–240, §1012(c)(2), redesignated subsec. (j) as (d).

Subsec. (k). Pub. L. 102–240, §1012(c)(1), struck out subsec. (k) which required operators of toll roads, tunnels, ferries and bridges on Federal-aid highway system to biennially certify to Governor of State that facilities were adequately maintained and that operator had ability to fund such facilities that were not adequately maintained without using Federal-aid highway funds, and which required Governor of each State to report biennially to Secretary on facilities required to so certify.

1988—Subsec. (j)(1), (3). Pub. L. 100–457, §335, amended Pub. L. 100–202, §101(l) [title III, §347(d)(1), (2)(A), (C)], see 1987 Amendment note below.

Subsec. (j)(6). Pub. L. 100–457, §326(1), inserted "(and, in the case of the State of Texas, the Texas Turnpike Authority)" after "State highway department".

Subsec. (j)(10). Pub. L. 100–457, §326(2), added par. (10).

1987—Subsec. (j). Pub. L. 100–17, §120(a), added subsec. (j).

Subsec. (j)(1). Pub. L. 100–202, §101(l) [title III, §347(d)(1)], as amended by Pub. L. 100–457, §335, which directed the amendment of par. (1) by substituting "(9)" for "(9)" was executed by substituting "9" for "7" as the probable intent of Congress.

Subsec. (j)(3). Pub. L. 100–202, §101(l) [title III, §347(d)(2)(A)], as amended by Pub. L. 100–457, §335, which directed the amendment of par. (3) by substituting "(9)" for "(7)" was executed by substituting "9" for "7" as the probable intent of Congress.

Pub. L. 100–202, §101(l) [title III, §347(d)(2)(B)–(D)], as amended by Pub. L. 100–457, §335, substituted "States of Pennsylvania and West Virginia" for "State of Pennsylvania" in two places and inserted "States of Georgia and West Virginia," and "The toll facility in Orange County, California, may be located in more than 1 highway corridor to relieve congestion on existing interstate routes in such County."

Subsec. (k). Pub. L. 100–17, §120(b), added subsec. (k).

1978—Subsec. (i). Pub. L. 95–599 added subsec. (i).

1976—Subsec. (g)(5). Pub. L. 94–280 authorized ferry operations within the islands which comprise the Commonwealth of Puerto Rico and excepted ferry operations between the islands which comprise the Commonwealth of Puerto Rico from the prohibition of ferry operations in foreign or international waters.

1975—Subsec. (g)(5). Pub. L. 93–643 substituted "operations between the islands which comprise the State of Hawaii and operations between any two points in Alaska and between Alaska and Washington, including stops at appropriate points in the Dominion of Canada" for "operations between the islands which comprise the State of Hawaii and operations between the States of Alaska and Washington, or between any two points within the State of Alaska".

1973—Subsec. (b). Pub. L. 93–87, §118(a), inserted third sentence providing that when any toll road which the Secretary has approved as a part of the Interstate System is made a toll-free facility, Federal-aid highway funds apportioned under section 104(b)(5) of this title may be expended for the construction, reconstruction, or improvement of that road to meet the standards adopted for the improvement of projects located on the Interstate System.

Subsec. (e). Pub. L. 93–87, §118(b), struck from first sentence "on the date of enactment of this subsection" before "as he may find necessary" and substituted in third sentence "1973" for "1968".

Subsecs. (f), (g). Pub. L. 93–87, §139, redesignated the second subsec. (f) as (g) and in par. (5) substituted "may be operated" for "shall be operated", inserted "(including the islands which comprise the State of Hawaii)" after "within the State", and excepted operations between the islands which comprise the State of Hawaii and operations between the States of Alaska and Washington, or between any two points within the State of Alaska from the prohibition against ferry operations in foreign or international waters.

Subsec. (h). Pub. L. 93–87, §132, added subsec. (h).

1972—Subsec. (a)(3). Pub. L. 92–434 substituted "or" for "and" making text read "maintained or operated", and required domestic and foreign tolls for international bridges, and that the tolls be limited to amount necessary for maintenance, repair, and operation thereof.

1970—Subsec. (e). Pub. L. 91–605, §133, added subsec. (e). Former subsec. (e), pertaining to ferry approaches, redesignated (f).

Subsec. (f). Pub. L. 91–605, §§133, 139, redesignated subsec. (e), relating to ferry approaches, as (f) and added a second subsec. (f) relating to ferry boats.

1968—Subsec. (b). Pub. L. 90–495 required that, after June 30, 1968, as a condition for the addition of toll highway facilities on the Interstate System, the approval of the Secretary is required, with an affirmative finding that the construction of the road as a toll facility rather than a toll-free facility is in the public interest, but with such limitation on the construction of toll facilities not to extend to toll bridges and tunnels.

1960—Pub. L. 86–657, §5(b), included ferries in section catchline.

Subsec. (c). Pub. L. 86–657, §8(a), struck out "under prior Acts" after "Funds authorized".

Subsec. (e). Pub. L. 86–657, §5(a), added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 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.

ELECTRONIC TOLL COLLECTION INTEROPERABILITY REQUIREMENTS

Pub. L. 112–141, div. A, title I, §1512(b), July 6, 2012, 126 Stat. 572, provided that: "Not later than 4 years after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title], all toll facilities on the Federal-aid highways shall implement technologies or business practices that provide for the interoperability of electronic toll collection programs."

EXPRESS LANES DEMONSTRATION PROGRAM

Pub. L. 109–59, title I, §1604(b), Aug. 10, 2005, 119 Stat. 1250, as amended by Pub. L. 114–94, div. A, title I, §1419(b), Dec. 4, 2015, 129 Stat. 1423, provided that:

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

"(A) ELIGIBLE TOLL FACILITY.—The term 'eligible toll facility' includes—

"(i) a facility in existence on the date of enactment of this Act [Aug. 10, 2005] that collects tolls;

"(ii) a facility in existence on the date of enactment of this Act that serves high occupancy vehicles;

"(iii) a facility modified or constructed after the date of enactment of this Act to create additional tolled lane capacity (including a facility constructed by a private entity or using private funds); and

"(iv) in the case of a new lane added to a previously non-tolled facility, only the new lane.

"(B) NONATTAINMENT AREA.—The term 'nonattainment area' has the meaning given that term in section 171 of the Clean Air Act (42 U.S.C. 7501).

"(2) DEMONSTRATION PROGRAM.—Notwithstanding sections 129 and 301 of title 23, United States Code, the Secretary [of Transportation] shall carry out 15 demonstration projects during the period of fiscal years 2005 through 2009 to permit States, public authorities, or a [sic] public or private entities designated by States, to collect a toll from motor vehicles at an eligible toll facility for any highway, bridge, or tunnel, including facilities on the Interstate System—

"(A) to manage high levels of congestion;

"(B) to reduce emissions in a nonattainment area or maintenance area; or

"(C) to finance the expansion of a highway, for the purpose of reducing traffic congestion, by constructing one or more additional lanes (including bridge, tunnel, support, and other structures necessary for that construction) on the Interstate System.

"(3) LIMITATION ON USE OF REVENUES.—

"(A) USE.—

"(i) IN GENERAL.—Toll revenues received under paragraph (2) shall be used by a State, public authority, or private entity designated by a State, for—

"(I) debt service;

"(II) a reasonable return on investment of any private financing;

"(III) the costs necessary for proper operation and maintenance of any facilities under paragraph (2) (including reconstruction, resurfacing, restoration, and rehabilitation); or

"(IV) if the State, public authority, or private entity annually certifies that the tolled facility is being adequately operated and maintained, any other purpose relating to a highway or transit project carried out under title 23 or 49, United States Code.

"(B) REQUIREMENTS.—

"(i) VARIABLE PRICE REQUIREMENT.—A facility that charges tolls under this subsection may establish a toll that varies in price according to time of day or level of traffic, as appropriate to manage congestion or improve air quality.

"(ii) HOV VARIABLE PRICING REQUIREMENT.—The Secretary [of Transportation] shall require, for each high occupancy vehicle facility that charges tolls under this subsection, that the tolls vary in price according to time of day or level of traffic, as appropriate to manage congestion or improve air quality.

"(iii) HOV PASSENGER REQUIREMENTS.—Pursuant to section 166 of title 23, United States

Code, a State may permit motor vehicles with fewer than two occupants to operate in high occupancy vehicle lanes as part of a variable toll pricing program established under this subsection.

"(C) AGREEMENT.—

"(i) IN GENERAL.—Before the Secretary may permit a facility to charge tolls under this subsection, the Secretary and the applicable State, public authority, or private entity designated by a State shall enter into an agreement for each facility incorporating the conditions described in subparagraphs (A) and (B).

"(ii) TERMINATION.—An agreement under clause (i) shall terminate with respect to a facility upon the decision of the State, public authority, or private entity designated by a State to discontinue the variable tolling program under this subsection for the facility.

"(iii) DEBT.—If there is any debt outstanding on a facility at the time at which the decision is made to discontinue the program under this subsection with respect to the facility, the facility may continue to charge tolls in accordance with the terms of the agreement until such time as the debt is retired.

"(D) LIMITATION ON FEDERAL SHARE.—The Federal share of the cost of a project on a facility tolled under this subsection, including a project to install the toll collection facility shall be a percentage, not to exceed 80 percent, determined by the applicable State.

"(4) ELIGIBILITY.—To be eligible to participate in the program under this subsection, a State, public authority, or private entity designated by a State shall provide to the Secretary [of Transportation]—

"(A) a description of the congestion or air quality problems sought to be addressed under the program;

"(B) a description of—

"(i) the goals sought to be achieved under the program; and

"(ii) the performance measures that would be used to gauge the success made toward reaching those goals; and

"(C) such other information as the Secretary may require.

"(5) AUTOMATION.—Fees collected from motorists using an express lane shall be collected only through the use of noncash electronic technology that optimizes the free flow of traffic on the tolled facility.

"(6) INTEROPERABILITY.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Aug. 10, 2005], the Secretary [of Transportation] shall promulgate a final rule specifying requirements, standards, or performance specifications for automated toll collection systems implemented under this section [enacting provisions set out as a note under this section and amending provisions set out as a note under section 149 of this title].

"(B) DEVELOPMENT.—In developing that rule, which shall be designed to maximize the interoperability of electronic collection systems, the Secretary shall, to the maximum extent practicable—

"(i) seek to accelerate progress toward the national goal of achieving a nationwide interoperable electronic toll collection system;

"(ii) take into account the use of noncash electronic technology currently deployed within an appropriate geographical area of travel and the noncash electronic technology likely to be in use within the next 5 years; and

"(iii) seek to minimize additional costs and maximize convenience to users of toll facility and to the toll facility owner or operator.

"(7) REPORTING.—

"(A) IN GENERAL.—The Secretary [of Transportation], in cooperation with State and local agencies and other program participants and with opportunity for public comment, shall—

"(i) develop and publish performance goals for each express lane project;

"(ii) establish a program for regular monitoring and reporting on the achievement of performance goals, including—

"(I) effects on travel, traffic, and air quality;

"(II) distribution of benefits and burdens;

"(III) use of alternative transportation modes; and

"(IV) use of revenues to meet transportation or impact mitigation needs.

"[(B) Repealed. Pub. L. 114–94, div. A, title I, §1419(b), Dec. 4, 2015, 129 Stat. 1423.]"

INTERSTATE SYSTEM CONSTRUCTION TOLL PILOT PROGRAM

Pub. L. 114–94, div. A, title I, §1411(d), Dec. 4, 2015, 129 Stat. 1416, provided that: "The Secretary [of Transporation] may approve an application submitted under section 1604(c) of SAFETEA–LU (Public Law 109–59; 119 Stat. 1253) [set out as a note below] if the application, or any part of the application, was

submitted before the deadline specified in section 1604(c)(8) of that Act."

Pub. L. 109–59, title I, §1604(c), Aug. 10, 2005, 119 Stat. 1253, provided that:

"(1) ESTABLISHMENT.—The Secretary [of Transportation] shall establish and implement an Interstate System construction toll pilot program under which the Secretary, notwithstanding sections 129 and 301 of title 23, United States Code, may permit a State or an interstate compact of States to collect tolls on a highway, bridge, or tunnel on the Interstate System for the purpose of constructing Interstate highways.

"(2) LIMITATION ON NUMBER OF FACILITIES.—The Secretary [of Transportation] may permit the collection of tolls under this section on three facilities on the Interstate System.

"(3) ELIGIBILITY.—To be eligible to participate in the pilot program, a State shall submit to the Secretary [of Transportation] an application that contains, at a minimum, the following:

"(A) An identification of the facility on the Interstate System proposed to be a toll facility.

"(B) In the case of a facility that affects a metropolitan area, an assurance that the metropolitan planning organization designated under section 134 or 135 for the area has been consulted concerning the placement and amount of tolls on the facility.

"(C) An analysis demonstrating that financing the construction of the facility with the collection of tolls under the pilot program is the most efficient and economical way to advance the project.

"(D) A facility management plan that includes—

"(i) a plan for implementing the imposition of tolls on the facility;

"(ii) a schedule and finance plan for the construction of the facility using toll revenues;

"(iii) a description of the public transportation agency that will be responsible for implementation and administration of the pilot program;

"(iv) a description of whether consideration will be given to privatizing the maintenance and operational aspects of the facility, while retaining legal and administrative control of the portion of the Interstate route; and

"(v) such other information as the Secretary may require.

"(4) SELECTION CRITERIA.—The Secretary [of Transportation] may approve the application of a State under paragraph (3) only if the Secretary determines that—

"(A) the State's analysis under paragraph (3)(C) is reasonable;

"(B) the State plan for implementing tolls on the facility takes into account the interests of local, regional, and interstate travelers;

"(C) the State plan for construction of the facility using toll revenues is reasonable;

"(D) the State will develop, manage, and maintain a system that will automatically collect the tolls; and

"(E) the State has given preference to the use of a public toll agency with demonstrated capability to build, operate, and maintain a toll expressway system meeting criteria for the Interstate System.

"(5) PROHIBITION ON NONCOMPETE AGREEMENTS.—Before the Secretary [of Transportation] may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that the State will not enter into an agreement with a private person under which the State is prevented from improving or expanding the capacity of public roads adjacent to the toll facility to address conditions resulting from traffic diverted to such roads from the toll facility, including—

"(A) excessive congestion;

"(B) pavement wear; and

"(C) an increased incidence of traffic accidents, injuries, or fatalities.

"(6) LIMITATIONS ON USE OF REVENUES; AUDITS.—Before the Secretary [of Transportation] may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that—

"(A) all toll revenues received from operation of the toll facility will be used only for—

"(i) debt service;

"(ii) reasonable return on investment of any private person financing the project; and

"(iii) any costs necessary for the improvement of and the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation of the toll facility; and

"(B) regular audits will be conducted to ensure compliance with subparagraph (A) and the results of such audits will be transmitted to the Secretary.

"(7) LIMITATION ON USE OF INTERSTATE MAINTENANCE FUNDS.—During the term of the pilot program, funds apportioned for Interstate maintenance under [former] section 104(b)(4) of title 23, United States Code, may not be used on a facility for which tolls are being collected under the program.

"(8) PROGRAM TERM.—The Secretary [of Transportation] may approve an application of a State for permission to collect a toll under this section only if the application is received by the Secretary before the last

day of the 10-year period beginning on the date of enactment of this Act [Aug. 10, 2005].

"(9) INTERSTATE SYSTEM DEFINED.—In this section, the term 'Interstate System' has the meaning such term has under section 101 of title 23, United States Code."

NATIONAL FERRY DATABASE

Pub. L. 109–59, title I, §1801(e), Aug. 10, 2005, 119 Stat. 1456, as amended by Pub. L. 112–141, div. A, title I, §1121(b), July 6, 2012, 126 Stat. 494; Pub. L. 114–94, div. A, title I, §1112(b), Dec. 4, 2015, 129 Stat. 1346, provided that:

"(1) ESTABLISHMENT.—The Secretary [of Transportation], acting through the Bureau of Transportation Statistics, shall establish and maintain a national ferry database.

"(2) CONTENTS.—The database shall contain current information regarding ferry systems, including information regarding routes, vessels, passengers and vehicles carried, funding sources, including any Federal, State, and local government funding sources, and such other information as the Secretary considers useful.

"(3) UPDATE REPORT.—Using information collected through the database, the Secretary shall periodically modify as appropriate the report submitted under section 1207(c) of the Transportation Equity Act for the 21st Century [Pub. L. 105–178] (23 U.S.C. 129 note; 112 Stat. 185–186).

"(4) REQUIREMENTS.—The Secretary shall—

"(A) compile the database not later than 1 year after the date of enactment of this Act [Aug. 10, 2005] and update the database every 2 years thereafter;

"(B) ensure that the database is easily accessible to the public;

"(C) ensure that the database is consistent with the national transit database maintained by the Federal Transit Administration; and

"(D) make available, from the amounts made available for each fiscal year to carry out chapter 63 of title 49, not more than $500,000 to maintain the database."

FERRY TRANSPORTATION STUDY

Pub. L. 105–178, title I, §1207(c), June 9, 1998, 112 Stat. 185, provided that:

"(1) IN GENERAL.—The Secretary shall conduct a study of ferry transportation in the United States and its possessions—

"(A) to identify existing ferry operations, including—

"(i) the locations and routes served; and

"(ii) the source and amount, if any, of funds derived from Federal, State, or local government sources supporting ferry construction or operations;

"(B) to identify potential domestic ferry routes in the United States and its possessions and to develop information on those routes; and

"(C) to identify the potential for use of high-speed ferry services and alternative-fueled ferry services.

"(2) REPORT.—The Secretary shall submit a report on the results of the study to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate."

INTERSTATE SYSTEM RECONSTRUCTION AND REHABILITATION PILOT PROGRAM

Pub. L. 105–178, title I, §1216(b), June 9, 1998, 112 Stat. 212, as amended by Pub. L. 114–94, div. A, title I, §1411(c), Dec. 4, 2015, 129 Stat. 1415, provided that:

"(1) ESTABLISHMENT.—The Secretary shall establish and implement an Interstate System reconstruction and rehabilitation pilot program under which the Secretary, notwithstanding sections 129 and 301 of title 23, United States Code, may permit a State to collect tolls on a highway, bridge, or tunnel on the Interstate System for the purpose of reconstructing and rehabilitating Interstate highway corridors that could not otherwise be adequately maintained or functionally improved without the collection of tolls.

"(2) LIMITATION ON NUMBER OF FACILITIES.—The Secretary may permit the collection of tolls under this subsection on 3 facilities on the Interstate System. Each of such facilities shall be located in a different State.

"(3) ELIGIBILITY.—To be eligible to participate in the pilot program, a State shall submit to the Secretary an application that contains, at a minimum, the following:

"(A) An identification of the facility on the Interstate System proposed to be a toll facility, including the age, condition, and intensity of use of the facility.

"(B) In the case of a facility that affects a metropolitan area, an assurance that the metropolitan planning organization established under section 134 of title 23, United States Code, for the area has been consulted concerning the placement and amount of tolls on the facility.

"(C) An analysis demonstrating that the facility could not be maintained or improved to meet current

or future needs from the State's apportionments and allocations made available by this Act [see Tables for classification] (including amendments made by this Act) and from revenues for highways from any other source without toll revenues.

"(D) A facility management plan that includes—

"(i) a plan for implementing the imposition of tolls on the facility;

"(ii) a schedule and finance plan for the reconstruction or rehabilitation of the facility using toll revenues;

"(iii) a description of the public transportation agency that will be responsible for implementation and administration of the pilot program;

"(iv) a description of whether consideration will be given to privatizing the maintenance and operational aspects of the facility, while retaining legal and administrative control of the portion of the Interstate route; and

"(v) such other information as the Secretary may require.

"(4) SELECTION CRITERIA.—The Secretary may approve the application of a State under paragraph (3) only if the Secretary determines that—

"(A) the State is unable to reconstruct or rehabilitate the proposed toll facility using existing apportionments;

"(B) the facility has a sufficient intensity of use, age, or condition to warrant the collection of tolls;

"(C) the State plan for implementing tolls on the facility takes into account the interests of local, regional, and interstate travelers;

"(D) the State plan for reconstruction or rehabilitation of the facility using toll revenues is reasonable;

"(E) the State has given preference to the use of a public toll agency with demonstrated capability to build, operate, and maintain a toll expressway system meeting criteria for the Interstate System; and

"(F) the State has the authority required for the project to proceed.

"(5) LIMITATIONS ON USE OF REVENUES; AUDITS.—Before the Secretary may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that—

"(A) all toll revenues received from operation of the toll facility will be used only for—

"(i) debt service;

"(ii) reasonable return on investment of any private person financing the project; and

"(iii) any costs necessary for the improvement of and the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation of the toll facility; and

"(B) regular audits will be conducted to ensure compliance with subparagraph (A) and the results of such audits will be transmitted to the Secretary.

"(6) REQUIREMENTS FOR PROJECT COMPLETION.—

"(A) GENERAL TERM FOR EXPIRATION OF PROVISIONAL APPLICATION.—An application provisionally approved by the Secretary under this subsection shall expire 3 years after the date on which the application was provisionally approved if the State has not—

"(i) submitted a complete application to the Secretary that fully satisfies the eligibility criteria under paragraph (3) and the selection criteria under paragraph (4);

"(ii) completed the environmental review and permitting process under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for the pilot project; and

"(iii) executed a toll agreement with the Secretary.

"(B) EXCEPTIONS TO EXPIRATION.—Notwithstanding subparagraph (A), the Secretary may extend the provisional approval for not more than 1 additional year if the State demonstrates material progress toward implementation of the project as evidenced by—

"(i) substantial progress in completing the environmental review and permitting process for the pilot project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(ii) funding and financing commitments for the pilot project;

"(iii) expressions of support for the pilot project from State and local governments, community interests, and the public; and

"(iv) submission of a facility management plan pursuant to paragraph (3)(D).

"(C) CONDITIONS FOR PREVIOUSLY PROVISIONALLY APPROVED APPLICATIONS.—A State with a provisionally approved application for a pilot project as of the date of enactment of the FAST Act [Dec. 4, 2015] shall have 1 year after that date of enactment to meet the requirements of subparagraph (A) or receive an extension from the Secretary under subparagraph (B), or the application will expire.

"(7) DEFINITION.—In this subsection, the term 'provisional approval' or 'provisionally approved' means the approval by the Secretary of a partial application under this subsection, including the reservation of a slot in the pilot program.

"(8) LIMITATION ON USE OF INTERSTATE MAINTENANCE FUNDS.—During the term of the pilot program, funds apportioned for Interstate maintenance under [former] section 104(b)(4) of title 23, United States Code, may not be used on a facility for which tolls are being collected under the program.

"(9) PROGRAM TERM.—The Secretary shall conduct the pilot program under this subsection for a term to be determined by the Secretary, but not less than 10 years.

"(10) INTERSTATE SYSTEM DEFINED.—In this subsection, the term 'Interstate System' has the meaning such term has under section 101 of title 23, United States Code."

CONTINUATION OF EXISTING AGREEMENTS

Pub. L. 102–240, title I, §1012(d), Dec. 18, 1991, 105 Stat. 1939, provided that: "Unless modified under section 129(a)(6) [now 129(a)(5)] of such title [this title], as amended by subsection (a) of this section, agreements entered into under section 119(e) or 129 of such title before the effective date of this title [Dec. 18, 1991] and in effect on the day before such effective date shall continue in effect on and after such effective date in accordance with the provisions of such agreement and such section 119(e) or 129."

CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES

Pub. L. 102–240, title I, §1064, Dec. 18, 1991, 105 Stat. 2005, as amended by Pub. L. 102–388, title III, §332, Oct. 6, 1992, 106 Stat. 1550; Pub. L. 105–178, title I, §1207(b), June 9, 1998, 112 Stat. 185, which directed the Secretary to carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c) of this title, was repealed by Pub. L. 109–59, title I, §1801(c), Aug. 10, 2005, 119 Stat. 1456. See section 147 of this title.

STUDY TO DETERMINE EXTENT OF BONDED INDEBTEDNESS OF STATES FOR CONSTRUCTION OF TOLL ROADS INCORPORATED INTO INTERSTATE SYSTEM

Pub. L. 95–599, title I, §164, Nov. 6, 1978, 92 Stat. 2721, as amended by Pub. L. 96–106, §16, Nov. 19, 1979, 93 Stat. 798, directed Secretary of Transportation to report not later than July 1, 1980, respecting extent of outstanding bonded indebtedness for each State as of Jan. 1, 1979, incurred by each State or public authority prior to June 29, 1956, for road construction or portions incorporated within Interstate System, and methods of allocating bonded indebtedness and removal of toll provisions.

RICHMOND-PETERSBURG TURNPIKE

Pub. L. 91–605, title I, §131, Dec. 31, 1970, 84 Stat. 1732, provided that: "The Secretary of Transportation is authorized to amend any agreement heretofore entered into under the provisions of section 129(d) of title 23, United States Code, in order to permit the continuation of tolls on the existing Richmond-Petersburg Turnpike to finance the construction within the existing termini of such turnpike of two lanes thereon in addition to the lanes in existence on the date of enactment of this section [Dec. 31, 1970] necessary to meet traffic and highway safety requirements. Any amended agreement entered into for such purposes shall provide assurances that the existing turnpike (including the additional lanes) shall become free to the public upon the collection of tolls sufficient to liquidate all construction costs, and the costs of maintenance, operation, and debt service during the period of toll collections to liquidate such construction costs, but in no event shall tolls be collected after date of maturity of those bonds outstanding on the date of enactment of this section [Dec. 31, 1970] issued for construction of such turnpike having the latest maturity date."

§130. Railway-highway crossings

(a) Subject to section 120 and subsection (b) of this section, the entire cost of construction of projects for the elimination of hazards of railway-highway crossings, including the separation or protection of grades at crossings, the reconstruction of existing railroad grade crossing structures, the relocation of highways to eliminate grade crossings, and projects at grade crossings to eliminate hazards posed by blocked grade crossings due to idling trains, may be paid from sums apportioned in accordance with section 104 of this title. In any case when the elimination of the hazards of a railway-highway crossing can be effected by the relocation of a portion of a railway at a cost estimated by the Secretary to be less than the cost of such elimination by one of the methods mentioned in the first sentence of this section, then the entire cost of such relocation project, subject to section 120 and subsection (b) of this section, may be paid from sums apportioned in accordance with section 104 of this title.

(b) The Secretary may classify the various types of projects involved in the elimination of hazards

of railway-highway crossings, and may set for each such classification a percentage of the costs of construction which shall be deemed to represent the net benefit to the railroad or railroads for the purpose of determining the railroad's share of the cost of construction. The percentage so determined shall in no case exceed 10 per centum. The Secretary shall determine the appropriate classification of each project.

(c) Any railroad involved in a project for the elimination of hazards of railway-highway crossings paid for in whole or in part from sums made available for expenditure under this title, or prior Acts, shall be liable to the United States for the net benefit to the railroad determined under the classification of such project made pursuant to subsection (b) of this section. Such liability to the United States may be discharged by direct payment to the State transportation department of the State in which the project is located, in which case such payment shall be credited to the cost of the project. Such payment may consist in whole or in part of materials and labor furnished by the railroad in connection with the construction of such project. If any such railroad fails to discharge such liability within a six-month period after completion of the project, it shall be liable to the United States for its share of the cost, and the Secretary shall request the Attorney General to institute proceedings against such railroad for the recovery of the amount for which it is liable under this subsection. The Attorney General is authorized to bring such proceedings on behalf of the United States, in the appropriate district court of the United States, and the United States shall be entitled in such proceedings to recover such sums as it is considered and adjudged by the court that such railroad is liable for in the premises. Any amounts recovered by the United States under this subsection shall be credited to miscellaneous receipts.

(d) SURVEY AND SCHEDULE OF PROJECTS.—Each State shall conduct and systematically maintain a survey of all highways to identify those railroad crossings which may require separation, relocation, or protective devices, and establish and implement a schedule of projects for this purpose. At a minimum, such a schedule shall provide signs for all railway-highway crossings.

(e) FUNDS FOR RAILWAY-HIGHWAY GRADE CROSSINGS.—

(1) IN GENERAL.—

(A) SET ASIDE.—Before making an apportionment under section 104(b)(3) for a fiscal year, the Secretary shall set aside, from amounts made available to carry out the highway safety improvement program under section 148 for such fiscal year, for the elimination of hazards, the installation of protective devices at railway-highway crossings, the replacement of functionally obsolete warning devices, and as described in subparagraph (B), not less than $245,000,000 for each of fiscal years 2022 through 2026.

(B) REDUCING TRESPASSING FATALITIES AND INJURIES.—A State may use funds set aside under subparagraph (A) for projects to reduce pedestrian fatalities and injuries from trespassing at grade crossings.

(C) OBLIGATION AVAILABILITY.—Sums set aside each fiscal year under subparagraph (A) shall be available for obligation in the same manner as funds apportioned under section 104(b)(1).

(2) SPECIAL RULE.—If a State demonstrates to the satisfaction of the Secretary that the State has met all its needs for installation of protective devices at railway-highway crossings, the State may use funds made available by this section for other highway safety improvement program purposes.

(f) APPORTIONMENT.—

(1) FORMULA.—Fifty percent of the funds set aside to carry out this section pursuant to subsection (e)(1) shall be apportioned to the States in accordance with the formula set forth in section 104(b)(3)(A) as in effect on the day before the date of enactment of the MAP–21, and 50 percent of such funds shall be apportioned to the States in the ratio that total public railway-highway crossings in each State bears to the total of such crossings in all States.

(2) MINIMUM APPORTIONMENT.—Notwithstanding paragraph (1), each State shall receive a minimum of one-half of 1 percent of the funds apportioned under paragraph (1).

(3) FEDERAL SHARE.—The Federal share payable on account of any project financed with funds set aside to carry out this section shall be 100 percent of the cost thereof.

(g) ANNUAL REPORT.—

(1) IN GENERAL.—Not later than August 31 of each year, each State shall submit a report to the Administrator of the Federal Highway Administration that describes—

(A) the progress being made to implement the railway-highway crossings program authorized under this section; and

(B) the effectiveness of the improvements made as a result of such implementation.

(2) CONTENTS.—Each report submitted pursuant to paragraph (1) shall contain an assessment of—

(A) the costs of the various treatments employed by the State to implement the railway-highway crossings program; and

(B) the effectiveness of such treatments, as measured by the accident experience at the locations that received such treatments.

(3) COORDINATION.—Not later than 30 days after the Federal Highway Administration's acceptance of each report submitted pursuant to paragraph (1), the Administrator of the Federal Highway Administration shall make such report available to the Administrator of the Federal Railroad Administration.

(h) USE OF FUNDS FOR MATCHING.—Funds authorized to be appropriated to carry out this section may be used to provide a local government with funds to be used on a matching basis when State funds are available which may only be spent when the local government produces matching funds for the improvement of railway-highway crossings.

(i) INCENTIVE PAYMENTS FOR AT-GRADE CROSSING CLOSURES.—

(1) IN GENERAL.—Notwithstanding any other provision of this section and subject to paragraphs (2) and (3), a State may, from sums available to the State under this section, make incentive payments to local governments in the State upon the permanent closure by such governments of public at-grade railway-highway crossings under the jurisdiction of such governments.

(2) INCENTIVE PAYMENTS BY RAILROADS.—A State may not make an incentive payment under paragraph (1) to a local government with respect to the closure of a crossing unless the railroad owning the tracks on which the crossing is located makes an incentive payment to the government with respect to the closure.

(3) AMOUNT OF STATE PAYMENT.—The amount of the incentive payment payable to a local government by a State under paragraph (1) with respect to a crossing may not exceed the lesser of—

(A) the amount of the incentive payment paid to the government with respect to the crossing by the railroad concerned under paragraph (2); or

(B) $100,000.

(4) USE OF STATE PAYMENTS.—A local government receiving an incentive payment from a State under paragraph (1) shall use the amount of the incentive payment for transportation safety improvements.

(j) BICYCLE SAFETY.—In carrying out projects under this section, a State shall take into account bicycle safety.

(k) EXPENDITURE OF FUNDS.—Not more than 8 percent of funds apportioned to a State to carry out this section may be used by the State for compilation and analysis of data in support of activities carried out under subsection (g).

(l) NATIONAL CROSSING INVENTORY.—

(1) INITIAL REPORTING OF CROSSING INFORMATION.—Not later than 1 year after the date of enactment of the Rail Safety Improvement Act of 2008 or within 6 months of a new crossing becoming operational, whichever occurs later, each State shall report to the Secretary of Transportation current information, including information about warning devices and signage, as specified by the Secretary, concerning each previously unreported public crossing located within its borders.

(2) PERIODIC UPDATING OF CROSSING INFORMATION.—On a periodic basis beginning not later than 2 years after the date of enactment of the Rail Safety Improvement Act of 2008 and on or before September 30 of every year thereafter, or as otherwise specified by the Secretary, each State shall report to the Secretary current information, including information about warning devices and signage, as specified by the Secretary, concerning each public crossing located within its borders.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 903; Pub. L. 100–17, title I, §121(a), Apr. 2, 1987, 101 Stat. 159; Pub. L. 104–59, title III, §325(a), Nov. 28, 1995, 109 Stat. 591; Pub. L. 104–205, title III, §353(b), Sept. 30, 1996, 110 Stat. 2980; Pub. L. 105–178, title I, §§1111(d), 1202(d), 1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 146, 170, 193; Pub. L. 109–59, title I, §1401(c), formerly §1401(d), Aug. 10, 2005, 119 Stat. 1226, renumbered §1401(c), Pub. L. 110–244, title I, §101(s)(1), June 6, 2008, 122 Stat. 1577; Pub. L. 110–244, title I, §101(l), June 6, 2008, 122 Stat. 1575; Pub. L. 110–432, div. A, title II, §204(c), Oct. 16, 2008, 122 Stat. 4871; Pub. L. 112–141, div. A, title I, §1519(c)(5), formerly §1519(c)(6), July 6, 2012, 126 Stat. 575, renumbered §1519(c)(5), Pub. L. 114–94, div. A, title I, §1446(d)(5)(B), Dec. 4, 2015, 129 Stat. 1438; Pub. L. 114–94, div. A, title I, §§1108, 1412, Dec. 4, 2015, 129 Stat. 1338, 1416; Pub. L. 117–58, div. A, title I, §§11108(a)–(d), 11525(f), div. B, title II, §22403(c), Nov. 15, 2021, 135 Stat. 461, 607, 736.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 104(b)(3)(A) as in effect on the day before the date of enactment of the MAP–21, referred to in subsec. (f)(1), means section 104(b)(3)(A) of this title as in effect on the day before the date of enactment of Pub. L. 112–141, which amended section 104 generally. The date of enactment of the MAP–21 is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title.

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in subsec. (l), is the date of enactment of div. A of Pub. L. 110–432, which was approved Oct. 16, 2008.

AMENDMENTS

2021—Subsec. (e). Pub. L. 117–58, §11108(a)(1), substituted "Railway-Highway Grade Crossings" for "Protective Devices" in heading.

Subsec. (e)(1)(A). Pub. L. 117–58, §11108(a)(2)(A), substituted ", the installation of protective devices at railway-highway crossings, the replacement of functionally obsolete warning devices, and as described in subparagraph (B), not less than $245,000,000 for each of fiscal years 2022 through 2026." for "and the installation of protective devices at railway-highway crossings at least—" and cls. (i) to (v) which set out amounts to be set aside for fiscal years 2016 to 2020.

Subsec. (e)(1)(B). Pub. L. 117–58, §11108(a)(2)(B), added subpar. (B) and struck out former subpar. (B). Prior to amendment, text read as follows: "At least ½ of the funds set aside each fiscal year under subparagraph (A) shall be available for the installation of protective devices at railway-highway crossings."

Subsec. (f)(3). Pub. L. 117–58, §11108(b), substituted "100 percent" for "90 percent".

Subsec. (g). Pub. L. 117–58, §22403(c), amended subsec. (g) generally. Prior to amendment, subsec. (g) required annual reports on the progress being made to implement the railway-highway crossings program authorized by this section and the effectiveness of such improvements.

Pub. L. 117–58, §11525(f), substituted "and Transportation of the Senate" for "and Transportation, of the Senate", "thereafter, on" for "thereafter,, on", and "implementation of the railway-highway" for "implementation of the railroad highway".

Subsec. (i)(3)(B). Pub. L. 117–58, §11108(c), substituted "$100,000" for "$7,500".

Subsec. (k). Pub. L. 117–58, §11108(d), substituted "8 percent" for "2 percent".

2015—Pub. L. 114–94, §1446(d)(5)(B), amended Pub. L. 112–141, §1519(c). See 2012 Amendment notes below.

Subsec. (a). Pub. L. 114–94, §1412, substituted "the relocation of highways to eliminate grade crossings, and projects at grade crossings to eliminate hazards posed by blocked grade crossings due to idling trains" for "and the relocation of highways to eliminate grade crossings".

Subsec. (e)(1). Pub. L. 114–94, §1108, amended par. (1) generally. Prior to amendment, text read as follows: "Before making an apportionment under section 104(b)(3) for a fiscal year, the Secretary shall set aside, from amounts made available to carry out the highway safety improvement program under section 148 for such fiscal year, at least $220,000,000 for the elimination of hazards and the installation of protective devices at railway-highway crossings. At least ½ of the funds authorized for and expended under this section shall be available for the installation of protective devices at railway-highway crossings. Sums authorized to be appropriated to carry out this section shall be available for obligation in the same manner as funds apportioned under section 104(b)(1) of this title."

2012—Subsec. (e)(1). Pub. L. 112–141, §1519(c)(5)(A), formerly §1519(c)(6)(A), as renumbered by Pub. L. 114–94, §1446(d)(5)(B), substituted "section 104(b)(3)" for "section 104(b)(5)".

Subsec. (f)(1). Pub. L. 112–141, §1519(c)(5)(B), formerly §1519(c)(6)(B), as renumbered by Pub. L. 114–94, §1446(d)(5)(B), inserted "as in effect on the day before the date of enactment of the MAP–21" after "section 104(b)(3)(A)".

Subsec. (l)(3), (4). Pub. L. 112–141, §1519(c)(5)(C), formerly §1519(c)(6)(C), as renumbered by Pub. L. 114–94, §1446(d)(5)(B), struck out pars. (3) and (4) which related to rulemaking authority and definitions.

2008—Subsec. (e)(2). Pub. L. 110–244, §101(l), substituted "highway safety improvement program purposes" for "purposes under this subsection".

Subsec. (l). Pub. L. 110–432 added subsec. (l).

2005—Subsec. (e). Pub. L. 109–59, §1401(c)(1), formerly §1401(d)(1), as renumbered by Pub. L. 110–244, §101(s)(1), designated existing provisions as par. (1), inserted after par. designation "IN GENERAL.—Before making an apportionment under section 104(b)(5) for a fiscal year, the Secretary shall set aside, from amounts made available to carry out the highway safety improvement program under section 148 for such fiscal year, at least $220,000,000 for the elimination of hazards and the installation of protective devices at railway-highway crossings.", and added par. (2).

Subsec. (f). Pub. L. 109–59, §1401(c)(2), formerly §1401(d)(2), as renumbered by Pub. L. 110–244, §101(s)(1), reenacted heading without change and amended text of subsec. (f) generally. Prior to amendment, text read as follows: "Twenty-five percent of the funds authorized to be appropriated to carry out this section shall be apportioned to the States in the same manner as sums are apportioned under section 104(b)(2) of this title, 25 percent of such funds shall be apportioned to the States in the same manner as sums are apportioned under section 104(b)(6) of this title, and 50 percent of such funds shall be apportioned to the States in the ratio that total railway-highway crossings in each State bears to the total of such crossings in all States. The Federal share payable on account of any project financed with funds authorized to be appropriated to carry out this section shall be 90 percent of the cost thereof."

Subsec. (g). Pub. L. 109–59, §1401(c)(3), formerly §1401(d)(3), as renumbered by Pub. L. 110–244, §101(s)(1), in third sentence inserted "and the Committee on Commerce, Science, and Transportation," after "Public Works" and substituted ", not later than April 1, 2006, and every 2 years thereafter," for "not later than April 1 of each year".

Subsec. (k). Pub. L. 109–59, §1401(c)(4), formerly §1401(d)(4), as renumbered by Pub. L. 110–244, §101(s)(1), added subsec. (k).

1998—Subsec. (a). Pub. L. 105–178, §1111(d), substituted "Subject to section 120" for "Except as provided in subsection (d) of section 120 of this title" in first sentence and "subject to section 120" for "except as provided in subsection (d) of section 120 of this title" in second sentence.

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

Subsec. (j). Pub. L. 105–178, §1202(d), added subsec. (j).

1996—Subsec. (i). Pub. L. 104–205 added subsec. (i).

1995—Subsec. (g). Pub. L. 104–59 substituted "Committee on Transportation and Infrastructure" for "Committee on Public Works and Transportation" in third sentence.

1987—Subsecs. (d) to (h). Pub. L. 100–17 added subsecs. (d) to (h).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by sections 11108(a)–(d) and 11525(f) of Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Except as otherwise provided, amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

Pub. L. 114–94, div. A, title I, §1446(d), Dec. 4, 2015, 129 Stat. 1438, provided that the amendment made by section 1446(d)(5)(B) is effective as of July 6, 2012, and as if included in Pub. L. 112–141 as enacted.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

FEDERAL SHARE OF COSTS FOR CONSTRUCTION TO ELIMINATE HAZARDS

Pub. L. 106–246, div. B, title II, §2604, July 13, 2000, 114 Stat. 559, provided that: "Notwithstanding any other provision of law, hereafter, funds apportioned under [former] section 104(b)(3) of title 23 which are applied to projects involving the elimination of hazards of railway-highway crossings, including the separation or protection of grades at crossings, the reconstruction of existing railroad grade crossing structures, and the relocation of highways to eliminate grade crossings, may have a Federal share up to 100 percent of the cost of construction."

FEDERAL-STATE COOPERATION

Pub. L. 104–59, title III, §351(b), (c), Nov. 28, 1995, 109 Stat. 622, 623, provided that:

"(b) SAFETY ENFORCEMENT.—

"(1) COOPERATION BETWEEN FEDERAL AND STATE AGENCIES.—The National Highway Traffic Safety Administration and the Office of Motor Carriers within the Federal Highway Administration shall cooperate and work, on a continuing basis, with the National Association of Governors' Highway Safety Representatives, the Commercial Vehicle Safety Alliance, and Operation Lifesaver, Inc., to improve compliance with and enforcement of laws and regulations pertaining to railroad-highway grade crossings.

"(2) REPORT.—Not later than June 1, 1998, the Secretary shall submit to Congress a report indicating—

"(A) how the Department of Transportation worked with the entities referred to in paragraph (1) to improve the awareness of the highway and commercial vehicle safety and law enforcement communities of regulations and safety challenges at railroad-highway grade crossings; and

"(B) how resources are being allocated to better address these challenges and enforce such regulations.

"(c) FEDERAL-STATE PARTNERSHIP.—

"(1) STATEMENT OF POLICY.—

"(A) HAZARDS TO SAFETY.—Certain railroad-highway grade crossings present inherent hazards to the safety of railroad operations and to the safety of persons using those crossings. It is in the public interest—

"(i) to promote grade crossing safety and reduce risk at high risk railroad-highway grade crossings; and

"(ii) to reduce the number of grade crossings while maintaining the reasonable mobility of the American people and their property, including emergency access.

"(B) EFFECTIVE PROGRAMS.—Effective programs to reduce the number of unneeded and unsafe railroad-highway grade crossings require the partnership of Federal, State, and local officials and agencies, and affected railroads.

"(C) HIGHWAY PLANNING.—Promotion of a balanced national transportation system requires that highway planning specifically take into consideration grade crossing safety.

"(2) PARTNERSHIP AND OVERSIGHT.—The Secretary shall encourage each State to make progress toward achievement of the purposes of this subsection."

VEHICLE PROXIMITY ALERT SYSTEM

Pub. L. 102–240, title I, §1072, Dec. 18, 1991, 105 Stat. 2012, provided that: "The Secretary shall coordinate the field testing of the vehicle proximity alert system and comparable systems to determine their feasibility for use by priority vehicles as an effective railroad-highway grade crossing safety device. In the

event the vehicle proximity alert or a comparable system proves to be technologically and economically feasible, the Secretary shall develop and implement appropriate programs under section 130 of title 23, United States Code, to provide for installation of such devices where appropriate."

RAILWAY-HIGHWAY CROSSING HAZARDS; NATIONAL HIGHWAY INFORMATION PROGRAM FUNDING

Pub. L. 100–457, title III, §324, Sept. 30, 1988, 102 Stat. 2150, provided that: "Notwithstanding any other provision of law, the Secretary shall make available $250,000 per year for a national public information program to educate the public of the inherent hazard at railway-highway crossings. Such funds shall be made available out of funds authorized to be appropriated out of the Highway Trust Fund, pursuant to section 130 of title 23, United States Code."

Similar provisions were contained in the following prior appropriation act:

Pub. L. 100–202, §101(l) [title III, §339], Dec. 22, 1987, 101 Stat. 1329–358, 1329–386.

RAILROAD-HIGHWAY CROSSINGS STUDY AND REPORT

Pub. L. 100–17, title I, §159, Apr. 2, 1987, 101 Stat. 211, directed Secretary of Transportation to conduct a study of national highway-railroad crossing improvement and maintenance needs, with Secretary to consult with State highway administrations, the Association of American Railroads, highway safety groups, and any other appropriate entities in carrying out this study, and directed Secretary, not later than 24 months after Apr. 2, 1987, to submit a final report to Congress on results of the study along with recommendations of how crossing needs can be addressed in a cost effective manner.

STUDY AND INVESTIGATION OF ALLEVIATION OF ENVIRONMENTAL, SOCIAL, ETC., IMPACTS OF INCREASED UNIT TRAIN TRAFFIC

Pub. L. 95–599, title I, §162, Nov. 6, 1978, 92 Stat. 2720, authorized Secretary of Transportation, in cooperation with State highway departments and appropriate officials of local government, to undertake a comprehensive investigation and study of techniques for alleviating the environmental, social, economic, and developmental impacts of increased unit train traffic to meet national energy requirements in communities located along rail corridors experiencing such increased traffic and directed Secretary to report to Congress on results of such investigation and study not later than Mar. 31, 1979.

DEMONSTRATION PROJECT, RAILROAD-HIGHWAY CROSSINGS; REPORTS TO PRESIDENT AND CONGRESS; APPROPRIATIONS AUTHORIZATION; HIGHWAY SAFETY STUDY, REPORT TO CONGRESS

Pub. L. 93–87, title I, §163, Aug. 13, 1973, 87 Stat. 280, as amended by Pub. L. 93–643, §104, Jan. 4, 1975, 88 Stat. 2282; Pub. L. 94–280, title I, §140(a)–(e), May 5, 1976, 90 Stat. 444; Pub. L. 95–599, title I, §134(a)–(c), Nov. 6, 1978, 92 Stat. 2709; Pub. L. 96–470, title II, §209(b), Oct. 19, 1980, 94 Stat. 2245; Pub. L. 97–424, title I, §151, Jan. 6, 1983, 96 Stat. 2132; Pub. L. 100–17, title I, §§133(c)(3), 148, Apr. 2, 1987, 101 Stat. 172, 181; Pub. L. 100–202, §101(l) [title III, §346], Dec. 22, 1987, 101 Stat. 1329–358, 1329–388; Pub. L. 102–240, title I, §1037, Dec. 18, 1991, 105 Stat. 1987; Pub. L. 104–66, title I, §1121(e), Dec. 21, 1995, 109 Stat. 724, provided that:

"(a)(1) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out demonstration projects in Lincoln, Nebraska, Wheeling, West Virginia, and Elko, Nevada, for the relocation of railroad lines from the central area of the cities in conformance with the methodology developed under proposals submitted to the Secretary by the respective cities. The cities shall (1) have a local agency with legal authority to relocate railroad facilities, levy taxes for such purpose, and a record of prior accomplishment; and (2) have a current relocation plan for such lines which has a favorable benefit-cost ratio involving and having the unanimous approval of three or more class 1 railroads in Lincoln, Nebraska, and the two class 1 railroads in Wheeling, West Virginia, and Elko, Nevada, and multicivic, local, and State agencies, and which provides for the elimination of a substantial number of the existing railway-road conflict points within the city.

"(2) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Lafayette, Indiana, for relocation of railroad lines from the central area of the city. There are authorized to be appropriated to carry out this paragraph $360,000 for the fiscal year ending June 30, 1975.

"(b) The Secretary of Transportation shall carry out a demonstration project for the elimination or protection of certain public ground-level rail-highway crossings in, or in the vicinity of, Springfield, Illinois.

"(c) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out demonstration projects in Brownsville, Texas, and Matamoros, Mexico, for the relocation of railroad lines from the central area of the cities in conformance with the methodology developed under proposals submitted

to the Secretary by the Brownsville Navigation District, providing for the construction of an international bridge and for the elimination of a substantial number of existing railway-road conflict points within the cities.

"(d) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in East Saint Louis, Illinois, for the relocation of rail lines between Thirteenth and Forty-third Streets, in accordance with methodology approved by the Secretary. The Secretary of Transportation shall carry out a demonstration project for the relocation of rail lines in the vicinity of Carbondale, Illinois.

"(e) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in New Albany, Indiana, for the elimination of the existing rail loop and relocation of rail lines to a location between Vincennes Street and East Eighth Street, in accordance with methodology approved by the Secretary.

"(f) The Secretary of Transportation shall carry out demonstration projects for the construction of an overpass at the rail-highway grade crossing on Cottage Grove Avenue between One Hundred Forty-second Street and One Hundred Thirty-eighth Street in the village of Dolton, Illinois, and the construction of an overpass at the rail-highway grade crossing at Vermont Street and the Rock Island Railroad tracks in the city of Blue Island, Illinois.

"(g) The Secretary of Transportation shall carry out a demonstration project for the elimination of the ground level railroad highway crossing on United States Route 69 in Greenville, Texas.

"(h) The Secretary of Transportation shall carry out a demonstration project in Anoka, Minnesota, for the construction of an underpass at the Seventh Avenue and County Road 7 railroad-highway grade crossing.

"(i) The Secretary of Transportation shall carry out a demonstration project in Metairie, Jefferson Parish, Louisiana, for the relocation or grade separation of rail lines whichever he deems most feasible in order to eliminate certain grade level railroad highway crossings.

"(j) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Augusta, Georgia, for the relocation of railroad lines and for the purpose of eliminating highway railroad grade crossings.

"(k) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Pine Bluff, Arkansas, for the relocation of railroad lines for the purpose of eliminating highway railroad grade crossings.

"(l) The Secretary of Transportation shall carry out a demonstration project in Sherman, Texas, for the relocation of rail lines in order to eliminate the ground level railroad crossing at the crossing of the Southern Pacific and Frisco Railroads with Grand Avenue-Roberts Road.

"(m) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Hammond, Indiana, for the relocation of railroad lines for the purposes of eliminating highway railroad grade crossings.

"(n) The Federal share payable on account of such projects shall be the Federal share provided in section 120(a) of title 23, United States Code. [sic] except those railroad-highway crossings segments which are already engaged in or have completed the preparation of the plans, specifications and estimates (PS&E) for the construction of the segment involved shall retain the Federal share as specified in subsection [sic] 163(n) [this subsection] as amended by section 134 of the Surface Transportation Assistance Act of 1978 [section 134 of Pub. L. 95–599, title I, Nov. 6, 1978, 92 Stat. 2709].

"[(o) Repealed. Pub. L. 104–66, title I, §1121(e), Dec. 21, 1995, 109 Stat. 724.]

"(p) There is authorized to be appropriated to carry out this section (other than subsection (l)), not to exceed $15,000,000 for the fiscal year ending June 30, 1974, $25,000,000 for the fiscal year ending June 30, 1975, and $50,000,000 for the fiscal year ending June 30, 1976, $6,250,000, for the period beginning July 1, 1976, and ending September 30, 1976, $26,400,000 for the fiscal year ending September 30, 1977, and $51,400,000 for the fiscal year ending September 30, 1978, $70,000,000 for the fiscal year ending September 30, 1979, and $90,000,000 for the fiscal year ending September 30, 1980, $100,000,000 for the fiscal year ending September 30, 1981, and $100,000,000 for the fiscal year ending September 30, 1982, and $50,000,000 for the fiscal year ending September 30, 1983, and $50,000,000 for the fiscal year ending September 30, 1984, and $50,000,000 for the fiscal year ending September 30, 1985, and $50,000,000 for the fiscal year ending September 30, 1986, and $15,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, 1991, 1992, 1993, and 1994, except that not more than two-thirds of all funds authorized and expended under authority of this section in any fiscal year shall be appropriated out of the Highway Trust fund. Notwithstanding any other provision of this section, any project which is not under construction, according to the Secretary of Transportation, by September 30, 1985, shall not be eligible for additional funds under this authorization.

"(q) The Secretary, in cooperation with State highway departments and local officials, shall conduct a full and complete investigation and study of the problem of providing increased highway safety by the relocation

of railroad lines from the central area of cities on a nationwide basis, and report to the Congress his recommendations resulting from such investigation and study not later than July 1, 1975, including an estimate of the cost of such a program. Funds authorized to carry out section 307 of title 23, United States Code, are authorized to be used to carry out the investigation and study required by this subsection."

DEMONSTRATION PROJECT, RAILROAD-HIGHWAY CROSSINGS; INCLUSION OF PROJECTS AT TERRE HAUTE, INDIANA

Pub. L. 94–387, title I, §101, Aug. 14, 1976, 90 Stat. 1176, provided in part: "That section 163 of Public Law 93–87 [set out as a note above] is hereby amended to include projects at Terre Haute, Indiana."

RAILROAD-HIGHWAY CROSSINGS

Pub. L. 93–87, title II, §203, Aug. 13, 1973, 87 Stat. 283, as amended by Pub. L. 94–280, title II, §203, May 5, 1976, 90 Stat. 452; Pub. L. 95–599, title II, §203, Nov. 6, 1978, 92 Stat. 2728; Pub. L. 96–470, title II, §209(d), Oct. 19, 1980, 94 Stat. 2245; Pub. L. 97–327, §5(b), Oct. 15, 1982, 96 Stat. 1612; Pub. L. 97–424, title II, §205, Jan. 6, 1983, 96 Stat. 2139, which directed each State to conduct a survey of all highways to identify those railway crossings requiring separation, relocation, or protective devices and to establish and implement a schedule of projects for such purpose, which at a minimum was to provide for signs at all crossings, authorized appropriations for elimination of hazards of railway-highway crossings, provided for State apportionments and for the Federal share of the costs of projects, required each State to annually report to the Secretary of Transportation and the Secretary of Transportation to annually report to Congress on progress in implementing railroad-highway crossings program, and authorized use of matching funds with local governments for improvement of railroad crossings, was repealed by Pub. L. 100–17, title I, §121(b), Apr. 2, 1987, 101 Stat. 160.

Highway authorizations provisions of section 104(a)(1) and (2) of Pub. L. 93–87, title I, Aug. 13, 1973, 87 Stat. 251, referred to in section 203(d) of Pub. L. 93–87 provided that:

"(a) For the purpose of carrying out the provisions of title 23, United States Code, the following sums are hereby authorized to be appropriated:

"(1) For the Federal-aid primary system in rural areas, out of the Highway Trust Fund, $680,000,000 for the fiscal year ending June 30, 1974, $700,000,000 for the fiscal year ending June 30, 1975, and $700,000,000 for the fiscal year ending June 30, 1976. For the Federal-aid secondary system in rural areas, out of Highway Trust Fund, $390,000,000 for the fiscal year ending June 30, 1974, $400,000,000 for the fiscal year ending June 30, 1975, and $400,000,000 for the fiscal year ending June 30, 1976.

"(2) For the Federal-aid urban system, out of the Highway Trust Fund, $780,000,000 for the fiscal year ending June 30, 1974, $800,000,000 for the fiscal year ending June 30, 1975, and $800,000,000 for the fiscal year ending June 30, 1976. For the extensions of the Federal-aid primary and secondary systems in urban areas, out of the Highway Trust Fund $290,000,000 for the fiscal year ending June 30, 1974, $300,000,000 for the fiscal year ending June 30, 1975, and $300,000,000 for the fiscal year ending June 30, 1976."

§131. Control of outdoor advertising

(a) The Congress hereby finds and declares that the erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System and the primary system should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty.

(b) Federal-aid highway funds apportioned on or after January 1, 1968, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of outdoor advertising signs, displays, and devices which are within six hundred and sixty feet of the nearest edge of the right-of-way and visible from the main traveled way of the system, and Federal-aid highway funds apportioned on or after January 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of those additional outdoor advertising signs, displays, and devices which are more than six hundred and sixty feet off the nearest edge of the right-of-way, located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way, shall be reduced by amounts equal to 10 per centum of the amounts which would

otherwise be apportioned to such State under section 104 of this title, until such time as such State shall provide for such effective control. Any amount which is withheld from apportionment to any State hereunder shall be reapportioned to the other States. Whenever he determines it to be in the public interest, the Secretary may suspend, for such periods as he deems necessary, the application of this subsection to a State.

(c) Effective control means that such signs, displays, or devices after January 1, 1968, if located within six hundred and sixty feet of the right-of-way and, on or after July 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, if located beyond six hundred and sixty feet of the right-of-way located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way, shall, pursuant to this section, be limited to (1) directional and official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, which shall conform to national standards hereby authorized to be promulgated by the Secretary hereunder, which standards shall contain provisions concerning lighting, size, number, and spacing of signs, and such other requirements as may be appropriate to implement this section, (2) signs, displays, and devices advertising the sale or lease of property upon which they are located, (3) signs, displays, and devices, including those which may be changed at reasonable intervals by electronic process or by remote control, advertising activities conducted on the property on which they are located, (4) signs lawfully in existence on October 22, 1965, determined by the State, subject to the approval of the Secretary, to be landmark signs, including signs on farm structures or natural surfaces, or historic or artistic significance the preservation of which would be consistent with the purposes of this section, and (5) signs, displays, and devices advertising the distribution by nonprofit organizations of free coffee to individuals traveling on the Interstate System or the primary system. For the purposes of this subsection, the term "free coffee" shall include coffee for which a donation may be made, but is not required.

(d) In order to promote the reasonable, orderly and effective display of outdoor advertising while remaining consistent with the purposes of this section, signs, displays, and devices whose size, lighting and spacing, consistent with customary use is to be determined by agreement between the several States and the Secretary, may be erected and maintained within six hundred and sixty feet of the nearest edge of the right-of-way within areas adjacent to the Interstate and primary systems which are zoned industrial or commercial under authority of State law, or in unzoned commercial or industrial areas as may be determined by agreement between the several States and the Secretary. The States shall have full authority under their own zoning laws to zone areas for commercial or industrial purposes, and the actions of the States in this regard will be accepted for the purposes of this Act. Whenever a bona fide State, county, or local zoning authority has made a determination of customary use, such determination will be accepted in lieu of controls by agreement in the zoned commercial and industrial areas within the geographical jurisdiction of such authority. Nothing in this subsection shall apply to signs, displays, and devices referred to in clauses (2) and (3) of subsection (c) of this section.

(e) Any sign, display, or device lawfully in existence along the Interstate System or the Federal-aid primary system on September 1, 1965, which does not conform to this section shall not be required to be removed until July 1, 1970. Any other sign, display, or device lawfully erected which does not conform to this section shall not be required to be removed until the end of the fifth year after it becomes nonconforming.

(f) The Secretary shall, in consultation with the States, provide within the rights-of-way for areas at appropriate distances from interchanges on the Interstate System, on which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained. The Secretary may also, in consultation with the States, provide within the rights-of-way of the primary system for areas in which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained. Such signs shall conform to national standards to be promulgated by the Secretary.

(g) Just compensation shall be paid upon the removal of any outdoor advertising sign, display, or

device lawfully erected under State law and not permitted under subsection (c) of this section, whether or not removed pursuant to or because of this section. The Federal share of such compensation shall be 75 per centum. Such compensation shall be paid for the following:

(A) The taking from the owner of such sign, display, or device of all right, title, leasehold, and interest in such sign, display, or device; and

(B) The taking from the owner of the real property on which the sign, display, or device is located, of the right to erect and maintain such signs, displays, and devices thereon.

(h) All public lands or reservations of the United States which are adjacent to any portion of the Interstate System and the primary system shall be controlled in accordance with the provisions of this section and the national standards promulgated by the Secretary.

(i) In order to provide information in the specific interest of the traveling public, the State transportation departments are authorized to maintain maps and to permit information directories and advertising pamphlets to be made available at safety rest areas. Subject to the approval of the Secretary, a State may also establish information centers at safety rest areas and other travel information systems within the rights-of-way for the purpose of informing the public of places of interest within the State and providing such other information as a State may consider desirable. The Federal share of the cost of establishing such an information center or travel information system shall be that which is provided in section 120 for a highway project on that Federal-aid system to be served by such center or system. A State may permit the installation of signs that acknowledge the sponsorship of rest areas within such rest areas or along the main traveled way of the system, provided that such signs shall not affect the safe and efficient utilization of the Interstate System and the primary system. The Secretary shall establish criteria for the installation of such signs on the main traveled way, including criteria pertaining to the placement of rest area sponsorship acknowledgment signs in relation to the placement of advance guide signs for rest areas.

(j) Any State transportation department which has, under this section as in effect on June 30, 1965, entered into an agreement with the Secretary to control the erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System shall be entitled to receive the bonus payments as set forth in the agreement, but no such State transportation department shall be entitled to such payments unless the State maintains the control required under such agreement: *Provided*, That permission by a State to erect and maintain information displays which may be changed at reasonable intervals by electronic process or remote control and which provide public service information or advertise activities conducted on the property on which they are located shall not be considered a breach of such agreement or the control required thereunder. Such payments shall be paid only from appropriations made to carry out this section. The provisions of this subsection shall not be construed to exempt any State from controlling outdoor advertising as otherwise provided in this section.

(k) Subject to compliance with subsection (g) of this section for the payment of just compensation, nothing in this section shall prohibit a State from establishing standards imposing stricter limitations with respect to signs, displays, and devices on the Federal-aid highway systems than those established under this section.

(l) Not less than sixty days before making a final determination to withhold funds from a State under subsection (b) of this section, or to do so under subsection (b) of section 136, or with respect to failing to agree as to the size, lighting, and spacing of signs, displays, and devices or as to unzoned commercial or industrial areas in which signs, displays, and devices may be erected and maintained under subsection (d) of this section, or with respect to failure to approve under subsection (g) of section 136, the Secretary shall give written notice to the State of his proposed determination and a statement of the reasons therefor, and during such period shall give the State an opportunity for a hearing on such determination. Following such hearing the Secretary shall issue a written order setting forth his final determination and shall furnish a copy of such order to the State. Within forty-five days of receipt of such order, the State may appeal such order to any United States district court for such State, and upon the filing of such appeal such order shall be stayed until final judgment has been entered on such appeal. Summons may be served at any place in the United

States. The court shall have jurisdiction to affirm the determination of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the United States court of appeals for the circuit in which the State is located and to the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254. If any part of an apportionment to a State is withheld by the Secretary under subsection (b) of this section or subsection (b) of section 136, the amount so withheld shall not be reapportioned to the other States as long as a suit brought by such State under this subsection is pending. Such amount shall remain available for apportionment in accordance with the final judgment and this subsection. Funds withheld from apportionment and subsequently apportioned or reapportioned under this section shall be available for expenditure for three full fiscal years after the date of such apportionment or reapportionment as the case may be.

(m) There is authorized to be appropriated to carry out the provisions of this section, out of any money in the Treasury not otherwise appropriated, not to exceed $20,000,000 for the fiscal year ending June 30, 1966, not to exceed $20,000,000 for the fiscal year ending June 30, 1967, not to exceed $2,000,000 for the fiscal year ending June 30, 1970, not to exceed $27,000,000 for the fiscal year ending June 30, 1971, not to exceed $20,500,000 for the fiscal year ending June 30, 1972, and not to exceed $50,000,000 for the fiscal year ending June 30, 1973. The provisions of this chapter relating to the obligation, period of availability and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967. A State may use any funds apportioned to it under section 104 of this title for removal of any sign, display, or device lawfully erected which does not conform to this section.

(n) No sign, display, or device shall be required to be removed under this section if the Federal share of the just compensation to be paid upon removal of such sign, display, or device is not available to make such payment. Funds apportioned to a State under section 104 of this title shall not be treated for purposes of the preceding sentence as being available to the State for making such a payment except to the extent that the State, in its discretion, expends such funds for such a payment.

(o) The Secretary may approve the request of a State to permit retention in specific areas defined by such State of directional signs, displays, and devices lawfully erected under State law in force at the time of their erection which do not conform to the requirements of subsection (c), where such signs, displays, and devices are in existence on the date of enactment of this subsection and where the State demonstrates that such signs, displays, and devices (1) provide directional information about goods and services in the interest of the traveling public, and (2) are such that removal would work a substantial economic hardship in such defined area.

(p) In the case of any sign, display, or device required to be removed under this section prior to the date of enactment of the Federal-Aid Highway Act of 1974, which sign, display, or device was after its removal lawfully relocated and which as a result of the amendments made to this section by such Act is required to be removed, the United States shall pay 100 per centum of the just compensation for such removal (including all relocation costs).

(q)(1) During the implementation of State laws enacted to comply with this section, the Secretary shall encourage and assist the States to develop sign controls and programs which will assure that necessary directional information about facilities providing goods and services in the interest of the traveling public will continue to be available to motorists. To this end the Secretary shall restudy and revise as appropriate existing standards for directional signs authorized under subsections 131(c)(1) and 131(f) to develop signs which are functional and esthetically compatible with their surroundings. He shall employ the resources of other Federal departments and agencies, including the National Endowment for the Arts, and employ maximum participation of private industry in the development of standards and systems of signs developed for those purposes.

(2) Among other things the Secretary shall encourage States to adopt programs to assure that removal of signs providing necessary directional information, which also were providing directional information on June 1, 1972, about facilities in the interest of the traveling public, be deferred until all other nonconforming signs are removed.

(r) REMOVAL OF ILLEGAL SIGNS.—

(1) BY OWNERS.—Any sign, display, or device along the Interstate System or the Federal-aid

primary system which was not lawfully erected, shall be removed by the owner of such sign, display, or device not later than the 90th day following the effective date of this subsection.

(2) BY STATES.—If any owner does not remove a sign, display, or device in accordance with paragraph (1), the State within the borders of which the sign, display, or device is located shall remove the sign, display, or device. The owner of the removed sign, display, or device shall be liable to the State for the costs of such removal. Effective control under this section includes compliance with the first sentence of this paragraph.

(s) SCENIC BYWAY PROHIBITION.—If a State has a scenic byway program, the State may not allow the erection along any highway on the Interstate System or Federal-aid primary system which before, on, or after the effective date of this subsection, is designated as a scenic byway under such program of any sign, display, or device which is not in conformance with subsection (c) of this section. Control of any sign, display, or device on such a highway shall be in accordance with this section. In designating a scenic byway for purposes of this section and section 1047 of the Intermodal Surface Transportation Efficiency Act of 1991, a State may exclude from such designation any segment of a highway that is inconsistent with the State's criteria for designating State scenic byways. Nothing in the preceding sentence shall preclude a State from signing any such excluded segment, including such segment on a map, or carrying out similar activities, solely for purposes of system continuity.

(t) PRIMARY SYSTEM DEFINED.—For purposes of this section, the terms "primary system" and "Federal-aid primary system" mean the Federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the National Highway System.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 904; Pub. L. 86–342, title I, §106, Sept. 21, 1959, 73 Stat. 612; Pub. L. 87–61, title I, §106, June 29, 1961, 75 Stat. 123; Pub. L. 88–157, §5, Oct. 24, 1963, 77 Stat. 277; Pub. L. 89–285, title I, §101, Oct. 22, 1965, 79 Stat. 1028; Pub. L. 89–574, §8(a), Sept. 13, 1966, 80 Stat. 768; Pub. L. 90–495, §6(a)–(d), Aug. 23, 1968, 82 Stat. 817; Pub. L. 91–605, title I, §122(a), Dec. 31, 1970, 84 Stat. 1726; Pub. L. 93–643, §109, Jan. 4, 1975, 88 Stat. 2284; Pub. L. 94–280, title I, §122, May 5, 1976, 90 Stat. 438; Pub. L. 95–599, title I, §§121, 122, Nov. 6, 1978, 92 Stat. 2700, 2701; Pub. L. 96–106, §6, Nov. 9, 1979, 93 Stat. 797; Pub. L. 102–240, title I, §1046(a)–(c), Dec. 18, 1991, 105 Stat. 1995, 1996; Pub. L. 102–302, §104, June 22, 1992, 106 Stat. 253; Pub. L. 104–59, title III, §314, Nov. 28, 1995, 109 Stat. 586; Pub. L. 105–178, title I, §1212(a)(2)(A), June 9, 1998, 112 Stat. 193; Pub. L. 112–141, div. A, title I, §§1519(c)(6), formerly 1519(c)(7), 1539(b), July 6, 2012, 126 Stat. 576, 587, renumbered §1519(c)(6), Pub. L. 114–94, div. A, title I, §1446(d)(5)(B), Dec. 4, 2015, 129 Stat. 1438.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (d), probably means Pub. L. 89–285, Oct. 22, 1965, 79 Stat. 1028, known as the Highway Beautification Act of 1965, which enacted section 136 of this title and provisions set out as notes under sections 131 and 135 of this title and amended sections 131 and 319 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 136 of this title and Tables.

The date of enactment of this subsection, referred to in subsec. (o), means May 5, 1976, the date of approval of Pub. L. 94–280.

The date of enactment of the Federal-Aid Highway Act of 1974, referred to in subsec. (p), means Jan. 3, 1975, the date of approval of Pub. L. 93–643.

For the effective date of this subsection, referred to in subsecs. (r)(1) and (s), see the Effective Date of 1991 Amendment note set out below.

Section 1047 of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (s), is section 1047 of Pub. L. 102–240, which is set out as a note under section 101 of this title.

AMENDMENTS

2015—Subsec. (m). Pub. L. 114–94 amended Pub. L. 112–141, §1519(c). See 2012 Amendment note below.

2012—Subsec. (i). Pub. L. 112–141, §1539(b), inserted at end "A State may permit the installation of signs that acknowledge the sponsorship of rest areas within such rest areas or along the main traveled way of the system, provided that such signs shall not affect the safe and efficient utilization of the Interstate System and the primary system. The Secretary shall establish criteria for the installation of such signs on the main traveled way, including criteria pertaining to the placement of rest area sponsorship acknowledgment signs in relation to the placement of advance guide signs for rest areas."

Subsec. (m). Pub. L. 112–141, §1519(c)(6), formerly §1519(c)(7), as renumbered by Pub. L. 114–94, §1446(d)(5)(B), substituted "A State" for "Subject to approval by the Secretary in accordance with the program of projects approval process of section 105, a State".

1998—Subsec. (i). Pub. L. 105–178, §1212(a)(2)(A)(ii), substituted "State transportation departments" for "State highway departments".

Subsec. (j). Pub. L. 105–178, §1212(a)(2)(A)(i), substituted "State transportation department" for "State highway department" in two places.

1995—Subsec. (s). Pub. L. 104–59 inserted at end "In designating a scenic byway for purposes of this section and section 1047 of the Intermodal Surface Transportation Efficiency Act of 1991, a State may exclude from such designation any segment of a highway that is inconsistent with the State's criteria for designating State scenic byways. Nothing in the preceding sentence shall preclude a State from signing any such excluded segment, including such segment on a map, or carrying out similar activities, solely for purposes of system continuity."

1992—Subsec. (n). Pub. L. 102–302 inserted at end "Funds apportioned to a State under section 104 of this title shall not be treated for purposes of the preceding sentence as being available to the State for making such a payment except to the extent that the State, in its discretion, expends such funds for such a payment."

1991—Subsec. (m). Pub. L. 102–240, §1046(a), inserted at end "Subject to approval by the Secretary in accordance with the program of projects approval process of section 105, a State may use any funds apportioned to it under section 104 of this title for removal of any sign, display, or device lawfully erected which does not conform to this section."

Subsecs. (r) to (t). Pub. L. 102–240, §1046(b), (c), added subsecs. (r) to (t).

1979—Subsec. (c)(5). Pub. L. 96–106 substituted "distribution by nonprofit" for "distribution of nonprofit".

1978—Subsec. (c). Pub. L. 95–599 §§121, 122(c), inserted "including those which may be changed at reasonable intervals by electronic process or by remote control," after "devices" in cl. (3) and added cl. (5).

Subsec. (g). Pub. L. 95–599, §122(a), inserted provision relating to just compensation for the removal of signs lawfully erected under State law but not permitted under subsec. (c).

Subsec. (j). Pub. L. 95–599, §122(d), inserted provision relating to permission by the State to erect and maintain information displays.

Subsec. (k). Pub. L. 95–599, §122(b), substituted "Subject to compliance with subsection (g) of this section for the payment of just compensation, nothing" for "Nothing".

1976—Subsec. (f). Pub. L. 94–280, §122(a), authorized the Secretary, in consultation with the States, to provide within the rights-of-way of the primary system for areas in which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained.

Subsec. (i). Pub. L. 94–280, §122(c), authorized a State to establish travel information systems within the rights-of-way and prescribed as the Federal share of the cost of establishing an information center or travel information system the Federal share which is provided in section 120 of this title for a highway project on that Federal-aid system to be served by such center or system.

Subsecs. (o) to (q). Pub. L. 94–280, §122(b), added subsecs. (o) to (q).

1975—Subsec. (b). Pub. L. 93–643, §109(a), required reduction of Federal-aid highway funds apportioned on or after Jan. 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of those additional outdoor advertising signs, displays, and devices which are more than 660 feet off the nearest edge of the right-of-way, located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way.

Subsec. (c). Pub. L. 93–643, §109(b), substituted "Effective control means that such signs, displays, or devices after January 1, 1968, if located within six hundred and sixty feet of the right-of-way and, on or after July 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, if located beyond six hundred and sixty feet of the right-of-way, located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way," for "Effective control means that after January 1, 1968, such signs, displays, and devices", deleted in cl. (1) "other" before "official signs", and added cl. (4).

Subsec. (g). Pub. L. 93–643, §109(c), substituted first sentence reading "Just compensation shall be paid upon the removal of any outdoor advertising sign, display, or device lawfully erected under State law." for prior first sentence which provided for payment of just compensation for removal of outdoor advertising signs, displays, and devices (1) lawfully in existence on Oct. 22, 1965, (2) lawfully on any highway made a part of the interstate or primary system on or after Oct. 22, 1965, and before Jan. 1, 1968, and (3) lawfully erected on or after Jan. 1, 1968.

1970—Subsec. (m). Pub. L. 91–605 authorized to be appropriated not to exceed $27,000,000, $20,500,000 and $50,000,000, for the fiscal years ending June 30, 1971, 1972, and 1973, respectively.

1968—Subsec. (d). Pub. L. 90–495, §6(a), provided that whenever a bona fide State, county, or local zoning authority has made a determination of customary use, such determination will be accepted in lieu of controls by agreement in the zoned commercial and industrial areas within the geographical jurisdiction of such authority.

Subsec. (j). Pub. L. 90–495, §6(b), struck out provision for the imposition of controls on outdoor advertising by the Federal government that are stricter than those imposed by the State highway department.

Subsec. (m). Pub. L. 90–495, §6(c), inserted provision authorizing an appropriation of not to exceed $2,000,000 for the fiscal year ending June 30, 1970.

Subsec. (n). Pub. L. 90–495, §6(d), added subsec. (n).

1966—Subsec. (m). Pub. L. 89–574 substituted provisions making applicable to the funds authorized to be appropriated to carry out this section after June 30, 1967 the provisions of chapter 1 of this title relating to the obligation, period of availability and expenditure of Federal-aid primary highway funds for provisions prohibiting the use of any part of the Highway Trust Fund in carrying out this section.

1965—Subsec. (a). Pub. L. 89–285 struck out specific reference to the area which lies within six-hundred and sixty feet of the edge of the right-of-way and which is visible from the right-of-way and instead made only general reference to the areas adjacent to the Interstate System and struck out reference to types of permissible signs.

Subsec. (b). Pub. L. 89–285 substituted provisions reducing by 10 per centum the apportioned share, on or after January 1, 1968, of any State not making provision for effective control of erection and maintenance of outdoor advertising signs, displays and devices within six-hundred and sixty feet of the nearest edge of the right of way and visible from the traveled portion, reapportioning withheld funds to other States, and allowing for suspension of such provisions in the discretion of the Secretary, for provisions which authorized the Secretary to enter into agreements with the States to carry out national policy on control of areas adjacent to the Interstate System.

Subsec. (c). Pub. L. 89–285 substituted provisions setting out permissible types of signs as directional and other official signs and notices, signs advertising sale or lease of property on which the sign is located, and signs, displays, and devices advertising activities conducted on the property on which the sign is located, for provisions allowing for an increase in the Federal share payable under the Federal-Aid Highway Act of 1956, as amended, in the case of States entering into an agreement with the Secretary prior to July 1, 1965.

Subsec. (d). Pub. L. 89–285 substituted provisions allowing for agreements between the Secretary and the several States covering commercial or industrial property, for provisions covering control of the adjacent area when the Interstate System is located on or near public lands or reservations of the United States.

Subsec. (e). Pub. L. 89–285 substituted provisions setting out the timetable for removal of signs, displays, and devices lawfully along Interstate System or Federal-aid primary system highways, for provisions allowing the inclusion of the cost of purchase or condemnation of the right to advertise or control advertising in the area adjacent to Interstate System right-of-way as part of the cost of construction.

Subsecs. (f) to (m). Pub. L. 89–285 added subsecs. (f) to (m).

1963—Subsec. (c). Pub. L. 88–157 substituted "July 1, 1965" for "July 1, 1963".

1961—Subsec. (c). Pub. L. 87–61 substituted "July 1, 1963" for "July 1, 1961".

1959—Subsec. (b). Pub. L. 86–342 substituted "Agreements entered into between the Secretary of Commerce and State highway departments under this section shall not apply to those segments of the Interstate System which traverse commercial or industrial zones within the presently existing boundaries of incorporated municipalities wherein the use of real property adjacent to the Interstate System is subject to municipal regulation or control, or which traverse other areas where the land use, as of the date of approval of this Act, is clearly established by State law as industrial or commercial" for "Upon application of the State, any such agreement may, within the discretion of the Secretary of Commerce consistent with the national policy, provide for excluding from application of the national standards segments of the Interstate System which traverse incorporated municipalities wherein the use of real property adjacent to the Interstate System is subject to municipal regulation or control, or which traverse other areas where the land use is clearly established by State law as industrial or commercial."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–94, div. A, title I, §1446(d), Dec. 4, 2015, 129 Stat. 1438, provided that the amendment made by section 1446(d)(5)(B) is effective as of July 6, 2012, and as if included in Pub. L. 112–141 as enacted.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

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

EFFECTIVE DATE OF 1968 AMENDMENT

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

SERVICE CLUB, CHARITABLE ASSOCIATION, OR RELIGIOUS SERVICE SIGNS

Pub. L. 114–94, div. A, title I, §1425, Dec. 4, 2015, 129 Stat. 1425, provided that: "Notwithstanding section 131 of title 23, United States Code, and part 750 of title 23, Code of Federal Regulations (or successor regulations), if a State notifies the Federal Highway Administration, the State may allow the maintenance of a sign of a service club, charitable association, or religious service organization—

"(1) that exists on the date of enactment of this Act [Dec. 4, 2015] (or was removed in the 3-year period ending on such date of enactment); and

"(2) the area of which is less than or equal to 32 square feet."

STUDY OF STATE PRACTICES ON SPECIFIC SERVICE SIGNING

Pub. L. 105–178, title I, §1213(g), June 9, 1998, 112 Stat. 202, required the Secretary to conduct a study to determine the practices in the States for specific service food signs described in sections 2G–5.7 and 2G–5.8 of the Manual on Uniform Traffic Control Devices for Streets and Highways, and to transmit to Congress, not later than 1 year after June 9, 1998, a report on the results of the study, including any recommendations and, if appropriate, modifications to the Manual.

EFFECT OF 1991 AMENDMENT ON STATE COMPLIANCE LAWS OR REGULATIONS

Pub. L. 102–240, title I, §1046(d), Dec. 18, 1991, 105 Stat. 1996, provided that: "The amendments made by this section [amending this section] shall not affect the status or validity of any existing compliance law or regulation adopted by a State pursuant to section 131 of title 23, United States Code."

USE OF TOURIST ORIENTED DIRECTIONAL SIGNS

Pub. L. 102–240, title I, §1059, Dec. 18, 1991, 105 Stat. 2003, provided that:

"(a) IN GENERAL.—The Secretary shall encourage the States to provide for equitable participation in the use of tourist oriented directional signs or 'logo' signs along the Interstate System and the Federal-aid primary system (as defined under section 131(t) of title 23, United States Code).

"(b) STUDY.—Not later than 1 year after the effective date of this title [Dec. 18, 1991], the Secretary shall conduct a study and report to Congress on the participation in the use of signs referred to in subsection (a) and the practices of the States with respect to the use of such signs."

HIGHWAY BEAUTIFICATION COMMISSION

Pub. L. 91–605, title I, §123, Dec. 31, 1970, 84 Stat. 1727, as amended by Pub. L. 93–6, Feb. 16, 1973, 87 Stat. 6, established the Commission on Highway Beautification to (1) study existing statutes and regulations governing control of outdoor advertising and junkyards in areas adjacent to Federal-aid highway system, (2) review policies and practices of Federal and State agencies charged with administrative jurisdiction over such highways insofar as such policies and practices relate to governing control of outdoor advertising and junkyards, (3) compile data necessary to understand and determine the requirements for such control which may now exist or are likely to exist within foreseeable future, (4) study problems relating to control of

on-premise outdoor advertising signs, promotional signs, directional signs, and signs providing information that is essential to motoring public, (5) study methods of financing and possible sources of Federal funds, including use of the Highway Trust Fund, to carry out highway beautification program, and (6) recommend such modifications or additions to existing laws, regulations, policies, practices, and demonstration programs as will, in judgment of the Commission, achieve a workable and effective highway beautification program and best serve the public interest and to submit, not later than Dec. 31, 1973, its final report. The Commission terminated six months after submission of said report.

COMPREHENSIVE STUDY ON HIGHWAY BEAUTIFICATION PROGRAMS

Pub. L. 89–285, title III, §302, Oct. 22, 1965, 79 Stat. 1032, provided that in order to provide the basis for evaluating the continuing programs authorized by Pub. L. 89–285, and to furnish the Congress with the information necessary for authorization of appropriations for fiscal years beginning after June 30, 1967, the Secretary, in cooperation with the State highway departments, shall make a detailed estimate of the cost of carrying out the provisions of Pub. L. 89–285, and a comprehensive study of the economic impact of such programs on affected individuals and commercial and industrial enterprises, the effectiveness of such programs and the public and private benefits realized thereby, and alternate or improved methods of accomplishing the objectives of Pub. L. 89–285. The Secretary was required to submit such detailed estimate and a report concerning such comprehensive study to the Congress not later than Jan. 10, 1967.

STANDARDS, CRITERIA, RULES AND REGULATIONS

Pub. L. 89–285, title III, §303, Oct. 22, 1965, 79 Stat. 1033, mandated the holding of public hearings by the Secretary of Commerce prior to the promulgation of standards, criteria and rules and regulations necessary to carry out this section and section 136 of this title, such standards, criteria, etc., to be reported to Congress not later than Jan. 10, 1967.

ACQUISITION OF DWELLINGS

Pub. L. 89–285, title III, §305, Oct. 22, 1965, 79 Stat. 1033, provided that: "Nothing in this Act or the amendments made by this Act [amending this section and section 319 of this title and enacting section 136 of this title and provisions set out as notes under this section and sections 135 and 136 of this title] shall be construed to authorize the use of eminent domain to acquire any dwelling (including related buildings)."

TAKING OF PRIVATE PROPERTY WITHOUT JUST COMPENSATION

Pub. L. 89–285, title IV, §401, Oct. 22, 1965, 79 Stat. 1033, provided that: "Nothing in this Act or the amendments made by this Act [amending this section and section 319 of this title and enacting section 136 of this title and provisions set out as notes under sections 131, 135, and 136 of this title] shall be construed to authorize private property to be taken or the reasonable and existing use restricted by such taking without just compensation as provided in this Act."

AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR ADMINISTRATIVE EXPENSES

Pub. L. 89–285, title IV, §402, Oct. 22, 1965, 79 Stat. 1033, as amended by Pub. L. 97–449, §2(a), Jan. 12, 1983, 96 Stat. 2439, provided that: "In addition to any other amounts authorized by this Act and the amendments made by this Act [amending this section and section 319 of this title and enacting section 136 of this title and provisions set out as notes under this section and sections 135 and 136 of this title], there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Secretary not to exceed $5,000,000 for administrative expenses in carrying out this Act (including amendments made by this Act)."

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

(a) IN GENERAL.—In a case in which a proposed Federal-aid project is to be undertaken by a Federal agency in accordance with an agreement between a State and the Federal agency, the State may—

(1) direct the Secretary to transfer the funds for the Federal share of the project directly to the Federal agency; or

(2) make such deposit with, or payment to, the Federal agency as is required to meet the obligation of the State under the agreement for the work undertaken or to be undertaken by the Federal agency.

(b) REIMBURSEMENT.—On execution with a State of a project agreement described in subsection (a), the Secretary may reimburse the State, using any available funds, for the estimated Federal share under this title of the obligation of the State deposited or paid under subsection (a)(2).

(c) RECOVERY AND CREDITING OF FUNDS.—Any sums reimbursed to the State under this section which may be in excess of the Federal pro rata share under the provisions of this title of the State's share of the cost as set forth in the approved final voucher submitted by the State shall be recovered and credited to the same class of funds from which the Federal payment under this section was made.

(Added Pub. L. 86–657, §4(a), July 14, 1960, 74 Stat. 522; amended Pub. L. 109–59, title I, §1119(b), Aug. 10, 2005, 119 Stat. 1182.)

EDITORIAL NOTES

AMENDMENTS

2005—Pub. L. 109–59 designated third sentence as subsec. (c), inserted heading, and substituted subsecs. (a) and (b) for first and second sentences which read as follows: "Where a proposed Federal-aid project is to be undertaken by a Federal agency pursuant to an agreement between a State and such Federal agency and the State makes a deposit with or payment to such Federal agency as may be required in fulfillment of the State's obligation under such agreement for the work undertaken or to be undertaken by such Federal agency, the Secretary, upon execution of a project agreement with such State for the proposed Federal-aid project, may reimburse the State out of the appropriate appropriations the estimated Federal share under the provisions of this title of the State's obligation so deposited or paid by such State. Upon completion of such project and its acceptance by the Secretary, an adjustment shall be made in such Federal share payable on account of such project based on the final cost thereof."

§133. Surface transportation block grant program

(a) ESTABLISHMENT.—The Secretary shall establish a surface transportation block grant program in accordance with this section to provide flexible funding to address State and local transportation needs.

(b) ELIGIBLE PROJECTS.—Funds apportioned to a State under section 104(b)(2) for the surface transportation block grant program may be obligated for the following:

(1) Construction of—

(A) highways, bridges, tunnels, including designated routes of the Appalachian development highway system and local access roads under section 14501 of title 40;

(B) ferry boats and terminal facilities—

(i) that are eligible for funding under section 129(c); or

(ii) that are privately or majority-privately owned, but that the Secretary determines provide a substantial public transportation benefit or otherwise meet the foremost needs of the surface transportation system described in section 101(b)(3)(D);

(C) transit capital projects eligible for assistance under chapter 53 of title 49;

(D) infrastructure-based intelligent transportation systems capital improvements, including the installation of vehicle-to-infrastructure communication equipment;

(E) truck parking facilities eligible for funding under section 1401 of MAP–21 (23 U.S.C. 137 note);

(F) border infrastructure projects eligible for funding under section 1303 of SAFETEA–LU (23 U.S.C. 101 note); and

(G) wildlife crossing structures.

(2) Operational improvements and capital and operating costs for traffic monitoring, management, and control facilities and programs.

(3) Environmental measures eligible under sections 119(g), 148(a)(4)(B)(xvii), 328, and 329 and transportation control measures listed in section 108(f)(1)(A) (other than clause (xvi) of that section) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A)).

(5) [1] Highway and transit safety infrastructure improvements and programs, including projects eligible under section 130 and installation of safety barriers and nets on bridges.

(6) Fringe and corridor parking facilities and programs in accordance with section 137 and carpool projects in accordance with section 146.

(7) Recreational trails projects eligible for funding under section 206 including the maintenance and restoration of existing recreational trails,,[2] pedestrian and bicycle projects in accordance with section 217 (including modifications to comply with accessibility requirements under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)), and the safe routes to school program under section 208.

(8) Planning, design, or construction of boulevards and other roadways largely in the right-of-way of former Interstate System routes or other divided highways.

(9) Development and implementation of a State asset management plan for the National Highway System and a performance-based management program for other public roads.

(10) Protection (including painting, scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) for bridges (including approaches to bridges and other elevated structures) and tunnels on public roads, and inspection and evaluation of bridges and tunnels and other highway assets.

(11) Surface transportation planning programs, highway and transit research and development and technology transfer programs, and workforce development, training, and education under chapter 5 of this title.

(12) Surface transportation infrastructure modifications to facilitate direct intermodal interchange, transfer, and access into and out of a port terminal.

(13) Projects and strategies designed to support congestion pricing, including electronic toll collection and travel demand management strategies and programs.

(14) Projects and strategies designed to reduce the number of wildlife-vehicle collisions, including project-related planning, design, construction, monitoring, and preventative maintenance.

(15) The installation of electric vehicle charging infrastructure and vehicle-to-grid infrastructure.

(16) The installation and deployment of current and emerging intelligent transportation technologies, including the ability of vehicles to communicate with infrastructure, buildings, and other road users.

(17) Planning and construction of projects that facilitate intermodal connections between emerging transportation technologies, such as magnetic levitation and hyperloop.

(18) Protective features, including natural infrastructure, to enhance the resilience of a transportation facility otherwise eligible for assistance under this section.

(19) Measures to protect a transportation facility otherwise eligible for assistance under this section from cybersecurity threats.

(20) At the request of a State, and upon Secretarial approval of credit assistance under chapter 6, subsidy and administrative costs necessary to provide an eligible entity Federal credit assistance under chapter 6 with respect to a project eligible for assistance under this section.

(21) The creation and operation by a State of an office to assist in the design, implementation, and oversight, including conducting value for money analyses or similar comparative analyses, of public-private partnerships eligible to receive funding under this title and chapter 53 of title 49, and the payment of a stipend to unsuccessful private bidders to offset their proposal development costs, if necessary to encourage robust competition in public-private partnership procurements.

(22) Any type of project eligible under this section as in effect on the day before the date of enactment of the FAST Act, including projects described under section 101(a)(29) as in effect on such day.

(23) Rural barge landing, dock, and waterfront infrastructure projects in accordance with

subsection (j).

(24) Projects to enhance travel and tourism.

(c) LOCATION OF PROJECTS.—A surface transportation block grant project may not be undertaken on a road functionally classified as a local road or a rural minor collector unless the road was on a Federal-aid highway system on January 1, 1991, except—

(1) for a bridge or tunnel project (other than the construction of a new bridge or tunnel at a new location);

(2) for a project described in paragraphs (5) through (15) and paragraph (23) of subsection (b);

(3) for a project described in section 101(a)(29), as in effect on the day before the date of enactment of the FAST Act;

(4) for a bridge project for the replacement of a low water crossing (as defined by the Secretary) with a bridge; and

(5) as approved by the Secretary.

(d) ALLOCATIONS OF APPORTIONED FUNDS TO AREAS BASED ON POPULATION.—

(1) CALCULATION.—Of the funds apportioned to a State under section 104(b)(2) (after the set aside of funds under subsection (h))—

(A) 55 percent for each of fiscal years 2022 through 2026 shall be obligated under this section, in proportion to their relative shares of the population of the State—

(i) in urbanized areas of the State with an urbanized area population of over 200,000;

(ii) in urbanized areas of the State with an urbanized area population of not less than 50,000 and not more than 200,000;

(iii) in urban areas of the State with a population not less than 5,000 and not more than 49,999; and

(iv) in other areas of the State with a population less than 5,000; and

(B) the remainder may be obligated in any area of the State.

(2) METROPOLITAN AREAS.—Funds attributed to an urbanized area under paragraph (1)(A)(i) may be obligated in the metropolitan area established under section 134 that encompasses the urbanized area.

(3) LOCAL CONSULTATION.—

(A) CONSULTATION WITH METROPOLITAN PLANNING ORGANIZATIONS.—For purposes of clause (ii) of paragraph (1)(A), a State shall—

(i) establish a process to consult with all metropolitan planning organizations in the State that represent an urbanized area described in that clause; and

(ii) describe how funds allocated for areas described in that clause will be allocated equitably among the applicable urbanized areas during the period of fiscal years 2022 through 2026.

(B) CONSULTATION WITH REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS.—For purposes of clauses (iii) and (iv) of paragraph (1)(A), before obligating funding attributed to an area with a population less than 50,000, a State shall consult with the regional transportation planning organizations that represent the area, if any.

(4) DISTRIBUTION AMONG URBANIZED AREAS OF OVER 200,000 POPULATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of funds that a State is required to obligate under paragraph (1)(A)(i) shall be obligated in urbanized areas described in paragraph (1)(A)(i) based on the relative population of the areas.

(B) OTHER FACTORS.—The State may obligate the funds described in subparagraph (A) based on other factors if the State and the relevant metropolitan planning organizations jointly apply to the Secretary for the permission to base the obligation on other factors and the

Secretary grants the request.

(5) APPLICABILITY OF PLANNING REQUIREMENTS.—Programming and expenditure of funds for projects under this section shall be consistent with sections 134 and 135.

(e) OBLIGATION AUTHORITY.—

(1) IN GENERAL.—A State that is required to obligate in an urbanized area with an urbanized area population of over 200,000 individuals under subsection (d) funds apportioned to the State under section 104(b)(2) shall make available during the period of fiscal years 2022 through 2026 an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs for use in the area that is equal to the amount obtained by multiplying—

(A) the aggregate amount of funds that the State is required to obligate in the area under subsection (d) during the period; and

(B) the ratio that—

(i) the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs during the period; bears to

(ii) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to an obligation limitation) during the period.

(2) JOINT RESPONSIBILITY.—Each State, each affected metropolitan planning organization, and the Secretary shall jointly ensure compliance with paragraph (1).

(f) BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—

(1) DEFINITION OF OFF-SYSTEM BRIDGE.—In this subsection, the term "off-system bridge" means a highway bridge or low water crossing (as defined by the Secretary) located on a public road, other than a bridge or low water crossing (as defined by the Secretary) on a Federal-aid highway.

(2) SPECIAL RULE.—

(A) SET-ASIDE.—Of the amounts apportioned to a State for fiscal year 2013 and each fiscal year thereafter under this section, the State shall obligate for activities described in paragraphs (1)(A) and (10) of subsection (b) for off-system bridges, projects and activities described in subsection (b)(1)(A) for the replacement of low water crossings with bridges, and projects and activities described in subsection (b)(10) for low water crossings (as defined by the Secretary), an amount that is not less than 20 percent of the amount of funds apportioned to the State for the highway bridge program for fiscal year 2009, except that amounts allocated under subsection (d) shall not be obligated to carry out this subsection.

(B) REDUCTION OF EXPENDITURES.—The Secretary, after consultation with State and local officials, may reduce the requirement for expenditures for off-system bridges under subparagraph (A) with respect to the State if the Secretary determines that the State has inadequate needs to justify the expenditure.

(3) CREDIT FOR BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—Notwithstanding any other provision of law, with respect to any project not on a Federal-aid highway for the replacement of a bridge, rehabilitation of a bridge, or replacement of a low water crossing (as defined by the Secretary) with a bridge that is wholly funded from State and local sources, is eligible for Federal funds under this section, is noncontroversial, is certified by the State to have been carried out in accordance with all standards applicable to such projects under this section, and is determined by the Secretary upon completion to be no longer a deficient bridge or, in the case of a replacement of a low water crossing with a bridge, is determined by the Secretary on completion to have improved the safety of the location—

(A) any amount expended after the date of enactment of this subsection from State and local

sources for the project in excess of 20 percent of the cost of construction of the project may be credited to the non-Federal share of the cost of other bridge projects in the State that are eligible for Federal funds under this section; and

(B) that crediting shall be conducted in accordance with procedures established by the Secretary.

(g) SPECIAL RULE FOR AREAS OF LESS THAN 50,000 POPULATION.—

(1) IN GENERAL.—Notwithstanding subsection (c), and except as provided in paragraph (2), up to 15 percent of the amounts required to be obligated by a State under clauses (iii) and (iv) of subsection (d)(1)(A) for each fiscal year may be obligated on—

(A) roads functionally classified as rural minor collectors or local roads; or

(B) on critical rural freight corridors designated under section 167(e).

(2) SUSPENSION.—The Secretary may suspend the application of paragraph (1) with respect to a State if the Secretary determines that the authority provided under paragraph (1) is being used excessively by the State.

(h) STP SET-ASIDE.—

(1) IN GENERAL.—Of the funds apportioned to a State under section 104(b)(2) for fiscal year 2022 and each fiscal year thereafter—

(A) the Secretary shall set aside an amount equal to 10 percent to carry out this subsection; and

(B) the State's share of that total is determined by multiplying the amount under subparagraph (A) by the ratio that—

(i) the amount apportioned to the State for the transportation enhancements program for fiscal year 2009 under section 133(d)(2), as in effect on the day before the date of enactment of MAP–21; bears to

(ii) the total amount of funds apportioned to all States for the transportation enhancements program for fiscal year 2009.

(2) ALLOCATION WITHIN A STATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), funds set aside for a State under paragraph (1) shall be obligated within that State in the manner described in subsection (d), except that, for purposes of this paragraph (after funds are made available under paragraph (5))—

(i) for fiscal year 2022 and each fiscal year thereafter, the percentage referred to in paragraph (1)(A) of that subsection shall be deemed to be 59 percent; and

(ii) paragraph (3) of subsection (d) shall not apply.

(B) LOCAL CONTROL.—A State may allocate up to 100 percent of the funds referred to in subparagraph (A)(i) if—

(i) the State submits to the Secretary a plan that describes—

(I) how funds will be allocated to counties, metropolitan planning organizations, regional transportation planning organizations as described in section 135(m), or local governments;

(II) how the entities described in subclause (I) will carry out a competitive process to select projects for funding and report selected projects to the State;

(III) the legal, financial, and technical capacity of the entities described in subclause (I);

(IV) how input was gathered from the entities described in subclause (I) to ensure those entities will be able to comply with the requirements of this subsection; and

(V) how the State will comply with paragraph (8); and

(ii) the Secretary approves the plan submitted under clause (i).

(3) ELIGIBLE PROJECTS.—Funds set aside under this subsection may be obligated for—

(A) projects or activities described in section 101(a)(29) or 213, as those provisions were in effect on the day before the date of enactment of the FAST Act (Public Law 114–94; 129 Stat. 1312);

(B) projects and activities under the safe routes to school program under section 208; and

(C) activities in furtherance of a vulnerable road user safety assessment (as defined in section 148(a)).

(4) ACCESS TO FUNDS.—

(A) ELIGIBLE ENTITY DEFINED.—In this paragraph, the term "eligible entity" means—

(i) a local government;

(ii) a regional transportation authority;

(iii) a transit agency;

(iv) a natural resource or public land agency;

(v) a school district, local education agency, or school;

(vi) a tribal government;

(vii) a metropolitan planning organization that serves an urbanized area with a population of 200,000 or fewer;

(viii) a nonprofit entity;

(ix) any other local or regional governmental entity with responsibility for or oversight of transportation or recreational trails (other than a metropolitan planning organization that serves an urbanized area with a population of over 200,000 or a State agency) that the State determines to be eligible, consistent with the goals of this subsection; and

(x) a State, at the request of an entity described in clauses (i) through (ix).

(B) COMPETITIVE PROCESS.—A State or metropolitan planning organization required to obligate funds in accordance with paragraph (2) shall develop a competitive process to allow eligible entities to submit projects for funding that achieve the objectives of this subsection.

(C) SELECTION.—A metropolitan planning organization for an area described in subsection (d)(1)(A)(i) shall select projects under the competitive process described in subparagraph (B) in consultation with the relevant State.

(D) PRIORITIZATION.—The competitive process described in subparagraph (B) shall include prioritization of project location and impact in high-need areas as defined by the State, such as low-income, transit-dependent, rural, or other areas.

(5) CONTINUATION OF CERTAIN RECREATIONAL TRAILS PROJECTS.—For each fiscal year, a State shall—

(A) obligate an amount of funds set aside under this subsection equal to the amount of the funds apportioned to the State for fiscal year 2009 under section 104(h)(2), as in effect on the day before the date of enactment of MAP–21, for projects relating to recreational trails under section 206;

(B) return 1 percent of those funds to the Secretary for the administration of that program; and

(C) comply with the provisions of the administration of the recreational trails program under section 206, including the use of apportioned funds described in subsection (d)(3)(A) of that section.

(6) STATE FLEXIBILITY.—

(A) RECREATIONAL TRAILS.—A State may opt out of the recreational trails program under paragraph (5) if the Governor of the State notifies the Secretary not later than 30 days prior to apportionments being made for any fiscal year.

(B) LARGE URBANIZED AREAS.—A metropolitan planning area may use not to exceed

50 percent of the funds set aside under this subsection for an urbanized area described in subsection (d)(1)(A)(i) for any purpose eligible under subsection (b).

(C) IMPROVING ACCESSIBILITY AND EFFICIENCY.—

(i) IN GENERAL.—A State may use an amount equal to not more than 5 percent of the funds set aside for the State under this subsection, after allocating funds in accordance with paragraph (2)(A), to improve the ability of applicants to access funding for projects under this subsection in an efficient and expeditious manner by providing—

(I) to applicants for projects under this subsection application assistance, technical assistance, and assistance in reducing the period of time between the selection of the project and the obligation of funds for the project; and

(II) funding for 1 or more full-time State employee positions to administer this subsection.

(ii) USE OF FUNDS.—Amounts used under clause (i) may be expended—

(I) directly by the State; or

(II) through contracts with State agencies, private entities, or nonprofit entities.

(7) FEDERAL SHARE.—

(A) REQUIRED AGGREGATE NON-FEDERAL SHARE.—The average annual non-Federal share of the total cost of all projects for which funds are obligated under this subsection in a State for a fiscal year shall be not less than the average non-Federal share of the cost of the projects that would otherwise apply.

(B) FLEXIBLE FINANCING.—Subject to subparagraph (A), notwithstanding section 120—

(i) funds made available to carry out section 148 may be credited toward the non-Federal share of the costs of a project under this subsection if the project—

(I) is an eligible project described in section 148(e)(1); and

(II) is consistent with the State strategic highway safety plan (as defined in section 148(a));

(ii) the non-Federal share for a project under this subsection may be calculated on a project, multiple-project, or program basis; and

(iii) the Federal share of the cost of an individual project in this section may be up to 100 percent.

(C) REQUIREMENT.—Subparagraph (B) shall only apply to a State if the State has adequate financial controls, as certified by the Secretary, to account for the average annual non-Federal share under this paragraph.

(8) ANNUAL REPORTS.—

(A) IN GENERAL.—Each State or metropolitan planning organization responsible for carrying out the requirements of this subsection shall submit to the Secretary an annual report that includes—

(i) the number of project applications received for each fiscal year, including—

(I) the aggregate cost of the projects for which applications are received; and

(II) the types of projects to be carried out, expressed as percentages of the total apportionment of the State under this subsection; and

(ii) a list of each project selected for funding for each fiscal year, including, for each project—

(I) the fiscal year during which the project was selected;

(II) the fiscal year in which the project is anticipated to be funded;

(III) the recipient;

(IV) the location, including the congressional district;

(V) the type;
(VI) the cost; and
(VII) a brief description.

(B) PUBLIC AVAILABILITY.—The Secretary shall make available to the public, in a user-friendly format on the Web site of the Department of Transportation, a copy of each annual report submitted under subparagraph (A).

(i) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects funded under this section (excluding those carried out under subsection (h)(5)) shall be treated as projects on a Federal-aid highway under this chapter.

(j) RURAL BARGE LANDING, DOCK, AND WATERFRONT INFRASTRUCTURE PROJECTS.—

(1) IN GENERAL.—A State may use not more than 5 percent of the funds apportioned to the State under section 104(b)(2) for eligible rural barge landing, dock, and waterfront infrastructure projects described in paragraph (2).

(2) ELIGIBLE PROJECTS.—An eligible rural barge landing, dock, or waterfront infrastructure project referred to in paragraph (1) is a project for the planning, designing, engineering, or construction of a barge landing, dock, or other waterfront infrastructure in a rural community or a Native village (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)) that is off the road system.

(k) PROJECTS IN RURAL AREAS.—

(1) SET ASIDE.—Notwithstanding subsection (c), in addition to the activities described in subsections (b) and (g), of the amounts apportioned to a State for each fiscal year to carry out this section, not more than 15 percent may be—

(A) used on eligible projects under subsection (b) or maintenance activities on roads functionally classified as rural minor collectors or local roads, ice roads, or seasonal roads; or

(B) transferred to—

(i) the Appalachian Highway System Program under 14501 [3] of title 40; or

(ii) the Denali access system program under section 309 of the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277).

(2) SAVINGS CLAUSE.—Amounts allocated under subsection (d) shall not be used to carry out this subsection, except at the request of the applicable metropolitan planning organization.

(Added Pub. L. 102–240, title I, §1007(a)(1), Dec. 18, 1991, 105 Stat. 1927; amended Pub. L. 103–429, §3(4), Oct. 31, 1994, 108 Stat. 4377; Pub. L. 104–59, title III, §§315, 316, Nov. 28, 1995, 109 Stat. 586, 587; Pub. L. 105–178, title I, §§1108(a)–(e), 1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 138–140, 193; Pub. L. 109–59, title I, §1113(a)–(b)(2), (c)–(e), title VI, §6006(a)(2), Aug. 10, 2005, 119 Stat. 1171, 1172, 1872; Pub. L. 112–141, div. A, title I, §§1108, 1519(c)(7), formerly §1519(c)(8), July 6, 2012, 126 Stat. 440, 576, renumbered §1519(c)(7), Pub. L. 114–94, div. A, title I, §1446(d)(5)(B), Dec. 4, 2015, 129 Stat. 1438; Pub. L. 114–94, div. A, title I, §§1109(b), 1407(b), 1446(d)(5)(C), Dec. 4, 2015, 129 Stat. 1338, 1410, 1438; Pub. L. 117–58, div. A, title I, §§11109(a), (b)(1), 11508(d)(2), Nov. 15, 2021, 135 Stat. 461, 465, 588.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (b)(7), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The date of enactment of the FAST Act, referred to in subsecs. (b)(22), (c)(3), and (h)(3)(A), is the date of

enactment of Pub. L. 114–94, which was approved Dec. 4, 2015.

The date of enactment of MAP–21, referred to in subsec. (h)(1)(B)(i), (5)(A), is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title.

PRIOR PROVISIONS

A prior section 133, Pub. L. 87–866, §5(a), Oct. 23, 1962, 76 Stat. 1146, provided for relocation assistance for persons displaced by Federal-aid highway construction, prior to repeal by Pub. L. 90–495, §37, Aug. 23, 1968, 82 Stat. 836, effective July 1, 1970. See section 501 et seq. of this title.

AMENDMENTS

2021—Subsec. (b)(1)(B). Pub. L. 117–58, §11109(a)(1)(A)(i), inserted dash after "facilities", cl. (i) designation and "that are" before "eligible", and "or" at end and added cl. (ii).

Subsec. (b)(1)(G). Pub. L. 117–58, §11109(a)(1)(A)(ii)–(iv), added subpar. (G).

Subsec. (b)(3). Pub. L. 117–58, §11109(a)(1)(B), inserted "148(a)(4)(B)(xvii)," after "119(g),".

Subsec. (b)(4), (5). Pub. L. 117–58, §11109(a)(1)(C), (D), redesignated par. (4) as (5) and substituted "projects eligible under section 130 and installation of safety barriers and nets on bridges" for "railway-highway grade crossings". Former par. (5) redesignated (6).

Subsec. (b)(6). Pub. L. 117–58, §11109(a)(1)(C), redesignated par. (5) as (6). Former par. (6) redesignated (7).

Subsec. (b)(7). Pub. L. 117–58, §11109(a)(1)(C), (E), redesignated par. (6) as (7), inserted "including the maintenance and restoration of existing recreational trails," after "section 206", and substituted "the safe routes to school program under section 208" for "the safe routes to school program under section 1404 of SAFETEA–LU (23 U.S.C. 402 note)". Former par. (7) redesignated (8).

Subsec. (b)(8) to (13). Pub. L. 117–58, §11109(a)(1)(C), redesignated pars. (7) to (12) as (8) to (13), respectively. Former par. (13) redesignated (20).

Subsec. (b)(14) to (19). Pub. L. 117–58, §11109(a)(1)(F), added pars. (14) to (19). Former pars. (14) and (15) redesignated (21) and (22), respectively.

Subsec. (b)(20). Pub. L. 117–58, §11109(a)(1)(C), redesignated par. (13) as (20).

Subsec. (b)(21). Pub. L. 117–58, §11508(d)(2), inserted ", including conducting value for money analyses or similar comparative analyses," after "oversight".

Pub. L. 117–58, §11109(a)(1)(C), redesignated par. (14) as (21).

Subsec. (b)(22). Pub. L. 117–58, §11109(a)(1)(C), redesignated par. (15) as (22).

Subsec. (b)(23), (24). Pub. L. 117–58, §11109(a)(1)(G), added pars. (23) and (24).

Subsec. (c)(2). Pub. L. 117–58, §11109(a)(2)(A), substituted "paragraphs (5) through (15) and paragraph (23)" for "paragraphs (4) through (11)".

Subsec. (c)(4), (5). Pub. L. 117–58, §11109(a)(2)(B)–(D), added par. (4) and redesignated former par. (4) as (5).

Subsec. (d)(1). Pub. L. 117–58, §11109(a)(3)(A)(i), substituted "set aside" for "reservation" in introductory provisions.

Subsec. (d)(1)(A). Pub. L. 117–58, §11109(a)(3)(A)(ii)(I), substituted "55 percent for each of fiscal years 2022 through 2026" for "the percentage specified in paragraph (6) for a fiscal year" in introductory provisions.

Subsec. (d)(1)(A)(ii) to (iv). Pub. L. 117–58, §11109(a)(3)(A)(ii)(II), added cls. (ii) to (iv) and struck out former cls. (ii) and (iii) which read as follows:

"(ii) in areas of the State other than urban areas with a population greater than 5,000; and

"(iii) in other areas of the State; and".

Subsec. (d)(3). Pub. L. 117–58, §11109(a)(3)(B), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: "For purposes of paragraph (1)(A)(iii), before obligating funding attributed to an area with a population greater than 5,000 and less than 200,000, a State shall consult with the regional transportation planning organizations that represent the area, if any."

Subsec. (d)(6). Pub. L. 117–58, §11109(a)(3)(C), struck out par. (6) which specified percentages from 51 to 55 percent for fiscal years 2016 to 2020 to be obligated pursuant to subsec. (d)(1)(A) of this section.

Subsec. (e)(1). Pub. L. 117–58, §11109(a)(4), substituted "fiscal years 2022 through 2026" for "fiscal years 2016 through 2020".

Subsec. (f)(1). Pub. L. 117–58, §11109(a)(5)(A), inserted "or low water crossing (as defined by the Secretary)" after "a highway bridge" and after "other than a bridge".

Subsec. (f)(2)(A). Pub. L. 117–58, §11109(a)(5)(B), substituted "activities described in paragraphs (1)(A) and (10) of subsection (b) for off-system bridges, projects and activities described in subsection (b)(1)(A) for the replacement of low water crossings with bridges, and projects and activities described in subsection

(b)(10) for low water crossings (as defined by the Secretary)," for "activities described in subsection (b)(2) for off-system bridges" and "20 percent" for "15 percent".

Subsec. (f)(3). Pub. L. 117–58, §11109(a)(5)(C), in introductory provisions, substituted "bridge, rehabilitation of a bridge, or replacement of a low water crossing (as defined by the Secretary) with a bridge" for "bridge or rehabilitation of a bridge" and inserted "or, in the case of a replacement of a low water crossing with a bridge, is determined by the Secretary on completion to have improved the safety of the location" after "no longer a deficient bridge".

Subsec. (g). Pub. L. 117–58, §11109(a)(6)(A), substituted "Less Than 50,000" for "Less Than 5,000" in heading.

Subsec. (g)(1). Pub. L. 117–58, §11109(a)(6)(B), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: "Notwithstanding subsection (c), and except as provided in paragraph (2), up to 15 percent of the amounts required to be obligated by a State under subsection (d)(1)(A)(ii) for each of fiscal years 2016 through 2020 may be obligated on roads functionally classified as minor collectors."

Subsec. (h)(1). Pub. L. 117–58, §11109(b)(1)(A), substituted "In general" for "Reservation of funds" in heading and "for fiscal year 2022 and each fiscal year thereafter—" for "for each fiscal year, the Secretary shall reserve an amount such that—" in introductory provisions.

Subsec. (h)(1)(A). Pub. L. 117–58, §11109(b)(1)(A)(ii), substituted "the Secretary shall set aside an amount equal to 10 percent to carry out this subsection; and" for "the Secretary reserves a total under this subsection of—

"(i) $835,000,000 for each of fiscal years 2016 and 2017; and

"(ii) $850,000,000 for each of fiscal years 2018 through 2020; and".

Subsec. (h)(2). Pub. L. 117–58, §11109(b)(1)(B), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "Funds reserved for a State under paragraph (1) shall be obligated within that State in the manner described in subsection (d), except that, for purposes of this paragraph (after funds are made available under paragraph (5))—

"(A) for each fiscal year, the percentage referred to in paragraph (1)(A) of that subsection shall be deemed to be 50 percent; and

"(B) the following provisions shall not apply:

"(i) Paragraph (3) of subsection (d).

"(ii) Subsection (e)."

Subsec. (h)(3). Pub. L. 117–58, §11109(b)(1)(C), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: "Funds reserved under this subsection may be obligated for projects or activities described in section 101(a)(29) or 213, as such provisions were in effect on the day before the date of enactment of the FAST Act."

Subsec. (h)(4)(A). Pub. L. 117–58, §11109(b)(1)(D)(i), (ii), redesignated subpar. (B) as (A) and struck out former subpar. (A). Prior to amendment, text of subpar. (A) read as follows: "A State or metropolitan planning organization required to obligate funds in accordance with paragraph (2) shall develop a competitive process to allow eligible entities to submit projects for funding that achieve the objectives of this subsection. A metropolitan planning organization for an area described in subsection (d)(1)(A)(i) shall select projects under such process in consultation with the relevant State."

Subsec. (h)(4)(A)(vii). Pub. L. 117–58, §11109(b)(1)(D)(iii)(II), added cl. (vii). Former cl. (vii) redesignated (viii).

Subsec. (h)(4)(A)(viii). Pub. L. 117–58, §11109(b)(1)(D)(iii)(I), (III), redesignated cl. (vii) as (viii) and substituted "entity;" for "entity responsible for the administration of local transportation safety programs; and". Former cl. (viii) redesignated (ix).

Subsec. (h)(4)(A)(ix). Pub. L. 117–58, §11109(b)(1)(D)(iii)(I), (IV), redesignated cl. (viii) as (ix), inserted "that serves an urbanized area with a population of over 200,000" after "metropolitan planning organization" and substituted "; and" for period at end.

Subsec. (h)(4)(A)(x). Pub. L. 117–58, §11109(b)(1)(D)(iii)(V), added cl. (x).

Subsec. (h)(4)(B) to (D). Pub. L. 117–58, §11109(b)(1)(D)(iv), added subpars. (B) to (D). Former subpar. (B) redesignated (A).

Subsec. (h)(5)(A). Pub. L. 117–58, §11109(b)(1)(E), substituted "set aside under this subsection" for "reserved under this section".

Subsec. (h)(6)(B). Pub. L. 117–58, §11109(b)(1)(F)(i), substituted "set aside" for "reserved".

Subsec. (h)(6)(C). Pub. L. 117–58, §11109(b)(1)(F)(ii), added subpar. (C).

Subsec. (h)(7), (8). Pub. L. 117–58, §11109(b)(1)(G), (H), added par. (7) and redesignated former par. (7) as (8).

Subsec. (h)(8)(A). Pub. L. 117–58, §11109(b)(1)(I)(i), substituted "includes" for "describes" in introductory

provisions.

Subsec. (h)(8)(A)(ii). Pub. L. 117–58, §11109(b)(1)(I)(ii), added cl. (ii) and struck out former cl. (ii) which read as follows: "the number of projects selected for funding for each fiscal year, including the aggregate cost and location of projects selected."

Subsecs. (j), (k). Pub. L. 117–58, §11109(a)(7), added subsecs. (j) and (k).

2015—Pub. L. 114–94, §1109(b)(2), substituted "Surface transportation block grant program" for "Surface transportation program" in section catchline.

Subsecs. (a), (b). Pub. L. 114–94, §1109(b)(1), amended subsecs. (a) and (b) generally. Prior to amendment, subsecs. (a) and (b) related to establishment of surface transportation program and eligible projects, respectively.

Subsec. (b)(1)(D). Pub. L. 114–94, §1407(b), inserted ", including the installation of vehicle-to-infrastructure communication equipment" after "capital improvements".

Subsec. (b)(13). Pub. L. 114–94, §1446(d)(5)(B), (C), amended Pub. L. 112–141, §1519(c). See 2012 Amendment note below.

Subsecs. (c), (d). Pub. L. 114–94, §1109(b)(1), amended subsecs. (c) and (d) generally. Prior to amendment, subsecs. (c) and (d) related to location of projects and allocations of apportioned funds to areas based on population, respectively.

Subsec. (e). Pub. L. 114–94, §1109(b)(3)–(5), redesignated subsec. (f) as (e), substituted "104(b)(2)" for "104(b)(3)" and "fiscal years 2016 through 2020" for fiscal years 2011 through 2014" in (e)(1), and struck out former subsec. (e). Text of former subsec. (e) read as follows:

"(1) SUBMISSION OF PROJECT AGREEMENT.—For each fiscal year, each State shall submit a project agreement that—

"(A) certifies that the State will meet all the requirements of this section; and

"(B) notifies the Secretary of the amount of obligations needed to carry out the program under this section.

"(2) REQUEST FOR ADJUSTMENTS OF AMOUNTS.—Each State shall request from the Secretary such adjustments to the amount of obligations referred to in paragraph (1)(B) as the State determines to be necessary.

"(3) EFFECT OF APPROVAL BY THE SECRETARY.—Approval by the Secretary of a project agreement under paragraph (1) shall be deemed a contractual obligation of the United States to pay surface transportation program funds made available under this title."

Subsec. (f). Pub. L. 114–94, §1109(b)(4), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Subsec. (g). Pub. L. 114–94, §1109(b)(4), (6), redesignated subsec. (h) as (g) and substituted "under subsection (d)(1)(A)(ii) for each of fiscal years 2016 through 2020" for "under subsection (d)(1)(A)(iii) for each of fiscal years 2013 through 2014". Former subsec. (g) redesignated (f).

Subsecs. (h), (i). Pub. L. 114–94, §1109(b)(7), added subsecs. (h) and (i).

2012—Subsec. (b). Pub. L. 112–141, §1108(a)(1), substituted "section 104(b)(2)" for "section 104(b)(3)" in introductory provisions.

Subsec. (b)(1). Pub. L. 112–141, §1108(a)(2), (4), added par. (1) and struck out former par. (1) which read as follows: "Construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements for highways (including Interstate highways) and bridges (including bridges on public roads of all functional classifications), including any such construction or reconstruction necessary to accommodate other transportation modes, and including the seismic retrofit and painting of and application of calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions on bridges and approaches thereto and other elevated structures, mitigation of damage to wildlife, habitat, and ecosystems caused by a transportation project funded under this title."

Subsec. (b)(2) to (4). Pub. L. 112–141, §1108(a)(4), added pars. (2) to (4). Former pars. (2) to (4) redesignated (5) to (7), respectively.

Subsec. (b)(5). Pub. L. 112–141, §1108(a)(3), redesignated par. (2) as (5). Former par. (5) redesignated (8).

Subsec. (b)(6). Pub. L. 112–141, §1108(a)(5), added par. (6) and struck out former par. (6) which read as follows: "Carpool projects, fringe and corridor parking facilities and programs, bicycle transportation and pedestrian walkways in accordance with section 217, and the modification of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)."

Pub. L. 112–141, §1108(a)(3), redesignated par. (3) as (6). Former par. (6) redesignated (9).

Subsec. (b)(7). Pub. L. 112–141, §1108(a)(6), added par. (7) and struck out former par. (7) which read as follows: "Highway and transit safety infrastructure improvements and programs, hazard eliminations, projects

to mitigate hazards caused by wildlife, and railway-highway grade crossings."

Pub. L. 112–141, §1108(a)(3), redesignated par. (4) as (7). Former par. (7) redesignated (10).

Subsec. (b)(8) to (10). Pub. L. 112–141, §1108(a)(3), redesignated pars. (5) to (7) as (8) to (10), respectively. Former pars. (8) to (10) redesignated (11) to (13), respectively.

Subsec. (b)(11). Pub. L. 112–141, §1108(a)(3), (7), redesignated par. (8) as (11) and substituted "alternatives" for "enhancement activities". Former par. (11) redesignated (14).

Subsec. (b)(12). Pub. L. 112–141, §1108(a)(3), redesignated par. (9) as (12). Former par. (12) redesignated (15).

Subsec. (b)(13). Pub. L. 112–141, §§1108(a)(3), 1519(c)(7), formerly §1519(c)(8), as renumbered and amended by Pub. L. 114–94, §1446(d)(5)(B), (C), redesignated par. (10) as (13) and struck out "under section 303" before period at end. Former par. (13) redesignated (16).

Subsec. (b)(14). Pub. L. 112–141, §1108(a)(8), added par. (14) and struck out former par. (14) which related to obligating funds for the surface transportation program for projects related to participation in natural habitat and wetlands mitigation efforts.

Pub. L. 112–141, §1108(a)(3), redesignated par. (11) as (14). Former par. (14) redesignated (17).

Subsec. (b)(15) to (18). Pub. L. 112–141, §1108(a)(3), redesignated pars. (12) to (15) as (15) to (18), respectively.

Subsec. (b)(19) to (26). Pub. L. 112–141, §1108(a)(9), added pars. (19) to (26).

Subsec. (c). Pub. L. 112–141, §1108(b), added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: "Except as provided in subsection (b)(1), surface transportation program projects (other than those described in subsections (b)(3) and (4)) may not be undertaken on roads functionally classified as local or rural minor collectors, unless such roads are on a Federal-aid highway system on January 1, 1991, and except as approved by the Secretary."

Subsec. (d). Pub. L. 112–141, §1108(c), added subsec. (d) and struck out former subsec. (d) which related to allocations of apportioned funds.

Subsec. (e). Pub. L. 112–141, §1108(d), added subsec. (e) and struck out former subsec. (e) which related to administration and consisted of pars. (1) to (5).

Subsec. (f)(1). Pub. L. 112–141, §1108(e), substituted "2011 through 2014" for "2004 through 2006 and the period of fiscal years 2007 through 2009" in introductory provisions.

Subsecs. (g), (h). Pub. L. 112–141, §1108(f), added subsecs. (g) and (h).

2005—Subsec. (b)(6). Pub. L. 109–59, §1113(a)(1), inserted ", including advanced truck stop electrification systems" before period at end.

Subsec. (b)(12). Pub. L. 109–59, §1113(a)(2), added par. (12).

Subsec. (b)(14), (15). Pub. L. 109–59, §6006(a)(2), added pars. (14) and (15) and struck out former par. (14) which read as follows: "Environmental restoration and pollution abatement projects (including the retrofit or construction of storm water treatment systems) to address water pollution or environmental degradation caused or contributed to by transportation facilities, which projects shall be carried out when the transportation facilities are undergoing reconstruction, rehabilitation, resurfacing, or restoration; except that the expenditure of funds under this section for any such environmental restoration or pollution abatement project shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration project."

Subsec. (d)(1). Pub. L. 109–59, §1113(b)(1), struck out heading and text of par. (1). Text read as follows: "10 percent of the funds apportioned to a State under section 104(b)(3) for the surface transportation program for a fiscal year shall only be available for carrying out sections 130 and 152 of this title. Of the funds set aside under the preceding sentence, the State shall reserve in such fiscal year an amount of such funds for carrying out each such section which is not less than the amount of funds apportioned to the State in fiscal year 1991 under such section."

Subsec. (d)(2). Pub. L. 109–59, §1113(c), substituted "In a fiscal year, the greater of 10 percent of the funds apportioned to a State under section 104(b)(3) for such fiscal year, or the amount set aside under this paragraph with respect to the State for fiscal year 2005," for "10 percent of the funds apportioned to a State under section 104(b)(3) for a fiscal year".

Subsec. (d)(3)(A). Pub. L. 109–59, §1113(b)(2)(A)(ii), substituted "90 percent" for "80 percent" in introductory provisions.

Pub. L. 109–59, §1113(b)(2)(A)(i), substituted "subparagraph (C)" for "subparagraphs (C) and (D)" in introductory provisions.

Subsec. (d)(3)(B). Pub. L. 109–59, §1113(b)(2)(B), substituted "to be" for "tobe".

Subsec. (d)(3)(C) to (E). Pub. L. 109–59, §1113(b)(2)(C), redesignated subpar. (D) as (C), inserted period at end, redesignated par. (E) as (D), and struck out former subpar. (C) which related to special rule in the case of a State in which greater than 80 percent of the population of the State was located in 1 or more metropolitan

statistical areas, and greater than 80 percent of the land area of such State was owned by the United States.

Subsec. (f). Pub. L. 109–59, §1113(e), amended directory language of Pub. L. 105–178, §1108(e). See 1998 Amendment note below.

Subsec. (f)(1). Pub. L. 109–59, §1113(d), substituted "2004 through 2006" for "1998 through 2000" and "2007 through 2009" for "2001 through 2003" in introductory provisions.

1998—Subsec. (b)(1). Pub. L. 105–178, §1108(a)(1), inserted ", sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions" after "calcium magnesium acetate".

Subsec. (b)(2). Pub. L. 105–178, §1108(a)(2), substituted ", including vehicles and facilities, whether publicly or privately owned, that are used to provide intercity passenger service by bus" for "and publicly owned intracity or intercity bus terminals and facilities".

Subsec. (b)(3). Pub. L. 105–178, §1108(a)(3), substituted "bicycle" for "and bicycle" and inserted before period at end ", and the modification of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)".

Subsec. (b)(4). Pub. L. 105–178, §1108(a)(4), substituted "Highway and transit safety infrastructure" for "Highway and transit safety".

Subsec. (b)(9). Pub. L. 105–178, §1108(a)(5), substituted "section 108(f)(1)(A) (other than clause (xvi)) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A))" for "section 108(f)(1)(A) (other than clauses (xii) and (xvi)) of the Clean Air Act".

Subsec. (b)(11). Pub. L. 105–178, §1108(a)(6), in first sentence, inserted "natural habitat and" after "participation in" in two places and also before "wetlands conservation and mitigation plans" and substituted "enhance, and create natural habitats and wetlands" for "enhance and create wetlands" and inserted at end "With respect to participation in a natural habitat or wetland mitigation effort related to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference shall be given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Fed. Reg. 58605 (November 28, 1995)) or other applicable Federal law (including regulations)."

Subsec. (b)(13), (14). Pub. L. 105–178, §1108(a)(7), added pars. (13) and (14).

Subsec. (d)(3)(D). Pub. L. 105–178, §1108(b)(1), substituted "Hawaii and Alaska" for "any State which is noncontiguous with the continental United States."

Subsec. (d)(5)(C). Pub. L. 105–178, §1212(a)(2)(A)(i), substituted "State transportation department" for "State highway department".

Subsec. (e)(2). Pub. L. 105–178, §1108(c), added par. (2) and struck out heading and text of former par. (2). Text read as follows: "The Governor of each State shall certify before the beginning of each quarter of a fiscal year that the State will meet all the requirements of this section and shall notify the Secretary of the amount of obligations expected to be incurred for surface transportation program projects during such quarter. A State may request adjustment to the obligation amounts later in each of such quarters. Acceptance of the notification and certification shall be deemed a contractual obligation of the United States for the payment of the surface transportation program funds expected to be obligated by the State in such quarter for projects not subject to review by the Secretary under this chapter."

Subsec. (e)(3)(A). Pub. L. 105–178, §1108(d), struck out at end "Payments shall not exceed the Federal share of costs incurred as of the date the State requests payments."

Subsec. (e)(3)(B)(i). Pub. L. 105–178, §1108(b)(2)(A), struck out before period at end "if the Secretary certifies for the fiscal year that the State has authorized and uses a process for the selection of transportation enhancement projects that involves representatives of affected public entities, and private citizens, with expertise related to transportation enhancement activities".

Subsec. (e)(5)(C). Pub. L. 105–178, §1108(b)(2)(B), added subpar. (C).

Subsec. (f). Pub. L. 105–178, §1108(e), as amended by Pub. L. 109–59, §1113(e), amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows: "A State which is required to obligate in an urbanized area with an urbanized area population of over 200,000 under subsection (d) funds apportioned to it under section 104(b)(3) shall allocate during the 6-fiscal year period 1992 through 1997 an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction for use in such area determined by multiplying—

"(1) the aggregate amount of funds which the State is required to obligate in such area under subsection (d) during such period; by

"(2) the ratio of the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction during such period to the total sums apportioned to the State for

Federal-aid highways and highway safety construction (excluding sums not subject to an obligation limitation) during such period."

1995—Subsec. (d)(5). Pub. L. 104–59, §315, added par. (5).

Subsec. (e)(3). Pub. L. 104–59, §316(1), designated existing provisions as subpar. (A), inserted subpar. (A) heading, realigned margins, substituted "Except as provided in subparagraph (B), the" for "The", and added subpar. (B).

Subsec. (e)(5). Pub. L. 104–59, §316(2), added par. (5).

1994—Subsec. (b)(2). Pub. L. 103–429 substituted "chapter 53 of title 49" for "the Federal Transit Act".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, except as otherwise provided, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

Amendment by section 11508(d)(2) of Pub. L. 117–58 only applicable to a public-private partnership agreement entered into on or after Nov. 15, 2021, see section 11508(e) of Pub. L. 117–58, set out in a Requirements for Transportation Projects Carried Out Through Public-Private Partnerships note under section 106 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Except as otherwise provided, amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

Pub. L. 114–94, div. A, title I, §1446(d), Dec. 4, 2015, 129 Stat. 1438, provided that the amendment made by section 1446(d)(5)(B), (C) is effective as of July 6, 2012, and as if included in Pub. L. 112–141 as enacted.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–59, title I, §1113(b)(3), Aug. 10, 2005, 119 Stat. 1172, provided that: "Paragraph (1) and paragraph (2)(A)(ii) of this subsection [amending this section] shall take effect October 1, 2005."

Pub. L. 109–59, title I, §1113(c), Aug. 10, 2005, 119 Stat. 1172, provided that the amendment made by section 1113(c) is effective Oct. 1, 2005.

Pub. L. 109–59, title I, §1113(e), Aug. 10, 2005, 119 Stat. 1172, provided that the amendment made by section 1113(e) is effective June 9, 1998.

EFFECTIVE DATE

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

CONGRESSIONAL FINDINGS REGARDING SURFACE TRANSPORTATION BLOCK GRANT PROGRAM

Pub. L. 114–94, div. A, title I, §1109(a), Dec. 4, 2015, 129 Stat. 1338, provided that: "Congress finds that—

"(1) the benefits of the surface transportation block grant program accrue principally to the residents of each State and municipality where the funds are obligated;

"(2) decisions about how funds should be obligated are best determined by the States and municipalities to respond to unique local circumstances and implement the most efficient solutions; and

"(3) reforms of the program to promote flexibility will enhance State and local control over transportation decisions."

REFERENCES TO SURFACE TRANSPORTATION PROGRAM

Pub. L. 114–94, div. A, title I, §1109(c)(7), Dec. 4, 2015, 129 Stat. 1344, provided that: "Any reference in any other law, regulation, document, paper, or other record of the United States to the surface transportation program under section 133 of title 23, United States Code, shall be deemed to be a reference to the surface transportation block grant program under such section."

DIVISION OF STP FUNDS FOR AREAS OF LESS THAN 5,000 POPULATION

Pub. L. 105–178, title I, §1108(f), June 9, 1998, 112 Stat. 141, as amended by Pub. L. 110–244, title I, §113(a), June 6, 2008, 122 Stat. 1606, provided that:

"(1) SPECIAL RULE.—Notwithstanding section 133(c) of title 23, United States Code, and except as provided in paragraph (2), up to 15 percent of the amounts required to be obligated under [former] section 133(d)(3)(B) of such title for each of fiscal years 1998 through 2009 may be obligated on roads functionally classified as minor collectors.

"(2) SUSPENSION.—The Secretary may suspend the application of paragraph (1) if the Secretary determines that paragraph (1) is being used excessively."

ENCOURAGEMENT OF USE OF YOUTH CONSERVATION OR SERVICE CORPS

Pub. L. 105–178, title I, §1108(g), June 9, 1998, 112 Stat. 141, provided that: "The Secretary shall encourage the States to enter into contracts and cooperative agreements with qualified youth conservation or service corps to perform appropriate transportation enhancement activities under chapter 1 of title 23, United States Code."

[1] So in original. There is no par. (4).

[2] So in original.

[3] So in original. Probably should be preceded by "section".

§134. Metropolitan transportation planning

(a) POLICY.—It is in the national interest—

(1) to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight, foster economic growth and development within and between States and urbanized areas better connect housing and employment,,[1] and take into consideration resiliency needs while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes identified in this chapter; and

(2) to encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State departments of transportation, and public transit operators as guided by the planning factors identified in subsection (h) and section 135(d).

(b) DEFINITIONS.—In this section and section 135, the following definitions apply:

(1) METROPOLITAN PLANNING AREA.—The term "metropolitan planning area" means the geographic area determined by agreement between the metropolitan planning organization for the area and the Governor under subsection (e).

(2) METROPOLITAN PLANNING ORGANIZATION.—The term "metropolitan planning organization" means the policy board of an organization established as a result of the designation process under subsection (d).

(3) NONMETROPOLITAN AREA.—The term "nonmetropolitan area" means a geographic area outside designated metropolitan planning areas.

(4) NONMETROPOLITAN LOCAL OFFICIAL.—The term "nonmetropolitan local official" means elected and appointed officials of general purpose local government in a nonmetropolitan area with responsibility for transportation.

(5) REGIONAL TRANSPORTATION PLANNING ORGANIZATION.—The term "regional transportation planning organization" means a policy board of an organization established as the result of a designation under section 135(m).

(6) TIP.—The term "TIP" means a transportation improvement program developed by a metropolitan planning organization under subsection (j).

(7) URBANIZED AREA.—The term "urbanized area" means a geographic area with a population of 50,000 or more, as determined by the Bureau of the Census.

(c) GENERAL REQUIREMENTS.—

(1) DEVELOPMENT OF LONG-RANGE PLANS AND TIPS.—To accomplish the objectives in subsection (a), metropolitan planning organizations designated under subsection (d), in cooperation with the State and public transportation operators, shall develop long-range transportation plans and transportation improvement programs through a performance-driven, outcome-based approach to planning for metropolitan areas of the State.

(2) CONTENTS.—The plans and TIPs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities and commuter vanpool providers) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and TIPs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

(d) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—

(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as determined by the Bureau of the Census); or

(B) in accordance with procedures established by applicable State or local law.

(2) STRUCTURE.—Not later than 2 years after the date of enactment of MAP-21, each metropolitan planning organization that serves an area designated as a transportation management area shall consist of—

(A) local elected officials;

(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area, including representation by providers of public transportation; and

(C) appropriate State officials.

(3) REPRESENTATION.—

(A) IN GENERAL.—Designation or selection of officials or representatives under paragraph (2) shall be determined by the metropolitan planning organization according to the bylaws or enabling statute of the organization.

(B) PUBLIC TRANSPORTATION REPRESENTATIVE.—Subject to the bylaws or enabling statute of the metropolitan planning organization, a representative of a provider of public transportation may also serve as a representative of a local municipality.

(C) POWERS OF CERTAIN OFFICIALS.—An official described in paragraph (2)(B) shall have responsibilities, actions, duties, voting rights, and any other authority commensurate with other officials described in paragraph (2).

(D) CONSIDERATIONS.—In designating officials or representatives under paragraph (2) for the first time, subject to the bylaws or enabling statute of the metropolitan planning organization, the metropolitan planning organization shall consider the equitable and proportional representation of the population of the metropolitan planning area.

(4) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

(A) to develop the plans and TIPs for adoption by a metropolitan planning organization; and

(B) to develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

(5) CONTINUING DESIGNATION.—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (6).

(6) REDESIGNATION PROCEDURES.—

(A) IN GENERAL.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as determined by the Bureau of the Census) as appropriate to carry out this section.

(B) RESTRUCTURING.—A metropolitan planning organization may be restructured to meet the requirements of paragraph (2) without undertaking a redesignation.

(7) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION .—More than 1 metropolitan planning organization may be designated within an existing urbanized area (as defined by the Bureau of the Census) only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the area make designation of more than 1 metropolitan planning organization for the area appropriate.

(e) METROPOLITAN PLANNING AREA BOUNDARIES.—

(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

(2) INCLUDED AREA.—Each metropolitan planning area—

(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—

(A) IN GENERAL.—Notwithstanding paragraph (2), except as provided in subparagraph (B), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) as of the date of enactment of the SAFETEA–LU, the boundaries of the metropolitan planning area in existence as of such date of enactment shall be retained.

(B) EXCEPTION.—The boundaries described in subparagraph (A) may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (d)(6).

(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of the SAFETEA–LU, as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

(A) shall be established in the manner described in subsection (d)(1);

(B) shall encompass the areas described in paragraph (2)(A);

(C) may encompass the areas described in paragraph (2)(B); and

(D) may address any nonattainment area identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

(f) COORDINATION IN MULTISTATE AREAS.—

(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

(3) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

(g) MPO CONSULTATION IN PLAN AND TIP COORDINATION.—

(1) NONATTAINMENT AREAS.—If more than 1 metropolitan planning organization has authority within an urbanized area (as defined by the Bureau of the Census) or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and TIPs required by this section.

(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE MPOS.—If a transportation improvement, funded from the Highway Trust Fund or authorized under chapter 53 of title 49, is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans and TIPs regarding the transportation improvement.

(3) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

(A) IN GENERAL.—The Secretary shall encourage each metropolitan planning organization to consult with officials responsible for other types of planning activities that are affected by transportation in the area (including State and local planned growth, economic development, housing, tourism, natural disaster risk reduction, environmental protection, airport operations, and freight movements) or to coordinate its planning process, to the maximum extent practicable, with such planning activities.

(B) REQUIREMENTS.—Under the metropolitan planning process, transportation plans and TIPs shall be developed with due consideration of other related planning activities within the metropolitan area, and the process shall provide for the design and delivery of transportation services within the metropolitan area that are provided by—

(i) recipients of assistance under chapter 53 of title 49;

(ii) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

(iii) recipients of assistance under section 204.

(4) COORDINATION BETWEEN MPOS.—If more than 1 metropolitan planning organization is designated within an urbanized area (as defined by the Bureau of the Census) under subsection

(d)(7), the metropolitan planning organizations designated within the area shall ensure, to the maximum extent practicable, the consistency of any data used in the planning process, including information used in forecasting travel demand.

(5) SAVINGS CLAUSE.—Nothing in this subsection requires metropolitan planning organizations designated within a single urbanized area to jointly develop planning documents, including a unified long-range transportation plan or unified TIP.

(h) SCOPE OF PLANNING PROCESS.—

(1) IN GENERAL.—The metropolitan planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

(B) increase the safety of the transportation system for motorized and nonmotorized users;

(C) increase the security of the transportation system for motorized and nonmotorized users;

(D) increase the accessibility and mobility of people and for freight;

(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth, housing, and economic development patterns;

(F) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

(G) promote efficient system management and operation;

(H) emphasize the preservation of the existing transportation system;

(I) improve the resiliency and reliability of the transportation system and reduce or mitigate stormwater impacts of surface transportation; and

(J) enhance travel and tourism.

(2) PERFORMANCE-BASED APPROACH.—

(A) IN GENERAL.—The metropolitan transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decisionmaking to support the national goals described in section 150(b) of this title and the general purposes described in section 5301 of title 49.

(B) PERFORMANCE TARGETS.—

(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

(I) IN GENERAL.—Each metropolitan planning organization shall establish performance targets that address the performance measures described in section 150(c), where applicable, to use in tracking progress towards attainment of critical outcomes for the region of the metropolitan planning organization.

(II) COORDINATION.—Selection of performance targets by a metropolitan planning organization shall be coordinated with the relevant State to ensure consistency, to the maximum extent practicable.

(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—Selection of performance targets by a metropolitan planning organization shall be coordinated, to the maximum extent practicable, with providers of public transportation to ensure consistency with sections 5326(c) and 5329(d) of title 49.

(C) TIMING.—Each metropolitan planning organization shall establish the performance targets under subparagraph (B) not later than 180 days after the date on which the relevant State or provider of public transportation establishes the performance targets.

(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A metropolitan planning organization shall integrate in the metropolitan transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in other State transportation plans and transportation processes, as well as any plans developed

under chapter 53 of title 49 by providers of public transportation, required as part of a performance-based program.

(3) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraphs (1) and (2) shall not be reviewable by any court under this title or chapter 53 of title 49, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a TIP, a project or strategy, or the certification of a planning process.

(i) DEVELOPMENT OF TRANSPORTATION PLAN.—

(1) REQUIREMENTS.—

(A) IN GENERAL.—Each metropolitan planning organization shall prepare and update a transportation plan for its metropolitan planning area in accordance with the requirements of this subsection.

(B) FREQUENCY.—

(i) IN GENERAL.—The metropolitan planning organization shall prepare and update such plan every 4 years (or more frequently, if the metropolitan planning organization elects to update more frequently) in the case of each of the following:

(I) Any area designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

(II) Any area that was nonattainment and subsequently designated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)) and that is subject to a maintenance plan under section 175A of that Act (42 U.S.C. 7505a).

(ii) OTHER AREAS.—In the case of any other area required to have a transportation plan in accordance with the requirements of this subsection, the metropolitan planning organization shall prepare and update such plan every 5 years unless the metropolitan planning organization elects to update more frequently.

(2) TRANSPORTATION PLAN.—A transportation plan under this section shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:

(A) IDENTIFICATION OF TRANSPORTATION FACILITIES.—

(i) IN GENERAL.—An identification of transportation facilities (including major roadways, public transportation facilities, intercity bus facilities, multimodal and intermodal facilities, nonmotorized transportation facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions.

(ii) FACTORS.—In formulating the transportation plan, the metropolitan planning organization shall consider factors described in subsection (h) as the factors relate to a 20-year forecast period.

(B) PERFORMANCE MEASURES AND TARGETS.—A description of the performance measures and performance targets used in assessing the performance of the transportation system in accordance with subsection (h)(2).

(C) SYSTEM PERFORMANCE REPORT.—A system performance report and subsequent updates evaluating the condition and performance of the transportation system with respect to the performance targets described in subsection (h)(2), including—

(i) progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports; and

(ii) for metropolitan planning organizations that voluntarily elect to develop multiple scenarios, an analysis of how the preferred scenario has improved the conditions and performance of the transportation system and how changes in local policies and investments have impacted the costs necessary to achieve the identified performance targets.

(D) MITIGATION ACTIVITIES.—

(i) IN GENERAL.—A long-range transportation plan shall include a discussion of types of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

(ii) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

(E) FINANCIAL PLAN.—

(i) IN GENERAL.—A financial plan that—

(I) demonstrates how the adopted transportation plan can be implemented;

(II) indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan; and

(III) recommends any additional financing strategies for needed projects and programs.

(ii) INCLUSIONS.—The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

(iii) COOPERATIVE DEVELOPMENT.—For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

(F) OPERATIONAL AND MANAGEMENT STRATEGIES.—Operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods.

(G) CAPITAL INVESTMENT AND OTHER STRATEGIES.—Capital investment and other strategies to preserve the existing and projected future metropolitan transportation infrastructure, provide for multimodal capacity increases based on regional priorities and needs, and reduce the vulnerability of the existing transportation infrastructure to natural disasters.

(H) TRANSPORTATION AND TRANSIT ENHANCEMENT ACTIVITIES.—Proposed transportation and transit enhancement activities including consideration of the role that intercity buses may play in reducing congestion, pollution, and energy consumption in a cost-effective manner and strategies and investments that preserve and enhance intercity bus systems, including systems that are privately owned and operated.

(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas that are in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by that Act.

(4) OPTIONAL SCENARIO DEVELOPMENT.—

(A) IN GENERAL.—A metropolitan planning organization may, while fitting the needs and complexity of its community, voluntarily elect to develop multiple scenarios for consideration as part of the development of the metropolitan transportation plan, in accordance with subparagraph (B).

(B) RECOMMENDED COMPONENTS.—A metropolitan planning organization that chooses to develop multiple scenarios under subparagraph (A) shall be encouraged to consider—

(i) potential regional investment strategies for the planning horizon;

(ii) assumed distribution of population and employment;

(iii) assumed distribution of population and housing;

(iv) a scenario that, to the maximum extent practicable, maintains baseline conditions for the performance measures identified in subsection (h)(2);

(v) a scenario that improves the baseline conditions for as many of the performance measures identified in subsection (h)(2) as possible;

(vi) revenue constrained scenarios based on the total revenues expected to be available over the forecast period of the plan; and

(vii) estimated costs and potential revenues available to support each scenario.

(C) METRICS.—In addition to the performance measures identified in section 150(c), metropolitan planning organizations may evaluate scenarios developed under this paragraph using locally-developed measures.

(5) CONSULTATION.—

(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

(B) ISSUES.—The consultation shall involve, as appropriate—

(i) comparison of transportation plans with State conservation plans or maps, if available; or

(ii) comparison of transportation plans to inventories of natural or historic resources, if available.

(6) PARTICIPATION BY INTERESTED PARTIES.—

(A) IN GENERAL.—Each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, public ports, freight shippers, providers of freight transportation services, private providers of transportation (including intercity bus operators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program), representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, affordable housing organizations, and other interested parties with a reasonable opportunity to comment on the transportation plan.

(B) CONTENTS OF PARTICIPATION PLAN.—A participation plan—

(i) shall be developed in consultation with all interested parties; and

(ii) shall provide that all interested parties have reasonable opportunities to comment on the contents of the transportation plan.

(C) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

(i) hold any public meetings at convenient and accessible locations and times;

(ii) employ visualization techniques to describe plans; and

(iii) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).

(D) USE OF TECHNOLOGY.—A metropolitan planning organization may use social media and other web-based tools—

(i) to further encourage public participation; and

(ii) to solicit public feedback during the transportation planning process.

(7) PUBLICATION.—A transportation plan involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review,

including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web, approved by the metropolitan planning organization and submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

(8) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2)(E), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(E).

(j) METROPOLITAN TIP.—

(1) DEVELOPMENT.—

(A) IN GENERAL.—In cooperation with the State and any affected public transportation operator, the metropolitan planning organization designated for a metropolitan area shall develop a TIP for the metropolitan planning area that—

(i) contains projects consistent with the current metropolitan transportation plan;

(ii) reflects the investment priorities established in the current metropolitan transportation plan; and

(iii) once implemented, is designed to make progress toward achieving the performance targets established under subsection (h)(2).

(B) OPPORTUNITY FOR COMMENT.—In developing the TIP, the metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).

(C) FUNDING ESTIMATES.—For the purpose of developing the TIP, the metropolitan planning organization, public transportation agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

(D) UPDATING AND APPROVAL.—The TIP shall be—

(i) updated at least once every 4 years; and

(ii) approved by the metropolitan planning organization and the Governor.

(2) CONTENTS.—

(A) PRIORITY LIST.—The TIP shall include a priority list of proposed Federally supported projects and strategies to be carried out within each 4-year period after the initial adoption of the TIP.

(B) FINANCIAL PLAN.—The TIP shall include a financial plan that—

(i) demonstrates how the TIP can be implemented;

(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program;

(iii) identifies innovative financing techniques to finance projects, programs, and strategies; and

(iv) may include, for illustrative purposes, additional projects that would be included in the approved TIP if reasonable additional resources beyond those identified in the financial plan were available.

(C) DESCRIPTIONS.—Each project in the TIP shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project.

(D) PERFORMANCE TARGET ACHIEVEMENT.—The transportation improvement program shall include, to the maximum extent practicable, a description of the anticipated effect

of the transportation improvement program toward achieving the performance targets established in the metropolitan transportation plan, linking investment priorities to those performance targets.

(3) INCLUDED PROJECTS.—

(A) PROJECTS UNDER THIS TITLE AND CHAPTER 53 OF TITLE 49.—A TIP developed under this subsection for a metropolitan area shall include the projects within the area that are proposed for funding under chapter 1 of this title and chapter 53 of title 49.

(B) PROJECTS UNDER CHAPTER 2.—

(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 shall be identified individually in the transportation improvement program.

(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range transportation plan developed under subsection (i) for the area.

(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project or the identified phase within the time period contemplated for completion of the project or the identified phase.

(4) NOTICE AND COMMENT.—Before approving a TIP, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).

(5) SELECTION OF PROJECTS.—

(A) IN GENERAL.—Except as otherwise provided in subsection (k)(4) and in addition to the TIP development required under paragraph (1), the selection of Federally funded projects in metropolitan areas shall be carried out, from the approved TIP—

(i) by—

(I) in the case of projects under this title, the State; and

(II) in the case of projects under chapter 53 of title 49, the designated recipients of public transportation funding; and

(ii) in cooperation with the metropolitan planning organization.

(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved TIP in place of another project in the program.

(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

(B) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved TIP.

(7) PUBLICATION.—

(A) PUBLICATION OF TIPS.—A TIP involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—

(i) IN GENERAL.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding year shall be published or otherwise made available by the cooperative effort of the State, transit operator, and metropolitan planning organization for public review.

(ii) REQUIREMENT.—The listing shall be consistent with the categories identified in the TIP.

(k) TRANSPORTATION MANAGEMENT AREAS.—

(1) IDENTIFICATION AND DESIGNATION.—

(A) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation management area each urbanized area (as defined by the Bureau of the Census) with a population of over 200,000 individuals.

(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.

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

(3) CONGESTION MANAGEMENT PROCESS.—

(A) IN GENERAL.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under this title and chapter 53 of title 49 through the use of travel demand reduction (including intercity bus operators, employer-based commuting programs such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program), job access projects, and operational management strategies.

(B) SCHEDULE.—The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section but no sooner than 1 year after the identification of a transportation management area.

(C) CONGESTION MANAGEMENT PLAN.—A metropolitan planning organization serving a transportation management area may develop a plan that includes projects and strategies that will be considered in the TIP of such metropolitan planning organization. Such plan shall—

(i) develop regional goals to reduce vehicle miles traveled during peak commuting hours and improve transportation connections between areas with high job concentration and areas with high concentrations of low-income households;

(ii) identify existing public transportation services, employer-based commuter programs, and other existing transportation services that support access to jobs in the region; and

(iii) identify proposed projects and programs to reduce congestion and increase job access opportunities.

(D) PARTICIPATION.—In developing the plan under subparagraph (C), a metropolitan planning organization shall consult with employers, private and nonprofit providers of public transportation, transportation management organizations, and organizations that provide job access reverse commute projects or job-related services to low-income individuals.

(4) HOUSING COORDINATION PROCESS.—

(A) IN GENERAL.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section may address the integration of housing, transportation, and economic development strategies through a process that provides for effective integration, based on a cooperatively developed and implemented strategy, of new and existing transportation facilities eligible for funding under this title and chapter 53 of title 49.

(B) COORDINATION IN INTEGRATED PLANNING PROCESS.—In carrying out the process described in subparagraph (A), a metropolitan planning organization may—

(i) consult with—

(I) State and local entities responsible for land use, economic development, housing, management of road networks, or public transportation; and

(II) other appropriate public or private entities; and

(ii) coordinate, to the extent practicable, with applicable State and local entities to align the goals of the process with the goals of any comprehensive housing affordability strategies established within the metropolitan planning area pursuant to section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) and plans developed under section 5A of the United States Housing Act of 1937 (42 U.S.C. 1437c–1).

(C) HOUSING COORDINATION PLAN.—

(i) IN GENERAL.—A metropolitan planning organization serving a transportation management area may develop a housing coordination plan that includes projects and strategies that may be considered in the metropolitan transportation plan of the metropolitan planning organization.

(ii) CONTENTS.—A plan described in clause (i) may—

(I) develop regional goals for the integration of housing, transportation, and economic development strategies to—

(aa) better connect housing and employment while mitigating commuting times;

(bb) align transportation improvements with housing needs, such as housing supply shortages, and proposed housing development;

(cc) align planning for housing and transportation to address needs in relationship to household incomes within the metropolitan planning area;

(dd) expand housing and economic development within the catchment areas of existing transportation facilities and public transportation services when appropriate, including higher-density development, as locally determined;

(ee) manage effects of growth of vehicle miles traveled experienced in the metropolitan planning area related to housing development and economic development;

(ff) increase share of households with sufficient and affordable access to the transportation networks of the metropolitan planning area;

(II) identify the location of existing and planned housing and employment, and transportation options that connect housing and employment; and

(III) include a comparison of transportation plans to land use management plans, including zoning plans, that may affect road use, public transportation ridership, and housing development.

(5) SELECTION OF PROJECTS.—

(A) IN GENERAL.—All Federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under this title (excluding projects carried out on the National Highway System) or under chapter 53 of title 49 shall be

selected for implementation from the approved TIP by the metropolitan planning organization designated for the area in consultation with the State and any affected public transportation operator.

(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a metropolitan planning area serving a transportation management area on the National Highway System shall be selected for implementation from the approved TIP by the State in cooperation with the metropolitan planning organization designated for the area.

(6) CERTIFICATION.—

(A) IN GENERAL.—The Secretary shall—

(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with applicable provisions of Federal law; and

(ii) subject to subparagraph (B), certify, not less often than once every 4 years, that the requirements of this paragraph are met with respect to the metropolitan planning process.

(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

(ii) there is a TIP for the metropolitan planning area that has been approved by the metropolitan planning organization and the Governor.

(C) EFFECT OF FAILURE TO CERTIFY.—

(i) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under this title and chapter 53 of title 49.

(ii) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.

(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

(l) REPORT ON PERFORMANCE-BASED PLANNING PROCESSES.—

(1) IN GENERAL.—The Secretary shall submit to Congress a report on the effectiveness of the performance-based planning processes of metropolitan planning organizations under this section, taking into consideration the requirements of this subsection.

(2) REPORT.—Not later than 5 years after the date of enactment of the MAP–21, the Secretary shall submit to Congress a report evaluating—

(A) the overall effectiveness of performance-based planning as a tool for guiding transportation investments;

(B) the effectiveness of the performance-based planning process of each metropolitan planning organization under this section;

(C) the extent to which metropolitan planning organizations have achieved, or are currently making substantial progress toward achieving, the performance targets specified under this section and whether metropolitan planning organizations are developing meaningful performance targets; and

(D) the technical capacity of metropolitan planning organizations that operate within a metropolitan planning area with a population of 200,000 or less and their ability to carry out the

requirements of this section.

(3) PUBLICATION.—The report under paragraph (2) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

(m) ABBREVIATED PLANS FOR CERTAIN AREAS.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and TIP for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or TIPs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

(n) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

(1) IN GENERAL.—Notwithstanding any other provisions of this title or chapter 53 of title 49, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.), Federal funds may not be advanced in such area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (e).

(o) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under this title or chapter 53 of title 49.

(p) FUNDING.—Funds apportioned under section 104(b)(6) or section 5305(g) of title 49 shall be available to carry out this section.

(q) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and TIPs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in plans and TIPs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and TIPs described in this section have not been reviewed under that Act as of January 1, 1997, any decision by the Secretary concerning a plan or TIP described in this section shall not be considered to be a Federal action subject to review under that Act.

(r) BI-STATE METROPOLITAN PLANNING ORGANIZATION.—

(1) DEFINITION OF BI-STATE MPO REGION.—In this subsection, the term "Bi-State MPO Region" has the meaning given the term "region" in subsection (a) of Article II of the Lake Tahoe Regional Planning Compact (Public Law 96–551; 94 Stat. 3234).

(2) TREATMENT.—For the purpose of this title, the Bi-State MPO Region shall be treated as—

(A) a metropolitan planning organization;

(B) a transportation management area under subsection (k); and

(C) an urbanized area, which is comprised of a population of 145,000 in the State of California and a population of 65,000 in the State of Nevada.

(3) SUBALLOCATED FUNDING.—

(A) PLANNING.—In determining the amounts under subparagraph (A) of section 133(d)(1) that shall be obligated for a fiscal year in the States of California and Nevada under clauses (i), (ii), and (iii) of that subparagraph, the Secretary shall, for each of those States—

(i) calculate the population under each of those clauses;

(ii) decrease the amount under section 133(d)(1)(A)(iii) by the population specified in paragraph (2) of this subsection for the Bi-State MPO Region in that State; and

(iii) increase the amount under section 133(d)(1)(A)(i) by the population specified in paragraph (2) of this subsection for the Bi-State MPO Region in that State.

(B) STBGP SET ASIDE.—In determining the amounts under paragraph (2) of section 133(h) that shall be obligated for a fiscal year in the States of California and Nevada, the Secretary shall, for the purpose of that subsection, calculate the populations for each of those States in a manner consistent with subparagraph (A).

(Added Pub. L. 87–866, §9(a), Oct. 23, 1962, 76 Stat. 1148; amended Pub. L. 91–605, title I, §143, Dec. 31, 1970, 84 Stat. 1737; Pub. L. 95–599, title I, §169, Nov. 6, 1978, 92 Stat. 2723; Pub. L. 102–240, title I, §1024(a), Dec. 18, 1991, 105 Stat. 1955; Pub. L. 102–388, title V, §502(b), Oct. 6, 1992, 106 Stat. 1566; Pub. L. 103–429, §3(5), Oct. 31, 1994, 108 Stat. 4377; Pub. L. 104–59, title III, §317, Nov. 28, 1995, 109 Stat. 588; Pub. L. 105–178, title I, §1203(a)–(m), (o), June 9, 1998, 112 Stat. 170–179; Pub. L. 105–206, title IX, §9003(c), July 22, 1998, 112 Stat. 839; Pub. L. 109–59, title VI, §6001(a), Aug. 10, 2005, 119 Stat. 1839; Pub. L. 110–244, title I, §101(n), June 6, 2008, 122 Stat. 1576; Pub. L. 112–141, div. A, title I, §1201(a), July 6, 2012, 126 Stat. 500; Pub. L. 114–94, div. A, title I, §1201, Dec. 4, 2015, 129 Stat. 1371; Pub. L. 117–58, div. A, title I, §11201(a), (d), Nov. 15, 2021, 135 Stat. 516, 517.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of MAP-21, referred to in subsecs. (d)(2) and (l)(2), is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title.

The Clean Air Act, referred to in subsecs. (e)(4)(A), (5)(D), (g)(1), (i)(3), (m)(2), and (n)(1), is act July 14, 1955, ch. 360, 69 Stat. 322, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The date of enactment of the SAFETEA–LU, referred to in subsec. (e)(4)(A), (5), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

The National Environmental Policy Act of 1969, referred to in subsec. (q), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2021—Subsec. (a)(1). Pub. L. 117–58, §11201(d)(1), inserted "better connect housing and employment," after "urbanized areas".

Subsec. (d)(3)(D). Pub. L. 117–58, §11201(a)(1)(A), added subpar. (D).

Subsec. (d)(7). Pub. L. 117–58, §11201(a)(1)(B), substituted "an existing urbanized area (as defined by the Bureau of the Census)" for "an existing metropolitan planning area" and "the area" for "the existing metropolitan planning area".

Subsec. (g)(1). Pub. L. 117–58, §11201(a)(2)(A), substituted "an urbanized area (as defined by the Bureau of the Census)" for "a metropolitan area".

Subsec. (g)(3)(A). Pub. L. 117–58, §11201(d)(2), inserted "housing," after "economic development,".

Subsec. (g)(4), (5). Pub. L. 117–58, §11201(a)(2)(B), added pars. (4) and (5).

Subsec. (h)(1)(E). Pub. L. 117–58, §11201(d)(3), inserted ", housing," after "growth".

Subsec. (i)(4)(B)(iii) to (vii). Pub. L. 117–58, §11201(d)(4)(A), added cl. (iii) and redesignated former cls. (iii) to (vi) as (iv) to (vii), respectively.

Subsec. (i)(6)(A). Pub. L. 117–58, §11201(d)(4)(B), inserted "affordable housing organizations," after "disabled,".

Subsec. (i)(6)(D). Pub. L. 117–58, §11201(a)(3), added subpar. (D).

Subsec. (k)(4) to (6). Pub. L. 117–58, §11201(d)(5), added par. (4) and redesignated former pars. (4) and

(5) as (5) and (6), respectively.

Subsec. (p). Pub. L. 117–58, §11201(a)(4), substituted "section 104(b)(6)" for "paragraphs (5)(D) and (6) of section 104(b) of this title".

2015—Subsec. (a)(1). Pub. L. 114–94, §1201(1), substituted "people and freight," for "people and freight and" and inserted "and take into consideration resiliency needs" after "urbanized areas,".

Subsec. (c)(2). Pub. L. 114–94, §1201(2), substituted ", bicycle transportation facilities, and intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities and commuter vanpool providers" for "and bicycle transportation facilities".

Subsec. (d)(3), (4). Pub. L. 114–94, §1201(3)(A), (B), added par. (3) and redesignated former par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (d)(5). Pub. L. 114–94, §1201(A), (C), redesignated par. (4) as (5) and substituted "paragraph (6)" for "paragraph (5)". Former par. (5) redesignated (6).

Subsec. (d)(6), (7). Pub. L. 114–94, §1201(3)(A), redesignated pars. (5) and (6) as (6) and (7), respectively.

Subsec. (e)(4)(B). Pub. L. 114–94, §1201(4), substituted "subsection (d)(6)" for "subsection (d)(5)".

Subsec. (g)(3)(A). Pub. L. 114–94, §1201(5), inserted "tourism, natural disaster risk reduction," after "economic development,".

Subsec. (h)(1)(I), (J). Pub. L. 114–94, §1201(6)(A), added subpars. (I) and (J).

Subsec. (h)(2)(A). Pub. L. 114–94, §1201(6)(B), substituted "and the general purposes described in section 5301 of title 49" for "and in section 5301(c) of title 49".

Subsec. (i)(2)(A)(i). Pub. L. 114–94, §1201(7)(A)(i), substituted "public transportation facilities, intercity bus facilities," for "transit,".

Subsec. (i)(2)(G). Pub. L. 114–94, §1201(7)(A)(ii), substituted ", provide" for "and provide" and inserted ", and reduce the vulnerability of the existing transportation infrastructure to natural disasters" before period at end.

Subsec. (i)(2)(H). Pub. L. 114–94, §1201(7)(A)(iii), inserted before period at end "including consideration of the role that intercity buses may play in reducing congestion, pollution, and energy consumption in a cost-effective manner and strategies and investments that preserve and enhance intercity bus systems, including systems that are privately owned and operated".

Subsec. (i)(6)(A). Pub. L. 114–94, §1201(7)(B), inserted "public ports," before "freight shippers," and "(including intercity bus operators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program)" after "private providers of transportation".

Subsec. (i)(8). Pub. L. 114–94, §1201(7)(C), substituted "paragraph (2)(E)" for "paragraph (2)(C)" in two places.

Subsec. (k)(3)(A). Pub. L. 114–94, §1201(8)(A), inserted "(including intercity bus operators, employer-based commuting programs such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program), job access projects," after "reduction".

Subsec. (k)(3)(C), (D). Pub. L. 114–94, §1201(8)(B), added subpars. (C) and (D).

Subsec. (l)(1). Pub. L. 114–94, §1201(9)(A), inserted period at end.

Subsec. (l)(2)(D). Pub. L. 114–94, §1201(9)(B), substituted "with a population of 200,000 or less" for "of less than 200,000".

Subsec. (n)(1). Pub. L. 114–94, §1201(10), inserted "49" after "chapter 53 of title".

Subsec. (p). Pub. L. 114–94, §1201(11), substituted "Funds apportioned under paragraphs (5)(D) and (6) of section 104(b)" for "Funds set aside under section 104(f)".

Subsec. (r). Pub. L. 114–94, §1201(12), added subsec. (r).

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to metropolitan transportation planning and consisted of subsecs. (a) to (p).

2008—Subsec. (f)(3)(C)(ii)(II). Pub. L. 110–244, §101(n)(1), added subcl. (II) and struck out former subcl. (II). Prior to amendment, text read as follows: "In addition to funds made available to the metropolitan planning organization for the Lake Tahoe region under other provisions of this title and under chapter 53 of title 49, 1 percent of the funds allocated under section 202 shall be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph."

Subsec. (j)(3)(D). Pub. L. 110–244, §101(n)(2), inserted "or the identified phase" after "the project" in two places.

Subsec. (k)(2). Pub. L. 110–244, §101(n)(3), struck out "a metropolitan planning area serving" before "a transportation management area,".

2005—Pub. L. 109–59 amended section catchline and text generally, substituting provisions relating to metropolitan transportation planning for provisions relating to, in subsec. (a), general requirements for

development of transportation plans and programs for urbanized areas, in subsec. (b), designation of metropolitan planning organizations, in subsec. (c), determination of metropolitan planning area boundaries, in subsec. (d), coordination of transportation planning in multistate metropolitan areas, in subsec. (e), coordination of metropolitan planning organizations, in subsec. (f), scope of the planning process, in subsec. (g), development of a long-range transportation plan, in subsec. (h), development of a metropolitan area transportation improvement program, in subsec. (i), designation of transportation management areas, in subsec. (j), abbreviated plans and programs for areas not designated as transportation management areas, in subsec. (k), transfer of funds, in subsec. (l), additional requirements for nonattainment areas under the Clean Air Act,in subsec. (m), limitation on statutory construction, in subsec. (n), funding, and in subsec. (o), review of plans and programs under the National Environmental Policy Act of 1969.

1998—Subsec. (a). Pub. L. 105–178, §1203(a), reenacted heading without change and amended text of subsec. (a) generally. Prior to amendment, text read as follows: "It is in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner which will efficiently maximize mobility of people and goods within and through urbanized areas and minimize transportation-related fuel consumption and air pollution. To accomplish this objective, metropolitan planning organizations, in cooperation with the State, shall develop transportation plans and programs for urbanized areas of the State. Such plans and programs shall provide for the development of transportation facilities (including pedestrian walkways and bicycle transportation facilities) which will function as an intermodal transportation system for the State, the metropolitan areas, and the Nation. The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems."

Subsec. (b)(1), (2). Pub. L. 105–178, §1203(b)(1), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

"(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area of more than 50,000 population by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) or in accordance with procedures established by applicable State or local law.

"(2) MEMBERSHIP OF CERTAIN MPO'S.—In a metropolitan area designated as a transportation management area, the metropolitan planning organization designated for such area shall include local elected officials, officials of agencies which administer or operate major modes of transportation in the metropolitan area (including all transportation agencies included in the metropolitan planning organization on June 1, 1991) and appropriate State officials. This paragraph shall only apply to a metropolitan planning organization which is redesignated after the date of the enactment of this section."

Subsec. (b)(4). Pub. L. 105–178, §1203(b)(2), reenacted heading without change and amended text of par. (4) generally. Prior to amendment, text read as follows: "Designations of metropolitan planning organizations, whether made under this section or other provisions of law, shall remain in effect until redesignated under paragraph (5) or revoked by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population or as otherwise provided under State or local procedures."

Subsec. (b)(5)(A). Pub. L. 105–178, §1203(b)(3), substituted "agreement between the Governor" for "agreement among the Governor" and "government that together represent" for "government which together represent".

Subsec. (b)(6). Pub. L. 105–178, §1203(b)(4), amended heading and text of par. (6) generally. Prior to amendment, text read as follows: "More than 1 metropolitan planning organization may be designated within an urbanized area as defined by the Bureau of the Census only if the Governor determines that the size and complexity of the urbanized area make designation of more than 1 metropolitan planning organization for such area appropriate."

Subsec. (c). Pub. L. 105–178, §1203(c), inserted "Planning" before "Area" in subsec. heading, designated first sentence as par. (1), inserted par. heading, and inserted "planning" before "area", added pars. (2) to (4), realigned margins, and struck out at end "Each metropolitan area shall cover at least the existing urbanized area and the contiguous area expected to become urbanized within the 20-year forecast period and may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census. For areas designated as nonattainment areas for ozone or carbon monoxide under the Clean Air Act, the boundaries of the metropolitan area shall at least include the boundaries of the nonattainment area, except as otherwise provided by agreement between the metropolitan planning organization and the Governor."

Subsec. (d). Pub. L. 105–178, §1203(d), reenacted heading without change and amended text of subsec. (d) generally. Prior to amendment, text read as follows:

"(1) IN GENERAL.—The Secretary shall establish such requirements as the Secretary considers appropriate to encourage Governors and metropolitan planning organizations with responsibility for a portion of a multi-State metropolitan area to provide coordinated transportation planning for the entire metropolitan area.

"(2) COMPACTS.—The consent of Congress is hereby given to any 2 or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as such activities pertain to interstate areas and localities within such States and to establish such agencies, joint or otherwise, as such States may deem desirable for making such agreements and compacts effective."

Subsec. (e). Pub. L. 105–178, §1203(e), substituted "MPOs" for "MPO's" in subsec. heading, designated existing provisions as par. (1) and inserted par. heading, added par. (2), and realigned margins.

Subsec. (f). Pub. L. 105–178, §1203(f), amended heading and text of subsec. (f) generally, substituting provisions relating to scope of planning process for provisions relating to factors to be considered in developing transportation plans and programs.

Subsec. (g). Pub. L. 105–178, §1203(g)(6), substituted "Long-Range Transportation Plan" for "Long Range Plan" in heading.

Subsec. (g)(1). Pub. L. 105–178, §1203(g)(8), substituted "long-range transportation plan" for "long range plan".

Subsec. (g)(2). Pub. L. 105–178, §1203(g)(1), (7), (8), substituted "Long-range transportation plan" for "Long range plan" in heading and substituted "long-range transportation plan" for "long range plan" and "contain, at a minimum, the following" for ", at a minimum" in introductory provisions.

Subsec. (g)(2)(A). Pub. L. 105–178, §1203(g)(2), (8), substituted "An identification of" for "Identify" and "long-range transportation plan" for "long range plan".

Subsec. (g)(2)(B). Pub. L. 105–178, §1203(g)(3), added subpar. (B) and struck out former subpar. (B) which read as follows: "Include a financial plan that demonstrates how the long-range plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any innovative financing techniques to finance needed projects and programs, including such techniques as value capture, tolls and congestion pricing."

Subsec. (g)(3). Pub. L. 105–178, §1203(g)(8), substituted "long-range transportation plan" for "long range plan".

Subsec. (g)(4). Pub. L. 105–178, §1203(g)(4), (8), substituted "long-range transportation plan" for "long range plan" in two places and inserted "freight shippers, providers of freight transportation services," after "transportation agency employees," and "representatives of users of public transit," after "private providers of transportation,".

Subsec. (g)(5). Pub. L. 105–178, §1203(g)(7), (8), substituted "long-range transportation plan" for "long range plan" in heading and in introductory provisions.

Subsec. (g)(6). Pub. L. 105–178, §1203(g)(5), added par. (6).

Subsec. (h). Pub. L. 105–178, §1203(h), amended heading and text of subsec. (h) generally. Prior to amendment, text related to transportation improvement program, providing for development of program, priority and selection of projects, major capital investments, requirement of inclusion of projects within area proposed for funding, and provision of reasonable notice and opportunity to comment for interested citizens.

Subsec. (h)(5)(A). Pub. L. 105–178, §1203(o), as added by Pub. L. 105–206, §9003(c), struck out "for implementation" after "federally funded projects" in introductory provisions.

Subsec. (i)(1). Pub. L. 105–178, §1203(i)(1), reenacted heading without change and amended text of par. (1) generally. Prior to amendment, text read as follows: "The Secretary shall designate as transportation management areas all urbanized areas over 200,000 population. The Secretary shall designate any additional area as a transportation management area upon the request of the Governor and the metropolitan planning organization designated for such area or the affected local officials. Such additional areas shall include upon such a request the Lake Tahoe Basin as defined by Public Law 96–551."

Subsec. (i)(4). Pub. L. 105–178, §1203(i)(2), reenacted heading without change and amended text of par. (4) generally. Prior to amendment, text read as follows: "All projects carried out within the boundaries of a transportation management area with Federal participation pursuant to this title (excluding projects undertaken on the National Highway System and pursuant to the bridge and Interstate maintenance programs) or pursuant to chapter 53 of title 49 shall be selected by the metropolitan planning organization designated for such area in consultation with the State and in conformance with the transportation improvement program for such area and priorities established therein. Projects undertaken within the boundaries of a transportation management

area on the National Highway System or pursuant to the bridge and Interstate maintenance programs shall be selected by the State in cooperation with the metropolitan planning organization designated for such area and shall be in conformance with the transportation improvement program for such area."

Subsec. (i)(5). Pub. L. 105–178, §1203(i)(3), reenacted heading without change and amended text of par. (5) generally. Prior to amendment, text read as follows: "The Secretary shall assure that each metropolitan planning organization in each transportation management area is carrying out its responsibilities under applicable provisions of Federal law, and shall so certify at least once every 3 years. The Secretary may make such certification only if (1) a metropolitan planning organization is complying with the requirements of this section and other applicable requirements of Federal law, and (2) there is a transportation improvement program for the area that has been approved by the metropolitan planning organization and the Governor. If after September 30, 1993, a metropolitan planning organization is not certified by the Secretary, the Secretary may withhold, in whole or in part, the apportionment under section 104(b)(3) attributed to the relevant metropolitan area pursuant to section 133(d)(3) and capital funds apportioned under the formula program under section 5336 of title 49. If a metropolitan planning organization remains uncertified for more than 2 consecutive years after September 30, 1994, 20 percent of the apportionment attributed to that metropolitan area under section 133(d)(3) and capital funds apportioned under the formula program under section 5336 of title 49 shall be withheld. The withheld apportionments shall be restored to the metropolitan area at such time as the metropolitan planning organization is certified by the Secretary. The Secretary shall not withhold certification under this section based upon the policies and criteria established by a metropolitan planning organization or transit grant recipient for determining the feasibility of private enterprise participation in accordance with section 5306(a) of title 49."

Subsec. (j). Pub. L. 105–178, §1203(j), reenacted heading without change and amended text of subsec. (j) generally. Prior to amendment, text read as follows: "For metropolitan areas not designated as transportation management areas under this section, the Secretary may provide for the development of abbreviated metropolitan transportation plans and programs that the Secretary determines to be appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems, including transportation related air quality problems, in such areas. In no event shall the Secretary provide abbreviated plans or programs for metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act."

Subsec. (l). Pub. L. 105–178, §1203(k), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (n). Pub. L. 105–178, §1203(l), amended heading and text of subsec. (n) generally. Prior to amendment, text read as follows: "Any funds set aside pursuant to section 104(f) of this title that are not used for the purpose of carrying out this section may be made available by the metropolitan planning organization to the State for the purpose of funding activities under section 135."

Subsec. (o). Pub. L. 105–178, §1203(m), added subsec. (o).

1995—Subsec. (f)(16). Pub. L. 104–59 added par. (16).

1994—Subsecs. (h)(5), (i)(3), (4). Pub. L. 103–429, §3(5)(A), substituted "chapter 53 of title 49" for "the Federal Transit Act".

Subsec. (i)(5). Pub. L. 103–429, §3(5)(B), substituted "section 5336 of title 49" for "section 9 of the Federal Transit Act" in two places and "section 5306(a) of title 49" for "section 8(o) of the Federal Transit Act".

Subsec. (k). Pub. L. 103–429, §3(5)(C), (D), substituted "chapter 53 of title 49" for "the Federal Transit Act" wherever appearing and "chapter 53 funds" for "Federal Transit Act funds".

Subsecs. (l), (m). Pub. L. 103–429, §3(5)(C), substituted "chapter 53 of title 49" for "the Federal Transit Act".

1992—Subsec. (k). Pub. L. 102–388 inserted at end "The provisions of title 23, United States Code, regarding the non-Federal share shall apply to title 23 funds used for transit projects and the provisions of the Federal Transit Act regarding non-Federal share shall apply to Federal Transit Act funds used for highway projects."

1991—Pub. L. 102–240 substituted section catchline for one which read: "Transportation planning in certain urban areas" and amended text generally, substituting present provisions for provisions relating to transportation planning in certain urban areas, including provisions stating transportation objectives, requiring continuing comprehensive planning process by States and local communities, and relating to redesignation of metropolitan planning organizations, designation of contiguous interstate areas as critical transportation regions and corridors, establishment of planning bodies for such regions and corridors, and authorization of appropriations.

1978—Subsec. (a). Pub. L. 95–599, §169(a), inserted provisions related to cooperation with local officials and specific considerations in the planning process.

Subsecs. (b), (c). Pub. L. 95–599, §169(b), added subsec. (b) and redesignated former subsec. (b) as (c).

1970—Pub. L. 91–605 designated existing provisions as subsec. (a), inserted provision prohibiting a highway construction project in any urban area of 50,000 or more population unless responsible public officials of such area have been consulted and their views considered with respect to the corridor, the location, and the design of the project, and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 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.

FISCAL CONSTRAINT ON LONG-RANGE TRANSPORTATION PLANS

Pub. L. 117–58, div. A, title I, §11202, Nov. 15, 2021, 135 Stat. 519, provided that: "Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], the Secretary [of Transportation] shall amend section 450.324(f)(11)(v) of title 23, Code of Federal Regulations, to ensure that the outer years of a metropolitan transportation plan are defined as 'beyond the first 4 years'."

PRIORITIZATION PROCESS PILOT PROGRAM

Pub. L. 117–58, div. A, title I, §11204, Nov. 15, 2021, 135 Stat. 520, provided that:

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means any of the following:

"(A) A metropolitan planning organization that serves an area with a population of over 200,000.

"(B) A State.

"(2) METROPOLITAN PLANNING ORGANIZATION.—The term 'metropolitan planning organization' has the meaning given the term in section 134(b) of title 23, United States Code.

"(3) PRIORITIZATION PROCESS PILOT PROGRAM.—The term 'prioritization process pilot program' means the pilot program established under subsection (b)(1).

"(b) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary [of Transportation] shall establish and solicit applications for a prioritization process pilot program.

"(2) PURPOSE.—The purpose of the prioritization process pilot program shall be to support data-driven approaches to planning that, on completion, can be evaluated for public benefit.

"(c) PILOT PROGRAM ADMINISTRATION.—

"(1) IN GENERAL.—An eligible entity participating in the prioritization process pilot program shall—

"(A) use priority objectives that are developed—

"(i) in the case of an urbanized area with a population of over 200,000, by the metropolitan planning organization that serves the area, in consultation with the State;

"(ii) in the case of an urbanized area with a population of 200,000 or fewer, by the State in consultation with all metropolitan planning organizations in the State; and

"(iii) through a public process that provides an opportunity for public input;

"(B) assess and score projects and strategies on the basis of—

"(i) the contribution and benefits of the project or strategy to each priority objective developed under subparagraph (A);

"(ii) the cost of the project or strategy relative to the contribution and benefits assessed and scored under clause (i); and

"(iii) public support;

"(C) use the scores assigned under subparagraph (B) to guide project selection in the development of the transportation plan and transportation improvement program; and

"(D) ensure that the public—

"(i) has opportunities to provide public comment on projects before decisions are made on the transportation plan and the transportation improvement program; and

"(ii) has access to clear reasons why each project or strategy was selected or not selected.

"(2) REQUIREMENTS.—An eligible entity that receives a grant under the prioritization process pilot program shall use the funds as described in each of the following, as applicable:

"(A) METROPOLITAN TRANSPORTATION PLANNING.—In the case of a metropolitan planning organization that serves an area with a population of over 200,000, the entity shall—

"(i) develop and implement a publicly accessible, transparent prioritization process for the selection of projects for inclusion on the transportation plan for the metropolitan planning area under section 134(i) of title 23, United States Code, and section 5303(i) of title 49, United States Code, which shall—

"(I) include criteria identified by the metropolitan planning organization, which may be weighted to reflect the priority objectives developed under paragraph (1)(A), that the metropolitan planning organization has determined support—

"(aa) factors described in section 134(h) of title 23, United States Code, and section 5303(h) of title 49, United States Code;

"(bb) targets for national performance measures under section 150(b) of title 23, United States Code;

"(cc) applicable transportation goals in the metropolitan planning area or State set by the applicable transportation agency; and

"(dd) priority objectives developed under paragraph (1)(A);

"(II) evaluate the outcomes for each proposed project on the basis of the benefits of the proposed project with respect to each of the criteria described in subclause (I) relative to the cost of the proposed project; and

"(III) use the evaluation under subclause (II) to create a ranked list of proposed projects; and

"(ii) with respect to the priority list under section 134(j)(2)(A) of title 23 and section 5303(j)(2)(A) of title 49, United States Code, include projects according to the rank of the project under clause (i)(III), except as provided in subparagraph (D).

"(B) STATEWIDE TRANSPORTATION PLANNING.—In the case of a State, the State shall—

"(i) develop and implement a publicly accessible, transparent process for the selection of projects for inclusion on the long-range statewide transportation plan under section 135(f) of title 23, United States Code, which shall—

"(I) include criteria identified by the State, which may be weighted to reflect statewide priorities, that the State has determined support—

"(aa) factors described in section 135(d) of title 23, United States Code, and section 5304(d) of title 49, United States Code;

"(bb) national transportation goals under section 150(b) of title 23, United States Code;

"(cc) applicable transportation goals in the State; and

"(dd) the priority objectives developed under paragraph (1)(A);

"(II) evaluate the outcomes for each proposed project on the basis of the benefits of the proposed project with respect to each of the criteria described in subclause (I) relative to the cost of the proposed project; and

"(III) use the evaluation under subclause (II) to create a ranked list of proposed projects; and

"(ii) with respect to the statewide transportation improvement program under section 135(g) of title 23, United States Code, and section 5304(g) of title 49, United States Code, include projects according to the rank of the project under clause (i)(III), except as provided in subparagraph (D).

"(C) ADDITIONAL TRANSPORTATION PLANNING.—If the eligible entity has implemented, and has in effect, the requirements under subparagraph (A) or (B), as applicable, the eligible entity may use any remaining funds from a grant provided under the pilot program for any transportation planning purpose.

"(D) EXCEPTIONS TO PRIORITY RANKING.—In the case of any project that the eligible entity chooses to include or not include in the transportation improvement program under section 134(j) of title 23, United States Code, or the statewide transportation improvement program under section 135(g) of title 23, United States Code, as applicable, in a manner that is contrary to the priority ranking for that project established under subparagraph (A)(i)(III) or (B)(i)(III), the eligible entity shall make publicly available an explanation for the decision, including—

"(i) a review of public comments regarding the project;

"(ii) an evaluation of public support for the project;

"(iii) an assessment of geographic balance of projects of the eligible entity; and

"(iv) the number of projects of the eligible entity in economically distressed areas.

"(3) MAXIMUM AMOUNT.—The maximum amount of a grant under the prioritization process pilot program is $2,000,000.

"(d) APPLICATIONS.—To be eligible to participate in the prioritization process pilot program, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require."

TRAVEL DEMAND DATA AND MODELING

Pub. L. 117–58, div. A, title I, §11205, Nov. 15, 2021, 135 Stat. 523, provided that:

"(a) DEFINITION OF METROPOLITAN PLANNING ORGANIZATION.—In this section, the term 'metropolitan planning organization' has the meaning given the term in section 134(b) of title 23, United States Code.

"(b) STUDY.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [Nov. 15, 2021], and not less frequently than once every 5 years thereafter, the Secretary [of Transportation] shall carry out a study that—

"(A) gathers travel data and travel demand forecasts from a representative sample of States and metropolitan planning organizations;

"(B) uses the data and forecasts gathered under subparagraph (A) to compare travel demand forecasts with the observed data, including—

"(i) traffic counts;

"(ii) travel mode share and public transit ridership; and

"(iii) vehicle occupancy measures; and

"(C) uses the information described in subparagraphs (A) and (B)—

"(i) to develop best practices or guidance for States and metropolitan planning organizations to use in forecasting travel demand for future investments in transportation improvements;

"(ii) to evaluate the impact of transportation investments, including new roadway capacity, on travel behavior and travel demand, including public transportation ridership, induced highway travel, and congestion;

"(iii) to support more accurate travel demand forecasting by States and metropolitan planning organizations; and

"(iv) to enhance the capacity of States and metropolitan planning organizations—

"(I) to forecast travel demand; and

"(II) to track observed travel behavior responses, including induced travel, to changes in transportation capacity, pricing, and land use patterns.

"(2) SECRETARIAL SUPPORT.—The Secretary shall seek opportunities to support the transportation planning processes under sections 134 and 135 of title 23, United States Code, through the provision of data to States and metropolitan planning organizations to improve the quality of plans, models, and forecasts described in this subsection.

"(3) EVALUATION TOOL.—The Secretary shall develop a publicly available multimodal web-based tool for the purpose of enabling States and metropolitan planning organizations to evaluate the effect of investments in highway and public transportation projects on the use and conditions of all transportation assets within the State or area served by the metropolitan planning organization, as applicable."

INCREASING SAFE AND ACCESSIBLE TRANSPORTATION OPTIONS

Pub. L. 117–58, div. A, title I, §11206, Nov. 15, 2021, 135 Stat. 524, provided that:

"(a) DEFINITION OF COMPLETE STREETS STANDARDS OR POLICIES.—In this section, the term 'Complete Streets standards or policies' means standards or policies that ensure the safe and adequate accommodation of all users of the transportation system, including pedestrians, bicyclists, public transportation users, children, older individuals, individuals with disabilities, motorists, and freight vehicles.

"(b) FUNDING REQUIREMENT.—Notwithstanding any other provision of law, each State and metropolitan planning organization shall use to carry out 1 or more activities described in subsection (c)—

"(1) in the case of a State, not less than 2.5 percent of the amounts made available to the State to carry out section 505 of title 23, United States Code; and

"(2) in the case of a metropolitan planning organization, not less than 2.5 percent of the amounts made available to the metropolitan planning organization under section 104(d) of title 23, United States Code.

"(c) ACTIVITIES DESCRIBED.—An activity referred to in subsection (b) is an activity to increase safe and accessible options for multiple travel modes for people of all ages and abilities, which, if permissible under applicable State and local laws, may include—

"(1) adoption of Complete Streets standards or policies;

"(2) development of a Complete Streets prioritization plan that identifies a specific list of Complete Streets projects to improve the safety, mobility, or accessibility of a street;

"(3) development of transportation plans—

"(A) to create a network of active transportation facilities, including sidewalks, bikeways, or pedestrian and bicycle trails, to connect neighborhoods with destinations such as workplaces, schools, residences, businesses, recreation areas, healthcare and child care services, or other community activity centers;

"(B) to integrate active transportation facilities with public transportation service or improve access to public transportation;

"(C) to create multiuse active transportation infrastructure facilities, including bikeways or pedestrian and bicycle trails, that make connections within or between communities;

"(D) to increase public transportation ridership; and

"(E) to improve the safety of bicyclists and pedestrians;

"(4) regional and megaregional planning to address travel demand and capacity constraints through alternatives to new highway capacity, including through intercity passenger rail; and

"(5) development of transportation plans and policies that support transit-oriented development.

"(d) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this section shall be 80 percent, unless the Secretary [of Transportation] determines that the interests of the Federal-aid highway program would be best served by decreasing or eliminating the non-Federal share.

"(e) STATE FLEXIBILITY.—A State or metropolitan planning organization, with the approval of the Secretary, may opt out of the requirements of this section if the State or metropolitan planning organization demonstrates to the Secretary, by not later than 30 days before the Secretary apportions funds for a fiscal year under section 104 [probably means section 104 of title 23, United States Code], that the State or metropolitan planning organization—

"(1) has Complete Streets standards and policies in place; and

"(2) has developed an up-to-date Complete Streets prioritization plan as described in subsection (c)(2)."

TRANSPORTATION ACCESS PILOT PROGRAM

Pub. L. 117–58, div. A, title III, §13010, Nov. 15, 2021, 135 Stat. 644, provided that:

"(a) DEFINITIONS.—In this section:

"(1) METROPOLITAN PLANNING ORGANIZATION.—The term 'metropolitan planning organization' has the meaning given the term in section 134(b) of title 23, United States Code.

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

"(3) SURFACE TRANSPORTATION MODES.—The term 'surface transportation modes' means—

"(A) driving;

"(B) public transportation;

"(C) walking;

"(D) cycling; and

"(E) a combination of any of the modes of transportation described in subparagraphs (A) through (D).

"(4) PILOT PROGRAM.—The term 'pilot program' means the transportation pilot program established under subsection (b).

"(5) REGIONAL TRANSPORTATION PLANNING ORGANIZATION.—The term 'regional transportation planning organization' has the meaning given the term in section 134(b) of title 23, United States Code.

"(b) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], the Secretary [of Transportation] shall establish a transportation pilot program.

"(c) PURPOSE.—The purpose of the pilot program is to develop or procure an accessibility data set and make that data set available to each eligible entity selected to participate in the pilot program—

"(1) to improve the transportation planning of those eligible entities by—

"(A) measuring the level of access by surface transportation modes to important destinations, which may include—

"(i) jobs;

"(ii) health care facilities;

"(iii) child care services;

"(iv) educational and workforce training facilities;

"(v) housing;

"(vi) food sources;

"(vii) points within the supply chain for freight commodities;

"(viii) domestic or international markets; and

"(ix) connections between surface transportation modes; and

"(B) disaggregating the level of access by surface transportation modes by a variety of—

"(i) population categories, which may include—

"(I) low-income populations;

"(II) minority populations;

"(III) age;

"(IV) disability; and

"(V) geographical location; or

"(ii) freight commodities, which may include—

"(I) agricultural commodities;

"(II) raw materials;

"(III) finished products; and

"(IV) energy commodities; and

"(2) to assess the change in accessibility that would result from new transportation investments.

"(d) ELIGIBLE ENTITIES.—An entity eligible to participate in the pilot program is—

"(1) a State;

"(2) a metropolitan planning organization; or

"(3) a regional transportation planning organization.

"(e) APPLICATION.—To be eligible to participate in the pilot program, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information relating to—

"(1) previous experience of the eligible entity measuring transportation access or other performance management experience, if applicable;

"(2) the types of important destinations to which the eligible entity intends to measure access;

"(3) the types of data disaggregation the eligible entity intends to pursue;

"(4) a general description of the methodology the eligible entity intends to apply; and

"(5) if the applicant does not intend the pilot program to apply to the full area under the jurisdiction of the applicant, a description of the geographic area in which the applicant intends the pilot program to apply.

"(f) SELECTION.—

"(1) IN GENERAL.—The Secretary shall seek to achieve diversity of participants in the pilot program by selecting a range of eligible entities that shall include—

"(A) States;

"(B) metropolitan planning organizations that serve an area with a population of 200,000 people or fewer;

"(C) metropolitan planning organizations that serve an area with a population of over 200,000 people; and

"(D) regional transportation planning organizations.

"(2) INCLUSIONS.—The Secretary shall seek to ensure that, among the eligible entities selected under paragraph (1), there is—

"(A) a range of capacity and previous experience with measuring transportation access; and

"(B) a variety of proposed methodologies and focus areas for measuring level of access.

"(g) DUTIES.—For each eligible entity participating in the pilot program, the Secretary shall—

"(1) develop or acquire an accessibility data set described in subsection (c); and

"(2) submit the data set to the eligible entity.

"(h) METHODOLOGY.—In calculating the measures for the data set under the pilot program, the Secretary shall ensure that methodology is open source.

"(i) AVAILABILITY.—The Secretary shall make an accessibility data set under the pilot program available to—

"(1) units of local government within the jurisdiction of the eligible entity participating in the pilot program; and

"(2) researchers.

"(j) REPORT.—Not later than 2 years after the date of enactment of this Act [Nov. 15, 2021], and every 2 years thereafter, 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 report on the results of the pilot program, including the feasibility of developing and providing periodic accessibility data sets for all States, regions, and localities.

"(k) TRANSPORTATION SYSTEM ACCESS.—

"(1) IN GENERAL.—The Secretary shall establish consistent measures that States, metropolitan planning organizations, and regional transportation planning organizations may choose to adopt to assess the level of safe and convenient access by surface transportation modes to important destinations as described in subsection (c)(1)(A).

"(2) SAVINGS PROVISION.—Nothing in this section provides the Secretary the authority—

"(A) to establish a performance measure or require States or metropolitan planning organizations to set a performance target for access as described in paragraph (1); or

"(B) to establish any other Federal requirement.

"(l) FUNDING.—The Secretary shall carry out the pilot program using amounts made available to the Secretary for administrative expenses to carry out programs under the authority of the Secretary.

"(m) SUNSET.—The pilot program shall terminate on the date that is 8 years after the date on which the pilot program is implemented."

SCHEDULE FOR IMPLEMENTATION

Pub. L. 109–59, title VI, §6001(b), Aug. 10, 2005, 119 Stat. 1857, provided that: "The Secretary [of Transportation] shall issue guidance on a schedule for implementation of the changes made by this section [amending this section and section 135 of this title], taking into consideration the established planning update cycle for States and metropolitan planning organizations. The Secretary shall not require a State or metropolitan planning organization to deviate from its established planning update cycle to implement changes made by this section. Beginning July 1, 2007, State or metropolitan planning organization plan or program updates shall reflect changes made by this section."

DEMONSTRATION PROJECT FOR RESTRICTED ACCESS TO CENTRAL BUSINESS DISTRICT OF METROPOLITAN AREAS

Pub. L. 95–599, title I, §155, Nov. 6, 1978, 92 Stat. 2717, authorized Secretary of Transportation to carry out a demonstration project in a metropolitan area respecting the restriction of access of motor vehicles to the central business district during peak hours of traffic, authorized the necessary appropriations, and required progress reports and a final report and recommendations not later than three years after Nov. 6, 1978.

REDUCTION OF URBAN BLIGHT ADJACENT TO FEDERAL-AID PRIMARY AND INTERSTATE HIGHWAYS LOCATED IN CENTRAL BUSINESS DISTRICTS

Pub. L. 95–599, title I, §159, Nov. 6, 1978, 92 Stat. 2718, directed Secretary to conduct a study and submit a report to Congress not later than two years after Nov. 6, 1978, respecting the potential for reducing urban blight adjacent to Federal-aid primary and interstate highways located in central business districts.

URBAN SYSTEM STUDY

Pub. L. 94–280, title I, §149, May 5, 1976, 90 Stat. 447, directed Secretary of Transportation to conduct a study of the factors involved in planning, selection, etc., of Federal-aid urban system routes including an analysis of organizations carrying out the planning process, the status of jurisdiction over roads, programing responsibilities under local and State laws, and authority of local units, such study to be submitted to Congress within six months of May 5, 1976.

FRINGE PARKING DEMONSTRATION PROJECTS

Pub. L. 90–495, §11, Aug. 23, 1968, 82 Stat. 820, authorized Secretary to approve construction of publicly owned parking facilities under this title until June 30, 1971, as a demonstration project, authorized the Federal share of any project under this section to be 50%, prevented approval of projects by the Secretary unless the State or political subdivision thereof where the project is located can construct, maintain, and operate the facility, unless the Secretary has entered into an agreement with the State or political subdivision governing the financing, maintenance, and operation of the facility, and unless the Secretary has approved design standards for construction of the facility, defined "parking facilities", permitted a State or political subdivision to contract for the operation of such facility, prohibited approval of the project by the Secretary unless it is carried on in accordance with section 134 of this title (this section), and required annual reports to Congress on the demonstration projects approved under this section, prior to repeal by Pub. L. 91–605, title I, §134(c), Dec. 31, 1970, 84 Stat. 1734. See section 137 of this title.

[1] So in original. Probably should be "urbanized areas, better connect housing and employment,".

§135. Statewide and nonmetropolitan transportation planning

(a) GENERAL REQUIREMENTS.—

(1) DEVELOPMENT OF PLANS AND PROGRAMS.—Subject to section 134, to accomplish the objectives stated in section 134(a), each State shall develop a statewide transportation plan and a statewide transportation improvement program for all areas of the State.

(2) CONTENTS.—The statewide transportation plan and the transportation improvement program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities and commuter van pool providers) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

(3) PROCESS OF DEVELOPMENT.—The process for developing the statewide plan and the transportation improvement program shall provide for consideration of all modes of transportation and the policies stated in section 134(a) and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—A State shall—

(1) coordinate planning carried out under this section with the transportation planning activities carried out under section 134 for metropolitan areas of the State and with statewide trade and economic development planning activities and related multistate planning efforts; and

(2) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

(c) INTERSTATE AGREEMENTS.—

(1) IN GENERAL.—Two or more States may enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

(2) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

(d) SCOPE OF PLANNING PROCESS.—

(1) IN GENERAL.—Each State shall carry out a statewide transportation planning process that

provides for consideration and implementation of projects, strategies, and services that will—

(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

(B) increase the safety of the transportation system for motorized and nonmotorized users;

(C) increase the security of the transportation system for motorized and nonmotorized users;

(D) increase the accessibility and mobility of people and freight;

(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

(G) promote efficient system management and operation;

(H) emphasize the preservation of the existing transportation system;

(I) improve the resiliency and reliability of the transportation system and reduce or mitigate stormwater impacts of surface transportation; and

(J) enhance travel and tourism.

(2) PERFORMANCE-BASED APPROACH.—

(A) IN GENERAL.—The statewide transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decisionmaking to support the national goals described in section 150(b) of this title and the general purposes described in section 5301 of title 49.

(B) PERFORMANCE TARGETS.—

(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

(I) IN GENERAL.—Each State shall establish performance targets that address the performance measures described in section 150(c), where applicable, to use in tracking progress towards attainment of critical outcomes for the State.

(II) COORDINATION.—Selection of performance targets by a State shall be coordinated with the relevant metropolitan planning organizations to ensure consistency, to the maximum extent practicable.

(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—In areas not represented by a metropolitan planning organization, selection of performance targets by a State shall be coordinated, to the maximum extent practicable, with providers of public transportation to ensure consistency with sections 5326(c) and 5329(d) of title 49.

(C) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A State shall integrate into the statewide transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in this paragraph, in other State transportation plans and transportation processes, as well as any plans developed pursuant to chapter 53 of title 49 by providers of public transportation in areas not represented by a metropolitan planning organization required as part of a performance-based program.

(D) USE OF PERFORMANCE MEASURES AND TARGETS.—The performance measures and targets established under this paragraph shall be considered by a State when developing policies, programs, and investment priorities reflected in the statewide transportation plan and statewide transportation improvement program.

(3) FAILURE TO CONSIDER FACTORS.—The failure to take into consideration the factors specified in paragraphs (1) and (2) shall not be subject to review by any court under this title, chapter 53 of title 49, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, a statewide transportation improvement program, a project or strategy, or the certification of a planning process.

(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall, at a minimum—

(1) with respect to nonmetropolitan areas, cooperate with affected local officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (m);

(2) consider the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

(3) consider coordination of transportation plans, the transportation improvement program, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.

(f) LONG-RANGE STATEWIDE TRANSPORTATION PLAN.—

(1) DEVELOPMENT.—Each State shall develop a long-range statewide transportation plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

(2) CONSULTATION WITH GOVERNMENTS.—

(A) METROPOLITAN AREAS.—The statewide transportation plan shall be developed for each metropolitan area in the State in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134.

(B) NONMETROPOLITAN AREAS.—

(i) IN GENERAL.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in cooperation with affected nonmetropolitan officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (m).

(ii) ROLE OF SECRETARY.—The Secretary shall not review or approve the consultation process in each State.

(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the statewide transportation plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

(D) CONSULTATION, COMPARISON, AND CONSIDERATION.—

(i) IN GENERAL.—The long-range transportation plan shall be developed, as appropriate, in consultation with State, tribal, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.

(ii) COMPARISON AND CONSIDERATION.—Consultation under clause (i) shall involve comparison of transportation plans to State and tribal conservation plans or maps, if available, and comparison of transportation plans to inventories of natural or historic resources, if available.

(3) PARTICIPATION BY INTERESTED PARTIES.—

(A) IN GENERAL.—In developing the statewide transportation plan, the State shall provide to—

(i) nonmetropolitan local elected officials or, if applicable, through regional transportation planning organizations described in subsection (m), an opportunity to participate in accordance with subparagraph (B)(i); and

(ii) citizens, affected public agencies, representatives of public transportation employees, public ports, freight shippers, private providers of transportation (including intercity bus operators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program), representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, providers of freight transportation services, and other interested parties a reasonable opportunity to comment on the proposed plan.

(B) METHODS.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

(i) develop and document a consultative process to carry out subparagraph (A)(i) that is separate and discrete from the public involvement process developed under clause (ii);

(ii) hold any public meetings at convenient and accessible locations and times;

(iii) employ visualization techniques to describe plans; and

(iv) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).

(C) USE OF TECHNOLOGY.—A State may use social media and other web-based tools—

(i) to further encourage public participation; and

(ii) to solicit public feedback during the transportation planning process.

(4) MITIGATION ACTIVITIES.—

(A) IN GENERAL.—A long-range transportation plan shall include a discussion of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

(B) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

(5) FINANCIAL PLAN.—The statewide transportation plan may include—

(A) a financial plan that—

(i) demonstrates how the adopted statewide transportation plan can be implemented;

(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan; and

(iii) recommends any additional financing strategies for needed projects and programs; and

(B) for illustrative purposes, additional projects that would be included in the adopted statewide transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects included in the financial plan described in paragraph (5).

(7) PERFORMANCE-BASED APPROACH.—The statewide transportation plan shall include—

(A) a description of the performance measures and performance targets used in assessing the performance of the transportation system in accordance with subsection (d)(2); and

(B) a system performance report and subsequent updates evaluating the condition and performance of the transportation system with respect to the performance targets described in subsection (d)(2), including progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports;

(8) EXISTING SYSTEM.—The statewide transportation plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system, including consideration of the role that intercity buses may play in reducing congestion, pollution, and energy consumption in a cost-effective manner and strategies and investments that preserve and enhance intercity bus systems, including systems that are privately owned and operated.

(9) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each long-range transportation plan prepared by a State shall be published or otherwise made available, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web.

(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—

(1) DEVELOPMENT.—

(A) IN GENERAL.—Each State shall develop a statewide transportation improvement program for all areas of the State.

(B) DURATION AND UPDATING OF PROGRAM.—Each program developed under subparagraph (A) shall cover a period of 4 years and shall be updated every 4 years or more frequently if the Governor of the State elects to update more frequently.

(2) CONSULTATION WITH GOVERNMENTS.—

(A) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134.

(B) NONMETROPOLITAN AREAS.—

(i) IN GENERAL.—With respect to each nonmetropolitan area in the State, the program shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (m).

(ii) ROLE OF SECRETARY.—The Secretary shall not review or approve the specific consultation process in the State.

(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the program shall be developed in consultation with the tribal government and the Secretary of the Interior.

(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, public ports, freight shippers, private providers of transportation (including intercity bus operators), providers of freight transportation services, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the proposed program.

(4) PERFORMANCE TARGET ACHIEVEMENT.—A statewide transportation improvement program shall include, to the maximum extent practicable, a discussion of the anticipated effect of the statewide transportation improvement program toward achieving the performance targets established in the statewide transportation plan, linking investment priorities to those performance targets.

(5) INCLUDED PROJECTS.—

(A) IN GENERAL.—A transportation improvement program developed under this subsection for a State shall include Federally supported surface transportation expenditures within the boundaries of the State.

(B) LISTING OF PROJECTS.—

(i) IN GENERAL.—An annual listing of projects for which funds have been obligated for the preceding year in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review.

(ii) FUNDING CATEGORIES.—The listing described in clause (i) shall be consistent with the funding categories identified in each metropolitan transportation improvement program.

(C) PROJECTS UNDER CHAPTER 2.—

(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 shall be identified individually in the transportation improvement program.

(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

(D) CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.—Each project shall be—

(i) consistent with the statewide transportation plan developed under this section for the State;

(ii) identical to the project or phase of the project as described in an approved metropolitan transportation plan; and

(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as a nonattainment area for ozone, particulate matter, or carbon monoxide under part D of title I of that Act (42 U.S.C. 7501 et seq.).

(E) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The transportation improvement program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

(F) FINANCIAL PLAN.—

(i) IN GENERAL.—The transportation improvement program may include a financial plan that demonstrates how the approved transportation improvement program can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the transportation improvement program, and recommends any additional financing strategies for needed projects and programs.

(ii) ADDITIONAL PROJECTS.—The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (F), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F).

(ii) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F) for inclusion in an approved transportation improvement program.

(H) PRIORITIES.—The transportation improvement program shall reflect the priorities for programming and expenditures of funds, including transportation enhancement activities, required by this title and chapter 53 of title 49.

(6) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—

(A) IN GENERAL.—Projects carried out in areas with populations of less than 50,000 individuals shall be selected, from the approved transportation improvement program (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program under this title or under sections 5310 and 5311 of title 49), by the State in cooperation with the affected nonmetropolitan local

officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (m).

(B) OTHER PROJECTS.—Projects carried out in areas with populations of less than 50,000 individuals on the National Highway System or under the bridge program or the Interstate maintenance program under this title or under sections 5310 and 5311 of title 49 shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected nonmetropolitan local officials with responsibility for transportation.

(7) TRANSPORTATION IMPROVEMENT PROGRAM APPROVAL.—Every 4 years, a transportation improvement program developed under this subsection shall be reviewed and approved by the Secretary if based on a current planning finding.

(8) PLANNING FINDING.—A finding shall be made by the Secretary at least every 4 years that the transportation planning process through which statewide transportation plans and programs are developed is consistent with this section and section 134.

(9) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project in the program.

(h) PERFORMANCE-BASED PLANNING PROCESSES EVALUATION.—

(1) IN GENERAL.—The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of States, taking into consideration the following:

(A) The extent to which the State is making progress toward achieving, the performance targets described in subsection (d)(2), taking into account whether the State developed appropriate performance targets.

(B) The extent to which the State has made transportation investments that are efficient and cost-effective.

(C) The extent to which the State—

(i) has developed an investment process that relies on public input and awareness to ensure that investments are transparent and accountable; and

(ii) provides reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the State.

(2) REPORT.—

(A) IN GENERAL.—Not later than 5 years after the date of enactment of the MAP–21, the Secretary shall submit to Congress a report evaluating—

(i) the overall effectiveness of performance-based planning as a tool for guiding transportation investments; and

(ii) the effectiveness of the performance-based planning process of each State.

(B) PUBLICATION.—The report under subparagraph (A) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

(i) FUNDING.—Funds apportioned under section 104(b)(6) and set aside under section 5305(g) of title 49 shall be available to carry out this section.

(j) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT PROCESSES.—For purposes of this section and section 134, and sections 5303 and 5304 of title 49, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management process under this section and section 134, and sections 5303 and 5304 of title 49, if the Secretary finds that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of this section and section 134 and sections 5303 and 5304 of title 49, as appropriate.

(k) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since the statewide transportation

plan and the transportation improvement program described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the statewide transportation plans and the transportation improvement program are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning statewide transportation plans or the transportation improvement program described in this section have not been reviewed under that Act as of January 1, 1997, any decision by the Secretary concerning a metropolitan or statewide transportation plan or the transportation improvement program described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(l) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for States. The Secretary shall not require a State to deviate from its established planning update cycle to implement changes made by this section. States shall reflect changes made to their transportation plan or transportation improvement program updates not later than 2 years after the date of issuance of guidance by the Secretary under this subsection.

(m) DESIGNATION OF REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS.—

(1) IN GENERAL.—To carry out the transportation planning process required by this section, a State may establish and designate regional transportation planning organizations to enhance the planning, coordination, and implementation of statewide strategic long-range transportation plans and transportation improvement programs, with an emphasis on addressing the needs of nonmetropolitan areas of the State.

(2) STRUCTURE.—A regional transportation planning organization shall be established as a multijurisdictional organization of nonmetropolitan local officials or their designees who volunteer for such organization and representatives of local transportation systems who volunteer for such organization.

(3) REQUIREMENTS.—A regional transportation planning organization shall establish, at a minimum—

(A) a policy committee, the majority of which shall consist of nonmetropolitan local officials, or their designees, and, as appropriate, additional representatives from the State, private business, transportation service providers, economic development practitioners, and the public in the region; and

(B) a fiscal and administrative agent, such as an existing regional planning and development organization, to provide professional planning, management, and administrative support.

(4) DUTIES.—The duties of a regional transportation planning organization shall include—

(A) developing and maintaining, in cooperation with the State, regional long-range multimodal transportation plans;

(B) developing a regional transportation improvement program for consideration by the State;

(C) fostering the coordination of local planning, land use, and economic development plans with State, regional, and local transportation plans and programs;

(D) providing technical assistance to local officials;

(E) participating in national, multistate, and State policy and planning development processes to ensure the regional and local input of nonmetropolitan areas;

(F) providing a forum for public participation in the statewide and regional transportation planning processes;

(G) considering and sharing plans and programs with neighboring regional transportation planning organizations, metropolitan planning organizations, and, where appropriate, tribal organizations; and

(H) conducting other duties, as necessary, to support and enhance the statewide planning process under subsection (d).

(5) STATES WITHOUT REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS .—If a State chooses not to establish or designate a regional transportation planning organization,

the State shall consult with affected nonmetropolitan local officials to determine projects that may be of regional significance.

(Added Pub. L. 90–495, §10(a), Aug. 23, 1968, 82 Stat. 820; amended Pub. L. 91–605, title I, §§106(g), 125, Dec. 31, 1970, 84 Stat. 1718, 1729; Pub. L. 93–87, title I, §119, Aug. 13, 1973, 87 Stat. 259; Pub. L. 94–280, title I, §123(a), May 5, 1976, 90 Stat. 439; Pub. L. 102–240, title I, §1025(a), Dec. 18, 1991, 105 Stat. 1962; Pub. L. 103–429, §3(6), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 105–178, title I, §1204(a)–(h), June 9, 1998, 112 Stat. 180–184; Pub. L. 109–59, title VI, §6001(a), Aug. 10, 2005, 119 Stat. 1851; Pub. L. 112–141, div. A, title I, §1202(a), July 6, 2012, 126 Stat. 514; Pub. L. 114–94, div. A, title I, §§1104(e)(3), 1202, Dec. 4, 2015, 129 Stat. 1332, 1374; Pub. L. 117–58, div. A, title I, §§11201(b), (c), 11525(g), Nov. 15, 2021, 135 Stat. 517, 607.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Clean Air Act, referred to in subsecs. (b)(2) and (g)(5)(D)(iii), is act July 14, 1955, ch. 360, 69 Stat. 322, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. Part D of title I of the Act is classified generally to subpart 1 (§7501 et seq.) of part D of subchapter I of chapter 85 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The date of enactment of the MAP–21, referred to in subsec. (h)(2)(A), is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title.

The National Environmental Policy Act of 1969, referred to in subsec. (k), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 135, Pub. L. 89–139, §4(a), Aug. 28, 1965, 79 Stat. 578, called for a highway safety program in each State approved by the Secretary, prior to repeal by Pub. L. 89–564, title I, §102(a), Sept. 9, 1966, 80 Stat. 734. See section 402 of this title.

AMENDMENTS

2021—Subsec. (f)(3)(C). Pub. L. 117–58, §11201(b), added subpar. (C).

Subsec. (g)(3). Pub. L. 117–58, §11525(g)(1), substituted "operators), providers" for "operators),, providers".

Subsec. (g)(6)(B). Pub. L. 117–58, §11525(g)(2), substituted "5310 and 5311" for "5310, 5311, 5316, and 5317".

Subsec. (i). Pub. L. 117–58, §11201(c), substituted "section 104(b)(6)" for "paragraphs (5)(D) and (6) of section 104(b) of this title".

2015—Subsec. (a)(2). Pub. L. 114–94, §1202(1), substituted ", bicycle transportation facilities, and intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities and commuter van pool providers" for "and bicycle transportation facilities".

Subsec. (d)(1)(I), (J). Pub. L. 114–94, §1202(2)(A), added subpars. (I) and (J).

Subsec. (d)(2)(A). Pub. L. 114–94, §1202(2)(B)(i), substituted "and the general purposes described in section 5301 of title 49" for "and in section 5301(c) of title 49".

Subsec. (d)(2)(B)(ii), (C). Pub. L. 114–94, §1202(2)(B)(ii), (iii), struck out "urbanized" before "areas".

Subsec. (f)(3)(A)(ii). Pub. L. 114–94, §1202(3)(A), inserted "public ports," before "freight shippers," and "(including intercity bus operators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program)" after "private providers of transportation".

Subsec. (f)(7). Pub. L. 114–94, §1202(3)(B), substituted "shall" for "should" in introductory provisions.

Subsec. (f)(8). Pub. L. 114–94, §1202(3)(C), inserted before period at end ", including consideration of the role that intercity buses may play in reducing congestion, pollution, and energy consumption in a cost-effective manner and strategies and investments that preserve and enhance intercity bus systems, including systems that are privately owned and operated".

Subsec. (g)(3). Pub. L. 114–94, §1202(4), inserted "public ports," before "freight shippers" and "(including

intercity bus operators)," after "private providers of transportation".

Subsec. (i). Pub. L. 114–94, §1104(e)(3), substituted "paragraphs (5)(D) and (6) of section 104(b)" for "section 104(b)(5)".

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to statewide transportation planning.

2005—Pub. L. 109–59 amended section catchline and text generally, substituting provisions relating to statewide transportation planning for provisions relating to, in subsec. (a), development of plans and programs by each State, in subsec. (b), coordination of State with Federal planning, in subsec. (c), scope of planning process, in subsec. (d), additional minimum requirements for each State to consider, in subsec. (e), development of a long-range transportation plan, in subsec. (f), development of a State transportation improvement program, in subsec. (g), funding, in subsec. (h), treatment of certain State laws as congestion management systems, and, in subsec. (i), review of plans and programs under the National Environmental Policy Act of 1969.

1998—Subsec. (a). Pub. L. 105–178, §1204(a), reenacted heading without change and amended text of subsec. (a) generally. Prior to amendment, text read as follows: "It is in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve all areas of the State efficiently and effectively. Subject to section 134 of this title, the State shall develop transportation plans and programs for all areas of the State. Such plans and programs shall provide for development of transportation facilities (including pedestrian walkways and bicycle transportation facilities) which will function as an intermodal State transportation system. The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems."

Subsec. (b). Pub. L. 105–178, §1204(b), inserted "and sections 5303 through 5305 of title 49" after "section 134 of this title".

Subsec. (c). Pub. L. 105–178, §1204(c), amended heading and text of subsec. (c) generally, substituting provisions relating to scope of planning process for provisions relating to considerations to be involved in State's continuous transportation planning process.

Subsec. (d). Pub. L. 105–178, §1204(d), reenacted heading without change and amended text of subsec. (d) generally. Prior to amendment, text read as follows: "Each State in carrying out planning under this section shall, at a minimum, consider the following:

"(1) The coordination of transportation plans and programs developed for metropolitan areas of the State under section 134 with the State transportation plans and programs developed under this section and the reconciliation of such plans and programs as necessary to ensure connectivity within transportation systems.

"(2) Investment strategies to improve adjoining State and local roads that support rural economic growth and tourism development, Federal agency renewable resources management, and multipurpose land management practices, including recreation development.

"(3) The concerns of Indian tribal governments having jurisdiction over lands within the boundaries of the State."

Subsec. (e). Pub. L. 105–178, §1204(e), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: "The State shall develop a long-range transportation plan for all areas of the State. With respect to metropolitan areas of the State, the plan shall be developed in cooperation with metropolitan planning organizations designated for metropolitan areas in the State under section 134. With respect to areas of the State under the jurisdiction of an Indian tribal government, the plan shall be developed in cooperation with such government and the Secretary of the Interior. In developing the plan, the State shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed plan. In addition, the State shall develop a long-range plan for bicycle transportation and pedestrian walkways for appropriate areas of the State which shall be incorporated into the long-range transportation plan."

Subsec. (f). Pub. L. 105–178, §1204(f), amended heading and text of subsec. (f) generally. Prior to amendment, text related to transportation improvement programs, including program development, requirement for inclusion of certain projects for State transportation improvement program, project selection for areas less than 50,000 population, and requirement of biennial review and approval.

Subsec. (g). Pub. L. 105–178, §1204(g), which directed substitution of "section 505(a)" for "section 307(c)(1)" in section 134(g), was executed by making the substitution in subsec. (g) of this section to reflect the probable intent of Congress.

Subsec. (i). Pub. L. 105–178, §1204(h), added subsec. (i).

1994—Subsec. (f)(2). Pub. L. 103–429, §3(6)(A), substituted "chapter 53 of title 49" for "the Federal Transit Act".

Subsec. (h). Pub. L. 103–429, §3(6)(B), substituted "sections 5303–5306 and 5323(k) of title 49" for "section 8 of the Federal Transit Act, United States Code" and "section 8 of such Act".

1991—Pub. L. 102–240 substituted section catchline for one which read: "Traffic operations improvement programs", and amended text generally. Prior to amendment, text read as follows:

"(a) The Congress hereby finds and declares it to be in the national interest that each State shall have a continuing program designed to reduce traffic congestion and facilitate the flow of traffic.

"(b) The Secretary may approve under this section any project for improvements on any public road which project will directly facilitate and control traffic flow on any of the Federal-aid systems."

1976—Pub. L. 94–280 struck out introductory words "Urban area" in section catchline.

Subsec. (a). Pub. L. 94–280 struck out "within the designated boundaries of urban areas of the State" and "in the urban areas" after "continuing program" and "flow of traffic", respectively.

Subsec. (b). Pub. L. 94–280 substituted "any project for improvements on any public road which project will directly facilitate and control traffic flow on any of the Federal-aid systems" for "any project on an extension of the Federal-aid primary or secondary system in urban areas and on the Federal-aid urban system for improvements which directly facilitate and control traffic flow, such as grade separation of intersections, widening of lanes, channelization of traffic, traffic control systems, and loading and unloading ramps. If such project is located in an urban area of more than fifty thousand population, such project shall be based on a continuing comprehensive transportation planning process carried on in accordance with section 134 of this title".

Subsec. (c). Pub. L. 94–280 struck out subsec. (c) which provided for an annual report by the Secretary on projects approved under this section with recommendations for further improvement of traffic operations in accordance with this section.

1973—Subsecs. (c), (d). Pub. L. 93–87 struck out subsec. (c) which provided for apportionment of sums authorized to carry out this section in accordance with section 104(b)(3) of this title, and redesignated subsec. (d) as (c).

1970—Subsec. (b). Pub. L. 91–605 inserted reference to the Federal-aid urban system and required that projects under this section be based on a continuing comprehensive transportation planning process carried on in accordance with section 134 of this title only in urban areas of more than fifty thousand population.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

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

EFFECTIVE DATE

Section effective Aug. 23, 1968, see section 37 of Pub. L. 90–495, set out as an Effective Date of 1968 Amendment note under section 101 of this title.

PARTICIPATION OF LOCAL ELECTED OFFICIALS

Pub. L. 105–178, title I, §1204(i), June 9, 1998, 112 Stat. 184, directed the Secretary to conduct a study on

the effectiveness of the participation of local elected officials in transportation planning and programming, and to transmit to Congress, not later than 2 years after June 9, 1998, a report containing the results of the study and any appropriate recommendations.

ADVANCED TRAVEL FORECASTING PROCEDURES PROGRAM

Pub. L. 109–59, title V, §5512, Aug. 10, 2005, 119 Stat. 1828, as amended by Pub. L. 110–244, title I, §111(g)(2), June 6, 2008, 122 Stat. 1605, provided that:

"(a) CONTINUATION AND ACCELERATION OF TRANSIMS DEPLOYMENT.—

"(1) IN GENERAL.—The Secretary [of Transportation] shall accelerate the deployment of the advanced transportation model known as the 'Transportation Analysis Simulation System' (in this section referred to as 'TRANSIMS'), developed by the Los Alamos National Laboratory.

"(2) PROGRAM APPLICATION.—The purpose of the program is to assist State departments of transportation and metropolitan planning organizations—

"(A) to implement TRANSIMS;

"(B) to develop methods for TRANSIMS applications to transportation planning, air quality analysis, regulatory compliance, and response to natural disasters and other transportation disruptions; and

"(C) to provide training and technical assistance for the implementation of TRANSIMS.

"(b) REQUIRED ACTIVITIES.—The Secretary [of Transportation] shall use funds made available to carry out this section to—

"(1) provide funding to State departments of transportation and metropolitan planning organizations serving transportation management areas designated under chapter 52 [53] of title 49, United States Code, representing a diversity of populations, geographic regions, and analytic needs to implement TRANSIMS;

"(2) develop methods to demonstrate a wide spectrum of TRANSIMS applications to support local, metropolitan, statewide transportation planning, including integrating highway and transit operational considerations into the transportation Planning process, and estimating the effects of induced travel demand and transit ridership in making transportation conformity determinations where applicable;

"(3) provide training and technical assistance with respect to the implementation and application of TRANSIMS to States, local governments, and metropolitan planning organizations with responsibility for travel modeling;

"(4) to further develop TRANSIMS for additional applications, including—

"(A) congestion analyses;

"(B) major investment studies;

"(C) economic impact analyses;

"(D) alternative analyses;

"(E) freight movement studies;

"(F) emergency evacuation studies;

"(G) port studies;

"(H) airport access studies;

"(I) induced demand studies; and

"(J) transit ridership analysis.

"(c) ELIGIBLE ACTIVITIES.—The program may support the development of methods to plan for the transportation response to chemical and biological terrorism and other security concerns.

"(d) ALLOCATION OF FUNDS.—Not more than 75 percent of the funds made available to carry out this section may be allocated to activities described in subsection (b)(1).

"(e) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act [119 Stat. 1779], $2,625,000 for each of fiscal years 2006 through 2009 shall be available to carry out this section."

Pub. L. 105–178, title I, §1210, June 9, 1998, 112 Stat. 187, provided that:

"(a) ESTABLISHMENT.—The Secretary shall establish an advanced travel forecasting procedures program—

"(1) to provide for completion of the advanced transportation model developed under the Transportation Analysis Simulation System (referred to in this section as 'TRANSIMS'); and

"(2) to provide support for early deployment of the advanced transportation modeling computer software and graphics package developed under TRANSIMS and the program established under this section to States, local governments, and metropolitan planning organizations with responsibility for travel modeling.

"(b) ELIGIBLE ACTIVITIES.—The Secretary shall use funds made available under this section to—

"(1) provide funding for completion of core development of the advanced transportation model;

"(2) develop user-friendly advanced transportation modeling computer software and graphics packages;

"(3) provide training and technical assistance with respect to the implementation and application of the advanced transportation model to States, local governments, and metropolitan planning organizations with responsibility for travel modeling; and

"(4) allocate funds to not more than 12 entities described in paragraph (3), representing a diversity of populations and geographic regions, for a pilot program to enable transportation management areas designated under section 134(i) [now 134(k)] of title 23, United States Code, to convert from the use of travel forecasting procedures in use by the areas as of the date of enactment of this Act [June 9, 1998] to the use of the advanced transportation model.

"(c) FUNDING.—

"(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $4,000,000 for fiscal year 1998, $3,000,000 for fiscal year 1999, $6,500,000 for fiscal year 2000, $5,000,000 for fiscal year 2001, $4,000,000 for fiscal year 2002, and $2,500,000 for fiscal year 2003.

"(2) ALLOCATION OF FUNDS.—

"(A) FISCAL YEARS 1998 AND 1999.—For each of fiscal years 1998 and 1999, 100 percent of the funds made available under paragraph (1) shall be allocated to activities as described in paragraphs (1), (2), and (3) of subsection (b).

"(B) FISCAL YEARS 2000 THROUGH 2003.—For each of fiscal years 2000 through 2003, not more than 50 percent of the funds made available under paragraph (1) may be allocated to activities described in subsection (b)(4).

"(3) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of—

"(A) any activity described in paragraph (1), (2), or (3) of subsection (b) shall not exceed 100 percent; and

"(B) any activity described in subsection (b)(4) shall not exceed 80 percent."

DEMONSTRATION PROJECT FOR AUTOMATED ROADWAY MANAGEMENT SYSTEM

Pub. L. 95–599, title I, §154, Nov. 6, 1978, 92 Stat. 2716, authorized the Secretary of Transportation to carry out a demonstration project for the use of an automated roadway management system to increase roadway capacity without adding additional lanes of pavement and authorized appropriations for fiscal years 1979 to 1981.

TRAFFIC CONTROL SIGNALIZATION DEMONSTRATION PROJECTS

Pub. L. 94–280, title I, §146, May 5, 1976, 90 Stat. 446, authorized the Secretary of Transportation to carry out traffic control signalization demonstration projects, appropriated funds for fiscal years 1977 and 1978, and required participating States and the Secretary to submit reports on the progress of such projects.

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 89–285, title III, §304, Oct. 22, 1965, 79 Stat. 1033, as amended by Pub. L. 97–449, §2(a), Jan. 12, 1983, 96 Stat. 2439, authorized an appropriation of $500,000 to the Secretary for highway safety programs under this section.

DEFINITIONS

For additional definitions of terms used in this section, see section 134 of this title.

§136. Control of junkyards

(a) The Congress hereby finds and declares that the establishment and use and maintenance of junkyards in areas adjacent to the Interstate System and the primary system should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty.

(b) Federal-aid highway funds apportioned on or after January 1, 1968, to any State which the Secretary determines has not made provision for effective control of the establishment and maintenance along the Interstate System and the primary system of outdoor junkyards, which are

within one thousand feet of the nearest edge of the right-of-way and visible from the main traveled way of the system, shall be reduced by amounts equal to 7 percent of the amounts which would otherwise be apportioned to such State under paragraphs (1) through (6) of section 104(b), until such time as such State shall provide for such effective control. Any amount which is withheld from apportionment to any State hereunder shall be reapportioned to the other States. Whenever he determines it to be in the public interest, the Secretary may suspend, for such periods as he deems necessary, the application of this subsection to a State.

(c) Effective control means that by January 1, 1968, such junkyards shall be screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the main traveled way of the system, or shall be removed from sight.

(d) The term "junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

(e) The term "automobile graveyard" shall mean any establishment or place of business which is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

(f) The term "junkyard" shall mean an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

(g) Notwithstanding any provision of this section, junkyards, auto graveyards, and scrap metal processing facilities may be operated within areas adjacent to the Interstate System and the primary system which are within one thousand feet of the nearest edge of the right-of-way and which are zoned industrial under authority of State law, or which are not zoned under authority of State law, but are used for industrial activities, as determined by the several States subject to approval by the Secretary.

(h) Notwithstanding any provision of this section, any junkyard in existence on the date of enactment of this section which does not conform to the requirements of this section and which the Secretary finds as a practical matter cannot be screened, shall not be required to be removed until July 1, 1970.

(i) The Federal share of landscaping and screening costs under this section shall be 75 per centum.

(j) Just compensation shall be paid the owner for the relocation, removal, or disposal of junkyards lawfully established under State law. The Federal share of such compensation shall be 75 per centum.

(k) All public lands or reservations of the United States which are adjacent to any portion of the interstate and primary systems shall be effectively controlled in accordance with the provisions of this section.

(l) Nothing in this section shall prohibit a State from establishing standards imposing stricter limitations with respect to outdoor junkyards on the Federal-aid highway systems than those established under this section.

(m) There is authorized to be appropriated to carry out this section, out of any money in the Treasury not otherwise appropriated, not to exceed $20,000,000 for the fiscal year ending June 30, 1966, not to exceed $20,000,000 for the fiscal year ending June 30, 1967, not to exceed $3,000,000 for the fiscal year ending June 30, 1970, not to exceed $3,000,000 for the fiscal year ending June 30, 1971, not to exceed $3,000,000 for the fiscal year ending June 30, 1972, and not to exceed $5,000,000 for the fiscal year ending June 30, 1973. The provisions of this chapter relating to the obligation, period of availability, and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967.

(n) DEFINITIONS.—For purposes of this section, the terms "primary system" and "Federal-aid primary system" mean any highway that is on the National Highway System, which includes the Interstate Highway System.

(Added Pub. L. 89–285, title II, §201, Oct. 22, 1965, 79 Stat. 1030; amended Pub. L. 89–574, §8(a), Sept. 13, 1966, 80 Stat. 768; Pub. L. 90–495, §6(e), Aug. 23, 1968, 82 Stat. 818; Pub. L. 91–605, title I, §122(b), Dec. 31, 1970, 84 Stat. 1726; Pub. L. 93–643, §110, Jan. 4, 1975, 88 Stat. 2285; Pub.

L. 112–141, div. A, title I, §1404(b), July 6, 2012, 126 Stat. 557; Pub. L. 114–94, div. A, title I, §1104(e)(4), Dec. 4, 2015, 129 Stat. 1332.)

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (b). Pub. L. 114–94 substituted "paragraphs (1) through (6) of section 104(b)" for "paragraphs (1) through (5) of section 104(b)".

2012—Subsec. (b). Pub. L. 112–141, §1404(b)(1), substituted "7 percent" for "10 per centum" and "paragraphs (1) through (5) of section 104(b)" for "section 104 of this title".

Subsec. (n). Pub. L. 112–141, §1404(b)(2), added subsec. (n).

1975—Subsec. (j). Pub. L. 93–643 substituted provision that compensation shall be paid the owner for the relocation, removal, or disposal of junkyards lawfully established under State law, for provision relating to payment of just compensation for relocation, removal, or disposal of junkyards (1) lawfully in existence on Oct. 22, 1965, (2) lawfully along any highway made a part of the interstate or primary system on or after Oct. 22, 1965, and before Jan. 1, 1968, and (3) lawfully established on or after Jan. 1, 1968.

1970—Subsec. (m). Pub. L. 91–605 authorized to be appropriated not to exceed $3,000,000, $3,000,000, and $5,000,000, for the fiscal years ending June 30, 1971, 1972, and 1973, respectively.

1968—Subsec. (m). Pub. L. 90–495 inserted provision authorizing an appropriation of not to exceed $3,000,000 for the fiscal year ending June 30, 1970.

1966—Subsec. (m). Pub. L. 89–574 substituted provisions making applicable to the funds authorized to be appropriated to carry out this section after June 30, 1967, the provisions of chapter 1 of this title relating to the obligation, period of availability, and expenditure of Federal-aid primary highway funds for provisions prohibiting the use of any part of the Highway Trust Fund in carrying out this section.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–495 effective August 23, 1968, see section 37 of Pub. L. 90–495, set out as a note under section 502 of this title.

ACQUISITION OF DWELLINGS

Prohibition against the use of eminent domain to acquire any dwelling (including related buildings) under the terms of Pub. L. 89–285, see section 305 of Pub. L. 89–285, set out as a note under section 131 of this title.

TAKING OF PRIVATE PROPERTY WITHOUT JUST COMPENSATION

Prohibition against the taking of private property or the restriction of reasonable and existing use by such taking without just compensation under the terms of Pub. L. 89–285, see section 401 of Pub. L. 89–285, set out as a note under section 131 of this title.

§137. Fringe and corridor parking facilities

(a) The Secretary may approve as a project on a Federal-aid highway the acquisition of land adjacent to the right-of-way outside a central business district, as defined by the Secretary, and the construction of publicly owned parking facilities thereon or within such right-of-way, including the use of the air space above and below the established grade line of the highway pavement, to serve an urban area of fifty thousand population or more. Such parking facility shall be located and designed

in conjunction with existing or planned public transportation facilities. In the event fees are charged for the use of any such facility, the rate thereof shall not be in excess of that required for maintenance and operation (including compensation to any person for operating such facility).

(b) The Secretary shall not approve any project under this section until—

(1) he has determined that the State, or the political subdivision thereof, where such project is to be located, or any agency or instrumentality of such State or political subdivision, has the authority and capability of constructing, maintaining, and operating the facility;

(2) he has entered into an agreement governing the financing, maintenance, and operation of the parking facility with such State, political subdivision, agency, or instrumentality, including necessary requirements to insure that adequate public transportation services will be available to persons using such facility; and

(3) he has approved design standards for constructing such facility developed in cooperation with the State transportation department.

(c) The term "parking facilities" for purposes of this section shall include access roads, buildings, structures, equipment, improvements, and interests in lands.

(d) Nothing in this section, or in any rule or regulation issued under this section, or in any agreement required by this section, shall prohibit (1) any State, political subdivision, or agency or instrumentality thereof, from contracting with any person to operate any parking facility constructed under this section, or (2) any such person from so operating such facility.

(e) The Secretary shall not approve any project under this section unless he determines that it is based on a continuing comprehensive transportation planning process carried on in accordance with section 134 of this title.

(f)(1) The Secretary may approve for Federal financial assistance from funds apportioned under section 104(b)(1), projects for designating existing facilities, or for acquisition of rights of way or construction of new facilities, including the addition of electric vehicle charging stations or natural gas vehicle refueling stations, for use as preferential parking for carpools, provided that such facilities (A) are located outside of a central business district and within an interstate highway corridor, and (B) have as their primary purpose the reduction of vehicular traffic on the interstate highway.

(2) Nothing in this subsection, or in any rule or regulation issued under this subsection, or in any agreement required by this subsection, shall prohibit (A) any State, political subdivision, or agency or instrumentality thereof, from contracting with any person to operate any parking facility designated or constructed under this subsection, or (B) any such person from so operating such facility. Any fees charged for the use of any such facility in connection with the purpose of this subsection shall not be in excess of the amount required for operation and maintenance, including compensation to any person for operating the facility.

(3) For the purposes of this subsection, the terms "facilities" and "parking facilities" are synonymous and shall have the same meaning given "parking facilities" in subsection (c) of this section.

(g) FUNDING.—The addition of electric vehicle charging stations or natural gas vehicle refueling stations to new or previously funded parking facilities shall be eligible for funding under this section.

(Added Pub. L. 89–574, §8(c)(1), Sept. 13, 1966, 80 Stat. 768; amended Pub. L. 91–605, title I, §134(a), Dec. 31, 1970, 84 Stat. 1733; Pub. L. 97–424, title I, §118, Jan. 6, 1983, 96 Stat. 2110; Pub. L. 105–178, title I, §§1103(l)(3)(B), 1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 126, 193; Pub. L. 109–59, title I, §1921, Aug. 10, 2005, 119 Stat. 1480; Pub. L. 112–141, div. A, title I, §1513(a), July 6, 2012, 126 Stat. 572.)

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (f)(1). Pub. L. 112–141, §1513(a)(1), substituted "104(b)(1)" for "104(b)(4)" and inserted "including the addition of electric vehicle charging stations or natural gas vehicle refueling stations," after

"new facilities,".

Subsec. (g). Pub. L. 112–141, §1513(a)(2), added subsec. (g).

2005—Subsec. (a). Pub. L. 109–59 substituted "on a Federal-aid highway" for "on the Federal-aid urban system".

1998—Subsec. (b)(3). Pub. L. 105–178, §1212(a)(2)(A)(i), substituted "State transportation department" for "State highway department".

Subsec. (f)(1). Pub. L. 105–178, §1103(l)(3)(B), substituted "section 104(b)(4)" for "section 104(b)(5)(B) of this title".

1983—Subsec. (f). Pub. L. 97–424 added subsec. (f).

1970—Pub. L. 91–605 substituted "Fringe and corridor parking facilities" for "Limitation on authorization of appropriations for certain purposes" in section catchline.

Subsec. (a). Pub. L. 91–605 substituted provisions permitting the Secretary to approve construction of publicly owned parking facilities under the Federal-aid urban system for provisions limiting authorization of appropriations under section 131, 136, and 319(b) of this title, or any highway safety bill enacted after May 1, 1966 by preventing these sections and provisions from being construed as authority for any appropriations not specifically authorized in these sections and provisions.

Subsec. (b). Pub. L. 91–605 substituted provisions preventing project approval by the Secretary unless the State or political subdivision thereof where the project is located can construct, maintain, and operate the facility, unless the Secretary has entered into an agreement with the State or political subdivision governing the financing, maintenance, and operation of the facility, and unless the Secretary has approved design standards for construction of the facility for provisions limiting authorization of appropriations under sections 131, 136, and 319(b) of this title, or any highway safety bill enacted after May 1, 1966 by preventing appropriations to carry out these sections and provisions unless they are specific as to the amount authorized and as to the fiscal year.

Subsec. (c). Pub. L. 91–605 substituted provisions defining "parking facilities" for provisions limiting authorization of appropriations under sections 131, 136, and 319(b) of this title, or any highway safety bill enacted after May 1, 1966 by preventing the highway trust fund from being a source of appropriation for these sections and provisions in an amount exceeding the tax imposed by section 4061(a)(2) of Title 26, if such tax was imposed at a rate of 1% plus additional amounts appropriated from the general fund to the highway trust fund for such purposes except that the total of all appropriations made from such fund to carry out these sections and provisions shall never exceed the total of all appropriations made to such fund based on the imposition of such tax plus additional amounts appropriated from the general fund to the highway trust fund for such purposes.

Subsecs. (d), (e). Pub. L. 91–605 added subsecs. (d) and (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

RELINQUISHMENT OF PARK-AND-RIDE LOT FACILITIES

Pub. L. 114–94, div. A, title I, §1423, Dec. 4, 2015, 129 Stat. 1425, provided that: "A State transportation agency may relinquish park-and-ride lot facilities or portions of park-and-ride lot facilities to a local government agency for highway purposes if authorized to do so under State law if the agreement providing for the relinquishment provides that—

"(1) rights-of-way on the Interstate System will remain available for future highway improvements; and

"(2) modifications to the facilities that could impair the highway or interfere with the free and safe flow of traffic are subject to the approval of the Secretary [of Transportation]."

JASON'S LAW

Pub. L. 112–141, div. A, title I, §1401, July 6, 2012, 126 Stat. 554, provided that:

"(a) IN GENERAL.—It is the sense of Congress that it is a national priority to address projects under this section for the shortage of long-term parking for commercial motor vehicles on the National Highway System to improve the safety of motorized and nonmotorized users and for commercial motor vehicle operators.

"(b) ELIGIBLE PROJECTS.—Eligible projects under this section are those that—

"(1) serve the National Highway System; and

"(2) may include the following:

"(A) Constructing safety rest areas (as defined in section 120(c) of title 23, United States Code) that include parking for commercial motor vehicles.

"(B) Constructing commercial motor vehicle parking facilities adjacent to commercial truck stops and travel plazas.

"(C) Opening existing facilities to commercial motor vehicle parking, including inspection and weigh stations and park-and-ride facilities.

"(D) Promoting the availability of publicly or privately provided commercial motor vehicle parking on the National Highway System using intelligent transportation systems and other means.

"(E) Constructing turnouts along the National Highway System for commercial motor vehicles.

"(F) Making capital improvements to public commercial motor vehicle parking facilities currently closed on a seasonal basis to allow the facilities to remain open year-round.

"(G) Improving the geometric design of interchanges on the National Highway System to improve access to commercial motor vehicle parking facilities.

"(c) SURVEY AND COMPARATIVE ASSESSMENT.—

"(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title], the Secretary [of Transportation], in consultation with relevant State motor carrier safety personnel, shall conduct a survey of each State—

"(A) to evaluate the capability of the State to provide adequate parking and rest facilities for commercial motor vehicles engaged in interstate transportation;

"(B) to assess the volume of commercial motor vehicle traffic in the State; and

"(C) to develop a system of metrics to measure the adequacy of commercial motor vehicle parking facilities in the State.

"(2) RESULTS.—The results of the survey under paragraph (1) shall be made available to the public on the website of the Department of Transportation.

"(3) PERIODIC UPDATES.—The Secretary shall periodically update the survey under this subsection.

"(d) ELECTRIC VEHICLE AND NATURAL GAS VEHICLE INFRASTRUCTURE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a State may establish electric vehicle charging stations or natural gas vehicle refueling stations for the use of battery-powered or natural gas-fueled trucks or other motor vehicles at any parking facility funded or authorized under this Act [see Tables for classification] or title 23, United States Code.

"(2) EXCEPTION.—Electric vehicle battery charging stations or natural gas vehicle refueling stations may not be established or supported under paragraph (1) if commercial establishments serving motor vehicle users are prohibited by section 111 of title 23, United States Code.

"(3) FUNDS.—Charging or refueling stations described in paragraph (1) shall be eligible for the same funds as are available for the parking facilities in which the stations are located.

"(e) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects funded through the authority provided under this section shall be treated as projects on a Federal-aid highway under chapter 1 of title 23, United States Code."

TRUCK PARKING FACILITIES

Pub. L. 109–59, title I, §1305, Aug. 10, 2005, 119 Stat. 1214, which related to truck parking facilities, was repealed by Pub. L. 112–141, div. A, title I, §1519(b)(2), July 6, 2012, 126 Stat. 575.

§138. Preservation of parklands

(a) DECLARATION OF POLICY.—

(1) IN GENERAL.—It is the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.

(2) COOPERATION AND CONSULTATION.—

(A) IN GENERAL.—The Secretary shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed.

(B) TIMELINE FOR APPROVALS.—
(i) IN GENERAL.—The Secretary shall—
(I) provide an evaluation under this section to the Secretaries described in subparagraph (A); and
(II) provide a period of 30 days for receipt of comments.

(ii) ASSUMED ACCEPTANCE.—If the Secretary does not receive comments by 15 days after the deadline under clause (i)(II), the Secretary shall assume a lack of objection and proceed with the action.

(C) EFFECT.—Nothing in subparagraph (B) affects—
(i) the requirements under—
(I) subsections (b) through (f); or
(II) the consultation process under section 306108 of title 54; or

(ii) programmatic section 4(f) evaluations, as described in regulations issued by the Secretary.

(3) REQUIREMENT.—After the effective date of the Federal-Aid Highway Act of 1968, the Secretary shall not approve any program or project (other than any project for a Federal lands transportation facility) which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, State, or local significance as so determined by such officials unless—
(A) there is no feasible and prudent alternative to the use of the land; and
(B) the program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use.

(4) STUDIES.—In carrying out the national policy declared in this section the Secretary, in cooperation with the Secretary of the Interior and appropriate State and local officials, is authorized to conduct studies as to the most feasible Federal-aid routes for the movement of motor vehicular traffic through or around national parks so as to best serve the needs of the traveling public while preserving the natural beauty of these areas.

(b) DE MINIMIS IMPACTS.—
(1) REQUIREMENTS.—
(A) REQUIREMENTS FOR HISTORIC SITES.—The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area.
(B) REQUIREMENTS FOR PARKS, RECREATION AREAS, AND WILDLIFE OR WATERFOWL REFUGES.—The requirements of subsection (a)(1) shall be considered to be satisfied with respect to an area described in paragraph (3) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area. The requirements of subsection (a)(2) with respect to an area described in paragraph (3) shall not include an alternatives analysis.
(C) CRITERIA.—In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

(2) HISTORIC SITES.—With respect to historic sites, the Secretary may make a finding of de minimis impact only if—

(A) the Secretary has determined, in accordance with the consultation process required under section 306108 of title 54, that—

(i) the transportation program or project will have no adverse effect on the historic site; or

(ii) there will be no historic properties affected by the transportation program or project;

(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation if the Council is participating in the consultation process); and

(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

(3) PARKS, RECREATION AREAS, AND WILDLIFE OR WATERFOWL REFUGES .—With respect to parks, recreation areas, or wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if—

(A) the Secretary has determined, after public notice and opportunity for public review and comment, that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and

(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.

(c) SATISFACTION OF REQUIREMENTS FOR CERTAIN HISTORIC SITES.—

(1) IN GENERAL.—The Secretary shall—

(A) align, to the maximum extent practicable, with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and section 306108 of title 54, including implementing regulations; and

(B) not later than 90 days after the date of enactment of this subsection, coordinate with the Secretary of the Interior and the Executive Director of the Advisory Council on Historic Preservation (referred to in this subsection as the "Council") to establish procedures to satisfy the requirements described in subparagraph (A) (including regulations).

(2) AVOIDANCE ALTERNATIVE ANALYSIS.—

(A) IN GENERAL.—If, in an analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Secretary determines that there is no feasible or prudent alternative to avoid use of a historic site, the Secretary may—

(i) include the determination of the Secretary in the analysis required under that Act;

(ii) provide a notice of the determination to—

(I) each applicable State historic preservation officer and tribal historic preservation officer;

(II) the Council, if the Council is participating in the consultation process under section 306108 of title 54; and

(III) the Secretary of the Interior; and

(iii) request from the applicable preservation officer, the Council, and the Secretary of the Interior a concurrence that the determination is sufficient to satisfy subsection (a)(1).

(B) CONCURRENCE.—If the applicable preservation officer, the Council, and the Secretary of the Interior each provide a concurrence requested under subparagraph (A)(iii), no further analysis under subsection (a)(1) shall be required.

(C) PUBLICATION.—A notice of a determination, together with each relevant concurrence to that determination, under subparagraph (A) shall—

(i) be included in the record of decision or finding of no significant impact of the Secretary; and

(ii) be posted on an appropriate Federal website by not later than 3 days after the date of receipt by the Secretary of all concurrences requested under subparagraph (A)(iii).

(3) ALIGNING HISTORICAL REVIEWS.—

(A) IN GENERAL.—If the Secretary, the applicable preservation officer, the Council, and the Secretary of the Interior concur that no feasible and prudent alternative exists as described in paragraph (2), the Secretary may provide to the applicable preservation officer, the Council, and the Secretary of the Interior notice of the intent of the Secretary to satisfy subsection (a)(2) through the consultation requirements of section 306108 of title 54.

(B) SATISFACTION OF CONDITIONS.—To satisfy subsection (a)(2), each individual described in paragraph (2)(A)(ii) shall concur in the treatment of the applicable historic site described in the memorandum of agreement or programmatic agreement developed under section 306108 of title 54.

(d) REFERENCES TO PAST TRANSPORTATION ENVIRONMENTAL AUTHORITIES.—

(1) SECTION 4(F) REQUIREMENTS.—The requirements of this section are commonly referred to as section 4(f) requirements (see section 4(f) of the Department of Transportation Act (Public Law 89–670; 80 Stat. 934) as in effect before the repeal of that section).

(2) SECTION 106 REQUIREMENTS.—The requirements of section 306108 of title 54 are commonly referred to as section 106 requirements (see section 106 of the National Historic Preservation Act of 1966 (Public Law 89–665; 80 Stat. 917) as in effect before the repeal of that section).

(e) BRIDGE EXEMPTION FROM CONSIDERATION.—A common post-1945 concrete or steel bridge or culvert (as described in 77 Fed. Reg. 68790) that is exempt from individual review under section 306108 of title 54 shall be exempt from consideration under this section.

(f) RAIL AND TRANSIT.—

(1) IN GENERAL.—Improvements to, or the maintenance, rehabilitation, or operation of, railroad or rail transit lines or elements thereof that are in use or were historically used for the transportation of goods or passengers shall not be considered a use of a historic site under subsection (a), regardless of whether the railroad or rail transit line or element thereof is listed on, or eligible for listing on, the National Register of Historic Places.

(2) EXCEPTIONS.—

(A) IN GENERAL.—Paragraph (1) shall not apply to—

(i) stations; or

(ii) bridges or tunnels located on—

(I) railroad lines that have been abandoned; or

(II) transit lines that are not in use.

(B) CLARIFICATION WITH RESPECT TO CERTAIN BRIDGES AND TUNNELS.—The bridges and tunnels referred to in subparagraph (A)(ii) do not include bridges or tunnels located on railroad or transit lines—

(i) over which service has been discontinued; or

(ii) that have been railbanked or otherwise reserved for the transportation of goods or passengers.

(Added Pub. L. 89–574, §15(a), Sept. 13, 1966, 80 Stat. 771; amended Pub. L. 90–495, §18(a), Aug. 23, 1968, 82 Stat. 823; Pub. L. 94–280, title I, §124, May 5, 1976, 90 Stat. 440; Pub. L. 100–17, title I, §133(b)(10), Apr. 2, 1987, 101 Stat. 171; Pub. L. 109–59, title VI, §6009(a)(1), Aug. 10, 2005, 119 Stat. 1874; Pub. L. 112–141, div. A, title I, §1119(c)(2), July 6, 2012, 126 Stat. 492; Pub. L. 113–287, §5(f)(2), Dec. 19, 2014, 128 Stat. 3268; Pub. L. 114–94, div. A, title I, §§1301(a), 1302(a), 1303(a), title XI, §11502(a), Dec. 4, 2015, 129 Stat. 1375, 1377, 1378, 1690; Pub. L. 117–58, div. A, title I, §11316, Nov. 15, 2021, 135 Stat. 543.)

EDITORIAL NOTES

REFERENCES IN TEXT

For the effective date of the Federal-Aid Highway Act of 1968, referred to in subsec. (a)(3), see section 37 of Pub. L. 90–495, set out as an Effective Date of 1968 Amendment note under section 101 of this title.

The National Environmental Policy Act of 1969, referred to in subsec. (c)(1)(A), (2)(A), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The date of enactment of this subsection, referred to in subsec. (c)(1)(B), is the date of enactment of Pub. L. 114–94, which was approved Dec. 4, 2015.

AMENDMENTS

2021—Subsec. (a)(1). Pub. L. 117–58, §11316(4), designated first sentence of subsec. (a) as par. (1), inserted heading, and substituted "It is" for "It is declared to be".

Subsec. (a)(2). Pub. L. 117–58, §11316(3), designated second sentence of subsec. (a) as par. (2)(A), inserted par. and subpar. headings, substituted "The Secretary" for "The Secretary of Transportation", and added subpars. (B) and (C).

Subsec. (a)(3). Pub. L. 117–58, §11316(2), designated third sentence of subsec. (a) as par. (3) and inserted heading, inserted dash after "unless", redesignated cls. (1) and (2) within text as subpars. (A) and (B), respectively, and inserted line breaks before each subpar., and substituted "use of the land; and" for "use of such land, and" and "the program includes" for "such program includes".

Subsec. (a)(4). Pub. L. 117–58, §11316(1), designated fourth sentence of subsec. (a) as par. (4) and inserted heading.

2015—Subsec. (c). Pub. L. 114–94, §1301(a), added subsec. (c).

Subsec. (d). Pub. L. 114–94, §1302(a), added subsec. (d).

Subsec. (e). Pub. L. 114–94, §1303(a), added subsec. (e).

Subsec. (f). Pub. L. 114–94, §11502(a), added subsec. (f).

2014—Subsec. (b)(2)(A). Pub. L. 113–287 substituted "section 306108 of title 54" for "section 106 of the National Historic Preservation Act (16 U.S.C. 470f)" in introductory provisions.

2012—Subsec. (a). Pub. L. 112–141 substituted "Federal lands transportation facility" for "park road or parkway under section 204 of this title".

2005—Pub. L. 109–59, §6009(a)(1)(A), which directed substitution of "(a) DECLARATION OF POLICY .—It is" for "it is hereby", was executed by making the substitution for "It is hereby" to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 109–59, §6009(a)(1)(B), added subsec. (b).

1987—Pub. L. 100–17 inserted "(other than any project for a park road or parkway under section 204 of this title)" before "which requires" in third sentence.

1976—Pub. L. 94–280 authorized the Secretary, in cooperation with the Secretary of the Interior and appropriate State and local officials, to conduct studies as to the most feasible Federal-aid routes for the movement of motor vehicular traffic through or around national parks so as to best serve the needs of the traveling public while preserving the natural beauty of these areas.

1968—Pub. L. 90–495 amended section generally so as to render it identical to section 1653(f) of Title 49, Transportation, governing all programs and projects subject to the jurisdiction of the Secretary of Transportation.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an

Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

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

CLARIFICATION OF EXISTING STANDARDS

Pub. L. 109–59, title VI, §6009(b), Aug. 10, 2005, 119 Stat. 1876, provided that:

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Aug. 10, 2005], the Secretary [of Transportation] shall (in consultation with affected agencies and interested parties) promulgate regulations that clarify the factors to be considered and the standards to be applied in determining the prudence and feasibility of alternatives under section 138 of title 23 and section 303 of title 49, United States Code.

"(2) REQUIREMENTS.—The regulations—

"(A) shall clarify the application of the legal standards to a variety of different types of transportation programs and projects depending on the circumstances of each case; and

"(B) may include, as appropriate, examples to facilitate clear and consistent interpretation by agency decisionmakers."

STUDY OF TRANSIT NEEDS IN NATIONAL PARKS AND RELATED PUBLIC LANDS

Pub. L. 105–178, title III, §3039, June 9, 1998, 112 Stat. 393, as amended by Pub. L. 105–206, title IX, §9009(y), July 22, 1998, 112 Stat. 862, provided that:

"(a) PURPOSES.—The purposes of this section are to encourage and promote the development of transportation systems for the betterment of the national parks and other units of the National Park System, national wildlife refuges, recreational areas, and other public lands in order to conserve natural, historical, and cultural resources and prevent adverse impact, relieve congestion, minimize transportation fuel consumption, reduce pollution (including noise and visual pollution), and enhance visitor mobility and accessibility and the visitor experience.

"(b) STUDY.—

"(1) IN GENERAL.—The Secretary, in coordination with the Secretary of the Interior, shall undertake a comprehensive study of alternative transportation needs in national parks and related public lands managed by Federal land management agencies [to] assist in carrying out the purposes described in subsection (a). The study shall be submitted to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate not later than January 1, 2000.

"(2) STUDY ELEMENTS.—The study required by paragraph (1) shall—

"(A) identify transportation strategies that improve the management of the national parks and related public lands;

"(B) identify national parks and related public lands with existing and potential problems of adverse impact, high congestion, and pollution, or which can benefit from alternative transportation modes;

"(C) assess the feasibility of alternative transportation modes; and

"(D) identify and estimate the costs of alternative transportation modes for each of the national parks and related public lands referred to in paragraph (1).

"(3) DEFINITION.—For purposes of this subsection, the term 'Federal land management agencies' means the National Park Service, the United States Fish and Wildlife Service, and the Bureau of Land Management."

STUDY OF ALTERNATIVE TRANSPORTATION MODES IN NATIONAL PARK SYSTEM

Pub. L. 102–240, title I, §1050, Dec. 18, 1991, 105 Stat. 2000, provided that:

"(a) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act [Dec. 18, 1991], the Secretary, in consultation with the Secretary of the Interior, shall conduct and transmit to Congress a study of alternative transportation modes for use in the National Park System. In conducting such study, the Secretary shall consider (1) the economic and technical feasibility, environmental effects, projected costs and benefits as compared to the costs and benefits of existing transportation systems, and general suitability of transportation modes that would provide efficient and environmentally sound ingress to and egress from National Park lands; and (2) methods to obtain private capital for the construction of such transportation modes and related infrastructure.

"(b) FUNDING.—From sums authorized to be appropriated for park roads and parkways for fiscal year

1992, $300,000 shall be available to carry out this section."

§139. Efficient environmental reviews for project decisionmaking and One Federal Decision

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

(1) AGENCY.—The term "agency" means any agency, department, or other unit of Federal, State, local, or Indian tribal government.

(2) AUTHORIZATION.—The term "authorization" means any environmental license, permit, approval, finding, or other administrative decision related to the environmental review process that is required under Federal law to site, construct, or reconstruct a project.

(3) ENVIRONMENTAL DOCUMENT.—The term "environmental document" includes an environmental assessment, finding of no significant impact, notice of intent, environmental impact statement, or record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(4) ENVIRONMENTAL IMPACT STATEMENT.—The term "environmental impact statement" means the detailed statement of environmental impacts required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(5) ENVIRONMENTAL REVIEW PROCESS.—

(A) IN GENERAL.—The term "environmental review process" means the process for preparing for a project an environmental impact statement, environmental assessment, categorical exclusion, or other document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) INCLUSIONS.—The term "environmental review process" includes the process and schedule, including a timetable for and completion of any environmental permit, approval, review, or study required for a project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(6) LEAD AGENCY.—The term "lead agency" means the Department of Transportation and, if applicable, any State or local governmental entity serving as a joint lead agency pursuant to this section.

(7) MAJOR PROJECT.—

(A) IN GENERAL.—The term "major project" means a project for which—

(i) multiple permits, approvals, reviews, or studies are required under a Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(ii) the project sponsor has identified the reasonable availability of funds sufficient to complete the project;

(iii) the project is not a covered project (as defined in section 41001 of the FAST Act (42 U.S.C. 4370m)); and

(iv)(I) the head of the lead agency has determined that an environmental impact statement is required; or

(II) the head of the lead agency has determined that an environmental assessment is required, and the project sponsor requests that the project be treated as a major project.

(B) CLARIFICATION.—In this section, the term "major project" does not have the same meaning as the term "major project" as described in section 106(h).

(8) MULTIMODAL PROJECT.—The term "multimodal project" means a project that requires the approval of more than 1 Department of Transportation operating administration or secretarial office.

(9) PROJECT.—

(A) IN GENERAL.—The term "project" means any highway project, public transportation capital project, or multimodal project that, if implemented as proposed by the project sponsor,

would require approval by any operating administration or secretarial office within the Department of Transportation.

(B) CONSIDERATIONS.—In determining whether a project is a project under subparagraph (A), the Secretary shall take into account, if known, any sources of Federal funding or financing identified by the project sponsor, including any discretionary grant, loan, and loan guarantee programs administered by the Department of Transportation.

(10) PROJECT SPONSOR.—The term "project sponsor" means the agency or other entity, including any private or public-private entity, that seeks approval of the Secretary for a project.

(11) STATE TRANSPORTATION DEPARTMENT.—The term "State transportation department" means any statewide agency of a State with responsibility for one or more modes of transportation.

(b) APPLICABILITY.—

(1) IN GENERAL.—The project development procedures in this section are applicable to all projects, including major projects, for which an environmental impact statement is prepared under the National Environmental Policy Act (42 U.S.C. 4321 et seq.) of 1969 and may be applied, as requested by a project sponsor and to the extent determined appropriate by the Secretary, to other projects for which an environmental document is prepared pursuant to such Act.

(2) FLEXIBILITY.—Any authorities granted in this section may be exercised, and any requirements established under this section may be satisfied, for a project, class of projects, or program of projects.

(3) PROGRAMMATIC COMPLIANCE.—

(A) IN GENERAL.—The Secretary shall allow for the use of programmatic approaches to conduct environmental reviews that—

(i) eliminate repetitive discussions of the same issues;

(ii) focus on the actual issues ripe for analyses at each level of review; and

(iii) are consistent with—

(I) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(II) other applicable laws.

(B) REQUIREMENTS.—In carrying out subparagraph (A), the Secretary shall ensure that programmatic reviews—

(i) promote transparency, including the transparency of—

(I) the analyses and data used in the environmental reviews;

(II) the treatment of any deferred issues raised by agencies or the public; and

(III) the temporal and spatial scales to be used to analyze issues under subclauses (I) and (II);

(ii) use accurate and timely information, including through establishment of—

(I) criteria for determining the general duration of the usefulness of the review; and

(II) a timeline for updating an out-of-date review;

(iii) describe—

(I) the relationship between any programmatic analysis and future tiered analysis; and

(II) the role of the public in the creation of future tiered analysis;

(iv) are available to other relevant Federal and State agencies, Indian tribes, and the public; and

(v) provide notice and public comment opportunities consistent with applicable requirements.

(c) LEAD AGENCIES.—

(1) FEDERAL LEAD AGENCY.—

(A) IN GENERAL.—The Department of Transportation, or an operating administration thereof designated by the Secretary, shall be the Federal lead agency in the environmental review process for a project.

(B) MODAL ADMINISTRATION.—If the project requires approval from more than 1 modal administration within the Department, the Secretary may designate a single modal administration to serve as the Federal lead agency for the Department in the environmental review process for the project.

(2) JOINT LEAD AGENCIES.—Nothing in this section precludes another agency from being a joint lead agency in accordance with regulations under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) PROJECT SPONSOR AS JOINT LEAD AGENCY.—Any project sponsor that is a State or local governmental entity receiving funds under this title or chapter 53 of title 49 for the project shall serve as a joint lead agency with the Department for purposes of preparing any environmental document under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and may prepare any such environmental document required in support of any action or approval by the Secretary if the Federal lead agency furnishes guidance in such preparation and independently evaluates such document and the document is approved and adopted by the Secretary prior to the Secretary taking any subsequent action or making any approval based on such document, whether or not the Secretary's action or approval results in Federal funding.

(4) ENSURING COMPLIANCE.—The Secretary shall ensure that the project sponsor complies with all design and mitigation commitments made jointly by the Secretary and the project sponsor in any environmental document prepared by the project sponsor in accordance with this subsection and that such document is appropriately supplemented if project changes become necessary.

(5) ADOPTION AND USE OF DOCUMENTS.—Any environmental document prepared in accordance with this subsection may be adopted or used by any Federal agency making any approval to the same extent that such Federal agency could adopt or use a document prepared by another Federal agency.

(6) ROLES AND RESPONSIBILITY OF LEAD AGENCY.—With respect to the environmental review process for any project, the lead agency shall have authority and responsibility—

(A) to take such actions as are necessary and proper, within the authority of the lead agency, to facilitate the expeditious resolution of the environmental review process for the project;

(B) to prepare or ensure that any required environmental impact statement or other document required to be completed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is completed in accordance with this section and applicable Federal law;

(C) to consider and respond to comments received from participating agencies on matters within the special expertise or jurisdiction of those agencies; and

(D) to calculate annually the average time taken by the lead agency to complete all environmental documents for each project during the previous fiscal year.

(7) PROCESS IMPROVEMENTS FOR PROJECTS.—

(A) IN GENERAL.—The Secretary shall review—

(i) existing practices, procedures, rules, regulations, and applicable laws to identify impediments to meeting the requirements applicable to projects under this section; and

(ii) best practices, programmatic agreements, and potential changes to internal departmental procedures that would facilitate an efficient environmental review process for projects.

(B) CONSULTATION.—In conducting the review under subparagraph (A), the Secretary shall consult, as appropriate, with the heads of other Federal agencies that participate in the environmental review process.

(C) REPORT.—Not later than 2 years after the date of enactment of the Surface Transportation Reauthorization Act of 2021, 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 report that includes—

(i) the results of the review under subparagraph (A); and

(ii) an analysis of whether additional funding would help the Secretary meet the requirements applicable to projects under this section.

(d) PARTICIPATING AGENCIES.—

(1) IN GENERAL.—The lead agency shall be responsible for inviting and designating participating agencies in accordance with this subsection.

(2) INVITATION.—Not later than 45 days after the date of publication of a notice of intent to prepare an environmental impact statement or the initiation of an environmental assessment, the lead agency shall identify any other Federal and non-Federal agencies that may have an interest in the project, and shall invite such agencies to become participating agencies in the environmental review process for the project. The invitation shall set a deadline for responses to be submitted. The deadline may be extended by the lead agency for good cause.

(3) FEDERAL PARTICIPATING AGENCIES.—Any Federal agency that is invited by the lead agency to participate in the environmental review process for a project shall be designated as a participating agency by the lead agency unless the invited agency informs the lead agency, in writing, by the deadline specified in the invitation that the invited agency—

(A) has no jurisdiction or authority with respect to the project;

(B) has no expertise or information relevant to the project; and

(C) does not intend to submit comments on the project.

(4) EFFECT OF DESIGNATION.—

(A) REQUIREMENT.—A participating agency shall comply with the requirements of this section.

(B) IMPLICATION.—Designation as a participating agency under this subsection shall not imply that the participating agency—

(i) supports a proposed project; or

(ii) has any jurisdiction over, or special expertise with respect to evaluation of, the project.

(5) COOPERATING AGENCY.—A participating agency may also be designated by a lead agency as a "cooperating agency" under the regulations contained in part 1500 of title 40, Code of Federal Regulations.

(6) DESIGNATIONS FOR CATEGORIES OF PROJECTS.—The Secretary may exercise the authorities granted under this subsection for a project, class of projects, or program of projects.

(7) CONCURRENT REVIEWS.—Each participating agency and cooperating agency shall—

(A) carry out the obligations of that agency under other applicable law concurrently, and in conjunction, with the review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), unless doing so would impair the ability of the Federal agency to conduct needed analysis or otherwise carry out those obligations; and

(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.

(8) SINGLE ENVIRONMENTAL DOCUMENT.—

(A) IN GENERAL.—Except as inconsistent with paragraph (7) and except as provided in subparagraph (D), to the maximum extent practicable and consistent with Federal law, all Federal authorizations and reviews for a project shall rely on a single environmental document for each kind of environmental document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) under the leadership of the lead agency.

(B) USE OF DOCUMENT.—

(i) IN GENERAL.—To the maximum extent practicable, the lead agency shall develop environmental documents sufficient to satisfy the requirements for any Federal approval or other Federal action required for the project, including authorizations by other Federal agencies.

(ii) COOPERATION OF PARTICIPATING AGENCIES.—Other participating agencies shall cooperate with the lead agency and provide timely information to help the lead agency carry out this subparagraph.

(C) TREATMENT AS PARTICIPATING AND COOPERATING AGENCIES.—A Federal agency required to make an approval or take an action for a project, as described in subparagraph (B), shall work with the lead agency for the project to ensure that the agency making the approval or taking the action is treated as being both a participating and cooperating agency for the project.

(D) EXCEPTIONS.—The lead agency may waive the application of subparagraph (A) with respect to a project if—

(i) the project sponsor requests that agencies issue separate environmental documents;

(ii) the obligations of a cooperating agency or participating agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have already been satisfied with respect to the project; or

(iii) the lead agency determines that reliance on a single environmental document (as described in subparagraph (A)) would not facilitate timely completion of the environmental review process for the project.

(9) PARTICIPATING AGENCY RESPONSIBILITIES.—An agency participating in the environmental review process under this section shall—

(A) provide comments, responses, studies, or methodologies on those areas within the special expertise or jurisdiction of the agency; and

(B) use the process to address any environmental issues of concern to the agency.

(10) TIMELY AUTHORIZATIONS FOR MAJOR PROJECTS.—

(A) DEADLINE.—Except as provided in subparagraph (C), all authorization decisions necessary for the construction of a major project shall be completed by not later than 90 days after the date of the issuance of a record of decision for the major project.

(B) DETAIL.—The final environmental impact statement for a major project shall include an adequate level of detail to inform decisions necessary for the role of the participating agencies and cooperating agencies in the environmental review process.

(C) EXTENSION OF DEADLINE.—The head of the lead agency may extend the deadline under subparagraph (A) if—

(i) Federal law prohibits the lead agency or another agency from issuing an approval or permit within the period described in that subparagraph;

(ii) the project sponsor requests that the permit or approval follow a different timeline; or

(iii) an extension would facilitate completion of the environmental review and authorization process of the major project.

(e) PROJECT INITIATION.—

(1) IN GENERAL.—The project sponsor shall notify the Secretary of the type of work, termini, length and general location of the proposed project (including any additional information that the project sponsor considers to be important to initiate the process for the proposed project), together with a statement of any Federal approvals anticipated to be necessary for the proposed project, for the purpose of informing the Secretary that the environmental review process should be initiated.

(2) SUBMISSION OF DOCUMENTS.—The project sponsor may satisfy the requirement under paragraph (1) by submitting to the Secretary any relevant documents containing the information

described in that paragraph, including a draft notice for publication in the Federal Register announcing the preparation of an environmental review for the project.

(3) REVIEW OF APPLICATION.—Not later than 45 days after the date on which the Secretary receives notification under paragraph (1), the Secretary shall provide to the project sponsor a written response that, as applicable—

(A) describes the determination of the Secretary—

(i) to initiate the environmental review process, including a timeline and an expected date for the publication in the Federal Register of the relevant notice of intent; or

(ii) to decline the application, including an explanation of the reasons for that decision; or

(B) requests additional information, and provides to the project sponsor an accounting regarding what documentation is necessary to initiate the environmental review process.

(4) REQUEST TO DESIGNATE A LEAD AGENCY.—

(A) IN GENERAL.—Any project sponsor may submit to the Secretary a request to designate the operating administration or secretarial office within the Department of Transportation with the expertise on the proposed project to serve as the Federal lead agency for the project.

(B) SECRETARIAL ACTION.—

(i) IN GENERAL.—If the Secretary receives a request under subparagraph (A), the Secretary shall respond to the request not later than 45 days after the date of receipt.

(ii) REQUIREMENTS.—The response under clause (i) shall—

(I) approve the request;

(II) deny the request, with an explanation of the reasons for the denial; or

(III) require the submission of additional information.

(iii) ADDITIONAL INFORMATION.—If additional information is submitted in accordance with clause (ii)(III), the Secretary shall respond to the submission not later than 45 days after the date of receipt.

(5) ENVIRONMENTAL CHECKLIST.—

(A) DEVELOPMENT.—The lead agency for a project, in consultation with participating agencies, shall develop, as appropriate, a checklist to help project sponsors identify potential natural, cultural, and historic resources in the area of the project.

(B) PURPOSE.—The purposes of the checklist are—

(i) to identify agencies and organizations that can provide information about natural, cultural, and historic resources;

(ii) to develop the information needed to determine the range of alternatives; and

(iii) to improve interagency collaboration to help expedite the permitting process for the lead agency and participating agencies.

(f) PURPOSE AND NEED; ALTERNATIVES ANALYSIS.—

(1) PARTICIPATION.—As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in defining the purpose and need for a project.

(2) DEFINITION.—Following participation under paragraph (1), the lead agency shall define the project's purpose and need for purposes of any document which the lead agency is responsible for preparing for the project.

(3) OBJECTIVES.—The statement of purpose and need shall include a clear statement of the objectives that the proposed action is intended to achieve, which may include—

(A) achieving a transportation objective identified in an applicable statewide or metropolitan transportation plan;

(B) supporting land use, economic development, or growth objectives established in applicable Federal, State, local, or tribal plans; and

(C) serving national defense, national security, or other national objectives, as established in Federal laws, plans, or policies.

(4) ALTERNATIVES ANALYSIS.—

(A) PARTICIPATION.—

(i) In general.—As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in determining the range of alternatives to be considered for a project.

(ii) COMMENTS OF PARTICIPATING AGENCIES.—To the maximum extent practicable and consistent with applicable law, each participating agency receiving an opportunity for involvement under clause (i) shall limit the comments of the agency to subject matter areas within the special expertise or jurisdiction of the agency.

(iii) EFFECT OF NONPARTICIPATION.—A participating agency that declines to participate in the development of the purpose and need and range of alternatives for a project shall be required to comply with the schedule developed under subsection (g)(1)(B).

(B) RANGE OF ALTERNATIVES.—

(i) DETERMINATION.—Following participation under subparagraph (A), the lead agency shall determine the range of alternatives for consideration in any document which the lead agency is responsible for preparing for the project.

(ii) USE.—To the maximum extent practicable and consistent with Federal law, the range of alternatives determined for a project under clause (i) shall be used for all Federal environmental reviews and permit processes required for the project unless the alternatives must be modified—

(I) to address significant new information or circumstances, and the lead agency and participating agencies agree that the alternatives must be modified to address the new information or circumstances; or

(II) for the lead agency or a participating agency to fulfill the responsibilities of the agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in a timely manner.

(C) METHODOLOGIES.—The lead agency also shall determine, in collaboration with participating agencies at appropriate times during the study process, the methodologies to be used and the level of detail required in the analysis of each alternative for a project.

(D) PREFERRED ALTERNATIVE.—At the discretion of the lead agency, the preferred alternative for a project, after being identified, may be developed to a higher level of detail than other alternatives in order to facilitate the development of mitigation measures or concurrent compliance with other applicable laws if the lead agency determines that the development of such higher level of detail will not prevent the lead agency from making an impartial decision as to whether to accept another alternative which is being considered in the environmental review process.

(E) REDUCTION OF DUPLICATION.—

(i) IN GENERAL.—In carrying out this paragraph, the lead agency shall reduce duplication, to the maximum extent practicable, between—

(I) the evaluation of alternatives under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(II) the evaluation of alternatives in the metropolitan transportation planning process under section 134 or an environmental review process carried out under State law (referred to in this subparagraph as a "State environmental review process").

(ii) CONSIDERATION OF ALTERNATIVES.—The lead agency may eliminate from detailed consideration an alternative proposed in an environmental impact statement regarding a project if, as determined by the lead agency—

(I) the alternative was considered in a metropolitan planning process or a State environmental review process by a metropolitan planning organization or a State or local transportation agency, as applicable;

(II) the lead agency provided guidance to the metropolitan planning organization or State or local transportation agency, as applicable, regarding analysis of alternatives in the metropolitan planning process or State environmental review process, including guidance on the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other Federal law necessary for approval of the project;

(III) the applicable metropolitan planning process or State environmental review process included an opportunity for public review and comment;

(IV) the applicable metropolitan planning organization or State or local transportation agency rejected the alternative after considering public comments;

(V) the Federal lead agency independently reviewed the alternative evaluation approved by the applicable metropolitan planning organization or State or local transportation agency; and

(VI) the Federal lead agency determined—

(aa) in consultation with Federal participating or cooperating agencies, that the alternative to be eliminated from consideration is not necessary for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(bb) with the concurrence of Federal agencies with jurisdiction over a permit or approval required for a project, that the alternative to be eliminated from consideration is not necessary for any permit or approval under any other Federal law.

(g) COORDINATION AND SCHEDULING.—

(1) COORDINATION PLAN.—

(A) IN GENERAL.—Not later than 90 days after the date of publication of a notice of intent to prepare an environmental impact statement or the initiation of an environmental assessment, the lead agency shall establish a plan for coordinating public and agency participation in and comment on the environmental review process for a project or category of projects. The coordination plan may be incorporated into a memorandum of understanding.

(B) SCHEDULE.—

(i) IN GENERAL.—The lead agency shall establish as part of such coordination plan, after consultation with and the concurrence of each participating agency for the project and with the State in which the project is located (and, if the State is not the project sponsor, with the project sponsor), a schedule for completion of the environmental review process for the project.

(ii) FACTORS FOR CONSIDERATION.—In establishing the schedule, the lead agency shall consider factors such as—

(I) the responsibilities of participating agencies under applicable laws;

(II) resources available to the cooperating agencies;

(III) overall size and complexity of the project;

(IV) the overall time required by an agency to conduct an environmental review and make decisions under applicable Federal law relating to a project (including the issuance or denial of a permit or license) and the cost of the project; and

(V) the sensitivity of the natural and historic resources that could be affected by the project.

(iii) MAJOR PROJECT SCHEDULE.—To the maximum extent practicable and consistent with applicable Federal law, in the case of a major project, the lead agency shall develop, in concurrence with the project sponsor, a schedule for the major project that is consistent with an agency average of not more than 2 years for the completion of the environmental review process for major projects, as measured from, as applicable—

(I) the date of publication of a notice of intent to prepare an environmental impact

statement to the record of decision; or

(II) the date on which the head of the lead agency determines that an environmental assessment is required to a finding of no significant impact.

(C) CONSISTENCY WITH OTHER TIME PERIODS.—A schedule under subparagraph (B) shall be consistent with any other relevant time periods established under Federal law.

(D) MODIFICATION.—

(i) IN GENERAL.—Except as provided in clause (ii), the lead agency may lengthen or shorten a schedule established under subparagraph (B) for good cause.

(ii) EXCEPTIONS.—

(I) MAJOR PROJECTS.—In the case of a major project, the lead agency may lengthen a schedule under clause (i) for a cooperating Federal agency by not more than 1 year after the latest deadline established for the major project by the lead agency.

(II) SHORTENED SCHEDULES.—The lead agency may not shorten a schedule under clause (i) if doing so would impair the ability of a cooperating Federal agency to conduct necessary analyses or otherwise carry out relevant obligations of the Federal agency for the project.

(E) FAILURE TO MEET DEADLINE.—If a cooperating Federal agency fails to meet a deadline established under subparagraph (D)(ii)(I)—

(i) the cooperating Federal agency shall submit to the Secretary a report that describes the reasons why the deadline was not met; and

(ii) the Secretary shall—

(I) transmit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a copy of the report under clause (i); and

(II) make the report under clause (i) publicly available on the internet.

(F) DISSEMINATION.—A copy of a schedule under subparagraph (B), and of any modifications to the schedule, shall be—

(i) provided to all participating agencies and to the State transportation department of the State in which the project is located (and, if the State is not the project sponsor, to the project sponsor); and

(ii) made available to the public.

(2) COMMENT DEADLINES.—The lead agency shall establish the following deadlines for comment during the environmental review process for a project:

(A) For comments by agencies and the public on a draft environmental impact statement, a period of not more than 60 days after publication in the Federal Register of notice of the date of public availability of such document, unless—

(i) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or

(ii) the deadline is extended by the lead agency for good cause.

(B) For all other comment periods established by the lead agency for agency or public comments in the environmental review process, a period of no more than 30 days from availability of the materials on which comment is requested, unless—

(i) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or

(ii) the deadline is extended by the lead agency for good cause.

(3) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—In any case in which a decision under any Federal law relating to a project (including the issuance or denial of a permit or

license) is required to be made by the later of the date that is 180 days after the date on which the Secretary made all final decisions of the lead agency with respect to the project, or 180 days after the date on which an application was submitted for the permit or license, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and publish on the Internet—

(A) as soon as practicable after the 180-day period, an initial notice of the failure of the Federal agency to make the decision; and

(B) every 60 days thereafter until such date as all decisions of the Federal agency relating to the project have been made by the Federal agency, an additional notice that describes the number of decisions of the Federal agency that remain outstanding as of the date of the additional notice.

(4) INVOLVEMENT OF THE PUBLIC.—Nothing in this subsection shall reduce any time period provided for public comment in the environmental review process under existing Federal law, including a regulation.

(h) ISSUE IDENTIFICATION AND RESOLUTION.—

(1) COOPERATION.—The lead agency and the participating agencies shall work cooperatively in accordance with this section to identify and resolve issues that could delay completion of the environmental review process or could result in denial of any approvals required for the project under applicable laws.

(2) LEAD AGENCY RESPONSIBILITIES.—The lead agency shall make information available to the participating agencies as early as practicable in the environmental review process regarding the environmental and socioeconomic resources located within the project area and the general locations of the alternatives under consideration. Such information may be based on existing data sources, including geographic information systems mapping.

(3) PARTICIPATING AGENCY RESPONSIBILITIES.—Based on information received from the lead agency, participating agencies shall identify, as early as practicable, any issues of concern regarding the project's potential environmental or socioeconomic impacts. In this paragraph, issues of concern include any issues that could substantially delay or prevent an agency from granting a permit or other approval that is needed for the project.

(4) ISSUE RESOLUTION.—Any issue resolved by the lead agency with the concurrence of participating agencies may not be reconsidered unless significant new information or circumstances arise.

(5) INTERIM DECISION ON ACHIEVING ACCELERATED DECISIONMAKING.—

(A) IN GENERAL.—Not later than 30 days after the close of the public comment period on a draft environmental impact statement, the Secretary may convene a meeting with the project sponsor, lead agency, resource agencies, and any relevant State agencies to ensure that all parties are on schedule to meet deadlines for decisions to be made regarding the project.

(B) DEADLINES.—The deadlines referred to in subparagraph (A) shall be those established under subsection (g), or any other deadlines established by the lead agency, in consultation with the project sponsor and other relevant agencies.

(C) FAILURE TO ASSURE.—If the relevant agencies cannot provide reasonable assurances that the deadlines described in subparagraph (B) will be met, the Secretary may initiate the issue resolution and referral process described under paragraph (6) before the completion of the record of decision.

(6) ACCELERATED ISSUE RESOLUTION AND REFERRAL.—

(A) AGENCY ISSUE RESOLUTION MEETING.—

(i) IN GENERAL.—A Federal agency of jurisdiction, project sponsor, or the Governor of a State in which a project is located may request an issue resolution meeting to be conducted by the lead agency.

(ii) ACTION BY LEAD AGENCY.—The lead agency shall convene an issue resolution

meeting under clause (i) with the relevant participating agencies and the project sponsor, including the Governor only if the meeting was requested by the Governor, to resolve issues that could—

(I) delay completion of the environmental review process; or

(II) result in denial of any approvals required for the project under applicable laws.

(iii) DATE.—A meeting requested under this subparagraph shall be held by not later than 21 days after the date of receipt of the request for the meeting, unless the lead agency determines that there is good cause to extend the time for the meeting.

(iv) NOTIFICATION.—On receipt of a request for a meeting under this subparagraph, the lead agency shall notify all relevant participating agencies of the request, including the issue to be resolved, and the date for the meeting.

(v) DISPUTES.—If a relevant participating agency with jurisdiction over an approval required for a project under applicable law determines that the relevant information necessary to resolve the issue has not been obtained and could not have been obtained within a reasonable time, but the lead agency disagrees, the resolution of the dispute shall be forwarded to the heads of the relevant agencies for resolution.

(vi) CONVENTION BY LEAD AGENCY.—A lead agency may convene an issue resolution meeting under this subsection at any time without the request of the Federal agency of jurisdiction, project sponsor, or the Governor of a State.

(B) ELEVATION OF ISSUE RESOLUTION.—

(i) IN GENERAL.—If issue resolution is not achieved by not later than 30 days after the date of a relevant meeting under subparagraph (A), the Secretary shall notify the lead agency, the heads of the relevant participating agencies, and the project sponsor (including the Governor only if the initial issue resolution meeting request came from the Governor) that an issue resolution meeting will be convened.

(ii) REQUIREMENTS.—The Secretary shall identify the issues to be addressed at the meeting and convene the meeting not later than 30 days after the date of issuance of the notice.

(C) REFERRAL OF ISSUE RESOLUTION.—

(i) REFERRAL TO COUNCIL ON ENVIRONMENTAL QUALITY.—

(I) IN GENERAL.—If resolution is not achieved by not later than 30 days after the date of an issue resolution meeting under subparagraph (B), the Secretary shall refer the matter to the Council on Environmental Quality.

(II) MEETING.—Not later than 30 days after the date of receipt of a referral from the Secretary under subclause (I), the Council on Environmental Quality shall hold an issue resolution meeting with the lead agency, the heads of relevant participating agencies, and the project sponsor (including the Governor only if an initial request for an issue resolution meeting came from the Governor).

(ii) REFERRAL TO THE PRESIDENT.—If a resolution is not achieved by not later than 30 days after the date of the meeting convened by the Council on Environmental Quality under clause (i)(II), the Secretary shall refer the matter directly to the President.

(7) FINANCIAL PENALTY PROVISIONS.—

(A) IN GENERAL.—A Federal agency of jurisdiction over an approval required for a project under applicable laws shall complete any required approval on an expeditious basis using the shortest existing applicable process.

(B) FAILURE TO DECIDE.—

(i) IN GENERAL.—If an agency described in subparagraph (A) fails to render a decision under any Federal law relating to a project that requires the preparation of an environmental

impact statement or environmental assessment, including the issuance or denial of a permit, license, or other approval by the date described in clause (ii), an amount of funding equal to the amounts specified in subclause (I) or (II) shall be rescinded from the applicable office of the head of the agency, or equivalent office to which the authority for rendering the decision has been delegated by law by not later than 1 day after the applicable date under clause (ii), and once each week thereafter until a final decision is rendered, subject to subparagraph (C)—

(I) $20,000 for any project for which an annual financial plan is required under subsection (h) or (i) of section 106; or

(II) $10,000 for any other project requiring preparation of an environmental assessment or environmental impact statement.

(ii) DESCRIPTION OF DATE.—The date referred to in clause (i) is—

(I) the date that is 30 days after the date for rendering a decision as described in the project schedule established pursuant to subsection (g)(1)(B);

(II) if no schedule exists, the later of—

(aa) the date that is 180 days after the date on which an application for the permit, license, or approval is complete; and

(bb) the date that is 180 days after the date on which the Federal lead agency issues a decision on the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(III) a modified date in accordance with subsection (g)(1)(D).

(C) LIMITATIONS.—

(i) IN GENERAL.—No rescission of funds under subparagraph (B) relating to an individual project shall exceed, in any fiscal year, an amount equal to 2.5 percent of the funds made available for the applicable agency office.

(ii) FAILURE TO DECIDE.—The total amount rescinded in a fiscal year as a result of a failure by an agency to make a decision by an applicable deadline shall not exceed an amount equal to 7 percent of the funds made available for the applicable agency office for that fiscal year.

(D) NO FAULT OF AGENCY.—A rescission of funds under this paragraph shall not be made if the lead agency for the project certifies that—

(i) the agency has not received necessary information or approvals from another entity, such as the project sponsor, in a manner that affects the ability of the agency to meet any requirements under State, local, or Federal law; or

(ii) significant new information or circumstances, including a major modification to an aspect of the project, requires additional analysis for the agency to make a decision on the project application.

(E) LIMITATION.—The Federal agency with jurisdiction for the decision from which funds are rescinded pursuant to this paragraph shall not reprogram funds to the office of the head of the agency, or equivalent office, to reimburse that office for the loss of the funds.

(F) AUDITS.—In any fiscal year in which any funds are rescinded from a Federal agency pursuant to this paragraph, the Inspector General of that agency shall—

(i) conduct an audit to assess compliance with the requirements of this paragraph; and

(ii) not later than 120 days after the end of the fiscal year during which the rescission occurred, submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing the reasons why the transfers were levied, including allocations of resources.

(G) EFFECT OF PARAGRAPH.—Nothing in this paragraph affects or limits the application of, or obligation to comply with, any Federal, State, local, or tribal law.

(8) EXPEDIENT DECISIONS AND REVIEWS.—To ensure that Federal environmental decisions and reviews are expeditiously made—

(A) adequate resources made available under this title shall be devoted to ensuring that applicable environmental reviews under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are completed on an expeditious basis and that the shortest existing applicable process under that Act is implemented; and

(B) the President 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, not less frequently than once every 120 days after the date of enactment of the MAP–21, a report on the status and progress of the following projects and activities funded under this title with respect to compliance with applicable requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.):

(i) Projects and activities required to prepare an annual financial plan under section 106(i).

(ii) A sample of not less than 5 percent of the projects requiring preparation of an environmental impact statement or environmental assessment in each State.

(i) PERFORMANCE MEASUREMENT.—The Secretary shall establish a program to measure and report on progress toward improving and expediting the planning and environmental review process.

(j) ASSISTANCE TO AFFECTED STATE AND FEDERAL AGENCIES.—

(1) IN GENERAL.—

(A) AUTHORITY TO PROVIDE FUNDS.—The Secretary may allow a public entity receiving financial assistance from the Department of Transportation under this title or chapter 53 of title 49 to provide funds to Federal agencies (including the Department), State agencies, and Indian tribes participating in the environmental review process for the project or program.

(B) USE OF FUNDS.—Funds referred to in subparagraph (A) may be provided only to support activities that directly and meaningfully contribute to expediting and improving permitting and review processes, including planning, approval, and consultation processes for the project or program.

(2) ACTIVITIES ELIGIBLE FOR FUNDING.—Activities for which funds may be provided under paragraph (1) include transportation planning activities that precede the initiation of the environmental review process, activities directly related to the environmental review process, dedicated staffing, training of agency personnel, information gathering and mapping, and development of programmatic agreements.

(3) USE OF FEDERAL LANDS HIGHWAY FUNDS.—The Secretary may also use funds made available under section 204 [1] for a project for the purposes specified in this subsection with respect to the environmental review process for the project.

(4) AMOUNTS.—Requests under paragraph (1) may be approved only for the additional amounts that the Secretary determines are necessary for the Federal agencies, State agencies, or Indian tribes participating in the environmental review process to meet the time limits for environmental review.

(5) CONDITION.—A request under paragraph (1) to expedite time limits for environmental review may be approved only if such time limits are less than the customary time necessary for such review.

(6) AGREEMENT.—Prior to providing funds approved by the Secretary for dedicated staffing at an affected agency under paragraphs (1) and (2), the affected agency and the requesting public entity shall enter into an agreement that establishes the projects and priorities to be addressed by the use of the funds.

(k) JUDICIAL REVIEW AND SAVINGS CLAUSE.—

(1) JUDICIAL REVIEW.—Except as set forth under subsection (l), nothing in this section shall affect the reviewability of any final Federal agency action in a court of the United States or in the court of any State.

(2) SAVINGS CLAUSE.—Nothing in this section shall be construed as superseding, amending, or modifying the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other Federal environmental statute or affect the responsibility of any Federal officer to comply with or enforce any such statute.

(3) LIMITATIONS.—Nothing in this section shall preempt or interfere with—

(A) any practice of seeking, considering, or responding to public comment; or

(B) any power, jurisdiction, responsibility, or authority that a Federal, State, or local government agency, metropolitan planning organization, Indian tribe, or project sponsor has with respect to carrying out a project or any other provisions of law applicable to projects, plans, or programs.

(l) LIMITATIONS ON CLAIMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of a permit, license, or approval issued by a Federal agency for a highway or public transportation capital project shall be barred unless it is filed within 150 days after publication of a notice in the Federal Register announcing that the permit, license, or approval is final pursuant to the law under which the agency action is taken, unless a shorter time is specified in the Federal law pursuant to which judicial review is allowed. Nothing in this subsection shall create a right to judicial review or place any limit on filing a claim that a person has violated the terms of a permit, license, or approval.

(2) NEW INFORMATION.—The Secretary shall consider new information received after the close of a comment period if the information satisfies the requirements for a supplemental environmental impact statement under section 771.130 of title 23, Code of Federal Regulations. The preparation of a supplemental environmental impact statement when required shall be considered a separate final agency action and the deadline for filing a claim for judicial review of such action shall be 150 days after the date of publication of a notice in the Federal Register announcing such action.

(m) ENHANCED TECHNICAL ASSISTANCE AND ACCELERATED PROJECT COMPLETION.—

(1) DEFINITION OF COVERED PROJECT.—In this subsection, the term "covered project" means a project—

(A) that has an ongoing environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) for which at least 2 years, beginning on the date on which a notice of intent is issued, have elapsed without the issuance of a record of decision.

(2) TECHNICAL ASSISTANCE.—At the request of a project sponsor or the Governor of a State in which a project is located, the Secretary shall provide additional technical assistance to resolve for a covered project any outstanding issues and project delay, including by—

(A) providing additional staff, training, and expertise;

(B) facilitating interagency coordination;

(C) promoting more efficient collaboration; and

(D) supplying specialized onsite assistance.

(3) SCOPE OF WORK.—

(A) IN GENERAL.—In providing technical assistance for a covered project under this subsection, the Secretary shall establish a scope of work that describes the actions that the Secretary will take to resolve the outstanding issues and project delays, including establishing a

schedule under subparagraph (B).

(B) SCHEDULE.—

(i) IN GENERAL.—The Secretary shall establish and meet a schedule for the completion of any permit, approval, review, or study, required for the covered project by the date that is not later than 4 years after the date on which a notice of intent for the covered project is issued.

(ii) INCLUSIONS.—The schedule under clause (i) shall—

(I) comply with all applicable laws;

(II) require the concurrence of the Council on Environmental Quality and each participating agency for the project with the State in which the project is located or the project sponsor, as applicable; and

(III) reflect any new information that becomes available and any changes in circumstances that may result in new significant impacts that could affect the timeline for completion of any permit, approval, review, or study required for the covered project.

(4) CONSULTATION.—In providing technical assistance for a covered project under this subsection, the Secretary shall consult, if appropriate, with resource and participating agencies on all methods available to resolve the outstanding issues and project delays for a covered project as expeditiously as possible.

(5) ENFORCEMENT.—

(A) IN GENERAL.—All provisions of this section shall apply to this subsection, including the financial penalty provisions under subsection (h)(6).

(B) RESTRICTION.—If the Secretary enforces this subsection under subsection (h)(6), the Secretary may use a date included in a schedule under paragraph (3)(B) that is created pursuant to and is in compliance with this subsection in lieu of the dates under subsection (h)(6)(B)(ii).

(n) ACCELERATED DECISIONMAKING IN ENVIRONMENTAL REVIEWS.—

(1) IN GENERAL.—In preparing a final environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if the lead agency modifies the statement in response to comments that are minor and are confined to factual corrections or explanations of why the comments do not warrant additional agency response, the lead agency may write on errata sheets attached to the statement instead of rewriting the draft statement, subject to the condition that the errata sheets—

(A) cite the sources, authorities, and reasons that support the position of the agency; and

(B) if appropriate, indicate the circumstances that would trigger agency reappraisal or further response.

(2) SINGLE DOCUMENT.—To the maximum extent practicable, the lead agency shall expeditiously develop a single document that consists of a final environmental impact statement and a record of decision, unless—

(A) the final environmental impact statement makes substantial changes to the proposed action that are relevant to environmental or safety concerns; or

(B) there is a significant new circumstance or information relevant to environmental concerns that bears on the proposed action or the impacts of the proposed action.

(3) LENGTH OF ENVIRONMENTAL DOCUMENT.—

(A) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subparagraph (B), to the maximum extent practicable, the text of the items described in paragraphs (4) through (6) of section 1502.10(a) of title 40, Code of Federal Regulations (or successor regulations), of an environmental impact statement for a project shall be 200 pages or fewer.

(B) EXEMPTION.—An environmental impact statement for a project may exceed 200 pages, if the lead agency establishes a new page limit for the environmental impact statement for that

project.

(o) IMPROVING TRANSPARENCY IN ENVIRONMENTAL REVIEWS.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this subsection, the Secretary shall—

(A) use the searchable Internet website maintained under section 41003(b) of the FAST Act—

(i) to make publicly available the status and progress of projects requiring an environmental assessment or an environmental impact statement with respect to compliance with applicable requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other Federal, State, or local approval required for those projects; and

(ii) to make publicly available the names of participating agencies not participating in the development of a project purpose and need and range of alternatives under subsection (f); and

(B) issue reporting standards to meet the requirements of subparagraph (A).

(2) FEDERAL, STATE, AND LOCAL AGENCY PARTICIPATION.—

(A) FEDERAL AGENCIES.—A Federal agency participating in the environmental review or permitting process for a project shall provide to the Secretary information regarding the status and progress of the approval of the project for publication on the Internet website referred to in paragraph (1)(A), consistent with the standards established under paragraph (1)(B).

(B) STATE AND LOCAL AGENCIES.—The Secretary shall encourage State and local agencies participating in the environmental review permitting process for a project to provide information regarding the status and progress of the approval of the project for publication on the Internet website referred to in paragraph (1)(A).

(3) STATES WITH DELEGATED AUTHORITY.—A State with delegated authority for responsibilities under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) pursuant to section 327 shall be responsible for supplying to the Secretary project development and compliance status for all applicable projects.

(p) ACCOUNTABILITY AND REPORTING FOR MAJOR PROJECTS.—

(1) IN GENERAL.—The Secretary shall establish a performance accountability system to track each major project.

(2) REQUIREMENTS.—The performance accountability system under paragraph (1) shall, for each major project, track, at a minimum—

(A) the environmental review process for the major project, including the project schedule;

(B) whether the lead agency, cooperating agencies, and participating agencies are meeting the schedule established for the environmental review process; and

(C) the time taken to complete the environmental review process.

(q) DEVELOPMENT OF CATEGORICAL EXCLUSIONS.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this subsection, and every 4 years thereafter, the Secretary shall—

(A) in consultation with the agencies described in paragraph (2), identify the categorical exclusions described in section 771.117 of title 23, Code of Federal Regulations (or successor regulations), that would accelerate delivery of a project if those categorical exclusions were available to those agencies;

(B) collect existing documentation and substantiating information on the categorical exclusions described in subparagraph (A); and

(C) provide to each agency described in paragraph (2)—

(i) a list of the categorical exclusions identified under subparagraph (A); and

(ii) the documentation and substantiating information under subparagraph (B).

(2) AGENCIES DESCRIBED.—The agencies referred to in paragraph (1) are—

(A) the Department of the Interior;

(B) the Department of the Army;

(C) the Department of Commerce;

(D) the Department of Agriculture;

(E) the Department of Energy;

(F) the Department of Defense; and

(G) any other Federal agency that has participated in an environmental review process for a project, as determined by the Secretary.

(3) ADOPTION OF CATEGORICAL EXCLUSIONS.—

(A) IN GENERAL.—Not later than 1 year after the date on which the Secretary provides a list under paragraph (1)(C), an agency described in paragraph (2) shall publish a notice of proposed rulemaking to propose any categorical exclusions from the list applicable to the agency, subject to the condition that the categorical exclusion identified under paragraph (1)(A) meets the criteria for a categorical exclusion under section 1508.1 of title 40, Code of Federal Regulations (or successor regulations).

(B) PUBLIC COMMENT.—In a notice of proposed rulemaking under subparagraph (A), the applicable agency may solicit comments on whether any of the proposed new categorical exclusions meet the criteria for a categorical exclusion under section 1508.1 of title 40, Code of Federal Regulations (or successor regulations).

(Added Pub. L. 109–59, title VI, §6002(a), Aug. 10, 2005, 119 Stat. 1857; amended Pub. L. 112–141, div. A, title I, §§1305–1309, July 6, 2012, 126 Stat. 533–539; Pub. L. 114–94, div. A, title I, §1304(a)–(j)(1), Dec. 4, 2015, 129 Stat. 1378–1385; Pub. L. 117–58, div. A, title I, §§11301(a), 11525(h), Nov. 15, 2021, 135 Stat. 525, 607.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (a)(3)–(5), (7)(A)(i), (b)(1), (3)(A)(iii)(I), (c)(2), (3), (6)(B), (d)(7)(A), (8)(A), (D)(ii), (f)(4)(B)(ii)(II), (E)(i)(I), (ii)(II), (VI)(aa), (h)(7)(B)(ii)(II)(bb), (8), (k)(2), (m)(1)(A), (n)(1), and (o)(1)(A)(i), (3), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The date of enactment of the Surface Transportation Reauthorization Act of 2021 and the date of enactment of this subsection, referred to in subsecs. (c)(7)(C) and (q)(1), are the date of enactment of div. A of Pub. L. 117–58, which was approved Nov. 15, 2021.

The date of enactment of the MAP–21, referred to in subsec. (h)(8)(B), is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title.

Section 204 of this title, referred to in subsec. (j)(3), was repealed and a new section 204 enacted by Pub. L. 112–141, div. A, title I, §1119(a), July 6, 2012, 126 Stat. 473, 489.

The date of enactment of this subsection, referred to in subsec. (o)(1), is the date of enactment of Pub. L. 114–94, which was approved Dec. 4, 2015.

Section 41003(b) of the FAST Act, referred to in subsec. (o)(1)(A), is section 41003(b) of Pub. L. 114–94, known as the FAST Act and also known as the Fixing America's Surface Transportation Act, which is classified to section 4370m–2(b) of Title 42, The Public Health and Welfare.

CODIFICATION

Section 6002(a) of Pub. L. 109–59, which directed that this section be inserted after section 138 of subchapter I of chapter 1 of this title, was executed by adding this section after section 138 of chapter 1 of this title, to reflect the probable intent of Congress and the amendment by Pub. L. 109–59, §1602(b)(6)(A), which struck out the subchapter I heading preceding section 101 of this title.

PRIOR PROVISIONS

A prior section 139, added Pub. L. 90–495, §16(a), Aug. 23, 1968, 82 Stat. 823; amended Pub. L. 91–605, title I, §§106(b)(1), 140, Dec. 31, 1970, 84 Stat. 1716, 1736; Pub. L. 94–280, title I, §125, May 5, 1976, 90 Stat. 440; Pub. L. 97–134, §10, Dec. 29, 1981, 95 Stat. 1702; Pub. L. 97–424, title I, §116(a)(3), Jan. 6, 1983, 96 Stat. 2109; Pub. L. 98–229, §8(a), Mar. 9, 1984, 98 Stat. 56, related to additions to the Interstate System, prior to repeal by Pub. L. 105–178, title I, §1106(c)(2)(A), June 9, 1998, 112 Stat. 136.

AMENDMENTS

2021—Pub. L. 117–58, §11301(a)(1), substituted "decisionmaking and One Federal Decision" for "decisionmaking" in section catchline.

Subsec. (a)(2) to (5). Pub. L. 117–58, §11301(a)(2)(A), (B), added pars. (2) and (3) and redesignated former pars. (2) and (3) as (4) and (5), respectively. Former pars. (4) and (5) redesignated (6) and (8), respectively.

Subsec. (a)(5)(B). Pub. L. 117–58, §11301(a)(2)(C), substituted "process and schedule, including a timetable for and completion of any environmental permit" for "process for and completion of any environmental permit".

Subsec. (a)(6). Pub. L. 117–58, §11301(a)(2)(A), redesignated par. (4) as (6). Former par. (6) redesignated (9).

Subsec. (a)(7). Pub. L. 117–58, §11301(a)(2)(D), added par. (7). Former par. (7) redesignated (10).

Subsec. (a)(8) to (11). Pub. L. 117–58, §11301(a)(2)(A), redesignated pars. (5) to (8) as (8), (9), (10), and (11), respectively.

Subsec. (b)(1). Pub. L. 117–58, §11525(h)(1), inserted "(42 U.S.C. 4321 et seq.)" after "Act of 1969".

Pub. L. 117–58, §11301(a)(3), inserted ", including major projects," after "all projects" and "as requested by a project sponsor and" after "applied,".

Subsec. (c). Pub. L. 117–58, §11525(h)(2), inserted "(42 U.S.C. 4321 et seq.)" after "Act of 1969" wherever appearing.

Subsec. (c)(6)(D). Pub. L. 117–58, §11301(a)(4)(A), added subpar. (D).

Subsec. (c)(7). Pub. L. 117–58, §11301(a)(4)(B), added par. (7).

Subsec. (d)(8). Pub. L. 117–58, §11301(a)(5)(A)(i), substituted "environmental" for "NEPA" in heading.

Subsec. (d)(8)(A). Pub. L. 117–58, §11301(a)(5)(A)(ii), inserted "and except as provided in subparagraph (D)" after "paragraph (7)" and substituted "authorizations" for "permits" and "single environmental document for each kind of environmental document" for "single environment document".

Subsec. (d)(8)(B)(i). Pub. L. 117–58, §11301(a)(5)(A)(iii), substituted "environmental documents" for "an environmental document" and "authorizations" for "permits issued".

Subsec. (d)(8)(D). Pub. L. 117–58, §11301(a)(5)(A)(iv), added subpar. (D).

Subsec. (d)(10). Pub. L. 117–58, §11301(a)(5)(B), added par. (10).

Subsec. (g)(1)(B)(ii)(IV). Pub. L. 117–58, §11301(a)(6)(A)(i), substituted "time required by an agency to conduct an environmental review and make decisions under applicable Federal law relating to a project (including the issuance or denial of a permit or license) and the cost of" for "schedule for and cost of".

Subsec. (g)(1)(B)(iii). Pub. L. 117–58, §11301(a)(6)(A)(ii), added cl. (iii).

Subsec. (g)(1)(D). Pub. L. 117–58, §11301(a)(6)(B), added subpar. (D) and struck out former subpar. (D). Prior to amendment, text read as follows: "The lead agency may—

"(i) lengthen a schedule established under subparagraph (B) for good cause; and

"(ii) shorten a schedule only with the concurrence of the affected cooperating agencies."

Subsec. (g)(1)(E), (F). Pub. L. 117–58, §11301(a)(6)(C), (D), added subpar. (E) and redesignated former subpar. (E) as (F).

Subsec. (k)(2). Pub. L. 117–58, §11525(h)(3), inserted "(42 U.S.C. 4321 et seq.)" after "Act of 1969".

Subsec. (n)(3). Pub. L. 117–58, §11301(a)(7), added par. (3).

Subsecs. (p), (q). Pub. L. 117–58, §11301(a)(8), added subsecs. (p) and (q).

2015—Subsec. (a)(5). Pub. L. 114–94, §1304(a)(1), added par. (5) and struck out former par. (5). Prior to amendment, text read as follows: "The term 'multimodal project' means a project funded, in whole or in part, under this title or chapter 53 of title 49 and involving the participation of more than one Department of Transportation administration or agency."

Subsec. (a)(6). Pub. L. 114–94, §1304(a)(2), added par. (6) and struck out former par. (6). Prior to amendment, text read as follows: "The term 'project' means any highway project, public transportation capital project, or multimodal project that requires the approval of the Secretary."

Subsec. (b)(3)(A). Pub. L. 114–94, §1304(b)(1), struck out "initiate a rulemaking to" after "shall" in introductory provisions.

Subsec. (b)(3)(B). Pub. L. 114–94, §1304(b)(2), added subpar. (B) and struck out former subpar. (B) which

related to programmatic compliance requirements.

Subsec. (c)(1)(A). Pub. L. 114–94, §1304(c)(1), inserted ", or an operating administration thereof designated by the Secretary," after "Department of Transportation".

Subsec. (c)(6)(C). Pub. L. 114–94, §1304(c)(2), added subpar. (C).

Subsec. (d)(2). Pub. L. 114–94, §1304(d)(1), substituted "Not later than 45 days after the date of publication of a notice of intent to prepare an environmental impact statement or the initiation of an environmental assessment, the lead agency shall identify" for "The lead agency shall identify, as early as practicable in the environmental review process for a project,".

Subsec. (d)(8), (9). Pub. L. 114–94, §1304(d)(2), added pars. (8) and (9).

Subsec. (e)(1). Pub. L. 114–94, §1304(e)(1), inserted "(including any additional information that the project sponsor considers to be important to initiate the process for the proposed project)" after "general location of the proposed project".

Subsec. (e)(3) to (5). Pub. L. 114–94, §1304(e)(2), added pars. (3) to (5).

Subsec. (f). Pub. L. 114–94, §1304(f)(1), inserted "; Alternatives Analysis" after "Need" in heading.

Subsec. (f)(4)(A). Pub. L. 114–94, §1304(f)(2)(A), added subpar. (A) and struck out former subpar. (A). Prior to amendment, text read as follows: "As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in determining the range of alternatives to be considered for a project."

Subsec. (f)(4)(B). Pub. L. 114–94, §1304(f)(2)(B), designated existing provisions as cl. (i), inserted heading, substituted "Following participation under subparagraph (A)" for "Following participation under paragraph (1)", and added cl. (ii).

Subsec. (f)(4)(E). Pub. L. 114–94, §1304(f)(2)(C), added subpar. (E).

Subsec. (g)(1)(A). Pub. L. 114–94, §1304(g)(1)(A), substituted "Not later than 90 days after the date of publication of a notice of intent to prepare an environmental impact statement or the initiation of an environmental assessment, the lead agency" for "The lead agency".

Subsec. (g)(1)(B)(i). Pub. L. 114–94, §1304(g)(1)(B), substituted "shall establish as part of such coordination plan" for "may establish as part of the coordination plan".

Subsec. (g)(3). Pub. L. 114–94, §1304(g)(2), inserted "and publish on the Internet" after "House of Representatives" in introductory provisions.

Subsec. (h)(4). Pub. L. 114–94, §1304(h)(1)(B), added par. (4). Former par. (4) redesignated (5).

Subsec. (h)(5). Pub. L. 114–94, §1304(h)(1)(A), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (h)(5)(C). Pub. L. 114–94, §1304(h)(2), substituted "paragraph (6)" for "paragraph (5) and".

Subsec. (h)(6), (7). Pub. L. 114–94, §1304(h)(1)(A), redesignated pars. (5) and (6) as (6) and (7), respectively. Former par. (7) redesignated (8).

Subsec. (h)(7)(B)(i)(I). Pub. L. 114–94, §1304(h)(3)(A), substituted "is required under subsection (h) or (i) of section 106" for "under section 106(i) is required".

Subsec. (h)(7)(B)(ii). Pub. L. 114–94, §1304(h)(3)(B), added cl. (ii) and struck out former cl. (ii). Prior to amendment, text read as follows: "The date referred to in clause (i) is the later of—

"(I) the date that is 180 days after the date on which an application for the permit, license, or approval is complete; and

"(II) the date that is 180 days after the date on which the Federal lead agency issues a decision on the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)."

Subsec. (h)(8). Pub. L. 114–94, §1304(h)(1)(A), redesignated par. (7) as (8).

Subsec. (j)(1). Pub. L. 114–94, §1304(i)(1), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: "For a project that is subject to the environmental review process established under this section and for which funds are made available to a State under this title or chapter 53 of title 49, the Secretary may approve a request by the State to provide funds so made available under this title or such chapter 53 to affected Federal agencies (including the Department of Transportation), State agencies, and Indian tribes participating in the environmental review process for the projects in that State or participating in a State process that has been approved by the Secretary for that State. Such funds may be provided only to support activities that directly and meaningfully contribute to expediting and improving transportation project planning and delivery for projects in that State."

Subsec. (j)(2). Pub. L. 114–94, §1304(i)(2), inserted "activities directly related to the environmental review process," before "dedicated staffing,".

Subsec. (j)(6). Pub. L. 114–94, §1304(i)(3), added par. (6) and struck out former par. (6). Prior to amendment, text read as follows: "Prior to providing funds approved by the Secretary for dedicated staffing at an affected Federal agency under paragraphs (1) and (2), the affected Federal agency and the State agency

shall enter into a memorandum of understanding that establishes the projects and priorities to be addressed by the use of the funds."

Subsecs. (n), (o). Pub. L. 114–94, §1304(j)(1), added subsec. (n) and (o).

2012—Subsec. (b)(2). Pub. L. 112–141, §1305(a)(1), inserted ", and any requirements established under this section may be satisfied," after "exercised".

Subsec. (b)(3). Pub. L. 112–141, §1305(a)(2), added par. (3).

Subsec. (c)(1). Pub. L. 112–141, §1305(b)(1), designated existing provisions as subpar. (A), inserted subpar. heading, and added subpar. (B).

Subsec. (d)(4). Pub. L. 112–141, §1305(c)(1), added par. (4) and struck out former par. (4). Prior to amendment, text read as follows: "Designation as a participating agency under this subsection shall not imply that the participating agency—

"(A) supports a proposed project; or

"(B) has any jurisdiction over, or special expertise with respect to evaluation of, the project."

Subsec. (d)(7). Pub. L. 112–141, §1305(c)(2), added par. (7) and struck out former par. (7). Prior to amendment, text read as follows: "Each Federal agency shall, to the maximum extent practicable—

"(A) carry out obligations of the Federal agency under other applicable law concurrently, and in conjunction, with the review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), unless doing so would impair the ability of the Federal agency to carry out those obligations; and

"(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner."

Subsec. (e). Pub. L. 112–141, §1305(d), designated existing provisions as par. (1), inserted par. heading, and added par. (2).

Subsec. (g)(1)(B)(i). Pub. L. 112–141, §1305(e), inserted "and the concurrence of" after "consultation with".

Subsec. (h)(4) to (7). Pub. L. 112–141, §1306, added pars. (4) to (7) and struck out former par. (4) which related to issue resolution.

Subsec. (j)(6). Pub. L. 112–141, §1307, added par. (6).

Subsec. (l). Pub. L. 112–141, §1308, substituted "150 days" for "180 days" in pars. (1) and (2).

Subsec. (m). Pub. L. 112–141, §1309, added subsec. (m).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

IMPLEMENTATION OF PROGRAMMATIC COMPLIANCE

Pub. L. 114–94, div. A, title I, §1304(k), Dec. 4, 2015, 129 Stat. 1386, provided that:

"(1) RULEMAKING.—Not later than 1 year after the date of enactment of this Act [Dec. 4, 2015], the Secretary [of Transportation] shall complete a rulemaking to implement the provisions of section 139(b)(3) of title 23, United States Code, as amended by this section.

"(2) CONSULTATION.—Before initiating the rulemaking under paragraph (1), the Secretary shall consult with relevant Federal agencies, relevant State resource agencies, State departments of transportation, Indian tribes, and the public on the appropriate use and scope of the programmatic approaches.

"(3) REQUIREMENTS.—In carrying out this subsection, the Secretary shall ensure that the rulemaking meets the requirements of section 139(b)(3)(B) of title 23, United States Code, as amended by this section.

"(4) COMMENT PERIOD.—The Secretary shall—

"(A) allow not fewer than 60 days for public notice and comment on the proposed rule; and

"(B) address any comments received under this subsection."

EXISTING ENVIRONMENTAL REVIEW PROCESS

Pub. L. 109–59, title VI, §6002(b), Aug. 10, 2005, 119 Stat. 1865, provided that: "Nothing in this section [enacting this section and repealing provisions set out as a note under section 109 of this title] affects any existing State environmental review process, program, agreement, or funding arrangement approved by the Secretary [of Transportation] under section 1309 of the Transportation Equity Act for the 21st Century [Pub. L. 105–178] (112 Stat. 232; 23 U.S.C. 109 note) as such section was in effect on the day preceding the date of enactment of the SAFETEA–LU [Aug. 10, 2005]."

EXECUTIVE DOCUMENTS

MEMORANDA OF AGENCY AGREEMENTS FOR EARLY COORDINATION

Pub. L. 112–141, div. A, title I, §1320, July 6, 2012, 126 Stat. 551, provided that:

"(a) IN GENERAL.—It is the sense of Congress that—

"(1) the Secretary [of Transportation] and other Federal agencies with relevant jurisdiction in the environmental review process should cooperate with each other and other agencies on environmental review and project delivery activities at the earliest practicable time to avoid delays and duplication of effort later in the process, head off potential conflicts, and ensure that planning and project development decisions reflect environmental values; and

"(2) such cooperation should include the development of policies and the designation of staff that advise planning agencies or project sponsors of studies or other information foreseeably required for later Federal action and early consultation with appropriate State and local agencies and Indian tribes.

"(b) TECHNICAL ASSISTANCE.—If requested at any time by a State or local planning agency, the Secretary and other Federal agencies with relevant jurisdiction in the environmental review process, shall, to the extent practicable and appropriate, as determined by the agencies, provide technical assistance to the State or local planning agency on accomplishing the early coordination activities described in subsection (d).

"(c) MEMORANDUM OF AGENCY AGREEMENT.—If requested at any time by a State or local planning agency, the lead agency, in consultation with other Federal agencies with relevant jurisdiction in the environmental review process, may establish memoranda of agreement with the project sponsor, State, and local governments and other appropriate entities to accomplish the early coordination activities described in subsection (d).

"(d) EARLY COORDINATION ACTIVITIES.—Early coordination activities shall include, to the maximum extent practicable, the following:

"(1) Technical assistance on identifying potential impacts and mitigation issues in an integrated fashion.

"(2) The potential appropriateness of using planning products and decisions in later environmental reviews.

"(3) The identification and elimination from detailed study in the environmental review process of the issues that are not significant or that have been covered by prior environmental reviews.

"(4) The identification of other environmental review and consultation requirements so that the lead and cooperating agencies may prepare, as appropriate, other required analyses and studies concurrently with planning activities.

"(5) The identification by agencies with jurisdiction over any permits related to the project of any and all relevant information that will reasonably be required for the project.

"(6) The reduction of duplication between requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and State and local planning and environmental review requirements, unless the agencies are specifically barred from doing so by applicable law.

"(7) Timelines for the completion of agency actions during the planning and environmental review processes.

"(8) Other appropriate factors."

DELEGATION OF A REPORTING AUTHORITY

Memorandum of President of the United States, Jan. 31, 2013, 78 F.R. 8351, provided:

Memorandum for the Secretary of Transportation

By the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby delegate to you the functions and authority conferred upon the President by section 1306 of the Moving Ahead for Progress in the 21st Century Act (MAP–21), Public

Law 112–141, to make the specified reports to the Congress.

You are authorized and directed to notify the appropriate congressional committees and publish this memorandum in the Federal Register.

BARACK OBAMA.

[1] *See References in Text note below.*

§140. Nondiscrimination

(a) Prior to approving any programs for projects as provided for in section 135, the Secretary shall require assurances from any State desiring to avail itself of the benefits of this chapter that employment in connection with proposed projects will be provided without regard to race, color, creed, national origin, or sex. The Secretary shall require that each State shall include in the advertised specifications, notification of the specific equal employment opportunity responsibilities of the successful bidder. In approving programs for projects on any of the Federal-aid systems, the Secretary, if necessary to ensure equal employment opportunity, shall require certification by any State desiring to avail itself of the benefits of this chapter that there are in existence and available on a regional, statewide, or local basis, apprenticeship, skill improvement or other upgrading programs, registered with the Department of Labor or the appropriate State agency, if any, which provide equal opportunity for training and employment without regard to race, color, creed, national origin, or sex. In implementing such programs, a State may reserve training positions for persons who receive welfare assistance from such State; except that the implementation of any such program shall not cause current employees to be displaced or current positions to be supplanted or preclude workers that are participating in an apprenticeship, skill improvement, or other upgrading program registered with the Department of Labor or the appropriate State agency from being referred to, or hired on, projects funded under this title without regard to the length of time of their participation in such program. The Secretary shall periodically obtain from the Secretary of Labor and the respective State transportation departments information which will enable the Secretary to judge compliance with the requirements of this section and the Secretary of Labor shall render to the Secretary such assistance and information as the Secretary of Transportation shall deem necessary to carry out the equal employment opportunity program required hereunder.

(b) The Secretary, in cooperation with any other department or agency of the Government, State agency, authority, association, institution, Indian tribal government, corporation (profit or nonprofit), or any other organization or person, is authorized to develop, conduct, and administer surface transportation and technology training, including skill improvement programs, and to develop and fund summer transportation institutes. From administrative funds made available under section 104(a), the Secretary shall deduct such sums as necessary, not to exceed $10,000,000 per fiscal year, for the administration of this subsection. Such sums so deducted shall remain available until expended. The provisions of section 6101(b) to (d) of title 41 shall not be applicable to contracts and agreements made under the authority herein granted to the Secretary. Notwithstanding any other provision of law, not to exceed ½ of 1 percent of funds apportioned to a State for the surface transportation block grant program under section 104(b) may be available to carry out this subsection upon request of the State transportation department to the Secretary.

(c) The Secretary, in cooperation with any other department or agency of the Government, State agency, authority, association, institution, Indian tribal government, corporation (profit or nonprofit), or any other organization or person, is authorized to develop, conduct, and administer training programs and assistance programs in connection with any program under this title in order that minority businesses may achieve proficiency to compete, on an equal basis, for contracts and subcontracts. From administrative funds made available under section 104(a), the Secretary shall deduct such sums as necessary, not to exceed $10,000,000 per fiscal year, for the administration of this subsection. The provisions of section 6101(b) to (d) of title 41 shall not be applicable to contracts and agreements made under the authority herein granted to the Secretary notwithstanding the provisions of section 3106 of title 41.

(d) INDIAN EMPLOYMENT.—Consistent with section 703(i) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2(i)), nothing in this section shall preclude the preferential employment of Indians living on or near a reservation on projects and contracts on Indian reservation roads. States may implement a preference for employment of Indians on projects carried out under this title near Indian reservations. The Secretary shall cooperate with Indian tribal governments and the States to implement this subsection.

(Added Pub. L. 90–495, §22(a), Aug. 23, 1968, 82 Stat. 826; amended Pub. L. 91–605, title I, §110, Dec. 31, 1970, 84 Stat. 1719; Pub. L. 93–87, title I, §120, Aug. 13, 1973, 87 Stat. 259; Pub. L. 94–280, title I, §126, May 5, 1976, 90 Stat. 440; Pub. L. 97–424, title I, §119, Jan. 6, 1983, 96 Stat. 2110; Pub. L. 100–17, title I, §122, Apr. 2, 1987, 101 Stat. 160; Pub. L. 102–240, title I, §1026, Dec. 18, 1991, 105 Stat. 1965; Pub. L. 102–388, title IV, §412, Oct. 6, 1992, 106 Stat. 1565; Pub. L. 105–178, title I, §§1208, 1212(a)(2)(A), June 9, 1998, 112 Stat. 186, 193; Pub. L. 109–59, title I, §1922, Aug. 10, 2005, 119 Stat. 1481; Pub. L. 111–350, §5(e)(1), Jan. 4, 2011, 124 Stat. 3847; Pub. L. 112–141, div. A, title I, §1109, July 6, 2012, 126 Stat. 444; Pub. L. 114–94, div. A, title I, §§1109(c)(5), 1446(d)(1), Dec. 4, 2015, 129 Stat. 1343, 1438; Pub. L. 117–58, div. A, title I, §11525(i), Nov. 15, 2021, 135 Stat. 607.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (a). Pub. L. 117–58 substituted "Secretary, if necessary" for "Secretary if necessary" in third sentence.

2015—Subsec. (b). Pub. L. 114–94, §1446(d)(1), amended directory language of Pub. L. 112–141, §1109(a)(2). See 2012 Amendment note below.

Pub. L. 114–94, §1109(c)(5), substituted "surface transportation block grant program" for "surface transportation program".

2012—Subsec. (b). Pub. L. 112–141, §1109(a)(1), substituted "From administrative funds made available under section 104(a)," for "Whenever apportionments are made under section 104(b)(3) of this title,".

Pub. L. 112–141, §1109(a)(2), as amended by Pub. L. 114–94, §1446(d)(1), struck out "and the bridge program under section 144" after "section 104(b)".

Subsec. (c). Pub. L. 112–141, §1109(b), substituted "From administrative funds made available under section 104(a)," for "Whenever apportionments are made under section 104(b)(3),".

2011—Subsec. (b). Pub. L. 111–350, §5(e)(1)(A), substituted "section 6101(b) to (d) of title 41" for "section 3709 of the Revised Statutes, as amended (41 U.S.C. 5),".

Subsec. (c). Pub. L. 111–350, §5(e)(1)(B), substituted "section 6101(b) to (d) of title 41" for "section 3709 of the Revised Statutes, as amended (41 U.S.C. 5)," and "section 3106 of title 41" for "section 302(e) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252(e))".

2005—Subsec. (a). Pub. L. 109–59, §1922(a), in first sentence, substituted "section 135" for "subsection (a) of section 105 of this title", in second sentence, substituted "The Secretary" for "He", in third sentence, substituted "if necessary to ensure" for "shall, where he considers it necessary to assure" and inserted "shall" before "require", and, in last sentence, substituted "the Secretary to" for "him to" and "the Secretary of Transportation" for "he".

Subsec. (b). Pub. L. 109–59, §1922(b), in first sentence, substituted "surface transportation" for "highway construction" and, in second sentence, struck out "he may deem" before "necessary" and "not to exceed $2,500,000 for the transition quarter ending September 30, 1976, and" before "not to exceed $10,000,000".

Subsec. (c). Pub. L. 109–59, §1922(c), substituted "section 104(b)(3)" for "subsection 104(b)(3) of this title" and struck out "he may deem" before "necessary".

Subsec. (d). Pub. L. 109–59, §1922(d), struck out "AND CONTRACTING" after "EMPLOYMENT" in heading.

1998—Subsec. (a). Pub. L. 105–178, §§1208(a), 1212(a)(2)(A)(ii), inserted "In implementing such programs, a State may reserve training positions for persons who receive welfare assistance from such State; except that the implementation of any such program shall not cause current employees to be displaced or current positions to be supplanted or preclude workers that are participating in an apprenticeship, skill improvement, or other upgrading program registered with the Department of Labor or the appropriate State

agency from being referred to, or hired on, projects funded under this title without regard to the length of time of their participation in such program." after third sentence and substituted "State transportation departments" for "State highway departments".

Subsec. (b). Pub. L. 105–178, §§1208(b), 1212(a)(2)(A)(i), inserted "and technology" after "highway construction" and ", and to develop and fund summer transportation institutes" after "skill improvement programs" and substituted "section 104(b)(3)" for "section 104(b)" and "State transportation department" for "State highway department".

Subsec. (c). Pub. L. 105–178, §1208(c), substituted "104(b)(3)" for "104(a)".

1992—Subsec. (b). Pub. L. 102–388 substituted "½ of 1 percent" for "¼ of 1 percent" in last sentence.

1991—Subsec. (b). Pub. L. 102–240, §1026(a), (b), inserted "Indian tribal government," after "institution," and inserted at end "Notwithstanding any other provision of law, not to exceed ¼ of 1 percent of funds apportioned to a State for the surface transportation program under section 104(b) and the bridge program under section 144 may be available to carry out this subsection upon request of the State highway department to the Secretary."

Subsec. (c). Pub. L. 102–240, §1026(b), inserted "Indian tribal government," after "institution,".

Subsec. (d). Pub. L. 102–240, §1026(c), inserted after first sentence "States may implement a preference for employment of Indians on projects carried out under this title near Indian reservations."

1987—Subsec. (d). Pub. L. 100–17 added subsec. (d).

1983—Pub. L. 97–424, §119(c), substituted "Nondiscrimination" for "Equal employment opportunity" in section catchline.

Subsec. (a). Pub. L. 97–424, §119(a), substituted ", national origin, or sex" for "or national origin" after "color, creed", in two places.

Subsec. (c). Pub. L. 97–424, §119(b), added subsec. (c).

1976—Subsec. (b). Pub. L. 94–280 substituted second sentence "Whenever apportionments are made under section 104(b) of this title, the Secretary shall deduct such sums as he may deem necessary, not to exceed $2,500,000 for the transition quarter ending September 30, 1976, and not to exceed $10,000,000 per fiscal year, for the administration of this subsection." for "Whenever an apportionment is made under subsections 104(b)(1), (b)(2), (b)(3), (b)(5), and (b)(6) of this title of the sums authorized to be appropriated for expenditure upon the Federal-aid primary and secondary systems, and their extensions within urban areas, the Interstate System, and the Federal-aid urban system for the fiscal years 1972, 1973, 1974, 1975, and 1976, the Secretary shall deduct such sums as he may deem necessary not to exceed $5,000,000 per fiscal year for the fiscal years 1972 and 1973, and $10,000,000 per fiscal year for the fiscal years 1974, 1975 and 1976, for administering the provisions of this subsection to be financed from the appropriation for the Federal-aid systems."

1973—Subsec. (b). Pub. L. 93–87 included apportionment of appropriated moneys for administration of subsec. (b) provisions for fiscal years 1974, 1975, and 1976, and substituted provisions which made available for such administration $5,000,000 per fiscal year for fiscal years 1972, and 1973, and $10,000,000 per fiscal year for fiscal years 1974, 1975, and 1976, for prior provision making available $5,000,000 per fiscal year for such administration.

1970—Pub. L. 91–605 designated existing provisions as subsec. (a) and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Except as otherwise provided, amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

Pub. L. 114–94, div. A, title I, §1446(d), Dec. 4, 2015, 129 Stat. 1438, provided that the amendment made by section 1446(d)(1) is effective as of July 6, 2012, and as if included in Pub. L. 112–141 as enacted.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

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

EFFECTIVE DATE

Section effective Aug. 23, 1968, see section 37 of Pub. L. 90–495, set out as an Effective Date of 1968 Amendment note under section 101 of this title.

§141. Enforcement of requirements

(a) Each State shall certify to the Secretary before January 1 of each year that it is enforcing all State laws respecting maximum vehicle size and weights permitted on the Federal-aid primary system, the Federal-aid urban system, and the Federal-aid secondary system, including the Interstate System in accordance with section 127 of this title. Each State shall also certify that it is enforcing and complying with the provisions of section 127(d) of this title and section 31112 of title 49.

(b)(1) Each State shall submit to the Secretary such information as the Secretary shall, by regulation, require as necessary, in his opinion, to verify the certification of such State under subsection (b) of this section.

(2) If a State fails to certify as required by subsection (b) of this section or if the Secretary determines that a State is not adequately enforcing all State laws respecting such maximum vehicle size and weights, notwithstanding such a certification, then Federal-aid highway funds apportioned to such State for such fiscal year shall be reduced by amounts equal to 7 percent of the amount which would otherwise be apportioned to such State under paragraphs (1) through (6) of section 104(b).

(3) If within one year from the date that the apportionment for any State is reduced in accordance with paragraph (2) of this subsection the Secretary determines that such State is enforcing all State laws respecting maximum size and weights, the apportionment of such State shall be increased by an amount equal to such reduction. If the Secretary does not make such a determination within such one-year period, the amounts so withheld shall be reapportioned to all other eligible States.

(c) The Secretary shall reduce the State's apportionment of Federal-aid highway funds under section 104(b)(1) in an amount up to 8 percent of the amount to be apportioned in any fiscal year beginning after September 30, 1984, during which heavy vehicles, subject to the use tax imposed by section 4481 of the Internal Revenue Code of 1986, may be lawfully registered in the State without having presented proof of payment, in such form as may be prescribed by the Secretary of the Treasury, of the use tax imposed by section 4481 of such Code. Amounts withheld from apportionment to a State under this subsection shall be apportioned to the other States pursuant to the formulas of section 104(b)(1) and shall be available in the same manner and to the same extent as other Interstate funds apportioned at the same time to other States.

(Added Pub. L. 93–643, §107(a), Jan. 4, 1975, 88 Stat. 2284; amended Pub. L. 95–599, title I, §123(d), Nov. 6, 1978, 92 Stat. 2702; Pub. L. 97–424, title I, §143, Jan. 6, 1983, 96 Stat. 2129; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 102–240, title I, §1023(c), Dec. 18, 1991, 105 Stat. 1954; Pub. L. 103–429, §3(7), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 104–59, title II, §205(d)(1)(A), Nov. 28, 1995, 109 Stat. 577; Pub. L. 105–178, title I, §1103(l)(3)(C), June 9, 1998, 112 Stat. 126; Pub. L. 112–141, div. A, title I, §1404(c), (d), July 6, 2012, 126 Stat. 558; Pub. L. 114–94, div. A, title I, §1104(e)(5), Dec. 4, 2015, 129 Stat. 1332.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 4481 of the Internal Revenue Code of 1986, referred to in subsec. (c), is classified to section 4481 of Title 26, Internal Revenue Code.

PRIOR PROVISIONS

A prior section 141, Pub. L. 90–495, §35(a), Aug. 23, 1968, 82 Stat. 836, related to real property acquisition

policies, prior to repeal by Pub. L. 91–646, title III, §306, Jan. 2, 1971, 84 Stat. 1907, such repeal becoming effective as to all States after July 1, 1972, the date on which sections 4630 and 4655 of Title 42, The Public Health and Welfare, covering similar subject matter, became applicable to all States.

AMENDMENTS

2015—Subsec. (b)(2). Pub. L. 114–94 substituted "paragraphs (1) through (6) of section 104(b)" for "paragraphs (1) through (5) of section 104(b)".

2012—Subsec. (b)(2). Pub. L. 112–141, §1404(c), substituted "7 percent" for "10 per centum" and "paragraphs (1) through (5) of section 104(b)" for "section 104 of this title".

Subsec. (c). Pub. L. 112–141, §1404(d), substituted "section 104(b)(1)" for "section 104(b)(4)" in two places and substituted "8 percent" for "25 per centum".

1998—Subsec. (c). Pub. L. 105–178 substituted "section 104(b)(4)" for "section 104(b)(5) of this title" in two places.

1995—Pub. L. 104–59 redesignated subsecs. (b) to (d) as (a) to (c), respectively, and struck out former subsec. (a) which read as follows: "Each State shall certify to the Secretary before January 1 of each year that it is enforcing all speed limits on public highways in accordance with section 154 of this title. The Secretary shall not approve any project under section 106 of this title in any State which has failed to certify in accordance with this subsection."

1994—Subsec. (b). Pub. L. 103–429 substituted "section 31112 of title 49" for "section 411(j) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311(j))".

1991—Subsec. (b). Pub. L. 102–240 inserted at end "Each State shall also certify that it is enforcing and complying with the provisions of section 127(d) of this title and section 411(j) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311(j))."

1986—Subsec. (d). Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954".

1983—Subsec. (d). Pub. L. 97–424 added subsec. (d).

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

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1995 AMENDMENT

Pub. L. 104–59, title II, §205(d)(3), Nov. 28, 1995, 109 Stat. 577, provided that: "The amendments made by paragraph (1) [amending this section and repealing section 154 of this title] shall be applicable to a State on the 10th day following the date of the enactment of this Act [Nov. 28, 1995]; except that if the legislature of a State is not in session on such date of enactment and the chief executive officer of the State declares, before such 10th day, that the legislature is not in session and that the State prefers an applicability date for such amendments that is after the date on which the legislature will convene, such amendments shall be applicable to the State on the 60th day following the date on which the legislature next convenes."

EFFECTIVE DATE OF 1991 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–599, title I, §123(e), Nov. 6, 1978, 92 Stat. 2702, provided that subsec. (c)(2) and (3) of this section be applicable to certifications required by this section to be filed on or after Jan. 1, 1980, prior to repeal by Pub. L. 96–106, §12, Nov. 9, 1979, 93 Stat. 798.

ENFORCEMENT OF VEHICLE WEIGHT LIMITATIONS

Pub. L. 95–599, title I, §123(a)–(c), Nov. 6, 1978, 92 Stat. 2701, as amended by Pub. L. 100–17, title I, §133(c)(4), Apr. 2, 1987, 101 Stat. 173, provided that:

"(a) Not later than the one-hundred-eightieth day after the date of enactment of this section [Nov. 6, 1978], the Secretary of Transportation, hereunder referred to as the 'Secretary', in consultation with each State shall inventory the existing system of penalties for violations of vehicle weight laws, rules, and regulations on any portion of any Federal-aid system in such State. Each State shall annually thereafter report to the Secretary its current inventory.

"(b)(1) Not later than the one-hundred-eightieth day after the date of enactment of this section [Nov. 6, 1978], the Secretary, in consultation with each State, shall inventory the existing system in such State for the issuance of special permits. Each State shall annually thereafter report to the Secretary its current inventory.

"(2) For purposes of this subsection, the term 'special permit' means a license or permit issued pursuant to State law, rule, or regulation which authorizes a vehicle to exceed the weight limitation for such vehicle established under State law, rule, or regulation.

"(c) Not later than January 1 of the second calendar year which begins after the date of enactment of this section [Nov. 6, 1978] and each calendar year thereafter the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation [now Committee on Transportation and Infrastructure] of the House of Representatives an annual report together with such recommendations as the Secretary deems necessary on (1) the latest annual inventory of State systems of penalties required by subsection (a) of this section; (2) the latest annual inventory of State systems for the issuance of special permits required by subsection (b) of this section; (3) the annual certification submitted by each State required by section 141(b) of title 23, United States Code."

[For termination, effective May 15, 2000, of reporting provisions in section 123(c) of Pub. L. 95–599, set out above, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 135 of House Document No. 103–7.]

§142. Public transportation

(a)(1) To encourage the development, improvement, and use of public mass transportation systems operating buses on Federal-aid highways for the transportation of passengers, so as to increase the traffic capacity of the Federal-aid highways for the movement of persons, the Secretary may approve as a project on any Federal-aid highway the construction of exclusive or preferential high occupancy vehicle lanes, highway traffic control devices, bus passenger loading areas and facilities (including shelters), and fringe and transportation corridor parking facilities, which may include electric vehicle charging stations or natural gas vehicle refueling stations, to serve high occupancy vehicle and public mass transportation passengers, and sums apportioned under section 104(b) of this title shall be available to finance the cost of projects under this paragraph. If fees are charged for the use of any parking facility constructed under this section, the rate thereof shall not be in excess of that required for maintenance and operation of the facility and the cost of providing shuttle service to and from the facility (including compensation to any person for operating the facility and for providing such shuttle service).

(2) In addition to the projects under paragraph (1), the Secretary may approve payment from sums apportioned under section 104(b)(2) for carrying out any capital transit project eligible for assistance under chapter 53 of title 49, capital improvement to provide access and coordination between intercity and rural bus service, and construction of facilities to provide connections between highway transportation and other modes of transportation.

(3) BUS CORRIDORS.—In addition to the projects described in paragraphs (1) and (2), the Secretary may approve payment from sums apportioned under paragraph (2) or (7) of section 104(b) for carrying out a capital project for the construction of a bus rapid transit corridor or dedicated bus lanes, including the construction or installation of—

(A) traffic signaling and prioritization systems;

(B) redesigned intersections that are necessary for the establishment of a bus rapid transit corridor;

(C) on-street stations;

(D) fare collection systems;

(E) information and wayfinding systems; and

(F) depots.

(b) Sums apportioned in accordance with section 104(b)(1) shall be available to finance the Federal share of projects for exclusive or preferential high occupancy vehicle, truck, and emergency vehicle routes or lanes. Routes constructed under this subsection shall not be subject to the third sentence of section 109(b) of this title.

(c) ACCOMMODATION OF OTHER MODES OF TRANSPORTATION.—The Secretary may approve as a project on any Federal-aid highway for payment from sums apportioned under section 104(b) modifications to existing highways eligible under the program that is the source of the funds on such highway necessary to accommodate other modes of transportation if such modifications will not adversely affect automotive safety.

(d) METROPOLITAN PLANNING.—Any project carried out under this section in an urbanized area shall be subject to the metropolitan planning requirements of section 134.

(e)(1) For all purposes of this title, a project authorized by subsection (a)(1) of this section shall be deemed to be a highway project.

(2) Projects authorized by subsection (a)(2) shall be subject to, and governed in accordance with, all provisions of this title applicable to projects on the surface transportation block grant program, except to the extent determined inconsistent by the Secretary.

(3) The Federal share payable on account of projects authorized by subsection (a) of this section shall be that provided in section 120 of this title.

(f) AVAILABILITY OF RIGHTS-OF-WAY.—In any case where sufficient land or air space exists within the publicly acquired rights-of-way of any highway, constructed in whole or in part with Federal-aid highway funds, to accommodate needed passenger, commuter, or high speed rail, magnetic levitation systems, and highway and nonhighway public mass transit facilities, the Secretary shall authorize a State to make such lands, air space, and rights-of-way available with or without charge to a publicly or privately owned authority or company or any other person for such purposes if such accommodation will not adversely affect automotive safety.

(g) The provision of assistance under subsection (a)(2) shall not be construed as bringing within the application of chapter 15 of title 5, United States Code, any non-supervisory employee of an urban mass transportation system (or of any other agency or entity performing related functions) to whom such chapter is otherwise inapplicable.

(h) Funds available for expenditure to carry out the purposes of subsection (a)(2) of this section shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to chapter 53 of title 49.

(Added Pub. L. 91–605, title I, §111(a), Dec. 31, 1970, 84 Stat. 1719; amended Pub. L. 93–87, title I, §121(a), Aug. 13, 1973, 87 Stat. 259; Pub. L. 94–280, title I, §127, May 5, 1976, 90 Stat. 440; Pub. L. 97–424, title I, §120, Jan. 6, 1983, 96 Stat. 2111; Pub. L. 102–240, title I, §1027(a)–(e), title III, §3003(b), Dec. 18, 1991, 105 Stat. 1966, 2088; Pub. L. 103–272, §5(f)(2), July 5, 1994, 108 Stat. 1374; Pub. L. 103–429, §7(a)(4)(C), Oct. 31, 1994, 108 Stat. 4389; Pub. L. 105–178, title I, §1103(l)(3)(D), (4), June 9, 1998, 112 Stat. 126; Pub. L. 112–141, div. A, title I, §§1513(b), 1519(c)(8), formerly §1519(c)(9), July 6, 2012, 126 Stat. 572, 576, renumbered §1519(c)(8), Pub. L. 114–94, div. A, title I, §1446(d)(5)(B), Dec. 4, 2015, 129 Stat. 1438; Pub. L. 114–94, div. A, title I, §§1109(c)(5), 1446(d)(5)(D), Dec. 4, 2015, 129 Stat. 1343, 1438; Pub. L. 117–58, div. A, title I, §11130, Nov. 15, 2021, 135 Stat. 509.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (a)(3). Pub. L. 117–58, §11130(a), added par. (3).

Subsec. (i). Pub. L. 117–58, §11130(b), struck out subsec. (i) which read as follows: "The provisions of section 5323(a)(1)(D) of title 49 shall apply in carrying out subsection (a)(2) of this section."

2015—Pub. L. 114–94, §1446(d)(5)(B), (D), amended Pub. L. 112–141, §1519(c). See 2012 Amendment notes below.

Subsec. (e)(2). Pub. L. 114–94, §1109(c)(5), substituted "surface transportation block grant program" for "surface transportation program".

2012—Subsec. (a)(1). Pub. L. 112–141, §§1513(b), 1519(c)(8)(A)(i), formerly §1519(c)(9)(A)(i), as renumbered and amended by Pub. L. 114–94, §1446(d)(5)(B), (D), substituted "buses" for "motor vehicles (other than on rail)", struck out "(hereafter in this section referred to as 'buses')" after "transportation of passengers", substituted "of the Federal-aid highways" for "of the Federal-aid systems" and "Federal-aid highway" for "Federal-aid system", and inserted ", which may include electric vehicle charging stations or natural gas vehicle refueling stations," after "parking facilities"..

Subsec. (a)(2). Pub. L. 112–141, §1519(c)(8)(A)(ii), formerly 1519(c)(9)(A)(ii), as renumbered by Pub. L. 114–94, §1446(d)(5)(B), struck out "as a project on the the surface transportation program for" after "Secretary may approve" and substituted "section 104(b)(2)" for "section 104(b)(3)".

Subsec. (b). Pub. L. 112–141, §1519(c)(8)(B), formerly 1519(c)(9)(B), as renumbered by Pub. L. 114–94, §1446(d)(5)(B), substituted "104(b)(1)" for "104(b)(4)".

Subsec. (c). Pub. L. 112–141, §1519(c)(8)(C), formerly 1519(c)(9)(C), as renumbered by Pub. L. 114–94, §1446(d)(5)(B), substituted "highway" for "system" in two places and substituted "highways eligible under the program that is the source of the funds" for "highway facilities".

Subsec. (e)(2). Pub. L. 112–141, §1519(c)(8)(D), formerly 1519(c)(9)(D), as renumbered by Pub. L. 114–94, §1446(d)(5)(B), substituted "Projects authorized by subsection (a)(2)" for "Notwithstanding section 209(f)(1) of the Highway Revenue Act of 1956, the Highway Trust Fund shall be available for making expenditures to meet obligations resulting from projects authorized by subsection (a)(2) of this section and such projects".

Subsec. (f). Pub. L. 112–141, §1519(c)(8)(E), formerly 1519(c)(9)(E), as renumbered by Pub. L. 114–94, §1446(d)(5)(B), substituted "exists" for "exits".

1998—Subsec. (b). Pub. L. 105–178, §1103(l)(4), substituted "section 104(b)(4)" for "paragraph (5) of subsection (b) of section 104 of this title".

Subsec. (c). Pub. L. 105–178, §1103(l)(3)(D), struck out "(other than section 104(b)(5)(A))" after "section 104(b)".

1994—Subsec. (a)(2). Pub. L. 103–272, §5(f)(2)(A), substituted "chapter 53 of title 49" for "the Federal Transit Act".

Subsec. (h). Pub. L. 103–272, §5(f)(2)(B), as amended by Pub. L. 103–429, §7(a)(4)(C), substituted "chapter 53 of title 49" for "the Federal Transit Act, as amended".

Subsec. (i). Pub. L. 103–272, §5(f)(2)(C), as amended by Pub. L. 103–429, §7(a)(4)(C), substituted "section 5323(a)(1)(D) of title 49" for "section 3(e)(4) of the Federal Transit Act, as amended,".

1991—Subsec. (a)(2). Pub. L. 102–240, §1027(a), struck out ", beginning with the fiscal year ending June 30, 1975," after "the Secretary may", substituted "the surface transportation program" for "Federal-aid urban system," and substituted "104(b)(3) for carrying out any capital transit project eligible for assistance under the Federal Transit Act, capital improvement to provide access and coordination between intercity and rural bus service, and construction of facilities to provide connections between highway transportation and other modes of transportation." for "104(b)(6) of this title, the purchase of buses, and, beginning with the fiscal year ending June 30, 1976, approve as a project on the Federal-aid urban system, for payment from sums apportioned under section 104(b)(6) of this title, the construction, reconstruction, and improvement of fixed rail facilities, including the purchase of rolling stock for fixed rail, except that not more than $200,000,000 of all sums apportioned for the fiscal year ending June 30, 1975, under section 104(b)(6) shall be available for the payment of the Federal share of projects for the purchase of buses."

Subsec. (c). Pub. L. 102–240, §1027(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "Whenever responsible local officials of an urbanized area notify the State highway department that, in lieu of a highway project the Federal share of which is to be paid from funds apportioned under section 104(b)(6) of this title for the fiscal years ending June 30, 1974, and June 30, 1975, their needs require a nonhighway public mass transit project involving the construction of fixed rail facilities, or the purchase of passenger equipment, including rolling stock for any mode of mass transit, or both, and the State highway department determines that such public mass transit project is in accordance with the planning process under section 134 of this title and is entitled to priority under such planning process, such public mass transit project shall be submitted for approval to the Secretary. Approval of the plans, specifications, and estimates for such project by the Secretary shall be deemed a contractual obligation of the United States for payment out of the general funds of its proportional share of the cost of such project in an amount equal to the Federal share which would have been paid if such project were a highway project under section 120(a) of this title. Funds previously apportioned to such State under section 104(b)(6) of this title shall be reduced by an amount equal to such Federal share."

Subsec. (d). Pub. L. 102–240, §1027(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "The establishment of routes and schedules of such public mass transportation systems in urbanized areas shall be based upon a continuing comprehensive transportation planning process carried on in accordance with section 134 of this title."

Subsec. (e)(2). Pub. L. 102–240, §1027(e)(1), substituted "surface transportation program" for "Federal-aid urban system".

Subsec. (f). Pub. L. 102–240, §1027(e)(2), (3), redesignated subsec. (g) as (f) and struck out former subsec. (f) which read as follows: "No project authorized by this section shall be approved unless the Secretary of Transportation has received assurances satisfactory to him from the State that high occupancy vehicles will fully utilize the proposed project."

Subsec. (g). Pub. L. 102–240, §1027(e)(3), (4), redesignated subsec. (h) as (g) and struck out "or subsection (c) of this section" after "(a)(2)". Former subsec. (g) redesignated (f).

Pub. L. 102–240, §1027(d), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: "In any case where sufficient land exists within the publicly acquired rights-of-way of any Federal-aid highway to accommodate needed rail or non-highway public mass transit facilities and where this can be accomplished without impairing automotive safety or future highway improvements, the Administrator may authorize a State to make such lands and rights-of-way available without charge to a publicly owned mass transit authority for such purposes wherever he may deem that the public interest will be served thereby."

Subsec. (h). Pub. L. 102–240, §3003(b), substituted "Federal Transit Act" for "Urban Mass Transportation Act of 1964".

Pub. L. 102–240, §1027(e)(3), (5), redesignated subsec. (i) as (h) and struck out "and subsection (c)" after "(a)(2)". Former subsec. (h) redesignated (g).

Subsec. (i). Pub. L. 102–240, §3003(b), substituted "Federal Transit Act" for "Urban Mass Transportation Act of 1964".

Pub. L. 102–240, §1027(e)(3), (5), redesignated subsec. (j) as (i) and struck out "and subsection (c)" after "(a)(2)". Former subsec. (i) redesignated (h).

Subsec. (j). Pub. L. 102–240, §1027(e)(3), redesignated subsec. (j) as (i).

Subsec. (k). Pub. L. 102–240, §1027(e)(2), struck out subsec. (k) which read as follows: "The Secretary shall not approve any project under subsection (a)(2) of this section in any fiscal year when there has been enacted an Urban Transportation Trust Fund or similar assured funding for both highway and public transportation."

1983—Subsec. (a)(1). Pub. L. 97–424, §120(a), inserted "and the cost of providing shuttle service to and from the facility" after "of the facility", and "and for providing such shuttle service" after "operating the facility".

Pub. L. 97–424, §120(b)(1), substituted "high occupancy vehicle lanes" for "bus lanes" after "preferential", and "high occupancy vehicle and" for "bus and other" after "facilities to serve".

Subsec. (b). Pub. L. 97–424, §120(b)(2), substituted "high occupancy vehicle" for "bus" after "preferential".

Subsec. (f). Pub. L. 97–424, §120(b)(3), substituted "high occupancy vehicles" for "public mass transportation systems".

1976—Subsec. (a)(1). Pub. L. 94–280, §127(a), inserted provision that if fees are charged for the use of any parking facility constructed under this section, the rate thereof shall not be in excess of that required for maintenance and operation of the facility (including compensation to any person for operating the facility).

Subsec. (e)(3). Pub. L. 94–280, §127(b), substituted "section 120 of this title" for "section 120 of this section".

1973—Subsec. (a). Pub. L. 93–87 designated existing provisions as par. (1), substituted "operating motor vehicles (other than on rail) on Federal-aid highways" for "operating motor vehicles on highways, other than on rails", struck out "within urbanized areas" after " 'buses')", inserted "for the movement of persons" after "Federal-aid systems", and substituted provisions respecting availability of sums apportioned under section 104(b) of this title for prior provisions for such sums apportioned in accordance with pars. (3), (5), and (6) of section 104(b) of this title, and added par. (2).

Subsec. (b). Pub. L. 93–87 added subsec. (b). Former subsec. (b) redesignated (d).

Subsec. (c). Pub. L. 93–87 added subsec. (c). Former subsec. (c) incorporated in subsec. (e)(1), (3) of this section.

Subsec. (d). Pub. L. 93–87 redesignated former subsec. (b) as (d), inserted "in urbanized areas" after "transportation systems", and struck out former subsec. (d) provisions which prohibited any project authorized by this section, other than a project for fringe or transportation parking facilities, from being approved unless the project would avoid the construction of a highway project which increases automobile traffic capacity,

would provide a capacity for the movement of persons at least equal to that which would be provided by the avoided highway project, and would not exceed in the amount of the Federal share, the Federal share of the cost of the avoided highway project; or no other feasible or prudent highway project could provide the additional capacity for the movement of persons by motor vehicles on highways (other than on rails) provided by this project.

Subsec. (e). Pub. L. 93–87 incorporated provisions of former subsec. (c) in pars. (1) and (3) and added par. (2). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 93–87 redesignated former subsec. (e) as (f) and substituted "will fully utilize" for "will have adequate capability to fully utilize".

Subsecs. (g) to (k). Pub. L. 93–87 added subsecs. (g) to (k).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Except as otherwise provided, amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

Pub. L. 114–94, div. A, title I, §1446(d), Dec. 4, 2015, 129 Stat. 1438, provided that the amendment made by section 1446(d)(5)(B), (D) is effective as of July 6, 2012, and as if included in Pub. L. 112–141 as enacted.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–429, §7(a), Oct. 31, 1994, 108 Stat. 4388, provided in part that the amendment made by section 7(a)(4)(C) is effective July 5, 1994.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 1027 of Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of this title.

RURAL HIGHWAY TRANSPORTATION DEMONSTRATION PROGRAM; APPROPRIATIONS AUTHORIZATION; PUBLIC NOTICE AND HEARING

Pub. L. 93–87, title I, §147, Aug. 13, 1973, 87 Stat. 274, as amended by Pub. L. 93–643, §103, Jan. 4, 1975, 88 Stat. 2282; Pub. L. 94–280, title I, §129, May 5, 1976, 90 Stat. 440; Pub. L. 95–599, title I, §132, Nov. 6, 1978, 92 Stat. 2708, provided for authorization of appropriations of $15,000,000 for the fiscal year ending June 30, 1975, and $60,000,000 for the fiscal year ending June 30, 1976, to carry out demonstration projects for public mass transportation projects in rural and small urban areas, authorized availability of such sums for a period of two years after the close of the fiscal year for which authorized, and required public notice and hearing for such projects.

TRANSPORTATION FOR ELDERLY AND HANDICAPPED PERSONS

Pub. L. 93–643, §105(a), Jan. 4, 1975, 88 Stat. 2282, provided that: "It is hereby declared to be the national policy that elderly and handicapped persons have the same right as other persons to utilize mass transportation facilities and services; that special efforts shall be made in the planning, design, construction, and operation of mass transportation facilities and services so that the availability to elderly and handicapped persons of mass transportation which they can effectively utilize will be assured; and that all Federal programs offering assistance for mass transportation (including the programs under title 23, United States Code, the Federal-Aid Highway Act of 1973, and this Act [see Short Title of 1973 Amendment note under 101 of this title]) effectively implement this policy."

BUS AND OTHER PROJECT STANDARDS

Pub. L. 93–87, title I, §165, Aug. 13, 1973, 87 Stat. 282, as amended by Pub. L. 93–643, §105(b), Jan. 4,

1975, 88 Stat. 2283, provided that:

"(a) The Secretary of Transportation shall require that buses acquired with Federal financial assistance under (1) subsection (a) or (c) of section 142 of title 23, United States Code, (2) paragraph (4) of [former] subsection (e) of section 103, title 23, United States Code, or (3) section 147 of the Federal-aid [Federal-Aid] Highway Act of 1973 [set out as a note above] meet the standards prescribed by the Administrator of the Environmental Protection Agency under section 202 of the Clean Air Act [42 U.S.C. 7521], and under section 6 of the Noise Control Act of 1972 [42 U.S.C. 4905], and shall authorize the acquisition, wherever practicable, of buses which meet the special criteria for low-emission vehicles set forth in section 212 of the Clean Air Act [42 U.S.C. 7546], and for low-noise-emission products set forth in section 15 of the Noise Control Act of 1972 [42 U.S.C. 4914].

"(b) The Secretary of Transportation shall require that projects receiving Federal financial assistance under (1) subsection (a) or (c) of section 142 of title 23, United States Code, (2) paragraph (4) of [former] subsection (e) of section 103, title 23, United States Code, or (3) section 147 of the Federal-Aid Highway Act of 1973 shall be planned, designed, constructed, and operated to allow effective utilization by elderly or handicapped persons who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, including those who are nonambulatory wheelchair-bound and those with semiambulatory capabilities, are unable without special facilities or special planning or design to utilize such facilities and services effectively. The Secretary shall not approve any program or project to which this section applies which does not comply with the provisions of this subsection requiring access to public mass transportation facilities, equipment, and services for elderly or handicapped persons."

§143. Highway use tax evasion projects

(a) STATE DEFINED.—In this section, the term "State" means the 50 States and the District of Columbia.

(b) PROJECTS.—

(1) IN GENERAL.—The Secretary shall carry out highway use tax evasion projects in accordance with this subsection.

(2) FUNDING.—

(A) IN GENERAL.—From administrative funds made available under section 104(a), the Secretary may deduct such sums as are necessary, not to exceed $4,000,000 for each of fiscal years 2022 through 2026, to carry out this section.

(B) ALLOCATION OF FUNDS.—Funds made available to carry out this section may be allocated to the Internal Revenue Service and the States at the discretion of the Secretary, except that of funds so made available for each fiscal year, $2,000,000 shall be available only to carry out intergovernmental enforcement efforts, including research and training.

(3) CONDITIONS ON FUNDS ALLOCATED TO INTERNAL REVENUE SERVICE .—Except as otherwise provided in this section, the Secretary shall not impose any condition on the use of funds allocated to the Internal Revenue Service under this subsection.

(4) LIMITATION ON USE OF FUNDS.—Funds made available to carry out this section shall be used only—

(A) to expand efforts to enhance motor fuel tax enforcement;

(B) to fund additional Internal Revenue Service staff, but only to carry out functions described in this paragraph;

(C) to supplement motor fuel tax examinations and criminal investigations;

(D) to develop automated data processing tools to monitor motor fuel production and sales;

(E) to evaluate and implement registration and reporting requirements for motor fuel taxpayers;

(F) to reimburse State expenses that supplement existing fuel tax compliance efforts;

(G) to analyze and implement programs to reduce tax evasion associated with other highway use taxes;

(H) to support efforts between States and Indian tribes to address issues relating to State motor fuel taxes; and

(I) to analyze and implement programs to reduce tax evasion associated with foreign imported fuel.

(5) MAINTENANCE OF EFFORT.—The Secretary may not make an allocation to a State under this subsection for a fiscal year unless the State certifies that the aggregate expenditure of funds of the State, exclusive of Federal funds, for motor fuel tax enforcement activities will be maintained at a level that does not fall below the average level of such expenditure for the preceding 2 fiscal years of the State.

(6) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be 100 percent.

(7) PERIOD OF AVAILABILITY.—Funds authorized to carry out this section shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

(8) USE OF SURFACE TRANSPORTATION BLOCK GRANT PROGRAM FUNDING.—In addition to funds made available to carry out this section, a State may expend up to ¼ of 1 percent of the funds apportioned to the State for a fiscal year under section 104(b)(2) on initiatives to halt the evasion of payment of motor fuel taxes.

(9) REPORTS.—The Commissioner of the Internal Revenue Service and each State shall submit to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Environment and Public Works of the Senate an annual report that describes the projects, examinations, and criminal investigations funded by and carried out under this section. Such report shall specify the estimated annual yield from such projects, examinations, and criminal investigations.

(c) EXCISE TAX FUEL REPORTING.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of the SAFETEA–LU, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of—

(A) the additional development of capabilities needed to support new reporting requirements and databases established under such Act and the American Jobs Creation Act of 2004 (Public Law 108–357), and such other reporting requirements and database development as may be determined by the Secretary, in consultation with the Commissioner of the Internal Revenue Service, to be useful in the enforcement of fuel excise taxes, including provisions recommended by the Fuel Tax Enforcement Advisory Committee,

(B) the completion of requirements needed for the electronic reporting of fuel transactions from carriers and terminal operators,

(C) the operation and maintenance of an excise summary terminal activity reporting system and other systems used to provide strategic analyses of domestic and foreign motor fuel distribution trends and patterns,

(D) the collection, analysis, and sharing of information on fuel distribution and compliance or noncompliance with fuel taxes, and

(E) the development, completion, operation, and maintenance of an electronic claims filing system and database and an electronic database of heavy vehicle highway use payments.

(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding shall provide that—

(A) the Internal Revenue Service shall develop and maintain any system under paragraph (1) through contracts,

(B) any system under paragraph (1) shall be under the control of the Internal Revenue Service, and

(C) any system under paragraph (1) shall be made available for use by appropriate State and Federal revenue, tax, and law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

(3) FUNDING.—Of the amounts made available to carry out this section for each fiscal year, the Secretary shall make available to the Internal Revenue Service such funds as may be necessary to complete, operate, and maintain the systems under paragraph (1) in accordance with this subsection.

(4) REPORTS.—Not later than September 30 of each year, the Commissioner of the Internal Revenue Service shall provide reports to the Secretary on the status of the Internal Revenue Service projects funded under this subsection.

(Added Pub. L. 91–605, title I, §127(a), Dec. 31, 1970, 84 Stat. 1729; amended Pub. L. 93–87, title I, §122, Aug. 13, 1973, 87 Stat. 261; Pub. L. 105–178, title I, §1114(a), (c), June 9, 1998, 112 Stat. 152; Pub. L. 105–206, title IX, §9002(h), July 22, 1998, 112 Stat. 836; Pub. L. 109–59, title I, §1115(a), (b), Aug. 10, 2005, 119 Stat. 1175, 1176; Pub. L. 112–141, div. A, title I, §1110, July 6, 2012, 126 Stat. 444; Pub. L. 114–94, div. A, title I, §1110, Dec. 4, 2015, 129 Stat. 1344; Pub. L. 117–58, div. A, title I, §11120, Nov. 15, 2021, 135 Stat. 497.)

EDITORIAL NOTES

REFERENCES IN TEXT

The SAFETEA–LU, referred to in subsec. (c)(1), is Pub. L. 109–59, Aug. 10, 2005, 119 Stat. 1144, also known as the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. For complete classification of this Act to the Code, see Short Title of 2005 Amendment note set out under section 101 of this title and Tables.

The American Jobs Creation Act of 2004, referred to in subsec. (c)(1)(A), is Pub. L. 108–357, Oct. 22, 2004, 118 Stat. 1418. For complete classification of this Act to the Code, see Short Title of 2004 Amendments note set out under section 1 of Title 26, Internal Revenue Code, and Tables.

Section 6103 of the Internal Revenue Code of 1986, referred to in subsec. (c)(2)(C), is classified to section 6103 of Title 26, Internal Revenue Code.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 102–240, title I, §1040, Dec. 18, 1991, 105 Stat. 1992, as amended, which was set out as a note under section 101 of this title, prior to repeal by Pub. L. 105–178, §1114(b)(2).

AMENDMENTS

2021—Subsec. (b)(2)(A). Pub. L. 117–58 substituted "fiscal years 2022 through 2026" for "fiscal years 2016 through 2020".

2015—Subsec. (b)(2)(A). Pub. L. 114–94, §1110(1), amended subpar. (A) generally. Prior to amendment, text read as follows: "From administrative funds made available under section 104(a), the Secretary shall deduct such sums as are necessary, not to exceed $10,000,000 for each of fiscal years 2013 and 2014, to carry out this section."

Subsec. (b)(8). Pub. L. 114–94, §1110(2), inserted "block grant" after "surface transportation" in heading.

Subsec. (b)(9). Pub. L. 114–94, §1110(3), inserted ", the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Environment and Public Works of the Senate" after "the Secretary".

2012—Subsec. (b)(2). Pub. L. 112–141, §1110(1)(A), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "Funds made available to carry out this section may be allocated to the Internal Revenue Service and the States at the discretion of the Secretary; except that of funds so made available for each of fiscal years 2005 through 2009, $2,000,000 shall be available only to carry out intergovernmental enforcement efforts, including research and training."

Subsec. (b)(8). Pub. L. 112–141, §1110(1)(B), substituted "section 104(b)(2)" for "section 104(b)(3)".

Subsec. (c)(3). Pub. L. 112–141, §1110(2), substituted "for each fiscal year," for "for each of fiscal years 2005 through 2009,".

2005—Subsec. (b)(2). Pub. L. 109–59, §1115(a)(1), inserted before period at end "; except that of funds so made available for each of fiscal years 2005 through 2009, $2,000,000 shall be available only to carry out intergovernmental enforcement efforts, including research and training".

Subsec. (b)(3). Pub. L. 109–59, §1115(a)(2), substituted "Except as otherwise provided in this section, the"

for "The".

Subsec. (b)(4)(H), (I). Pub. L. 109–59, §1115(a)(3), added subpars. (H) and (I).

Subsec. (b)(9). Pub. L. 109–59, §1115(a)(4), added par. (9).

Subsec. (c). Pub. L. 109–59, §1115(b), amended heading and text of subsec. (c) generally, substituting provisions relating to memorandum of understanding to be entered into by the Secretary with the Commissioner of the Internal Revenue Service not later than 90 days after the date of enactment of the SAFETEA–LU for provisions relating to memorandum of understanding to be entered into by the Secretary with the Commissioner of the Internal Revenue Service not later than August 1, 1998.

1998—Pub. L. 105–178 amended section catchline and text generally, substituting provisions relating to highway use tax evasion projects for provisions relating to economic growth center development highways.

Subsec. (c)(1). Pub. L. 105–178, §1114(c)(1), as added by Pub. L. 105–206, §9002(h), substituted "August 1" for "April 1".

Subsec. (c)(3). Pub. L. 105–178, §1114(c)(2), (3), as added by Pub. L. 105–206, §9002(h), in heading inserted "priority" after "Funding" and in text inserted "and prior to funding any other activity under this section," after "2003,".

1973—Subsec. (a). Pub. L. 93–87, §122(a), (c), substituted "projects" for "demonstration projects" and "a Federal-aid system (other than the Interstate System)" for "the Federal-aid primary system" and deleted "to demonstrate the role that highways can play" before "to promote".

Subsec. (b). Pub. L. 93–87, §122(a), substituted "projects" for "demonstration projects" and "a Federal-aid system (other than the Interstate System)" for "the Federal-aid primary system".

Subsec. (c). Pub. L. 93–87, §122(a), substituted "project" for "demonstration project" and "a Federal-aid system (other than the Interstate System)" for "the Federal-aid primary system".

Subsec. (d). Pub. L. 93–87, §122(a), substituted "highways on the Federal-aid system on which such development highway is located" for "Federal-aid primary highways".

Subsec. (e). Pub. L. 93–87, §122(b), inserted introductory text "Except as otherwise provided in subsection (c) of this section," and substituted "the Federal share of the cost of any project for construction, reconstruction, or improvement of a development highway under this section shall be the same as that provided under this title for any other project on the Federal-aid system on which such development highway is located" for "the Federal share of the cost of any project for construction, reconstruction, or improvement of a development highway under this section shall be increased by not to exceed an additional 20 per centum of the cost of such project, except that in no case shall the Federal share exceed 95 per centum of the cost of such project".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of this title.

HIGHWAY USE TAX EVASION PROJECTS

Pub. L. 102–240, title VIII, §8002(g), (h), Dec. 18, 1991, 105 Stat. 2204, 2205, as amended by Pub. L. 105–178, title I, §1114(b)(3), June 9, 1998, 112 Stat. 154, provided that:

"(g) USE OF REVENUES FOR ENFORCEMENT OF HIGHWAY TRUST FUND TAXES.—The Secretary of Transportation shall not impose any condition on the use of funds transferred under section 143

of title 23, United States Code, to the Internal Revenue Service. The Secretary of the Treasury shall, at least 60 days before the beginning of each fiscal year (after fiscal year 1992) for which such funds are to be transferred, submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate detailing the increased enforcement activities to be financed with such funds with respect to taxes referred to in section 9503(b)(1) of the Internal Revenue Code of 1986 [26 U.S.C. 9503(b)(1)].

"[(h) Repealed. Pub. L. 105–178, title I, §1114(b)(3)(B), June 9, 1998, 112 Stat. 154.]"

§144. National bridge and tunnel inventory and inspection standards

(a) FINDINGS AND DECLARATIONS.—

(1) FINDINGS.—Congress finds that—

(A) the condition of the bridges of the United States has improved since the date of enactment of the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 107), yet continued improvement to bridge conditions is essential to protect the safety of the traveling public and allow for the efficient movement of people and goods on which the economy of the United States relies; and

(B) the systematic preventative maintenance of bridges, and replacement and rehabilitation of deficient bridges, should be undertaken through an overall asset management approach to transportation investment.

(2) DECLARATIONS.—Congress declares that it is in the vital interest of the United States—

(A) to inventory, inspect, and improve the condition of the highway bridges and tunnels of the United States;

(B) to use a data-driven, risk-based approach and cost-effective strategy for systematic preventative maintenance, replacement, and rehabilitation of highway bridges and tunnels to ensure safety, resilience, and extended service life;

(C) to use performance-based bridge management systems to assist States in making timely investments;

(D) to ensure accountability and link performance outcomes to investment decisions;

(E) to ensure connectivity and access for residents of rural areas of the United States through strategic investments in National Highway System bridges and bridges on all public roads; and

(F) to ensure adequate passage of aquatic and terrestrial species, where appropriate.

(b) NATIONAL BRIDGE AND TUNNEL INVENTORIES.—The Secretary, in consultation with the States and Federal agencies with jurisdiction over highway bridges and tunnels, shall—

(1) inventory all highway bridges on public roads, on and off Federal-aid highways, including tribally owned and Federally owned bridges, that are bridges over waterways, other topographical barriers, other highways, and railroads;

(2) inventory all tunnels on public roads, on and off Federal-aid highways, including tribally owned and Federally owned tunnels;

(3) classify the bridges according to serviceability, safety, and essentiality for public use, including the potential impacts to emergency evacuation routes and to regional and national freight and passenger mobility if the serviceability of the bridge is restricted or diminished;

(4) based on that classification, assign each a risk-based priority for systematic preventative maintenance, replacement, or rehabilitation;

(5) determine the cost of replacing each bridge classified as in poor condition identified under this subsection with a comparable facility or the cost of rehabilitating the bridge; and

(6) determine if the replacement or rehabilitation of bridges and tunnels should include measures to enable safe and unimpeded movement for terrestrial and aquatic species.

(c) GENERAL BRIDGE AUTHORITY.—

(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other

provision of law, the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) shall apply to bridges authorized to be replaced, in whole or in part, by this title.

(2) EXCEPTION.—Section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)) and section 9 of the Act of March 3, 1899 (33 U.S.C. 401), shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title, if the bridge is over waters that—

(A) are not used and are not susceptible to use in the natural condition of the water or by reasonable improvement as a means to transport interstate or foreign commerce; and

(B) are—

(i) not tidal; or

(ii) if tidal, used only by recreational boating, fishing, and other small vessels that are less than 21 feet in length.

(d) INVENTORY UPDATES AND REPORTS.—

(1) IN GENERAL.—The Secretary shall—

(A) annually revise the inventories authorized by subsection (b); and

(B) 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 on the inventories.

(2) INSPECTION REPORT.—Not later than 2 years after the date of enactment of the MAP–21, each State and appropriate Federal agency shall report element level data to the Secretary, as each bridge is inspected pursuant to this section, for all highway bridges on the National Highway System.

(3) GUIDANCE.—The Secretary shall provide guidance to States and Federal agencies for implementation of this subsection, while respecting the existing inspection schedule of each State.

(4) BRIDGES NOT ON NATIONAL HIGHWAY SYSTEM.—The Secretary shall—

(A) conduct a study on the benefits, cost-effectiveness, and feasibility of requiring element-level data collection for bridges not on the National Highway System; and

(B) 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 on the results of the study.

(e) BRIDGES WITHOUT TAXING POWERS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any bridge that is owned and operated by an agency that does not have taxing powers and whose functions include operating a federally assisted public transit system subsidized by toll revenues shall be eligible for assistance under this title, but the amount of such assistance shall in no event exceed the cumulative amount which such agency has expended for capital and operating costs to subsidize such transit system.

(2) INSUFFICIENT ASSETS.—Before authorizing an expenditure of funds under this subsection, the Secretary shall determine that the applicant agency has insufficient reserves, surpluses, and projected revenues (over and above those required for bridge and transit capital and operating costs) to fund the bridge project or activity eligible for assistance under this title.

(3) CREDITING OF NON-FEDERAL FUNDS.—Any non-Federal funds expended for the seismic retrofit of the bridge may be credited toward the non-Federal share required as a condition of receipt of any Federal funds for seismic retrofit of the bridge made available after the date of the expenditure.

(f) REPLACEMENT OF DESTROYED BRIDGES AND FERRY BOAT SERVICE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a State may use the funds apportioned under section 104(b)(2) to construct any bridge that replaces—

(A) any low water crossing (regardless of the length of the low water crossing);

(B) any bridge that was destroyed prior to January 1, 1965;

(C) any ferry that was in existence on January 1, 1984; or

(D) any road bridge that is rendered obsolete as a result of a Corps of Engineers flood control or channelization project and is not rebuilt with funds from the Corps of Engineers.

(2) FEDERAL SHARE.—The Federal share payable on any bridge construction carried out under paragraph (1) shall be 80 percent of the cost of the construction.

(g) HISTORIC BRIDGES.—

(1) DEFINITION OF HISTORIC BRIDGE.—In this subsection, the term "historic bridge" means any bridge that is listed on, or eligible for listing on, the National Register of Historic Places.

(2) COORDINATION.—The Secretary shall, in cooperation with the States, encourage the retention, rehabilitation, adaptive reuse, and future study of historic bridges.

(3) STATE INVENTORY.—The Secretary shall require each State to complete an inventory of all bridges on and off Federal-aid highways to determine the historic significance of the bridges.

(4) ELIGIBILITY.—

(A) IN GENERAL.—Subject to subparagraph (B), reasonable costs associated with actions to preserve, or reduce the impact of a project under this chapter on, the historic integrity of a historic bridge shall be eligible as reimbursable project costs under section 133 if the load capacity and safety features of the historic bridge are adequate to serve the intended use for the life of the historic bridge.

(B) BRIDGES NOT USED FOR VEHICLE TRAFFIC.—In the case of a historic bridge that is no longer used for motorized vehicular traffic, the costs eligible as reimbursable project costs pursuant to this chapter shall not exceed the estimated cost of demolition of the historic bridge.

(5) PRESERVATION.—Any State that proposes to demolish a historic bridge for a replacement project with funds made available to carry out this section shall first make the historic bridge available for donation to a State, locality, or responsible private entity if the State, locality, or responsible entity enters into an agreement—

(A) to maintain the bridge and the features that give the historic bridge its historic significance; and

(B) to assume all future legal and financial responsibility for the historic bridge, which may include an agreement to hold the State transportation department harmless in any liability action.

(6) COSTS INCURRED.—

(A) IN GENERAL.—Costs incurred by the State to preserve a historic bridge (including funds made available to the State, locality, or private entity to enable it to accept the bridge) shall be eligible as reimbursable project costs under this chapter in an amount not to exceed the cost of demolition.

(B) ADDITIONAL FUNDING.—Any bridge preserved pursuant to this paragraph shall not be eligible for any other funds authorized pursuant to this title.

(h) NATIONAL BRIDGE AND TUNNEL INSPECTION STANDARDS.—

(1) REQUIREMENT.—

(A) IN GENERAL.—The Secretary shall establish and maintain inspection standards for the proper inspection and evaluation of all highway bridges and tunnels for safety and serviceability.

(B) UNIFORMITY.—The standards under this subsection shall be designed to ensure uniformity of the inspections and evaluations.

(2) MINIMUM REQUIREMENTS OF INSPECTION STANDARDS.—The standards established under paragraph (1) shall, at a minimum—

(A) specify, in detail, the method by which the inspections shall be carried out by the States, Federal agencies, and tribal governments;

(B) establish the maximum time period between inspections;

(C) establish the qualifications for those charged with carrying out the inspections;

(D) require each State, Federal agency, and tribal government to maintain and make available to the Secretary on request—

(i) written reports on the results of highway bridge and tunnel inspections and notations of any action taken pursuant to the findings of the inspections; and

(ii) current inventory data for all highway bridges and tunnels reflecting the findings of the most recent highway bridge and tunnel inspections conducted; and

(E) establish a procedure for national certification of highway bridge inspectors and tunnel inspectors.

(3) STATE COMPLIANCE WITH INSPECTION STANDARDS.—The Secretary shall, at a minimum—

(A) establish, in consultation with the States, Federal agencies, and interested and knowledgeable private organizations and individuals, procedures to conduct reviews of State compliance with—

(i) the standards established under this subsection; and

(ii) the calculation or reevaluation of bridge load ratings; and

(B) establish, in consultation with the States, Federal agencies, and interested and knowledgeable private organizations and individuals, procedures for States to follow in reporting to the Secretary—

(i) critical findings relating to structural or safety-related deficiencies of highway bridges and tunnels; and

(ii) monitoring activities and corrective actions taken in response to a critical finding described in clause (i).

(4) REVIEWS OF STATE COMPLIANCE.—

(A) IN GENERAL.—The Secretary shall annually review State compliance with the standards established under this section.

(B) NONCOMPLIANCE.—If an annual review in accordance with subparagraph (A) identifies noncompliance by a State, the Secretary shall—

(i) issue a report detailing the issues of the noncompliance by December 31 of the calendar year in which the review was made; and

(ii) provide the State an opportunity to address the noncompliance by—

(I) developing a corrective action plan to remedy the noncompliance; or

(II) resolving the issues of noncompliance not later than 45 days after the date of notification.

(5) PENALTY FOR NONCOMPLIANCE.—

(A) IN GENERAL.—If a State fails to satisfy the requirements of paragraph (4)(B) by August 1 of the calendar year following the year of a finding of noncompliance, the Secretary shall, on October 1 of that year, and each year thereafter as may be necessary, require the State to dedicate funds apportioned to the State under sections 119 and 133 after the date of enactment of the MAP–21 to correct the noncompliance with the minimum inspection standards established under this subsection.

(B) AMOUNT.—The amount of the funds to be directed to correcting noncompliance in accordance with subparagraph (A) shall—

(i) be determined by the State based on an analysis of the actions needed to address the noncompliance; and

(ii) require approval by the Secretary.

(6) UPDATE OF STANDARDS.—Not later than 3 years after the date of enactment of the MAP–21, the Secretary shall update inspection standards to cover—

(A) the methodology, training, and qualifications for inspectors; and

(B) the frequency of inspection.

(7) RISK-BASED APPROACH.—In carrying out the revisions required by paragraph (6), the Secretary shall consider a risk-based approach to determining the frequency of bridge inspections.

(i) TRAINING PROGRAM FOR BRIDGE AND TUNNEL INSPECTORS.—

(1) IN GENERAL.—The Secretary, in cooperation with the State transportation departments, shall maintain a program designed to train appropriate personnel to carry out highway bridge and tunnel inspections.

(2) REVISIONS.—The training program shall be revised from time to time to take into account new and improved techniques.

(3) REQUIREMENT.—The first revision under paragraph (2) after the date of enactment of the Surface Transportation Reauthorization Act of 2021 shall include techniques to assess passage of aquatic and terrestrial species and habitat restoration potential.

(j) BUNDLING OF BRIDGE PROJECTS.—

(1) PURPOSE.—The purpose of this subsection is to save costs and time by encouraging States to bundle multiple bridge projects as 1 project.

(2) ELIGIBLE ENTITY DEFINED.—In this subsection, the term "eligible entity" means an entity eligible to carry out a bridge project under section 119 or 133.

(3) BUNDLING OF BRIDGE PROJECTS.—An eligible entity may bundle 2 or more similar bridge projects that are—

(A) eligible projects under section 119 or 133;

(B) included as a bundled project in a transportation improvement program under section 134(j) or a statewide transportation improvement program under section 135, as applicable; and

(C) awarded to a single contractor or consultant pursuant to a contract for engineering and design or construction between the contractor and an eligible entity.

(4) ITEMIZATION.—Notwithstanding any other provision of law (including regulations), a bundling of bridge projects under this subsection may be listed as—

(A) 1 project for purposes of sections 134 and 135; and

(B) a single project.

(5) FINANCIAL CHARACTERISTICS.—Projects bundled under this subsection shall have the same financial characteristics, including—

(A) the same funding category or subcategory; and

(B) the same Federal share.

(k) AVAILABILITY OF FUNDS.—In carrying out this section—

(1) the Secretary may use funds made available to the Secretary under sections 104(a) and 503;

(2) a State may use amounts apportioned to the State under section 104(b)(1) and 104(b)(2);

(3) an Indian tribe may use funds made available to the Indian tribe under section 202; and

(4) a Federal agency may use funds made available to the agency under section 503.

(Added Pub. L. 91–605, title II, §204(a), Dec. 31, 1970, 84 Stat. 1741; amended Pub. L. 93–87, title II, §204, Aug. 13, 1973, 87 Stat. 284; Pub. L. 93–643, §113, Jan. 4, 1975, 88 Stat. 2286; Pub. L. 95–599, title I, §124(a), Nov. 6, 1978, 92 Stat. 2702; Pub. L. 96–106, §§7, 8(a), Nov. 9, 1979, 93 Stat. 797; Pub. L. 97–327, §5(c), Oct. 15, 1982, 96 Stat. 1612; Pub. L. 97–424, title I, §§121(a), 122(a), Jan. 6, 1983, 96 Stat. 2111, 2112; Pub. L. 100–17, title I, §§123(a)–(d)(1), (3), (e), (f)(2),

128, 133(b)(11), Apr. 2, 1987, 101 Stat. 161–163, 167, 172; Pub. L. 102–240, title I, §1028(a)–(f), Dec. 18, 1991, 105 Stat. 1967, 1968; Pub. L. 103–220, §1, Mar. 17, 1994, 108 Stat. 100; Pub. L. 104–59, title III, §§318, 325(b), Nov. 28, 1995, 109 Stat. 588, 592; Pub. L. 105–178, title I, §§1109, 1115(f)(3); June 9, 1998, 112 Stat. 141; Pub. L. 105–206, title IX, §9002(i), July 22, 1998, 112 Stat. 836; Pub. L. 108–88, §2(b)(5), Sept. 30, 2003, 117 Stat. 1111; Pub. L. 108–202, §2(b)(3), Feb. 29, 2004, 118 Stat. 478; Pub. L. 108–224, §2(b)(2), Apr. 30, 2004, 118 Stat. 627; Pub. L. 108–263, §2(b)(2), June 30, 2004, 118 Stat. 698; Pub. L. 108–280, §2(b)(2), July 30, 2004, 118 Stat. 876; Pub. L. 108–310, §2(b)(5), Sept. 30, 2004, 118 Stat. 1145; Pub. L. 109–14, §2(b)(3), May 31, 2005, 119 Stat. 324; Pub. L. 109–20, §2(b)(2), July 1, 2005, 119 Stat. 346; Pub. L. 109–35, §2(b)(2), July 20, 2005, 119 Stat. 379; Pub. L. 109–37, §2(b)(2), July 22, 2005, 119 Stat. 394; Pub. L. 109–40, §2(b)(2), July 28, 2005, 119 Stat. 410; Pub. L. 109–59, title I, §1114, Aug. 10, 2005, 119 Stat. 1172; Pub. L. 110–244, title I, §101(m)(1), June 6, 2008, 122 Stat. 1575; Pub. L. 112–141, div. A, title I, §1111(a), July 6, 2012, 126 Stat. 445; Pub. L. 114–94, div. A, title I, §1111, Dec. 4, 2015, 129 Stat. 1344; Pub. L. 117–58, div. A, title I, §§11123(e), 11310(b), 11524(b), Nov. 15, 2021, 135 Stat. 506, 536, 606.)

EDITORIAL NOTES

REFERENCES IN TEXT

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

The General Bridge Act of 1946, referred to in subsec. (c)(1), is title V of act Aug. 2, 1946, ch. 753, 60 Stat. 847, which is classified generally to subchapter III (§525 et seq.) of chapter 11 of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 525 of Title 33 and Tables.

The date of enactment of the MAP–21, referred to in subsecs. (d)(2) and (h)(5)(A), (6), is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title.

The date of enactment of the Surface Transportation Reauthorization Act of 2021, referred to in subsec. (i)(3), is the date of enactment of div. A of Pub. L. 117–58, which was approved Nov. 15, 2021.

AMENDMENTS

2021—Subsec. (a)(2)(B). Pub. L. 117–58, §11123(e)(1)(A), inserted ", resilience," after "safety".

Subsec. (a)(2)(F). Pub. L. 117–58, §11123(e)(1)(B)–(D), added subpar. (F).

Subsec. (b)(5). Pub. L. 117–58, §11524(b), substituted "bridge classified as in poor condition" for "structurally deficient bridge".

Subsec. (b)(6). Pub. L. 117–58, §11123(e)(2), added par. (6).

Subsec. (i)(3). Pub. L. 117–58, §11123(e)(3), added par. (3).

Subsec. (j)(6). Pub. L. 117–58, §11310(b), struck out par. (6). Text read as follows: "The provisions of section 102(b) do not apply to projects carried out under this subsection."

2015—Subsec. (c)(2)(A). Pub. L. 114–94, §1111(1), substituted "the natural condition of the water" for "the natural condition of the bridge".

Subsecs. (j), (k). Pub. L. 114–94, §1111(2), (3), added subsec. (j) and redesignated former subsec. (j) as (k).

Subsec. (k)(2). Pub. L. 114–94, §1111(4), substituted "104(b)(2)" for "104(b)(3)".

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to highway bridge program.

2008—Pub. L. 110–244, §101(m)(1)(A), struck out "replacement and rehabilitation" after "Highway bridge" in section catchline.

Subsecs. (b)(1), (c)(1)(1). Pub. L. 110–244, §101(m)(1)(B), substituted "Federal-aid highway" for "Federal-aid system".

Subsec. (c)(2). Pub. L. 110–244, §101(m)(1)(C), substituted "Federal-aid highways" for "the Federal-aid system".

Subsec. (d)(4). Pub. L. 110–244, §101(m)(1)(D), inserted "systematic" before "preventive" in heading.

Subsec. (e)(1), (2). Pub. L. 110–244, §101(m)(1)(B), substituted "Federal-aid highway" for "Federal-aid system".

Subsec. (e)(3), (4). Pub. L. 110–244, §101(m)(1)(E), substituted "bridges not on Federal-aid highways" for

"off-system bridges".

Subsec. (f). Pub. L. 110–244, §101(m)(1)(F), (G), redesignated subsec. (g) as (f) and struck out former subsec. (f) which read as follows: "The Federal share payable on account of any project under this section shall be 80 per centum of the cost thereof."

Subsec. (f)(1)(A)(vi). Pub. L. 110–244, §101(m)(1)(H), inserted "and the removal of the Missisquoi Bay causeway" after "Bridge".

Subsec. (f)(2). Pub. L. 110–244, §101(m)(1)(I), inserted heading and struck out former heading "Off-system bridges".

Subsecs. (g) to (l). Pub. L. 110–244, §101(m)(1)(G), redesignated subsecs. (h) to (m) as (g) to (l), respectively. Former subsec. (g) redesignated (f).

Subsec. (m). Pub. L. 110–244, §101(m)(1)(G), (J), redesignated subsec. (n) as (m), inserted heading, and struck out former heading "Off-System Bridge Program". Former subsec. (m) redesignated (l).

Subsec. (n). Pub. L. 110–244, §101(m)(1)(G), redesignated subsec. (o) as (n). Former subsec. (n) redesignated (m).

Subsec. (n)(4)(B). Pub. L. 110–244, §101(m)(1)(K), substituted "State transportation department" for "State highway agency".

Subsec. (o). Pub. L. 110–244, §101(m)(1)(G), redesignated subsec. (p) as (o). Former subsec. (o) redesignated (n).

Subsec. (o)(2). Pub. L. 110–244, §101(m)(1)(C), substituted "Federal-aid highways" for "the Federal-aid system".

Subsecs. (p) to (s). Pub. L. 110–244, §101(m)(1)(G), redesignated subsecs. (p) to (s) as (o) to (r), respectively.

2005—Subsec. (a). Pub. L. 109–59, §1114(a), inserted heading and amended text of subsec. (a) generally. Prior to amendment, text read as follows: "Congress hereby finds and declares it to be in the vital interest of the Nation that a highway bridge replacement and rehabilitation program be established to enable the several States to replace or rehabilitate highway bridges over waterways, other topographical barriers, other highways, or railroads when the States and the Secretary finds that a bridge is significantly important and is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence."

Subsec. (d). Pub. L. 109–59, §1114(b), inserted heading and amended text of subsec. (d) generally. Prior to amendment, text related to approval of Federal participation in replacement or rehabilitation of bridges.

Subsec. (e). Pub. L. 109–59, §1114(c), in third sentence, substituted "deck area" for "square footage", in fourth sentence, struck out "the total cost of deficient bridges in a State and in all States shall be reduced by the total cost of any highway bridges constructed under subsection (m) in such State, relating to replacement of destroyed bridges and ferryboat services, and," after "For purposes of the preceding sentence,", and, in seventh sentence, substituted "for the period specified in section 118(b)(2)" for "for the same period as funds apportioned for projects on the Federal-aid primary system under this title".

Subsec. (g). Pub. L. 109–59, §1114(e)(2)(A), substituted "BRIDGE SET-ASIDES" for "SET ASIDES" in heading.

Subsec. (g)(1). Pub. L. 109–59, §1114(e)(2)(A), added par. (1) and struck out heading and text of former par. (1), which related to apportionments for the discretionary bridge program for fiscal years 1992 through 2005.

Subsec. (g)(1)(C). Pub. L. 109–59, §1114(e)(1), substituted "2005" for "2003" in heading and text.

Subsec. (g)(2). Pub. L. 109–59, §1114(e)(2)(C), redesignated par. (3) as (2).

Pub. L. 109–59, §1114(e)(2)(A), (B), both amended subsec. (g) by striking out heading and text of par. (2). Text read as follows: "Subject to section 149(d) of the Federal-Aid Highway Act of 1987, amounts made available by paragraph (1) for obligation at the discretion of the Secretary may be obligated only—

"(A) for a project for a highway bridge the replacement or rehabilitation cost of which is more than $10,000,000, and

"(B) for a project for a highway bridge the replacement or rehabilitation cost of which is less than $10,000,000 if such cost is at least twice the amount apportioned to the State in which such bridge is located under subsection (e) for the fiscal year in which application is made for a grant for such bridge."

Subsec. (g)(3). Pub. L. 109–59, §1114(e)(2)(C), redesignated par. (3) as (2).

Pub. L. 109–59, §1114(d), reenacted heading without change and amended text of par. (3) generally. Prior to amendment, text read as follows: "Not less than 15 percent nor more than 35 percent of the amount apportioned to each State in each of fiscal years 1987 through 2004 and in the period of October 1, 2004, through July 30, 2005, shall be expended for projects to replace, rehabilitate, paint or seismic retrofit, or apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions or install scour countermeasures to highway bridges located on

public roads, other than those on a Federal-aid highway. The Secretary, after consultation with State and local officials, may, with respect to such State, reduce the requirement for expenditure for bridges not on a Federal-aid highway when the Secretary determines that such State has inadequate needs to justify such expenditure."

Pub. L. 109–40 substituted "July 30" for "July 27".

Pub. L. 109–37 substituted "July 27" for "July 21".

Pub. L. 109–35 substituted "July 21" for "July 19".

Pub. L. 109–20 substituted "July 19" for "June 30".

Pub. L. 109–14 substituted "June 30" for "May 31".

Subsec. (i). Pub. L. 109–59, §1114(g), struck out "at the same time as the report required by section 307(f) of this title is submitted to Congress" after "biennially" in concluding provisions.

Subsecs. (r), (s). Pub. L. 109–59, §1114(f), added subsecs. (r) and (s).

2004—Subsec. (g)(3). Pub. L. 108–310 inserted "and in the period of October 1, 2004, through May 31, 2005," after "2004".

Pub. L. 108–280 substituted "2004" for "2003 and in the period of October 1, 2003, through July 31, 2004,".

Pub. L. 108–263 substituted "July 31" for "June 30".

Pub. L. 108–224 substituted "June 30" for "April 30".

Pub. L. 108–202 substituted "April 30" for "February 29".

2003—Subsec. (g)(3). Pub. L. 108–88 inserted "and in the period of October 1, 2003, through February 29, 2004," after "2003".

1998—Subsec. (d). Pub. L. 105–178, §1109(d)(1), (2), inserted ", sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions or installing scour countermeasures" after "magnesium acetate" and inserted "or sodium acetate/formate or such anti-icing or de-icing composition or installation of such countermeasures" after "such acetate" in two places.

Subsec. (e). Pub. L. 105–178, §1109(a), inserted ", and, if a State transfers funds apportioned to the State under this section in a fiscal year beginning after September 30, 1997, to any other apportionment of funds to such State under this title, the total cost of deficient bridges in such State and in all States to be determined for the succeeding fiscal year shall be reduced by the amount of such transferred funds" after "destroyed bridges and ferryboat services".

Subsec. (g)(1). Pub. L. 105–178, §1109(b), designated existing provisions as subpar. (A), inserted heading, realigned margins, and added subpars. (B) and (C).

Subsec. (g)(3). Pub. L. 105–178, §1109(c), (d)(3), substituted "through 2003" for "1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, and 1997,", substituted "Federal-aid highway" for "Federal-aid system" in two places, and inserted ", sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions or install scour countermeasures" after "magnesium acetate".

Subsec. (g)(4). Pub. L. 105–178, §1115(f)(3), as added by Pub. L. 105–206, §9002(i), struck out heading and text of par. (4). Text read as follows: "Not less than 1 percent of the amount apportioned to each State which has an Indian reservation within its boundaries for each fiscal year shall be expended for projects to replace, rehabilitate, paint, or apply calcium magnesium acetate to highway bridges located on Indian reservation roads. Upon determining a State bridge apportionment and before transferring funds to the States, the Secretary shall transfer the Indian reservation bridge allocation under this paragraph to the Secretary of the Interior for expenditure pursuant to this paragraph. The Secretary, after consultation with State and Indian tribal government officials and with the concurrence of the Secretary of the Interior, may, with respect to such State, reduce the requirement for expenditure for bridges under this paragraph when the Secretary determines that there are inadequate needs to justify such expenditure. The non-Federal share payable on account of such a project may be provided from funds made available for Indian reservation roads under chapter 2 of this title."

Subsec. (n). Pub. L. 105–178, §1109(e), substituted "Federal-aid highway" for "Federal-aid system".

1995—Subsec. (i)(1). Pub. L. 104–59, §325(b), substituted "Committee on Transportation and Infrastructure" for "Committee on Public Works and Transportation".

Subsec. (l). Pub. L. 104–59, §318, inserted at end "Any non-Federal funds expended for the seismic retrofit of the bridge may be credited toward the non-Federal share required as a condition of receipt of any Federal funds for seismic retrofit of the bridge made available after the date of the expenditure."

1994—Subsec. (d). Pub. L. 103–220, §1(1), inserted before period at end of third sentence ", except that a State may carry out a project for seismic retrofit of a bridge under this section without regard to whether the bridge is eligible for replacement or rehabilitation under this section".

Subsec. (e). Pub. L. 103–220, §1(2), inserted at end "The use of funds authorized under this section to carry

out a project for the seismic retrofit of a bridge shall not affect the apportionment of funds under this section."

1991—Subsec. (c)(3). Pub. L. 102–240, §1028(a), added par. (3).

Subsec. (d). Pub. L. 102–240, §1028(b), inserted "Whenever any State makes application to the Secretary for assistance in painting and seismic retrofit, or applying calcium magnesium acetate to, the structure of a highway bridge, the Secretary may approve Federal participation in the painting or seismic retrofit of, or application of such acetate to, such structure." after first sentence and "(other than projects for bridge structure painting or seismic retrofit or application of such acetate)" after "projects" in last sentence.

Subsec. (f). Pub. L. 102–240, §1028(c), substituted "project" for "highway bridge replaced or rehabilitated".

Subsec. (g)(1). Pub. L. 102–240, §1028(d), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "Of the amount authorized per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991 by section 106(a)(5) of the Federal-Aid Highway Act of 1987, all but $225,000,000 per fiscal year shall be apportioned as provided in subsection (e) of this section. $225,000,000 per fiscal year of the amount authorized for each of such fiscal years shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date, except that the obligation of such $225,000,000 shall, subject to section 149(d) of the Federal-Aid Highway Act of 1987, be at the discretion of the Secretary."

Subsec. (g)(3). Pub. L. 102–240, §1028(e)(1), substituted "1991, 1992, 1993, 1994, 1995, 1996, and 1997" for "and 1991" and ", rehabilitate, paint or seismic retrofit, or apply calcium magnesium acetate to" for "or rehabilitate".

Subsec. (g)(4). Pub. L. 102–240, §1028(f), added par. (4).

Subsecs. (p), (q). Pub. L. 102–240, §1028(e)(2), added subsec. (p) and redesignated former subsec. (p) as (q).

1987—Subsec. (e). Pub. L. 100–17, §133(b)(11), inserted at end "Funds apportioned under this section shall be available for expenditure for the same period as funds apportioned for projects on the Federal-aid primary system under this title. Any funds not obligated at the expiration of such period shall be reapportioned by the Secretary to the other States in accordance with this subsection."

Pub. L. 100–17, §123(d)(3), inserted after third sentence "For purposes of the preceding sentence, the total cost of deficient bridges in a State and in all States shall be reduced by the total cost of any highway bridges constructed under subsection (m) in such State, relating to replacement of destroyed bridges and ferryboat services."

Subsec. (g). Pub. L. 100–17, §123(a), amended subsec. (g) generally, revising and restating as pars. (1) to (3) provisions formerly contained in pars. (1) and (2).

Subsec. (h). Pub. L. 100–17, §123(b), substituted "(1)" for "which are not subject to the ebb and flow of the tide, and" and added cl. (2).

Subsec. (i). Pub. L. 100–17, §128, substituted "307(f)" for "307(e)" in last sentence.

Pub. L. 100–17, §123(c), amended subsec. (i) generally. Prior to amendment, subsec. (i) read as follows: "The Secretary shall report annually on projects approved under this section, shall annually revise and report the current inventories authorized by subsections (b) and (c) of this section, and shall report such recommendations as he may have for improvement of the program authorized by this section."

Subsec. (m). Pub. L. 100–17, §123(d)(1), added subsec. (m). Former subsec. (m) redesignated (p).

Subsec. (n). Pub. L. 100–17, §123(e), which directed that this section be amended by adding subsec. (n) after subsec. (l), was executed by adding subsec. (n) after subsec. (m), to reflect the probable intent of Congress.

Subsec. (o). Pub. L. 100–17, §123(f)(2), which directed that this section be amended by adding subsec. (o) after subsec. (l), was executed by adding subsec. (o) after subsec. (n), to reflect the probable intent of Congress.

Subsec. (p). Pub. L. 100–17, §123(d)(1), redesignated former subsec. (m) as (p).

1983—Subsec. (e). Pub. L. 97–424, §121(a), substituted provisions setting forth categorization, formula for apportionment factors, and limitations respecting deficient bridges for provisions relating to apportionment of funds for fiscal years ending Sept. 30, 1979, through Sept. 30, 1983, availability for expenditure of such funds, and reapportionment by the Secretary.

Pub. L. 97–327, §5(c)(1), substituted "September 30, 1982, and September 30, 1983" for "and September 30, 1982".

Subsec. (g). Pub. L. 97–424, §122(a), designated existing provisions as par. (1), struck out provisions added by section 5(c)(2) of Pub. L. 97–327 relating to apportionment of amounts for fiscal year ending Sept. 30, 1983, and added par. (2).

Pub. L. 97–327, §5(c)(2), inserted provision that, of the amount authorized for the fiscal year ending September 30, 1983, by paragraph (1) of section 5(a) of the Federal-Aid Highway Act of 1982, all but

$200,000,000 (multiplied by the factor determined under section 4(a) of such Act) be apportioned, and that $200,000,000 (multiplied by such factor) of the amount authorized for such fiscal year be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date with specific limitations applicable to the obligation of such $200,000,000.

1979—Subsec. (d). Pub. L. 96–106, §7(a), substituted "such bridge with a comparable facility or in rehabilitating such bridge" for "or rehabilitating such bridge with a comparable facility".

Subsec. (g). Pub. L. 96–106, §8(a), inserted ", and for any project for a highway bridge the replacement or rehabilitation costs of which is less than $10,000,000 if such costs is at least twice the amount apportioned to the State in which such bridge is located under subsection (e) of this section for the fiscal year in which application is made for a grant for such bridge".

Subsec. (m). Pub. L. 96–106, §7(b), substituted "major work" for "major repairs".

1978—Subsec. (a). Pub. L. 95–599 substituted provisions relating to Congressional findings as to highway bridge replacement and rehabilitation for provisions relating to Congressional findings as to special bridge replacement.

Subsec. (b). Pub. L. 95–599 added cl. (4).

Subsec. (c). Pub. L. 95–599 added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 95–599 redesignated former subsec. (c) as (d) and among other amendments struck out provisions requiring Secretary to consider economy of area and approval of projects without regard to allocation formulas under this title.

Subsec. (e). Pub. L. 95–599 added subsec. (e). Former subsec. (e) redesignated (g).

Subsec. (f). Pub. L. 95–599 redesignated former subsec. (d) as (f), substituted "80" for "75", and inserted "highway" after "account of any". Former subsec. (f) was struck out.

Subsec. (g). Pub. L. 95–599 redesignated former subsec. (e) as (g) and inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1979 through Sept. 30, 1982. Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 95–599 redesignated former subsec. (g) as (h) and inserted provisions relating to exceptions to applications of the General Bridge Act of 1946. Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 95–599 redesignated former subsec. (h) as (i) and inserted provisions relating to revision and report of current inventories.

Subsecs. (j) to (m). Pub. L. 95–599 added subsecs. (j) to (m).

1975—Subsec. (e). Pub. L. 93–643 increased appropriations authorization to $125,000,000 from $75,000,000 for fiscal year ending June 30, 1976.

1973—Subsec. (e). Pub. L. 93–87, §204(a), provided for appropriations authorization of $25,000,000, $75,000,000, and $75,000,000 for fiscal years ending June 30, 1974, 1975, and 1976.

Subsecs. (f) to (h). Pub. L. 93–87, §204(b), (c), added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–59, title I, §1114(e)(2), Aug. 10, 2005, 119 Stat. 1174, provided that the amendment made by section 1114(e)(2) is effective Oct. 1, 2005.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day

before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

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

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–17, title I, §123(d)(2), Apr. 2, 1987, 101 Stat. 162, provided that: "The amendment made by subsection (a) [amending this section] shall apply to funds apportioned to the States under [former] section 144 of title 23, United States Code, after September 30, 1986."

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 97–424, title I, §121(b), Jan. 6, 1983, 96 Stat. 2112, provided that: "The amendment made by subsection (a) of this section [amending this section] shall take effect October 1, 1982, and shall apply with respect to each fiscal year beginning on or after such date. Notwithstanding subsection (e) of [former] section 144 of title 23, United States Code, as soon as practical after the date of enactment of this Act [Jan. 6, 1983], the Secretary of Transportation shall apportion under such subsection (e), as amended by subsection (a) of this section, sums authorized to be appropriated to carry out such section 144 for the fiscal year ending September 30, 1983."

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in subsec. (h)(1), (3), and (4) of this section, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 135 of House Document No. 103–7.

NATIONAL HISTORIC COVERED BRIDGE PRESERVATION

Pub. L. 109–59, title I, §1804, Aug. 10, 2005, 119 Stat. 1458, which directed the Secretary of Transportation to make grants to States that submitted applications to the Secretary that demonstrated a need for assistance in carrying out one or more historic covered bridge projects, was repealed by Pub. L. 112–141, div. A, title I, §1519(b)(2), July 6, 2012, 126 Stat. 575.

Pub. L. 105–178, title I, §1224, as added by Pub. L. 105–206, title IX, §9003(a), July 22, 1998, 112 Stat. 837, directed the Secretary of Transportation to make grants to States that submitted applications to the Secretary that demonstrated a need for assistance in carrying out one or more historic covered bridge projects and authorized appropriations for fiscal years 1999 through 2003.

USE OF DEBRIS FROM DEMOLISHED BRIDGES AND OVERPASSES

Pub. L. 109–59, title I, §1805, Aug. 10, 2005, 119 Stat. 1459, as amended by Pub. L. 112–141, div. A, title I, §1523, July 6, 2012, 126 Stat. 580, provided that:

"(a) IN GENERAL.—Any State that demolishes a bridge or an overpass that is eligible for Federal assistance under the national highway performance program under section 119 of title 23, United States Code, is directed to first make the debris from the demolition of such bridge or overpass available for beneficial use by a Federal, State, or local government, unless such use obstructs navigation.

"(b) RECIPIENT RESPONSIBILITIES.—A recipient of the debris described in subsection (a) shall—

"(1) bear the additional cost associated with having the debris made available;

"(2) ensure that placement of the debris complies with applicable law; and

"(3) assume all future legal responsibility arising from the placement of the debris, which may include entering into an agreement to hold the owner of the demolished bridge or overpass harmless in any liability action.

"(c) DEFINITION.—In this section, the term 'beneficial use' means the application of the debris for purposes of shore erosion control or stabilization, ecosystem restoration, and marine habitat creation."

HIGHWAY TIMBER BRIDGE RESEARCH AND DEMONSTRATION PROGRAM

Pub. L. 102–240, title I, §1039, Dec. 18, 1991, 105 Stat. 1990, as amended by Pub. L. 102–388, title IV, §408, Oct. 6, 1992, 106 Stat. 1564, authorized the Secretary to make grants to entities for research and construction of timber bridges and other timber highway structures and authorized appropriations for fiscal years 1992 to 1997.

FEASIBILITY OF INTERNATIONAL BORDER HIGHWAY INFRASTRUCTURE DISCRETIONARY PROGRAM

Pub. L. 102–240, title I, §1089, Dec. 18, 1991, 105 Stat. 2023, directed Secretary of Transportation to conduct a study of advisability and feasibility of establishing an international border highway infrastructure discretionary program and, not later than Sept. 30, 1993, transmit to Congress a report on results of the study, together with any recommendations.

HISTORIC BRIDGES; CONGRESSIONAL FINDINGS AND DECLARATIONS

Pub. L. 100–17, title I, §123(f)(1), Apr. 2, 1987, 101 Stat. 163, provided that: "Congress hereby finds and declares it to be in the national interest to encourage the rehabilitation, reuse and preservation of bridges significant in American history, architecture, engineering and culture. Historic bridges are important links to our past, serve as safe and vital transportation routes in the present, and can represent significant resources for the future."

STUDY AND RECOMMENDATIONS BY TRANSPORTATION RESEARCH BOARD ON EFFECTS OF BRIDGE PROGRAM ON PRESERVATION AND REHABILITATION OF HISTORIC BRIDGES

Pub. L. 100–17, title I, §123(f)(3), Apr. 2, 1987, 101 Stat. 163, provided for a study and recommendations by the Transportation Research Board on the preservation and rehabilitation of historic bridges and required the Board to submit a report on the study and recommendations.

STUDY OF HIGHWAY BRIDGES WHICH CROSS RAIL LINES; REPORT

Pub. L. 100–17, title I, §160, Apr. 2, 1987, 101 Stat. 212, directed Secretary to conduct a comprehensive study and investigation of improvement and maintenance needs for highway bridges which cross rail lines and whose ownership has been disputed and, not later than 30 months after Apr. 2, 1987, submit to Congress a report on the study and investigation along with recommendations on how the bridge needs could best be addressed on a long term basis in a cost-effective manner.

FOUR-LANE BRIDGES

Pub. L. 97–424, title I, §130, Jan. 6, 1983, 96 Stat. 2118, authorized funds to complete construction of a four-lane bridge in certain cases where funds to construct a two-lane bridge had been authorized by a law enacted between Jan. 1, 1970, and Jan. 6, 1983.

DISCRETIONARY BRIDGE CRITERIA

Pub. L. 97–424, title I, §161, Jan. 6, 1983, 96 Stat. 2135, as amended by Pub. L. 100–17, title I, §123(h), Apr. 2, 1987, 101 Stat. 164, required the Secretary to develop a selection process and issue a final regulation no later than 6 months after Jan. 6, 1983, regarding funding priority of discretionary bridges.

TRANSFER OF DISCRETIONARY BRIDGE FUNDS

Pub. L. 96–106, §8(b), Nov. 9, 1979, 93 Stat. 797, provided for the transfer of discretionary bridge funds authorized under subsec. (g) of this section for fiscal year 1980 to a State's apportionment under former section 104(b)(6) of this title to repay funds obligated under section 104(b)(6) between June 1 and July 31, 1979, for bridge projects which are eligible for funding by virtue of the amendment of subsec. (g) of this section by section 8(a) of Pub. L. 96–106.

TIME FOR COMPLETION OF INVENTORY AND CLASSIFICATION OF HIGHWAY BRIDGES

Pub. L. 95–599, title I, §124(c), Nov. 6, 1978, 92 Stat. 2705, directed Secretary of Transportation to complete the requirements of subsec. (c) of this section, as amended by subsec. (a) of section 124 of Pub. L. 95–599, not later than the last day of the second full calendar year which begins after Nov. 6, 1978.

ACCELERATION OF BRIDGE PROJECTS; OHIO RIVER BRIDGE FUND REPROGRAMMING; REPORTS TO CONGRESS

Pub. L. 95–599, title I, §147, Nov. 6, 1978, 92 Stat. 2714, as amended by Pub. L. 96–106, §15, Nov. 19, 1979, 93 Stat. 798; Pub. L. 99–272, title IV, §4105, Apr. 7, 1986, 100 Stat. 116, directed Secretary of Transportation to conduct two projects to construct or replace high-traffic-volume bridges on the Federal-aid highway system which span major bodies of water in order to demonstrate the feasibility of reducing the time required to replace unsafe bridges; authorized funds for the projects; directed Secretary to report to Congress within six months after the completion of each project; redirected certain funds in excess of amounts needed to complete the projects for use in further projects for construction of three state-of-the-art Ohio River bridges

linking designated cities in Kentucky and Ohio; and directed Secretary to report to Congress within a year after the completion of these bridges.

§145. Federal-State relationship

(a) PROTECTION OF STATE SOVEREIGNTY.—The authorization of the appropriation of Federal funds or their availability for expenditure under this chapter shall in no way infringe on the sovereign rights of the States to determine which projects shall be federally financed. The provisions of this chapter provide for a federally assisted State program.

(b) PURPOSE OF PROJECTS.—The projects described in section 1702 of the SAFETEA–LU, section 1602 of the Transportation Equity Act for the 21st Century, sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027 et seq.), and section 149(a) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 181 et seq.) are intended to establish eligibility for Federal-aid highway funds made available for such projects by section 1101(a)(16) of the SAFETEA–LU, section 1101(a)(13) of the Transportation Equity Act for the 21st Century, sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991, and subsections (b), (c), and (d) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987, respectively, and are not intended to define the scope or limits of Federal action in a manner inconsistent with subsection (a).

(Added Pub. L. 93–87, title I, §123(a), Aug. 13, 1973, 87 Stat. 261; amended Pub. L. 105–178, title I, §1601(b), June 9, 1998, 112 Stat. 256; Pub. L. 109–59, title I, §1701(e), Aug. 10, 2005, 119 Stat. 1256; Pub. L. 112–141, div. A, title I, §1519(c)(9), formerly §1519(c)(10), July 6, 2012, 126 Stat. 576, renumbered §1519(c)(9), Pub. L. 114–94, div. A, title I, §1446(d)(5)(B), Dec. 4, 2015, 129 Stat. 1438.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1702 of the SAFETEA–LU, referred to in subsec. (b), is section 1702 of Pub. L. 109–59, title I, Aug. 10, 2005, 119 Stat. 1256, which is not classified to the Code.

Section 1602 of the Transportation Equity Act for the 21st Century, referred to in subsec. (b), is section 1602 of Pub. L. 105–178, title I, June 9, 1998, 112 Stat. 256, which is not classified to the Code.

Sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (b), are sections 1103 to 1108 of Pub. L. 102–240, title I, Dec. 18, 1991, 105 Stat. 2027–2063. See Tables for classification.

Section 149(a) of the Surface Transportation and Uniform Relocation Assistance Act of 1987, referred to in subsec. (b), is section 149(a) of Pub. L. 100–17, title I, Apr. 2, 1987, 101 Stat. 181, which is not classified to the Code.

Section 1101(a)(16) of the SAFETEA–LU, referred to in subsec. (b), is section 1101(a)(16) of Pub. L. 109–59, title I, Aug. 10, 2005, 119 Stat. 1155, which is not classified to the Code.

Section 1101(a)(13) of the Transportation Equity Act for the 21st Century, referred to in subsec. (b), is section 1101(a)(13) of Pub. L. 105–178, title I, June 9, 1998, 112 Stat. 113, which is not classified to the Code.

AMENDMENTS

2015—Subsec. (b). Pub. L. 114–94, §1446(d)(5)(B), amended Pub. L. 112–141, §1519(c). See 2012 Amendment note below.

2012—Subsec. (b). Pub. L. 112–141, §1519(c)(9), formerly §1519(c)(10), as renumbered by Pub. L. 114–94, §1446(d)(5)(B), struck out "section 117 of this title," after "21st Century," second time appearing.

2005—Subsec. (b). Pub. L. 109–59 inserted "section 1702 of the SAFETEA–LU," after "described in" and "section 1101(a)(16) of the SAFETEA–LU," after "for such projects by" and substituted "section 117 of this title," for "117 of title 23, United States Code,".

1998—Pub. L. 105–178 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–94, div. A, title I, §1446(d), Dec. 4, 2015, 129 Stat. 1438, provided that the amendment made by section 1446(d)(5)(B) is effective as of July 6, 2012, and as if included in Pub. L. 112–141 as enacted.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§146. Carpool and vanpool projects

(a) In order to conserve fuel, decrease traffic congestion during rush hours, improve air quality, and enhance the use of existing highways and parking facilities, the Secretary may approve for Federal financial assistance from funds apportioned under section 104(b)(2) of this title, projects designed to encourage the use of carpools and vanpools. (As used hereafter in this section, the term "carpool" includes a vanpool.) Such a project may include, but is not limited to, such measures as providing carpooling opportunities to the elderly and handicapped, systems for locating potential riders and informing them of convenient carpool opportunities, acquiring vehicles appropriate for carpool use, designating existing highway lanes as preferential carpool highway lanes, providing related traffic control devices, and designating existing facilities for use as preferential parking for carpools.

(b) A project authorized by this section shall be subject to and carried out in accordance with all provisions of this title, except those provisions which the Secretary determines are inconsistent with this section.

(Added Pub. L. 95–599, title I, §126(a), Nov. 6, 1978, 92 Stat. 2705; amended Pub. L. 105–178, title I, §1103(l)(1), June 9, 1998, 112 Stat. 125; Pub. L. 112–141, div. A, title I, §1105(b), July 6, 2012, 126 Stat. 432.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 146, Pub. L. 93–87, title I, §125(a), Aug. 13, 1973, 87 Stat. 262, related to a special urban high density traffic program, prior to repeal by Pub. L. 94–280, title I, §128(a), May 5, 1976, 90 Stat. 440.

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–141 substituted "section 104(b)(2)" for "sections 104(b)(1) and 104(b)(3)".

1998—Subsec. (a). Pub. L. 105–178 substituted "sections 104(b)(1) and 104(b)(3)" for "sections 104(b)(1), 104(b)(2), and 104(b)(6)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

USE OF HIGH OCCUPANCY LANES

Pub. L. 97–424, title I, §163, Jan. 6, 1983, 96 Stat. 2136, as amended by Pub. L. 100–17, title I, §133(a)(4), (5), Apr. 2, 1987, 101 Stat. 170, 171; Pub. L. 102–240, title I, §1056, Dec. 18, 1991, 105 Stat. 2002, provided that: "Notwithstanding any other provision of this Act or any other law, no funds apportioned or allocated to a State for Federal-aid highways shall be obligated for a project for constructing, resurfacing, restoring, rehabilitating, or reconstructing a Federal-aid highway which has a lane designated as a carpool lane unless the use of such lane includes use by motorcycles. Upon certification by the State to the Secretary of Transportation, after notice in the Federal Register and an opportunity for public comment, and acceptance of such certification by the Secretary, the State may restrict such use by motorcycles if such use would create a

safety hazard. Any certification made before the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991 [Dec. 18, 1991] shall not be recognized by the Secretary until the Secretary publishes notice of such certification in the Federal Register and provides an opportunity for public comment on such certification."

EXPENDITURE OF ADMINISTRATIVE FUNDS FOR CARPOOLING AND VANPOOLING PROGRAMS

Pub. L. 97–424, title I, §123(b), Jan. 6, 1983, 96 Stat. 2113, directed the Secretary of Transportation to expend necessary sums out of the administrative funds authorized by section 104(a) of this title to carry out section 126(d) of Pub. L. 95–599, set out below.

GRANTS TO STATES, COUNTIES, ETC., TO PROMOTE CARPOOLING AND VANPOOLING PROGRAMS

Pub. L. 95–599, title I, §126(d)–(h), Nov. 6, 1978, 92 Stat. 2706, 2707, as amended by Pub. L. 102–240, title III, §3004(b), Dec. 18, 1991, 105 Stat. 2088, provided that:

"(d) It is hereby declared to be national policy that special effort should be made to promote commuter modes of transportation which conserve energy, reduce pollution, and reduce traffic congestion. The Secretary is directed to assist both public and private employers and employees who wish to establish carpooling and vanpooling programs where they are needed and desired, and to assist local and State governments, and their instrumentalities, in encouraging such modes by removing legal and regulatory barriers to such programs, supporting existing carpooling and vanpooling programs, and providing technical assistance, for the purpose of increasing participation in such modes.

"(e) The Secretary of Transportation is authorized to make grants and loans to States, counties, municipalities, metropolitan planning organizations, and other units of local and regional government consistent with the policy of subsection (d) of this section. Such grants and loans shall be awarded in a manner which emphasizes energy conservation, although the Secretary may use other factors as he deems appropriate. The Federal share of the costs of any project approved under this subsection shall not exceed 75 per centum. No grant awarded under this subsection may be used for the purchase or lease of vehicles.

"(f) There is hereby authorized to be appropriated, out of the Highway Trust Fund, not to exceed $1,000,000 for the fiscal year ending September 30, 1979, $1,000,000 for the fiscal year ending September 30, 1980, and $1,000,000 for the fiscal year ending September 30, 1981, for expenditures incurred by the Secretary of Transportation in carrying out the provisions of subsection (d) of this section, and $3,000,000 for the fiscal year ending September 30, 1979, and $9,000,000 for the fiscal year ending September 30, 1980, for the purpose of carrying out the program described in subsection (e) of this section.

"(g) The Secretary of Transportation shall not approve any project under subsection (d) or (e) of this section or under section 146 of title 23, United States Code; which will have an adverse effect on any mass transportation system.

"(h) The Secretary of Transportation is directed to study the administrative effectiveness of carpooling and vanpooling programs within the Department of Transportation, including programs of the Federal Highway Administration, the Federal Transit Administration, and the Office of the Secretary. Such study shall be completed no later than September 30, 1979. Upon completion of such study, the Secretary shall propose a plan to centralize or modify such programs to make delivery of services and grants more efficient, more cost-effective, and to avoid duplication of effort. Such plan shall list statutory changes needed to implement such a plan, which shall be sent to Congress no later than March 30, 1980."

["Federal Transit Administration" substituted for "Urban Mass Transit Administration" in section 126(h) of Pub. L. 95–599, set out above, pursuant to section 3004(a) of Pub. L. 102–240, set out as a note under section 107 of Title 49, Transportation.]

FEDERAL FACILITY RIDESHARING PROGRAM

For provisions relating to the Federal Facilities Ridesharing Program, see Ex. Ord. No. 12191, Feb. 1, 1980, 45 F.R. 7997, set out as a note under section 6361 of Title 42, The Public Health and Welfare.

§147. Construction of ferry boats and ferry terminal facilities

(a) PROGRAM.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c).

(b) FEDERAL SHARE.—The Federal share of the cost of construction of ferry boats, ferry

terminals, and ferry maintenance facilities under this section shall be 80 percent.

(c) DISTRIBUTION OF FUNDS.—Of the amounts made available to ferry systems and public entities responsible for developing ferries under this section for a fiscal year, 100 percent shall be allocated in accordance with the formula set forth in subsection (d).

(d) FORMULA.—Of the amounts allocated under subsection (c)—

(1) 35 percent shall be allocated among eligible entities in the proportion that—

(A) the number of ferry passengers, including passengers in vehicles, carried by each ferry system in the most recent calendar year for which data is available; bears to

(B) the number of ferry passengers, including passengers in vehicles, carried by all ferry systems in the most recent calendar year for which data is available;

(2) 35 percent shall be allocated among eligible entities in the proportion that—

(A) the number of vehicles carried by each ferry system in the most recent calendar year for which data is available; bears to

(B) the number of vehicles carried by all ferry systems in the most recent calendar year for which data is available; and

(3) 30 percent shall be allocated among eligible entities in the proportion that—

(A) the total route nautical miles serviced by each ferry system in the most recent calendar year for which data is available; bears to

(B) the total route nautical miles serviced by all ferry systems in the most recent calendar year for which data is available.

(e) REDISTRIBUTION OF UNOBLIGATED AMOUNTS.—The Secretary shall—

(1) withdraw amounts allocated to an eligible entity under subsection (c) that remain unobligated by the end of the third fiscal year following the fiscal year for which the amounts were allocated; and

(2) in the subsequent fiscal year, redistribute the amounts referred to in paragraph (1) in accordance with the formula under subsection (d) among eligible entities for which no amounts were withdrawn under paragraph (1).

(f) MINIMUM AMOUNT.—Notwithstanding subsection (c), a State with an eligible entity that meets the requirements of this section shall receive not less than $100,000 under this section for a fiscal year.

(g) IMPLEMENTATION.—

(1) DATA COLLECTION.—

(A) NATIONAL FERRY DATABASE.—Amounts made available for a fiscal year under this section shall be allocated using the most recent data available, as collected and imputed in accordance with the national ferry database established under section 1801(e) of SAFETEA–LU (23 U.S.C. 129 note).

(B) ELIGIBILITY FOR FUNDING.—To be eligible to receive funds under subsection (c), data shall have been submitted in the most recent collection of data for the national ferry database under section 1801(e) of SAFETEA–LU (23 U.S.C. 129 note) for at least 1 ferry service within the State.

(2) ADJUSTMENTS.—On review of the data submitted under paragraph (1)(B), the Secretary may make adjustments to the data as the Secretary determines necessary to correct misreported or inconsistent data.

(h) 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—

(1) $110,000,000 for fiscal year 2022;

(2) $112,000,000 for fiscal year 2023;

(3) $114,000,000 for fiscal year 2024;
(4) $116,000,000 for fiscal year 2025; and
(5) $118,000,000 for fiscal year 2026.

(i) PERIOD OF AVAILABILITY.—Notwithstanding section 118(b), funds made available to carry out this section shall remain available until expended.

(j) APPLICABILITY.—All provisions of this chapter that are applicable to the National Highway System, other than provisions relating to apportionment formula and Federal share, shall apply to funds made available to carry out this section, except as determined by the Secretary to be inconsistent with this section.

(k) ADDITIONAL USES.—Notwithstanding any other provision of law, in addition to other uses of funds under this section, an eligible entity may use amounts made available under this section to pay the operating costs of the eligible entity.

(Added Pub. L. 93–87, title I, §126(a), Aug. 13, 1973, 87 Stat. 263; amended Pub. L. 94–280, title I, §130, May 5, 1976, 90 Stat. 440; Pub. L. 105–178, title I, §1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 193; Pub. L. 109–59, title I, §1801(a), Aug. 10, 2005, 119 Stat. 1455; Pub. L. 112–141, div. A, title I, §1121(a), July 6, 2012, 126 Stat. 493; Pub. L. 114–94, div. A, title I, §1112(a), Dec. 4, 2015, 129 Stat. 1345; Pub. L. 117–58, div. A, title I, §11121, div. G, title XI, §71103(g)(1), Nov. 15, 2021, 135 Stat. 497, 1326.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (h). Pub. L. 117–58, §11121, added subsec. (h) and struck out former subsec. (h). Prior to amendment, text read as follows: "There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $80,000,000 for each of fiscal years 2016 through 2020."

Subsec. (k). Pub. L. 117–58, §71103(g)(1), added subsec. (k).

2015—Subsec. (a). Pub. L. 114–94, §1112(a)(1), substituted "Program" for "In General" in heading.

Subsecs. (d) to (j). Pub. L. 114–94, §1112(a)(2), added subsecs. (d) to (j) and struck out former subsecs. (d) to (g) which related to formula for determining allocation amounts, authorization of appropriations, period of availability of funds, and applicability of chapter, respectively.

2012—Subsecs. (c) to (g). Pub. L. 112–141 added subsecs. (c) to (e), redesignated former subsecs. (e) and (f) as (f) and (g), respectively, and struck out former subsecs. (c) and (d) which related to allocation of funds and set-aside for projects on National Highway System, respectively.

2005—Pub. L. 109–59 amended section catchline and text generally, substituting provisions relating to program for construction of ferry boats and ferry terminal facilities for provisions relating to selection of high traffic sections of highways as priority primary routes for priority of improvement to supplement the service provided by the Interstate System by furnishing needed adequate traffic collector and distributor facilities.

1998—Subsec. (a). Pub. L. 105–178 substituted "State transportation department" for "State highway department".

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

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 11121 of Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an

Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

DIESEL FUEL FERRY VESSELS

Pub. L. 117–58, div. A, title I, §11117(b), Nov. 15, 2021, 135 Stat. 483, provided that:

"(1) IN GENERAL.—Notwithstanding section 147(b) [probably means section 147(b) of title 23, United States Code], in the case of a project to replace or retrofit a diesel fuel ferry vessel that provides substantial emissions reductions, the Federal share of the cost of the project may be up to 85 percent, as determined by the State.

"(2) SUNSET.—The authority provided by paragraph (1) shall terminate on September 30, 2025."

ELECTRIC OR LOW-EMITTING FERRY PILOT PROGRAM

Pub. L. 117–58, div. G, title XI, §71102, Nov. 15, 2021, 135 Stat. 1325, provided that:

"(a) DEFINITIONS.—In this section:

"(1) ALTERNATIVE FUEL.—The term 'alternative fuel' means—

"(A) methanol, denatured ethanol, and other alcohols;

"(B) a mixture containing at least 85 percent of methanol, denatured ethanol, and other alcohols by volume with gasoline or other fuels;

"(C) natural gas;

"(D) liquefied petroleum gas;

"(E) hydrogen;

"(F) fuels (except alcohol) derived from biological materials;

"(G) electricity (including electricity from solar energy); and

"(H) any other fuel the Secretary prescribes by regulation that is not substantially petroleum and that would yield substantial energy security and environmental benefits.

"(2) ELECTRIC OR LOW-EMITTING FERRY.—The term 'electric or low-emitting ferry' means a ferry that reduces emissions by utilizing alternative fuels or onboard energy storage systems and related charging infrastructure to reduce emissions or produce zero onboard emissions under normal operation.

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

"(b) ESTABLISHMENT.—The Secretary shall carry out a pilot program to provide grants for the purchase of electric or low-emitting ferries and the electrification of or other reduction of emissions from existing ferries.

"(c) REQUIREMENT.—In carrying out the pilot program under this section, the Secretary shall ensure that—

"(1) not less than 1 grant under this section shall be for a ferry service that serves the State with the largest number of Marine Highway System miles; and

"(2) not less than 1 grant under this section shall be for a bi-State ferry service—

"(A) with an aging fleet; and

"(B) whose development of zero and low emission power source ferries will propose to advance the state of the technology toward increasing the range and capacity of zero emission power source ferries.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $50,000,000 for each of fiscal years 2022 through 2026."

FERRY SERVICE FOR RURAL COMMUNITIES

Pub. L. 117–58, div. G, title XI, §71103, Nov. 15, 2021, 135 Stat. 1326, provided that:

"(a) DEFINITIONS.—In this section:

"(1) BASIC ESSENTIAL FERRY SERVICE.—The term 'basic essential ferry service' means scheduled ferry transportation service.

"(2) ELIGIBLE SERVICE.—The term 'eligible service' means a ferry service that—

"(A) operated a regular schedule at any time during the 5-year period ending on March 1, 2020; and

"(B) served not less than 2 rural areas located more than 50 sailing miles apart.

"(3) RURAL AREA.—The term 'rural area' has the meaning given the term in section 5302 of title 49, United States Code.

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

"(b) ESTABLISHMENT.—The Secretary shall establish a program to ensure that basic essential ferry service is provided to rural areas by providing funds to States to provide such basic essential ferry service.

"(c) PROGRAM CRITERIA.—The Secretary shall establish requirements and criteria for participation in the program under this section, including requirements for the provision of funds to States.

"(d) WAIVERS.—The Secretary shall establish criteria for the waiver of any requirement under this section.

"(e) TREATMENT.—

"(1) NOT ATTRIBUTABLE TO URBANIZED AREAS.—An eligible service that receives funds from a State under this section shall not be attributed to an urbanized area for purposes of apportioning funds under chapter 53 of title 49, United States Code.

"(2) NO RECEIPT OF CERTAIN APPORTIONED FUNDS.—An eligible service that receives funds from a State under this section shall not receive funds apportioned under section 5336 or 5337 of title 49, United States Code, in the same fiscal year.

"(f) FUNDING.—There is authorized to be appropriated to the Secretary to carry out this section $200,000,000 for each of fiscal years 2022 through 2026.

"(g) OPERATING COSTS.—

"(1) [Amended this section.]

"(2) [Amended section 218 of this title.]"

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 109–59, title I, §1801(d), Aug. 10, 2005, 119 Stat. 1456, provided that: "In addition to amounts made available to carry out section 147 of title 23, United States Code, by section 1101 of this Act [119 Stat. 1153], there are authorized to be appropriated such sums as may be necessary to carry out such section 147 for fiscal year 2006 and each fiscal year thereafter. Such funds shall remain available until expended."

§148. Highway safety improvement program

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

(1) HIGH RISK RURAL ROAD.—The term "high risk rural road" means any roadway functionally classified as a rural major or minor collector or a rural local road with significant safety risks, as defined by a State in accordance with an updated State strategic highway safety plan.

(2) HIGHWAY BASEMAP.—The term "highway basemap" means a representation of all public roads that can be used to geolocate attribute data on a roadway.

(3) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term "highway safety improvement program" means projects, activities, plans, and reports carried out under this section.

(4) HIGHWAY SAFETY IMPROVEMENT PROJECT.—

(A) IN GENERAL.—The term "highway safety improvement project" means strategies, activities, and projects on a public road that are consistent with a State strategic highway safety plan and—

(i) correct or improve a hazardous road location or feature; or

(ii) address a highway safety problem.

(B) INCLUSIONS.—The term "highway safety improvement project" only includes a project for 1 or more of the following:

(i) An intersection safety improvement that provides for the safety of all road users, as appropriate, including a multimodal roundabout.

(ii) Pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition).

(iii) Installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists and pedestrians, including persons with disabilities.

(iv) Installation of a skid-resistant surface at an intersection or other location with a high frequency of crashes.

(v) An improvement for pedestrian or bicyclist safety or safety of persons with disabilities.

(vi) Construction and improvement of a railway-highway grade crossing safety feature, including installation of protective devices or a grade separation project.

(vii) The conduct of a model traffic enforcement activity at a railway-highway crossing.

(viii) Construction or installation of features, measures, and road designs to calm traffic

and reduce vehicle speeds.

(ix) Elimination of a roadside hazard.

(x) Installation, replacement, and other improvement of highway signage and pavement markings, or a project to maintain minimum levels of retroreflectivity, that addresses a highway safety problem consistent with a State strategic highway safety plan.

(xi) Installation of a priority control system for emergency vehicles at signalized intersections.

(xii) Installation of a traffic control or other warning device at a location with high crash potential.

(xiii) Transportation safety planning.

(xiv) Collection, analysis, and improvement of safety data.

(xv) Planning integrated interoperable emergency communications equipment, operational activities, or traffic enforcement activities (including police assistance) relating to work zone safety.

(xvi) Installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of road users and workers), and crash attenuators.

(xvii) The addition or retrofitting of structures or other measures to eliminate or reduce crashes involving vehicles and wildlife.

(xviii) Installation of yellow-green signs and signals at pedestrian and bicycle crossings and in school zones.

(xix) Construction and operational improvements on high risk rural roads.

(xx) Geometric improvements to a road for safety purposes that improve safety.

(xxi) A road safety audit.

(xxii) Roadway safety infrastructure improvements consistent with the recommendations included in the publication of the Federal Highway Administration entitled "Highway Design Handbook for Older Drivers and Pedestrians" (FHWA–RD–01–103), dated May 2001 or as subsequently revised and updated.

(xxiii) Truck parking facilities eligible for funding under section 1401 of the MAP–21.

(xxiv) Systemic safety improvements.

(xxv) Installation of vehicle-to-infrastructure communication equipment.

(xxvi) Installation or upgrades of traffic control devices for pedestrians and bicyclists, including pedestrian hybrid beacons and the addition of bicycle movement phases to traffic signals.

(xxvii) Roadway improvements that provide separation between pedestrians and motor vehicles or between bicyclists and motor vehicles, including medians, pedestrian crossing islands, protected bike lanes, and protected intersection features.

(xxviii) A pedestrian security feature designed to slow or stop a motor vehicle.

(xxix) A physical infrastructure safety project not described in clauses (i) through (xxviii).

(5) MODEL INVENTORY OF ROADWAY ELEMENTS.—The term "model inventory of roadway elements" means the listing and standardized coding by the Federal Highway Administration of roadway and traffic data elements critical to safety management, analysis, and decisionmaking.

(6) PROJECT TO MAINTAIN MINIMUM LEVELS OF RETROREFLECTIVITY.—The term "project to maintain minimum levels of retroreflectivity" means a project that is designed to maintain a highway sign or pavement marking retroreflectivity at or above the minimum levels prescribed in Federal or State regulations.

(7) ROAD SAFETY AUDIT.—The term "road safety audit" means a formal safety performance examination of an existing or future road or intersection by an independent multidisciplinary audit team.

(8) ROAD USERS.—The term "road user" means a motorist, passenger, public transportation operator or user, truck driver, bicyclist, motorcyclist, or pedestrian, including a person with disabilities.

(9) SAFE SYSTEM APPROACH.—The term "safe system approach" means a roadway design—

(A) that emphasizes minimizing the risk of injury or fatality to road users; and

(B) that—

(i) takes into consideration the possibility and likelihood of human error;

(ii) accommodates human injury tolerance by taking into consideration likely accident types, resulting impact forces, and the ability of the human body to withstand impact forces; and

(iii) takes into consideration vulnerable road users.

(10) SAFETY DATA.—

(A) IN GENERAL.—The term "safety data" means crash, roadway, and traffic data on a public road.

(B) INCLUSION.—The term "safety data" includes, in the case of a railway-highway grade crossing, the characteristics of highway and train traffic, licensing, and vehicle data.

(11) SPECIFIED SAFETY PROJECT.—

(A) IN GENERAL.—The term "specified safety project" means a project carried out for the purpose of safety under any other section of this title that is consistent with the State strategic highway safety plan.

(B) INCLUSION.—The term "specified safety project" includes a project that—

(i) promotes public awareness and informs the public regarding highway safety matters (including safety for motorcyclists, bicyclists, pedestrians, individuals with disabilities, and other road users);

(ii) facilitates enforcement of traffic safety laws;

(iii) provides infrastructure and infrastructure-related equipment to support emergency services;

(iv) conducts safety-related research to evaluate experimental safety countermeasures or equipment; or

(v) supports safe routes to school noninfrastructure-related activities described in section 208(g)(2).

(12) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term "State highway safety improvement program" means a program of highway safety improvement projects, activities, plans and reports carried out as part of the Statewide transportation improvement program under section 135(g).

(13) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term "State strategic highway safety plan" means a comprehensive plan, based on safety data, developed by a State transportation department that—

(A) is developed after consultation with—

(i) a highway safety representative of the Governor of the State;

(ii) regional transportation planning organizations and metropolitan planning organizations, if any;

(iii) representatives of major modes of transportation;

(iv) State and local traffic enforcement officials;

(v) a highway-rail grade crossing safety representative of the Governor of the State;

(vi) representatives conducting a motor carrier safety program under section 31102, 31106, or 31309 of title 49;

(vii) motor vehicle administration agencies;

(viii) county transportation officials;

(ix) State representatives of nonmotorized users; and

(x) other major Federal, State, tribal, and local safety stakeholders;

(B) analyzes and makes effective use of State, regional, local, or tribal safety data;

(C) addresses engineering, management, operation, education, enforcement, and emergency services elements (including integrated, interoperable emergency communications) of highway safety as key factors in evaluating highway projects;

(D) considers safety needs of, and high-fatality segments of, all public roads, including non-State-owned public roads and roads on tribal land;

(E) considers the results of State, regional, or local transportation and highway safety planning processes;

(F) describes a program of strategies to reduce or eliminate safety hazards;

(G) includes a vulnerable road user safety assessment;

(H) is approved by the Governor of the State or a responsible State agency;

(I) is consistent with section 135(g); and

(J) is updated and submitted to the Secretary for approval as required under subsection (d)(2).

(14) SYSTEMIC SAFETY IMPROVEMENT.—The term "systemic safety improvement" means an improvement that is widely implemented based on high-risk roadway features that are correlated with particular crash types, rather than crash frequency.

(15) VULNERABLE ROAD USER.—The term "vulnerable road user" means a nonmotorist—

(A) with a fatality analysis reporting system person attribute code that is included in the definition of the term "number of non-motorized fatalities" in section 490.205 of title 23, Code of Federal Regulations (or successor regulations); or

(B) described in the term "number of non-motorized serious injuries" in that section.

(16) VULNERABLE ROAD USER SAFETY ASSESSMENT.—The term "vulnerable road user safety assessment" means an assessment of the safety performance of the State with respect to vulnerable road users and the plan of the State to improve the safety of vulnerable road users as described in subsection (l).

(b) PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out a highway safety improvement program.

(2) PURPOSE.—The purpose of the highway safety improvement program shall be to achieve a significant reduction in traffic fatalities and serious injuries on all public roads, including non-State-owned public roads and roads on tribal land.

(c) ELIGIBILITY.—

(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(3) to carry out this section, a State shall have in effect a State highway safety improvement program under which the State—

(A) develops, implements, and updates a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in subsections (a)(13) and (d);

(B) produces a program of projects or strategies to reduce identified safety problems; and

(C) evaluates the strategic highway safety plan on a regularly recurring basis in accordance with subsection (d)(1) to ensure the accuracy of the data and priority of proposed strategies.

(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State highway safety improvement program, a State shall—

(A) have in place a safety data system with the ability to perform safety problem identification and countermeasure analysis—

(i) to improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the safety data on all public roads, including non-State-owned public roads and roads on tribal land in the State;

(ii) to evaluate the effectiveness of data improvement efforts;

(iii) to link State data systems, including traffic records, with other data systems within the State;

(iv) to improve the compatibility and interoperability of safety data with other State transportation-related data systems and the compatibility and interoperability of State safety data systems with data systems of other States and national data systems;

(v) to enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances; and

(vi) to improve the collection of data on nonmotorized crashes and to differentiate the safety data for vulnerable road users, including bicyclists, motorcyclists, and pedestrians, from other road users;

(B) based on the analysis required by subparagraph (A)—

(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists, vulnerable road users (including motorcyclists, bicyclists, pedestrians), and other highway users;

(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of crashes (including crash rates), fatalities, serious injuries, traffic volume levels, and other relevant data;

(iii) identify the number of fatalities and serious injuries on all public roads by location in the State;

(iv) identify highway safety improvement projects on the basis of crash experience, crash potential, crash rate, or other data-supported means; and

(v) consider which projects maximize opportunities to advance safety;

(C) adopt strategic and performance-based goals that—

(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all public roads;

(ii) focus resources on areas of greatest need; and

(iii) are coordinated with other State highway safety programs;

(D) advance the capabilities of the State for safety data collection, analysis, and integration in a manner that—

(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

(ii) includes all public roads, including public non-State-owned roads and roads on tribal land;

(iii) identifies hazardous locations, sections, and elements on all public roads that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, persons with disabilities, and other highway users;

(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of crashes (including crash rate), serious injuries, fatalities, and traffic volume levels;

(v) improves the ability of the State to identify the number of fatalities and serious injuries on all public roads in the State with a breakdown by functional classification and ownership in the State; and

(vi) improves the ability of the State to differentiate the fatalities and serious injuries of vulnerable road users, including bicyclists, motorcyclists, and pedestrians, from other road users;

(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through safety data analysis;

(ii) identify opportunities for preventing the development of such hazardous conditions; and

(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and

(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.

(d) UPDATES TO STRATEGIC HIGHWAY SAFETY PLANS.—

(1) ESTABLISHMENT OF REQUIREMENTS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of the MAP–21, the Secretary shall establish requirements for regularly recurring State updates of strategic highway safety plans.

(B) CONTENTS OF UPDATED STRATEGIC HIGHWAY SAFETY PLANS.—In establishing requirements under this subsection, the Secretary shall ensure that States take into consideration, with respect to updated strategic highway safety plans—

(i) the findings of road safety audits;

(ii) the locations of fatalities and serious injuries;

(iii) the locations that do not have an empirical history of fatalities and serious injuries, but possess risk factors for potential crashes;

(iv) rural roads, including all public roads, commensurate with fatality data;

(v) motor vehicle crashes that include fatalities or serious injuries to pedestrians and bicyclists;

(vi) the cost-effectiveness of improvements;

(vii) improvements to rail-highway grade crossings; and

(viii) safety on all public roads, including non-State-owned public roads and roads on tribal land.

(2) APPROVAL OF UPDATED STRATEGIC HIGHWAY SAFETY PLANS.—

(A) IN GENERAL.—Each State shall—

(i) update the strategic highway safety plans of the State in accordance with the requirements established by the Secretary under this subsection; and

(ii) submit the updated plans to the Secretary, along with a detailed description of the process used to update the plan.

(B) REQUIREMENTS FOR APPROVAL.—The Secretary shall not approve the process for an updated strategic highway safety plan unless—

(i) the updated strategic highway safety plan is consistent with the requirements of this subsection and subsection (a)(13); and

(ii) the process used is consistent with the requirements of this subsection.

(3) PENALTY FOR FAILURE TO HAVE AN APPROVED UPDATED STRATEGIC HIGHWAY SAFETY PLAN.—If a State does not have an updated strategic highway safety plan with a process approved by the Secretary by August 1 of the fiscal year beginning after the date of establishment of the requirements under paragraph (1), the State shall not be eligible to receive any additional limitation pursuant to the redistribution of the limitation on obligations for Federal-aid highway and highway safety construction programs that occurs after August 1 for each succeeding fiscal year until the fiscal year during which the plan is approved.

(e) ELIGIBLE PROJECTS.—

(1) IN GENERAL.—Funds apportioned to the State under section 104(b)(3) may be obligated to carry out—

(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail;

(B) as provided in subsection (g); or

(C) any project to maintain minimum levels of retroreflectivity with respect to a public road, without regard to whether the project is included in an applicable State strategic highway safety plan.

(2) USE OF OTHER FUNDING FOR SAFETY.—

(A) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of the safety needs and opportunities of the States by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

(3) FLEXIBLE FUNDING FOR SPECIFIED SAFETY PROJECTS.—

(A) IN GENERAL.—To advance the implementation of a State strategic highway safety plan, a State may use not more than 10 percent of the amounts apportioned to the State under section 104(b)(3) for a fiscal year to carry out specified safety projects.

(B) RULE OF CONSTRUCTION.—Nothing in this paragraph requires a State to revise any State process, plan, or program in effect on the date of enactment of this paragraph.

(C) EFFECT OF PARAGRAPH.—

(i) REQUIREMENTS.—A project carried out under this paragraph shall be subject to all requirements under this section that apply to a highway safety improvement project.

(ii) OTHER APPORTIONED PROGRAMS.—Nothing in this paragraph prohibits the use of funds made available under other provisions of this title for a specified safety project that is a noninfrastructure project.

(f) DATA IMPROVEMENT.—

(1) DEFINITION OF DATA IMPROVEMENT ACTIVITIES.—In this subsection, the following definitions apply:

(A) IN GENERAL.—The term "data improvement activities" means a project or activity to further the capacity of a State to make more informed and effective safety infrastructure investment decisions.

(B) INCLUSIONS.—The term "data improvement activities" includes a project or activity—

(i) to create, update, or enhance a highway basemap of all public roads in a State;

(ii) to collect safety data, including data identified as part of the model inventory for roadway elements, for creation of or use on a highway basemap of all public roads in a State;

(iii) to store and maintain safety data in an electronic manner;

(iv) to develop analytical processes for safety data elements;

(v) to acquire and implement roadway safety analysis tools; and

(vi) to support the collection, maintenance, and sharing of safety data on all public roads and related systems associated with the analytical usage of that data.

(2) MODEL INVENTORY OF ROADWAY ELEMENTS.—The Secretary shall—

(A) establish a subset of the model inventory of roadway elements that are useful for the inventory of roadway safety; and

(B) ensure that States adopt and use the subset to improve data collection.

(g) SPECIAL RULES.—

(1) HIGH-RISK RURAL ROAD SAFETY.—If the fatality rate on rural roads in a State increases over the most recent 2-year period for which data are available, that State shall be required to obligate in the next fiscal year for projects on high risk rural roads an amount equal to at least 200 percent of the amount of funds the State received for fiscal year 2009 for high risk

rural roads under subsection (f) of this section, as in effect on the day before the date of enactment of the MAP–21.

(2) OLDER DRIVERS.—If traffic fatalities and serious injuries per capita for drivers and pedestrians over the age of 65 in a State increases during the most recent 2-year period for which data are available, that State shall be required to include, in the subsequent Strategic Highway Safety Plan of the State, strategies to address the increases in those rates, taking into account the recommendations included in the publication of the Federal Highway Administration entitled "Highway Design Handbook for Older Drivers and Pedestrians" (FHWA–RD–01–103), and dated May 2001, or as subsequently revised and updated.

(3) VULNERABLE ROAD USER SAFETY.—If the total annual fatalities of vulnerable road users in a State represents not less than 15 percent of the total annual crash fatalities in the State, that State shall be required to obligate not less than 15 percent of the amounts apportioned to the State under section 104(b)(3) for the following fiscal year for highway safety improvement projects to address the safety of vulnerable road users.

(h) REPORTS.—

(1) IN GENERAL.—A State shall submit to the Secretary a report that—

(A) describes progress being made to implement highway safety improvement projects under this section;

(B) assesses the effectiveness of those improvements; and

(C) describes the extent to which the improvements funded under this section have contributed to reducing—

(i) the number and rate of fatalities on all public roads with, to the maximum extent practicable, a breakdown by functional classification and ownership in the State;

(ii) the number and rate of serious injuries on all public roads with, to the maximum extent practicable, a breakdown by functional classification and ownership in the State; and

(iii) the occurrences of fatalities and serious injuries at railway-highway crossings.

(2) CONTENTS; SCHEDULE.—The Secretary shall establish the content and schedule for the submission of the report under paragraph (1).

(3) TRANSPARENCY.—The Secretary shall make strategic highway safety plans submitted under subsection (d) and reports submitted under this subsection available to the public through—

(A) the website of the Department; and

(B) such other means as the Secretary determines to be appropriate.

(4) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for any purpose relating to this section, shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location identified or addressed in the reports, surveys, schedules, lists, or other data.

(i) STATE PERFORMANCE TARGETS.—If the Secretary determines that a State has not met or made significant progress toward meeting the safety performance targets of the State established under section 150(d), the State shall—

(1) use obligation authority equal to the apportionment of the State for the prior year under section 104(b)(3) only for highway safety improvement projects under this section until the Secretary determines that the State has met or made significant progress toward meeting the safety performance targets of the State; and

(2) submit annually to the Secretary, until the Secretary determines that the State has met or made significant progress toward meeting the safety performance targets of the State, an implementation plan that—

(A) identifies roadway features that constitute a hazard to road users;

(B) identifies highway safety improvement projects on the basis of crash experience, crash potential, or other data-supported means;

(C) describes how highway safety improvement program funds will be allocated, including projects, activities, and strategies to be implemented;

(D) describes how the proposed projects, activities, and strategies funded under the State highway safety improvement program will allow the State to make progress toward achieving the safety performance targets of the State; and

(E) describes the actions the State will undertake to meet the safety performance targets of the State.

(j) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds apportioned to a State under section 104(b)(3) shall be 90 percent.

(k) DATA COLLECTION ON UNPAVED PUBLIC ROADS.—

(1) IN GENERAL.—A State may elect not to collect fundamental data elements for the model inventory of roadway elements on public roads that are gravel roads or otherwise unpaved if—

(A) the State does not use funds provided to carry out this section for a project on any such roads until the State completes a collection of the required model inventory of roadway elements for the applicable road segment; and

(B) the State demonstrates that the State consulted with affected Indian tribes before ceasing to collect data with respect to such roads that are included in the National Tribal Transportation Facility Inventory under section 202(b)(1) of this title.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to allow a State to cease data collection related to serious injuries or fatalities.

(l) VULNERABLE ROAD USER SAFETY ASSESSMENT.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this subsection, each State shall complete a vulnerable road user safety assessment.

(2) CONTENTS.—A vulnerable road user safety assessment under paragraph (1) shall include—

(A) a quantitative analysis of vulnerable road user fatalities and serious injuries that—

(i) includes data such as location, roadway functional classification, design speed, speed limit, and time of day;

(ii) considers the demographics of the locations of fatalities and serious injuries, including race, ethnicity, income, and age; and

(iii) based on the data, identifies areas as "high-risk" to vulnerable road users; and

(B) a program of projects or strategies to reduce safety risks to vulnerable road users in areas identified as high-risk under subparagraph (A)(iii).

(3) USE OF DATA.—In carrying out a vulnerable road user safety assessment under paragraph (1), a State shall use data from the most recent 5-year period for which data is available.

(4) REQUIREMENTS.—In carrying out a vulnerable road user safety assessment under paragraph (1), a State shall—

(A) take into consideration a safe system approach; and

(B) consult with local governments, metropolitan planning organizations, and regional transportation planning organizations that represent a high-risk area identified under paragraph (2)(A)(iii).

(5) UPDATE.—A State shall update the vulnerable road user safety assessment of the State in accordance with the updates required to the State strategic highway safety plan under subsection (d).

(6) REQUIREMENT FOR TRANSPORTATION SYSTEM ACCESS.—The program of projects developed under paragraph (2)(B) may not degrade transportation system access for vulnerable road users.

(7) GUIDANCE.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall develop guidance for States to carry out this subsection.

(B) CONSULTATION.—In developing the guidance under this paragraph, the Secretary shall consult with the States and relevant safety stakeholders.

(Added Pub. L. 93–87, title I, §129(b), Aug. 13, 1973, 87 Stat. 265; amended Pub. L. 95–599, title I, §§125, 129(d), Nov. 6, 1978, 92 Stat. 2705, 2707; Pub. L. 109–59, title I, §1401(a)(1), Aug. 10, 2005, 119 Stat. 1219; Pub. L. 112–141, div. A, title I, §1112(a), July 6, 2012, 126 Stat. 450; Pub. L. 114–94, div. A, title I, §§1113(a), 1406(b), Dec. 4, 2015, 129 Stat. 1347, 1410; Pub. L. 117–58, div. A, title I, §§11111(a), 11525(j), Nov. 15, 2021, 135 Stat. 475, 607.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1401 of the MAP–21, referred to in subsec. (a)(4)(B)(xxiii), is section 1401 of Pub. L. 112–141, which is set out as a note under section 137 of this title.

The date of enactment of the MAP–21, referred to in subsecs. (d)(1)(A) and (g)(1), is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title. Subsection (f) of this section, as in effect on the day before the date of enactment of the MAP–21, means subsec. (f) of this section as in effect on the day before the date of enactment of Pub. L. 112–141, which amended this section generally.

The date of enactment of this paragraph and the date of enactment of this subsection, referred to in subsecs. (e)(3)(B) and (l)(1), (7)(A), are the date of enactment of Pub. L. 117–58, which was approved Nov. 15, 2021.

AMENDMENTS

2021—Subsec. (a)(4)(B)(i). Pub. L. 117–58, §11111(a)(1)(A)(i), inserted "that provides for the safety of all road users, as appropriate, including a multimodal roundabout" after "improvement".

Subsec. (a)(4)(B)(vi). Pub. L. 117–58, §11111(a)(1)(A)(ii), inserted "or a grade separation project" after "devices".

Subsec. (a)(4)(B)(viii). Pub. L. 117–58, §11111(a)(1)(A)(iii), added cl. (viii) and struck out former cl. (viii) which read as follows: "Construction of a traffic calming feature."

Subsec. (a)(4)(B)(xxvi). Pub. L. 117–58, §11111(a)(1)(A)(iv), added cl. (xxvi) and struck out former cl. (xxvi) which read as follows: "Pedestrian hybrid beacons."

Subsec. (a)(4)(B)(xxvii) to (xxix). Pub. L. 117–58, §11111(a)(1)(A)(v), added cls. (xxvii) to (xxix) and struck out former cls. (xxvii) and (xxviii) which read as follows:

"(xxvii) Roadway improvements that provide separation between pedestrians and motor vehicles, including medians and pedestrian crossing islands.

"(xxviii) A physical infrastructure safety project not described in clauses (i) through (xxvii)."

Subsec. (a)(9) to (13). Pub. L. 117–58, §11111(a)(1)(B)–(D), added pars. (9) and (11) and redesignated former pars. (9), (10), and (11) as (10), (12), and (13), respectively. Former par. (12) redesignated (14).

Subsec. (a)(13)(G) to (J). Pub. L. 117–58, §11111(a)(1)(E), added subpar. (G) and redesignated former subpars. (G) to (I) as (H) to (J), respectively.

Subsec. (a)(14). Pub. L. 117–58, §11111(a)(1)(B), redesignated par. (12) as (14).

Subsec. (a)(15), (16). Pub. L. 117–58, §11111(a)(1)(F), added pars. (15) and (16).

Subsec. (c)(1)(A). Pub. L. 117–58, §11111(a)(2)(A), substituted "subsections (a)(13)" for "subsections (a)(11)".

Subsec. (c)(2)(A)(vi). Pub. L. 117–58, §11111(a)(2)(B)(i), inserted "and to differentiate the safety data for vulnerable road users, including bicyclists, motorcyclists, and pedestrians, from other road users" after "crashes".

Subsec. (c)(2)(B)(i). Pub. L. 117–58, §11111(a)(2)(B)(ii), substituted ", vulnerable road users (including motorcyclists, bicyclists, pedestrians)," for "(including motorcyclists), bicyclists, pedestrians,".

Subsec. (c)(2)(D)(vi). Pub. L. 117–58, §11111(a)(2)(B)(iii), added cl. (vi).

Subsec. (d)(2)(B)(i). Pub. L. 117–58, §11111(a)(3), substituted "subsection (a)(13)" for "subsection

(a)(11)".

Subsec. (e)(3). Pub. L. 117–58, §11111(a)(4), added par. (3).

Subsec. (g)(3). Pub. L. 117–58, §11111(a)(5), added par. (3).

Subsec. (i)(2)(D). Pub. L. 117–58, §11525(j), substituted "safety performance" for "safety safety performance".

Subsec. (l). Pub. L. 117–58, §11111(a)(6), added subsec. (l).

2015—Subsec. (a)(4)(B). Pub. L. 114–94, §1113(a)(1)(A)(i), substituted "only includes" for "includes, but is not limited to," in introductory provisions.

Subsec. (a)(4)(B)(xxv) to (xxviii). Pub. L. 114–94, §1113(a)(1)(A)(ii), added cls. (xxv) to (xxviii).

Subsec. (a)(10) to (13). Pub. L. 114–94, §1113(a)(1)(B), (C), redesignated pars. (11) to (13) as (10) to (12) and struck out former par. (10). Prior to amendment, text of par. (10) read as follows:

"(A) IN GENERAL.—The term 'safety project under any other section' means a project carried out for the purpose of safety under any other section of this title.

"(B) INCLUSION.—The term 'safety project under any other section' includes—

"(i) a project consistent with the State strategic highway safety plan that promotes the awareness of the public and educates the public concerning highway safety matters (including motorcycle safety);

"(ii) a project to enforce highway safety laws; and

"(iii) a project to provide infrastructure and infrastructure-related equipment to support emergency services."

Subsec. (c)(1)(A). Pub. L. 114–94, §1113(a)(2), substituted "subsections (a)(11)" for "subsections (a)(12)".

Subsec. (d)(2)(B)(i). Pub. L. 114–94, §1113(a)(3), substituted "subsection (a)(11)" for "subsection (a)(12)".

Subsec. (i). Pub. L. 114–94, §1406(b)(1), substituted "safety performance targets of the State established under section 150(d)" for "performance targets of the State established under section 150(d) by the date that is 2 years after the date of the establishment of the performance targets" in introductory provisions.

Subsec. (i)(1), (2). Pub. L. 114–94, §1406(b)(2), inserted "safety" before "performance targets" wherever appearing.

Subsec. (k). Pub. L. 114–94, §1113(a)(4), added subsec. (k).

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to highway safety improvement program and consisted of subsecs. (a) to (h).

2005—Pub. L. 109–59 amended section catchline and text generally, substituting provisions relating to a highway safety improvement program for provisions relating to development of the Great River Road, a national scenic and recreational highway.

1978—Subsec. (a)(5). Pub. L. 95–599, §125(b), inserted provision authorizing charging of a fee in certain cases to cover operational costs.

Subsec. (e). Pub. L. 95–599, §129(d), substituted "75 per centum" for "70 per centum".

Subsec. (h). Pub. L. 95–599, §125(a), added subsec. (h).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 129(d) of Pub. L. 95–599 effective with respect to obligations incurred after Nov. 6, 1978, see section 129(h) of Pub. L. 95–599, set out as a note under section 120 of this title.

VULNERABLE ROAD USER RESEARCH

Pub. L. 117–58, div. A, title I, §11122, Nov. 15, 2021, 135 Stat. 497, provided that:

"(a) DEFINITIONS.—In this subsection [probably means "this section"]:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Secretary [of Transportation], acting through the Administrator of the Federal Highway Administration.

"(2) VULNERABLE ROAD USER.—The term 'vulnerable road user' has the meaning given the term in section 148(a) of title 23, United States Code.

"(b) ESTABLISHMENT OF RESEARCH PLAN.—The Administrator shall establish a research plan to prioritize research on roadway designs, the development of safety countermeasures to minimize fatalities and serious injuries to vulnerable road users, and the promotion of bicycling and walking, including research relating to—

"(1) roadway safety improvements, including traffic calming techniques and vulnerable road user accommodations appropriate in a suburban arterial context;

"(2) the impacts of traffic speeds, and access to low-traffic stress corridors, on safety and rates of bicycling and walking;

"(3) tools to evaluate the impact of transportation improvements on projected rates and safety of bicycling and walking; and

"(4) other research areas to be determined by the Administrator.

"(c) VULNERABLE ROAD USER ASSESSMENTS.—The Administrator shall—

"(1) review each vulnerable road user safety assessment submitted by a State under section 148(l) of title 23, United States Code, and other relevant sources of data to determine what, if any, standard definitions and methods should be developed through guidance to enable a State to collect pedestrian injury and fatality data; and

"(2) in the first progress update under subsection (d)(2), provide—

"(A) the results of the determination described in paragraph (1); and

"(B) the recommendations of the Secretary with respect to the collection and reporting of data on the safety of vulnerable road users.

"(d) SUBMISSION; PUBLICATION.—

"(1) SUBMISSION OF PLAN.—Not later than 180 days after the date of enactment of this Act [Nov. 15, 2021], the Administrator 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 the research plan described in subsection (b).

"(2) PROGRESS UPDATES.—Not later than 2 years after the date of enactment of this Act, and biannually thereafter, the Administrator shall submit to the Committees described in paragraph (1)—

"(A) updates on the progress and findings of the research conducted pursuant to the plan described in subsection (b); and

"(B) in the first submission under this paragraph, the results and recommendations described in subsection (c)(2)."

STOPPING THREATS ON PEDESTRIANS

Pub. L. 117–58, div. A, title I, §11502, Nov. 15, 2021, 135 Stat. 578, provided that:

"(a) DEFINITION OF BOLLARD INSTALLATION PROJECT.—In this section, the term 'bollard installation project' means a project to install raised concrete or metal posts on a sidewalk adjacent to a roadway that are designed to slow or stop a motor vehicle.

"(b) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021] and subject to the availability of appropriations, the Secretary [of Transportation] shall establish and carry out a competitive grant pilot program to provide assistance to State departments of transportation and local government entities for bollard installation projects designed to prevent pedestrian injuries and acts of terrorism in areas used by large numbers of pedestrians.

"(c) APPLICATION.—To be eligible to receive a grant under this section, a State department of transportation or local government entity shall submit to the Secretary an application at such time, in such form, and containing such information as the Secretary determines to be appropriate, which shall include, at a minimum—

"(1) a description of the proposed bollard installation project to be carried out;

"(2) a description of the pedestrian injury or terrorism risks with respect to the proposed installation area; and

"(3) an analysis of how the proposed bollard installation project will mitigate those risks.

"(d) USE OF FUNDS.—A recipient of a grant under this section may only use the grant funds for a bollard installation project.

"(e) FEDERAL SHARE.—The Federal share of the costs of a bollard installation project carried out with a grant under this section may be up to 100 percent.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $5,000,000 for each of fiscal years 2022 through 2026.

"(g) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, a project assisted under this section shall be treated as a project on a Federal-aid highway under chapter 1 of title 23, United States Code."

STUDY OF HIGH-RISK RURAL ROADS BEST PRACTICES

Pub. L. 117–58, div. A, title I, §11111(b), Nov. 15, 2021, 135 Stat. 478, provided that:

"(1) STUDY.—Not later than 2 years after the date of enactment of this Act [Nov. 15, 2021], the Secretary shall update the study under section 1112(b)(1) of MAP–21 (23 U.S.C. 148 note; Public Law 112–141).

"(2) PUBLICATION OF REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall publish on the website of the Department of Transportation an update to the report described in section 1112(b)(2) of MAP–21 (23 U.S.C. 148 note; Public Law 112–141).

"(3) BEST PRACTICES MANUAL.—Not later than 180 days after the date on which the report is published under paragraph (2), the Secretary shall update the best practices manual described in section 1112(b)(3) of MAP–21 (23 U.S.C. 148 note; Public Law 112–141)."

Pub. L. 112–141, div. A, title I, §1112(b), July 6, 2012, 126 Stat. 459, provided that:

"(1) STUDY.—

"(A) IN GENERAL.—The Secretary [of Transportation] shall conduct a study of the best practices for implementing cost-effective roadway safety infrastructure improvements on high-risk rural roads.

"(B) METHODOLOGY.—In carrying out the study, the Secretary shall—

"(i) conduct a thorough literature review;

"(ii) survey current practices of State departments of transportation; and

"(iii) survey current practices of local units of government, as appropriate.

"(C) CONSULTATION.—In carrying out the study, the Secretary shall consult with—

"(i) State departments of transportation;

"(ii) county engineers and public works professionals;

"(iii) appropriate local officials; and

"(iv) appropriate private sector experts in the field of roadway safety infrastructure.

"(2) REPORT.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title], 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 report on the results of the study.

"(B) CONTENTS.—The report shall include—

"(i) a summary of cost-effective roadway safety infrastructure improvements;

"(ii) a summary of the latest research on the financial savings and reduction in fatalities and serious bodily injury crashes from the implementation of cost-effective roadway safety infrastructure improvements; and

"(iii) recommendations for State and local governments on best practice methods to install cost-effective roadway safety infrastructure on high-risk rural roads.

"(3) MANUAL.—

"(A) DEVELOPMENT.—Based on the results of the study under paragraph (2), the Secretary, in consultation with the individuals and entities described in paragraph (1)(C), shall develop a best practices manual to support Federal, State, and local efforts to reduce fatalities and serious bodily injury crashes on high-risk rural roads through the use of cost-effective roadway safety infrastructure improvements.

"(B) AVAILABILITY.—The manual shall be made available to State and local governments not later than 180 days after the date of submission of the report under paragraph (2).

"(C) CONTENTS.—The manual shall include, at a minimum, a list of cost-effective roadway safety infrastructure improvements and best practices on the installation of cost-effective roadway safety infrastructure improvements on high-risk rural roads.

"(D) USE OF MANUAL.—Use of the manual shall be voluntary and the manual shall not establish any binding standards or legal duties on State or local governments, or any other person."

TRANSITION

Pub. L. 109–59, title I, §1401(d), formerly §1401(e), Aug. 10, 2005, 119 Stat. 1227, renumbered §1401(d) by Pub. L. 110–244, title I, §101(s)(1), June 6, 2008, 122 Stat. 1577, provided for different methods of obligating funds to States for highway safety improvement programs both before and after the second fiscal

year beginning Aug. 10, 2005.

§149. Congestion mitigation and air quality improvement program

(a) ESTABLISHMENT.—The Secretary shall establish and implement a congestion mitigation and air quality improvement program in accordance with this section.

(b) ELIGIBLE PROJECTS.—Except as provided in subsections (d) and (m)(1)(B)(ii), a State may obligate funds apportioned to it under section 104(b)(4) for the congestion mitigation and air quality improvement program only for a transportation project or program if the project or program is for an area in the State that is or was designated as a nonattainment area for ozone, carbon monoxide, or particulate matter under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) and classified pursuant to section 181(a), 186(a), 188(a), or 188(b) of the Clean Air Act (42 U.S.C. 7511(a), 7512(a), 7513(a), or 7513(b)) or is or was designated as a nonattainment area under such section 107(d) after December 31, 1997, or is required to prepare, and file with the Administrator of the Environmental Protection Agency, maintenance plans under the Clean Air Act (42 U.S.C. 7401 et seq.) and—

(1)(A)(i) if the Secretary, after consultation with the Administrator determines, on the basis of information published by the Environmental Protection Agency pursuant to section 108(f)(1)(A) of the Clean Air Act (other than clause (xvi)) that the project or program is likely to contribute to—

(I) the attainment of a national ambient air quality standard in the designated nonattainment area; or

(II) the maintenance of a national ambient air quality standard in a maintenance area; and

(ii) a high level of effectiveness in reducing air pollution, in cases of projects or programs where sufficient information is available in the database established pursuant to subsection (h) to determine the relative effectiveness of such projects or programs; or,

(B) in any case in which such information is not available, if the Secretary, after such consultation, determines that the project or program is part of a program, method, or strategy described in such section 108(f)(1)(A);

(2) if the project or program is included in a State implementation plan that has been approved pursuant to the Clean Air Act and the project will have air quality benefits;

(3) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the project or program is likely to contribute to the attainment or maintenance of a national ambient air quality standard, whether through reductions in vehicle miles traveled, fuel consumption, or through other factors;

(4) to establish or operate a traffic monitoring, management, and control facility or program, including advanced truck stop electrification systems, if the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the facility or program is likely to contribute to the attainment or maintenance in the area of a national ambient air quality standard;

(5) if the program or project improves traffic flow, including projects to improve signalization, construct high occupancy vehicle lanes, improve intersections, add turning lanes, improve transportation systems management and operations that mitigate congestion and improve air quality, and implement intelligent transportation system strategies and such other projects that are eligible for assistance under this section on the day before the date of enactment of this paragraph, including programs or projects to improve incident and emergency response or improve mobility, such as through real-time traffic, transit, and multimodal traveler information;

(6) if the project or program involves the purchase of integrated, interoperable emergency communications equipment;

(7) if the project or program shifts traffic demand to nonpeak hours or other transportation modes, increases vehicle occupancy rates, or otherwise reduces demand for roads through such means as telecommuting, ridesharing, carsharing, shared micromobility (including bikesharing and

shared scooter systems), alternative work hours, and pricing;

(8) if the project or program is for—

(A) the purchase of diesel replacements or retrofits that are—

(i) verified technologies (as defined in section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131)) for motor vehicles (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); or

(ii) verified technologies (as defined in section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131)) for non-road vehicles and non-road engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)) that are used in construction projects or port-related freight operations that are—

(I) located in nonattainment or maintenance areas for ozone, PM_{10}, or $PM_{2.5}$ (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

(II) funded, in whole or in part, under this title or chapter 53 of title 49;

(B) the conduct of outreach activities that are designed to provide information and technical assistance to the owners and operators of diesel equipment and vehicles regarding the purchase and installation of diesel replacements or retrofits; or

(C) the purchase of medium- or heavy-duty zero emission vehicles and related charging equipment;

(9) if the project or program is for the installation of vehicle-to-infrastructure communication equipment;

(10) if the project is for the modernization or rehabilitation of a lock and dam that—

(A) is functionally connected to the Federal-aid highway system; and

(B) the Secretary determines is likely to contribute to the attainment or maintenance of a national ambient air quality standard; or

(11) if the project is on a marine highway corridor, connector, or crossing designated by the Secretary under section 55601(c) of title 46 (including an inland waterway corridor, connector, or crossing) that—

(A) is functionally connected to the Federal-aid highway system; and

(B) the Secretary determines is likely to contribute to the attainment or maintenance of a national ambient air quality standard.

(c) SPECIAL RULES.—

(1) PROJECTS FOR PM–10 NONATTAINMENT AREAS.—A State may obligate funds apportioned to the State under section 104(b)(4) for a project or program for an area that is nonattainment for ozone or carbon monoxide, or both, and for PM–10 resulting from transportation activities, without regard to any limitation of the Department of Transportation relating to the type of ambient air quality standard such project or program addresses.

(2) ELECTRIC VEHICLE AND NATURAL GAS VEHICLE INFRASTRUCTURE.—A State may obligate funds apportioned under section 104(b)(4) for a project or program to establish electric vehicle charging stations or natural gas vehicle refueling stations for the use of battery powered or natural gas fueled trucks or other motor vehicles at any location in the State (giving priority to corridors designated under section 151) except that such stations may not be established or supported where commercial establishments serving motor vehicle users are prohibited by section 111 of title 23, United States Code.

(3) HOV FACILITIES.—No funds may be provided under this section for a project which will result in the construction of new capacity available to single occupant vehicles unless the project consists of a high occupancy vehicle facility available to single occupant vehicles only at other than peak travel times.

(4) LOCKS AND DAMS; MARINE HIGHWAYS.—For each fiscal year, a State may not obligate more than 10 percent of the funds apportioned to the State under section 104(b)(4) for

projects described in paragraphs (10) and (11) of subsection (b).

(d) STATES FLEXIBILITY.—

(1) STATES WITHOUT A NONATTAINMENT AREA.—If a State does not have, and never has had, a nonattainment area designated under the Clean Air Act (42 U.S.C. 7401 et seq.), the State may use funds apportioned to the State under section 104(b)(4) for any project in the State that—

(A) would otherwise be eligible under subsection (b) as if the project were carried out in a nonattainment or maintenance area; or

(B) is eligible under the surface transportation block grant program under section 133.

(2) STATES WITH A NONATTAINMENT AREA.—

(A) IN GENERAL.—If a State has a nonattainment area or maintenance area and received funds in fiscal year 2009 under section 104(b)(2)(D), as in effect on the day before the date of enactment of the MAP–21, above the amount of funds that the State would have received based on the nonattainment and maintenance area population of the State under subparagraphs (B) and (C) of section 104(b)(2), as in effect on the day before the date of enactment of the MAP–21, the State may use for any project that would otherwise be eligible under subsection (b) if the project were carried out in a nonattainment or maintenance area or is eligible under the surface transportation block grant program under section 133 an amount of funds apportioned to such State under section 104(b)(4) that is equal to the product obtained by multiplying—

(i) the amount apportioned to such State under section 104(b)(4) (excluding the amount of funds reserved under subsection (k)(1)); by

(ii) the ratio calculated under subparagraph (B).

(B) RATIO.—For purposes of this paragraph, the ratio shall be calculated as the proportion that—

(i) the amount for fiscal year 2009 such State was permitted by section 149(c)(2), as in effect on the day before the date of enactment of the MAP–21, to obligate in any area of the State for projects eligible under section 133, as in effect on the day before the date of enactment of the MAP–21; bears to

(ii) the total apportionment to such State for fiscal year 2009 under section 104(b)(2), as in effect on the day before the date of enactment of the MAP–21.

(3) CHANGES IN DESIGNATION.—If a new nonattainment area is designated or a previously designated nonattainment area is redesignated as an attainment area in a State under the Clean Air Act (42 U.S.C. 7401 et seq.), the Secretary shall modify, in a manner consistent with the approach that was in effect on the day before the date of enactment of MAP–21, the amount such State is permitted to obligate in any area of the State for projects eligible under section 133.

(e) APPLICABILITY OF PLANNING REQUIREMENTS.—Programming and expenditure of funds for projects under this section shall be consistent with the requirements of sections 134 and 135 of this title.

(f) PARTNERSHIPS WITH NONGOVERNMENTAL ENTITIES.—

(1) IN GENERAL.—Notwithstanding any other provision of this title and in accordance with this subsection, a metropolitan planning organization, State transportation department, or other project sponsor may enter into an agreement with any public, private, or nonprofit entity to cooperatively implement any project carried out under this section.

(2) FORMS OF PARTICIPATION BY ENTITIES.—Participation by an entity under paragraph (1) may consist of—

(A) ownership or operation of any land, facility, vehicle, or other physical asset associated with the project;

(B) cost sharing of any project expense;

(C) carrying out of administration, construction management, project management, project operation, or any other management or operational duty associated with the project; and

(D) any other form of participation approved by the Secretary.

(3) ALLOCATION TO ENTITIES.—A State may allocate funds apportioned under section 104(b)(4) to an entity described in paragraph (1).

(4) ALTERNATIVE FUEL PROJECTS.—In the case of a project that will provide for the use of alternative fuels by privately owned vehicles or vehicle fleets, activities eligible for funding under this subsection—

(A) may include the costs of vehicle refueling infrastructure, including infrastructure that would support the development, production, and use of emerging technologies that reduce emissions of air pollutants from motor vehicles and nonroad vehicles and nonroad engines used in construction projects or port-related freight operations, and other capital investments associated with the project;

(B) shall include only the incremental cost of an alternative fueled vehicle, as compared to a conventionally fueled vehicle, that would otherwise be borne by a private party; and

(C) shall apply other governmental financial purchase contributions in the calculation of net incremental cost.

(5) PROHIBITION ON FEDERAL PARTICIPATION WITH RESPECT TO REQUIRED ACTIVITIES.—A Federal participation payment under this subsection may not be made to an entity to fund an obligation imposed under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other Federal law.

(g) COST-EFFECTIVE EMISSION REDUCTION GUIDANCE.—

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

(A) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(B) DIESEL REPLACEMENT OR RETROFIT.—The term "diesel replacement or retrofit" means a replacement or retrofit, repowering, rebuilding, after treatment, or other technology, as determined by the Administrator.

(2) EMISSION REDUCTION GUIDANCE.—The Administrator, in consultation with the Secretary, shall publish a list of diesel replacement or retrofit technologies and supporting technical information for—

(A) diesel emission reduction technologies certified or verified by the Administrator, the California Air Resources Board, or any other entity recognized by the Administrator for the same purpose;

(B) diesel emission reduction technologies identified by the Administrator as having an application and approvable test plan for verification by the Administrator or the California Air Resources Board that is submitted not later than 18 months of the date of enactment of this subsection;

(C) available information regarding the emission reduction effectiveness and cost effectiveness of technologies identified in this paragraph, taking into consideration air quality and health effects.

(3) PRIORITY CONSIDERATION.—States and metropolitan planning organizations shall give priority in areas designated as nonattainment or maintenance for PM2.5 under the Clean Air Act (42 U.S.C. 7401 et seq.) in distributing funds received for congestion mitigation and air quality projects and programs from apportionments under section 104(b)(4) to projects that are proven to reduce PM2.5, including diesel replacements or retrofits.

(4) NO EFFECT ON AUTHORITY OR RESTRICTIONS.—Nothing in this subsection modifies or otherwise affects any authority or restriction established under the Clean Air Act (42

U.S.C. 7401 et seq.) or any other law (other than provisions of this title relating to congestion mitigation and air quality).

(h) INTERAGENCY CONSULTATION.—The Secretary shall encourage States and metropolitan planning organizations to consult with State and local air quality agencies in nonattainment and maintenance areas on the estimated emission reductions from proposed congestion mitigation and air quality improvement programs and projects.

(i) EVALUATION AND ASSESSMENT OF PROJECTS.—

(1) DATABASE.—

(A) IN GENERAL.—Using appropriate assessments of projects funded under the congestion mitigation and air quality program and results from other research, the Secretary shall maintain and disseminate a cumulative database describing the impacts of the projects, including specific information about each project, such as the project name, location, sponsor, cost, and, to the extent already measured by the project sponsor, cost-effectiveness, based on reductions in congestion and emissions.

(B) AVAILABILITY.—The database shall be published or otherwise made readily available by the Secretary in electronically accessible format and means, such as the Internet, for public review.

(2) COST EFFECTIVENESS.—

(A) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate projects on a periodic basis and develop a table or other similar medium that illustrates the cost-effectiveness of a range of project types eligible for funding under this section as to how the projects mitigate congestion and improve air quality.

(B) CONTENTS.—The table described in subparagraph (A) shall show measures of cost-effectiveness, such as dollars per ton of emissions reduced, and assess those measures over a variety of timeframes to capture impacts on the planning timeframes outlined in section 134.

(C) USE OF TABLE.—States and metropolitan planning organizations shall consider the information in the table when selecting projects or developing performance plans under subsection (l).

(j) OPTIONAL PROGRAMMATIC ELIGIBILITY.—

(1) IN GENERAL.—At the discretion of a metropolitan planning organization, a technical assessment of a selected program of projects may be conducted through modeling or other means to demonstrate the emissions reduction projection required under this section.

(2) APPLICABILITY.—If an assessment described in paragraph (1) successfully demonstrates an emissions reduction, all projects included in such assessment shall be eligible for obligation under this section without further demonstration of emissions reduction of individual projects included in such assessment.

(k) PRIORITY FOR USE OF FUNDS IN PM2.5 AREAS.—

(1) IN GENERAL.—For any State that has a nonattainment or maintenance area for fine particulate matter, an amount equal to 25 percent of the funds apportioned to each State under section 104(b)(4) for a nonattainment or maintenance area that are based all or in part on the weighted population of such area in fine particulate matter nonattainment shall be obligated to projects that—

(A) reduce such fine particulate matter emissions in such area, including diesel replacements or retrofits; and

(B) to the extent practicable, prioritize benefits to disadvantaged communities or low-income populations living in, or immediately adjacent to, such area.

(2) CONSTRUCTION EQUIPMENT AND VEHICLES.—In order to meet the requirements of

paragraph (1), a State or metropolitan planning organization may elect to obligate funds to install diesel emission control technology on nonroad diesel equipment or on-road diesel equipment that is operated on a highway construction project within a PM2.5 nonattainment or maintenance area.

(3) PM2.5 NONATTAINMENT AND MAINTENANCE IN LOW POPULATION DENSITY STATES.—

(A) EXCEPTION.—In any State with a population density of 80 or fewer persons per square mile of land area, based on the most recent decennial census, the requirements under subsection (g)(3) and paragraphs (1) and (2) of this subsection shall not apply to a nonattainment or maintenance area in the State if—

(i) the nonattainment or maintenance area does not have projects that are part of the emissions analysis of a metropolitan transportation plan or transportation improvement program; and

(ii) regional motor vehicle emissions are an insignificant contributor to the air quality problem for PM2.5 in the nonattainment or maintenance area.

(B) CALCULATION.—If subparagraph (A) applies to a nonattainment or maintenance area in a State, the percentage of the PM2.5 set-aside under paragraph (1) shall be reduced for that State proportionately based on the weighted population of the area in fine particulate matter nonattainment.

(4) PORT-RELATED EQUIPMENT AND VEHICLES.—To meet the requirements under paragraph (1), a State or metropolitan planning organization may elect to obligate funds to the most cost-effective projects to reduce emissions from port-related landside nonroad or on-road equipment that is operated within the boundaries of a PM2.5 nonattainment or maintenance area.

(l) PERFORMANCE PLAN.—

(1) IN GENERAL.—Each metropolitan planning organization serving a transportation management area (as defined in section 134) with a population over 1,000,000 people representing a nonattainment or maintenance area shall develop a performance plan that—

(A) includes an area baseline level for traffic congestion and on-road mobile source emissions for which the area is in nonattainment or maintenance;

(B) describes progress made in achieving the air quality and traffic congestion performance targets described in section 150(d); and

(C) includes a description of projects identified for funding under this section and how such projects will contribute to achieving emission and traffic congestion reduction targets.

(2) UPDATED PLANS.—Performance plans shall be updated biennially and include a separate report that assesses the progress of the program of projects under the previous plan in achieving the air quality and traffic congestion targets of the previous plan.

(3) ASSISTANCE TO METROPOLITAN PLANNING ORGANIZATIONS.—

(A) IN GENERAL.—On the request of a metropolitan planning organization, the Secretary may assist the metropolitan planning organization tracking progress made in minority or low-income populations as part of a performance plan under this subsection.

(B) SAVINGS PROVISION.—Nothing in this paragraph provides the Secretary the authority—

(i) to change the performance measures under section 150(c)(5) or the performance targets established under section 134(h)(2) or 150(d); or

(ii) to establish any other Federal requirement.

(m) OPERATING ASSISTANCE.—

(1) IN GENERAL.—A State may obligate funds apportioned under section 104(b)(4) in an area of the State that is otherwise eligible for obligations of such funds for operating costs—

(A) under chapter 53 of title 49; or

(B) on—

(i) a system for which CMAQ funding was eligible, made available, obligated, or expended in fiscal year 2012; or

(ii) a State-supported Amtrak route with a valid cost-sharing agreement under section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note; Public Law 110–432) and no current nonattainment areas under subsection (d).

(2) NO TIME LIMITATION.—Operating assistance provided under paragraph (1) shall have no imposed time limitation if the operating assistance is for—

(A) a route described in subparagraph (B) of that paragraph; or

(B) a transit system that is located in—

(i) a non-urbanized area; or

(ii) an urbanized area with a population of 200,000 or fewer.

(Added Pub. L. 93–87, title I, §142(a), Aug. 13, 1973, 87 Stat. 272; amended Pub. L. 102–240, title I, §1008(a), Dec. 18, 1991, 105 Stat. 1932; Pub. L. 102–388, title III, §380, Oct. 6, 1992, 106 Stat. 1562; Pub. L. 104–59, title III, §319(a)(1), (b), Nov. 28, 1995, 109 Stat. 588, 589; Pub. L. 104–88, title IV, §405(a)(2), (b), Dec. 29, 1995, 109 Stat. 956, 957; Pub. L. 105–178, title I, §1110(a)–(d)(1), June 9, 1998, 112 Stat. 142, 143; Pub. L. 109–59, title I, §1808(a)–(f), Aug. 10, 2005, 119 Stat. 1461–1463; Pub. L. 112–141, div. A, title I, §1113(a), (b), July 6, 2012, 126 Stat. 460; Pub. L. 113–76, div. L, title I, §125, Jan. 17, 2014, 128 Stat. 587; Pub. L. 114–94, div. A, title I, §§1109(c)(5), 1114, Dec. 4, 2015, 129 Stat. 1343, 1348; Pub. L. 115–141, div. L, title IV, §421, Mar. 23, 2018, 132 Stat. 1045; Pub. L. 117–58, div. A, title I, §11115, Nov. 15, 2021, 135 Stat. 480.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Clean Air Act, referred to in subsecs. (b), (d)(1), (3), (f)(5), and (g)(3), (4), is act July 14, 1955, ch. 360, 69 Stat. 322, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. Section 108(f)(1)(A) of the Act is classified to section 7408(f)(1)(A) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The date of enactment of this paragraph, referred to in subsec. (b)(5), is the date of enactment of Pub. L. 105–178, which was approved June 9, 1998.

Sections 104(b)(2), 133, and 149(c)(2), as in effect on the day before the date of enactment of the MAP–21, referred to in subsec. (d)(2), mean section 104(b)(2) of this title, section 133 of this title, and subsec. (c)(2) of this section, respectively, as in effect on the day before the date of enactment of Pub. L. 112–141, which amended section 104 generally, made numerous amendments to section 133, and redesignated subsec. (c) of this section as (d) and struck it out. The date of enactment of the MAP–21 is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title.

The day before the date of enactment of MAP–21, referred to in subsec. (d)(3), means the day before the date of enactment of Pub. L. 112–141. See note above.

The date of enactment of this subsection, referred to in subsec. (g)(2)(B), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

Section 209 of the Passenger Rail Investment and Improvement Act of 2008, referred to in subsec. (m), is section 209 of div. B of Pub. L. 110–432, which is set out as a note under section 24101 of Title 49, Transportation.

AMENDMENTS

2021—Subsec. (b). Pub. L. 117–58, §11115(1)(A), substituted "subsections (d) and (m)(1)(B)(ii)" for "subsection (d)" in introductory provisions.

Subsec. (b)(7). Pub. L. 117–58, §11115(1)(B), inserted "shared micromobility (including bikesharing and shared scooter systems)," after "carsharing,".

Subsec. (b)(8)(A). Pub. L. 117–58, §11115(1)(C)(i)(I), inserted "replacements or" before "retrofits" in introductory provisions.

Subsec. (b)(8)(A)(i). Pub. L. 117–58, §11115(1)(C)(i)(II), added cl. (i) and struck out former cl. (i) which

read as follows: "for motor vehicles (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); or".

Subsec. (b)(8)(B). Pub. L. 117–58, §11115(1)(C)(ii), inserted "replacements or" before "retrofits".

Subsec. (b)(8)(C). Pub. L. 117–58, §11115(1)(C)(i)(III), (iii), added subpar. (C).

Subsec. (b)(10), (11). Pub. L. 117–58, §11115(1)(D), (E), added pars. (10) and (11).

Subsec. (c)(4). Pub. L. 117–58, §11115(2), added par. (4).

Subsec. (f)(4)(A). Pub. L. 117–58, §11115(3), inserted "and nonroad vehicles and nonroad engines used in construction projects or port-related freight operations" after "motor vehicles".

Subsec. (g)(1)(B). Pub. L. 117–58, §11115(4)(A), in heading, inserted "replacement or" before "retrofit" and, in text, substituted "The term 'diesel replacement or retrofit' means" for "The term 'diesel retrofit' means" and inserted "or retrofit" after "replacement".

Subsec. (g)(2). Pub. L. 117–58, §11115(4)(B), inserted "replacement or" before "retrofit" in introductory provisions.

Subsec. (g)(3). Pub. L. 117–58, §11115(4)(C), inserted "replacements or" before "retrofits".

Subsec. (k)(1). Pub. L. 117–58, §11115(5), substituted "that—" and subpars. (A) and (B) for "that reduce such fine particulate matter emissions in such area, including diesel retrofits."

Subsec. (l)(3). Pub. L. 117–58, §11115(6), added par. (3).

Subsec. (m). Pub. L. 117–58, §11115(7), added subsec. (m) and struck out former subsec. (m). Prior to amendment, text read as follows: "A State may obligate funds apportioned under section 104(b)(4) in an area of such State that is otherwise eligible for obligations of such funds for operating costs under chapter 53 of title 49 or on a system for which CMAQ funding was made available, obligated or expended in fiscal year 2012, or on a State-Supported Amtrak route with a valid cost-sharing agreement under section 209 of the Passenger Rail Investment and Improvement Act of 2008 and no current nonattainment areas under subsection (d), and shall have no imposed time limitation."

2018—Subsec. (m). Pub. L. 115–141 inserted "or on a State-Supported Amtrak route with a valid cost-sharing agreement under section 209 of the Passenger Rail Investment and Improvement Act of 2008 and no current nonattainment areas under subsection (d)," after "2012,".

2015—Subsec. (b)(1)(A)(i)(I). Pub. L. 114–94, §1114(1)(A), inserted "in the designated nonattainment area" after "air quality standard".

Subsec. (b)(3). Pub. L. 114–94, §1114(1)(B), inserted "or maintenance" after "likely to contribute to the attainment".

Subsec. (b)(4). Pub. L. 114–94, §1114(1)(C), substituted "attainment or maintenance in the area of" for "attainment of".

Subsec. (b)(8)(A)(ii). Pub. L. 114–94, §1114(1)(E)(i)(I), inserted "or port-related freight operations" after "construction projects" in introductory provisions.

Subsec. (b)(8)(A)(ii)(II). Pub. L. 114–94, §1114(1)(E)(i)(II), inserted "or chapter 53 of title 49" after "this title".

Subsec. (b)(9). Pub. L. 114–94, §1114(1)(D), (E)(ii), (F), added par. (9).

Subsec. (c)(2). Pub. L. 114–94, §1114(2), inserted "(giving priority to corridors designated under section 151)" after "at any location in the State".

Subsec. (d)(1)(B). Pub. L. 114–94, §1114(3)(A), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "is eligible under the surface transportation program under section 133."

Subsec. (d)(2)(A). Pub. L. 114–94, §1114(3)(B)(i)(I), inserted "would otherwise be eligible under subsection (b) if the project were carried out in a nonattainment or maintenance area or" after "may use for any project that" in introductory provisions.

Pub. L. 114–94, §1109(c)(5), substituted "surface transportation block grant program" for "surface transportation program" in introductory provisions.

Subsec. (d)(2)(A)(i). Pub. L. 114–94, §1114(3)(B)(i)(II), substituted "subsection (k)(1)" for "paragraph (l)".

Subsec. (d)(2)(B)(i). Pub. L. 114–94, §1114(3)(B)(ii), substituted "MAP–21" for "MAP–21t".

Subsec. (d)(3). Pub. L. 114–94, §1114(3)(C), inserted ", in a manner consistent with the approach that was in effect on the day before the date of enactment of MAP–21," after "the Secretary shall modify".

Subsec. (g)(2)(B). Pub. L. 114–94, §1114(4), substituted "not later than" for "not later that".

Subsec. (k)(3), (4). Pub. L. 114–94, §1114(5), added pars. (3) and (4).

Subsec. (l)(1)(B). Pub. L. 114–94, §1114(6), inserted "air quality and traffic congestion" before "performance targets".

Subsec. (m). Pub. L. 114–94, §1114(7), substituted "section 104(b)(4)" for "section 104(b)(2)".

2014—Subsec. (m). Pub. L. 113–76 substituted "for which CMAQ funding was made available, obligated or expended in fiscal year 2012, and shall have no imposed time limitation" for "that was previously eligible under this section".

2012—Subsec. (b). Pub. L. 112–141, §1113(a)(1), (5), in introductory provisions, substituted "in subsection (d)" for "in subsection (c)" and "section 104(b)(4)" for "section 104(b)(2)" and struck out concluding provisions which read as follows: "No funds may be provided under this section for a project which will result in the construction of new capacity available to single occupant vehicles unless the project consists of a high occupancy vehicle facility available to single occupant vehicles only at other than peak travel times. In areas of a State which are nonattainment for ozone or carbon monoxide, or both, and for PM–10 resulting from transportation activities, the State may obligate such funds for any project or program under paragraph (1) or (2) without regard to any limitation of the Department of Transportation relating to the type of ambient air quality standard such project or program addresses."

Subsec. (b)(5). Pub. L. 112–141, §1113(a)(2), inserted "add turning lanes," after "improve intersections," and substituted "paragraph, including programs or projects to improve incident and emergency response or improve mobility, such as through real-time traffic, transit, and multimodal traveler information;" for "paragraph;".

Subsec. (b)(7). Pub. L. 112–141, §1113(a)(3), (7), added par. (7). Former par. (7) redesignated (8).

Subsec. (b)(7)(A)(ii). Pub. L. 112–141, §1113(a)(4), substituted "verified technologies (as defined in section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131))" for "published in the list under subsection (f)(2)" in introductory provisions.

Subsec. (b)(8). Pub. L. 112–141, §1113(a)(6), redesignated par. (7) as (8).

Subsec. (c). Pub. L. 112–141, §1113(b)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 112–141, §1113(b)(3), added subsec. (d) and struck out former subsec. (d) which related to states receiving minimum apportionment.

Pub. L. 112–141, §1113(b)(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 112–141, §1113(b)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 112–141, §1113(b)(1), (4), redesignated subsec. (e) as (f) and substituted "104(b)(4)" for "104(b)(2)" in par. (3). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 112–141, §1113(b)(1), (5), redesignated subsec. (f) as (g), added par. (3), and struck out former par. (3) which related to priority. Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 112–141, §1113(b)(1), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 112–141, §1113(b)(6), added subsec. (i) and struck out former subsec. (i) which related to evaluation and assessment of projects.

Pub. L. 112–141, §1113(b)(1), redesignated subsec. (h) as (i).

Subsecs. (j) to (m). Pub. L. 112–141, §1113(b)(6), added subsecs. (j) to (m).

2005—Subsec. (b). Pub. L. 109–59, §1808(a), inserted "or is required to prepare, and file with the Administrator of the Environmental Protection Agency, maintenance plans under the Clean Air Act (42 U.S.C. 7401 et seq.)" after "1997," in introductory provisions.

Subsec. (b)(1). Pub. L. 109–59, §1808(b)(1), added par. (1) and struck out former par. (1) which read as follows:

"(A) if the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines, on the basis of information published by the Environmental Protection Agency pursuant to section 108(f)(1)(A) of the Clean Air Act (other than clause (xvi) of such section), that the project or program is likely to contribute to—

"(i) the attainment of a national ambient air quality standard; or

"(ii) the maintenance of a national ambient air quality standard in a maintenance area; or

"(B) in any case in which such information is not available, if the Secretary, after such consultation, determines that the project or program is part of a program, method, or strategy described in such section;".

Subsec. (b)(4). Pub. L. 109–59, §1808(b)(2)(A), inserted ", including advanced truck stop electrification systems," after "control facility or program".

Subsec. (b)(5). Pub. L. 109–59, §1808(b)(3)(A), inserted "improve transportation systems management and operations that mitigate congestion and improve air quality," after "intersections,".

Subsec. (b)(6), (7). Pub. L. 109–59, §1808(b)(2)(B), (3)(B), (4), which directed addition of pars. (6) and (7) at end of subsec. (b), was executed by adding pars. (6) and (7) after par. (5) to reflect the probable intent of Congress.

Subsec. (c)(1). Pub. L. 109–59, §1808(c)(1), substituted "for any project in the State that—" and subpars. (A) and (B) for "for any project eligible under the surface transportation program under section 133."

Subsec. (c)(2). Pub. L. 109–59, §1808(c)(2), substituted "for any project in the State that—" and subpars. (A) and (B) for "for any project in the State eligible under section 133."

Subsecs. (f) to (h). Pub. L. 109–59, §1808(d)–(f), added subsecs. (f) to (h).

1998—Subsec. (a). Pub. L. 105–178, §1110(a), substituted "shall establish and implement" for "shall establish".

Subsec. (b). Pub. L. 105–178, §1110(b)(1), in introductory provisions, substituted "that is or was designated as a nonattainment area for ozone, carbon monoxide, or particulate matter under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) and classified pursuant to section 181(a), 186(a), 188(a), or 188(b) of the Clean Air Act (42 U.S.C. 7511(a), 7512(a), 7513(a), or 7513(b)) or is or was designated as a nonattainment area under such section 107(d) after December 31, 1997," for "that was designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) during any part of fiscal year 1994".

Subsec. (b)(1)(A). Pub. L. 105–178, §1110(b)(2), substituted "clause (xvi) of such section" for "clauses (xii) and (xvi) of such section".

Subsec. (b)(1)(A)(ii). Pub. L. 105–178, §1110(b)(3), substituted "a maintenance area" for "an area that was designated as a nonattainment area but that was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d))".

Subsec. (b)(5). Pub. L. 105–178, §1110(b)(4)–(6), added par. (5).

Subsec. (c). Pub. L. 105–178, §1110(c), added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: "If a State does not have a nonattainment area for ozone or carbon monoxide under the Clean Air Act located within its borders, the State may use funds apportioned to it under section 104(b)(2) for any project eligible for assistance under the surface transportation program."

Subsec. (e). Pub. L. 105–178, §1110(d)(1), added subsec. (e).

1995—Subsec. (b). Pub. L. 104–59, §319(a)(1)(A), in introductory provisions, inserted "if the project or program is for an area in the State that was designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) during any part of fiscal year 1994 and" after "project or program".

Subsec. (b)(1)(A). Pub. L. 104–59, §319(a)(1)(B), substituted "contribute to—" and cls. (i) and (ii) for "contribute to the attainment of a national ambient air quality standard; or".

Subsec. (b)(2). Pub. L. 104–59, §319(b)(1), struck out "or" at end.

Subsec. (b)(3). Pub. L. 104–88, §405(b)(1), inserted "or" after semicolon at end.

Pub. L. 104–59, §319(b)(2), substituted a semicolon for period at end.

Subsec. (b)(4). Pub. L. 104–88, §405(b)(2), substituted a period for "; or" at end.

Pub. L. 104–59, §319(b)(3), as amended by Pub. L. 104–88, §405(a)(2), added par. (4).

1992—Subsec. (b). Pub. L. 102–388 inserted at end "In areas of a State which are nonattainment for ozone or carbon monoxide, or both, and for PM–10 resulting from transportation activities, the State may obligate such funds for any project or program under paragraph (1) or (2) without regard to any limitation of the Department of Transportation relating to the type of ambient air quality standard such project or program addresses."

1991—Pub. L. 102–240 substituted section catchline for one which read: "Truck lanes" and amended text generally. Prior to amendment, text read as follows: "The Secretary may approve as a project on any Federal-aid system the construction of exclusive or preferential truck lanes."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by section 405(b) of Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of Title 49, Transportation.

Pub. L. 104–88, title IV, §405(a), Dec. 29, 1995, 109 Stat. 956, provided that the amendment made by section 405(a)(2) is effective Nov. 28, 1995.

EFFECTIVE DATE OF 1991 AMENDMENT

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

REDUCTION OF TRUCK EMISSIONS AT PORT FACILITIES

Pub. L. 117–58, div. A, title I, §11402, Nov. 15, 2021, 135 Stat. 553, provided that:

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—The Secretary [of Transportation] shall establish a program to reduce idling at port facilities, under which the Secretary shall—

"(A) study how ports and intermodal port transfer facilities would benefit from increased opportunities to reduce emissions at ports, including through the electrification of port operations;

"(B) study emerging technologies and strategies that may help reduce port-related emissions from idling trucks; and

"(C) coordinate and provide funding to test, evaluate, and deploy projects that reduce port-related emissions from idling trucks, including through the advancement of port electrification and improvements in efficiency, focusing on port operations, including heavy-duty commercial vehicles, and other related projects.

"(2) CONSULTATION.—In carrying out the program under this subsection, the Secretary may consult with the Secretary of Energy and the Administrator of the Environmental Protection Agency.

"(b) GRANTS.—

"(1) IN GENERAL.—In carrying out subsection (a)(1)(C), the Secretary shall award grants to fund projects that reduce emissions at ports, including through the advancement of port electrification.

"(2) COST SHARE.—A grant awarded under paragraph (1) shall not exceed 80 percent of the total cost of the project funded by the grant.

"(3) COORDINATION.—In carrying out the grant program under this subsection, the Secretary shall—

"(A) to the maximum extent practicable, leverage existing resources and programs of the Department [of Transportation] and other relevant Federal agencies; and

"(B) coordinate with other Federal agencies, as the Secretary determines to be appropriate.

"(4) APPLICATION; SELECTION.—

"(A) APPLICATION.—The Secretary shall solicit applications for grants under paragraph (1) at such time, in such manner, and containing such information as the Secretary determines to be necessary.

"(B) SELECTION.—The Secretary shall make grants under paragraph (1) by not later than April 1 of each fiscal year for which funding is made available.

"(5) REQUIREMENT.—Notwithstanding any other provision of law, any project funded by a grant under this subsection shall be treated as a project on a Federal-aid highway under chapter 1 of title 23, United States Code.

"(c) REPORT.—Not later than 1 year after the date on which all of the projects funded with a grant under subsection (b) are completed, the Secretary shall submit to Congress a report that includes—

"(1) the findings of the studies described in subparagraphs (A) and (B) of subsection (a)(1);

"(2) the results of the projects that received a grant under subsection (b);

"(3) any recommendations for workforce development and training opportunities with respect to port electrification; and

"(4) any policy recommendations based on the findings and results described in paragraphs (1) and (2)."

HEALTHY STREETS PROGRAM

Pub. L. 117–58, div. A, title I, §11406, Nov. 15, 2021, 135 Stat. 575, provided that:

"(a) DEFINITIONS.—In this section:

"(1) COOL PAVEMENT.—The term 'cool pavement' means a pavement with reflective surfaces with higher albedo to decrease the surface temperature of that pavement.

"(2) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) a State;

"(B) a metropolitan planning organization;

"(C) a unit of local government;

"(D) a Tribal government; and

"(E) a nonprofit organization working in coordination with an entity described in subparagraphs (A) through (D).

"(3) LOW-INCOME COMMUNITY.—The term 'low-income community' means a census block group in which not less than 30 percent of the population lives below the poverty line (as defined in section 673 of the Community Services Block Grant Act (42 U.S.C. 9902)).

"(4) POROUS PAVEMENT.—The term 'porous pavement' means a paved surface with a higher than normal percentage of air voids to allow water to pass through the surface and infiltrate into the subsoil.

"(5) PROGRAM.—The term 'program' means the Healthy Streets program established under subsection (b).

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

"(7) TRIBAL GOVERNMENT.—The term 'Tribal government' means the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published most recently as of the date of enactment of this Act [Nov. 15, 2021] pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

"(b) ESTABLISHMENT.—The Secretary [of Transportation] shall establish a discretionary grant program, to be known as the 'Healthy Streets program', to provide grants to eligible entities—

"(1) to deploy cool pavements and porous pavements; and

"(2) to expand tree cover.

"(c) GOALS.—The goals of the program are—

"(1) to mitigate urban heat islands;

"(2) to improve air quality; and

"(3) to reduce—

"(A) the extent of impervious surfaces;

"(B) stormwater runoff and flood risks; and

"(C) heat impacts to infrastructure and road users.

"(d) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under the program, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(2) REQUIREMENTS.—The application submitted by an eligible entity under paragraph (1) shall include a description of—

"(A) how the eligible entity would use the grant funds; and

"(B) the contribution that the projects intended to be carried out with grant funds would make to improving the safety, health outcomes, natural environment, and quality of life in low-income communities and disadvantaged communities.

"(e) USE OF FUNDS.—An eligible entity that receives a grant under the program may use the grant funds for 1 or more of the following activities:

"(1) Conducting an assessment of urban heat islands to identify hot spot areas of extreme heat or elevated air pollution.

"(2) Conducting a comprehensive tree canopy assessment, which shall assess the current tree locations and canopy, including—

"(A) an inventory of the location, species, condition, and health of existing tree canopies and trees on public facilities; and

"(B) an identification of—

"(i) the locations where trees need to be replaced;

"(ii) empty tree boxes or other locations where trees could be added; and

"(iii) flood-prone locations where trees or other natural infrastructure could mitigate flooding.

"(3) Conducting an equity assessment by mapping tree canopy gaps, flood-prone locations, and urban heat island hot spots as compared to—

"(A) pedestrian walkways and public transportation stop locations;

"(B) low-income communities; and

"(C) disadvantaged communities.

"(4) Planning activities, including developing an investment plan based on the results of the assessments carried out under paragraphs (1), (2), and (3).

"(5) Purchasing and deploying cool pavements to mitigate urban heat island hot spots.

"(6) Purchasing and deploying porous pavement to mitigate flooding and stormwater runoff in—

"(A) pedestrian-only areas; and

"(B) areas of low-volume, low-speed vehicular use.

"(7) Purchasing of trees, site preparation, planting of trees, ongoing maintenance and monitoring of trees, and repairing of storm damage to trees, with priority given to—

"(A) to the extent practicable, the planting of native species; and

"(B) projects located in a neighborhood with lower tree cover or higher maximum daytime summer temperatures compared to surrounding neighborhoods.

"(8) Assessing underground infrastructure and coordinating with local transportation and utility providers.

"(9) Hiring staff to conduct any of the activities described in paragraphs (1) through (8).

"(f) PRIORITY.—In awarding grants to eligible entities under the program, the Secretary shall give priority to an eligible entity—

"(1) proposing to carry out an activity or project in a low-income community or a disadvantaged community;

"(2) that has entered into a community benefits agreement with representatives of the community; or

"(3) that is partnering with a qualified youth or conservation corps (as defined in section 203 of the Public Lands Corps Act of 1993 (16 U.S.C. 1722)).

"(g) DISTRIBUTION REQUIREMENT.—Of the amounts made available to carry out the program for each fiscal year, not less than 80 percent shall be provided for projects in urbanized areas (as defined in section 101(a) of title 23, United States Code).

"(h) FEDERAL SHARE.—

"(1) IN GENERAL.—Except as provided under paragraph (2), the Federal share of the cost of a project carried out under the program shall be 80 percent.

"(2) WAIVER.—The Secretary may increase the Federal share requirement under paragraph (1) to 100 percent for projects carried out by an eligible entity that demonstrates economic hardship, as determined by the Secretary.

"(i) MAXIMUM GRANT AMOUNT.—An individual grant under this section shall not exceed $15,000,000.

"(j) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, a project assisted under this section shall be treated as a project on a Federal-aid highway under chapter 1 of title 23, United States Code."

DETERMINATION BY SECRETARY; WATER-PHASED HYDROCARBON FUEL EMULSION TECHNOLOGIES

Pub. L. 105–178, title I, §1110(d)(2), June 9, 1998, 112 Stat. 144, as amended by Pub. L. 105–206, title IX, §9002(g), July 22, 1998, 112 Stat. 836, provided that: "For the purposes of section 149(e) [now 149(f)] of title 23, United States Code, the Secretary shall determine in accordance with the procedures specified in section 149(b) of such title whether water-phased hydrocarbon fuel emulsion technologies that consist of a hydrocarbon base and water in an amount not less than 20 percent by volume reduce emissions of hydrocarbon, particulate matter, carbon monoxide, or nitrogen oxide from motor vehicles."

STUDY OF CMAQ PROGRAM

Pub. L. 105–178, title I, §1110(e), June 9, 1998, 112 Stat. 144, provided that:

"(1) IN GENERAL.—The Secretary and the Administrator of the Environmental Protection Agency shall enter into arrangements with the National Academy of Sciences to complete, by not later than January 1, 2001, a study of the congestion mitigation and air quality improvement program under section 149 of title 23, United States Code. The study shall, at a minimum—

"(A) evaluate the air quality impacts of emissions from motor vehicles;

"(B) evaluate the negative effects of traffic congestion, including the economic effects of time lost due to congestion;

"(C) determine the amount of funds obligated under the program and make a comprehensive analysis of the types of projects funded under the program;

"(D) evaluate the emissions reductions attributable to projects of various types that have been funded under the program;

"(E) assess the effectiveness, including the quantitative and nonquantitative benefits, of projects funded under the program and include, in the assessment, an estimate of the cost per ton of pollution reduction;

"(F) assess the cost effectiveness of projects funded under the program with respect to congestion

mitigation;

"(G) compare—

"(i) the costs of achieving the air pollutant emissions reductions achieved under the program; to

"(ii) the costs that would be incurred if similar reductions were achieved by other measures, including pollution controls on stationary sources;

"(H) include recommendations on improvements, including other types of projects, that will increase the overall effectiveness of the program;

"(I) include recommendations on expanding the scope of the program to address traffic-related pollutants that, as of the date of the study, are not addressed by the program.

"(2) REPORT.—Not later than January 1, 2000, the National Academy of Sciences shall transmit to the Secretary, the Committee on Transportation and Infrastructure and the Committee on Commerce of the House of Representatives, and the Committee on Environment and Public Works of the Senate a report on the results of the study with recommendations for modifications to the congestion mitigation and air quality improvement program in light of the results of the study.

"(3) FUNDING.—Before making the apportionment of funds under [former] section 104(b)(2) of title 23, United States Code, for each of fiscal years 1999 and 2000, the Secretary shall deduct from the amount to be apportioned under such section for such fiscal year, and make available, $500,000 for such fiscal year to carry out this subsection."

EFFECT OF LIMITATION ON APPORTIONMENT

Notwithstanding any other provision of law, for each of fiscal years 1996 and 1997, amendment by section 319(a)(1) of Pub. L. 104–59 not to affect any apportionment adjustments under section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. 102–240, see section 319(c) of Pub. L. 104–59, set out as a note under section 104 of this title.

VALUE PRICING PILOT PROGRAM

Pub. L. 102–240, title I, §1012(b), Dec. 18, 1991, 105 Stat. 1938, as amended by Pub. L. 104–59, title III, §325(e), Nov. 28, 1995, 109 Stat. 592; Pub. L. 105–178, title I, §1216(a), June 9, 1998, 112 Stat. 211; Pub. L. 105–206, title IX, §9006(b), July 22, 1998, 112 Stat. 848; Pub. L. 109–59, title I, §1604(a), Aug. 10, 2005, 119 Stat. 1249, provided that:

"(1) The Secretary shall solicit the participation of State and local governments and public authorities for one or more value pricing pilot programs. The Secretary may enter into cooperative agreements with as many as 15 such State or local governments or public authorities to establish, maintain, and monitor value pricing programs.

"(2) Notwithstanding section 129 of title 23, United States Code, the Federal share payable for such programs shall be 80 percent. The Secretary shall fund all preimplementation costs and project design, and all of the development and other start up costs of such projects, including salaries and expenses, for a period of at least 1 year, and thereafter until such time that sufficient revenues are being generated by the program to fund its operating costs without Federal participation, except that the Secretary may not fund the preimplementation or implementation costs of any project for more than 3 years.

"(3) Revenues generated by any pilot project under this subsection must be applied to projects eligible under such title.

"(4) Notwithstanding sections 129 and 301 of title 23, United States Code, the Secretary shall allow the use of tolls on the Interstate System as part of any value pricing pilot program under this subsection.

"(5) The Secretary shall monitor the effect of such programs for a period of at least 10 years, and shall report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives every 2 years on the effects such programs are having on driver behavior, traffic volume, transit ridership, air quality, and availability of funds for transportation programs.

"(6) HOV PASSENGER REQUIREMENTS.—Notwithstanding section 102(a) of title 23, United States Code, a State may permit vehicles with fewer than 2 occupants to operate in high occupancy vehicle lanes if the vehicles are part of a value pricing pilot program under this subsection.

"(7) FINANCIAL EFFECTS ON LOW-INCOME DRIVERS.—Any value pricing pilot program under this subsection shall include, if appropriate, an analysis of the potential effects of the pilot program on low-income drivers and may include mitigation measures to deal with any potential adverse financial effects on low-income drivers.

"(8) FUNDING.—

"(A) IN GENERAL.—There are authorized to be appropriated to the Secretary from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection—

"(i) for fiscal year 2005, $11,000,000; and

"(ii) for each of fiscal years 2006 through 2009, $12,000,000.

"(B) SET-ASIDE FOR PROJECTS NOT INVOLVING HIGHWAY TOLLS.—Of the amounts made available to carry out this subsection, $3,000,000 for each of fiscal years 2006 through 2009 shall be available only for congestion pricing pilot projects that do not involve highway tolls.

"(C) AVAILABILITY.—Funds allocated by the Secretary to a State under this subsection shall remain available for obligation by the State for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(D) USE OF UNALLOCATED FUNDS.—If the total amount of funds made available from the Highway Trust Fund to carry out this subsection for fiscal year 1998 and fiscal years thereafter but not allocated exceeds $8,000,000 as of September 30 of any year, the excess amount—

"(i) shall be apportioned in the following fiscal year by the Secretary to all States in accordance with [former] section 104(b)(3) of title 23, United States Code;

"(ii) shall be considered to be a sum made available for expenditure on the surface transportation program, except that the amount shall not be subject to section 133(d) of such title; and

"(iii) shall be available for any purpose eligible for funding under section 133 of such title.

"(C) [probably should be (E)] CONTRACT AUTHORITY.—Funds authorized to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project under this subsection and the availability of funds authorized to carry out this subsection shall be determined in accordance with this subsection."

§150. National goals and performance management measures

(a) DECLARATION OF POLICY.—Performance management will transform the Federal-aid highway program and provide a means to the most efficient investment of Federal transportation funds by refocusing on national transportation goals, increasing the accountability and transparency of the Federal-aid highway program, and improving project decisionmaking through performance-based planning and programming.

(b) NATIONAL GOALS.—It is in the interest of the United States to focus the Federal-aid highway program on the following national goals:

(1) SAFETY.—To achieve a significant reduction in traffic fatalities and serious injuries on all public roads.

(2) INFRASTRUCTURE CONDITION.—To maintain the highway infrastructure asset system in a state of good repair.

(3) CONGESTION REDUCTION.—To achieve a significant reduction in congestion on the National Highway System.

(4) SYSTEM RELIABILITY.—To improve the efficiency of the surface transportation system.

(5) FREIGHT MOVEMENT AND ECONOMIC VITALITY.—To improve the National Highway Freight Network, strengthen the ability of rural communities to access national and international trade markets, and support regional economic development.

(6) ENVIRONMENTAL SUSTAINABILITY.—To enhance the performance of the transportation system while protecting and enhancing the natural environment.

(7) REDUCED PROJECT DELIVERY DELAYS.—To reduce project costs, promote jobs and the economy, and expedite the movement of people and goods by accelerating project completion through eliminating delays in the project development and delivery process, including reducing regulatory burdens and improving agencies' work practices.

(c) ESTABLISHMENT OF PERFORMANCE MEASURES.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of the MAP–21, the Secretary, in consultation with State departments of transportation, metropolitan planning organizations, and other stakeholders, shall promulgate a rulemaking that establishes performance measures and standards.

(2) ADMINISTRATION.—In carrying out paragraph (1), the Secretary shall—

(A) provide States, metropolitan planning organizations, and other stakeholders not less than

90 days to comment on any regulation proposed by the Secretary under that paragraph;

(B) take into consideration any comments relating to a proposed regulation received during that comment period; and

(C) limit performance measures only to those described in this subsection.

(3) NATIONAL HIGHWAY PERFORMANCE PROGRAM.—

(A) IN GENERAL.—Subject to subparagraph (B), for the purpose of carrying out section 119, the Secretary shall establish—

(i) minimum standards for States to use in developing and operating bridge and pavement management systems;

(ii) measures for States to use to assess—

(I) the condition of pavements on the Interstate system;

(II) the condition of pavements on the National Highway System (excluding the Interstate);

(III) the condition of bridges on the National Highway System;

(IV) the performance of the Interstate System; and

(V) the performance of the National Highway System (excluding the Interstate System);

(iii) minimum levels for the condition of pavement on the Interstate System, only for the purposes of carrying out section 119(f)(1); and

(iv) the data elements that are necessary to collect and maintain standardized data to carry out a performance-based approach.

(B) REGIONS.—In establishing minimum condition levels under subparagraph (A)(iii), if the Secretary determines that various geographic regions of the United States experience disparate factors contributing to the condition of pavement on the Interstate System in those regions, the Secretary may establish different minimum levels for each region.

(4) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the purpose of carrying out section 148, the Secretary shall establish measures for States to use to assess—

(A) serious injuries and fatalities per vehicle mile traveled; and

(B) the number of serious injuries and fatalities.

(5) CONGESTION MITIGATION AND AIR QUALITY PROGRAM.—For the purpose of carrying out section 149, the Secretary shall establish measures for States to use to assess—

(A) traffic congestion; and

(B) on-road mobile source emissions.

(6) NATIONAL FREIGHT MOVEMENT.—The Secretary shall establish measures for States to use to assess freight movement on the Interstate System.

(d) ESTABLISHMENT OF PERFORMANCE TARGETS.—

(1) IN GENERAL.—Not later than 1 year after the Secretary has promulgated the final rulemaking under subsection (c), each State shall set performance targets that reflect the measures identified in paragraphs (3), (4), (5), and (6) of subsection (c).

(2) DIFFERENT APPROACHES FOR URBAN AND RURAL AREAS.—In the development and implementation of any performance target, a State may, as appropriate, provide for different performance targets for urbanized and rural areas.

(e) REPORTING ON PERFORMANCE TARGETS.—Not later than 4 years after the date of enactment of the MAP–21 and biennially thereafter, a State shall submit to the Secretary a report that describes—

(1) the condition and performance of the National Highway System in the State;

(2) the effectiveness of the investment strategy document in the State asset management plan for the National Highway System;

(3) progress in achieving performance targets identified under subsection (d); and

(4) the ways in which the State is addressing congestion at freight bottlenecks, including those identified in the national freight strategic plan, within the State.

(Added Pub. L. 112–141, div. A, title I, §1203(a), July 6, 2012, 126 Stat. 524, amended Pub. L. 114–94, div. A, title I, §1446(a)(4)–(6), (d)(2)(A), Dec. 4, 2015, 129 Stat. 1437, 1438.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the MAP–21, referred to in subsecs. (c)(1) and (e), is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title.

CODIFICATION

Pub. L. 114–94, div. A, title I, §1446(d)(2)(A), Dec. 4, 2015, 129 Stat. 1438, amended directory language of Pub. L. 112–141, div. A, title I, §1203(a), July 6, 2012, 126 Stat. 524, which enacted this section.

PRIOR PROVISIONS

A prior section 150, added Pub. L. 93–87, title I, §157(a), Aug. 13, 1973, 87 Stat. 277; amended Pub. L. 97–424, title I, §124, Jan. 6, 1983, 96 Stat. 2113, related to allocation of urban system funds, prior to repeal by Pub. L. 105–178, title I, §1103(l)(5), as added Pub. L. 105–206, title IX, §9002(c)(1), July 22, 1998, 112 Stat. 834.

AMENDMENTS

2015—Subsec. (b)(5). Pub. L. 114–94, §1446(a)(4), substituted "National Highway Freight Network" for "national freight network".

Subsec. (c)(3)(B). Pub. L. 114–94, §1446(a)(5), substituted period for semicolon at end.

Subsec. (e)(4). Pub. L. 114–94, §1446(a)(6), substituted "national freight strategic plan" for "National Freight Strategic Plan".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Except as otherwise provided, amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

Pub. L. 114–94, div. A, title I, §1446(d), Dec. 4, 2015, 129 Stat. 1438, provided that the amendment made by section 1446(d)(2)(A) is effective as of July 6, 2012, and as if included in Pub. L. 112–141 as enacted.

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

PERFORMANCE MANAGEMENT DATA SUPPORT PROGRAM

Pub. L. 114–94, div. A, title VI, §6028, Dec. 4, 2015, 129 Stat. 1587, as amended by Pub. L. 117–58, div. A, title III, §13003, Nov. 15, 2021, 135 Stat. 628, provided that:

"(a) PERFORMANCE MANAGEMENT DATA SUPPORT.—The Administrator of the Federal Highway Administration shall develop, use, and maintain data sets and data analysis tools to assist metropolitan planning organizations, States, and the Federal Highway Administration in carrying out performance management analyses (including the performance management requirements under section 150 of title 23, United States Code).

"(b) INCLUSIONS.—The data analysis activities authorized under subsection (a) may include—

"(1) collecting and distributing vehicle probe data describing traffic on Federal-aid highways;

"(2) collecting household travel behavior data to assess local and cross-jurisdictional travel, including to accommodate external and through travel;

"(3) enhancing existing data collection and analysis tools to accommodate performance measures,

targets, and related data, so as to better understand trip origin and destination, trip time, and mode;

"(4) enhancing existing data analysis tools to improve performance predictions and travel models in reports described in section 150(e) of title 23, United States Code; and

"(5) developing tools—

"(A) to improve performance analysis; and

"(B) to evaluate the effects of project investments on performance.

"(c) FUNDING.—From amounts authorized to carry out the Highway Research and Development Program, the Administrator of the Federal Highway Administration may use up to $10,000,000 for each of fiscal years 2022 through 2026 to carry out this section."

§151. National electric vehicle charging and hydrogen, propane, and natural gas fueling corridors

(a) IN GENERAL.—The Secretary shall periodically designate national electric vehicle charging and hydrogen, propane, and natural gas fueling corridors that identify the near- and long-term need for, and location of, electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, and natural gas fueling infrastructure at strategic locations along major national highways to support changes in the transportation sector that help achieve a reduction in greenhouse gas emissions and improve the mobility of passenger and commercial vehicles that employ electric, hydrogen fuel cell, propane, and natural gas fueling technologies across the United States.

(b) DESIGNATION OF CORRIDORS.—In designating the corridors under subsection (a), the Secretary shall—

(1) solicit nominations from State and local officials for facilities to be included in the corridors;

(2) incorporate existing electric vehicle charging, hydrogen fueling, propane fueling, and natural gas fueling corridors previously designated by the Federal Highway Administration or designated by a State or group of States; and

(3) consider the demand for, and location of, existing electric vehicle charging stations, hydrogen fueling stations, propane fueling stations, and natural gas fueling infrastructure.

(c) STAKEHOLDERS.—In designating corridors under subsection (a), the Secretary shall involve, on a voluntary basis, stakeholders that include—

(1) the heads of other Federal agencies;

(2) State and local officials;

(3) representatives of—

(A) energy utilities;

(B) the electric, fuel cell electric, propane, and natural gas vehicle industries;

(C) the freight and shipping industry;

(D) clean technology firms;

(E) the hospitality industry;

(F) the restaurant industry;

(G) highway rest stop vendors; and

(H) industrial gas and hydrogen manufacturers; and

(4) such other stakeholders as the Secretary determines to be necessary.

(d) REDESIGNATION.—

(1) INITIAL REDESIGNATION.—Not later than 180 days after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall update and redesignate the corridors under subsection (a).

(2) SUBSEQUENT REDESIGNATION.—The Secretary shall establish a recurring process to regularly update and redesignate the corridors under subsection (a).

(e) REPORT.—During designation and redesignation of the corridors under this section, the Secretary shall issue a report that—

(1) identifies electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, and natural gas fueling infrastructure and standardization needs for electricity providers, industrial gas providers, natural gas providers, infrastructure providers, vehicle manufacturers, electricity purchasers, and natural gas purchasers;

(2) describes efforts, including through funds awarded through the grant program under subsection (f), that will aid efforts to achieve strategic deployment of electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, and natural gas fueling infrastructure in those corridors; and

(3) summarizes best practices and provides guidance, developed through consultation with the Secretary of Energy, for project development of electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure and natural gas fueling infrastructure at the State, Tribal, and local level to allow for the predictable deployment of that infrastructure.

(f) GRANT PROGRAM.—

(1) DEFINITION OF PRIVATE ENTITY.—In this subsection, the term "private entity" means a corporation, partnership, company, or nonprofit organization.

(2) ESTABLISHMENT.—Not later than 1 year after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall establish a grant program to award grants to eligible entities to carry out the activities described in paragraph (6).

(3) ELIGIBLE ENTITIES.—An entity eligible to receive a grant under this subsection is—

(A) a State or political subdivision of a State;

(B) a metropolitan planning organization;

(C) a unit of local government;

(D) a special purpose district or public authority with a transportation function, including a port authority;

(E) an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304));

(F) a territory of the United States;

(G) an authority, agency, or instrumentality of, or an entity owned by, 1 or more entities described in subparagraphs (A) through (F); or

(H) a group of entities described in subparagraphs (A) through (G).

(4) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall require, including—

(A) a description of how the eligible entity has considered—

(i) public accessibility of charging or fueling infrastructure proposed to be funded with a grant under this subsection, including—

(I) charging or fueling connector types and publicly available information on real-time availability; and

(II) payment methods to ensure secure, convenient, fair, and equal access;

(ii) collaborative engagement with stakeholders (including automobile manufacturers, utilities, infrastructure providers, technology providers, electric charging, hydrogen, propane, and natural gas fuel providers, metropolitan planning organizations, States, Indian tribes, and units of local governments, fleet owners, fleet managers, fuel station owners and operators, labor organizations, infrastructure construction and component parts suppliers, and multi-State and regional entities)—

(I) to foster enhanced, coordinated, public-private or private investment in electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure;

(II) to expand deployment of electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure;

(III) to protect personal privacy and ensure cybersecurity; and

(IV) to ensure that a properly trained workforce is available to construct and install electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure;

(iii) the location of the station or fueling site, such as consideration of—

(I) the availability of onsite amenities for vehicle operators, such as restrooms or food facilities;

(II) access in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(III) height and fueling capacity requirements for facilities that charge or refuel large vehicles, such as semi-trailer trucks; and

(IV) appropriate distribution to avoid redundancy and fill charging or fueling gaps;

(iv) infrastructure installation that can be responsive to technology advancements, such as accommodating autonomous vehicles, vehicle-to-grid technology, and future charging methods; and

(v) the long-term operation and maintenance of the electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure, to avoid stranded assets and protect the investment of public funds in that infrastructure; and

(B) an assessment of the estimated emissions that will be reduced through the use of electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure, which shall be conducted using the Alternative Fuel Life-Cycle Environmental and Economic Transportation (AFLEET) tool developed by Argonne National Laboratory (or a successor tool).

(5) CONSIDERATIONS.—In selecting eligible entities to receive a grant under this subsection, the Secretary shall—

(A) consider the extent to which the application of the eligible entity would—

(i) improve alternative fueling corridor networks by—

(I) converting corridor-pending corridors to corridor-ready corridors; or

(II) in the case of corridor-ready corridors, providing redundancy—

(aa) to meet excess demand for charging or fueling infrastructure; or

(bb) to reduce congestion at existing charging or fueling infrastructure in high-traffic locations;

(ii) meet current or anticipated market demands for charging or fueling infrastructure;

(iii) enable or accelerate the construction of charging or fueling infrastructure that would be unlikely to be completed without Federal assistance;

(iv) support a long-term competitive market for electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure that does not significantly impair existing electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure providers;

(v) provide access to electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure in areas with a current or forecasted need; and

(vi) deploy electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure for medium- and

heavy-duty vehicles (including along the National Highway Freight Network established under section 167(c)) and in proximity to intermodal transfer stations;

(B) ensure, to the maximum extent practicable, geographic diversity among grant recipients to ensure that electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure is available throughout the United States;

(C) consider whether the private entity that the eligible entity contracts with under paragraph (6)—

(i) submits to the Secretary the most recent year of audited financial statements; and

(ii) has experience in installing and operating electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure; and

(D) consider whether, to the maximum extent practicable, the eligible entity and the private entity that the eligible entity contracts with under paragraph (6) enter into an agreement—

(i) to operate and maintain publicly available electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas infrastructure; and

(ii) that provides a remedy and an opportunity to cure if the requirements described in clause (i) are not met.

(6) USE OF FUNDS.—

(A) IN GENERAL.—An eligible entity receiving a grant under this subsection shall only use the funds in accordance with this paragraph to contract with a private entity for acquisition and installation of publicly accessible electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure that is directly related to the charging or fueling of a vehicle.

(B) LOCATION OF INFRASTRUCTURE.—Any publicly accessible electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure acquired and installed with a grant under this subsection shall be located along an alternative fuel corridor designated under this section, on the condition that any affected Indian tribes are consulted before the designation.

(C) OPERATING ASSISTANCE.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), an eligible entity that receives a grant under this subsection may use a portion of the funds to provide to a private entity operating assistance for the first 5 years of operations after the installation of publicly available electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure while the facility transitions to independent system operations.

(ii) INCLUSIONS.—Operating assistance under this subparagraph shall be limited to costs allocable to operating and maintaining the electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure and service.

(iii) LIMITATION.—Operating assistance under this subparagraph may not exceed the amount of a contract under subparagraph (A) to acquire and install publicly accessible electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure.

(D) TRAFFIC CONTROL DEVICES.—

(i) IN GENERAL.—Subject to this paragraph, an eligible entity that receives a grant under this subsection may use a portion of the funds to acquire and install traffic control devices located in the right-of-way to provide directional information to publicly accessible electric

vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure acquired, installed, or operated with the grant.

(ii) APPLICABILITY.—Clause (i) shall apply only to an eligible entity that—

(I) receives a grant under this subsection; and

(II) is using that grant for the acquisition and installation of publicly accessible electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure.

(iii) LIMITATION ON AMOUNT.—The amount of funds used to acquire and install traffic control devices under clause (i) may not exceed the amount of a contract under subparagraph (A) to acquire and install publicly accessible charging or fueling infrastructure.

(iv) NO NEW AUTHORITY CREATED.—Nothing in this subparagraph authorizes an eligible entity that receives a grant under this subsection to acquire and install traffic control devices if the entity is not otherwise authorized to do so.

(E) REVENUE.—

(i) IN GENERAL.—An eligible entity receiving a grant under this subsection and a private entity referred to in subparagraph (A) may enter into a cost-sharing agreement under which the private entity submits to the eligible entity a portion of the revenue from the electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure.

(ii) USES OF REVENUE.—An eligible entity that receives revenue from a cost-sharing agreement under clause (i) may only use that revenue for a project that is eligible under this title.

(7) CERTAIN FUELS.—The use of grants for propane fueling infrastructure under this subsection shall be limited to infrastructure for medium- and heavy-duty vehicles.

(8) COMMUNITY GRANTS.—

(A) IN GENERAL.—Notwithstanding paragraphs (4), (5), and (6), the Secretary shall reserve 50 percent of the amounts made available each fiscal year to carry out this section to provide grants to eligible entities in accordance with this paragraph.

(B) APPLICATIONS.—To be eligible to receive a grant under this paragraph, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(C) ELIGIBLE ENTITIES.—An entity eligible to receive a grant under this paragraph is—

(i) an entity described in paragraph (3); and

(ii) a State or local authority with ownership of publicly accessible transportation facilities.

(D) ELIGIBLE PROJECTS.—The Secretary may provide a grant under this paragraph for a project that is expected to reduce greenhouse gas emissions and to expand or fill gaps in access to publicly accessible electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure, including—

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

(ii) the acquisition and installation of electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure that is directly related to the charging or fueling of a vehicle, including any related construction or reconstruction and the acquisition of real property directly related to the project, such as locations described in subparagraph (E), to expand access to electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure.

(E) PROJECT LOCATIONS.—A project receiving a grant under this paragraph may be located on any public road or in other publicly accessible locations, such as parking facilities at public buildings, public schools, and public parks, or in publicly accessible parking facilities owned or managed by a private entity.

(F) PRIORITY.—In providing grants under this paragraph, the Secretary shall give priority to projects that expand access to electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure within—

(i) rural areas;

(ii) low- and moderate-income neighborhoods; and

(iii) communities with a low ratio of private parking spaces to households or a high ratio of multiunit dwellings to single family homes, as determined by the Secretary.

(G) ADDITIONAL CONSIDERATIONS.—In providing grants under this paragraph, the Secretary shall consider the extent to which the project—

(i) contributes to geographic diversity among eligible entities, including achieving a balance between urban and rural communities; and

(ii) meets current or anticipated market demands for charging or fueling infrastructure, including faster charging speeds with high-powered capabilities necessary to minimize the time to charge or refuel current and anticipated vehicles.

(H) PARTNERING WITH PRIVATE ENTITIES.—An eligible entity that receives a grant under this paragraph may use the grant funds to contract with a private entity for the acquisition, construction, installation, maintenance, or operation of electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure that is directly related to the charging or fueling of a vehicle.

(I) MAXIMUM GRANT AMOUNT.—The amount of a grant under this paragraph shall not be more than $15,000,000.

(J) TECHNICAL ASSISTANCE.—Of the amounts reserved under subparagraph (A), the Secretary may use not more than 1 percent to provide technical assistance to eligible entities.

(K) ADDITIONAL ACTIVITIES.—The recipient of a grant under this paragraph may use not more than 5 percent of the grant funds on educational and community engagement activities to develop and implement education programs through partnerships with schools, community organizations, and vehicle dealerships to support the use of zero-emission vehicles and associated infrastructure.

(9) REQUIREMENTS.—

(A) PROJECT TREATMENT.—Notwithstanding any other provision of law, any project funded by a grant under this subsection shall be treated as a project on a Federal-aid highway under this chapter.

(B) SIGNS.—Any traffic control device or on-premises sign acquired, installed, or operated with a grant under this subsection shall comply with—

(i) the Manual on Uniform Traffic Control Devices, if located in the right-of-way; and

(ii) other provisions of Federal, State, and local law, as applicable.

(10) FEDERAL SHARE.—

(A) IN GENERAL.—The Federal share of the cost of a project carried out with a grant under this subsection shall not exceed 80 percent of the total project cost.

(B) RESPONSIBILITY OF PRIVATE ENTITY.—As a condition of contracting with an eligible entity under paragraph (6) or (8), a private entity shall agree to pay the share of the cost of a project carried out with a grant under this subsection that is not paid by the Federal Government under subparagraph (A).

(11) REPORT.—Not later than 3 years after the date of enactment of this subsection, 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 and make publicly available a report on the progress and implementation of this subsection.

(Added Pub. L. 114–94, div. A, title I, §1413(a), Dec. 4, 2015, 129 Stat. 1417; amended Pub. L. 117–58, div. A, title I, §11401(b), Nov. 15, 2021, 135 Stat. 546.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Surface Transportation Reauthorization Act of 2021 and the date of enactment of this subsection, referred to in subsecs. (d) and (f)(2), (11), is the date of enactment of div. A of Pub. L. 117–58, which was approved Nov. 15, 2021.

The Americans with Disabilities Act of 1990, referred to in subsec. (f)(4)(A)(iii)(II), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 151, added Pub. L. 100–17, title I, §125(a), Apr. 2, 1987, 101 Stat. 166; amended Pub. L. 105–178, title I, §1212(a)(2)(A)(ii), title V, §5119(e), June 9, 1998, 112 Stat. 193, 452, related to a national bridge inspection program, prior to repeal by Pub. L. 112–141, div. A, title I, §1519(b)(1)(A), July 6, 2012, 126 Stat. 575, effective Oct. 1, 2012.

Another prior section 151, added Pub. L. 93–87, title II, §205(a), Aug. 13, 1973, 87 Stat. 284; amended Pub. L. 94–280, title II, §207, May 5, 1976, 90 Stat. 454; Pub. L. 95–599, title I, §127, Nov. 6, 1978, 92 Stat. 2707; Pub. L. 96–470, title II, §209(c), Oct. 19, 1980, 94 Stat. 2245; Pub. L. 97–375, title I, §111(a), Dec. 21, 1982, 96 Stat. 1821, related to a pavement marking demonstration program, prior to repeal by Pub. L. 100–17, title I, §125(a), Apr. 2, 1987, 101 Stat. 166.

AMENDMENTS

2021—Subsec. (a). Pub. L. 117–58, §11401(b)(1), substituted "The Secretary shall periodically" for "Not later than 1 year after the date of enactment of the FAST Act, the Secretary shall" and "to support changes in the transportation sector that help achieve a reduction in greenhouse gas emissions and improve the mobility" for "to improve the mobility".

Subsec. (b)(2). Pub. L. 117–58, §11401(b)(2), inserted "previously designated by the Federal Highway Administration or" before "designated by".

Subsec. (d). Pub. L. 117–58, §11401(b)(3), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows: "Not later than 5 years after the date of establishment of the corridors under subsection (a), and every 5 years thereafter, the Secretary shall update and redesignate the corridors."

Subsec. (e)(2). Pub. L. 117–58, §11401(b)(4)(B), substituted "describes efforts, including through funds awarded through the grant program under subsection (f), that will aid efforts to achieve" for "establishes an aspirational goal of achieving" and "; and" for "by the end of fiscal year 2020."

Subsec. (e)(3). Pub. L. 117–58, §11401(b)(4)(A), (C), added par. (3).

Subsec. (f). Pub. L. 117–58, §11401(b)(5), added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

PURPOSE TO ESTABLISH GRANTS FOR CHARGING AND FUELING INFRASTRUCTURE

Pub. L. 117–58, div. A, title I, §11401(a), Nov. 15, 2021, 135 Stat. 546, provided that: "The purpose of this

section [amending this section] is to establish a grant program to strategically deploy publicly accessible electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, and natural gas fueling infrastructure along designated alternative fuel corridors or in certain other locations that will be accessible to all drivers of electric vehicles, hydrogen vehicles, propane vehicles, and natural gas vehicles."

ELECTRIC VEHICLE WORKING GROUP

Pub. L. 117–58, div. B, title V, §25006, Nov. 15, 2021, 135 Stat. 845, provided that:

"(a) DEFINITIONS.—In this section:

"(1) SECRETARIES.—The term 'Secretaries' means—

"(A) the Secretary [of Transportation]; and

"(B) the Secretary of Energy.

"(2) WORKING GROUP.—The term 'working group' means the electric vehicle working group established under subsection (b)(1).

"(b) ESTABLISHMENT.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], the Secretaries shall jointly establish an electric vehicle working group to make recommendations regarding the development, adoption, and integration of light-, medium-, and heavy-duty electric vehicles into the transportation and energy systems of the United States.

"(2) MEMBERSHIP.—

"(A) IN GENERAL.—The working group shall be composed of—

"(i) the Secretaries (or designees), who shall be cochairs of the working group; and

"(ii) not more than 25 members, to be appointed by the Secretaries, of whom—

"(I) not more than 6 shall be Federal stakeholders as described in subparagraph (B); and

"(II) not more than 19 shall be non-Federal stakeholders as described in subparagraph (C).

"(B) FEDERAL STAKEHOLDERS.—The working group—

"(i) shall include not fewer than 1 representative of each of—

"(I) the Department [of Transportation];

"(II) the Department of Energy;

"(III) the Environmental Protection Agency;

"(IV) the Council on Environmental Quality; and

"(V) the General Services Administration; and

"(ii) may include a representative of any other Federal agency the Secretaries consider to be appropriate.

"(C) NON-FEDERAL STAKEHOLDERS.—

"(i) IN GENERAL.—Subject to clause (ii), the working group—

"(I) shall include not fewer than 1 representative of each of—

"(aa) a manufacturer of light-duty electric vehicles or the relevant components of light-duty electric vehicles;

"(bb) a manufacturer of medium- and heavy-duty vehicles or the relevant components of medium- and heavy-duty electric vehicles;

"(cc) a manufacturer of electric vehicle batteries;

"(dd) an owner, operator, or manufacturer of electric vehicle charging equipment;

"(ee) the public utility industry;

"(ff) a public utility regulator or association of public utility regulators;

"(gg) the transportation fueling distribution industry;

"(hh) the energy provider industry;

"(ii) the automotive dealing industry;

"(jj) the for-hire passenger transportation industry;

"(kk) an organization representing units of local government;

"(ll) an organization representing regional transportation or planning agencies;

"(mm) an organization representing State departments of transportation;

"(nn) an organization representing State departments of energy or State energy planners;

"(oo) the intelligent transportation systems and technologies industry;

"(pp) labor organizations representing workers in transportation manufacturing, construction, or operations;

"(qq) the trucking industry;

"(rr) Tribal governments; and

"(ss) the property development industry; and

"(II) may include a representative of any other non-Federal stakeholder that the Secretaries consider to be appropriate.

"(ii) REQUIREMENT.—The stakeholders selected under clause (i) shall, in the aggregate—

"(I) consist of individuals with a balance of backgrounds, experiences, and viewpoints; and

"(II) include individuals that represent geographically diverse regions of the United States, including individuals representing the perspectives of rural, urban, and suburban areas.

"(D) COMPENSATION.—A member of the working group shall serve without compensation.

"(3) MEETINGS.—

"(A) IN GENERAL.—The working group shall meet not less frequently than once every 120 days.

"(B) REMOTE PARTICIPATION.—A member of the working group may participate in a meeting of the working group via teleconference or similar means.

"(4) COORDINATION.—In carrying out the duties of the working group, the working group shall coordinate and consult with any existing Federal interagency working groups on fleet conversion or other similar matters relating to electric vehicles.

"(c) REPORTS AND STRATEGY ON ELECTRIC VEHICLE ADOPTION.—

"(1) WORKING GROUP REPORTS.—The working group shall complete by each of the deadlines described in paragraph (2) a report describing the status of electric vehicle adoption including—

"(A) a description of the barriers and opportunities to scaling up electric vehicle adoption throughout the United States, including recommendations for issues relating to—

"(i) consumer behavior;

"(ii) charging infrastructure needs, including standardization and cybersecurity;

"(iii) manufacturing and battery costs, including the raw material shortages for batteries and electric motor magnets;

"(iv) the adoption of electric vehicles for low- and moderate-income individuals and underserved communities, including charging infrastructure access and vehicle purchase financing;

"(v) business models for charging personal electric vehicles outside the home, including wired and wireless charging;

"(vi) charging infrastructure permitting and regulatory issues;

"(vii) the connections between housing and transportation costs and emissions;

"(viii) freight transportation, including local, port and drayage, regional, and long-haul trucking;

"(ix) intercity passenger travel;

"(x) the process by which governments collect a user fee for the contribution of electric vehicles to funding roadway improvements;

"(xi) State- and local-level policies, incentives, and zoning efforts;

"(xii) the installation of highway corridor signage;

"(xiii) secondary markets and recycling for batteries;

"(xiv) grid capacity and integration;

"(xv) energy storage; and

"(xvi) specific regional or local issues that may not appear to apply throughout the United States, but may hamper nationwide adoption or coordination of electric vehicles;

"(B) examples of successful public and private models and demonstration projects that encourage electric vehicle adoption;

"(C) an analysis of current efforts to overcome the barriers described in subparagraph (A);

"(D) an analysis of the estimated costs and benefits of any recommendations of the working group; and

"(E) any other topics, as determined by the working group.

"(2) DEADLINES.—A report under paragraph (1) shall be submitted to the Secretaries, the Committees on Commerce, Science, and Transportation and Appropriations of the Senate and the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives—

"(A) in the case of the first report, by not later than 18 months after the date on which the working group is established under subsection (b)(1);

"(B) in the case of the second report, by not later than 2 years after the date on which the first report is required to be submitted under subparagraph (A); and

"(C) in the case of the third report, by not later than 2 years after the date on which the second report is required to be submitted under subparagraph (B).

"(3) STRATEGY.—

"(A) IN GENERAL.—Based on the reports submitted by the working group under paragraph (1), the Secretaries shall jointly develop, maintain, and update a strategy that describes the means by which the Federal Government, States, units of local government, and industry can—

"(i) establish quantitative targets for transportation electrification;

"(ii) overcome the barriers described in paragraph (1)(A);

"(iii) identify areas of opportunity in research and development to improve battery manufacturing, mineral mining, recycling costs, material recovery, fire risks, and battery performance for electric vehicles;

"(iv) enhance Federal interagency coordination to promote electric vehicle adoption;

"(v) prepare the workforce for the adoption of electric vehicles, including through collaboration with labor unions, educational institutions, and relevant manufacturers;

"(vi) expand electric vehicle and charging infrastructure;

"(vii) expand knowledge of the benefits of electric vehicles among the general public;

"(viii) maintain the global competitiveness of the United States in the electric vehicle and charging infrastructure markets;

"(ix) provide clarity in regulations to improve national uniformity with respect to electric vehicles; and

"(x) ensure the sustainable integration of electric vehicles into the national electric grid.

"(B) NOTICE AND COMMENT.—In carrying out subparagraph (A), the Secretaries shall provide public notice and opportunity for comment on the strategy described in that subparagraph.

"(4) INFORMATION.—

"(A) IN GENERAL.—The Secretaries may enter into an agreement with the Transportation Research Board of the National Academies of Sciences, Engineering, and Medicine to provide, track, or report data, information, or research to assist the working group in carrying out paragraph (1).

"(B) USE OF EXISTING INFORMATION.—In developing a report under paragraph (1) or a strategy under paragraph (3), the Secretaries and the working group shall take into consideration existing Federal, State, local, private sector, and academic data and information relating to electric vehicles and, to the maximum extent practicable, coordinate with the entities that publish that information—

"(i) to prevent duplication of efforts by the Federal Government; and

"(ii) to leverage existing information and complementary efforts.

"(d) COORDINATION.—To the maximum extent practicable, the Secretaries and the working group shall carry out this section using all available existing resources, websites, and databases of Federal agencies, such as—

"(1) the Alternative Fuels Data Center;

"(2) the Energy Efficient Mobility Systems program; and

"(3) the Clean Cities Coalition Network.

"(e) TERMINATION.—The working group shall terminate on submission of the third report required under subsection (c)(2)(C)."

ESTABLISHMENT OF JOINT OFFICE OF ENERGY AND TRANSPORTATION

Pub. L. 117–58, div. J, title VIII, Nov. 15, 2021, 135 Stat. 1425, as amended by Pub. L. 117–103, div. L, title IV, §427(8), Mar. 15, 2022, 136 Stat. 774, provided in part: "That there is established a Joint Office of Energy and Transportation (referred to in this paragraph in this Act [div. J of Pub. L. 117–58, see Tables for classification] as the 'Joint Office') in the Department of Transportation and the Department of Energy to study, plan, coordinate, and implement issues of joint concern between the two agencies, which shall include: (1) technical assistance related to the deployment, operation, and maintenance of zero emission vehicle charging and refueling infrastructure, renewable energy generation, vehicle-to-grid integration, including microgrids, and related programs and policies; (2) data sharing of installation, maintenance, and utilization in order to continue to inform the network build out of zero emission vehicle charging and refueling infrastructure; (3) performance of a national and regionalized study of zero emission vehicle charging and refueling infrastructure needs and deployment factors, to support grants for community resilience and electric vehicle integration; (4) development and deployment of training and certification programs; (5) establishment and implementation of a program to promote renewable energy generation, storage, and grid integration, including microgrids, in transportation rights-of-way; (6) studying, planning, and funding for high-voltage distributed current infrastructure in the rights-of way of the Interstate System and for constructing high-voltage and or medium-voltage transmission pilots in the rights-of-way of the Interstate System; (7) research, strategies, and actions under the Departments' statutory authorities to reduce transportation-related

emissions and mitigate the effects of climate change; (8) development of a streamlined utility accommodations policy for high-voltage and medium-voltage transmission in the transportation right-of-way; and (9) any other issues that the Secretary of Transportation and the Secretary of Energy identify as issues of joint interest: *Provided further*, That the Joint Office of Energy and Transportation shall establish and maintain a public database, accessible on both Department of Transportation and Department of Energy websites, that includes: (1) information maintained on the Alternative Fuel Data Center by the Office of Energy Efficiency and Renewable Energy of the Department of Energy with respect to the locations of electric vehicle charging stations; (2) potential locations for electric vehicle charging stations identified by eligible entities through the program; and (3) the ability to sort generated results by various characteristics with respect to electric vehicle charging stations, including location, in terms of the State, city, or county; status (operational, under construction, or planned); and charging type, in terms of Level 2 charging equipment or Direct Current Fast Charging Equipment: *Provided further*, That the Secretary of Transportation and the Secretary of Energy shall cooperatively administer the Joint Office consistent with this paragraph in this Act: *Provided further*, That the Secretary of Transportation and the Secretary of Energy may transfer funds between the Department of Transportation and the Department of Energy from funds provided under this paragraph in this Act to establish the Joint Office and to carry out its duties under this paragraph in this Act and any such funds or portions thereof transferred to the Joint Office may be transferred back to and merged with this account: *Provided further*, That the Secretary of Transportation and the Secretary of Energy shall notify the House and Senate Committees on Appropriations not less than 15 days prior to transferring any funds under the preceding proviso: *Provided further*, That for the purposes of funds made available under this paragraph in this Act: (1) the term 'State' has the meaning given such term in section 101 of title 23, United States Code; and (2) the term 'Federal-aid highway' means a public highway eligible for assistance under chapter 1 of title 23, United States Code, other than a highway functionally classified as a local road or rural minor collector".

§152. Hazard elimination program

(a) IN GENERAL.—

(1) PROGRAM.—Each State shall conduct and systematically maintain an engineering survey of all public roads to identify hazardous locations, sections, and elements, including roadside obstacles and unmarked or poorly marked roads, which may constitute a danger to motorists, bicyclists, and pedestrians, assign priorities for the correction of such locations, sections, and elements, and establish and implement a schedule of projects for their improvement.

(2) HAZARDS.—In carrying out paragraph (1), a State may, at its discretion—

(A) identify, through a survey, hazards to motorists, bicyclists, pedestrians, and users of highway facilities; and

(B) develop and implement projects and programs to address the hazards.

(b) The Secretary may approve as a project under this section any safety improvement project, including a project described in subsection (a).

(c) Funds authorized to carry out this section shall be available for expenditure on—

(1) any public road;

(2) any public surface transportation facility or any publicly owned bicycle or pedestrian pathway or trail; or

(3) any traffic calming measure.

(d) The Federal share payable on account of any project under this section shall be 90 percent of the cost thereof.

(e) Funds authorized to be appropriated to carry out this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under section 104(b), except that the Secretary is authorized to waive provisions he deems inconsistent with the purposes of this section.

(f) Each State shall establish an evaluation process approved by the Secretary, to analyze and assess results achieved by safety improvement projects carried out in accordance with procedures and criteria established by this section. Such evaluation process shall develop cost-benefit data for

various types of corrections and treatments which shall be used in setting priorities for safety improvement projects.

(g) Each State shall report to the Secretary of Transportation not later than December 30 of each year, on the progress being made to implement safety improvement projects for hazard elimination and the effectiveness of such improvements. Each State report shall contain an assessment of the cost of, and safety benefits derived from, the various means and methods used to mitigate or eliminate hazards and the previous and subsequent accident experience at these locations. The Secretary of Transportation shall submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives not later than April 1 of each year on the progress being made by the States in implementing the hazard elimination program (including but not limited to any projects for pavement marking). The report shall include, but not be limited to, the number of projects undertaken, their distribution by cost range, road system, means and methods used, and the previous and subsequent accident experience at improved locations. In addition, the Secretary's report shall analyze and evaluate each State program, identify any State found not to be in compliance with the schedule of improvements required by subsection (a) and include recommendations for future implementation of the hazard elimination program.

(h) For the purposes of this section the term "State" shall have the meaning given it in section 401 of this title.

(Added Pub. L. 93–87, title II, §209(a), Aug. 13, 1973, 87 Stat. 286; amended Pub. L. 94–280, title I, §131, May 5, 1976, 90 Stat. 441; Pub. L. 95–599, title I, §168(a), Nov. 6, 1978, 92 Stat. 2722; Pub. L. 96–106, §10(b), Nov. 9, 1979, 93 Stat. 798; Pub. L. 97–375, title II, §210(b), Dec. 21, 1982, 96 Stat. 1826; Pub. L. 97–424, title I, §125, Jan. 6, 1983, 96 Stat. 2113; Pub. L. 100–17, title I, §133(b)(12), Apr. 2, 1987, 101 Stat. 172; Pub. L. 104–59, title III, §325(c), Nov. 28, 1995, 109 Stat. 592; Pub. L. 105–178, title I, §1401, June 9, 1998, 112 Stat. 235.)

EDITORIAL NOTES

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–178, §1401(1), inserted subsec. heading, designated existing provisions as par. (1) and inserted par. heading, realigned margins, substituted "motorists, bicyclists, and pedestrians" for "motorists and pedestrians", and added par. (2).

Subsec. (b). Pub. L. 105–178, §1401(2), substituted "safety improvement project, including a project described in subsection (a)" for "highway safety improvement project".

Subsec. (c). Pub. L. 105–178, §1401(3), substituted "on—

"(1) any public road;

"(2) any public surface transportation facility or any publicly owned bicycle or pedestrian pathway or trail; or

"(3) any traffic calming measure" for "on any public road (other than a highway on the Interstate System)".

Subsec. (e). Pub. L. 105–178, §1401(4), struck out "apportioned to the States as provided in section 402(c) of this title. Such funds shall be" before "available for obligation" and substituted "section 104(b)" for "section 104(b)(1)".

Subsecs. (f), (g). Pub. L. 105–178, §1401(5), substituted "safety improvement projects" for "highway safety improvement projects" wherever appearing.

1995—Subsec. (g). Pub. L. 104–59 substituted "Committee on Transportation and Infrastructure" for "Committee on Public Works and Transportation".

1987—Subsec. (g). Pub. L. 100–17 substituted "the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives" for "the Congress".

1983—Subsec. (c). Pub. L. 97–424 substituted provision that funds authorized to carry out this section shall be available for expenditure on any public road (other than a highway on the Interstate System), for provision that funds authorized to carry out this section would be available solely for expenditure for projects on any Federal-aid system (other than the Interstate System) except in the Virgin Islands, Guam, and American Samoa.

1982—Subsec. (g). Pub. L. 97–375 inserted "(including but not limited to any projects for pavement marking)" after "implementing the hazard elimination program".

1979—Subsec. (g). Pub. L. 96–106 substituted "December 30" for "September 30" and "April 1" for "January 1".

1978—Subsec. (a). Pub. L. 95–599 substituted "public roads" for "highways" and inserted provisions relating to identification of hazardous sections and elements.

Subsec. (b). Pub. L. 95–599 substituted provisions relating to approval of highway safety improvement projects by the Secretary for provisions authorizing appropriations for fiscal years ending June 30, 1974 through June 30, 1976.

Subsec. (c). Pub. L. 95–599 reenacted subsec. (c) without substantive change.

Subsec. (d). Pub. L. 95–599 substituted provisions prescribing the Federal share payable on account of any project under this section for provisions relating to apportionment of funds made available under subsec. (b) to the States. See subsec. (e) of this section.

Subsec. (e). Pub. L. 95–599 substituted provisions relating to apportionment of funds to the States under this section for provisions relating to progress reports required of the States under this section. See subsec. (g).

Subsecs. (f) to (h). Pub. L. 95–599 added subsecs. (f) and (g) and redesignated former subsec. (f) as (h).

1976—Subsec. (f). Pub. L. 94–280 added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (g) of this section relating to the requirement that the Secretary of Transportation submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives not later than April 1 of each year, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 135 of House Document No. 103–7.

§153. Use of safety belts and motorcycle helmets

(a) AUTHORITY TO MAKE GRANTS.—The Secretary may make grants to a State in a fiscal year in accordance with this section if the State has in effect in such fiscal year—

(1) a law which makes unlawful throughout the State the operation of a motorcycle if any individual on the motorcycle is not wearing a motorcycle helmet; and

(2) a law which makes unlawful throughout the State the operation of a passenger vehicle whenever an individual in a front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly fastened about the individual's body.

(b) USE OF GRANTS.—A grant made to a State under this section shall be used to adopt and implement a traffic safety program to carry out the following purposes:

(1) EDUCATION.—To educate the public about motorcycle and passenger vehicle safety and motorcycle helmet, safety belt, and child restraint system use and to involve public health education agencies and other related agencies in these efforts.

(2) TRAINING.—To train law enforcement officers in the enforcement of State laws described in subsection (a).

(3) MONITORING.—To monitor the rate of compliance with State laws described in subsection (a).

(4) ENFORCEMENT.—To enforce State laws described in subsection (a).

(c) MAINTENANCE OF EFFORT.—A grant may not be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for any traffic safety program described in subsection (b) at or above the average level of such expenditures in the State's 2 fiscal years preceding the date of the enactment of this section.

(d) FEDERAL SHARE.—A State may not receive a grant under this section in more than 3 fiscal

years. The Federal share payable for a grant under this section shall not exceed—

(1) in the first fiscal year the State receives a grant, 75 percent of the cost of implementing in such fiscal year a traffic safety program described in subsection (b);

(2) in the second fiscal year the State receives a grant, 50 percent of the cost of implementing in such fiscal year such traffic safety program; and

(3) in the third fiscal year the State receives a grant, 25 percent of the cost of implementing in such fiscal year such traffic safety program.

(e) MAXIMUM AGGREGATE AMOUNT OF GRANTS.—The aggregate amount of grants made to a State under this section shall not exceed 90 percent of the amount apportioned to such State for fiscal year 1990 under section 402.

(f) ELIGIBILITY FOR GRANTS.—

(1) GENERAL RULE.—A State is eligible in a fiscal year for a grant under this section only if the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State implements in such fiscal year a traffic safety program described in subsection (b).

(2) SECOND-YEAR GRANTS.—A State is eligible for a grant under this section in a fiscal year succeeding the first fiscal year in which a State receives a grant under this section only if the State in the preceding fiscal year—

(A) had in effect at all times a State law described in subsection (a)(1) and achieved a rate of compliance with such law of not less than 75 percent; and

(B) had in effect at all times a State law described in subsection (a)(2) and achieved a rate of compliance with such law of not less than 50 percent.

(3) THIRD-YEAR GRANTS.—A State is eligible for a grant under this section in a fiscal year succeeding the second fiscal year in which a State receives a grant under this section only if the State in the preceding fiscal year—

(A) had in effect at all times a State law described in subsection (a)(1) and achieved a rate of compliance with such law of not less than 85 percent; and

(B) had in effect at all times a State law described in subsection (a)(2) and achieved a rate of compliance with such law of not less than 70 percent.

(g) MEASUREMENTS OF RATES OF COMPLIANCE.—For the purposes of subsections (f)(2) and (f)(3), a State shall measure compliance with State laws described in subsection (a) using methods which conform to guidelines issued by the Secretary ensuring that such measurements are accurate and representative.

(h) PENALTY.—

(1) PRIOR TO FISCAL YEAR 2012.—If, at any time in a fiscal year beginning after September 30, 1994, and before October 1, 2011, a State does not have in effect a law described in subsection (a)(2), the Secretary shall transfer 3 percent of the funds apportioned to the State for the succeeding fiscal year under each of subsections (b)(1), (b)(2), and (b)(3) of section 104 [1] of this title to the apportionment of the State under section 402 of this title.

(2) FISCAL YEAR 2012 AND THEREAFTER.—If, at any time in a fiscal year beginning after September 30, 2011, a State does not have in effect a law described in subsection (a)(2), the Secretary shall transfer an amount equal to 2 percent of the funds apportioned to the State for the succeeding fiscal year under each of paragraphs (1), (2), and (4) of section 104(b) to the apportionment of the State under section 402.

(3) FEDERAL SHARE.—The Federal share of the cost of any project carried out under section 402 with funds transferred to the apportionment of section 402 shall be 100 percent.

(4) TRANSFER OF OBLIGATION AUTHORITY.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall allocate an amount of obligation authority distributed for such fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out only projects under section 402 which is determined by multiplying—

(A) the amount of funds transferred to the apportionment of section 402 of the State under section 402 for such fiscal year; by

(B) the ratio of the amount of obligation authority distributed for such fiscal year to the State for Federal-aid highways and highway safety construction programs to the total of the sums apportioned to the State for Federal-aid highways and highway safety construction (excluding sums not subject to any obligation limitation) for such fiscal year.

(5) LIMITATION ON APPLICABILITY OF HIGHWAY SAFETY OBLIGATIONS .—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs carried out by the Federal Highway Administration under section 402 shall apply to funds transferred under this subsection to the apportionment of section 402.

(i) DEFINITIONS.—For the purposes of this section, the following definitions apply:

(1) MOTORCYCLE.—The term "motorcycle" means a motor vehicle which is designed to travel on not more than 3 wheels in contact with the surface.

(2) MOTOR VEHICLE.—The term "motor vehicle" has the meaning such term has under section 154 [1] of this title.

(3) PASSENGER VEHICLE.—The term "passenger vehicle" means a motor vehicle which is designed for transporting 10 individuals or less, including the driver, except that such term does not include a vehicle which is constructed on a truck chassis, a motorcycle, a trailer, or any motor vehicle which is not required on the date of the enactment of this section under a Federal motor vehicle safety standard to be equipped with a belt system.

(4) SAFETY BELT.—The term "safety belt" means—

(A) with respect to open-body passenger vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

(B) with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap shoulder belts.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $17,000,000 for fiscal year 1992. From sums made available to carry out section 402 of this title, the Secretary shall make available $17,000,000 for fiscal year 1992 and $24,000,000 for each of fiscal years 1993 and 1994 to carry out this section.

(k) APPLICABILITY OF CHAPTER 1 PROVISIONS.—All provisions of this chapter that are applicable to National Highway System funds, other than provisions relating to the apportionment formula and provisions limiting the expenditures of such funds to Federal-aid systems, shall apply to funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section and except that sums authorized by this section shall remain available until expended.

(Added Pub. L. 102–240, title I, §1031(a)(1), Dec. 18, 1991, 105 Stat. 1970; amended Pub. L. 104–59, title II, §205(e), Nov. 28, 1995, 109 Stat. 577; Pub. L. 112–141, div. A, title I, §1404(e), July 6, 2012, 126 Stat. 558; Pub. L. 114–94, div. A, title I, §1446(a)(7), Dec. 4, 2015, 129 Stat. 1437.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsecs. (c) and (i)(3), is the date of enactment of Pub. L. 102–240, which was approved Dec. 18, 1991.

Section 104 of this title, referred to in subsec. (h)(1), was amended generally by Pub. L. 112–141, div. A, title I, §1105(a), July 6, 2012, 126 Stat. 427.

Section 154 of this title, referred to in subsec. (i)(2), was repealed by Pub. L. 104–59, title II, §205(d)(1)(B), Nov. 28, 1995, 109 Stat. 577. A new section 154, containing a similar definition of "motor vehicle", was

enacted by Pub. L. 105–178, title I, §1405(a), as added Pub. L. 105–206, title IX, §9005(a), July 22, 1998, 112 Stat. 843.

PRIOR PROVISIONS

A prior section 153, added Pub. L. 93–87, title II, §210(a), Aug. 13, 1973, 87 Stat. 287; amended Pub. L. 94–280, title I, §131, May 5, 1976, 90 Stat. 441, related to a program for the elimination of roadside obstacles, prior to repeal by Pub. L. 95–599, title I, §168(b), Nov. 6, 1978, 92 Stat. 2723.

AMENDMENTS

2015—Subsec. (h)(2). Pub. L. 114–94 substituted "paragraphs (1), (2), and (4)" for "paragraphs (1) through (3)".

2012—Subsec. (h)(1), (2). Pub. L. 112–141 redesignated par. (2) as (1), substituted "PRIOR TO FISCAL YEAR 2012" for "THEREAFTER" in par. heading, inserted "and before October 1, 2011," after "September 30, 1994," in text, added par. (2), and struck out former par. (1). Prior to amendment, text of par. (1) read as follows: "If, at any time in fiscal year 1994, a State does not have in effect a law described in subsection (a)(2), the Secretary shall transfer 1½ percent of the funds apportioned to the State for fiscal year 1995 under each of subsections (b)(1), (b)(2), and (b)(3) of section 104 of this title to the apportionment of the State under section 402 of this title."

1995—Subsec. (h)(1), (2). Pub. L. 104–59 struck out "a law described in subsection (a)(1) and" after "have in effect".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1995 AMENDMENT

Pub. L. 104–59, title II, §205(e), Nov. 28, 1995, 109 Stat. 577, provided that the amendment made by that section is effective Sept. 30, 1995.

EFFECTIVE DATE

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

STOP MOTORCYCLE CHECKPOINT FUNDING

Pub. L. 114–94, div. A, title IV, §4007, Dec. 4, 2015, 129 Stat. 1510, provided that: "Notwithstanding section 153 of title 23, United States Code, the Secretary [of Transportation] may not provide a grant or any funds to a State, county, town, township, Indian tribe, municipality, or other local government that may be used for any program—

"(1) to check helmet usage; or

"(2) to create checkpoints that specifically target motorcycle operators or motorcycle passengers."

STUDY OF BENEFITS OF SAFETY BELTS AND MOTORCYCLE HELMETS TO INDIVIDUALS INVOLVED IN CRASHES

Pub. L. 102–240, title I, §1031(b), Dec. 18, 1991, 105 Stat. 1973, provided that:

"(1) IN GENERAL.—The Secretary shall conduct a study or studies to determine the benefits of safety belt use and motorcycle helmet use for individuals involved in motor vehicle crashes and motorcycle crashes, collecting and analyzing data from regional trauma systems regarding differences in the following: the severity of injuries; acute, rehabilitative and long-term medical costs, including the sources of reimbursement and the extent to which these sources cover actual costs; government, employer, and other costs; and mortality and morbidity outcomes. The study shall cover a representative period after January 1, 1990.

"(2) REPORT.—The Secretary shall make public a proposed report on the results of the study or studies

conducted under this subsection, provide a period of 90 days for public comment on such report, consider such comments, and transmit to Congress a report on the results of such study or studies, together with a summary of such comments, not later than 40 months after the funds for such study are made available by the Secretary.

"(3) FUNDING.—Of the amounts authorized to be appropriated for fiscal year 1992 or 1993 (or both) to carry out section 153 of title 23, United States Code, the Secretary shall make available $5,000,000 in the aggregate in such fiscal years to carry out this subsection. Such funds shall remain available until expended."

[1] *See References in Text note below.*

§154. Open container requirements

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

(1) ALCOHOLIC BEVERAGE.—The term "alcoholic beverage" has the meaning given the term in section 158(c).

(2) MOTOR VEHICLE.—The term "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated exclusively on a rail or rails.

(3) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term "open alcoholic beverage container" means any bottle, can, or other receptacle—

(A) that contains any amount of alcoholic beverage; and

(B)(i) that is open or has a broken seal; or

(ii) the contents of which are partially removed.

(4) PASSENGER AREA.—The term "passenger area" shall have the meaning given the term by the Secretary by regulation.

(b) OPEN CONTAINER LAWS.—

(1) IN GENERAL.—For the purposes of this section, each State shall have in effect a law that prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle (including possession or consumption by the driver of the vehicle) located on a public highway, or the right-of-way of a public highway, in the State.

(2) MOTOR VEHICLES DESIGNED TO TRANSPORT MANY PASSENGERS.—For the purposes of this section, if a State has in effect a law that makes unlawful the possession of any open alcoholic beverage container by the driver (but not by a passenger)—

(A) in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation; or

(B) in the living quarters of a house coach or house trailer,

the State shall be deemed to have in effect a law described in this subsection with respect to such a motor vehicle for each fiscal year during which the law is in effect.

(c) TRANSFER OF FUNDS.—

(1) FISCAL YEARS 2001 AND 2002.—On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall transfer an amount equal to 1½ percent of the funds apportioned to the State on that date under each of paragraphs (1), (2), and (4) of section 104(b) to the apportionment of the State under section 402—

(A) to be used for impaired driving countermeasures; or

(B) to be directed to State and local law enforcement agencies for enforcement of laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including the purchase of equipment, the training of officers, and the

use of additional personnel for specific impaired driving countermeasures, dedicated to enforcement of the laws (including regulations).

(2) FISCAL YEAR 2022 AND THEREAFTER.—

(A) RESERVATION OF FUNDS.—

(i) IN GENERAL.—On October 1, 2021, and each October 1 thereafter, in the case of a State described in clause (ii), the Secretary shall reserve an amount equal to 2.5 percent of the funds to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b) until the State certifies to the Secretary the means by which the State will use those reserved funds in accordance with subparagraphs (A) and (B) of paragraph (1), and paragraph (3).

(ii) STATES DESCRIBED.—A State referred to in clause (i) is a State—

(I) that has not enacted or is not enforcing an open container law described in subsection (b); and

(II) for which the Secretary determined for the prior fiscal year that the State had not enacted or was not enforcing an open container law described in subsection (b).

(B) TRANSFER OF FUNDS.—As soon as practicable after the date of receipt of a certification from a State under subparagraph (A)(i), the Secretary shall—

(i) transfer the reserved funds identified by the State for use as described in subparagraphs (A) and (B) of paragraph (1) to the apportionment of the State under section 402; and

(ii) release the reserved funds identified by the State as described in paragraph (3).

(3) USE FOR HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

(A) IN GENERAL.—A State may elect to use all or a portion of the funds reserved under paragraph (2) for activities eligible under section 148.

(B) STATE DEPARTMENTS OF TRANSPORTATION.—If the State makes an election under subparagraph (A), the funds shall be transferred to the department of transportation of the State, which shall be responsible for the administration of the funds.

(4) FEDERAL SHARE.—The Federal share of the cost of a project carried out with funds transferred under paragraph (1) or (2), or used under paragraph (3), shall be 100 percent.

(5) DERIVATION OF AMOUNT TO BE TRANSFERRED.—The amount to be transferred or released under paragraph (2) may be derived from the following:

(A) The apportionment of the State under section 104(b)(1).

(B) The apportionment of the State under section 104(b)(2).

(6) TRANSFER OF OBLIGATION AUTHORITY.—

(A) IN GENERAL.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall transfer an amount, determined under subparagraph (B), of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

(B) AMOUNT.—The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying—

(i) the amount of funds transferred under subparagraph (A) to the apportionment of the State under section 402 for the fiscal year, by

(ii) the ratio that—

(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs, bears to

(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

(7) LIMITATION ON APPLICABILITY OF OBLIGATION LIMITATION .—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under this subsection to the apportionment of a State under such section.

(Added Pub. L. 105–178, title I, §1405(a), as added Pub. L. 105–206, title IX, §9005(a), July 22, 1998, 112 Stat. 843; amended Pub. L. 109–59, title I, §1401(a)(3)(C), Aug. 10, 2005, 119 Stat. 1225; Pub. L. 112–141, div. A, title I, §1402, July 6, 2012, 126 Stat. 556; Pub. L. 114–94, div. A, title I, §1446(a)(8), Dec. 4, 2015, 129 Stat. 1437; Pub. L. 117–58, div. A, title I, §11131(a), div. B, title IV, §24106(a), Nov. 15, 2021, 135 Stat. 509, 806.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 154, added Pub. L. 93–643, §114(a), Jan. 4, 1975, 88 Stat. 2286; amended Pub. L. 95–599, title II, §205, Nov. 6, 1978, 92 Stat. 2729; Pub. L. 97–35, title XI, §1108, Aug. 13, 1981, 95 Stat. 626; Pub. L. 100–17, title I, §174, Apr. 2, 1987, 101 Stat. 218; Pub. L. 102–240, title I, §1029(a), (b), (e), (g), Dec. 18, 1991, 105 Stat. 1968–1970, established the national maximum speed limit, prior to repeal by Pub. L. 104–59, title II, §205(d)(1)(B), (3), Nov. 28, 1995, 109 Stat. 577, applicable to State on 10th day following Nov. 28, 1995, except that if legislature was not in session on such date and chief executive officer declared before such date that legislature was not in session and that State preferred applicability date that was after date on which legislature would convene, applicable to State on 60th day following date on which legislature would next convene.

AMENDMENTS

2021—Subsec. (c)(1). Pub. L. 117–58, §24106(a), substituted "impaired" for "alcohol-impaired" in subpars. (A) and (B).

Subsec. (c)(2). Pub. L. 117–58, §11131(a)(1), substituted "2022" for "2012" in heading.

Subsec. (c)(2)(A). Pub. L. 117–58, §11131(a)(2), added subpar. (A) and struck out former subpar. (A). Prior to amendment, text read as follows: "On October 1, 2011, and each October 1 thereafter, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall reserve an amount equal to 2.5 percent of the funds to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b) until the State certifies to the Secretary the means by which the State will use those reserved funds in accordance with subparagraphs (A) and (B) of paragraph (1) and paragraph (3)."

Subsec. (c)(2)(B). Pub. L. 117–58, §11131(a)(3), substituted "subparagraph (A)(i)" for "subparagraph (A)" in introductory provisions.

2015—Subsec. (c)(1). Pub. L. 114–94, §1446(a)(8)(A), substituted "paragraphs (1), (2), and (4)" for "paragraphs (1), (3), and (4)".

Subsec. (c)(3)(A). Pub. L. 114–94, §1446(a)(8)(B), substituted "reserved" for "transferred".

Subsec. (c)(5). Pub. L. 114–94, §1446(a)(8)(C)(i), inserted "or released" after "transferred" in introductory provisions.

Subsec. (c)(5)(A). Pub. L. 114–94, §1446(a)(8)(C)(ii), substituted "under section 104(b)(1)" for "under section 104(b)(l)".

2012—Subsec. (c)(2). Pub. L. 112–141, §1402(1), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "On October 1, 2002, and each October 1 thereafter, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall transfer an amount equal to 3 percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402 to be used or directed as described in subparagraph (A) or (B) of paragraph (1)."

Subsec. (c)(3). Pub. L. 112–141, §1402(2), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: "A State may elect to use all or a portion of the funds transferred under paragraph (1) or (2) for activities eligible under section 148."

Subsec. (c)(5). Pub. L. 112–141, §1402(3), added par. (5) and struck out former par. (5). Prior to amendment, text read as follows: "The amount to be transferred under paragraph (1) or (2) may be derived from one or more of the following:

"(A) The apportionment of the State under section 104(b)(1).

"(B) The apportionment of the State under section 104(b)(3).
"(C) The apportionment of the State under section 104(b)(4)."

2005—Subsec. (c)(3). Pub. L. 109–59 substituted "148" for "152".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 11131(a) of Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE

Section effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, see section 9016 of Pub. L. 105–206, set out as an Effective Date of 1998 Amendment note under section 101 of this title.

[§155. Repealed. Pub. L. 112–141, div. A, title I, §1519(b)(1)(A), July 6, 2012, 126 Stat. 575]

Section, added Pub. L. 93–643, §115(a), Jan. 4, 1975, 88 Stat. 2287; amended Pub. L. 95–599, title I, §129(e), Nov. 6, 1978, 92 Stat. 2708, related to access highways to public recreation areas on certain lakes.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§156. Proceeds from the sale or lease of real property

(a) MINIMUM CHARGE.—Subject to section 142(f), a State shall charge, at a minimum, fair market value for the sale, use, lease, or lease renewal (other than for utility use and occupancy or for a transportation project eligible for assistance under this title) of real property acquired with Federal assistance made available from the Highway Trust Fund (other than the Mass Transit Account).

(b) EXCEPTIONS.—The Secretary may grant an exception to the requirement of subsection (a) for a social, environmental, or economic purpose.

(c) USE OF FEDERAL SHARE OF INCOME.—The Federal share of net income from the revenues obtained by a State under subsection (a) shall be used by the State for projects eligible under this title.

(Added Pub. L. 100–17, title I, §126(a), Apr. 2, 1987, 101 Stat. 167; amended Pub. L. 102–240, title I, §1027(f), Dec. 18, 1991, 105 Stat. 1967; Pub. L. 105–178, title I, §1303(a), June 9, 1998, 112 Stat. 227.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 156, added Pub. L. 94–280, title I, §132(a), May 5, 1976, 90 Stat. 441, authorized the

Secretary to construct or reconstruct any public highway or highway bridge across any Federal public works project, specified conditions under which such work may be done, and authorized appropriations for such work of $100,000,000 to be available in the fiscal year in which appropriated and for the two succeeding fiscal years, prior to repeal by Pub. L. 100–17, title I, §126(a), Apr. 2, 1987, 101 Stat. 167.

AMENDMENTS

1998—Pub. L. 105–178 amended section catchline and text generally. Prior to amendment, text read as follows: "Subject to section 142(f), States shall charge, as a minimum, fair market value, with exceptions granted at the discretion of the Secretary for social, environmental, and economic mitigation purposes, for the sale, use, lease, or lease renewals (other than for utility use and occupancy or for transportation projects eligible for assistance under this title) of right-of-way airspace acquired as a result of a project funded in whole or in part with Federal assistance made available from the Highway Trust Fund (other than the Mass Transit Account). This section applies to new airspace usage proposals, renewals of prior agreements, arrangements, or leases entered into by the State after the date of the enactment of the Federal-Aid Highway Act of 1987. The Federal share of net income from the revenues obtained by the State for sales, uses, or leases (including lease renewals) under this section shall be used by the State for projects eligible under this title."

1991—Pub. L. 102–240 substituted "Subject to section 142(f), States shall" for "States shall".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1991 AMENDMENT

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

§157. National Environmental Policy Act of 1969 reporting program

(a) DEFINITIONS.—In this section:

(1) CATEGORICAL EXCLUSION.—The term "categorical exclusion" has the meaning given the term in section 771.117(c) of title 23, Code of Federal Regulations (or a successor regulation).

(2) DOCUMENTED CATEGORICAL EXCLUSION.—The term "documented categorical exclusion" has the meaning given the term in section 771.117(d) of title 23, Code of Federal Regulations (or a successor regulation).

(3) ENVIRONMENTAL ASSESSMENT.—The term "environmental assessment" has the meaning given the term in section 1508.1 of title 40, Code of Federal Regulations (or a successor regulation).

(4) ENVIRONMENTAL IMPACT STATEMENT.—The term "environmental impact statement" means a detailed statement required under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(5) FEDERAL AGENCY.—The term "Federal agency" includes a State that has assumed responsibility under section 327.

(6) NEPA PROCESS.—The term "NEPA process" means the entirety of the development and documentation of the analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including the assessment and analysis of any impacts, alternatives, and mitigation of a proposed action, and any interagency participation and public involvement required to be carried out before the Secretary undertakes a proposed action.

(7) PROPOSED ACTION.—The term "proposed action" means an action (within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)) under this title that the Secretary proposes to carry out.

(8) REPORTING PERIOD.—The term "reporting period" means the fiscal year prior to the fiscal year in which a report is issued under subsection (b).

(9) SECRETARY.—The term "Secretary" includes the governor or head of an applicable State agency of a State that has assumed responsibility under section 327.

(b) REPORT ON NEPA DATA.—

(1) IN GENERAL.—The Secretary shall carry out a process to track, and annually submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report containing, the information described in paragraph (3).

(2) TIME TO COMPLETE.—For purposes of paragraph (3), the NEPA process—

(A) for an environmental impact statement—

(i) begins on the date on which the Notice of Intent is published in the Federal Register; and

(ii) ends on the date on which the Secretary issues a record of decision, including, if necessary, a revised record of decision; and

(B) for an environmental assessment—

(i) begins on the date on which the Secretary makes a determination to prepare an environmental assessment; and

(ii) ends on the date on which the Secretary issues a finding of no significant impact or determines that preparation of an environmental impact statement is necessary.

(3) INFORMATION DESCRIBED.—The information referred to in paragraph (1) is, with respect to the Department of Transportation—

(A) the number of proposed actions for which a categorical exclusion was issued during the reporting period;

(B) the number of proposed actions for which a documented categorical exclusion was issued by the Department of Transportation during the reporting period;

(C) the number of proposed actions pending on the date on which the report is submitted for which the issuance of a documented categorical exclusion by the Department of Transportation is pending;

(D) the number of proposed actions for which an environmental assessment was issued by the Department of Transportation during the reporting period;

(E) the length of time the Department of Transportation took to complete each environmental assessment described in subparagraph (D);

(F) the number of proposed actions pending on the date on which the report is submitted for which an environmental assessment is being drafted by the Department of Transportation;

(G) the number of proposed actions for which an environmental impact statement was completed by the Department of Transportation during the reporting period;

(H) the length of time that the Department of Transportation took to complete each environmental impact statement described in subparagraph (G);

(I) the number of proposed actions pending on the date on which the report is submitted for which an environmental impact statement is being drafted; and

(J) for the proposed actions reported under subparagraphs (F) and (I), the percentage of those proposed actions for which—

(i) funding has been identified; and

(ii) all other Federal, State, and local activities that are required to allow the proposed action to proceed are completed.

(Added Pub. L. 117–58, div. A, title I, §11312(a), Nov. 15, 2021, 135 Stat. 538.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a)(6), (7), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section

4321 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 157, added Pub. L. 105–178, title I, §1403(a), June 9, 1998, 112 Stat. 237; amended Pub. L. 108–88, §6(a)(1), Sept. 30, 2003, 117 Stat. 1119; Pub. L. 108–202, §6(a), Feb. 29, 2004, 118 Stat. 483; Pub. L. 108–224, §5(a), Apr. 30, 2004, 118 Stat. 632; Pub. L. 108–263, §5(a), June 30, 2004, 118 Stat. 703; Pub. L. 108–280, §5(a), July 30, 2004, 118 Stat. 881; Pub. L. 108–310, §6(a)(1), Sept. 30, 2004, 118 Stat. 1152; Pub. L. 109–14, §5(a)(1), May 31, 2005, 119 Stat. 329; Pub. L. 109–20, §5(a)(1), July 1, 2005, 119 Stat. 351; Pub. L. 109–35, §5(a)(1), July 20, 2005, 119 Stat. 384; Pub. L. 109–37, §5(a)(1), July 22, 2005, 119 Stat. 399; Pub. L. 109–40, §5(a)(1), July 28, 2005, 119 Stat. 415; Pub. L. 109–59, title I, §1406, Aug. 10, 2005, 119 Stat. 1231, related to safety incentive grants for use of seat belts, prior to repeal by Pub. L. 112–141, §3(a), div. A, title I, §1519(b)(1)(A), July 6, 2012, 126 Stat. 413, 575, effective Oct. 1, 2012.

Another prior section 157, added Pub. L. 97–424, title I, §150(a), Jan. 6, 1983, 96 Stat. 2131; amended Pub. L. 99–272, title IV, §4102(f), Apr. 7, 1986, 100 Stat. 113; Pub. L. 100–17, title I, §§105(h), 124, Apr. 2, 1987, 101 Stat. 144, 164; Pub. L. 102–240, title I, §§1002(h), 1013(a), (b), Dec. 18, 1991, 105 Stat. 1918, 1940; Pub. L. 103–272, §5(f)(3), July 5, 1994, 108 Stat. 1374, related to minimum allocations to States, prior to repeal by Pub. L. 105–178, title I, §1403(a), June 9, 1998, 112 Stat. 237.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as an Effective Date of 2021 Amendment note under section 101 of this title.

§158. National minimum drinking age

(a) WITHHOLDING OF FUNDS FOR NONCOMPLIANCE.—

(1) IN GENERAL.—

(A) FISCAL YEARS BEFORE 2012.—The Secretary shall withhold 10 per centum of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(3), and 104(b)(4) [1] of this title on the first day of each fiscal year after the second fiscal year beginning after September 30, 1985, in which the purchase or public possession in such State of any alcoholic beverage by a person who is less than twenty-one years of age is lawful.

(B) FISCAL YEAR 2012 AND THEREAFTER.—For fiscal year 2012 and each fiscal year thereafter, the amount to be withheld under this section shall be an amount equal to 8 percent of the amount apportioned to the noncompliant State, as described in subparagraph (A), under paragraphs (1) and (2) of section 104(b).

(2) STATE GRANDFATHER LAW AS COMPLYING.—If, before the later of (A) October 1, 1986, or (B) the tenth day following the last day of the first session the legislature of a State convenes after the date of the enactment of this paragraph, such State has in effect a law which makes unlawful the purchase and public possession in such State of any alcoholic beverage by a person who is less than 21 years of age (other than any person who is 18 years of age or older on the day preceding the effective date of such law and at such time could lawfully purchase or publicly possess any alcoholic beverage in such State), such State shall be deemed to be in compliance with paragraph (1) in each fiscal year in which such law is in effect.

(b) EFFECT OF WITHHOLDING OF FUNDS.—No funds withheld under this section from apportionment to any State after September 30, 1988, shall be available for apportionment to that State.

(c) ALCOHOLIC BEVERAGE DEFINED.—As used in this section, the term "alcoholic beverage" means—

(1) beer as defined in section 5052(a) of the Internal Revenue Code of 1986,

(2) wine of not less than one-half of 1 per centum of alcohol by volume, or

(3) distilled spirits as defined in section 5002(a)(8) of such Code.

(Added Pub. L. 98–363, §6(a), July 17, 1984, 98 Stat. 437; amended Pub. L. 99–272, title IV, §4104, Apr. 7, 1986, 100 Stat. 114; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 105–178, title I, §1103(l)(2), June 9, 1998, 112 Stat. 125; Pub. L. 112–141, div. A, title I, §1404(f), July 6, 2012, 126 Stat. 558.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 104 of this title, referred to in subsec. (a)(1)(A), was amended generally by Pub. L. 112–141, div. A, title I, §1105(a), July 6, 2012, 126 Stat. 427.

The date of the enactment of this paragraph, referred to in subsec. (a)(2), is the date of enactment of Pub. L. 99–272, which was approved Apr. 7, 1986.

The Internal Revenue Code of 1986, referred to in subsec. (c), is set out in Title 26, Internal Revenue Code.

AMENDMENTS

2012—Subsec. (a)(1). Pub. L. 112–141 designated existing provisions as subpar. (A), inserted subpar. heading, and added subpar. (B).

1998—Subsec. (a)(1). Pub. L. 105–178, §1103(l)(2)(A)(i)–(iii), redesignated par. (2) as (1), substituted "In general" for "After the first year" in heading and "104(b)(3), and 104(b)(4)" for "104(b)(2), 104(b)(5), and 104(b)(6)" in text, and struck out former par. (1) which read as follows:

"(1) FIRST YEAR.—The Secretary shall withhold 5 per centum of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of this title on the first day of the fiscal year succeeding the first fiscal year beginning after September 30, 1985, in which the purchase or public possession in such State of any alcoholic beverage by a person who is less than twenty-one years of age is lawful."

Subsec. (a)(2), (3). Pub. L. 105–178, §1103(l)(2)(A)(ii), (iv), redesignated par. (3) as (2) and substituted "paragraph (1)" for "paragraphs (1) and (2) of this subsection". Former par. (2) redesignated (1).

Subsec. (b). Pub. L. 105–178, §1103(l)(2)(B), added subsec. (b) and struck out heading and text of former subsec. (b) which related to period of availability for apportionment to State of funds withheld by the Secretary pending State enactment of federally-prescribed minimum drinking age.

1986—Subsec. (a). Pub. L. 99–272, §4104(d)(1), added subsection heading.

Subsec. (a)(1). Pub. L. 99–272, §4104(d)(2)–(4), added paragraph heading, aligned margins, and inserted "first" before "fiscal year beginning".

Subsec. (a)(2). Pub. L. 99–272, §4104(a), (d)(3), (5), added paragraph heading, realigned margins, and substituted "each fiscal year after" for "the fiscal year succeeding".

Subsec. (a)(3). Pub. L. 99–272, §4104(b), added par. (3).

Subsec. (b). Pub. L. 99–272, §4104(c), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "The Secretary shall promptly apportion to a State any funds which have been withheld from apportionment under subsection (a) of this section in fiscal year if in any succeeding fiscal year such State makes unlawful the purchase or public possession of any alcoholic beverage by a person who is less than twenty-one years of age."

Subsec. (c). Pub. L. 99–272, §4104(d)(6), added subsection heading.

Subsec. (c)(1). Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

MINIMUM DRINKING AGE

Pub. L. 97–424, title II, §209, Jan. 6, 1983, 96 Stat. 2140, provided that: "The Congress strongly encourages each State to prohibit the sale of alcoholic beverages to persons who are less than 21 years of age."

[1] *See References in Text note below.*

§159. Revocation or suspension of drivers' licenses of individuals convicted of drug offenses

(a) WITHHOLDING OF APPORTIONMENTS FOR NONCOMPLIANCE.—

(1) BEGINNING IN FISCAL YEAR 1996.—The Secretary shall withhold 10 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) of section 104(b) on the first day of each fiscal year which begins after the fourth calendar year following the effective date of this section if the State does not meet the requirements of paragraph (3) on the first day of such fiscal year.

(2) FISCAL YEAR 2012 AND THEREAFTER.—The Secretary shall withhold an amount equal to 8 percent of the amount required to be apportioned to any State under each of paragraphs (1) and (2) of section 104(b) on the first day of each fiscal year beginning after September 30, 2011, if the State fails to meet the requirements of paragraph (3) on the first day of the fiscal year.

(3) REQUIREMENTS.—A State meets the requirements of this paragraph if—

(A) the State has enacted and is enforcing a law that requires in all circumstances, or requires in the absence of compelling circumstances warranting an exception—

(i) the revocation, or suspension for at least 6 months, of the driver's license of any individual who is convicted, after the enactment of such law, of—

(I) any violation of the Controlled Substances Act, or

(II) any drug offense; and

(ii) a delay in the issuance or reinstatement of a driver's license to such an individual for at least 6 months after the individual applies for the issuance or reinstatement of a driver's license if the individual does not have a driver's license, or the driver's license of the individual is suspended, at the time the individual is so convicted; or

(B) the Governor of the State—

(i) submits to the Secretary no earlier than the adjournment sine die of the first regularly scheduled session of the State's legislature which begins after the effective date of this section a written certification stating that the Governor is opposed to the enactment or enforcement in the State of a law described in subparagraph (A), relating to the revocation, suspension, issuance, or reinstatement of drivers' licenses to convicted drug offenders; and

(ii) submits to the Secretary a written certification that the legislature (including both Houses where applicable) has adopted a resolution expressing its opposition to a law described in clause (i).

(b) EFFECT OF NONCOMPLIANCE.—No funds withheld under this section from apportionments to any State shall be available for apportionment to that State.

(c) DEFINITIONS.—For purposes of this section—

(1) DRIVER'S LICENSE.—The term "driver's license" means a license issued by a State to any individual that authorizes the individual to operate a motor vehicle on highways.

(2) DRUG OFFENSE.—The term "drug offense" means any criminal offense which proscribes—

(A) the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the Controlled Substances Act; or

(B) the operation of a motor vehicle under the influence of such a substance.

(3) CONVICTED.—The term "convicted" includes adjudicated under juvenile proceedings.

(Added Pub. L. 102–143, title III, §333(a), Oct. 28, 1991, 105 Stat. 944; amended Pub. L. 102–388, title III, §327(a), Oct. 6, 1992, 106 Stat. 1547; Pub. L. 105–178, title I, §1103(l)(3)(E), June 9, 1998, 112 Stat. 126; Pub. L. 112–141, div. A, title I, §1404(g), July 6, 2012, 126 Stat. 558.)

EDITORIAL NOTES

REFERENCES IN TEXT

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

The effective date of this section, referred to in subsec. (a)(1), (3)(B)(i), is Nov. 5, 1990. See section 333(e) of Pub. L. 102–143, set out as a note below.

The Controlled Substances Act, referred to in subsecs. (a)(3)(A)(i)(I) and (c)(2)(A), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, which is classified principally to subchapter I (§801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

AMENDMENTS

2012—Subsec. (a)(1), (2). Pub. L. 112–141, §1404(g)(1), designated par. (2) as (1), struck out "(including any amounts withheld under paragraph (1))" after "10 percent", added par. (2), and struck out former par. (1). Prior to amendment, text of par. (1) read as follows: "For each fiscal year the Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) of section 104(b) on the first day of each fiscal year which begins after the second calendar year following the effective date of this section if the State does not meet the requirements of paragraph (3) on such date."

Subsec. (b). Pub. L. 112–141, §1404(g)(2), added subsec. (b) and struck out former subsec. (b) which related to period of availability of withheld funds and effects of compliance and noncompliance.

1998—Subsec. (a)(1), (2). Pub. L. 105–178, §1103(l)(3)(E)(i), substituted "(5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) of" for "(5) of" before "section 104(b)".

Subsec. (b)(1)(A)(i). Pub. L. 105–178, §1103(l)(3)(E)(ii)(I), substituted "section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)" for "section 104(b)(5)(A)".

Subsec. (b)(1)(A)(ii). Pub. L. 105–178, §1103(l)(3)(E)(ii)(II), substituted "section 104(b)(5)(B) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)" for "section 104(b)(5)(B)".

Subsec. (b)(1)(A)(iii). Pub. L. 105–178, §1103(l)(3)(E)(i), substituted "(5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) of" for "(5) of" before "section 104(b)".

Subsec. (b)(3). Pub. L. 105–178, §1103(l)(3)(E)(ii)(IV), substituted "section 104(b)(5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)" for "section 104(b)(5)" in concluding provisions.

Subsec. (b)(3)(A). Pub. L. 105–178, §1103(l)(3)(E)(ii)(I), substituted "section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)" for "section 104(b)(5)(A)".

Subsec. (b)(3)(B). Pub. L. 105–178, §1103(l)(3)(E)(ii)(III), substituted "(5)(B) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)" for "(5)(B)".

Subsec. (b)(4). Pub. L. 105–178, §1103(l)(3)(E)(ii)(IV), substituted "section 104(b)(5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)" for "section 104(b)(5)".

1992—Pub. L. 102–388 amended section generally, substituting "Beginning in fiscal year 1994" for "After second calendar year" as subsec. (a)(1) heading, "paragraphs (1), (3), and (5)" for "paragraphs (1), (2), (5), and (6)" in subsec. (a)(1) and (2), "Beginning in fiscal year 1996" for "After fourth calendar year" as subsec. (a)(2) heading, "paragraph (1), (3), or (5)" for "paragraph (1), (2), or (6)" in subsec. (b)(1)(A)(iii), and "paragraph (1), (3), or (5)(B)" for "paragraph (1), (2), (5)(B), or (6)" in subsec. (b)(3)(B).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–388, title III, §327(b), Oct. 6, 1992, 106 Stat. 1550, provided that: "The amendments made by subsection (a) of this section [amending this section] shall take effect November 5, 1990."

EFFECTIVE DATE

Pub. L. 102–143, title III, §333(e), Oct. 28, 1991, 105 Stat. 947, provided that: "The amendments made by subsection (a) of this section [enacting this section] shall take effect November 5, 1990."

STUDY ON STATE COMPLIANCE WITH REQUIREMENTS FOR REVOCATION AND SUSPENSION OF DRIVERS' LICENSES

Pub. L. 102–240, title I, §1094, Dec. 18, 1991, 105 Stat. 2025, provided that the Secretary would conduct a study of State efforts to comply with the provisions of this section relating to revocation and suspension of drivers' licenses, and would transmit to Congress a report on the results of the study by Dec. 31, 1992.

[§160. Repealed. Pub. L. 112–141, div. A, title I, §1519(b)(1)(A), July 6, 2012, 126 Stat. 575]

Section, added Pub. L. 102–240, title I, §1014(a), Dec. 18, 1991, 105 Stat. 1941, related to reimbursement for segments of the Interstate System constructed without Federal assistance.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§161. Operation of motor vehicles by intoxicated minors

(a) WITHHOLDING OF APPORTIONMENTS FOR NONCOMPLIANCE.—

(1) PRIOR TO FISCAL YEAR 2012.—The Secretary shall withhold 10 percent (including any amounts withheld under paragraph (1)) of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) [1] on October 1, 1999, and on October 1 of each fiscal year thereafter through fiscal year 2011, if the State does not meet the requirement of paragraph (3) on that date.

(2) FISCAL YEAR 2012 AND THEREAFTER.—The Secretary shall withhold an amount equal to 8 percent of the amount required to be apportioned to any State under each of paragraphs (1) and (2) of section 104(b) on October 1, 2011, and on October 1 of each fiscal year thereafter, if the State does not meet the requirement of paragraph (3) on that date.

(3) REQUIREMENT.—A State meets the requirement of this paragraph if the State has enacted and is enforcing a law that considers an individual under the age of 21 who has a blood alcohol concentration of 0.02 percent or greater while operating a motor vehicle in the State to be driving while intoxicated or driving under the influence of alcohol.

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

(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—

(A) FUNDS WITHHELD ON OR BEFORE SEPTEMBER 30, 2000.—Any funds withheld under subsection (a) from apportionment to any State on or before September 30, 2000, shall remain available until the end of the third fiscal year following the fiscal year for which the funds are authorized to be appropriated.

(B) FUNDS WITHHELD AFTER SEPTEMBER 30, 2000.—No funds withheld under this

section from apportionment to any State after September 30, 2000, shall be available for apportionment to the State.

(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under subsection (a) from apportionment are to remain available for apportionment to a State under paragraph (1), the State meets the requirement of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirement, apportion to the State the funds withheld under subsection (a) that remain available for apportionment to the State.

(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure until the end of the third fiscal year following the fiscal year in which the funds are so apportioned. Sums not obligated at the end of that period shall lapse.

(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment to a State under paragraph (1), the State does not meet the requirement of subsection (a)(3), the funds shall lapse.

(Added Pub. L. 104–59, title III, §320(a), Nov. 28, 1995, 109 Stat. 589; amended Pub. L. 105–178, title I, §1103(l)(3)(F), June 9, 1998, 112 Stat. 126; Pub. L. 112–141, div. A, title I, §1404(h), July 6, 2012, 126 Stat. 559.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 104, referred to in subsec. (a)(1), was amended generally by Pub. L. 112–141, div. A, title I, §1105(a), July 6, 2012, 126 Stat. 427.

AMENDMENTS

2012—Subsec. (a)(1), (2). Pub. L. 112–141 redesignated par. (2) as (1), substituted "PRIOR TO FISCAL YEAR 2012" for "THEREAFTER" in par. heading, inserted "through fiscal year 2011" after "each fiscal year thereafter" in text, added par. (2), and struck out former par. (1). Prior to amendment, text of par. (1) read as follows: "The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 1998, if the State does not meet the requirement of paragraph (3) on that date."

1998—Subsec. (a)(1), (2). Pub. L. 105–178 substituted "paragraphs (1), (3), and (4) of section 104(b)" for "paragraphs (1), (3), and (5)(B) of section 104(b)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

[1] *See References in Text note below.*

§162. National scenic byways program

(a) DESIGNATION OF ROADS.—

(1) IN GENERAL.—The Secretary shall carry out a national scenic byways program that recognizes roads having outstanding scenic, historic, cultural, natural, recreational, and archaeological qualities by designating the roads as—

(A) National Scenic Byways;

(B) All-American Roads; or

(C) America's Byways.

(2) CRITERIA.—The Secretary shall designate roads to be recognized under the national scenic byways program in accordance with criteria developed by the Secretary.

(3) NOMINATION.—

(A) IN GENERAL.—To be considered for a designation, a road must be nominated by a State, an Indian tribe, or a Federal land management agency and must first be designated as a State scenic byway, an Indian tribe scenic byway, or, in the case of a road on Federal land, as a Federal land management agency byway.

(B) NOMINATION BY INDIAN TRIBES.—An Indian tribe may nominate a road as a National Scenic Byway, an All-American Road, or one of America's Byways under paragraph (1) only if a Federal land management agency (other than the Bureau of Indian Affairs), a State, or a political subdivision of a State does not have—

(i) jurisdiction over the road; or

(ii) responsibility for managing the road.

(C) SAFETY.—An Indian tribe shall maintain the safety and quality of roads nominated by the Indian tribe under subparagraph (A).

(4) RECIPROCAL NOTIFICATION.—States, Indian tribes, and Federal land management agencies shall notify each other regarding nominations made under this subsection for roads that—

(A) are within the jurisdictional boundary of the State, Federal land management agency, or Indian tribe; or

(B) directly connect to roads for which the State, Federal land management agency, or Indian tribe is responsible.

(b) GRANTS AND TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall make grants and provide technical assistance to States and Indian tribes to—

(A) implement projects on highways designated as—

(i) National Scenic Byways;

(ii) All-American Roads;

(iii) America's Byways;

(iv) State scenic byways; or

(v) Indian tribe scenic byways; and

(B) plan, design, and develop a State or Indian tribe scenic byway program.

(2) PRIORITIES.—In making grants, the Secretary shall give priority to—

(A) each eligible project that is associated with a highway that has been designated as a National Scenic Byway, All-American Road, or 1 of America's Byways and that is consistent with the corridor management plan for the byway;

(B) each eligible project along a State or Indian tribe scenic byway that is consistent with the corridor management plan for the byway, or is intended to foster the development of such a plan, and is carried out to make the byway eligible for designation as—

(i) a National Scenic Byway;

(ii) an All-American Road; or

(iii) 1 of America's Byways; and

(C) each eligible project that is associated with the development of a State or Indian tribe scenic byway program.

(c) ELIGIBLE PROJECTS.—The following are projects that are eligible for Federal assistance under this section:

(1) An activity related to the planning, design, or development of a State or Indian tribe scenic byway program.

(2) Development and implementation of a corridor management plan to maintain the scenic, historical, recreational, cultural, natural, and archaeological characteristics of a byway corridor while providing for accommodation of increased tourism and development of related amenities.

(3) Safety improvements to a State scenic byway, Indian tribe scenic byway, National Scenic Byway, All-American Road, or one of America's Byways to the extent that the improvements are necessary to accommodate increased traffic and changes in the types of vehicles using the highway as a result of the designation as a State scenic byway, Indian tribe scenic byway, National Scenic Byway, All-American Road, or one of America's Byways.

(4) Construction along a scenic byway of a facility for pedestrians and bicyclists, rest area, turnout, highway shoulder improvement, overlook, or interpretive facility.

(5) An improvement to a scenic byway that will enhance access to an area for the purpose of recreation, including water-related recreation.

(6) Protection of scenic, historical, recreational, cultural, natural, and archaeological resources in an area adjacent to a scenic byway.

(7) Development and provision of tourist information to the public, including interpretive information about a scenic byway.

(8) Development and implementation of a scenic byway marketing program.

(d) LIMITATION.—The Secretary shall not make a grant under this section for any project that would not protect the scenic, historical, recreational, cultural, natural, and archaeological integrity of a highway and adjacent areas.

(e) SAVINGS CLAUSE.—The Secretary shall not withhold any grant or impose any requirement on a State or Indian tribe as a condition of providing a grant or technical assistance for any scenic byway unless the requirement is consistent with the authority provided in this chapter.

(f) FEDERAL SHARE.—The Federal share of the cost of carrying out a project under this section shall be 80 percent, except that, in the case of any scenic byway project along a public road that provides access to or within Federal or Indian land, a Federal land management agency may use funds authorized for use by the agency as the non-Federal share.

(Added Pub. L. 105–178, title I, §1219(a), June 9, 1998, 112 Stat. 219; amended Pub. L. 109–59, title I, §1802, Aug. 10, 2005, 119 Stat. 1456; Pub. L. 110–244, title I, §101(o), June 6, 2008, 122 Stat. 1576.)

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (a)(3)(B). Pub. L. 110–244, §101(o)(1), substituted "a National Scenic Byway, an All-American Road, or one of America's Byways under paragraph (1)" for "a National Scenic Byway under subparagraph (A)" in introductory provisions.

Subsec. (c)(3). Pub. L. 110–244, §101(o)(2), substituted "All-American Road, or one of America's Byways" for "or All-American Road" in two places.

2005—Subsec. (a)(1). Pub. L. 109–59, §1802(a)(1), substituted "the roads as—" and subpars. (A) to (C) for "the roads as National Scenic Byways or All-American Roads."

Subsec. (a)(3), (4). Pub. L. 109–59, §1802(a)(2), added pars. (3) and (4) and struck out heading and text of former par. (3). Text read as follows: "To be considered for the designation, a road must be nominated by a State or a Federal land management agency and must first be designated as a State scenic byway or, in the case of a road on Federal land, as a Federal land management agency byway."

Subsec. (b)(1). Pub. L. 109–59, §1802(b)(1), inserted "and Indian tribes" after "States" in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 109–59, §1802(b)(2), substituted "designated as—" and cls. (i) to (v) for "designated as National Scenic Byways or All-American Roads, or as State scenic byways; and".

Subsec. (b)(1)(B). Pub. L. 109–59, §1802(b)(3), inserted "or Indian tribe" after "State".

Subsec. (b)(2)(A). Pub. L. 109–59, §1802(b)(4), substituted "Byway, All-American Road, or 1 of America's

Byways" for "Byway or All-American Road".

Subsec. (b)(2)(B). Pub. L. 109–59, §1802(b)(5), substituted "State or Indian tribe" for "State-designated" and "designation as—" and cls. (i) to (iii) for "designation as a National Scenic Byway or All-American Road; and".

Subsec. (b)(2)(C). Pub. L. 109–59, §1802(b)(6), inserted "or Indian tribe" after "State".

Subsec. (c)(1). Pub. L. 109–59, §1802(c)(1), inserted "or Indian tribe" after "State".

Subsec. (c)(3). Pub. L. 109–59, §1802(c)(2), inserted "Indian tribe scenic byway," after "improvements to a State scenic byway," and "designation as a State scenic byway,".

Subsec. (c)(4). Pub. L. 109–59, §1802(c)(3), struck out "passing lane," before "overlook,".

Subsec. (e). Pub. L. 109–59, §1802(d), inserted "or Indian tribe" after "State".

STATUTORY NOTES AND RELATED SUBSIDIARIES

REVIVING AMERICA'S SCENIC BYWAYS

Pub. L. 116–57, Sept. 22, 2019, 133 Stat. 1090, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Reviving America's Scenic Byways Act of 2019'.

"SEC. 2. NATIONAL SCENIC BYWAYS PROGRAM.

"(a) REQUEST FOR NOMINATIONS.—Not later than 90 days after the date of enactment of this Act [Sept. 22, 2019], the Secretary of Transportation shall issue a request for nominations with respect to roads to be designated under the national scenic byways program, as described in section 162(a) of title 23, United States Code. The Secretary shall make the request for nominations available on the appropriate website of the Department of Transportation.

"(b) DESIGNATION DETERMINATIONS.—Not later than 1 year after the date on which the request for nominations required under subsection (a) is issued, the Secretary shall make publicly available on the appropriate website of the Department of Transportation a list specifying the roads, nominated pursuant to such request, to be designated under the national scenic byways program."

§163. Safety incentives to prevent operation of motor vehicles by intoxicated persons

(a) GENERAL AUTHORITY.—The Secretary shall make a grant, in accordance with this section, to any State that has enacted and is enforcing a law that provides that any person with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle in the State shall be deemed to have committed a per se offense of driving while intoxicated (or an equivalent per se offense).

(b) GRANTS.—For each fiscal year, funds authorized to carry out this section shall be apportioned to each State that has enacted and is enforcing a law meeting the requirements of subsection (a) in an amount determined by multiplying—

(1) the amount authorized to carry out this section for the fiscal year; by

(2) the ratio that the amount of funds apportioned to each such State under section 402 for such fiscal year bears to the total amount of funds apportioned to all such States under section 402 for such fiscal year.

(c) USE OF GRANTS.—A State may obligate funds apportioned under subsection (b) for any project eligible for assistance under this title.

(d) FEDERAL SHARE.—The Federal share of the cost of a project funded under this section shall be 100 percent.

(e) PENALTY.—

(1) FISCAL YEARS 2007 THROUGH 2011.—On October 1, 2006, and October 1 of each fiscal year thereafter through fiscal year 2011, if a State has not enacted or is not enforcing a law

described in subsection (a), the Secretary shall withhold an amount equal to 8 percent of the amounts to be apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b).[1]

(2) FISCAL YEAR 2012 AND THEREAFTER.—On October 1, 2011, and October 1 of each fiscal year thereafter, if a State has not enacted or is not enforcing a law described in subsection (a), the Secretary shall withhold an amount equal to 6 percent of the amounts to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b).

(3) FAILURE TO COMPLY.—If, within 4 years from the date that an apportionment for a State is withheld in accordance with this subsection, the Secretary determines that the State has enacted and is enforcing a law described in subsection (a), the apportionment of the State shall be increased by an amount equal to the amount withheld. If, at the end of such 4-year period, any State has not enacted or is not enforcing a law described in subsection (a) any amounts so withheld from such State shall lapse.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $55,000,000 for fiscal year 1998, $65,000,000 for fiscal year 1999, $80,000,000 for fiscal year 2000, $90,000,000 for fiscal year 2001, $100,000,000 for fiscal year 2002, $110,000,000 for fiscal year 2003, $110,000,000 for fiscal year 2004, and $110,000,000 for fiscal year 2005 $91,315,068 for the period of October 1, 2004, through July 30, 2005.[2]

(2) AVAILABILITY OF FUNDS.—Notwithstanding section 118(b), the funds authorized by this subsection shall remain available until expended.

(Added Pub. L. 105–178, title I, §1404(a), June 9, 1998, 112 Stat. 240; amended Pub. L. 108–88, §6(a)(2), Sept. 30, 2003, 117 Stat. 1119; Pub. L. 108–202, §6(b), Feb. 29, 2004, 118 Stat. 483; Pub. L. 108–224, §5(b), Apr. 30, 2004, 118 Stat. 632; Pub. L. 108–263, §5(b), June 30, 2004, 118 Stat. 703; Pub. L. 108–280, §5(b), July 30, 2004, 118 Stat. 881; Pub. L. 108–310, §6(a)(2), Sept. 30, 2004, 118 Stat. 1152; Pub. L. 109–14, §5(a)(2), May 31, 2005, 119 Stat. 329; Pub. L. 109–20, §5(a)(2), July 1, 2005, 119 Stat. 351; Pub. L. 109–35, §5(a)(2), July 20, 2005, 119 Stat. 384; Pub. L. 109–37, §5(a)(2), July 22, 2005, 119 Stat. 399; Pub. L. 109–40, §5(a)(2), July 28, 2005, 119 Stat. 416; Pub. L. 109–59, title I, §1407(a), (b), Aug. 10, 2005, 119 Stat. 1231; Pub. L. 112–141, div. A, title I, §1404(i), July 6, 2012, 126 Stat. 559; Pub. L. 114–94, div. A, title I, §1446(a)(9), Dec. 4, 2015, 129 Stat. 1437.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 104, referred to in subsec. (e)(1), was amended generally by Pub. L. 112–141, div. A, title I, §1105(a), July 6, 2012, 126 Stat. 427.

AMENDMENTS

2015—Subsec. (f)(2). Pub. L. 114–94 substituted "118(b)" for "118(b)(2)".

2012—Subsec. (e)(1), (2). Pub. L. 112–141 added pars. (1) and (2) and struck out former pars. (1) and (2) which related to penalty generally and amount to be withheld, respectively.

2005—Subsec. (e). Pub. L. 109–59, §1407(a)(2), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1). Pub. L. 109–40 substituted "$91,315,068 for the period of October 1, 2004, through July 30, 2005" for "$90,410,958 for the period of October 1, 2004, through July 27, 2005".

Pub. L. 109–37 substituted "$90,410,958 for the period of October 1, 2004, through July 27, 2005" for "$89,100,000 for the period of October 1, 2004, through July 21, 2005".

Pub. L. 109–35 substituted "$89,100,000 for the period of October 1, 2004, through July 21, 2005" for "$88,000,000 for the period of October 1, 2004, through July 19, 2005".

Pub. L. 109–20 substituted "$88,000,000 for the period of October 1, 2004, through July 19, 2005" for "$82,500,000 for the period of October 1, 2004, through June 30, 2005".

Pub. L. 109–14 substituted "$82,500,000 for the period of October 1, 2004, through June 30, 2005" for

"$73,333,333 for the period of October 1, 2004, through May 31, 2005".

Subsec. (f). Pub. L. 109–59, §1407(a)(1), redesignated subsec. (e) as (f).

Subsec. (f)(1). Pub. L. 109–59, §1407(b), substituted "2004, and $110,000,000 for fiscal year 2005" for "2004, and".

2004—Subsec. (e)(1). Pub. L. 108–310 struck out "and" after "2003," and inserted ", and $73,333,333 for the period of October 1, 2004, through May 31, 2005" before period at end.

Pub. L. 108–280 substituted "$110,000,000 for fiscal year 2004" for "$100,000,000 for the period of October 1, 2003, through July 31, 2004".

Pub. L. 108–263 substituted "$100,000,000 for the period of October 1, 2003, through July 31, 2004" for "$90,000,000 for the period of October 1, 2003, through June 30, 2004".

Pub. L. 108–224 substituted "$90,000,000 for the period of October 1, 2003, through June 30, 2004" for "$70,000,000 for the period of October 1, 2003, through April 30, 2004".

Pub. L. 108–202 substituted "$70,000,000 for the period of October 1, 2003, through April 30, 2004" for "$50,000,000 for the period of October 1, 2003, through February 29, 2004".

2003—Subsec. (e)(1). Pub. L. 108–88 struck out "and" after "2002," and inserted before period at end ", and $50,000,000 for the period of October 1, 2003, through February 29, 2004".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

WITHHOLDING OF FUNDS FOR FAILURE TO ENACT AND ENFORCE LAWS RELATING TO DRIVING WHILE INTOXICATED

Pub. L. 106–346, §101(a) [title III, §351], Oct. 23, 2000, 114 Stat. 1356, 1356A–34, directed the Secretary to withhold a percentage, beginning in fiscal year 2004, of the amount required to be apportioned for Federal-aid highways to any State under former pars. (1), (3), and (4) of section 104(b) of this title, if a State had not enacted and was not enforcing a provision described in section 163(a) of this title, and provided for increase of the apportionment by an amount equal to such reduction if within 4 years from the date of the reduction the Secretary determined that such State had enacted and was enforcing a provision described in section 163(a) of this title, prior to repeal by Pub. L. 109–59, title I, §1407(c), Aug. 10, 2005, 119 Stat. 1231.

[1] See References in Text note below.

[2] So in original. The words "$91,315,068 for the period of October 1, 2004, through July 30, 2005" probably should not appear.

§164. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence

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

(1) 24-7 SOBRIETY PROGRAM.—The term "24-7 sobriety program" has the meaning given the term in section 405(d)(7)(A).

(2) ALCOHOL CONCENTRATION.—The term "alcohol concentration" means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

(3) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms "driving while intoxicated" and "driving under the influence" mean driving or being in actual physical control of a motor vehicle while having an alcohol concentration above the permitted limit as established by each State.

(4) MOTOR VEHICLE.—The term "motor vehicle" means a vehicle driven or drawn by

mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line or a commercial vehicle.

(5) REPEAT INTOXICATED DRIVER LAW.—The term "repeat intoxicated driver law" means a State law or combination of laws or programs that provides, as a minimum penalty, that an individual convicted of a second or subsequent offense for driving while intoxicated or driving under the influence after a previous conviction for that offense shall—

(A) receive, for a period of not less than 1 year—

(i) a suspension of all driving privileges;

(ii) a restriction on driving privileges that limits the individual to operating only motor vehicles with an ignition interlock device installed, unless a special exception applies;

(iii) a restriction on driving privileges that limits the individual to operating motor vehicles only if participating in, and complying with, a 24-7 sobriety program; or

(iv) any combination of clauses (i) through (iii);

(B) receive an assessment of the individual's degree of abuse of alcohol and treatment as appropriate; and

(C) receive—

(i) in the case of the second offense—

(I) an assignment of not less than 30 days of community service; or

(II) not less than 5 days of imprisonment (unless the State certifies that the general practice is that such an individual will be incarcerated); and

(ii) in the case of the third or subsequent offense—

(I) an assignment of not less than 60 days of community service; or

(II) not less than 10 days of imprisonment (unless the State certifies that the general practice is that such an individual will receive 10 days of incarceration).

(6) SPECIAL EXCEPTION.—The term "special exception" means an exception under a State alcohol-ignition interlock law for the following circumstances:

(A) The individual is required to operate an employer's motor vehicle in the course and scope of employment and the business entity that owns the vehicle is not owned or controlled by the individual.

(B) The individual is certified by a medical doctor as being unable to provide a deep lung breath sample for analysis by an ignition interlock device.

(b) TRANSFER OF FUNDS.—

(1) FISCAL YEARS 2001 AND 2002.—On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 1½ percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) [1] to the apportionment of the State under section 402—

(A) to be used for alcohol- or multiple substance-impaired driving countermeasures; or

(B) to be directed to State and local law enforcement agencies for enforcement of laws prohibiting driving while intoxicated, driving while multiple substance-impaired, or driving under the influence and other related laws (including regulations), including the purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol- or multiple substance-impaired driving countermeasures, dedicated to enforcement of the laws (including regulations).

(2) FISCAL YEAR 2022 AND THEREAFTER.—

(A) RESERVATION OF FUNDS.—

(i) IN GENERAL.—On October 1, 2021, and each October 1 thereafter, in the case of a State described in clause (ii), the Secretary shall reserve an amount equal to 2.5 percent of the

funds to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b) until the State certifies to the Secretary the means by which the State will use those reserved funds in accordance with subparagraphs (A) and (B) of paragraph (1), and paragraph (3).

(ii) STATES DESCRIBED.—A State referred to in clause (i) is a State—

(I) that has not enacted or is not enforcing a repeat intoxicated driver law; and

(II) for which the Secretary determined for the prior fiscal year that the State had not enacted or was not enforcing a repeat intoxicated driver law.

(B) TRANSFER OF FUNDS.—As soon as practicable after the date of receipt of a certification from a State under subparagraph (A)(i), the Secretary shall—

(i) transfer the reserved funds identified by the State for use as described in subparagraphs (A) and (B) of paragraph (1) to the apportionment of the State under section 402; and

(ii) release the reserved funds identified by the State as described in paragraph (3).

(3) USE FOR HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

(A) IN GENERAL.—A State may elect to use all or a portion of the funds reserved under paragraph (2) for activities eligible under section 148.

(B) STATE DEPARTMENTS OF TRANSPORTATION.—If the State makes an election under subparagraph (A), the funds shall be transferred to the department of transportation of the State, which shall be responsible for the administration of the funds.

(4) FEDERAL SHARE.—The Federal share of the cost of a project carried out with funds transferred under paragraph (1) or (2), or used under paragraph (3), shall be 100 percent.

(5) DERIVATION OF AMOUNT TO BE TRANSFERRED.—The amount to be transferred or released under paragraph (2) may be derived from the following:

(A) The apportionment of the State under section 104(b)(1).

(B) The apportionment of the State under section 104(b)(2).

(6) TRANSFER OF OBLIGATION AUTHORITY.—

(A) IN GENERAL.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall transfer an amount, determined under subparagraph (B), of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

(B) AMOUNT.—The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying—

(i) the amount of funds transferred under subparagraph (A) to the apportionment of the State under section 402 for the fiscal year, by

(ii) the ratio that—

(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs, bears to

(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

(7) LIMITATION ON APPLICABILITY OF OBLIGATION LIMITATION .—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under this subsection to the apportionment of a State under such section.

(Added Pub. L. 105–178, title I, §1406(a), as added Pub. L. 105–206, title IX, §9005(a), July 22, 1998, 112 Stat. 845; amended Pub. L. 109–59, title I, §1401(a)(3)(C), Aug. 10, 2005, 119 Stat. 1225; Pub. L. 110–244, title I, §115, June 6, 2008, 122 Stat. 1606; Pub. L. 112–141, div. A, title I, §1403,

July 6, 2012, 126 Stat. 556; Pub. L. 114–94, div. A, title I, §§1414, 1446(a)(10), Dec. 4, 2015, 129 Stat. 1420, 1437; Pub. L. 117–58, div. A, title I, §11131(b), div. B, title IV, §24107, Nov. 15, 2021, 135 Stat. 510, 807.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 104, referred to in subsec. (b)(1), was amended generally by Pub. L. 112–141, div. A, title I, §1105(a), July 6, 2012, 126 Stat. 427. Other references to section 104 in this section were added concurrent with or subsequent to the general amendment of that section.

AMENDMENTS

2021—Subsec. (b)(1)(A). Pub. L. 117–58, §24107(1), substituted "alcohol- or multiple substance-impaired" for "alcohol-impaired".

Subsec. (b)(1)(B). Pub. L. 117–58, §24107(2), substituted "intoxicated, driving while multiple substance-impaired, or driving" for "intoxicated or driving" and "alcohol- or multiple substance-impaired" for "alcohol-impaired".

Subsec. (b)(2). Pub. L. 117–58, §11131(b)(1), substituted "2022" for "2012" in heading.

Subsec. (b)(2)(A). Pub. L. 117–58, §11131(b)(2), added subpar. (A) and struck out former subpar. (A). Prior to amendment, text read as follows: "On October 1, 2011, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall reserve an amount equal to 2.5 percent of the funds to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b) until the State certifies to the Secretary the means by which the States will use those reserved funds among the uses authorized under subparagraphs (A) and (B) of paragraph (1), and paragraph (3)."

Subsec. (b)(2)(B). Pub. L. 117–58, §11131(b)(3), substituted "subparagraph (A)(i)" for "subparagraph (A)" in introductory provisions.

2015—Subsec. (a)(1) to (4). Pub. L. 114–94, §1414(1), (2), added par. (1) and redesignated former pars. (1) to (3) as (2) to (4), respectively. Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 114–94, §1414(1), (3)(A), redesignated par. (4) as (5) and inserted "or combination of laws or programs" after "State law" in introductory provisions.

Subsec. (a)(5)(A). Pub. L. 114–94, §1414(3)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "receive—

"(i) a suspension of all driving privileges for not less than 1 year; or

"(ii) a suspension of unlimited driving privileges for 1 year, allowing for the reinstatement of limited driving privileges subject to restrictions and limited exemptions as established by State law, if an ignition interlock device is installed for not less than 1 year on each of the motor vehicles owned or operated, or both, by the individual;".

Subsec. (a)(5)(B). Pub. L. 114–94, §1414(3)(C), (D), redesignated subpar. (C) as (B) and struck out former subpar. (B), which read as follows: "be subject to the impoundment or immobilization of, or the installation of an ignition interlock system on, each motor vehicle owned or operated, or both, by the individual;".

Subsec. (a)(5)(C). Pub. L. 114–94, §1414(3)(D), redesignated subpar. (D) as (C). Former subpar. (C) redesignated (B).

Subsec. (a)(5)(C)(i)(II). Pub. L. 114–94, §1414(3)(E)(i), inserted before semicolon "(unless the State certifies that the general practice is that such an individual will be incarcerated)".

Subsec. (a)(5)(C)(ii)(II). Pub. L. 114–94, §1414(3)(E)(ii), inserted before period at end "(unless the State certifies that the general practice is that such an individual will receive 10 days of incarceration)".

Subsec. (a)(6). Pub. L. 114–94, §1414(4), added par. (6).

Subsec. (b)(3)(A). Pub. L. 114–94, §1446(a)(10)(A), substituted "reserved" for "transferred".

Subsec. (b)(5). Pub. L. 114–94, §1446(a)(10)(B), inserted "or released" after "transferred" in introductory provisions.

2012—Subsec. (a)(3). Pub. L. 112–141, §1403(a)(1), (2), redesignated par. (4) as (3) and struck out former par. (3) which defined "license suspension".

Subsec. (a)(4). Pub. L. 112–141, §1403(a)(2), (3), redesignated par. (5) as (4), added subpar. (A), and struck out former subpar. (A) which read as follows: "receive—

"(i) a driver's license suspension for not less than 1 year; or

"(ii) a combination of suspension of all driving privileges for the first 45 days of the suspension period followed by a reinstatement of limited driving privileges for the purpose of getting to and from work,

school, or an alcohol treatment program if an ignition interlock device is installed on each of the motor vehicles owned or operated, or both, by the individual;".

Former par. (4) redesignated (3).

Subsec. (a)(5). Pub. L. 112–141, §1403(a)(2), redesignated par. (5) as (4).

Subsec. (b)(2). Pub. L. 112–141, §1403(b)(1), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "On October 1, 2002, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 3 percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402 to be used or directed as described in subparagraph (A) or (B) of paragraph (1)."

Subsec. (b)(3). Pub. L. 112–141, §1403(b)(2), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: "A State may elect to use all or a portion of the funds transferred under paragraph (1) or (2) for activities eligible under section 148."

Subsec. (b)(5). Pub. L. 112–141, §1403(b)(3), added par. (5) and struck out former par. (5). Prior to amendment, text read as follows: "The amount to be transferred under paragraph (1) or (2) may be derived from one or more of the following:

"(A) The apportionment of the State under section 104(b)(1).

"(B) The apportionment of the State under section 104(b)(3).

"(C) The apportionment of the State under section 104(b)(4)."

2008—Subsec. (a)(5)(A), (B). Pub. L. 110–244 added subpars. (A) and (B) and struck out former subpars. (A) and (B) which read as follows:

"(A) receive a driver's license suspension for not less than 1 year;

"(B) be subject to the impoundment or immobilization of each of the individual's motor vehicles or the installation of an ignition interlock system on each of the motor vehicles;".

2005—Subsec. (b)(3). Pub. L. 109–59 substituted "148" for "152".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 11131(b) of Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–94, div. A, title IV, §4015, Dec. 4, 2015, 129 Stat. 1513, provided that: "Notwithstanding any other provision of this Act [div. A of Pub. L. 114–94, see Tables for classification], except for the technical corrections in section 4014 [amending sections 402, 403, and 405 of this title], the amendments made by this Act to sections 164, 402, and 405 of title 23, United States Code, shall be effective on October 1, 2016."

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE

Section effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, see section 9016 of Pub. L. 105–206, set out as an Effective Date of 1998 Amendment note under section 101 of this title.

[1] *See References in Text note below.*

§165. Territorial and Puerto Rico highway program

(a) DIVISION OF FUNDS.—Of funds made available in a fiscal year for the territorial and Puerto Rico highway program—

(1) for the Puerto Rico highway program under subsection (b)—

(A) $173,010,000 shall be for fiscal year 2022;

(B) $176,960,000 shall be for fiscal year 2023;

(C) $180,120,000 shall be for fiscal year 2024;
(D) $183,675,000 shall be for fiscal year 2025; and
(E) $187,230,000 shall be for fiscal year 2026; and

(2) for the territorial highway program under subsection (c)—
(A) $45,990,000 shall be for fiscal year 2022;
(B) $47,040,000 shall be for fiscal year 2023;
(C) $47,880,000 shall be for fiscal year 2024;
(D) $48,825,000 shall be for fiscal year 2025; and
(E) $49,770,000 shall be for fiscal year 2026.

(b) PUERTO RICO HIGHWAY PROGRAM.—
(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to the Commonwealth of Puerto Rico to carry out a highway program in the Commonwealth.
(2) TREATMENT OF FUNDS.—Amounts made available to carry out this subsection for a fiscal year shall be administered as follows:
(A) APPORTIONMENT.—
(i) IN GENERAL.—For the purpose of imposing any penalty under this title or title 49, the amounts shall be treated as being apportioned to Puerto Rico under sections 104(b) and 144 (as in effect for fiscal year 1997) for each program funded under those sections in an amount determined by multiplying—
(I) the aggregate of the amounts for the fiscal year; by
(II) the proportion that—
(aa) the amount of funds apportioned to Puerto Rico for each such program for fiscal year 1997; bears to
(bb) the total amount of funds apportioned to Puerto Rico for all such programs for fiscal year 1997.

(ii) EXCEPTION.—Funds identified under clause (i) as having been apportioned for the national highway system, the surface transportation block grant program, and the Interstate maintenance program shall be deemed to have been apportioned 50 percent for the national highway performance program and 50 percent for the surface transportation program for purposes of imposing such penalties.

(B) PENALTY.—The amounts treated as being apportioned to Puerto Rico under each section referred to in subparagraph (A) shall be deemed to be required to be apportioned to Puerto Rico under that section for purposes of the imposition of any penalty under this title or title 49.
(C) ELIGIBLE USES OF FUNDS.—Of amounts allocated to Puerto Rico for the Puerto Rico Highway Program for a fiscal year—
(i) at least 50 percent shall be available only for purposes eligible under section 119;
(ii) at least 25 percent shall be available only for purposes eligible under section 148; and
(iii) any remaining funds may be obligated for activities eligible under chapter 1 and preventative maintenance on the National Highway System.

(3) EFFECT ON APPORTIONMENTS.—Except as otherwise specifically provided, Puerto Rico shall not be eligible to receive funds apportioned to States under this title.

(c) TERRITORIAL HIGHWAY PROGRAM.—
(1) TERRITORY DEFINED.—In this subsection, the term "territory" means any of the following territories of the United States:
(A) American Samoa.

(B) The Commonwealth of the Northern Mariana Islands.
(C) Guam.
(D) The United States Virgin Islands.

(2) PROGRAM.—
(A) IN GENERAL.—Recognizing the mutual benefits that will accrue to the territories and the United States from the improvement of highways in the territories, the Secretary may carry out a program to assist each government of a territory in the construction and improvement of a system of arterial and collector highways, and necessary inter-island connectors, that is—
(i) designated by the Governor or chief executive officer of each territory; and
(ii) approved by the Secretary.

(B) FEDERAL SHARE.—The Federal share of Federal financial assistance provided to territories under this subsection shall be in accordance with section 120(g).

(3) TECHNICAL ASSISTANCE.—
(A) IN GENERAL.—To continue a long-range highway development program, the Secretary may provide technical assistance to the governments of the territories to enable the territories, on a continuing basis—
(i) to engage in highway planning;
(ii) to conduct environmental evaluations;
(iii) to administer right-of-way acquisition and relocation assistance programs; and
(iv) to design, construct, operate, and maintain a system of arterial and collector highways, including necessary inter-island connectors.

(B) FORM AND TERMS OF ASSISTANCE.—Technical assistance provided under subparagraph (A), and the terms for the sharing of information among territories receiving the technical assistance, shall be included in the agreement required by paragraph (5).

(4) NONAPPLICABILITY OF CERTAIN PROVISIONS.—
(A) IN GENERAL.—Except to the extent that provisions of this chapter are determined by the Secretary to be inconsistent with the needs of the territories and the intent of this subsection, this chapter (other than provisions of this chapter relating to the apportionment and allocation of funds) shall apply to funds made available under this subsection.
(B) APPLICABLE PROVISIONS.—The agreement required by paragraph (5) for each territory shall identify the sections of this chapter that are applicable to that territory and the extent of the applicability of those sections.

(5) AGREEMENT.—
(A) IN GENERAL.—Except as provided in subparagraph (D), none of the funds made available under this subsection shall be available for obligation or expenditure with respect to any territory until the chief executive officer of the territory has entered into an agreement (including an agreement entered into under section 215 as in effect on the day before the enactment of this section) with the Secretary providing that the government of the territory shall—
(i) implement the program in accordance with applicable provisions of this chapter and paragraph (4);
(ii) design and construct a system of arterial and collector highways, including necessary inter-island connectors, in accordance with standards that are—
(I) appropriate for each territory; and
(II) approved by the Secretary;

(iii) provide for the maintenance of facilities constructed or operated under this subsection

in a condition to adequately serve the needs of present and future traffic; and

(iv) implement standards for traffic operations and uniform traffic control devices that are approved by the Secretary.

(B) TECHNICAL ASSISTANCE.—The agreement required by subparagraph (A) shall—

(i) specify the kind of technical assistance to be provided under the program;

(ii) include appropriate provisions regarding information sharing among the territories; and

(iii) delineate the oversight role and responsibilities of the territories and the Secretary.

(C) REVIEW AND REVISION OF AGREEMENT.—The agreement entered into under subparagraph (A) shall be reevaluated and, as necessary, revised, at least every 2 years.

(D) EXISTING AGREEMENTS.—With respect to an agreement under this subsection or an agreement entered into under section 215 of this title as in effect on the day before the date of enactment of this subsection—

(i) the agreement shall continue in force until replaced by an agreement entered into in accordance with subparagraph (A); and

(ii) amounts made available under this subsection under the existing agreement shall be available for obligation or expenditure so long as the agreement, or the existing agreement entered into under subparagraph (A), is in effect.

(6) ELIGIBLE USES OF FUNDS.—

(A) IN GENERAL.—Funds made available under this subsection may be used only for the following projects and activities carried out in a territory:

(i) Eligible surface transportation block grant program projects described in section 133(b).

(ii) Cost-effective, preventive maintenance consistent with section 116(e).

(iii) Ferry boats, terminal facilities, and approaches, in accordance with subsections (b) and (c) of section 129.

(iv) Engineering and economic surveys and investigations for the planning, and the financing, of future highway programs.

(v) Studies of the economy, safety, and convenience of highway use.

(vi) The regulation and equitable taxation of highway use.

(vii) Such research and development as are necessary in connection with the planning, design, and maintenance of the highway system.

(B) PROHIBITION ON USE OF FUNDS FOR ROUTINE MAINTENANCE.—None of the funds made available under this subsection shall be obligated or expended for routine maintenance.

(7) LOCATION OF PROJECTS.—Territorial highway program projects (other than those described in paragraphs (1), (2), (3), and (5) of section 133(c) and section 133(b)(13)) may not be undertaken on roads functionally classified as local.

(Added Pub. L. 109–59, title I, §1120(a), Aug. 10, 2005, 119 Stat. 1191; amended Pub. L. 112–141, div. A, title I, §1114(a), July 6, 2012, 126 Stat. 464; Pub. L. 114–94, div. A, title I, §§1109(c)(5), 1115, 1446(a)(11), Dec. 4, 2015, 129 Stat. 1343, 1349, 1438; Pub. L. 117–58, div. A, title I, §11126, Nov. 15, 2021, 135 Stat. 506.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 215 as in effect on the day before the enactment of this section and section 215 of this title as in effect on the day before the date of enactment of this subsection, referred to in subsec. (c)(5)(A), (D), probably mean section 215 of this title as in effect on the day before the date of enactment of Pub. L. 112–141, which was approved July 6, 2012, and which amended this section generally and repealed section 215.

AMENDMENTS

2021—Subsec. (a). Pub. L. 117–58, §11126(1), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

"(1) $158,000,000 shall be for the Puerto Rico highway program under subsection (b); and

"(2) $42,000,000 shall be for the territorial highway program under subsection (c)."

Subsec. (b)(2)(C)(iii). Pub. L. 117–58, §11126(2), inserted "and preventative maintenance on the National Highway System" after "chapter 1".

Subsec. (c)(7). Pub. L. 117–58, §11126(3), substituted "paragraphs (1), (2), (3), and (5) of section 133(c) and section 133(b)(13)" for "paragraphs (1) through (4) of section 133(c) and section 133(b)(12)".

2015—Subsec. (a)(1). Pub. L. 114–94, §1115(1), substituted "$158,000,000" for "$150,000,000".

Subsec. (a)(2). Pub. L. 114–94, §1115(2), substituted "$42,000,000" for "$40,000,000".

Subsecs. (b)(2)(A)(ii), (c)(6)(A)(i). Pub. L. 114–94, §1109(c)(5), substituted "surface transportation block grant program" for "surface transportation program".

Subsec. (c)(7). Pub. L. 114–94, §1446(a)(11), substituted "paragraphs (1) through (4) of section 133(c) and section 133(b)(12)" for "paragraphs (2), (4), (7), (8), (14), and (19) of section 133(b)".

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to Puerto Rico highway program.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§166. HOV facilities

(a) IN GENERAL.—

(1) AUTHORITY OF PUBLIC AUTHORITIES.—A public authority that has jurisdiction over the operation of a HOV facility shall establish the occupancy requirements of vehicles operating on the facility.

(2) OCCUPANCY REQUIREMENT.—Except as otherwise provided by this section, no fewer than two occupants per vehicle may be required for use of a HOV facility.

(b) EXCEPTIONS.—

(1) IN GENERAL.—Notwithstanding the occupancy requirement of subsection (a)(2), the exceptions in paragraphs (2) through (5) shall apply with respect to a public authority operating a HOV facility.

(2) MOTORCYCLES AND BICYCLES.—

(A) IN GENERAL.—Subject to subparagraph (B), the public authority shall allow motorcycles and bicycles to use the HOV facility.

(B) SAFETY EXCEPTION.—

(i) IN GENERAL.—A public authority may restrict use of the HOV facility by motorcycles or bicycles (or both) if the authority certifies to the Secretary that such use would create a safety hazard and the Secretary accepts the certification.

(ii) ACCEPTANCE OF CERTIFICATION.—The Secretary may accept a certification under this subparagraph only after the Secretary publishes notice of the certification in the Federal Register and provides an opportunity for public comment.

(3) PUBLIC TRANSPORTATION VEHICLES.—The public authority may allow public transportation vehicles to use the HOV facility if the authority—

(A) establishes requirements for clearly identifying the vehicles;

(B) establishes procedures for enforcing the restrictions on the use of the facility by the vehicles; and

(C) provides equal access under the same rates, terms, and conditions for all public transportation vehicles and over-the-road buses serving the public.

(4) HIGH OCCUPANCY TOLL VEHICLES.—The public authority may allow vehicles not otherwise exempt pursuant to this subsection to use the HOV facility if the operators of the vehicles pay a toll charged by the authority for use of the facility and the authority—

(A) establishes a program that addresses how motorists can enroll and participate in the toll program;

(B) develops, manages, and maintains a system that will automatically collect the toll; and

(C) establishes policies and procedures to—

(i) manage the demand to use the facility by varying the toll amount that is charged;

(ii) enforce violations of use of the facility; and

(iii) ensure that over-the-road buses serving the public are provided access to the facility under the same rates, terms, and conditions as public transportation buses.

(5) LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—

(A) SPECIAL RULE.—Before September 30, 2025, if a public authority establishes procedures for enforcing the restrictions on the use of a HOV facility by vehicles described in clauses (i) and (ii), the public authority may allow the use of the HOV facility by—

(i) alternative fuel vehicles; and

(ii) any motor vehicle described in section 30D(d)(1) of the Internal Revenue Code of 1986.

(B) OTHER LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—Before September 30, 2019, the public authority may allow vehicles certified as low emission and energy-efficient vehicles under subsection (e), and labeled in accordance with subsection (e), to use the HOV facility if the operators of the vehicles pay a toll charged by the authority for use of the facility and the authority—

(i) establishes a program that addresses the selection of vehicles under this paragraph; and

(ii) establishes procedures for enforcing the restrictions on the use of the facility by the vehicles.

(C) AMOUNT OF TOLLS.—Under this paragraph, a public authority may charge no toll or may charge a toll that is less than or equal to tolls charged under paragraph (4).

(6) BLOOD TRANSPORT VEHICLES.—The public authority may allow blood transport vehicles that are transporting blood between a collection point and a hospital or storage center to use the HOV facility if the public authority establishes requirements for clearly identifying such vehicles.

(c) REQUIREMENTS APPLICABLE TO TOLLS.—

(1) IN GENERAL.—Notwithstanding section 301, tolls may be charged under paragraphs (4) and (5) of subsection (b), subject to the requirements of section 129.

(2) TOLL REVENUE.—Toll revenue collected under this section is subject to the requirements of section 129(a)(3).

(d) HOV FACILITY MANAGEMENT, OPERATION, MONITORING, AND

ENFORCEMENT.—

(1) IN GENERAL.—A public authority that allows vehicles to use a HOV facility under paragraph (4) or (5) of subsection (b) shall submit to the Secretary a report demonstrating that the facility is not already degraded, and that the presence of the vehicles will not cause the facility to become degraded, and certify to the Secretary that the authority will carry out the following responsibilities with respect to the facility:

(A) Establishing, managing, and supporting a performance monitoring, evaluation, and reporting program for the facility that provides for continuous monitoring, assessment, and reporting on the impacts that the vehicles may have on the operation of the facility and adjacent highways and submitting to the Secretary annual reports of those impacts.

(B) Establishing, managing, and supporting an enforcement program that ensures that the facility is being operated in accordance with the requirements of this section.

(C) Limiting or discontinuing the use of the facility by the vehicles whenever the operation of the facility is degraded.

(D) MAINTENANCE OF OPERATING PERFORMANCE.—

(i) SUBMISSION OF PLAN.—Not later than 180 days after the date on which a facility is degraded under paragraph (2), the public authority with jurisdiction over the facility shall submit to the Secretary for approval a plan that details the actions the public authority will take to make significant progress toward bringing the facility into compliance with the minimum average operating speed performance standard through changes to the operation of the facility, including—

(I) increasing the occupancy requirement for HOV lanes;

(II) varying the toll charged to vehicles allowed under subsection (b) to reduce demand;

(III) discontinuing allowing non-HOV vehicles to use HOV lanes under subsection (b); or

(IV) increasing the available capacity of the HOV facility.

(ii) NOTICE OF APPROVAL OR DISAPPROVAL.—Not later than 60 days after the date of receipt of a plan under clause (i), the Secretary shall provide to the public authority a written notice indicating whether the Secretary has approved or disapproved the plan based on a determination of whether the implementation of the plan will make significant progress toward bringing the HOV facility into compliance with the minimum average operating speed performance standard.

(iii) ANNUAL PROGRESS UPDATES.—Until the date on which the Secretary determines that the public authority has brought the HOV facility into compliance with this subsection, the public authority shall submit annual updates that describe—

(I) the actions taken to bring the HOV facility into compliance; and

(II) the progress made by those actions.

(E) COMPLIANCE.—If the public authority fails to bring a facility into compliance under subparagraph (D), the Secretary shall subject the public authority to appropriate program sanctions under section 1.36 of title 23, Code of Federal Regulations (or successor regulations), until the performance is no longer degraded.

(F) WAIVER.—

(i) IN GENERAL.—Upon the request of a public authority, the Secretary may waive the compliance requirements of subparagraph (E), if the Secretary determines that—

(I) the waiver is in the best interest of the traveling public;

(II) the public authority is meeting the conditions under subparagraph (D); and

(III) the public authority has made a good faith effort to improve the performance of the facility.

(ii) CONDITION.—The Secretary may require, as a condition of providing a waiver under this subparagraph, that a public authority take additional actions, as determined by the

Secretary, to maximize the operating speed performance of the facility, even if such performance is below the level set under paragraph (2).

(2) DEGRADED FACILITY.—

(A) DEFINITION OF MINIMUM AVERAGE OPERATING SPEED.—In this paragraph, the term "minimum average operating speed" means—

(i) 45 miles per hour, in the case of a HOV facility with a speed limit of 50 miles per hour or greater; and

(ii) not more than 10 miles per hour below the speed limit, in the case of a HOV facility with a speed limit of less than 50 miles per hour.

(B) STANDARD FOR DETERMINING DEGRADED FACILITY.—For purposes of paragraph (1), the operation of a HOV facility shall be considered to be degraded if vehicles operating on the facility are failing to maintain a minimum average operating speed 90 percent of the time over a consecutive 180-day period during morning or evening weekday peak hour periods (or both).

(C) MANAGEMENT OF LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—In managing the use of HOV lanes by low emission and energy-efficient vehicles that do not meet applicable occupancy requirements, a public authority may increase the percentages described in subsection (f)(3)(B)(i).

(e) CERTIFICATION OF LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—Not later than 180 days after the date of enactment of this section, the Administrator of the Environmental Protection Agency shall—

(1) issue a final rule establishing requirements for certification of vehicles as low emission and energy-efficient vehicles for purposes of this section and requirements for the labeling of the vehicles; and

(2) establish guidelines and procedures for making the vehicle comparisons and performance calculations described in subsection (f)(3)(B), in accordance with section 32908(b) of title 49.

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

(1) ALTERNATIVE FUEL VEHICLE.—The term "alternative fuel vehicle" means a vehicle that is solely operating on—

(A) methanol, denatured ethanol, or other alcohols;

(B) a mixture containing at least 85 percent of methanol, denatured ethanol, and other alcohols by volume with gasoline or other fuels;

(C) natural gas;

(D) liquefied petroleum gas;

(E) hydrogen;

(F) coal derived liquid fuels;

(G) fuels (except alcohol) derived from biological materials;

(H) electricity (including electricity from solar energy); or

(I) any other fuel that the Secretary prescribes by regulation that is not substantially petroleum and that would yield substantial energy security and environmental benefits, including fuels regulated under section 490 of title 10, Code of Federal Regulations (or successor regulations).

(2) HOV FACILITY.—The term "HOV facility" means a high occupancy vehicle facility.

(3) LOW EMISSION AND ENERGY-EFFICIENT VEHICLE.—The term "low emission and energy-efficient vehicle" means a vehicle that—

(A) has been certified by the Administrator as meeting the Tier II emission level established in regulations prescribed by the Administrator under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model year vehicle; and

(B)(i) is certified by the Administrator of the Environmental Protection Agency, in consultation with the manufacturer, to have achieved not less than a 50-percent increase in city fuel economy or not less than a 25-percent increase in combined city-highway fuel economy (or such greater percentage of city or city-highway fuel economy as may be determined by a State under subsection (d)(2)(C)) relative to a comparable vehicle that is an internal combustion gasoline fueled vehicle (other than a vehicle that has propulsion energy from onboard hybrid sources); or

(ii) is an alternative fuel vehicle.

(4) OVER-THE-ROAD BUS.—The term "over-the-road bus" has the meaning given the term in section 301 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181).

(5) PUBLIC AUTHORITY.—The term "public authority" as used with respect to a HOV facility, means a State, interstate compact of States, public entity designated by a State, or local government having jurisdiction over the operation of the facility.

(6) PUBLIC TRANSPORTATION VEHICLE.—The term "public transportation vehicle" means a vehicle that—

(A) provides designated public transportation (as defined in section 221 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12141) or provides public school transportation (to and from public or private primary, secondary, or tertiary schools); and

(B)(i) is owned or operated by a public entity;

(ii) is operated under a contract with a public entity; or

(iii) is operated pursuant to a license by the Secretary or a public authority to provide motorbus or school vehicle transportation services to the public.

(g) CONSULTATION OF MPO.—If a HOV facility charging tolls under paragraph (4) or (5) of subsection (b) is on the Interstate System and located in a metropolitan planning area established in accordance with section 134, the public authority shall consult with the metropolitan planning organization for the area concerning the placement and amount of tolls on the facility.

(Added Pub. L. 109–59, title I, §1121(a), Aug. 10, 2005, 119 Stat. 1192; amended Pub. L. 110–244, title I, §101(p), June 6, 2008, 122 Stat. 1576; Pub. L. 112–141, div. A, title I, §1514, July 6, 2012, 126 Stat. 572; Pub. L. 114–94, div. A, title I, §1411(b), Dec. 4, 2015, 129 Stat. 1413; Pub. L. 117–58, div. A, title I, §§11525(k), 11527, Nov. 15, 2021, 135 Stat. 607, 610.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 30D(d)(1) of the Internal Revenue Code of 1986, referred to in subsec. (b)(5)(A)(ii), is classified to section 30D(d)(1) of Title 26, Internal Revenue Code.

The date of enactment of this section, referred to in subsec. (e), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

AMENDMENTS

2021—Subsec. (a)(1). Pub. L. 117–58, §11525(k), made technical amendment to style of par. heading.

Subsec. (b)(6). Pub. L. 117–58, §11527, added par. (6).

2015—Pub. L. 114–94, §1411(b)(1), substituted "the authority" for "the agency" wherever appearing.

Subsec. (a)(1). Pub. L. 114–94, §1411(b)(2), substituted "authority of public authorities" for "Authority of state agencies" in heading and "public authority" for "State agency" in text.

Subsec. (b). Pub. L. 114–94, §1411(b)(3)(A), substituted "public authority" for "State agency" wherever appearing.

Subsec. (b)(3)(C). Pub. L. 114–94, §1411(b)(3)(B), added subpar. (C).

Subsec. (b)(4)(C)(iii). Pub. L. 114–94, §1411(b)(3)(C), added cl. (iii).

Subsec. (b)(5)(A). Pub. L. 114–94, §1411(b)(3)(D)(i), added subpar. (A) and struck out former subpar. (A). Prior to amendment, text read as follows: "Before September 30, 2017, the State agency may allow vehicles that are certified as inherently low-emission vehicles pursuant to section 88.311–93 of title 40, Code of Federal Regulations (or successor regulations), and are labeled in accordance with section 88.312–93 of such

title (or successor regulations), to use the HOV facility if the agency establishes procedures for enforcing the restrictions on the use of the facility by the vehicles."

Subsec. (b)(5)(B). Pub. L. 114–94, §1411(b)(3)(D)(ii), substituted "2019" for "2017" in introductory provisions.

Subsec. (c)(1). Pub. L. 114–94, §1411(b)(4)(A), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: "Tolls may be charged under paragraphs (4) and (5) of subsection (b) notwithstanding section 301 and, except as provided in paragraphs (2) and (3), subject to the requirements of section 129."

Subsec. (c)(2), (3). Pub. L. 114–94, §1411(b)(4)(B), redesignated par. (3) as (2) and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: "Notwithstanding section 129, tolls may be charged under paragraphs (4) and (5) of subsection (b) on a HOV facility on the Interstate System."

Subsec. (d)(1). Pub. L. 114–94, §1411(b)(5)(A), substituted "public authority" for "State agency" in introductory provisions.

Subsec. (d)(1)(D) to (F). Pub. L. 114–94, §1411(b)(5)(B), added subpars. (D) to (F) and struck out former subpars. (D) and (E), which related to maintenance of operating performance and compliance, respectively.

Subsec. (d)(2)(C). Pub. L. 114–94, §1411(b)(5)(A), substituted "public authority" for "State agency".

Subsec. (f)(1). Pub. L. 114–94, §1411(b)(6)(A), inserted "solely" before "operating" in introductory provisions.

Subsec. (f)(4). Pub. L. 114–94, §1411(b)(6)(E), added par. (4). Former par. (4) redesignated (6).

Subsec. (f)(4)(B)(iii). Pub. L. 114–94, §1411(b)(6)(B), substituted "public authority" for "State agency".

Subsec. (f)(5). Pub. L. 114–94, §1411(b)(6)(C), (E), added par. (5) and struck out former par. (5). Prior to amendment, text read as follows:

"(A) IN GENERAL.—The term 'State agency', as used with respect to a HOV facility, means an agency of a State or local government having jurisdiction over the operation of the facility.

"(B) INCLUSION.—The term 'State agency' includes a State transportation department."

Subsec. (f)(6). Pub. L. 114–94, §1411(b)(6)(D), redesignated par. (4) as (6).

Subsec. (g). Pub. L. 114–94, §1411(b)(7), added subsec. (g).

2012—Subsec. (b)(5)(A), (B). Pub. L. 112–141, §1514(1)(A), (B), substituted "2017" for "2009".

Subsec. (b)(5)(C). Pub. L. 112–141, §1514(1)(C), substituted "this paragraph" for "subparagraph (B)" and inserted "or equal to" after "less than".

Subsec. (c)(3). Pub. L. 112–141, §1514(2), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: "If a State agency makes a certification under section 129(a)(3) with respect to toll revenues collected under paragraphs (4) and (5) of subsection (b), the State, in the use of toll revenues under that sentence, shall give priority consideration to projects for developing alternatives to single occupancy vehicle travel and projects for improving highway safety."

Subsec. (d)(1). Pub. L. 112–141, §1514(3)(A), in introductory provisions, substituted "shall submit to the Secretary a report demonstrating that the facility is not already degraded, and that the presence of the vehicles will not cause the facility to become degraded, and certify" for "in a fiscal year shall certify" and struck out "in the fiscal year" before the colon.

Subsec. (d)(1)(A). Pub. L. 112–141, §1514(3)(B), inserted "and submitting to the Secretary annual reports of those impacts" before period at end.

Subsec. (d)(1)(C). Pub. L. 112–141, §1514(3)(C), substituted "whenever the operation of the facility is degraded" for "if the presence of the vehicles has degraded the operation of the facility".

Subsec. (d)(1)(D), (E). Pub. L. 112–141, §1514(3)(D), added subpars. (D) and (E).

2008—Subsec. (b)(5)(C). Pub. L. 110–244 substituted "paragraph (4)" for "paragraph (3)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an

Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§167. National highway freight program

(a) IN GENERAL.—

(1) POLICY.—It is the policy of the United States to improve the condition and performance of the National Highway Freight Network established under this section to ensure that the Network provides the foundation for the United States to compete in the global economy and achieve the goals described in subsection (b).

(2) ESTABLISHMENT.—In support of the goals described in subsection (b), the Administrator of the Federal Highway Administration shall establish a national highway freight program in accordance with this section to improve the efficient movement of freight on the National Highway Freight Network.

(b) GOALS.—The goals of the national highway freight program are—

(1) to invest in infrastructure improvements and to implement operational improvements on the highways of the United States that—

(A) strengthen the contribution of the National Highway Freight Network to the economic competitiveness of the United States;

(B) reduce congestion and bottlenecks on the National Highway Freight Network;

(C) reduce the cost of freight transportation;

(D) improve the year-round reliability of freight transportation; and

(E) increase productivity, particularly for domestic industries and businesses that create high-value jobs;

(2) to improve the safety, security, efficiency, and resiliency of freight transportation in rural and urban areas;

(3) to improve the state of good repair of the National Highway Freight Network;

(4) to use innovation and advanced technology to improve the safety, efficiency, and reliability of the National Highway Freight Network;

(5) to improve the efficiency and productivity of the National Highway Freight Network;

(6) to improve the flexibility of States to support multi-State corridor planning and the creation of multi-State organizations to increase the ability of States to address highway freight connectivity; and

(7) to reduce the environmental impacts of freight movement on the National Highway Freight Network.

(c) ESTABLISHMENT OF NATIONAL HIGHWAY FREIGHT NETWORK.—

(1) IN GENERAL.—The Administrator shall establish a National Highway Freight Network in accordance with this section to strategically direct Federal resources and policies toward improved performance of the Network.

(2) NETWORK COMPONENTS.—The National Highway Freight Network shall consist of—

(A) the primary highway freight system, as designated under subsection (d);

(B) critical rural freight corridors established under subsection (e);

(C) critical urban freight corridors established under subsection (f); and

(D) the portions of the Interstate System not designated as part of the primary highway freight system.

(d) DESIGNATION AND REDESIGNATION OF THE PRIMARY HIGHWAY FREIGHT SYSTEM.—

(1) INITIAL DESIGNATION OF PRIMARY HIGHWAY FREIGHT SYSTEM.—The initial designation of the primary highway freight system shall be the 41,518-mile network identified during the designation process for the primary freight network under section 167(d) of this title, as

in effect on the day before the date of enactment of the FAST Act.

(2) REDESIGNATION OF PRIMARY HIGHWAY FREIGHT SYSTEM.—

(A) IN GENERAL.—Beginning 5 years after the date of enactment of the FAST Act, and every 5 years thereafter, using the designation factors described in subparagraph (E), the Administrator shall redesignate the primary highway freight system.

(B) REDESIGNATION MILEAGE.—Each redesignation may increase the mileage on the primary highway freight system by not more than 3 percent of the total mileage of the system.

(C) USE OF MEASURABLE DATA.—In redesignating the primary highway freight system, to the maximum extent practicable, the Administrator shall use measurable data to assess the significance of goods movement, including consideration of points of origin, destinations, and linking components of the United States global and domestic supply chains.

(D) INPUT.—In redesignating the primary highway freight system, the Administrator shall provide an opportunity for State freight advisory committees, as applicable, to submit additional miles for consideration.

(E) FACTORS FOR REDESIGNATION.—In redesignating the primary highway freight system, the Administrator shall consider—

(i) changes in the origins and destinations of freight movement in, to, and from the United States;

(ii) changes in the percentage of annual daily truck traffic in the annual average daily traffic on principal arterials;

(iii) changes in the location of key facilities;

(iv) land and water ports of entry;

(v) access to energy exploration, development, installation, or production areas;

(vi) access to other freight intermodal facilities, including rail, air, water, and pipelines facilities;

(vii) the total freight tonnage and value moved via highways;

(viii) significant freight bottlenecks, as identified by the Administrator;

(ix) the significance of goods movement on principal arterials, including consideration of global and domestic supply chains;

(x) critical emerging freight corridors and critical commerce corridors; and

(xi) network connectivity.

(e) CRITICAL RURAL FREIGHT CORRIDORS.—

(1) IN GENERAL.—A State may designate a public road within the borders of the State as a critical rural freight corridor if the public road is not in an urbanized area and—

(A) is a rural principal arterial roadway and has a minimum of 25 percent of the annual average daily traffic of the road measured in passenger vehicle equivalent units from trucks (Federal Highway Administration vehicle class 8 to 13);

(B) provides access to energy exploration, development, installation, or production areas;

(C) connects the primary highway freight system, a roadway described in subparagraph (A) or (B), or the Interstate System to facilities that handle more than—

(i) 50,000 20-foot equivalent units per year; or

(ii) 500,000 tons per year of bulk commodities;

(D) provides access to—

(i) a grain elevator;

(ii) an agricultural facility;

(iii) a mining facility;

(iv) a forestry facility; or

(v) an intermodal facility;

(E) connects to an international port of entry;

(F) provides access to significant air, rail, water, or other freight facilities in the State; or

(G) is, in the determination of the State, vital to improving the efficient movement of freight of importance to the economy of the State.

(2) LIMITATION.—A State may designate as critical rural freight corridors a maximum of 300 miles of highway or 20 percent of the primary highway freight system mileage in the State, whichever is greater.

(3) RURAL STATES.—Notwithstanding paragraph (2), a State with a population per square mile of area that is less than the national average, based on the 2010 census, may designate as critical rural freight corridors a maximum of 600 miles of highway or 25 percent of the primary highway freight system mileage in the State, whichever is greater.

(f) CRITICAL URBAN FREIGHT CORRIDORS.—

(1) URBANIZED AREA WITH POPULATION OF 500,000 OR MORE.—In an urbanized area with a population of 500,000 or more individuals, the representative metropolitan planning organization, in consultation with the State, may designate a public road within the borders of that area of the State as a critical urban freight corridor.

(2) URBANIZED AREA WITH A POPULATION LESS THAN 500,000.—In an urbanized area with a population of less than 500,000 individuals, the State, in consultation with the representative metropolitan planning organization, may designate a public road within the borders of that area of the State as a critical urban freight corridor.

(3) REQUIREMENTS FOR DESIGNATION.—A designation may be made under paragraph (1) or (2) if the public road—

(A) is in an urbanized area, regardless of population; and

(B)(i) connects an intermodal facility to—

(I) the primary highway freight system;

(II) the Interstate System; or

(III) an intermodal freight facility;

(ii) is located within a corridor of a route on the primary highway freight system and provides an alternative highway option important to goods movement;

(iii) serves a major freight generator, logistic center, or manufacturing and warehouse industrial land; or

(iv) is important to the movement of freight within the region, as determined by the metropolitan planning organization or the State.

(4) LIMITATION.—For each State, a maximum of 150 miles of highway or 10 percent of the primary highway freight system mileage in the State, whichever is greater, may be designated as a critical urban freight corridor under paragraphs (1) and (2).

(g) DESIGNATION AND CERTIFICATION.—

(1) DESIGNATION.—States and metropolitan planning organizations may designate corridors under subsections (e) and (f) and submit the designated corridors to the Administrator on a rolling basis.

(2) CERTIFICATION.—Each State or metropolitan planning organization that designates a corridor under subsection (e) or (f) shall certify to the Administrator that the designated corridor meets the requirements of the applicable subsection.

(h) USE OF APPORTIONED FUNDS.—

(1) IN GENERAL.—A State shall obligate funds apportioned to the State under section 104(b)(5) to improve the movement of freight on the National Highway Freight Network.

(2) FORMULA.—The Administrator shall calculate for each State the proportion that—

(A) the total mileage in the State designated as part of the primary highway freight system; bears to

(B) the total mileage of the primary highway freight system in all States.

(3) USE OF FUNDS.—

(A) STATES WITH HIGH PRIMARY HIGHWAY FREIGHT SYSTEM MILEAGE.—If the proportion of a State under paragraph (2) is greater than or equal to 2 percent, the State may obligate funds apportioned to the State under section 104(b)(5) for projects on—

(i) the primary highway freight system;

(ii) critical rural freight corridors; and

(iii) critical urban freight corridors.

(B) STATES WITH LOW PRIMARY HIGHWAY FREIGHT SYSTEM MILEAGE.—If the proportion of a State under paragraph (2) is less than 2 percent, the State may obligate funds apportioned to the State under section 104(b)(5) for projects on any component of the National Highway Freight Network.

(4) FREIGHT PLANNING.—Notwithstanding any other provision of law, effective beginning 2 years after the date of enactment of the FAST Act, a State may not obligate funds apportioned to the State under section 104(b)(5) unless the State has developed a freight plan in accordance with section 70202 of title 49, except that the multimodal component of the plan may be incomplete before an obligation may be made under this section.

(5) ELIGIBILITY.—

(A) IN GENERAL.—Except as provided in this subsection, for a project to be eligible for funding under this section the project shall—

(i) contribute to the efficient movement of freight on the National Highway Freight Network; and

(ii) be identified in a freight investment plan included in a freight plan of the State that is in effect.

(B) OTHER PROJECTS.—For each fiscal year, a State may obligate not more than 30 percent of the total apportionment of the State under section 104(b)(5) for freight intermodal or freight rail projects, including projects—

(i) within the boundaries of public or private freight rail or water facilities (including ports);

(ii) that provide surface transportation infrastructure necessary to facilitate direct intermodal interchange, transfer, and access into or out of the facility;

(iii) for the modernization or rehabilitation of a lock and dam, if the Secretary determines that the project—

(I) is functionally connected to the National Highway Freight Network; and

(II) is likely to reduce on-road mobile source emissions; and

(iv) on a marine highway corridor, connector, or crossing designated by the Secretary under section 55601(c) of title 46 (including an inland waterway corridor, connector, or crossing), if the Secretary determines that the project—

(I) is functionally connected to the National Highway Freight Network; and

(II) is likely to reduce on-road mobile source emissions.

(C) ELIGIBLE PROJECTS.—Funds apportioned to the State under section 104(b)(5) for the national highway freight program may be obligated to carry out 1 or more of the following:

(i) Development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities.

(ii) Construction, reconstruction, rehabilitation, acquisition of real property (including land relating to the project and improvements to land), construction contingencies, acquisition of

equipment, and operational improvements directly relating to improving system performance.

(iii) Intelligent transportation systems and other technology to improve the flow of freight, including intelligent freight transportation systems.

(iv) Efforts to reduce the environmental impacts of freight movement.

(v) Environmental and community mitigation for freight movement.

(vi) Railway-highway grade separation.

(vii) Geometric improvements to interchanges and ramps.

(viii) Truck-only lanes.

(ix) Climbing and runaway truck lanes.

(x) Adding or widening of shoulders.

(xi) Truck parking facilities eligible for funding under section 1401 of MAP–21 (23 U.S.C. 137 note).

(xii) Real-time traffic, truck parking, roadway condition, and multimodal transportation information systems.

(xiii) Electronic screening and credentialing systems for vehicles, including weigh-in-motion truck inspection technologies.

(xiv) Traffic signal optimization, including synchronized and adaptive signals.

(xv) Work zone management and information systems.

(xvi) Highway ramp metering.

(xvii) Electronic cargo and border security technologies that improve truck freight movement.

(xviii) Intelligent transportation systems that would increase truck freight efficiencies inside the boundaries of intermodal facilities.

(xix) Additional road capacity to address highway freight bottlenecks.

(xx) Physical separation of passenger vehicles from commercial motor freight.

(xxi) Enhancement of the resiliency of critical highway infrastructure, including highway infrastructure that supports national energy security, to improve the flow of freight.

(xxii) A highway or bridge project, other than a project described in clauses (i) through (xxi), to improve the flow of freight on the National Highway Freight Network.

(xxiii) Any other surface transportation project to improve the flow of freight into and out of a facility described in subparagraph (B).

(6) OTHER ELIGIBLE COSTS.—In addition to the eligible projects identified in paragraph (5), a State may use funds apportioned under section 104(b)(5) for—

(A) carrying out diesel retrofit or alternative fuel projects under section 149 for class 8 vehicles; and

(B) the necessary costs of—

(i) conducting analyses and data collection related to the national highway freight program;

(ii) developing and updating performance targets to carry out this section; and

(iii) reporting to the Administrator to comply with the freight performance target under section 150.

(7) APPLICABILITY OF PLANNING REQUIREMENTS.—Programming and expenditure of funds for projects under this section shall be consistent with the requirements of sections 134 and 135.

(i) STATE PERFORMANCE TARGETS.—If the Administrator determines that a State has not met or made significant progress toward meeting the performance targets related to freight movement of the State established under section 150(d) by the date that is 2 years after the date of the establishment of the performance targets, the State shall include in the next report submitted under section 150(e) a description of the actions the State will undertake to achieve the targets, including—

(1) an identification of significant freight system trends, needs, and issues within the State;

(2) a description of the freight policies and strategies that will guide the freight-related transportation investments of the State;

(3) an inventory of freight bottlenecks within the State and a description of the ways in which the State is allocating national highway freight program funds to improve those bottlenecks; and

(4) a description of the actions the State will undertake to meet the performance targets of the State.

(j) INTELLIGENT FREIGHT TRANSPORTATION SYSTEM.—

(1) DEFINITION OF INTELLIGENT FREIGHT TRANSPORTATION SYSTEM.—In this section, the term "intelligent freight transportation system" means—

(A) innovative or intelligent technological transportation systems, infrastructure, or facilities, including elevated freight transportation facilities—

(i) in proximity to, or within, an existing right of way on a Federal-aid highway; or

(ii) that connect land ports-of entry [1] to existing Federal-aid highways; or

(B) communications or information processing systems that improve the efficiency, security, or safety of freight movements on the Federal-aid highway system, including to improve the conveyance of freight on dedicated intelligent freight lanes.

(2) OPERATING STANDARDS.—The Administrator shall determine whether there is a need for establishing operating standards for intelligent freight transportation systems.

(k) TREATMENT OF FREIGHT PROJECTS.—Notwithstanding any other provision of law, a freight project carried out under this section shall be treated as if the project were on a Federal-aid highway.

(Added Pub. L. 112–141, div. A, title I, §1115(a), July 6, 2012, 126 Stat. 468; amended Pub. L. 114–94, div. A, title I, §1116(a), Dec. 4, 2015, 129 Stat. 1349; Pub. L. 117–58, div. A, title I, §11114, title III, §13006(f), Nov. 15, 2021, 135 Stat. 479, 639.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the FAST Act, referred to in subsecs. (d)(1), (2)(A) and (h)(4), is the date of enactment of Pub. L. 114–94, which was approved Dec. 4, 2015.

AMENDMENTS

2021—Subsec. (e)(2). Pub. L. 117–58, §11114(1)(A), substituted "300 miles" for "150 miles".

Subsec. (e)(3). Pub. L. 117–58, §11114(1)(B), added par. (3).

Subsec. (f)(4). Pub. L. 117–58, §11114(2), substituted "150 miles" for "75 miles".

Subsecs. (h), (i). Pub. L. 117–58, §13006(f), redesignated subsecs. (i) and (j) as (h) and (i), respectively, and struck out former subsec. (h). Prior to amendment, text of subsec. (h) read as follows: "Not later than 2 years after the date of enactment of the FAST Act, and biennially thereafter, the Administrator shall prepare and submit to Congress a report that describes the conditions and performance of the National Highway Freight Network in the United States."

Subsec. (i)(5)(B). Pub. L. 117–58, §11114(3)(A), substituted "30 percent" for "10 percent" in introductory provisions.

Subsec. (i)(5)(B)(iii), (iv). Pub. L. 117–58, §11114(3)(B)–(D), added cls. (iii) and (iv).

Subsecs. (j) to (l). Pub. L. 117–58, §13006(f)(2), redesignated subsecs. (j) to (l) as (i) to (k), respectively.

2015—Pub. L. 114–94 amended section generally. Prior to amendment, section related to national freight policy.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

FREIGHT MOVEMENT PROJECTS, ADVISORY COMMITTEES, AND PLANS

Pub. L. 112–141, div. A, title I, §§1116–1118, July 6, 2012, 126 Stat. 472, 473, which related to prioritization of projects to improve freight movement, State freight advisory committees, and State freight plans, was repealed by Pub. L. 114–94, div. A, title I, §1116(c), Dec. 4, 2015, 129 Stat. 1356.

[1] *So in original.*

§168. Integration of planning and environmental review

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

(1) ENVIRONMENTAL REVIEW PROCESS.—The term "environmental review process" has the meaning given the term in section 139(a).

(2) LEAD AGENCY.—The term "lead agency" has the meaning given the term in section 139(a).

(3) PLANNING PRODUCT.—The term "planning product" means a decision, analysis, study, or other documented information that is the result of an evaluation or decisionmaking process carried out by a metropolitan planning organization or a State, as appropriate, during metropolitan or statewide transportation planning under section 134 or 135, respectively.

(4) PROJECT.—The term "project" has the meaning given the term in section 139(a).

(5) PROJECT SPONSOR.—The term "project sponsor" has the meaning given the term in section 139(a).

(6) RELEVANT AGENCY.—The term "relevant agency" means the agency with authority under subparagraph (A) or (B) of subsection (b)(1).

(b) ADOPTION OR INCORPORATION BY REFERENCE OF PLANNING PRODUCTS FOR USE IN NEPA PROCEEDINGS.—

(1) IN GENERAL.—Subject to subsection (d) and to the maximum extent practicable and appropriate, the following agencies may adopt or incorporate by reference and use a planning product in proceedings relating to any class of action in the environmental review process of the project:

(A) The lead agency for a project, with respect to an environmental impact statement, environmental assessment, categorical exclusion, or other document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) The cooperating agency with responsibility under Federal law, with respect to the process for and completion of any environmental permit, approval, review, or study required for a project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if consistent with that law.

(2) IDENTIFICATION.—If the relevant agency makes a determination to adopt or incorporate by reference and use a planning product, the relevant agency shall identify the agencies that participated in the development of the planning products.

(3) ADOPTION OR INCORPORATION BY REFERENCE OF PLANNING PRODUCTS .—The relevant agency may—

(A) adopt or incorporate by reference an entire planning product under paragraph (1); or

(B) select portions of a planning project under paragraph (1) for adoption or incorporation by reference.

(4) TIMING.—A determination under paragraph (1) with respect to the adoption or incorporation by reference of a planning product may—

(A) be made at the time the relevant agencies decide the appropriate scope of environmental review for the project; or

(B) occur later in the environmental review process, as appropriate.

(c) APPLICABILITY.—

(1) PLANNING DECISIONS.—The relevant agency in the environmental review process may adopt or incorporate by reference decisions from a planning product, including—

(A) whether tolling, private financial assistance, or other special financial measures are necessary to implement the project;

(B) a decision with respect to general travel corridor or modal choice, including a decision to implement corridor or subarea study recommendations to advance different modal solutions as separate projects with independent utility;

(C) the purpose and the need for the proposed action;

(D) preliminary screening of alternatives and elimination of unreasonable alternatives;

(E) a basic description of the environmental setting;

(F) a decision with respect to methodologies for analysis; and

(G) an identification of programmatic level mitigation for potential impacts of a project, including a programmatic mitigation plan developed in accordance with section 169, that the relevant agency determines are more effectively addressed on a national or regional scale, including—

(i) measures to avoid, minimize, and mitigate impacts at a national or regional scale of proposed transportation investments on environmental resources, including regional ecosystem and water resources; and

(ii) potential mitigation activities, locations, and investments.

(2) PLANNING ANALYSES.—The relevant agency in the environmental review process may adopt or incorporate by reference analyses from a planning product, including—

(A) travel demands;

(B) regional development and growth;

(C) local land use, growth management, and development;

(D) population and employment;

(E) natural and built environmental conditions;

(F) environmental resources and environmentally sensitive areas;

(G) potential environmental effects, including the identification of resources of concern and potential direct, indirect, and cumulative effects on those resources; and

(H) mitigation needs for a proposed project, or for programmatic level mitigation, for potential effects that the lead agency determines are most effectively addressed at a regional or national program level.

(d) CONDITIONS.—The relevant agency in the environmental review process may adopt or incorporate by reference a planning product under this section if the relevant agency determines, with the concurrence of the lead agency and, if the planning product is necessary for a cooperating agency to issue a permit, review, or approval for the project, with the concurrence of the cooperating agency, that the following conditions have been met:

(1) The planning product was developed through a planning process conducted pursuant to applicable Federal law.

(2) The planning product was developed in consultation with appropriate Federal and State

resource agencies and Indian tribes.

(3) The planning process included broad multidisciplinary consideration of systems-level or corridor-wide transportation needs and potential effects, including effects on the human and natural environment.

(4) The planning process included public notice that the planning products produced in the planning process may be adopted during a subsequent environmental review process in accordance with this section.

(5) During the environmental review process, the relevant agency has—

(A) made the planning documents available for public review and comment by members of the general public and Federal, State, local, and tribal governments that may have an interest in the proposed project;

(B) provided notice of the intention of the relevant agency to adopt or incorporate by reference the planning product; and

(C) considered any resulting comments.

(6) There is no significant new information or new circumstance that has a reasonable likelihood of affecting the continued validity or appropriateness of the planning product.

(7) The planning product has a rational basis and is based on reliable and reasonably current data and reasonable and scientifically acceptable methodologies.

(8) The planning product is documented in sufficient detail to support the decision or the results of the analysis and to meet requirements for use of the information in the environmental review process.

(9) The planning product is appropriate for adoption or incorporation by reference and use in the environmental review process for the project and is incorporated in accordance with, and is sufficient to meet the requirements of, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and section 1502.21 of title 40, Code of Federal Regulations (as in effect on the date of enactment of the FAST Act).

(10) The planning product was approved within the 5-year period ending on the date on which the information is adopted or incorporated by reference.

(e) EFFECT OF ADOPTION OR INCORPORATION BY REFERENCE.—Any planning product adopted or incorporated by reference by the relevant agency in accordance with this section may be—

(1) incorporated directly into an environmental review process document or other environmental document; and

(2) relied on and used by other Federal agencies in carrying out reviews of the project.

(f) RULES OF CONSTRUCTION.—

(1) IN GENERAL.—This section does not make the environmental review process applicable to the transportation planning process conducted under this title and chapter 53 of title 49.

(2) TRANSPORTATION PLANNING ACTIVITIES.—Initiation of the environmental review process as a part of, or concurrently with, transportation planning activities does not subject transportation plans and programs to the environmental review process.

(3) PLANNING PRODUCTS.—This section does not affect the use of planning products in the environmental review process pursuant to other authorities under any other provision of law or restrict the initiation of the environmental review process during planning.

(Added Pub. L. 112–141, div. A, title I, §1310(a), July 6, 2012, 126 Stat. 540; amended Pub. L. 114–94, div. A, title I, §1305, Dec. 4, 2015, 129 Stat. 1386.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (b)(1) and (d)(9), is Pub. L. 91–190,

Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The date of enactment of the FAST Act, referred to in subsec. (d)(9), is the date of enactment of Pub. L. 114–94, which was approved Dec. 4, 2015.

AMENDMENTS

2015—Pub. L. 114–94 amended section generally. Prior to amendment, section related to integration of planning and environmental review.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§169. Development of programmatic mitigation plans

(a) IN GENERAL.—As part of the statewide or metropolitan transportation planning process, a State or metropolitan planning organization may develop 1 or more programmatic mitigation plans to address the potential environmental impacts of future transportation projects.

(b) SCOPE.—

(1) SCALE.—A programmatic mitigation plan may be developed on a regional, ecosystem, watershed, or statewide scale.

(2) RESOURCES.—The plan may encompass multiple environmental resources within a defined geographic area or may focus on a specific resource, such as aquatic resources, parkland, or wildlife habitat.

(3) PROJECT IMPACTS.—The plan may address impacts from all projects in a defined geographic area or may focus on a specific type of project.

(4) CONSULTATION.—The scope of the plan shall be determined by the State or metropolitan planning organization, as appropriate, in consultation with the agency or agencies with jurisdiction over the resources being addressed in the mitigation plan.

(c) CONTENTS.—A programmatic mitigation plan may include—

(1) an assessment of the condition of environmental resources in the geographic area covered by the plan, including an assessment of recent trends and any potential threats to those resources;

(2) an assessment of potential opportunities to improve the overall quality of environmental resources in the geographic area covered by the plan, through strategic mitigation for impacts of transportation projects;

(3) standard measures for mitigating certain types of impacts;

(4) parameters for determining appropriate mitigation for certain types of impacts, such as mitigation ratios or criteria for determining appropriate mitigation sites;

(5) adaptive management procedures, such as protocols that involve monitoring predicted impacts over time and adjusting mitigation measures in response to information gathered through the monitoring; and

(6) acknowledgment of specific statutory or regulatory requirements that must be satisfied when determining appropriate mitigation for certain types of resources.

(d) PROCESS.—Before adopting a programmatic mitigation plan, a State or metropolitan planning organization shall—

(1) consult with each agency with jurisdiction over the environmental resources considered in the programmatic mitigation plan;

(2) make a draft of the plan available for review and comment by applicable environmental resource agencies and the public;

(3) consider any comments received from such agencies and the public on the draft plan; and

(4) address such comments in the final plan.

(e) INTEGRATION WITH OTHER PLANS.—A programmatic mitigation plan may be integrated with other plans, including watershed plans, ecosystem plans, species recovery plans, growth management plans, and land use plans.

(f) CONSIDERATION IN PROJECT DEVELOPMENT AND PERMITTING.—If a programmatic mitigation plan has been developed pursuant to this section, any Federal agency responsible for environmental reviews, permits, or approvals for a transportation project shall give substantial weight to the recommendations in a programmatic mitigation plan when carrying out the responsibilities under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or other Federal environmental law.

(g) PRESERVATION OF EXISTING AUTHORITIES.—Nothing in this section limits the use of programmatic approaches to reviews under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(Added Pub. L. 112–141, div. A, title I, §1311(a), July 6, 2012, 126 Stat. 543; amended Pub. L. 114–94, div. A, title I, §1306, Dec. 4, 2015, 129 Stat. 1389.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (f) and (g), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2015—Subsec. (f). Pub. L. 114–94 substituted "shall give substantial weight to" for "may use" and inserted "or other Federal environmental law" before period at end.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§170. Funding flexibility for transportation emergencies

(a) IN GENERAL.—Notwithstanding any other provision of law, a State may use up to 100 percent of any covered funds of the State to repair or replace a transportation facility that has suffered serious damage as a result of a natural disaster or catastrophic failure from an external cause.

(b) DECLARATION OF EMERGENCY.—Funds may be used under this section only for a disaster or emergency declared by the President pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(c) REPAYMENT.—Funds used under subsection (a) shall be repaid to the program from which

the funds were taken in the event that such repairs or replacement are subsequently covered by a supplemental appropriation of funds.

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

(1) COVERED FUNDS.—The term "covered funds" means any amounts apportioned to a State under section 104(b), other than amounts suballocated to metropolitan areas and other areas of the State under section 133(d), but including any such amounts required to be set aside for a purpose other than the repair or replacement of a transportation facility under this section.

(2) TRANSPORTATION FACILITY.—The term "transportation facility" means any facility eligible for assistance under section 125.

(Added Pub. L. 112–141, div. A, title I, §1515(a), July 6, 2012, 126 Stat. 573.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (b), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§171. Wildlife crossings pilot program

(a) FINDING.—Congress finds that greater adoption of wildlife-vehicle collision safety countermeasures is in the public interest because—

(1) according to the report of the Federal Highway Administration entitled "Wildlife-Vehicle Collision Reduction Study", there are more than 1,000,000 wildlife-vehicle collisions every year;

(2) wildlife-vehicle collisions—

(A) present a danger to—

(i) human safety; and

(ii) wildlife survival; and

(B) represent a persistent concern that results in tens of thousands of serious injuries and hundreds of fatalities on the roadways of the United States; and

(3) the total annual cost associated with wildlife-vehicle collisions has been estimated to be $8,388,000,000; and

(4) wildlife-vehicle collisions are a major threat to the survival of species, including birds, reptiles, mammals, and amphibians.

(b) ESTABLISHMENT.—The Secretary shall establish a competitive wildlife crossings pilot program (referred to in this section as the "pilot program") to provide grants for projects that seek to achieve—

(1) a reduction in the number of wildlife-vehicle collisions; and

(2) in carrying out the purpose described in paragraph (1), improved habitat connectivity for terrestrial and aquatic species.

(c) ELIGIBLE ENTITIES.—An entity eligible to apply for a grant under the pilot program is—

(1) a State highway agency, or an equivalent of that agency;

(2) a metropolitan planning organization (as defined in section 134(b));
(3) a unit of local government;
(4) a regional transportation authority;
(5) a special purpose district or public authority with a transportation function, including a port authority;
(6) an Indian tribe (as defined in section 207(m)(1)), including a Native village and a Native Corporation (as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602));
(7) a Federal land management agency; or
(8) a group of any of the entities described in paragraphs (1) through (7).

(d) APPLICATIONS.—
(1) IN GENERAL.—To be eligible to receive a grant under the pilot program, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.
(2) REQUIREMENT.—If an application under paragraph (1) is submitted by an eligible entity other than an eligible entity described in paragraph (1) or (7) of subsection (c), the application shall include documentation that the State highway agency, or an equivalent of that agency, of the State in which the eligible entity is located was consulted during the development of the application.
(3) GUIDANCE.—To enhance consideration of current and reliable data, eligible entities may obtain guidance from an agency in the State with jurisdiction over fish and wildlife.

(e) CONSIDERATIONS.—In selecting grant recipients under the pilot program, the Secretary shall take into consideration the following:
(1) Primarily, the extent to which the proposed project of an eligible entity is likely to protect motorists and wildlife by reducing the number of wildlife-vehicle collisions and improve habitat connectivity for terrestrial and aquatic species.
(2) Secondarily, the extent to which the proposed project of an eligible entity is likely to accomplish the following:
(A) Leveraging Federal investment by encouraging non-Federal contributions to the project, including projects from public-private partnerships.
(B) Supporting local economic development and improvement of visitation opportunities.
(C) Incorporation of innovative technologies, including advanced design techniques and other strategies to enhance efficiency and effectiveness in reducing wildlife-vehicle collisions and improving habitat connectivity for terrestrial and aquatic species.
(D) Provision of educational and outreach opportunities.
(E) Monitoring and research to evaluate, compare effectiveness of, and identify best practices in, selected projects.
(F) Any other criteria relevant to reducing the number of wildlife-vehicle collisions and improving habitat connectivity for terrestrial and aquatic species, as the Secretary determines to be appropriate, subject to the condition that the implementation of the pilot program shall not be delayed in the absence of action by the Secretary to identify additional criteria under this subparagraph.

(f) USE OF FUNDS.—
(1) IN GENERAL.—The Secretary shall ensure that a grant received under the pilot program is used for a project to reduce wildlife-vehicle collisions.
(2) GRANT ADMINISTRATION.—
(A) IN GENERAL.—A grant received under the pilot program shall be administered by—
(i) in the case of a grant to a Federal land management agency or an Indian tribe (as defined in section 207(m)(1), including a Native village and a Native Corporation (as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C.

1602))), the Federal Highway Administration, through an agreement; and

(ii) in the case of a grant to an eligible entity other than an eligible entity described in clause (i), the State highway agency, or an equivalent of that agency, for the State in which the project is to be carried out.

(B) PARTNERSHIPS.—

(i) IN GENERAL.—A grant received under the pilot program may be used to provide funds to eligible partners of the project for which the grant was received described in clause (ii), in accordance with the terms of the project agreement.

(ii) ELIGIBLE PARTNERS DESCRIBED.—The eligible partners referred to in clause (i) include—

(I) a metropolitan planning organization (as defined in section 134(b));

(II) a unit of local government;

(III) a regional transportation authority;

(IV) a special purpose district or public authority with a transportation function, including a port authority;

(V) an Indian tribe (as defined in section 207(m)(1)), including a Native village and a Native Corporation (as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602));

(VI) a Federal land management agency;

(VII) a foundation, nongovernmental organization, or institution of higher education;

(VIII) a Federal, Tribal, regional, or State government entity; and

(IX) a group of any of the entities described in subclauses (I) through (VIII).

(3) COMPLIANCE.—An eligible entity that receives a grant under the pilot program and enters into a partnership described in paragraph (2) shall establish measures to verify that an eligible partner that receives funds from the grant complies with the conditions of the pilot program in using those funds.

(g) REQUIREMENT.—The Secretary shall ensure that not less than 60 percent of the amounts made available for grants under the pilot program each fiscal year are for projects located in rural areas.

(h) ANNUAL REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than December 31 of each calendar year, the Secretary shall submit to Congress, and make publicly available, a report describing the activities under the pilot program for the fiscal year that ends during that calendar year.

(2) CONTENTS.—The report under paragraph (1) shall include—

(A) a detailed description of the activities carried out under the pilot program;

(B) an evaluation of the effectiveness of the pilot program in meeting the purposes described in subsection (b); and

(C) policy recommendations to improve the effectiveness of the pilot program.

(i) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, a project assisted under this section shall be treated as a project on a Federal-aid highway under this chapter.

(Added Pub. L. 117–58, div. A, title I, §11123(b)(1), Nov. 15, 2021, 135 Stat. 499.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as an Effective Date of 2021 Amendment note under section 101 of this title.

§172. Wildlife-vehicle collision reduction and habitat connectivity improvement

(a) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study (referred to in this subsection as the "study") of the state, as of the date of the study, of the practice of methods to reduce collisions between motorists and wildlife (referred to in this section as "wildlife-vehicle collisions").

(2) CONTENTS.—

(A) AREAS OF STUDY.—The study shall—

(i) update and expand on, as appropriate—

(I) the report entitled "Wildlife Vehicle Collision Reduction Study: 2008 Report to Congress"; and

(II) the document entitled "Wildlife Vehicle Collision Reduction Study: Best Practices Manual" and dated October 2008; and

(ii) include—

(I) an assessment, as of the date of the study, of—

(aa) the causes of wildlife-vehicle collisions;

(bb) the impact of wildlife-vehicle collisions on motorists and wildlife; and

(cc) the impacts of roads and traffic on habitat connectivity for terrestrial and aquatic species; and

(II) solutions and best practices for—

(aa) reducing wildlife-vehicle collisions; and

(bb) improving habitat connectivity for terrestrial and aquatic species.

(B) METHODS.—In carrying out the study, the Secretary shall—

(i) conduct a thorough review of research and data relating to—

(I) wildlife-vehicle collisions; and

(II) habitat fragmentation that results from transportation infrastructure;

(ii) survey current practices of the Department of Transportation and State departments of transportation to reduce wildlife-vehicle collisions; and

(iii) consult with—

(I) appropriate experts in the field of wildlife-vehicle collisions; and

(II) appropriate experts on the effects of roads and traffic on habitat connectivity for terrestrial and aquatic species.

(3) REPORT.—

(A) IN GENERAL.—Not later than 18 months after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall submit to Congress a report on the results of the study.

(B) CONTENTS.—The report under subparagraph (A) shall include—

(i) a description of—

(I) the causes of wildlife-vehicle collisions;

(II) the impacts of wildlife-vehicle collisions; and

(III) the impacts of roads and traffic on—

(aa) species listed as threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(bb) species identified by States as species of greatest conservation need;

(cc) species identified in State wildlife plans; and

(dd) medium and small terrestrial and aquatic species;

(ii) an economic evaluation of the costs and benefits of installing highway infrastructure and other measures to mitigate damage to terrestrial and aquatic species, including the effect

on jobs, property values, and economic growth to society, adjacent communities, and landowners;

(iii) recommendations for preventing wildlife-vehicle collisions, including recommended best practices, funding resources, or other recommendations for addressing wildlife-vehicle collisions; and

(iv) guidance, developed in consultation with Federal land management agencies and State departments of transportation, State fish and wildlife agencies, and Tribal governments that agree to participate, for developing, for each State that agrees to participate, a voluntary joint statewide transportation and wildlife action plan—

(I) to address wildlife-vehicle collisions; and

(II) to improve habitat connectivity for terrestrial and aquatic species.

(b) WORKFORCE DEVELOPMENT AND TECHNICAL TRAINING.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall, based on the study conducted under subsection (a), develop a series of in-person and online workforce development and technical training courses—

(A) to reduce wildlife-vehicle collisions; and

(B) to improve habitat connectivity for terrestrial and aquatic species.

(2) AVAILABILITY.—The Secretary shall—

(A) make the series of courses developed under paragraph (1) available for transportation and fish and wildlife professionals; and

(B) update the series of courses not less frequently than once every 2 years.

(c) STANDARDIZATION OF WILDLIFE COLLISION AND CARCASS DATA.—

(1) STANDARDIZED METHODOLOGY.—

(A) IN GENERAL.—The Secretary, acting through the Administrator of the Federal Highway Administration (referred to in this subsection as the "Secretary"), shall develop a quality standardized methodology for collecting and reporting spatially accurate wildlife collision and carcass data for the National Highway System, considering the practicability of the methodology with respect to technology and cost.

(B) METHODOLOGY.—In developing the standardized methodology under subparagraph (A), the Secretary shall—

(i) survey existing methodologies and sources of data collection, including the Fatality Analysis Reporting System, the General Estimates System of the National Automotive Sampling System, and the Highway Safety Information System; and

(ii) to the extent practicable, identify and correct limitations of those existing methodologies and sources of data collection.

(C) CONSULTATION.—In developing the standardized methodology under subparagraph (A), the Secretary shall consult with—

(i) the Secretary of the Interior;

(ii) the Secretary of Agriculture, acting through the Chief of the Forest Service;

(iii) Tribal, State, and local transportation and wildlife authorities;

(iv) metropolitan planning organizations (as defined in section 134(b));

(v) members of the American Association of State Highway Transportation Officials;

(vi) members of the Association of Fish and Wildlife Agencies;

(vii) experts in the field of wildlife-vehicle collisions;

(viii) nongovernmental organizations; and

(ix) other interested stakeholders, as appropriate.

(2) STANDARDIZED NATIONAL DATA SYSTEM WITH VOLUNTARY TEMPLATE

IMPLEMENTATION.—The Secretary shall—

(A) develop a template for State implementation of a standardized national wildlife collision and carcass data system for the National Highway System that is based on the standardized methodology developed under paragraph (1); and

(B) encourage the voluntary implementation of the template developed under subparagraph (A).

(3) REPORTS.—

(A) METHODOLOGY.—The Secretary shall submit to Congress a report describing the standardized methodology developed under paragraph (1) not later than the later of—

(i) the date that is 18 months after the date of enactment of the Surface Transportation Reauthorization Act of 2021; and

(ii) the date that is 180 days after the date on which the Secretary completes the development of the standardized methodology.

(B) IMPLEMENTATION.—Not later than 4 years after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall submit to Congress a report describing—

(i) the status of the voluntary implementation of the standardized methodology developed under paragraph (1) and the template developed under paragraph (2)(A);

(ii) whether the implementation of the standardized methodology developed under paragraph (1) and the template developed under paragraph (2)(A) has impacted efforts by States, units of local government, and other entities—

(I) to reduce the number of wildlife-vehicle collisions; and

(II) to improve habitat connectivity;

(iii) the degree of the impact described in clause (ii); and

(iv) the recommendations of the Secretary, including recommendations for further study aimed at reducing motorist collisions involving wildlife and improving habitat connectivity for terrestrial and aquatic species on the National Highway System, if any.

(d) NATIONAL THRESHOLD GUIDANCE.—The Secretary shall—

(1) establish guidance, to be carried out by States on a voluntary basis, that contains a threshold for determining whether a highway shall be evaluated for potential mitigation measures to reduce wildlife-vehicle collisions and increase habitat connectivity for terrestrial and aquatic species, taking into consideration—

(A) the number of wildlife-vehicle collisions on the highway that pose a human safety risk;

(B) highway-related mortality and the effects of traffic on the highway on—

(i) species listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(ii) species identified by a State as species of greatest conservation need;

(iii) species identified in State wildlife plans; and

(iv) medium and small terrestrial and aquatic species; and

(C) habitat connectivity values for terrestrial and aquatic species and the barrier effect of the highway on the movements and migrations of those species.

(Added Pub. L. 117–58, div. A, title I, §11123(c)(1), Nov. 15, 2021, 135 Stat. 502.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Surface Transportation Reauthorization Act of 2021, referred to in subsecs. (a)(3)(A), (b)(1), and (c)(3), is the date of enactment of div. A of Pub. L. 117–58, which was approved Nov.

15, 2021.

The Endangered Species Act of 1973, referred to in subsecs. (a)(3)(B)(i)(III)(aa) and (d)(1)(B)(i), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, which is classified principally to chapter 35 (§1531 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of Title 16 and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as an Effective Date of 2021 Amendment note under section 101 of this title.

§173. Rural surface transportation grant program

(a) DEFINITIONS.—In this section:

(1) PROGRAM.—The term "program" means the program established under subsection (b)(1).

(2) RURAL AREA.—The term "rural area" means an area that is outside an urbanized area with a population of over 200,000.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a rural surface transportation grant program to provide grants, on a competitive basis, to eligible entities to improve and expand the surface transportation infrastructure in rural areas.

(2) GOALS.—The goals of the program shall be—

(A) to increase connectivity;

(B) to improve the safety and reliability of the movement of people and freight; and

(C) to generate regional economic growth and improve quality of life.

(3) GRANT ADMINISTRATION.—The Secretary may—

(A) retain not more than a total of 2 percent of the funds made available to carry out the program and to review applications for grants under the program; and

(B) transfer portions of the funds retained under subparagraph (A) to the relevant Administrators to fund the award and oversight of grants provided under the program.

(c) ELIGIBLE ENTITIES.—The Secretary may make a grant under the program to—

(1) a State;

(2) a regional transportation planning organization;

(3) a unit of local government;

(4) a Tribal government or a consortium of Tribal governments; and

(5) a multijurisdictional group of entities described in paragraphs (1) through (4).

(d) APPLICATIONS.—To be eligible to receive a grant under the program, an eligible entity shall submit to the Secretary an application in such form, at such time, and containing such information as the Secretary may require.

(e) ELIGIBLE PROJECTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may make a grant under the program only for a project that is—

(A) a highway, bridge, or tunnel project eligible under section 119(d);

(B) a highway, bridge, or tunnel project eligible under section 133(b);

(C) a project eligible under section 202(a);

(D) a highway freight project eligible under section 167(h)(5);

(E) a highway safety improvement project, including a project to improve a high risk rural road (as those terms are defined in section 148(a));

(F) a project on a publicly-owned highway or bridge that provides or increases access to an agricultural, commercial, energy, or intermodal facility that supports the economy of a rural area; or

(G) a project to develop, establish, or maintain an integrated mobility management system, a transportation demand management system, or on-demand mobility services.

(2) BUNDLING OF ELIGIBLE PROJECTS.—

(A) IN GENERAL.—An eligible entity may bundle 2 or more similar eligible projects under the program that are—

(i) included as a bundled project in a statewide transportation improvement program under section 135; and

(ii) awarded to a single contractor or consultant pursuant to a contract for engineering and design or construction between the contractor and the eligible entity.

(B) ITEMIZATION.—Notwithstanding any other provision of law (including regulations), a bundling of eligible projects under this paragraph may be considered to be a single project, including for purposes of section 135.

(f) ELIGIBLE PROJECT COSTS.—An eligible entity may use funds from a grant under the program for—

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

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

(g) PROJECT REQUIREMENTS.—The Secretary may provide a grant under the program to an eligible project only if the Secretary determines that the project—

(1) will generate regional economic, mobility, or safety benefits;

(2) will be cost effective;

(3) will contribute to the accomplishment of 1 or more of the national goals under section 150;

(4) is based on the results of preliminary engineering; and

(5) is reasonably expected to begin construction not later than 18 months after the date of obligation of funds for the project.

(h) ADDITIONAL CONSIDERATIONS.—In providing grants under the program, the Secretary shall consider the extent to which an eligible project will—

(1) improve the state of good repair of existing highway, bridge, and tunnel facilities;

(2) increase the capacity or connectivity of the surface transportation system and improve mobility for residents of rural areas;

(3) address economic development and job creation challenges, including energy sector job losses in energy communities as identified in the report released in April 2021 by the interagency working group established by section 218 of Executive Order 14008 (86 Fed. Reg. 7628 (February 1, 2021));

(4) enhance recreational and tourism opportunities by providing access to Federal land, national parks, national forests, national recreation areas, national wildlife refuges, wilderness areas, or State parks;

(5) contribute to geographic diversity among grant recipients;

(6) utilize innovative project delivery approaches or incorporate transportation technologies;

(7) coordinate with projects to address broadband infrastructure needs; or

(8) improve access to emergency care, essential services, healthcare providers, or drug and alcohol treatment and rehabilitation resources.

(i) GRANT AMOUNT.—Except as provided in subsection (k)(1), a grant under the program shall be in an amount that is not less than $25,000,000.

(j) FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Federal share of the cost of a project carried out with a grant under the program may not exceed 80 percent.

(2) FEDERAL SHARE FOR CERTAIN PROJECTS.—The Federal share of the cost of an eligible project that furthers the completion of a designated segment of the Appalachian Development Highway System under section 14501 of title 40, or addresses a surface transportation infrastructure need identified for the Denali access system program under section 309 of the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277) shall be up to 100 percent, as determined by the State.

(3) USE OF OTHER FEDERAL ASSISTANCE.—Federal assistance other than a grant under the program may be used to satisfy the non-Federal share of the cost of a project carried out with a grant under the program.

(k) SET ASIDES.—

(1) SMALL PROJECTS.—The Secretary shall use not more than 10 percent of the amounts made available for the program for each fiscal year to provide grants for eligible projects in an amount that is less than $25,000,000.

(2) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.—The Secretary shall reserve 25 percent of the amounts made available for the program for each fiscal year for eligible projects that further the completion of designated routes of the Appalachian Development Highway System under section 14501 of title 40.

(3) RURAL ROADWAY LANE DEPARTURES.—The Secretary shall reserve 15 percent of the amounts made available for the program for each fiscal year to provide grants for eligible projects located in States that have rural roadway fatalities as a result of lane departures that are greater than the average of rural roadway fatalities as a result of lane departures in the United States, based on the latest available data from the Secretary.

(4) EXCESS FUNDING.—In any fiscal year in which qualified applications for grants under this subsection do not allow for the amounts reserved under paragraphs (1), (2), or (3) to be fully utilized, the Secretary shall use the unutilized amounts to make other grants under the program.

(l) CONGRESSIONAL REVIEW.—

(1) NOTIFICATION.—Not less than 60 days before providing a grant under the program, 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) a list of all applications determined to be eligible for a grant by the Secretary;

(B) each application proposed to be selected for a grant, including a justification for the selection; and

(C) proposed grant amounts.

(2) COMMITTEE REVIEW.—Before the last day of the 60-day period described in paragraph (1), each Committee described in paragraph (1) shall review the list of proposed projects submitted by the Secretary.

(3) CONGRESSIONAL DISAPPROVAL.—The Secretary may not make a grant or any other obligation or commitment to fund a project under the program if a joint resolution is enacted disapproving funding for the project before the last day of the 60-day period described in paragraph (1).

(m) TRANSPARENCY.—

(1) IN GENERAL.—Not later than 30 days after providing a grant for a project under the program, the Secretary shall provide to all applicants, and publish on the website of the

Department of Transportation, the information described in subsection (l)(1).

(2) BRIEFING.—The Secretary shall provide, on the request of an eligible entity, the opportunity to receive a briefing to explain any reasons the eligible entity was not selected to receive a grant under the program.

(n) REPORTS.—

(1) ANNUAL REPORT.—The Secretary shall make available on the website of the Department of Transportation at the end of each fiscal year an annual report that lists each project for which a grant has been provided under the program during that fiscal year.

(2) COMPTROLLER GENERAL.—

(A) ASSESSMENT.—The Comptroller General of the United States shall conduct an assessment of the administrative establishment, solicitation, selection, and justification process with respect to the awarding of grants under the program for each fiscal year.

(B) REPORT.—Each fiscal year, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes, for the fiscal year—

(i) the adequacy and fairness of the process by which each project was selected, if applicable; and

(ii) the justification and criteria used for the selection of each project, if applicable.

(o) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, a project assisted under this section shall be treated as a project on a Federal-aid highway under this chapter.

(Added Pub. L. 117–58, div. A, title I, §11132(a), Nov. 15, 2021, 135 Stat. 510.)

EDITORIAL NOTES

REFERENCES IN TEXT

Executive Order 14008, referred to in subsec. (h)(3), is Ex. Ord. No. 14008, Jan. 27, 2021, 86 F.R. 7619, which is set out as a note under section 4321 of Title 42, The Public Health and Welfare.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as an Effective Date of 2021 Amendment note under section 101 of this title.

§174. State human capital plans

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Secretary shall encourage each State to develop a voluntary plan, to be known as a "human capital plan", that provides for the immediate and long-term personnel and workforce needs of the State with respect to the capacity of the State to deliver transportation and public infrastructure eligible under this title.

(b) PLAN CONTENTS.—

(1) IN GENERAL.—A human capital plan developed by a State under subsection (a) shall, to the maximum extent practicable, take into consideration—

(A) significant transportation workforce trends, needs, issues, and challenges with respect to the State;

(B) the human capital policies, strategies, and performance measures that will guide the transportation-related workforce investment decisions of the State;

(C) coordination with educational institutions, industry, organized labor, workforce boards, and other agencies or organizations to address the human capital transportation needs of the

State;

(D) a workforce planning strategy that identifies current and future human capital needs, including the knowledge, skills, and abilities needed to recruit and retain skilled workers in the transportation industry;

(E) a human capital management strategy that is aligned with the transportation mission, goals, and organizational objectives of the State;

(F) an implementation system for workforce goals focused on addressing continuity of leadership and knowledge sharing across the State;

(G) an implementation system that addresses workforce competency gaps, particularly in mission-critical occupations;

(H) in the case of public-private partnerships or other alternative project delivery methods to carry out the transportation program of the State, a description of workforce needs—

(i) to ensure that the transportation mission, goals, and organizational objectives of the State are fully carried out; and

(ii) to ensure that procurement methods provide the best public value;

(I) a system for analyzing and evaluating the performance of the State department of transportation with respect to all aspects of human capital management policies, programs, and activities; and

(J) the manner in which the plan will improve the ability of the State to meet the national policy in support of performance management established under section 150.

(2) PLANNING PERIOD.—If a State develops a human capital plan under subsection (a), the plan shall address a 5-year forecast period.

(c) PLAN UPDATES.—If a State develops a human capital plan under subsection (a), the State shall update the plan not less frequently than once every 5 years.

(d) RELATIONSHIP TO LONG-RANGE PLAN.—

(1) IN GENERAL.—Subject to paragraph (2), a human capital plan developed by a State under subsection (a) may be developed separately from, or incorporated into, the long-range statewide transportation plan required under section 135.

(2) EFFECT OF SECTION.—Nothing in this section requires a State, or authorizes the Secretary to require a State, to incorporate a human capital plan into the long-range statewide transportation plan required under section 135.

(e) PUBLIC AVAILABILITY.—Each State that develops a human capital plan under subsection (a) shall make a copy of the plan available to the public in a user-friendly format on the website of the State department of transportation.

(f) SAVINGS PROVISION.—Nothing in this section prevents a State from carrying out transportation workforce planning—

(1) not described in this section; or

(2) not in accordance with this section.

(Added Pub. L. 117–58, div. A, title I, §11203(a), Nov. 15, 2021, 135 Stat. 519.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), is the date of enactment of Pub. L. 117–58, which was approved Nov. 15, 2021.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as an Effective Date of 2021 Amendment note under section 101 of this title.

§175. Carbon reduction program

(a) DEFINITIONS.—In this section:

(1) METROPOLITAN PLANNING ORGANIZATION; URBANIZED AREA.—The terms "metropolitan planning organization" and "urbanized area" have the meaning given those terms in section 134(b).

(2) TRANSPORTATION EMISSIONS.—The term "transportation emissions" means carbon dioxide emissions from on-road highway sources of those emissions within a State.

(3) TRANSPORTATION MANAGEMENT AREA.—The term "transportation management area" means a transportation management area identified or designated by the Secretary under section 134(k)(1).

(b) ESTABLISHMENT.—The Secretary shall establish a carbon reduction program to reduce transportation emissions.

(c) ELIGIBLE PROJECTS.—

(1) IN GENERAL.—Subject to paragraph (2), funds apportioned to a State under section 104(b)(7) may be obligated for projects to support the reduction of transportation emissions, including—

(A) a project described in section 149(b)(4) to establish or operate a traffic monitoring, management, and control facility or program, including advanced truck stop electrification systems;

(B) a public transportation project that is eligible for assistance under section 142;

(C) a project described in section 101(a)(29) (as in effect on the day before the date of enactment of the FAST Act (Public Law 114–94; 129 Stat. 1312)), including the construction, planning, and design of on-road and off-road trail facilities for pedestrians, bicyclists, and other nonmotorized forms of transportation;

(D) a project described in section 503(c)(4)(E) for advanced transportation and congestion management technologies;

(E) a project for the deployment of infrastructure-based intelligent transportation systems capital improvements and the installation of vehicle-to-infrastructure communications equipment, including retrofitting dedicated short-range communications (DSRC) technology deployed as part of an existing pilot program to cellular vehicle-to-everything (C–V2X) technology;

(F) a project to replace street lighting and traffic control devices with energy-efficient alternatives;

(G) the development of a carbon reduction strategy in accordance with subsection (d);

(H) a project or strategy that is designed to support congestion pricing, shifting transportation demand to nonpeak hours or other transportation modes, increasing vehicle occupancy rates, or otherwise reducing demand for roads, including electronic toll collection, and travel demand management strategies and programs;

(I) efforts to reduce the environmental and community impacts of freight movement;

(J) a project to support deployment of alternative fuel vehicles, including—

(i) the acquisition, installation, or operation of publicly accessible electric vehicle charging infrastructure or hydrogen, natural gas, or propane vehicle fueling infrastructure; and

(ii) the purchase or lease of zero-emission construction equipment and vehicles, including the acquisition, construction, or leasing of required supporting facilities;

(K) a project described in section 149(b)(8) for a diesel engine retrofit;

(L) a project described in section 149(b)(5) that does not result in the construction of new capacity; and

(M) a project that reduces transportation emissions at port facilities, including through the advancement of port electrification.

(2) FLEXIBILITY.—In addition to the eligible projects under paragraph (1), a State may use funds apportioned under section 104(b)(7) for a project eligible under section 133(b) if the Secretary certifies that the State has demonstrated a reduction in transportation emissions—

(A) as estimated on a per capita basis; and

(B) as estimated on a per unit of economic output basis.

(d) CARBON REDUCTION STRATEGY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Surface Transportation Reauthorization Act of 2021, a State, in consultation with any metropolitan planning organization designated within the State, shall develop a carbon reduction strategy in accordance with this subsection.

(2) REQUIREMENTS.—The carbon reduction strategy of a State developed under paragraph (1) shall—

(A) support efforts to reduce transportation emissions;

(B) identify projects and strategies to reduce transportation emissions, which may include projects and strategies for safe, reliable, and cost-effective options—

(i) to reduce traffic congestion by facilitating the use of alternatives to single-occupant vehicle trips, including public transportation facilities, pedestrian facilities, bicycle facilities, and shared or pooled vehicle trips within the State or an area served by the applicable metropolitan planning organization, if any;

(ii) to facilitate the use of vehicles or modes of travel that result in lower transportation emissions per person-mile traveled as compared to existing vehicles and modes; and

(iii) to facilitate approaches to the construction of transportation assets that result in lower transportation emissions as compared to existing approaches;

(C) support the reduction of transportation emissions of the State;

(D) at the discretion of the State, quantify the total carbon emissions from the production, transport, and use of materials used in the construction of transportation facilities within the State; and

(E) be appropriate to the population density and context of the State, including any metropolitan planning organization designated within the State.

(3) UPDATES.—The carbon reduction strategy of a State developed under paragraph (1) shall be updated not less frequently than once every 4 years.

(4) REVIEW.—Not later than 90 days after the date on which a State submits a request for the approval of a carbon reduction strategy developed by the State under paragraph (1), the Secretary shall—

(A) review the process used to develop the carbon reduction strategy; and

(B)(i) certify that the carbon reduction strategy meets the requirements of paragraph (2); or

(ii) deny certification of the carbon reduction strategy and specify the actions necessary for the State to take to correct the deficiencies in the process of the State in developing the carbon reduction strategy.

(5) TECHNICAL ASSISTANCE.—At the request of a State, the Secretary shall provide technical assistance in the development of the carbon reduction strategy under paragraph (1).

(e) SUBALLOCATION.—

(1) IN GENERAL.—For each fiscal year, of the funds apportioned to the State under section 104(b)(7)—

(A) 65 percent shall be obligated, in proportion to their relative shares of the population of

the State—

(i) in urbanized areas of the State with an urbanized area population of more than 200,000;

(ii) in urbanized areas of the State with an urbanized population of not less than 50,000 and not more than 200,000;

(iii) in urban areas of the State with a population of not less than 5,000 and not more than 49,999; and

(iv) in other areas of the State with a population of less than 5,000; and

(B) the remainder may be obligated in any area of the State.

(2) METROPOLITAN AREAS.—Funds attributed to an urbanized area under paragraph (1)(A)(i) may be obligated in the metropolitan area established under section 134 that encompasses the urbanized area.

(3) DISTRIBUTION AMONG URBANIZED AREAS OF OVER 50,000 POPULATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amounts that a State is required to obligate under clauses (i) and (ii) of paragraph (1)(A) shall be obligated in urbanized areas described in those clauses based on the relative population of the areas.

(B) OTHER FACTORS.—The State may obligate the funds described in subparagraph (A) based on other factors if—

(i) the State and the relevant metropolitan planning organizations jointly apply to the Secretary for the permission to base the obligation on other factors; and

(ii) the Secretary grants the request.

(4) COORDINATION IN URBANIZED AREAS.—Before obligating funds for an eligible project under subsection (c) in an urbanized area that is not a transportation management area, a State shall coordinate with any metropolitan planning organization that represents the urbanized area prior to determining which activities should be carried out under the project.

(5) CONSULTATION IN RURAL AREAS.—Before obligating funds for an eligible project under subsection (c) in a rural area, a State shall consult with any regional transportation planning organization or metropolitan planning organization that represents the rural area prior to determining which activities should be carried out under the project.

(6) OBLIGATION AUTHORITY.—

(A) IN GENERAL.—A State that is required to obligate in an urbanized area with an urbanized area population of 50,000 or more under this subsection funds apportioned to the State under section 104(b)(7) shall make available during the period of fiscal years 2022 through 2026 an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs for use in the area that is equal to the amount obtained by multiplying—

(i) the aggregate amount of funds that the State is required to obligate in the area under this subsection during the period; and

(ii) the ratio that—

(I) the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs during the period; bears to

(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to an obligation limitation) during the period.

(B) JOINT RESPONSIBILITY.—Each State, each affected metropolitan planning organization, and the Secretary shall jointly ensure compliance with subparagraph (A).

(f) FEDERAL SHARE.—The Federal share of the cost of a project carried out using funds apportioned to a State under section 104(b)(7) shall be determined in accordance with section 120.

(g) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, a project

assisted under this section shall be treated as a project on a Federal-aid highway under this chapter. (Added Pub. L. 117–58, div. A, title I, §11403(a), Nov. 15, 2021, 135 Stat. 555.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the FAST Act, referred to in subsec. (c)(1)(C), is the date of enactment of Pub. L. 114–94, which was approved Dec. 4, 2015.

The date of enactment of the Surface Transportation Reauthorization Act of 2021, referred to in subsec. (d)(1), is the date of enactment of div. A of Pub. L. 117–58, which was approved Nov. 15, 2021.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as an Effective Date of 2021 Amendment note under section 101 of this title.

§176. Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation (PROTECT) program

(a) DEFINITIONS.—In this section:

(1) EMERGENCY EVENT.—The term "emergency event" means a natural disaster or catastrophic failure resulting in—

(A) an emergency declared by the Governor of the State in which the disaster or failure occurred; or

(B) an emergency or disaster declared by the President.

(2) EVACUATION ROUTE.—The term "evacuation route" means a transportation route or system that—

(A) is owned, operated, or maintained by a Federal, State, Tribal, or local government;

(B) is used—

(i) to transport the public away from emergency events; or

(ii) to transport emergency responders and recovery resources; and

(C) is designated by the eligible entity with jurisdiction over the area in which the route is located for the purposes described in subparagraph (B).

(3) PROGRAM.—The term "program" means the program established under subsection (b)(1).

(4) RESILIENCE IMPROVEMENT.—The term "resilience improvement" means the use of materials or structural or nonstructural techniques, including natural infrastructure—

(A) that allow a project—

(i) to better anticipate, prepare for, and adapt to changing conditions and to withstand and respond to disruptions; and

(ii) to be better able to continue to serve the primary function of the project during and after weather events and natural disasters for the expected life of the project; or

(B) that—

(i) reduce the magnitude and duration of impacts of current and future weather events and natural disasters to a project; or

(ii) have the absorptive capacity, adaptive capacity, and recoverability to decrease project vulnerability to current and future weather events or natural disasters.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a program, to be known as the "Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation program" or the "PROTECT program".

(2) PURPOSE.—The purpose of the program is to provide grants for resilience improvements through—

(A) formula funding distributed to States to carry out subsection (c);

(B) competitive planning grants to enable communities to assess vulnerabilities to current and future weather events and natural disasters and changing conditions, including sea level rise, and plan transportation improvements and emergency response strategies to address those vulnerabilities; and

(C) competitive resilience improvement grants to protect—

(i) surface transportation assets by making the assets more resilient to current and future weather events and natural disasters, such as severe storms, flooding, drought, levee and dam failures, wildfire, rockslides, mudslides, sea level rise, extreme weather, including extreme temperature, and earthquakes;

(ii) communities through resilience improvements and strategies that allow for the continued operation or rapid recovery of surface transportation systems that—

(I) serve critical local, regional, and national needs, including evacuation routes; and

(II) provide access or service to hospitals and other medical or emergency service facilities, major employers, critical manufacturing centers, ports and intermodal facilities, utilities, and Federal facilities;

(iii) coastal infrastructure, such as a tide gate to protect highways, that is at long-term risk to sea level rise; and

(iv) natural infrastructure that protects and enhances surface transportation assets while improving ecosystem conditions, including culverts that ensure adequate flows in rivers and estuarine systems.

(c) ELIGIBLE ACTIVITIES FOR APPORTIONED FUNDING.—

(1) IN GENERAL.—Except as provided in paragraph (2), funds apportioned to the State under section 104(b)(8) shall be obligated for activities eligible under subparagraph (A), (B), or (C) of subsection (d)(4).

(2) PLANNING SET-ASIDE.—Of the funds apportioned to a State under section 104(b)(8) for each fiscal year, not less than 2 percent shall be for activities described in subsection (d)(3).

(3) REQUIREMENTS.—

(A) PROJECTS IN CERTAIN AREAS.—If a project under this subsection is carried out, in whole or in part, within a base floodplain, the State shall—

(i) identify the base floodplain in which the project is to be located and disclose that information to the Secretary; and

(ii) indicate to the Secretary whether the State plans to implement 1 or more components of the risk mitigation plan under section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165) with respect to the area.

(B) ELIGIBILITIES.—A State shall use funds apportioned to the State under section 104(b)(8) for—

(i) a highway project eligible for assistance under this title;

(ii) a public transportation facility or service eligible for assistance under chapter 53 of title 49; or

(iii) a port facility, including a facility that—

(I) connects a port to other modes of transportation;

(II) improves the efficiency of evacuations and disaster relief; or

(III) aids transportation.

(C) SYSTEM RESILIENCE.—A project carried out by a State with funds apportioned to the State under section 104(b)(8) may include the use of natural infrastructure or the construction or modification of storm surge, flood protection, or aquatic ecosystem restoration elements that are functionally connected to a transportation improvement, such as—

(i) increasing marsh health and total area adjacent to a highway right-of-way to promote additional flood storage;

(ii) upgrades to and installation of culverts designed to withstand 100-year flood events;

(iii) upgrades to and installation of tide gates to protect highways;

(iv) upgrades to and installation of flood gates to protect tunnel entrances; and

(v) improving functionality and resiliency of stormwater controls, including inventory inspections, upgrades to, and preservation of best management practices to protect surface transportation infrastructure.

(D) FEDERAL COST SHARE.—

(i) IN GENERAL.—Except as provided in subsection (e)(1), the Federal share of the cost of a project carried out using funds apportioned to the State under section 104(b)(8) shall not exceed 80 percent of the total project cost.

(ii) NON-FEDERAL SHARE.—A State may use Federal funds other than Federal funds apportioned to the State under section 104(b)(8) to meet the non-Federal cost share requirement for a project under this subsection.

(E) ELIGIBLE PROJECT COSTS.—

(i) IN GENERAL.—Except as provided in clause (ii), eligible project costs for activities carried out by a State with funds apportioned to the State under section 104(b)(8) may include the costs of—

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

(II) 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 directly related to improving system performance, and operational improvements.

(ii) ELIGIBLE PLANNING COSTS.—In the case of a planning activity described in subsection (d)(3) that is carried out by a State with funds apportioned to the State under section 104(b)(8), eligible costs may include development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, other preconstruction activities, and other activities consistent with carrying out the purposes of subsection (d)(3).

(F) LIMITATIONS.—A State—

(i) may use not more than 40 percent of the amounts apportioned to the State under section 104(b)(8) for the construction of new capacity; and

(ii) may use not more than 10 percent of the amounts apportioned to the State under section 104(b)(8) for activities described in subparagraph (E)(i)(I).

(d) COMPETITIVE AWARDS.—

(1) IN GENERAL.—In addition to funds apportioned to States under section 104(b)(8) to carry out activities under subsection (c), the Secretary shall provide grants on a competitive basis under this subsection to eligible entities described in paragraph (2).

(2) ELIGIBLE ENTITIES.—Except as provided in paragraph (4)(C), the Secretary may make a grant under this subsection to any of the following:

(A) A State or political subdivision of a State.
(B) A metropolitan planning organization.
(C) A unit of local government.
(D) A special purpose district or public authority with a transportation function, including a port authority.
(E) An Indian tribe (as defined in section 207(m)(1)).
(F) A Federal land management agency that applies jointly with a State or group of States.
(G) A multi-State or multijurisdictional group of entities described in subparagraphs (A) through (F).

(3) PLANNING GRANTS.—Using funds made available under this subsection, the Secretary shall provide planning grants to eligible entities for the purpose of—
(A) in the case of a State or metropolitan planning organization, developing a resilience improvement plan under subsection (e)(2);
(B) resilience planning, predesign, design, or the development of data tools to simulate transportation disruption scenarios, including vulnerability assessments;
(C) technical capacity building by the eligible entity to facilitate the ability of the eligible entity to assess the vulnerabilities of the surface transportation assets and community response strategies of the eligible entity under current conditions and a range of potential future conditions; or
(D) evacuation planning and preparation.

(4) RESILIENCE GRANTS.—
(A) RESILIENCE IMPROVEMENT GRANTS.—
(i) IN GENERAL.—Using funds made available under this subsection, the Secretary shall provide resilience improvement grants to eligible entities to carry out 1 or more eligible activities under clause (ii).
(ii) ELIGIBLE ACTIVITIES.—
(I) IN GENERAL.—An eligible entity may use a resilience improvement grant under this subparagraph for 1 or more construction activities to improve the ability of an existing surface transportation asset to withstand 1 or more elements of a weather event or natural disaster, or to increase the resilience of surface transportation infrastructure from the impacts of changing conditions, such as sea level rise, flooding, wildfires, extreme weather events, and other natural disasters.
(II) INCLUSIONS.—An activity eligible to be carried out under this subparagraph includes—
(aa) resurfacing, restoration, rehabilitation, reconstruction, replacement, improvement, or realignment of an existing surface transportation facility eligible for assistance under this title;
(bb) the incorporation of natural infrastructure;
(cc) the upgrade of an existing surface transportation facility to meet or exceed a design standard adopted by the Federal Highway Administration;
(dd) the installation of mitigation measures that prevent the intrusion of floodwaters into surface transportation systems;
(ee) strengthening systems that remove rainwater from surface transportation facilities;
(ff) upgrades to and installation of structural stormwater controls;
(gg) a resilience project that addresses identified vulnerabilities described in the resilience improvement plan of the eligible entity, if applicable;
(hh) relocating roadways in a base floodplain to higher ground above projected flood elevation levels, or away from slide prone areas;
(ii) stabilizing slide areas or slopes;
(jj) installing riprap;

(kk) lengthening or raising bridges to increase waterway openings, including to respond to extreme weather;

(ll) increasing the size or number of drainage structures;

(mm) installing seismic retrofits on bridges;

(nn) adding scour protection at bridges;

(oo) adding scour, stream stability, coastal, and other hydraulic countermeasures, including spur dikes;

(pp) vegetation management practices in transportation rights-of-way to improve roadway safety, prevent against invasive species, facilitate wildfire control, and provide erosion control; and

(qq) any other protective features, including natural infrastructure, as determined by the Secretary.

(iii) PRIORITY.—The Secretary shall prioritize a resilience improvement grant to an eligible entity if—

(I) the Secretary determines—

(aa) the benefits of the eligible activity proposed to be carried out by the eligible entity exceed the costs of the activity; and

(bb) there is a need to address the vulnerabilities of surface transportation assets of the eligible entity with a high risk of, and impacts associated with, failure due to the impacts of weather events, natural disasters, or changing conditions, such as sea level rise, wildfires, and increased flood risk; or

(II) the eligible activity proposed to be carried out by the eligible entity is included in the applicable resilience improvement plan under subsection (e)(2).

(B) COMMUNITY RESILIENCE AND EVACUATION ROUTE GRANTS.—

(i) IN GENERAL.—Using funds made available under this subsection, the Secretary shall provide community resilience and evacuation route grants to eligible entities to carry out 1 or more eligible activities under clause (ii).

(ii) ELIGIBLE ACTIVITIES.—An eligible entity may use a community resilience and evacuation route grant under this subparagraph for 1 or more projects that strengthen and protect evacuation routes that are essential for providing and supporting evacuations caused by emergency events, including a project that—

(I) is an eligible activity under subparagraph (A)(ii), if that eligible activity will improve an evacuation route;

(II) ensures the ability of the evacuation route to provide safe passage during an evacuation and reduces the risk of damage to evacuation routes as a result of future emergency events, including restoring or replacing existing evacuation routes that are in poor condition or not designed to meet the anticipated demand during an emergency event, and including steps to protect routes from mud, rock, or other debris slides;

(III) if the eligible entity notifies the Secretary that existing evacuation routes are not sufficient to adequately facilitate evacuations, including the transportation of emergency responders and recovery resources, expands the capacity of evacuation routes to swiftly and safely accommodate evacuations, including installation of—

(aa) communications and intelligent transportation system equipment and infrastructure;

(bb) counterflow measures; or

(cc) shoulders;

(IV) is for the construction of new or redundant evacuation routes, if the eligible entity notifies the Secretary that existing evacuation routes are not sufficient to adequately facilitate evacuations, including the transportation of emergency responders and recovery

resources;

(V) is for the acquisition of evacuation route or traffic incident management equipment or signage; or

(VI) will ensure access or service to critical destinations, including hospitals and other medical or emergency service facilities, major employers, critical manufacturing centers, ports and intermodal facilities, utilities, and Federal facilities.

(iii) PRIORITY.—The Secretary shall prioritize community resilience and evacuation route grants under this subparagraph for eligible activities that are cost-effective, as determined by the Secretary, taking into account—

(I) current and future vulnerabilities to an evacuation route due to future occurrence or recurrence of emergency events that are likely to occur in the geographic area in which the evacuation route is located; and

(II) projected changes in development patterns, demographics, and extreme weather events based on the best available evidence and analysis.

(iv) CONSULTATION.—In providing grants for community resilience and evacuation routes under this subparagraph, the Secretary may consult with the Administrator of the Federal Emergency Management Agency, who may provide technical assistance to the Secretary and to eligible entities.

(C) AT-RISK COASTAL INFRASTRUCTURE GRANTS.—

(i) DEFINITION OF ELIGIBLE ENTITY.—In this subparagraph, the term "eligible entity" means any of the following:

(I) A State (including the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands) in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or 1 or more of the Great Lakes.

(II) A political subdivision of a State described in subclause (I).

(III) A metropolitan planning organization in a State described in subclause (I).

(IV) A unit of local government in a State described in subclause (I).

(V) A special purpose district or public authority with a transportation function, including a port authority, in a State described in subclause (I).

(VI) An Indian tribe in a State described in subclause (I).

(VII) A Federal land management agency that applies jointly with a State or group of States described in subclause (I).

(VIII) A multi-State or multijurisdictional group of entities described in subclauses (I) through (VII).

(ii) GRANTS.—Using funds made available under this subsection, the Secretary shall provide at-risk coastal infrastructure grants to eligible entities to carry out 1 or more eligible activities under clause (iii).

(iii) ELIGIBLE ACTIVITIES.—An eligible entity may use an at-risk coastal infrastructure grant under this subparagraph for strengthening, stabilizing, hardening, elevating, relocating, or otherwise enhancing the resilience of highway and non-rail infrastructure, including bridges, roads, pedestrian walkways, and bicycle lanes, and associated infrastructure, such as culverts and tide gates to protect highways, that are subject to, or face increased long-term future risks of, a weather event, a natural disaster, or changing conditions, including coastal flooding, coastal erosion, wave action, storm surge, or sea level rise, in order to improve transportation and public safety and to reduce costs by avoiding larger future maintenance or rebuilding costs.

(iv) CRITERIA.—The Secretary shall provide at-risk coastal infrastructure grants under this subparagraph for a project—

(I) that addresses the risks from a current or future weather event or natural disaster,

including coastal flooding, coastal erosion, wave action, storm surge, or sea level change; and

(II) that reduces long-term infrastructure costs by avoiding larger future maintenance or rebuilding costs.

(v) COASTAL BENEFITS.—In addition to the criteria under clause (iv), for the purpose of providing at-risk coastal infrastructure grants under this subparagraph, the Secretary shall evaluate the extent to which a project will provide—

(I) access to coastal homes, businesses, communities, and other critical infrastructure, including access by first responders and other emergency personnel; or

(II) access to a designated evacuation route.

(5) GRANT REQUIREMENTS.—

(A) SOLICITATIONS FOR GRANTS.—In providing grants under this subsection, the Secretary shall conduct a transparent and competitive national solicitation process to select eligible projects to receive grants under paragraph (3) and subparagraphs (A), (B), and (C) of paragraph (4).

(B) APPLICATIONS.—

(i) IN GENERAL.—To be eligible to receive a grant under paragraph (3) or subparagraph (A), (B), or (C) of paragraph (4), an eligible entity shall submit to the Secretary an application in such form, at such time, and containing such information as the Secretary determines to be necessary.

(ii) PROJECTS IN CERTAIN AREAS.—If a project is proposed to be carried out by the eligible entity, in whole or in part, within a base floodplain, the eligible entity shall—

(I) as part of the application, identify the floodplain in which the project is to be located and disclose that information to the Secretary; and

(II) indicate in the application whether, if selected, the eligible entity will implement 1 or more components of the risk mitigation plan under section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165) with respect to the area.

(C) ELIGIBILITIES.—The Secretary may make a grant under paragraph (3) or subparagraph (A), (B), or (C) of paragraph (4) only for—

(i) a highway project eligible for assistance under this title;

(ii) a public transportation facility or service eligible for assistance under chapter 53 of title 49;

(iii) a facility or service for intercity rail passenger transportation (as defined in section 24102 of title 49); or

(iv) a port facility, including a facility that—

(I) connects a port to other modes of transportation;

(II) improves the efficiency of evacuations and disaster relief; or

(III) aids transportation.

(D) SYSTEM RESILIENCE.—A project for which a grant is provided under paragraph (3) or subparagraph (A), (B), or (C) of paragraph (4) may include the use of natural infrastructure or the construction or modification of storm surge, flood protection, or aquatic ecosystem restoration elements that the Secretary determines are functionally connected to a transportation improvement, such as—

(i) increasing marsh health and total area adjacent to a highway right-of-way to promote additional flood storage;

(ii) upgrades to and installing of culverts designed to withstand 100-year flood events;

(iii) upgrades to and installation of tide gates to protect highways; and

(iv) upgrades to and installation of flood gates to protect tunnel entrances.

(E) FEDERAL COST SHARE.—

(i) PLANNING GRANT.—The Federal share of the cost of a planning activity carried out using a planning grant under paragraph (3) shall be 100 percent.

(ii) RESILIENCE GRANTS.—

(I) IN GENERAL.—Except as provided in subclause (II) and subsection (e)(1), the Federal share of the cost of a project carried out using a grant under subparagraph (A), (B), or (C) of paragraph (4) shall not exceed 80 percent of the total project cost.

(II) TRIBAL PROJECTS.—On the determination of the Secretary, the Federal share of the cost of a project carried out using a grant under subparagraph (A), (B), or (C) of paragraph (4) by an Indian tribe (as defined in section 207(m)(1)) may be up to 100 percent.

(iii) NON-FEDERAL SHARE.—The eligible entity may use Federal funds other than Federal funds provided under this subsection to meet the non-Federal cost share requirement for a project carried out with a grant under this subsection.

(F) ELIGIBLE PROJECT COSTS.—

(i) RESILIENCE GRANT PROJECTS.—Eligible project costs for activities funded with a grant under subparagraph (A), (B), or (C) of paragraph (4) may include the costs of—

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

(II) 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 directly related to improving system performance, and operational improvements.

(ii) PLANNING GRANTS.—Eligible project costs for activities funded with a grant under paragraph (3) may include the costs of development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, other preconstruction activities, and other activities consistent with carrying out the purposes of that paragraph.

(G) LIMITATIONS.—

(i) IN GENERAL.—An eligible entity that receives a grant under subparagraph (A), (B), or (C) of paragraph (4)—

(I) may use not more than 40 percent of the amount of the grant for the construction of new capacity; and

(II) may use not more than 10 percent of the amount of the grant for activities described in subparagraph (F)(i)(I).

(ii) LIMIT ON CERTAIN ACTIVITIES.—For each fiscal year, not more than 25 percent of the total amount provided under this subsection may be used for projects described in subparagraph (C)(iii).

(H) DISTRIBUTION OF GRANTS.—

(i) IN GENERAL.—Subject to the availability of funds, an eligible entity may request and the Secretary may distribute funds for a grant under this subsection on a multiyear basis, as the Secretary determines to be necessary.

(ii) RURAL SET-ASIDE.—Of the amounts made available to carry out this subsection for each fiscal year, the Secretary shall use not less than 25 percent for grants for projects located in areas that are outside an urbanized area with a population of over 200,000.

(iii) TRIBAL SET-ASIDE.—Of the amounts made available to carry out this subsection

for each fiscal year, the Secretary shall use not less than 2 percent for grants to Indian tribes (as defined in section 207(m)(1)).

(iv) REALLOCATION.—For any fiscal year, if the Secretary determines that the amount described in clause (ii) or (iii) will not be fully utilized for the grant described in that clause, the Secretary may reallocate the unutilized funds to provide grants to other eligible entities under this subsection.

(6) CONSULTATION.—In carrying out this subsection, the Secretary shall—

(A) consult with the Assistant Secretary of the Army for Civil Works, the Administrator of the Environmental Protection Agency, the Secretary of the Interior, and the Secretary of Commerce; and

(B) solicit technical support from the Administrator of the Federal Emergency Management Agency.

(7) GRANT ADMINISTRATION.—The Secretary may—

(A) retain not more than a total of 5 percent of the funds made available to carry out this subsection and to review applications for grants under this subsection; and

(B) transfer portions of the funds retained under subparagraph (A) to the relevant Administrators to fund the award and oversight of grants provided under this subsection.

(e) RESILIENCE IMPROVEMENT PLAN AND LOWER NON-FEDERAL SHARE.—

(1) FEDERAL SHARE REDUCTIONS.—

(A) IN GENERAL.—A State that receives funds apportioned to the State under section 104(b)(8) or an eligible entity that receives a grant under subsection (d) shall have the non-Federal share of a project carried out with the funds or grant, as applicable, reduced by an amount described in subparagraph (B) if the State or eligible entity meets the applicable requirements under that subparagraph.

(B) AMOUNT OF REDUCTIONS.—

(i) RESILIENCE IMPROVEMENT PLAN.—Subject to clause (iii), the amount of the non-Federal share of the costs of a project carried out with funds apportioned to a State under section 104(b)(8) or a grant under subsection (d) shall be reduced by 7 percentage points if—

(I) in the case of a State or an eligible entity that is a State or a metropolitan planning organization, the State or eligible entity has—

(aa) developed a resilience improvement plan in accordance with this subsection; and

(bb) prioritized the project on that resilience improvement plan; and

(II) in the case of an eligible entity not described in subclause (I), the eligible entity is located in a State or an area served by a metropolitan planning organization that has—

(aa) developed a resilience improvement plan in accordance with this subsection; and

(bb) prioritized the project on that resilience improvement plan.

(ii) INCORPORATION OF RESILIENCE IMPROVEMENT PLAN IN OTHER PLANNING.—Subject to clause (iii), the amount of the non-Federal share of the cost of a project carried out with funds under subsection (c) or a grant under subsection (d) shall be reduced by 3 percentage points if—

(I) in the case of a State or an eligible entity that is a State or a metropolitan planning organization, the resilience improvement plan developed in accordance with this subsection has been incorporated into the metropolitan transportation plan under section 134 or the long-range statewide transportation plan under section 135, as applicable; and

(II) in the case of an eligible entity not described in subclause (I), the eligible entity is located in a State or an area served by a metropolitan planning organization that

incorporated a resilience improvement plan into the metropolitan transportation plan under section 134 or the long-range statewide transportation plan under section 135, as applicable.

(iii) LIMITATIONS.—

(I) MAXIMUM REDUCTION.—A State or eligible entity may not receive a reduction under this paragraph of more than 10 percentage points for any single project carried out with funds under subsection (c) or a grant under subsection (d).

(II) NO NEGATIVE NON-FEDERAL SHARE.—A reduction under this paragraph shall not reduce the non-Federal share of the costs of a project carried out with funds under subsection (c) or a grant under subsection (d) to an amount that is less than zero.

(2) PLAN CONTENTS.—A resilience improvement plan referred to in paragraph (1)—

(A) shall be for the immediate and long-range planning activities and investments of the State or metropolitan planning organization with respect to resilience of the surface transportation system within the boundaries of the State or metropolitan planning organization, as applicable;

(B) shall demonstrate a systemic approach to surface transportation system resilience and be consistent with and complementary of the State and local mitigation plans required under section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165);

(C) shall include a risk-based assessment of vulnerabilities of transportation assets and systems to current and future weather events and natural disasters, such as severe storms, flooding, drought, levee and dam failures, wildfire, rockslides, mudslides, sea level rise, extreme weather, including extreme temperatures, and earthquakes;

(D) may—

(i) designate evacuation routes and strategies, including multimodal facilities, designated with consideration for individuals without access to personal vehicles;

(ii) plan for response to anticipated emergencies, including plans for the mobility of—

(I) emergency response personnel and equipment; and

(II) access to emergency services, including for vulnerable or disadvantaged populations;

(iii) describe the resilience improvement policies, including strategies, land-use and zoning changes, investments in natural infrastructure, or performance measures that will inform the transportation investment decisions of the State or metropolitan planning organization with the goal of increasing resilience;

(iv) include an investment plan that—

(I) includes a list of priority projects; and

(II) describes how funds apportioned to the State under section 104(b)(8) or provided by a grant under the program would be invested and matched, which shall not be subject to fiscal constraint requirements; and

(v) use science and data and indicate the source of data and methodologies; and

(E) shall, as appropriate—

(i) include a description of how the plan will improve the ability of the State or metropolitan planning organization—

(I) to respond promptly to the impacts of weather events and natural disasters; and

(II) to be prepared for changing conditions, such as sea level rise and increased flood risk;

(ii) describe the codes, standards, and regulatory framework, if any, adopted and enforced to ensure resilience improvements within the impacted area of proposed projects included in

the resilience improvement plan;

(iii) consider the benefits of combining hard surface transportation assets, and natural infrastructure, through coordinated efforts by the Federal Government and the States;

(iv) assess the resilience of other community assets, including buildings and housing, emergency management assets, and energy, water, and communication infrastructure;

(v) use a long-term planning period; and

(vi) include such other information as the State or metropolitan planning organization considers appropriate.

(3) NO NEW PLANNING REQUIREMENTS.—Nothing in this section requires a metropolitan planning organization or a State to develop a resilience improvement plan or to include a resilience improvement plan under the metropolitan transportation plan under section 134 or the long-range statewide transportation plan under section 135, as applicable, of the metropolitan planning organization or State.

(f) MONITORING.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Secretary shall—

(A) establish, for the purpose of evaluating the effectiveness and impacts of projects carried out with a grant under subsection (d)—

(i) subject to paragraph (2), transportation and any other metrics as the Secretary determines to be necessary; and

(ii) procedures for monitoring and evaluating projects based on those metrics; and

(B) select a representative sample of projects to evaluate based on the metrics and procedures established under subparagraph (A).

(2) NOTICE.—Before adopting any metrics described in paragraph (1), the Secretary shall—

(A) publish the proposed metrics in the Federal Register; and

(B) provide to the public an opportunity for comment on the proposed metrics.

(g) REPORTS.—

(1) REPORTS FROM ELIGIBLE ENTITIES.—Not later than 1 year after the date on which a project carried out with a grant under subsection (d) is completed, the eligible entity that carried out the project shall submit to the Secretary a report on the results of the project and the use of the funds awarded.

(2) REPORTS TO CONGRESS.—

(A) ANNUAL REPORTS.—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, and publish on the website of the Department of Transportation, an annual report that describes the implementation of the program during the preceding calendar year, including—

(i) each project for which a grant was provided under subsection (d);

(ii) information relating to project applications received;

(iii) the manner in which the consultation requirements were implemented under subsection (d);

(iv) recommendations to improve the administration of subsection (d), including whether assistance from additional or fewer agencies to carry out the program is appropriate;

(v) the period required to disburse grant funds to eligible entities based on applicable Federal coordination requirements; and

(vi) a list of facilities that repeatedly require repair or reconstruction due to emergency events.

(B) FINAL REPORT.—Not later than 5 years after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall submit to Congress a report that includes the results of the reports submitted under subparagraph (A).

(h) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, a project assisted under this section shall be treated as a project on a Federal-aid highway under this chapter.

(Added Pub. L. 117–58, div. A, title I, §11405(a), Nov. 15, 2021, 135 Stat. 561.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section and the date of enactment of the Surface Transportation Reauthorization Act of 2021, referred to in subsecs. (f)(1) and (g)(2)(B), are the date of enactment of div. A of Pub. L. 117–58, which was approved Nov. 15, 2021.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as an Effective Date of 2021 Amendment note under section 101 of this title.

§177. Neighborhood access and equity grant program

(a) IN GENERAL.—In addition to amounts otherwise available, there is appropriated for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $1,893,000,000, to remain available until September 30, 2026, to the Administrator of the Federal Highway Administration for competitive grants to eligible entities described in subsection (b)—

(1) to improve walkability, safety, and affordable transportation access through projects that are context-sensitive—

(A) to remove, remediate, or reuse a facility described in subsection (c)(1);

(B) to replace a facility described in subsection (c)(1) with a facility that is at-grade or lower speed;

(C) to retrofit or cap a facility described in subsection (c)(1);

(D) to build or improve complete streets, multiuse trails, regional greenways, or active transportation networks and spines; or

(E) to provide affordable access to essential destinations, public spaces, or transportation links and hubs;

(2) to mitigate or remediate negative impacts on the human or natural environment resulting from a facility described in subsection (c)(2) in a disadvantaged or underserved community through—

(A) noise barriers to reduce impacts resulting from a facility described in subsection (c)(2);

(B) technologies, infrastructure, and activities to reduce surface transportation-related greenhouse gas emissions and other air pollution;

(C) natural infrastructure, pervious, permeable, or porous pavement, or protective features to reduce or manage stormwater run-off resulting from a facility described in subsection (c)(2);

(D) infrastructure and natural features to reduce or mitigate urban heat island hot spots in the transportation right-of-way or on surface transportation facilities; or

(E) safety improvements for vulnerable road users; and

(3) for planning and capacity building activities in disadvantaged or underserved communities to—

(A) identify, monitor, or assess local and ambient air quality, emissions of transportation

greenhouse gases, hot spot areas of extreme heat or elevated air pollution, gaps in tree canopy coverage, or flood prone transportation infrastructure;

(B) assess transportation equity or pollution impacts and develop local anti-displacement policies and community benefit agreements;

(C) conduct predevelopment activities for projects eligible under this subsection;

(D) expand public participation in transportation planning by individuals and organizations in disadvantaged or underserved communities; or

(E) administer or obtain technical assistance related to activities described in this subsection.

(b) ELIGIBLE ENTITIES DESCRIBED.—An eligible entity referred to in subsection (a) is—

(1) a State;

(2) a unit of local government;

(3) a political subdivision of a State;

(4) an entity described in section 207(m)(1)(E);

(5) a territory of the United States;

(6) a special purpose district or public authority with a transportation function;

(7) a metropolitan planning organization (as defined in section 134(b)(2)); or

(8) with respect to a grant described in subsection (a)(3), in addition to an eligible entity described in paragraphs (1) through (7), a nonprofit organization or institution of higher education that has entered into a partnership with an eligible entity described in paragraphs (1) through (7).

(c) FACILITY DESCRIBED.—A facility referred to in subsection (a) is—

(1) a surface transportation facility for which high speeds, grade separation, or other design factors create an obstacle to connectivity within a community; or

(2) a surface transportation facility which is a source of air pollution, noise, stormwater, or other burden to a disadvantaged or underserved community.

(d) INVESTMENT IN ECONOMICALLY DISADVANTAGED COMMUNITIES.—

(1) IN GENERAL.—In addition to amounts otherwise available, there is appropriated for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $1,262,000,000, to remain available until September 30, 2026, to the Administrator of the Federal Highway Administration to provide grants for projects in communities described in paragraph (2) for the same purposes and administered in the same manner as described in subsection (a).

(2) COMMUNITIES DESCRIBED.—A community referred to in paragraph (1) is a community that—

(A) is economically disadvantaged, underserved, or located in an area of persistent poverty;

(B) has entered or will enter into a community benefits agreement with representatives of the community;

(C) has an anti-displacement policy, a community land trust, or a community advisory board in effect; or

(D) has demonstrated a plan for employing local residents in the area impacted by the activity or project proposed under this section.

(e) ADMINISTRATION.—

(1) IN GENERAL.—A project carried out under subsection (a) or (d) shall be treated as a project on a Federal-aid highway.

(2) COMPLIANCE WITH EXISTING REQUIREMENTS.—Funds made available for a grant under this section and administered by or through a State department of transportation shall be expended in compliance with the U.S. Department of Transportation's Disadvantaged Business Enterprise Program.

(f) COST SHARE.—The Federal share of the cost of an activity carried out using a grant awarded under this section shall be not more than 80 percent, except that the Federal share of the cost of a

project in a disadvantaged or underserved community may be up to 100 percent.

(g) TECHNICAL ASSISTANCE.—In addition to amounts otherwise available, there is appropriated for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $50,000,000, to remain available until September 30, 2026, to the Administrator of the Federal Highway Administration for—

(1) guidance, technical assistance, templates, training, or tools to facilitate efficient and effective contracting, design, and project delivery by units of local government;

(2) subgrants to units of local government to build capacity of such units of local government to assume responsibilities to deliver surface transportation projects; and

(3) operations and administration of the Federal Highway Administration.

(h) LIMITATIONS.—Amounts made available under this section shall not—

(1) be subject to any restriction or limitation on the total amount of funds available for implementation or execution of programs authorized for Federal-aid highways; and

(2) be used for a project for additional through travel lanes for single-occupant passenger vehicles.

(Added Pub. L. 117–169, title VI, §60501(a), Aug. 16, 2022, 136 Stat. 2080.)

§178. Environmental review implementation funds

(a) ESTABLISHMENT.—In addition to amounts otherwise available, for fiscal year 2022, there is appropriated to the Administrator, out of any money in the Treasury not otherwise appropriated, $100,000,000, to remain available until September 30, 2026, for the purpose of facilitating the development and review of documents for the environmental review process for proposed projects through—

(1) the provision of guidance, technical assistance, templates, training, or tools to facilitate an efficient and effective environmental review process for surface transportation projects and any administrative expenses of the Federal Highway Administration to conduct activities described in this section; and

(2) providing funds made available under this subsection to eligible entities—

(A) to build capacity of such eligible entities to conduct environmental review processes;

(B) to facilitate the environmental review process for proposed projects by—

(i) defining the scope or study areas;

(ii) identifying impacts, mitigation measures, and reasonable alternatives;

(iii) preparing planning and environmental studies and other documents prior to and during the environmental review process, for potential use in the environmental review process in accordance with applicable statutes and regulations;

(iv) conducting public engagement activities; and

(v) carrying out permitting or other activities, as the Administrator determines to be appropriate, to support the timely completion of an environmental review process required for a proposed project; and

(C) for administrative expenses of the eligible entity to conduct any of the activities described in subparagraphs (A) and (B).

(b) COST SHARE.—

(1) IN GENERAL.—The Federal share of the cost of an activity carried out under this section by an eligible entity shall be not more than 80 percent.

(2) SOURCE OF FUNDS.—The non-Federal share of the cost of an activity carried out under this section by an eligible entity may be satisfied using funds made available to the eligible entity under any other Federal, State, or local grant program.

(c) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Highway Administration.

(2) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a State;

(B) a unit of local government;

(C) a political subdivision of a State;

(D) a territory of the United States;

(E) an entity described in section 207(m)(1)(E);

(F) a recipient of funds under section 203; or

(G) a metropolitan planning organization (as defined in section 134(b)(2)).

(3) ENVIRONMENTAL REVIEW PROCESS.—The term "environmental review process" has the meaning given the term in section 139(a)(5).

(4) PROPOSED PROJECT.—The term "proposed project" means a surface transportation project for which an environmental review process is required.

(Added Pub. L. 117–169, title VI, §60505(a), Aug. 16, 2022, 136 Stat. 2083.)

§179. Low-carbon transportation materials grants

(a) FEDERAL HIGHWAY ADMINISTRATION APPROPRIATION.—In addition to amounts otherwise available, there is appropriated for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $2,000,000,000, to remain available until September 30, 2026, to the Administrator to reimburse or provide incentives to eligible recipients for the use, in projects, of construction materials and products that have substantially lower levels of embodied greenhouse gas emissions associated with all relevant stages of production, use, and disposal as compared to estimated industry averages of similar materials or products, as determined by the Administrator of the Environmental Protection Agency, and for the operations and administration of the Federal Highway Administration to carry out this section.

(b) REIMBURSEMENT OF INCREMENTAL COSTS; INCENTIVES.—

(1) IN GENERAL.—The Administrator shall, subject to the availability of funds, either reimburse or provide incentives to eligible recipients that use low-embodied carbon construction materials and products on a project funded under this title.

(2) REIMBURSEMENT AND INCENTIVE AMOUNTS.—

(A) INCREMENTAL AMOUNT.—The amount of reimbursement under paragraph (1) shall be equal to the incrementally higher cost of using such materials relative to the cost of using traditional materials, as determined by the eligible recipient and verified by the Administrator.

(B) INCENTIVE AMOUNT.—The amount of an incentive under paragraph (1) shall be equal to 2 percent of the cost of using low-embodied carbon construction materials and products on a project funded under this title.

(3) FEDERAL SHARE.—If a reimbursement or incentive is provided under paragraph (1), the total Federal share payable for the project for which the reimbursement or incentive is provided shall be up to 100 percent.

(4) LIMITATIONS.—

(A) IN GENERAL.—The Administrator shall only provide a reimbursement or incentive under paragraph (1) for a project on a—

(i) Federal-aid highway;

(ii) tribal transportation facility;

(iii) Federal lands transportation facility; or

(iv) Federal lands access transportation facility.

(B) OTHER RESTRICTIONS.—Amounts made available under this section shall not be subject to any restriction or limitation on the total amount of funds available for implementation or execution of programs authorized for Federal-aid highways.

(C) SINGLE OCCUPANT PASSENGER VEHICLES.—Funds made available under this section shall not be used for projects that result in additional through travel lanes for single occupant passenger vehicles.

(5) MATERIALS IDENTIFICATION.—The Administrator shall review the low-embodied carbon construction materials and products identified by the Administrator of the Environmental Protection Agency and shall identify low-embodied carbon construction materials and products—

(A) appropriate for use in projects eligible under this title; and

(B) eligible for reimbursement or incentives under this section.

(c) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Highway Administration.

(2) ELIGIBLE RECIPIENT.—The term "eligible recipient" means—

(A) a State;

(B) a unit of local government;

(C) a political subdivision of a State;

(D) a territory of the United States;

(E) an entity described in section 207(m)(1)(E);

(F) a recipient of funds under section 203;

(G) a metropolitan planning organization (as defined in section 134(b)(2)); or

(H) a special purpose district or public authority with a transportation function.

(3) GREENHOUSE GAS.—The term "greenhouse gas" means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.

(Added Pub. L. 117–169, title VI, §60506(a), Aug. 16, 2022, 136 Stat. 2085.)

[§§181 to 190. Renumbered §§601 to 610]

EDITORIAL NOTES

CODIFICATION

Subchapter II heading "INFRASTRUCTURE FINANCE" was struck out and sections 181 to 190, which comprised subchapter II of this chapter, were renumbered sections 601 to 610, respectively, and transferred to follow the analysis of chapter 6 of this title, by Pub. L. 109–59, title I, §1602(b)(6)(B), (d), Aug. 10, 2005, 119 Stat. 1247, as amended by Pub. L. 110–244, title I, §101(f), June 6, 2008, 122 Stat. 1574.

CHAPTER 2—OTHER HIGHWAYS

Sec.
201. Federal lands and tribal transportation programs.
202. Tribal transportation program.
203. Federal lands transportation program.
204. Federal lands access program.
205. Forest development roads and trails.
206. Recreational trails program.
207. Tribal transportation self-governance program.
208. Safe routes to school.

[209. Repealed.]
210. Defense access roads.
[211 to 216. Repealed.]
217. Bicycle transportation and pedestrian walkways.
218. Alaska Highway.
[219. Repealed.]

EDITORIAL NOTES

AMENDMENTS

2021—Pub. L. 117–58, div. A, title I, §11119(b)(1), Nov. 15, 2021, 135 Stat. 497, added item 208.

2015—Pub. L. 114–94, div. A, title I, §§1109(c)(6)(B), 1121(b), Dec. 4, 2015, 129 Stat. 1344, 1368, added item 207 and struck out item 213 "Transportation alternatives".

2012—Pub. L. 112–141, div. A, title I, §§1114(b)(2)(B), 1119(c)(1), 1122(b), 1519(c)(1)(B), July 6, 2012, 126 Stat. 468, 491, 497, 575, substituted "Federal lands and tribal transportation programs" for "Authorizations" in item 201, "Tribal transportation program" for "Allocations" in item 202, "Federal lands transportation program" for "Availability of funds" in item 203, and "Federal lands access program" for "Federal lands highways program" in item 204, struck out item 212 "Inter-American Highway", added item 213, and struck out items 214 "Public lands development roads and trails", 215 "Territorial highway program", and 216 "Darien Gap Highway".

2005—Pub. L. 109–59, title I, §1118(b)(3), Aug. 10, 2005, 119 Stat. 1181, substituted "Territorial highway program" for "Territories highway development program" in item 215.

1998—Pub. L. 105–178, title I, §1112(b), June 9, 1998, 112 Stat. 151, substituted "Recreational trails program" for "Repealed" in item 206.

1987—Pub. L. 100–17, title I, §133(e)(1), Apr. 2, 1987, 101 Stat. 173, struck out items 211 "Timber access road hearings", 213 "Rama Road", and 219 "Safer of off-system roads".

1983—Pub. L. 97–424, title I, §126(e)(1), Jan. 6, 1983, 96 Stat. 2115, substituted "Allocations" for "Apportionment for allocation" in item 202.

Pub. L. 97–424, title I, §126(e)(2), Jan. 6, 1983, 96 Stat. 2115, substituted "Federal lands highways programs" for "Forest highways" in item 204.

Pub. L. 97–424, title I, §126(e)(3), Jan. 6, 1983, 96 Stat. 2116, substituted "Repealed" in items 206 through 209 which read "Park roads and trails", "Parkways", "Indian reservation roads", "Public lands highways", respectively.

1976—Pub. L. 94–280, title I, §135(b), May 5, 1976, 90 Stat. 442, substituted item 219 "Safer of off-system roads" for "Off-system roads".

1975—Pub. L. 93–643, §122(b), Jan. 4, 1975, 88 Stat. 2290, added item 219.

1973—Pub. L. 93–87, title I, §§124(b), 127(a)(2), Aug. 13, 1973, 87 Stat. 262, 264, added items 217 and 218.

1970—Pub. L. 91–605, title I, §§112(b), 113(b), Dec. 31, 1970, 84 Stat. 1721, 1722, added items 215 and 216.

1962—Pub. L. 87–866, §6(c), Oct. 23, 1962, 76 Stat. 1147, added item 214.

§201. Federal lands and tribal transportation programs

(a) PURPOSE.—Recognizing the need for all public Federal and tribal transportation facilities to be treated under uniform policies similar to the policies that apply to Federal-aid highways and other public transportation facilities, the Secretary of Transportation, in collaboration with the Secretaries of the appropriate Federal land management agencies, shall coordinate a uniform policy for all public Federal and tribal transportation facilities that shall apply to Federal lands transportation facilities, tribal transportation facilities, and Federal lands access transportation facilities.

(b) AVAILABILITY OF FUNDS.—

(1) AVAILABILITY.—Funds authorized for the tribal transportation program, the Federal lands transportation program, and the Federal lands access program shall be available for contract upon apportionment, or on October 1 of the fiscal year for which the funds were authorized if no apportionment is required.

(2) AMOUNT REMAINING.—Any amount remaining unexpended for a period of 3 years after

the close of the fiscal year for which the funds were authorized shall lapse.

(3) OBLIGATIONS.—The Secretary of the department responsible for the administration of funds under this subsection may incur obligations, approve projects, and enter into contracts under such authorizations, which shall be considered to be contractual obligations of the United States for the payment of the cost thereof, the funds of which shall be considered to have been expended when obligated.

(4) EXPENDITURE.—

(A) IN GENERAL.—Any funds authorized for any fiscal year after the date of enactment of this section under the Federal lands transportation program, the Federal lands access program, and the tribal transportation program shall be considered to have been expended if a sum equal to the total of the sums authorized for the fiscal year and previous fiscal years have been obligated.

(B) CREDITED FUNDS.—Any funds described in subparagraph (A) that are released by payment of final voucher or modification of project authorizations shall be—

(i) credited to the balance of unobligated authorizations; and

(ii) immediately available for expenditure.

(5) APPLICABILITY.—This section shall not apply to funds authorized before the date of enactment of this paragraph.

(6) CONTRACTUAL OBLIGATION.—

(A) IN GENERAL.—Notwithstanding any other provision of law (including regulations), the authorization by the Secretary, or the Secretary of the appropriate Federal land management agency if the agency is the contracting office, of engineering and related work for the development, design, and acquisition associated with a construction project, whether performed by contract or agreement authorized by law, or the approval by the Secretary of plans, specifications, and estimates for construction of a project, shall be considered to constitute a contractual obligation of the Federal Government to pay the total eligible cost of—

(i) any project funded under this title; and

(ii) any project funded pursuant to agreements authorized by this title or any other title.

(B) EFFECT.—Nothing in this paragraph—

(i) affects the application of the Federal share associated with the project being undertaken under this section; or

(ii) modifies the point of obligation associated with Federal salaries and expenses.

(7) FEDERAL SHARE.—

(A) TRIBAL AND FEDERAL LANDS TRANSPORTATION PROGRAM.—The Federal share of the cost of a project carried out under the Federal lands transportation program or the tribal transportation program shall be 100 percent.

(B) FEDERAL LANDS ACCESS PROGRAM.—The Federal share of the cost of a project carried out under the Federal lands access program shall be be [1] up to 100 percent.

(c) TRANSPORTATION PLANNING.—

(1) TRANSPORTATION PLANNING PROCEDURES.—In consultation with the Secretary of each appropriate Federal land management agency, the Secretary shall implement transportation planning procedures for Federal lands and tribal transportation facilities that are consistent with the planning processes required under sections 134 and 135.

(2) APPROVAL OF TRANSPORTATION IMPROVEMENT PROGRAM.—The transportation improvement program developed as a part of the transportation planning process under this section shall be approved by the Secretary.

(3) INCLUSION IN OTHER PLANS.—Each regionally significant tribal transportation program, Federal lands transportation program, and Federal lands access program project shall be—

(A) developed in cooperation with State and metropolitan planning organizations; and

(B) included in appropriate tribal transportation program plans, Federal lands transportation program plans, Federal lands access program plans, State and metropolitan plans, and transportation improvement programs.

(4) INCLUSION IN STATE PROGRAMS.—The approved tribal transportation program, Federal lands transportation program, and Federal lands access program transportation improvement programs shall be included in appropriate State and metropolitan planning organization plans and programs without further action on the transportation improvement program.

(5) ASSET MANAGEMENT.—The Secretary and the Secretary of each appropriate Federal land management agency shall, to the extent appropriate, implement safety, bridge, pavement, and congestion management systems for facilities funded under the tribal transportation program and the Federal lands transportation program in support of asset management.

(6) DATA COLLECTION.—

(A) DATA COLLECTION.—

(i) IN GENERAL.—The Secretaries of the appropriate Federal land management agencies shall collect and report data necessary to implement the Federal lands transportation program, the Federal lands access program, and the tribal transportation program.

(ii) REQUIREMENT.—Data collected to implement the tribal transportation program shall be in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.).

(iii) INCLUSIONS.—Data collected under this paragraph includes—

(I) inventory and condition information on Federal lands transportation facilities and tribal transportation facilities; and

(II) bridge inspection and inventory information on any Federal bridge open to the public.

(B) STANDARDS.—The Secretary, in coordination with the Secretaries of the appropriate Federal land management agencies, shall define the collection and reporting data standards.

(C) TRIBAL DATA COLLECTION.—In addition to the data to be collected under subparagraph (A), not later than 90 days after the last day of each fiscal year, any entity carrying out a project under the tribal transportation program under section 202 shall submit to the Secretary and the Secretary of the Interior, based on obligations and expenditures under the tribal transportation program during the preceding fiscal year, the following data:

(i) The names of projects and activities carried out by the entity under the tribal transportation program during the preceding fiscal year.

(ii) A description of the projects and activities identified under clause (i).

(iii) The current status of the projects and activities identified under clause (i).

(iv) An estimate of the number of jobs created and the number of jobs retained by the projects and activities identified under clause (i).

(7) COOPERATIVE RESEARCH AND TECHNOLOGY DEPLOYMENT.—The Secretary may conduct cooperative research and technology deployment in coordination with Federal land management agencies, as determined appropriate by the Secretary.

(8) FUNDING.—

(A) IN GENERAL.—To carry out the activities described in this subsection for Federal lands transportation facilities, Federal lands access transportation facilities, and other federally owned roads open to public travel (as that term is defined in section 125(e)), the Secretary shall for each fiscal year combine and use not greater than 20 percent of the funds authorized for programs under sections 203 and 204.

(B) OTHER ACTIVITIES.—In addition to the activities described in subparagraph (A), funds described under that subparagraph may be used for—

(i) bridge inspections on any federally owned bridge even if that bridge is not included on the inventory described under section 203; and

(ii) transportation planning activities carried out by Federal land management agencies eligible for funding under this chapter.

(d) REIMBURSABLE AGREEMENTS.—In carrying out work under reimbursable agreements with any State, local, or tribal government under this title, the Secretary—

(1) may, without regard to any other provision of law (including regulations), record obligations against accounts receivable from the entity; and

(2) shall credit amounts received from the entity to the appropriate account, which shall occur not later than 90 days after the date of the original request by the Secretary for payment.

(e) TRANSFERS.—

(1) IN GENERAL.—To enable the efficient use of funds made available for the Federal lands transportation program and the Federal lands access program, the funds may be transferred by the Secretary within and between each program with the concurrence of, as appropriate—

(A) the Secretary;

(B) the affected Secretaries of the respective Federal land management agencies;

(C) State departments of transportation; and

(D) local government agencies.

(2) CREDIT.—The funds described in paragraph (1) shall be credited back to the loaning entity with funds that are currently available for obligation at the time of the credit.

(f) ALTERNATIVE CONTRACTING METHODS.—

(1) IN GENERAL.—Notwithstanding any other provision of law (including the Federal Acquisition Regulation), a contracting method available to a State under this title may be used by the Secretary, on behalf of—

(A) a Federal land management agency, in using any funds pursuant to section 203, 204, or 308;

(B) a Federal land management agency, in using any funds pursuant to section 1535 of title 31 for any of the eligible uses described in sections 203(a)(1) and 204(a)(1) and paragraphs (1) and (2) of section 308(a); or

(C) a Tribal government, in using funds pursuant to section 202(b)(7)(D).

(2) METHODS DESCRIBED.—The contracting methods referred to in paragraph (1) shall include, at a minimum—

(A) project bundling;

(B) bridge bundling;

(C) design-build contracting;

(D) 2-phase contracting;

(E) long-term concession agreements; and

(F) any method tested, or that could be tested, under an experimental program relating to contracting methods carried out by the Secretary.

(3) EFFECT.—Nothing in this subsection—

(A) affects the application of the Federal share for the project carried out with a contracting method under this subsection; or

(B) modifies the point of obligation of Federal salaries and expenses.

(Added Pub. L. 112–141, div. A, title I, §1119(a), July 6, 2012, 126 Stat. 473; amended Pub. L. 114–94, div. A, title I, §§1117(a), 1120, Dec. 4, 2015, 129 Stat. 1356, 1358; Pub. L. 117–58, div. A, title I, §§11113(a), 11305(a), 11525(l), Nov. 15, 2021, 135 Stat. 479, 531, 607.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section and the date of enactment of this paragraph, referred to in subsec. (b)(4)(A), (5), is the date of enactment of Pub. L. 112–141, which was approved July 6, 2012.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (c)(6)(A)(ii), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, which is classified principally to chapter 46 (§5301 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 25 and Tables.

PRIOR PROVISIONS

A prior section 201, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 906; Pub. L. 97–424, title I, §126(f), Jan. 6, 1983, 96 Stat. 2116; Pub. L. 105–178, title I, §1115(e)(1), June 9, 1998, 112 Stat. 158, related to authorizations, prior to repeal by Pub. L. 112–141, div. A, title I, §1119(a), July 6, 2012, 126 Stat. 473.

AMENDMENTS

2021—Subsec. (b)(7)(B). Pub. L. 117–58, §11113(a)(1), substituted "be up to 100 percent" for "determined in accordance with section 120".

Subsec. (c)(6)(A)(ii). Pub. L. 117–58, §11525(l), substituted "(25 U.S.C. 5301 et seq.)" for "(25 U.S.C. 450 et seq.)".

Subsec. (c)(8)(A). Pub. L. 117–58, §11113(a)(2), substituted "20 percent" for "5 percent".

Subsec. (f). Pub. L. 117–58, §11305(a), added subsec. (f).

2015—Subsec. (c)(6)(A). Pub. L. 114–94, §1120(1), inserted cl. (i) designation and heading, substituted period for "in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), including—", added cl. (ii) and introductory provisions of cl. (iii), redesignated former cls. (i) and (ii). as subcls. (I) and (II) of cl. (iii), respectively, and realigned margins.

Subsec. (c)(6)(C). Pub. L. 114–94, §1117(a), added subpar. (C).

Subsec. (c)(7), (8). Pub. L. 114–94, §1120(2), added pars. (7) and (8) and struck out former par. (7). Prior to amendment, text of par. (7) read as follows: "To implement the activities described in this subsection, including direct support of transportation planning activities among Federal land management agencies, the Secretary may use not more than 5 percent for each fiscal year of the funds authorized for programs under sections 203 and 204."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

USE OF ALTERNATIVE CONTRACTING METHODS

Pub. L. 117–58, div. A, title I, §11305(c), Nov. 15, 2021, 135 Stat. 532, provided that: "In carrying out an alternative contracting method under section 201(f) or 308(a)(4) of title 23, United States Code, the Secretary [of Transportation] shall—

"(1) in consultation with the applicable Federal land management agencies, establish clear procedures that are—

"(A) applicable to the alternative contracting method; and

"(B) to the maximum extent practicable, consistent with the requirements applicable to Federal procurement transactions;

"(2) solicit input on the use of the alternative contracting method from the affected industry prior to using the method; and

"(3) analyze and prepare an evaluation of the use of the alternative contracting method."

NATIONALLY SIGNIFICANT FEDERAL LANDS AND TRIBAL PROJECTS PROGRAM

Pub. L. 114–94, div. A, title I, §1123, Dec. 4, 2015, 129 Stat. 1370, as amended by Pub. L. 117–58, div. A, title I, §11127, Nov. 15, 2021, 135 Stat. 507, provided that:

"(a) PURPOSE.—The Secretary [of Transportation] shall establish a nationally significant Federal lands and tribal projects program (referred to in this section as the 'program') to provide funding to construct, reconstruct, or rehabilitate nationally significant Federal lands and tribal transportation projects.

"(b) ELIGIBLE APPLICANTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), entities eligible to receive funds under sections 201, 202, 203, and 204 of title 23, United States Code, may apply for funding under the program.

"(2) SPECIAL RULE.—A State, county, or unit of local government may only apply for funding under the program if sponsored by an eligible Federal land management agency or Indian tribe.

"(c) ELIGIBLE PROJECTS.—An eligible project under the program shall be a single continuous project—

"(1) on a Federal lands transportation facility, a Federal lands access transportation facility, or a tribal transportation facility (as those terms are defined in section 101 of title 23, United States Code), except that such facility is not required to be included in an inventory described in section 202 or 203 of such title;

"(2) for which completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been demonstrated through—

"(A) a record of decision with respect to the project;

"(B) a finding that the project has no significant impact; or

"(C) a determination that the project is categorically excluded; and

"(3) having an estimated cost, based on the results of preliminary engineering, equal to or exceeding $12,500,000.

"(d) ELIGIBLE ACTIVITIES.—

"(1) IN GENERAL.—Subject to paragraph (2), an eligible applicant receiving funds under the program may only use the funds for construction, reconstruction, and rehabilitation activities.

"(2) INELIGIBLE ACTIVITIES.—An eligible applicant may not use funds received under the program for activities relating to project design.

"(e) APPLICATIONS.—Eligible applicants shall submit to the Secretary [of Transportation] an application at such time, in such form, and containing such information as the Secretary may require.

"(f) SELECTION CRITERIA.—In selecting a project to receive funds under the program, the Secretary shall consider the extent to which the project—

"(1) furthers the goals of the Department, including state of good repair, economic competitiveness, quality of life, and safety;

"(2) improves the condition of critical transportation facilities, including multimodal facilities;

"(3) needs construction, reconstruction, or rehabilitation;

"(4) has costs matched by funds that are not provided under this section, with projects with a greater percentage of other sources of matching funds ranked ahead of lesser matches;

"(5) is included in or eligible for inclusion in the National Register of Historic Places;

"(6) uses new technologies and innovations that enhance the efficiency of the project;

"(7) is supported by funds, other than the funds received under the program, to construct, maintain, and operate the facility;

"(8) spans 2 or more States; and

"(9) serves land owned by multiple Federal agencies or Indian tribes.

"(g) COST SHARE.—

"(1) FEDERAL SHARE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of the cost of a project shall be up to 90 percent.

"(B) TRIBAL PROJECTS.—In the case of a project on a tribal transportation facility (as defined in section 101(a) of title 23, United States Code), the Federal share of the cost of the project shall be 100 percent.

"(2) NON-FEDERAL SHARE.—Notwithstanding any other provision of law, any Federal funds may be used to pay the non-Federal share of the cost of a project carried out under this section.

"(h) USE OF FUNDS.—

"(1) IN GENERAL.—For each fiscal year, of the amounts made available to carry out this section—

"(A) 50 percent shall be used for eligible projects on Federal lands transportation facilities and Federal lands access transportation facilities (as those terms are defined in section 101(a) of title 23, United States Code); and

"(B) 50 percent shall be used for eligible projects on tribal transportation facilities (as defined in section 101(a) of title 23, United States Code).

"(2) REQUIREMENT.—Not less than 1 eligible project carried out using the amount described in paragraph (1)(A) shall be in a unit of the National Park System with not less than 3,000,000 annual visitors.

"(3) AVAILABILITY.—Amounts made available to carry out this section shall remain available for a period of 3 fiscal years following the fiscal year for which the amounts are appropriated."

[1] *So in original.*

§202. Tribal transportation program

(a) USE OF FUNDS.—

(1) IN GENERAL.—Funds made available under the tribal transportation program shall be used by the Secretary of Transportation and the Secretary of the Interior to pay the costs of—

(A)(i) transportation planning, research, maintenance, engineering, rehabilitation, restoration, construction, and reconstruction of tribal transportation facilities;

(ii) adjacent vehicular parking areas;

(iii) interpretive signage;

(iv) acquisition of necessary scenic easements and scenic or historic sites;

(v) provisions for pedestrians and bicycles;

(vi) environmental mitigation in or adjacent to tribal land—

(I) to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity; and

(II) to mitigate the damage to wildlife, aquatic organism passage, habitat, and ecosystem connectivity, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate;

(vii) construction and reconstruction of roadside rest areas, including sanitary and water facilities; and

(viii) other appropriate public road facilities as determined by the Secretary;

(B) operation and maintenance of transit programs and facilities that are located on, or provide access to, tribal land, or are administered by a tribal government; and

(C) any transportation project eligible for assistance under this title that is located within, or that provides access to, tribal land, or is associated with a tribal government.

(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the Interior may enter into a contract or other appropriate agreement with respect to the activity with—

(A) a State (including a political subdivision of a State); or

(B) an Indian tribe.

(3) INDIAN LABOR.—Indian labor may be employed, in accordance with such rules and regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1).

(4) FEDERAL EMPLOYMENT.—No maximum limitation on Federal employment shall be applicable to the construction or improvement of tribal transportation facilities.

(5) FUNDS FOR CONSTRUCTION AND IMPROVEMENT.—All funds made available for the construction and improvement of tribal transportation facilities shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the Interior.

(6) ADMINISTRATIVE EXPENSES.—Of the funds authorized to be appropriated for the tribal transportation program, not more than 5 percent may be used by the Secretary or the Secretary of the Interior for program management and oversight and project-related administrative

expenses.

(7) TRIBAL TECHNICAL ASSISTANCE CENTERS.—The Secretary of the Interior may reserve amounts from administrative funds of the Bureau of Indian Affairs that are associated with the tribal transportation program to fund tribal technical assistance centers under section 504(b).

(8) MAINTENANCE.—

(A) USE OF FUNDS.—Notwithstanding any other provision of this title, of the amount of funds allocated to an Indian tribe from the tribal transportation program, for the purpose of maintenance (excluding road sealing, which shall not be subject to any limitation), the Secretary shall not use an amount more than the greater of—

(i) an amount equal to 25 percent; or

(ii) $500,000.

(B) RESPONSIBILITY OF BUREAU OF INDIAN AFFAIRS AND SECRETARY OF THE INTERIOR.—

(i) BUREAU OF INDIAN AFFAIRS.—The Bureau of Indian Affairs shall retain primary responsibility, including annual funding request responsibility, for Bureau of Indian Affairs road maintenance programs on Indian reservations.

(ii) SECRETARY OF THE INTERIOR.—The Secretary of the Interior shall ensure that funding made available under this subsection for maintenance of tribal transportation facilities for each fiscal year is supplementary to, and not in lieu of, any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations.

(C) TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.—

(i) IN GENERAL.—An Indian tribe and a State may enter into a road maintenance agreement under which an Indian tribe shall assume the responsibility of the State for—

(I) tribal transportation facilities; and

(II) roads providing access to tribal transportation facilities.

(ii) REQUIREMENTS.—Agreements entered into under clause (i) shall—

(I) be negotiated between the State and the Indian tribe; and

(II) not require the approval of the Secretary.

(9) COOPERATION.—

(A) IN GENERAL.—The cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement.

(B) FUNDS RECEIVED.—Any funds received from a State, county, or local subdivision shall be credited to appropriations available for the tribal transportation program.

(10) COMPETITIVE BIDDING.—

(A) CONSTRUCTION.—

(i) IN GENERAL.—Subject to clause (ii) and subparagraph (B), construction of each project shall be performed by contract awarded by competitive bidding.

(ii) EXCEPTION.—Clause (i) shall not apply if the Secretary or the Secretary of the Interior affirmatively finds that, under the circumstances relating to the project, a different method is in the public interest.

(B) APPLICABILITY.—Notwithstanding subparagraph (A), section 23 of the Act of June 25, 1910 (25 U.S.C. 47) and section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)) shall apply to all funds administered by the Secretary of the Interior that are appropriated for the construction and improvement of tribal transportation facilities.

(b) FUNDS DISTRIBUTION.—

(1) NATIONAL TRIBAL TRANSPORTATION FACILITY INVENTORY.—

(A) IN GENERAL.—The Secretary of the Interior, in cooperation with the Secretary, shall maintain a comprehensive national inventory of tribal transportation facilities that are eligible for assistance under the tribal transportation program.

(B) TRANSPORTATION FACILITIES INCLUDED IN THE INVENTORY.—For purposes of identifying the tribal transportation system and determining the relative transportation needs among Indian tribes, the Secretary shall include, at a minimum, transportation facilities that are eligible for assistance under the tribal transportation program that an Indian tribe has requested, including facilities that—

(i) were included in the Bureau of Indian Affairs system inventory prior to October 1, 2004;

(ii) are owned by an Indian tribal government;

(iii) are owned by the Bureau of Indian Affairs;

(iv) were constructed or reconstructed with funds from the Highway Trust Fund under the Indian reservation roads program since 1983;

(v) are public roads or bridges within the exterior boundary of Indian reservations, Alaska Native villages, and other recognized Indian communities (including communities in former Indian reservations in the State of Oklahoma) in which the majority of residents are American Indians or Alaska Natives;

(vi) are public roads within or providing 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 or Alaska Native villages, groups, or communities in which Indians and Alaska 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; or

(vii) are primary access routes proposed by tribal governments, including roads between villages, roads to landfills, roads to drinking water sources, roads to natural resources identified for economic development, and roads that provide access to intermodal terminals, such as airports, harbors, or boat landings.

(C) LIMITATION ON PRIMARY ACCESS ROUTES.—For purposes of this paragraph, a proposed primary access route is the shortest practicable route connecting 2 points of the proposed route.

(D) ADDITIONAL FACILITIES.—Nothing in this paragraph precludes the Secretary from including additional transportation facilities that are eligible for funding under the tribal transportation program in the inventory used for the national funding allocation if such additional facilities are included in the inventory in a uniform and consistent manner nationally.

(E) BRIDGES.—All bridges in the inventory shall be recorded in the national bridge inventory administered by the Secretary under section 144.

(2) REGULATIONS.—Notwithstanding sections 563(a) and 565(a) of title 5, the Secretary of the Interior shall maintain any regulations governing the tribal transportation program.

(3) BASIS FOR FUNDING FORMULA.—

(A) BASIS.—

(i) IN GENERAL.—After making the set asides authorized under subparagraph (C) and subsections (a)(6), (c), (d), and (e) on October 1 of each fiscal year, the Secretary shall distribute the remainder authorized to be appropriated for the tribal transportation program under this section among Indian tribes as follows:

(I) For fiscal year 2013—

(aa) for each Indian tribe, 80 percent of the total relative need distribution factor and population adjustment factor for the fiscal year 2011 funding amount made available to that Indian tribe; and

(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

(II) For fiscal year 2014—

(aa) for each Indian tribe, 60 percent of the total relative need distribution factor and population adjustment factor for the fiscal year 2011 funding amount made available to that Indian tribe; and

(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

(III) For fiscal year 2015—

(aa) for each Indian tribe, 40 percent of the total relative need distribution factor and population adjustment factor for the fiscal year 2011 funding amount made available to that Indian tribe; and

(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

(IV) For fiscal year 2016 and thereafter—

(aa) for each Indian tribe, 20 percent of the total relative need distribution factor and population adjustment factor for the fiscal year 2011 funding amount made available to that Indian tribe; and

(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

(ii) TRIBAL HIGH PRIORITY PROJECTS.—The High Priority Projects program as included in the Tribal Transportation Allocation Methodology of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of the MAP–21), shall not continue in effect.

(B) TRIBAL SHARES.—Tribal shares under this program shall be determined using the national tribal transportation facility inventory as calculated for fiscal year 2012, and the most recent data on American Indian and Alaska Native population within each Indian tribe's American Indian/Alaska Native Reservation or Statistical Area, as computed under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.), in the following manner:

(i) 27 percent in the ratio that the total eligible road mileage in each tribe bears to the total eligible road mileage of all American Indians and Alaskan Natives. For the purposes of this calculation, eligible road mileage shall be computed based on the inventory described in paragraph (1), using only facilities included in the inventory described in clause (i), (ii), or (iii) of paragraph (1)(B).

(ii) 39 percent in the ratio that the total population in each tribe bears to the total population of all American Indians and Alaskan Natives.

(iii) 34 percent shall be divided equally among each Bureau of Indian Affairs region. Within each region, such share of funds shall be distributed to each Indian tribe in the ratio that the average total relative need distribution factors and population adjustment factors from fiscal years 2005 through 2011 for a tribe bears to the average total of relative need distribution factors and population adjustment factors for fiscal years 2005 through 2011 in that region.

(C) TRIBAL SUPPLEMENTAL FUNDING.—

(i) TRIBAL SUPPLEMENTAL FUNDING AMOUNT.—Of funds made available for each fiscal year for the tribal transportation program, the Secretary shall set aside the following amount for a tribal supplemental program:

(I) If the amount made available for the tribal transportation program is less than or equal to $275,000,000, 30 percent of such amount.

(II) If the amount made available for the tribal transportation program exceeds $275,000,000—

(aa) $82,500,000; plus

(bb) 12.5 percent of the amount made available for the tribal transportation program in excess of $275,000,000.

(ii) TRIBAL SUPPLEMENTAL ALLOCATION.—The Secretary shall distribute tribal supplemental funds as follows:

(I) DISTRIBUTION AMONG REGIONS.—Of the amounts set aside under clause (i), the Secretary shall distribute to each region of the Bureau of Indian Affairs a share of tribal supplemental funds in proportion to the regional total of tribal shares based on the cumulative tribal shares of all Indian tribes within such region under subparagraph (B).

(II) DISTRIBUTION WITHIN A REGION.—Of the amount that a region receives under subclause (I), the Secretary shall distribute tribal supplemental funding among Indian tribes within such region as follows:

(aa) TRIBAL SUPPLEMENTAL AMOUNTS.—The Secretary shall determine—

(AA) which such Indian tribes would be entitled under subparagraph (A) to receive in a fiscal year less funding than they would receive in fiscal year 2011 pursuant to the relative need distribution factor and population adjustment factor, as described in subpart C of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of the MAP–21); and

(BB) the combined amount that such Indian tribes would be entitled to receive in fiscal year 2011 pursuant to such relative need distribution factor and population adjustment factor in excess of the amount that they would be entitled to receive in the fiscal year under subparagraph (B).

(bb) COMBINED AMOUNT.—Subject to subclause (III), the Secretary shall distribute to each Indian tribe that meets the criteria described in item (aa)(AA) a share of funding under this subparagraph in proportion to the share of the combined amount determined under item (aa)(BB) attributable to such Indian tribe.

(III) CEILING.—An Indian tribe may not receive under subclause (II) and based on its tribal share under subparagraph (A) a combined amount that exceeds the amount that such Indian tribe would be entitled to receive in fiscal year 2011 pursuant to the relative need distribution factor and population adjustment factor, as described in subpart C of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of the MAP–21).

(IV) OTHER AMOUNTS.—If the amount made available for a region under subclause (I) exceeds the amount distributed among Indian tribes within that region under subclause (II), the Secretary shall distribute the remainder of such region's funding under such subclause among all Indian tribes in that region in proportion to the combined amount that each such Indian tribe received under subparagraph (A) and subclauses (I), (II), and (III).

(4) TRANSFERRED FUNDS.—

(A) IN GENERAL.—Not later than 30 days after the date on which funds are made available to the Secretary of the Interior under this paragraph, the funds shall be distributed to, and made available for immediate use by, eligible Indian tribes, in accordance with the formula for distribution of funds under the tribal transportation program.

(B) USE OF FUNDS.—Notwithstanding any other provision of this section, funds made available to Indian tribes for tribal transportation facilities shall be expended on projects identified in a transportation improvement program approved by the Secretary.

(5) HEALTH AND SAFETY ASSURANCES.—Notwithstanding any other provision of law, an Indian tribal government may approve plans, specifications, and estimates and commence road

and bridge construction with funds made available from the tribal transportation program through a contract or agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.), if the Indian tribal government—

(A) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

(B) obtains the advance review of the plans and specifications from a State-licensed civil engineer that has certified that the plans and specifications meet or exceed the applicable health and safety standards; and

(C) provides a copy of the certification under subparagraph (A) to the Deputy Assistant Secretary for Tribal Government Affairs, Department of Transportation, or the Assistant Secretary for Indian Affairs, Department of the Interior, as appropriate.

(6) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—

(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available through the Secretary of the Interior under this chapter and section 125(e) for tribal transportation facilities to pay for the costs of programs, services, functions, and activities, or portions of programs, services, functions, or activities, that are specifically or functionally related to the cost of planning, research, engineering, and construction of any tribal transportation facility shall be made available, upon request of the Indian tribal government, to the Indian tribal government for contracts and agreements for such planning, research, engineering, and construction in accordance with [1] Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.).

(B) EXCLUSION OF AGENCY PARTICIPATION.—All funds, including contract support costs, for programs, functions, services, or activities, or portions of programs, services, functions, or activities, including supportive administrative functions that are otherwise contractible to which subparagraph (A) applies, shall be paid in accordance with subparagraph (A), without regard to the organizational level at which the Department of the Interior has previously carried out such programs, functions, services, or activities.

(7) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—

(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available to an Indian tribal government under this chapter for a tribal transportation facility program or project shall be made available, on the request of the Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.), contracts and agreements for the planning, research, design, engineering, construction, and maintenance relating to the program or project.

(B) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (A), all funds, including contract support costs, for a program or project to which subparagraph (A) applies shall be paid to the Indian tribal government without regard to the organizational level at which the Department of the Interior has previously carried out, or the Department of Transportation has previously carried out under the tribal transportation program, the programs, functions, services, or activities involved.

(C) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or project to which this chapter applies may form a consortium to be considered as a single Indian tribe for the purpose of participating in the project under this section.

(D) SECRETARY AS SIGNATORY.—Notwithstanding any other provision of law, the Secretary is authorized to enter into a funding agreement with an Indian tribal government to carry out a tribal transportation facility program or project under subparagraph (A) that is located on an Indian reservation or provides access to the reservation or a community of the Indian tribe.

(E) FUNDING.—The amount an Indian tribal government receives for a program or project

under subparagraph (A) shall equal the sum of the funding that the Indian tribal government would otherwise receive for the program or project in accordance with the funding formula established under this subsection and such additional amounts as the Secretary determines equal the amounts that would have been withheld for the costs of the Bureau of Indian Affairs for administration of the program or project.

(F) ELIGIBILITY.—

(i) IN GENERAL.—Subject to clause (ii) and the approval of the Secretary, funds may be made available under subparagraph (A) to an Indian tribal government for a program or project in a fiscal year only if the Indian tribal government requesting such funds demonstrates to the satisfaction of the Secretary financial stability and financial management capability during the 3 fiscal years immediately preceding the fiscal year for which the request is being made.

(ii) CONSIDERATIONS.—An Indian tribal government that had no uncorrected significant and material audit exceptions in the required annual audit of the contracts or self-governance funding agreements made by the Indian tribe with any Federal agency under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.) during the 3-fiscal year period referred in clause (i) shall be conclusive evidence of the financial stability and financial management capability of the Indian tribe for purposes of clause (i).

(G) ASSUMPTION OF FUNCTIONS AND DUTIES.—An Indian tribal government receiving funding under subparagraph (A) for a program or project shall assume all functions and duties that the Secretary of the Interior would have performed with respect to a program or project under this chapter, other than those functions and duties that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.).

(H) POWERS.—An Indian tribal government receiving funding under subparagraph (A) for a program or project shall have all powers that the Secretary of the Interior would have exercised in administering the funds transferred to the Indian tribal government for such program or project under this section if the funds had not been transferred, except to the extent that such powers are powers that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.).

(I) DISPUTE RESOLUTION.—In the event of a disagreement between the Secretary or the Secretary of the Interior and an Indian tribe over whether a particular function, duty, or power may be lawfully transferred to the Indian tribe under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.), the Indian tribe shall have the right to pursue all alternative dispute resolution and appeal procedures authorized by that Act, including regulations issued to carry out the Act.

(J) TERMINATION OF CONTRACT OR AGREEMENT.—On the date of the termination of a contract or agreement under this section by an Indian tribal government, the Secretary shall transfer all funds that would have been allocated to the Indian tribal government under the contract or agreement to the Secretary of the Interior to provide continued transportation services in accordance with applicable law.

(c) PLANNING.—

(1) IN GENERAL.—For each fiscal year, not more than 2 percent of the funds made available for the tribal transportation program shall be allocated among Indian tribal governments that apply for transportation planning pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.).

(2) REQUIREMENT.—An Indian tribal government, in cooperation with the Secretary of the Interior and, as appropriate, with a State, local government, or metropolitan planning organization, shall carry out a transportation planning process in accordance with section 201(c).

(3) SELECTION AND APPROVAL OF PROJECTS.—A project funded under this section shall be—

(A) selected by the Indian tribal government from the transportation improvement program; and

(B) subject to the approval of the Secretary of the Interior and the Secretary.

(d) TRIBAL TRANSPORTATION FACILITY BRIDGES.—

(1) NATIONWIDE PRIORITY PROGRAM.—The Secretary shall maintain a nationwide priority program for improving bridges eligible for the tribal transportation program classified as in poor condition, having low load capacity, or needing geometric improvements.

(2) USE OF FUNDS.—Funds made available to carry out this subsection shall be used—

(A) to carry out any planning, design, engineering, preconstruction, construction, and inspection of new or replacement tribal transportation facility bridges;

(B) to replace, rehabilitate, seismically retrofit, paint, apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing composition; or

(C) to implement any countermeasure for tribal transportation facility bridges classified as in poor condition, having a low load capacity, or needing geometric improvements, including multiple-pipe culverts.

(3) ELIGIBLE BRIDGES.—To be eligible to receive funding under this subsection, a bridge described in paragraph (1) shall—

(A) have an opening of not less than 20 feet;

(B) be classified as a tribal transportation facility; and

(C) be classified as in poor condition, having a low load capacity, or needing geometric improvements.

(4) APPROVAL REQUIREMENT.—The Secretary may make funds available under this subsection for preliminary engineering, construction, and construction engineering activities after approval of required documentation and verification of eligibility in accordance with this title.

(e) SAFETY.—

(1) FUNDING.—Before making any distribution under subsection (b), the Secretary shall set aside not more than 4 percent of the funds made available under the tribal transportation program for each fiscal year to be allocated based on an identification and analysis of highway safety issues and opportunities on tribal land, as determined by the Secretary, on application of the Indian tribal governments for eligible projects described in section 148(a)(4).

(2) PROJECT SELECTION.—An Indian tribal government, in cooperation with the Secretary of the Interior and, as appropriate, with a State, local government, or metropolitan planning organization, shall select projects from the transportation improvement program, subject to the approval of the Secretary and the Secretary of the Interior.

(f) FEDERAL-AID ELIGIBLE PROJECTS.—Before approving as a project on a tribal transportation facility any project eligible for funds apportioned under section 104 in a State, the Secretary shall, for projects on tribal transportation facilities, determine that the obligation of funds for the project is supplementary to and not in lieu of the obligation of a fair and equitable share of funds apportioned to the State under section 104.

(Added Pub. L. 112–141, div. A, title I, §1119(a), July 6, 2012, 126 Stat. 476; amended Pub. L. 114–94, div. A, title I, §§1118, 1446(a)(12), Dec. 4, 2015, 129 Stat. 1358, 1438; Pub. L. 117–58, div. A, title I, §§11524(c), 11525(m), title IV, §§14004, 14008(d), Nov. 15, 2021, 135 Stat. 606, 608, 648, 651.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the MAP–21, referred to in subsec. (b)(3)(A)(ii), (C)(ii)(II)(aa)(AA), (III), is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title.

The Native American Housing Assistance and Self-Determination Act of 1996, referred to in subsec. (b)(3)(B), is Pub. L. 104–330, Oct. 26, 1996, 110 Stat. 4016, which is classified principally to chapter 43 (§4101 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 25 and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in subsecs. (b) and (c), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, which is classified principally to chapter 46 (§5301 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 25 and Tables.

PRIOR PROVISIONS

A prior section 202, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 906; Pub. L. 94–280, title I, §133, May 5, 1976, 90 Stat. 441; Pub. L. 97–424, title I, §126(a), Jan. 6, 1983, 96 Stat. 2113; Pub. L. 102–240, title I, §1032(a), Dec. 18, 1991, 105 Stat. 1974; Pub. L. 105–178, title I, §§1115(b), (e)(2), (f)(2), 1212(a)(2)(A)(ii), June 9, 1998, 112 Stat. 154, 158, 193; Pub. L. 105–206, title IX, §9002(i), July 22, 1998, 112 Stat. 836; Pub. L. 109–59, title I, §1119(c)–(g), Aug. 10, 2005, 119 Stat. 1182–1185, related to allocations, prior to repeal by Pub. L. 112–141, div. A, title I, §1119(a), July 6, 2012, 126 Stat. 473.

AMENDMENTS

2021—Pub. L. 117–58, §11525(m)(1), substituted "(25 U.S.C. 5301 et seq.)" for "(25 U.S.C. 450 et seq.)" wherever appearing.

Subsec. (a)(10)(B). Pub. L. 117–58, §11525(m)(2), substituted "(25 U.S.C. 5307(b))" for "(25 U.S.C. 450e(b))".

Subsec. (b)(5). Pub. L. 117–58, §11525(m)(3), inserted "the" after "agreement under" in introductory provisions.

Subsec. (d)(1). Pub. L. 117–58, §11524(c)(1), substituted "bridges eligible for the tribal transportation program classified as in poor condition, having low load capacity, or needing geometric improvements" for "deficient bridges eligible for the tribal transportation program".

Subsec. (d)(2). Pub. L. 117–58, §14004, added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "Before making any distribution under subsection (b), the Secretary shall set aside not more than 3 percent of the funds made available under the tribal transportation program for each fiscal year to be allocated—

"(A) to carry out any planning, design, engineering, preconstruction, construction, and inspection of a project to replace, rehabilitate, seismically retrofit, paint, apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing composition; or

"(B) to implement any countermeasure for deficient tribal transportation facility bridges, including multiple-pipe culverts."

Subsec. (d)(3)(C). Pub. L. 117–58, §11524(c)(2), substituted "classified as in poor condition, having a low load capacity, or needing geometric improvements" for "structurally deficient or functionally obsolete".

Subsec. (e)(1). Pub. L. 117–58, §14008(d), substituted "4 percent" for "2 percent".

2015—Subsec. (a)(6). Pub. L. 114–94, §1118(1), substituted "5 percent" for "6 percent".

Subsec. (b)(3)(A)(i). Pub. L. 114–94, §1446(a)(12)(A), inserted "(a)(6)," after "subsections" in introductory provisions.

Subsec. (b)(3)(C)(ii)(IV). Pub. L. 114–94, §1446(a)(12)(B), substituted "(III)." for "(III).]".

Subsec. (d)(2). Pub. L. 114–94, §1118(2), substituted "3 percent" for "2 percent" in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

ENVIRONMENTAL REVIEWS FOR CERTAIN TRIBAL TRANSPORTATION FACILITIES

Pub. L. 117–58, div. A, title IV, §14002, Nov. 15, 2021, 135 Stat. 646, provided that:

"(a) DEFINITION OF TRIBAL TRANSPORTATION SAFETY PROJECT.—

"(1) IN GENERAL.—In this section, the term 'tribal transportation safety project' means a project described in paragraph (2) that is eligible for funding under section 202 of title 23, United States Code.

"(2) PROJECT DESCRIBED.—A project described in this paragraph is a project that corrects or improves a hazardous road location or feature or addresses a highway safety problem through 1 or more of the activities described in any of the clauses under section 148(a)(4)(B) of title 23, United States Code.

"(b) REVIEWS OF TRIBAL TRANSPORTATION SAFETY PROJECTS.—

"(1) IN GENERAL.—The Secretary [of the Interior] or the Secretary of Transportation, as applicable, or the head of another Federal agency responsible for a decision related to a tribal transportation safety project shall complete any approval or decision for the review of the tribal transportation safety project required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other applicable Federal law on an expeditious basis using the shortest existing applicable process.

"(2) REVIEW OF APPLICATIONS.—Not later than 45 days after the date of receipt of a complete application by an Indian tribe for approval of a tribal transportation safety project, the Secretary or the Secretary of Transportation, as applicable, shall—

"(A) take final action on the application; or

"(B) provide the Indian tribe a schedule for completion of the review described in paragraph (1), including the identification of any other Federal agency that has jurisdiction with respect to the project.

"(3) DECISIONS UNDER OTHER FEDERAL LAWS.—In any case in which a decision under any other Federal law relating to a tribal transportation safety project (including the issuance or denial of a permit or license) is required, not later than 45 days after the Secretary or the Secretary of Transportation, as applicable, has made all decisions of the lead agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the project, the head of the Federal agency responsible for the decision shall—

"(A) make the applicable decision; or

"(B) provide the Indian tribe a schedule for making the decision.

"(4) EXTENSIONS.—The Secretary or the Secretary of Transportation, as applicable, or the head of the Federal agency may extend the period under paragraph (2) or (3), as applicable, by an additional 30 days by providing the Indian tribe notice of the extension, including a statement of the need for the extension.

"(5) NOTIFICATION AND EXPLANATION.—In any case in which a required action is not completed by the deadline under paragraph (2), (3), or (4), as applicable, the Secretary, the Secretary of Transportation, or the head of a Federal agency, as applicable, shall—

"(A) notify the Committees on Indian Affairs and Environment and Public Works of the Senate and the Committee on Natural Resources of the House of Representatives of the failure to comply with the deadline; and

"(B) provide to the Committees described in subparagraph (A) a detailed explanation of the reasons for the failure to comply with the deadline."

PROGRAMMATIC AGREEMENTS FOR TRIBAL CATEGORICAL EXCLUSIONS

Pub. L. 117–58, div. A, title IV, §14003, Nov. 15, 2021, 135 Stat. 648, provided that:

"(a) IN GENERAL.—The Secretary [of the Interior] and the Secretary of Transportation shall enter into programmatic agreements with Indian tribes that establish efficient administrative procedures for carrying out environmental reviews for projects eligible for assistance under section 202 of title 23, United States Code.

"(b) INCLUSIONS.—A programmatic agreement under subsection (a)—

"(1) may include an agreement that allows an Indian tribe to determine, on behalf of the Secretary and the Secretary of Transportation, whether a project is categorically excluded from the preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

"(2) shall—

"(A) require that the Indian tribe maintain adequate capability in terms of personnel and other resources to carry out applicable agency responsibilities pursuant to section 1507.2 of title 40, Code of

Federal Regulations (or successor regulations);

"(B) set forth the responsibilities of the Indian tribe for making categorical exclusion determinations, documenting the determinations, and achieving acceptable quality control and quality assurance;

"(C) allow—

"(i) the Secretary and the Secretary of Transportation to monitor compliance of the Indian tribe with the terms of the agreement; and

"(ii) the Indian tribe to execute any needed corrective action;

"(D) contain stipulations for amendments, termination, and public availability of the agreement once the agreement has been executed; and

"(E) have a term of not more than 5 years, with an option for renewal based on a review by the Secretary and the Secretary of Transportation of the performance of the Indian tribe."

STUDY OF ROAD MAINTENANCE ON INDIAN LAND

Pub. L. 117–58, div. A, title IV, §14006, Nov. 15, 2021, 135 Stat. 649, provided that:

"(a) DEFINITIONS.—In this section:

"(1) INDIAN LAND.—The term 'Indian land' has the meaning given the term 'Indian lands' in section 3 of the Native American Business Development, Trade Promotion, and Tourism Act of 2000 (25 U.S.C. 4302).

"(2) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

"(3) ROAD.—The term 'road' means a road managed in whole or in part by the Bureau of Indian Affairs.

"(4) SECRETARY.—The term 'Secretary' means the Secretary [of the Interior], acting through the Assistant Secretary for Indian Affairs.

"(b) STUDY.—Not later than 2 years after the date of enactment of this Act [Nov. 15, 2021], the Secretary, in consultation with the Secretary of Transportation, shall carry out a study to evaluate—

"(1) the long-term viability and useful life of existing roads on Indian land;

"(2) any steps necessary to achieve the goal of addressing the deferred maintenance backlog of existing roads on Indian land;

"(3) programmatic reforms and performance enhancements necessary to achieve the goal of restructuring and streamlining road maintenance programs on existing or future roads located on Indian land; and

"(4) recommendations on how to implement efforts to coordinate with States, counties, municipalities, and other units of local government to maintain roads on Indian land.

"(c) TRIBAL CONSULTATION AND INPUT.—Before beginning the study under subsection (b), the Secretary shall—

"(1) consult with any Indian tribes that have jurisdiction over roads eligible for funding under the road maintenance program of the Bureau of Indian Affairs; and

"(2) solicit and consider the input, comments, and recommendations of the Indian tribes described in paragraph (1).

"(d) REPORT.—On completion of the study under subsection (b), the Secretary, in consultation with the Secretary of Transportation, shall submit to the Committees on Indian Affairs and Environment and Public Works of the Senate and the Committees on Natural Resources and Transportation and Infrastructure of the House of Representatives a report on the results and findings of the study.

"(e) STATUS REPORT.—Not later than 2 years after the date of enactment of this Act, and not less frequently than every 2 years thereafter, the Secretary, in consultation with the Secretary of Transportation, shall submit to the Committees on Indian Affairs and Environment and Public Works of the Senate and the Committees on Natural Resources and Transportation and Infrastructure of the House of Representatives a report that includes a description of—

"(1) the progress made toward addressing the deferred maintenance needs of the roads on Indian land, including a list of projects funded during the fiscal period covered by the report;

"(2) the outstanding needs of the roads that have been provided funding to address the deferred maintenance needs;

"(3) the remaining needs of any of the projects referred to in paragraph (1);

"(4) how the goals described in subsection (b) have been met, including—

"(A) an identification and assessment of any deficiencies or shortfalls in meeting the goals; and

"(B) a plan to address the deficiencies or shortfalls in meeting the goals; and

"(5) any other issues or recommendations provided by an Indian tribe under the consultation and input process under subsection (c) that the Secretary determines to be appropriate."

MAINTENANCE OF CERTAIN INDIAN RESERVATION ROADS

Pub. L. 117–58, div. A, title IV, §14007, Nov. 15, 2021, 135 Stat. 650, provided that: "The Commissioner of U.S. Customs and Border Protection may transfer funds to the Director of the Bureau of Indian Affairs to maintain, repair, or reconstruct roads under the jurisdiction of the Director, subject to the condition that the Commissioner and the Director shall mutually agree that the primary user of the subject road is U.S. Customs and Border Protection."

TRIBAL TRANSPORTATION SAFETY NEEDS

Pub. L. 117–58, div. A, title IV, §14008(a)–(c), Nov. 15, 2021, 135 Stat. 650, 651, provided that:

"(a) DEFINITIONS.—In this section:

"(1) ALASKA NATIVE.—The term 'Alaska Native' has the meaning given the term 'Native' in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

"(2) ALASKA NATIVE VILLAGE.—The term 'Alaska Native village' has the meaning given the term 'Native village' in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

"(3) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

"(b) BEST PRACTICES, STANDARDIZED CRASH REPORT FORM.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], the Secretary of Transportation, in consultation with the Secretary [of the Interior], Indian tribes, Alaska Native villages, and State departments of transportation shall develop—

"(A) best practices for the compiling, analysis, and sharing of motor vehicle crash data for crashes occurring on Indian reservations and in Alaska Native communities; and

"(B) a standardized form for use by Indian tribes and Alaska Native communities to carry out those best practices.

"(2) PURPOSE.—The purpose of the best practices and standardized form developed under paragraph (1) shall be to improve the quality and quantity of crash data available to and used by the Federal Highway Administration, State departments of transportation, Indian tribes, and Alaska Native villages.

"(3) REPORT.—On completion of the development of the best practices and standardized form under paragraph (1), the Secretary of Transportation shall submit to the Committees on Indian Affairs and Environment and Public Works of the Senate and the Committees on Natural Resources and Transportation and Infrastructure of the House of Representatives a report describing the best practices and standardized form.

"(c) USE OF IMARS.—The Director of the Bureau of Indian Affairs shall require all law enforcement offices of the Bureau, for the purpose of reporting motor vehicle crash data for crashes occurring on Indian reservations and in Alaska Native communities—

"(1) to use the crash report form of the applicable State; and

"(2) to upload the information on that form to the Incident Management Analysis and Reporting System (IMARS) of the Department of the Interior."

TRIBAL HIGH PRIORITY PROJECTS PROGRAM

Pub. L. 112–141, div. A, title I, §1123, July 6, 2012, 126 Stat. 497, as amended by Pub. L. 113–159, title I, §1001(b)(2), Aug. 8, 2014, 128 Stat. 1840; Pub. L. 114–21, title I, §1001(b)(2), May 29, 2015, 129 Stat. 219; Pub. L. 114–41, title I, §1001(b)(2), July 31, 2015, 129 Stat. 444; Pub. L. 114–73, title I, §1001(b)(2), Oct. 29, 2015, 129 Stat. 569; Pub. L. 114–87, title I, §1001(b)(2), Nov. 20, 2015, 129 Stat. 678; Pub. L. 117–58, div. A, title I, §11128, Nov. 15, 2021, 135 Stat. 508, provided that:

"(a) DEFINITIONS.—In this section:

"(1) EMERGENCY OR DISASTER.—The term 'emergency or disaster' means damage to a tribal transportation facility that—

"(A) renders the tribal transportation facility impassable or unusable;

"(B) is caused by—

"(i) a natural disaster over a widespread area; or

"(ii) a catastrophic failure from an external cause; and

"(C) would be eligible under the emergency relief program under section 125 of title 23, United States Code, but does not meet the funding thresholds required by that section.

"(2) LIST.—The term 'list' means the funding priority list developed under subsection (c)(5).

"(3) PROGRAM.—The term 'program' means the Tribal High Priority Projects program established

under subsection (b)(1).

"(4) PROJECT.—The term 'project' means a project provided funds under the program.

"(b) PROGRAM.—

"(1) IN GENERAL.—The Secretary [of Transportation] shall use amounts made available under subsection (h) to carry out a Tribal High Priority Projects program under which funds shall be provided to eligible applicants in accordance with this section.

"(2) ELIGIBLE APPLICANTS.—Applicants eligible for program funds under this section include—

"(A) an Indian tribe whose annual allocation of funding under section 202 of title 23, United States Code, is insufficient to complete the highest priority project of the Indian tribe;

"(B) a governmental subdivision of an Indian tribe—

"(i) that is authorized to administer the funding of the Indian tribe under section 202 of title 23, United States Code; and

"(ii) for which the annual allocation under that section is insufficient to complete the highest priority project of the Indian tribe; or

"(C) any Indian tribe that has an emergency or disaster with respect to a transportation facility included on the national inventory of tribal transportation facilities under section 202(b)(1) of title 23, United States Code.

"(c) PROJECT APPLICATIONS; FUNDING.—

"(1) IN GENERAL.—To apply for funds under this section, an eligible applicant shall submit to the Department of the Interior or the Department [of Transportation] an application that includes—

"(A) project scope of work, including deliverables, budget, and timeline;

"(B) the amount of funds requested;

"(C) project information addressing—

"(i) the ranking criteria identified in paragraph (3); or

"(ii) the nature of the emergency or disaster;

"(D) documentation that the project meets the definition of a tribal transportation facility and is included in the national inventory of tribal transportation facilities under section 202(b)(1) of title 23, United States Code;

"(E) documentation of official tribal action requesting the project;

"(F) documentation from the Indian tribe providing authority for the Secretary of the Interior to place the project on a transportation improvement program if the project is selected and approved; and

"(G) any other information the Secretary of the Interior or Secretary considers appropriate to make a determination.

"(2) LIMITATION ON APPLICATIONS.—An applicant for funds under the program may only have 1 application for assistance under this section pending at any 1 time, including any emergency or disaster application.

"(3) APPLICATION RANKING.—

"(A) IN GENERAL.—The Secretary of the Interior and the Secretary shall determine the eligibility of, and fund, program applications, subject to the availability of funds.

"(B) RANKING CRITERIA.—The project ranking criteria for applications under this section shall include—

"(i) the existence of safety hazards with documented fatality and injury accidents;

"(ii) the number of years since the Indian tribe last completed a construction project funded by section 202 of title 23, United States Code;

"(iii) the readiness of the Indian tribe to proceed to construction or bridge design need;

"(iv) the percentage of project costs matched by funds that are not provided under section 202 of title 23, United States Code, with projects with a greater percentage of other sources of matching funds ranked ahead of lesser matches);

"(v) the amount of funds requested, with requests for lesser amounts given greater priority;

"(vi) the challenges caused by geographic isolation; and

"(vii) all weather access for employment, commerce, health, safety, educational resources, or housing.

"(4) PROJECT SCORING MATRIX.—The project scoring matrix established in the appendix to part 170 of title 25, Code of Regulations (as in effect on the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title]) shall be used to rank all applications accepted under this section.

"(5) FUNDING PRIORITY LIST.—

"(A) IN GENERAL.—The Secretary of the Interior and the Secretary shall jointly produce a

funding priority list that ranks the projects approved for funding under the program.

"(B) LIMITATION.—The number of projects on the list shall be limited by the amount of funding made available.

"(6) TIMELINE.—The Secretary of the Interior and the Secretary shall—

"(A) require applications for funding no sooner than 60 days after funding is made available pursuant to subsection (a);

"(B) notify all applicants and Regions in writing of acceptance of applications;

"(C) rank all accepted applications in accordance with the project scoring matrix, develop the funding priority list, and return unaccepted applications to the applicant with an explanation of deficiencies;

"(D) notify all accepted applicants of the projects included on the funding priority list no later than 180 days after the application deadline has passed pursuant to subparagraph (A); and

"(E) distribute funds to successful applicants.

"(d) EMERGENCY OR DISASTER PROJECT APPLICATIONS.—

"(1) IN GENERAL.—Notwithstanding subsection (c)(6), an eligible applicant may submit an emergency or disaster project application at any time during the fiscal year.

"(2) CONSIDERATION AS PRIORITY.—The Secretary shall—

"(A) consider project applications submitted under paragraph (1) to be a priority; and

"(B) fund the project applications in accordance with paragraph (3).

"(3) FUNDING.—

"(A) IN GENERAL.—If an eligible applicant submits an application for a project under this subsection before the issuance of the list under subsection (c)(5) and the project is determined to be eligible for program funds, the Secretary of the Interior shall provide funding for the project before providing funding for other approved projects on the list.

"(B) SUBMISSION AFTER ISSUANCE OF LIST.—If an eligible applicant submits an application under this subsection after the issuance of the list under subsection (c)(5) and the distribution of program funds in accordance with the list, the Secretary of the Interior shall provide funding for the project on the date on which unobligated funds provided to projects on the list are returned to the Department of the Interior.

"(C) EFFECT ON OTHER PROJECTS.—If the Secretary of the Interior uses funding previously designated for a project on the list to fund an emergency or disaster project under this subsection, the project on the list that did not receive funding as a result of the redesignation of funds shall move to the top of the list the following year.

"(4) EMERGENCY OR DISASTER PROJECT COST.—The cost of a project submitted as an emergency or disaster under this subsection shall be at least 10 percent of the distribution of funds of the Indian tribe under section 202(b) of title 23, United States Code.

"(e) LIMITATION ON USE OF FUNDS.—Program funds shall not be used for—

"(1) transportation planning;

"(2) research;

"(3) routine maintenance activities;

"(4) structures and erosion protection unrelated to transportation and roadways;

"(5) general reservation planning not involving transportation;

"(6) landscaping and irrigation systems not involving transportation programs and projects;

"(7) work performed on projects that are not included on a transportation improvement program approved by the Federal Highway Administration, unless otherwise authorized by the Secretary of the Interior and the Secretary;

"(8) the purchase of equipment unless otherwise authorized by Federal law; or

"(9) the condemnation of land for recreational trails.

"(f) LIMITATION ON PROJECT AMOUNTS.—Project funding shall be limited to a maximum of $1,000,000 per application, except that funding for disaster or emergency projects shall also be limited to the estimated cost of repairing damage to the tribal transportation facility.

"(g) COST ESTIMATE CERTIFICATION.—All cost estimates prepared for a project shall be required to be submitted by the applicant to the Secretary of the Interior and the Secretary for certification and approval.

"(h) FUNDING.—

"(1) SET-ASIDE.—For each of fiscal years 2022 through 2026, of the amounts made available to carry out the tribal transportation program under section 202 of title 23, United States Code, for that fiscal year, the Secretary shall use $9,000,000 to carry out the program.

"(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made available under

paragraph (1), there is authorized to be appropriated $30,000,000 out of the general fund of the Treasury to carry out the program for each of fiscal years 2022 through 2026.

"(3) ADMINISTRATION.—The funds made available under paragraphs (1) and (2) shall be administered in the same manner as funds made available for the tribal transportation program under section 202 of title 23, United States Code, except that—

"(A) the funds made available for the program shall remain available until September 30 of the third fiscal year after the year appropriated; and

"(B) the Federal share of the cost of a project shall be 100 percent."

ADDITIONAL AUTHORIZATION OF CONTRACT AUTHORITY FOR STATES WITH INDIAN RESERVATIONS

Pub. L. 105–178, title I, §1214(d), June 9, 1998, 112 Stat. 205, as amended by Pub. L. 109–59, title I, §1806, Aug. 10, 2005, 119 Stat. 1460, provided that:

"(1) AVAILABILITY TO STATES.—Not later than October 1 of each fiscal year, funds made available under paragraph (5) for the fiscal year shall be made available by the Secretary, in equal amounts, to each State that has within the boundaries of the State all or part of an Indian reservation having a land area of 10,000,000 acres or more.

"(2) AVAILABILITY TO ELIGIBLE COUNTIES.—

"(A) IN GENERAL.—Each fiscal year, each county that is located in a State to which funds are made available under paragraph (1), and that has in the county a public road described in subparagraph (B), shall be eligible to apply to the State for all or a portion of the funds made available to the State under this subsection to be used by the county to maintain such roads.

"(B) ROADS.—A public road referred to in subparagraph (A) is a public road that—

"(i) is within, adjacent to, or provides access to an Indian reservation described in paragraph (1);

"(ii) is used by a school bus to transport children to or from a school or Headstart program carried out under the Head Start Act (42 U.S.C. 9831 et seq.); and

"(iii) is maintained by the county in which the public road is located.

"(C) ALLOCATION AMONG ELIGIBLE COUNTIES.—

"(i) IN GENERAL.—Except as provided in clause (ii), each State that receives funds under paragraph (1) shall provide directly to each county that applies for funds the amount that the county requests in the application.

"(ii) ALLOCATION AMONG ELIGIBLE COUNTIES.—If the total amount of funds applied for under this subsection by eligible counties in a State exceeds the amount of funds available to the State, the State shall equitably allocate the funds among the eligible counties that apply for funds.

"(3) SUPPLEMENTARY FUNDING.—For each fiscal year, the Secretary shall ensure that funding made available under this subsection supplements (and does not supplant)—

"(A) any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations; and

"(B) any funding provided by a State to a county for road maintenance programs in the county.

"(4) USE OF UNALLOCATED FUNDS.—Any portion of the funds made available to a State under this subsection that is not made available to counties within 1 year after the funds are made available to the State shall be apportioned among the States in accordance with section 104(b) of title 23, United States Code.

"(5) FUNDING.—

"(A) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $1,800,000 for each of fiscal years 2005 through 2009.

"(B) 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."

INDIAN RESERVATION ROADS

Pub. L. 102–240, title I, §1032(d), Dec. 18, 1991, 105 Stat. 1975, provided that: "Notwithstanding any other provision of law, funds allocated for Indian reservation roads may be used for the purpose of funding road projects on roads of tribally controlled postsecondary vocational institutions."

Pub. L. 102–240, title I, §1042, Dec. 18, 1991, 105 Stat. 1993, directed Secretary of Transportation to conduct a study on funding needs for Indian reservation roads and to report to Congress on results of the study not later than one year after Dec. 18, 1991, prior to repeal by Pub. L. 105–362, title XV, §1501(c), Nov. 10, 1998, 112 Stat. 3294.

DEFINITION OF SECRETARY

Pub. L. 117–58, div. A, title IV, §14001, Nov. 15, 2021, 135 Stat. 646, provided that: "In this title [amending this section and section 102 of Title 49, Transportation, and enacting provisions set out as notes under this section], the term 'Secretary' means the Secretary of the Interior."

[1] *So in original. Probably should be followed by "the".*

§203. Federal lands transportation program

(a) USE OF FUNDS.—

(1) IN GENERAL.—Funds made available under the Federal lands transportation program shall be used by the Secretary of Transportation and the Secretary of the appropriate Federal land management agency to pay the costs of—

(A) program administration, transportation planning, research, preventive maintenance, engineering, rehabilitation, restoration, construction, and reconstruction of Federal lands transportation facilities, and—

(i) adjacent vehicular parking areas;

(ii) acquisition of necessary scenic easements and scenic or historic sites;

(iii) provision for pedestrians and bicycles;

(iv) environmental mitigation in or adjacent to Federal land open to the public—

(I) to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity; and

(II) to mitigate the damage to wildlife, aquatic organism passage, habitat, and ecosystem connectivity, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate;

(v) construction and reconstruction of roadside rest areas, including sanitary and water facilities;

(vi) congestion mitigation; and

(vii) other appropriate public road facilities, as determined by the Secretary;

(B) capital, operations, and maintenance of transit facilities;

(C) any transportation project eligible for assistance under this title that is on a public road within or adjacent to, or that provides access to, Federal lands open to the public; and

(D) not more $20,000,000 [1] of the amounts made available per fiscal year to carry out this section for activities eligible under subparagraph (A)(iv)(I).

(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a contract or other appropriate agreement with respect to the activity with—

(A) a State (including a political subdivision of a State); or

(B) an Indian tribe.

(3) ADMINISTRATION.—All appropriations for the construction and improvement of Federal lands transportation facilities shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the appropriate Federal land managing agency.

(4) COOPERATION.—

(A) IN GENERAL.—The cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement.

(B) FUNDS RECEIVED.—Any funds received from a State, county, or local subdivision shall be credited to appropriations available for the class of Federal lands transportation

facilities to which the funds were contributed.

(5) COMPETITIVE BIDDING.—

(A) IN GENERAL.—Subject to subparagraph (B), construction of each project shall be performed by contract awarded by competitive bidding.

(B) EXCEPTION.—Subparagraph (A) shall not apply if the Secretary or the Secretary of the appropriate Federal land management agency affirmatively finds that, under the circumstances relating to the project, a different method is in the public interest.

(6) NATIVE PLANT MATERIALS.—In carrying out an activity described in paragraph (1), the entity carrying out the activity shall consider, to the maximum extent practicable—

(A) the use of locally adapted native plant materials; and

(B) designs that minimize runoff and heat generation.

(b) AGENCY PROGRAM DISTRIBUTIONS.—

(1) IN GENERAL.—On October 1, 2011, and on October 1 of each fiscal year thereafter, the Secretary shall allocate the sums authorized to be appropriated for the fiscal year for the Federal lands transportation program on the basis of applications of need, as determined by the Secretary—

(A) in consultation with the Secretaries of the applicable Federal land management agencies; and

(B) in coordination with the transportation plans required under section 201 of the respective transportation systems of—

(i) the National Park Service;

(ii) the Forest Service;

(iii) the United States Fish and Wildlife Service;

(iv) the Corps of Engineers;

(v) the Bureau of Land Management;

(vi) the Bureau of Reclamation; and

(vii) independent Federal agencies with natural resource and land management responsibilities.

(2) APPLICATIONS.—

(A) REQUIREMENTS.—Each application submitted by a Federal land management agency shall include proposed programs at various potential funding levels, as defined by the Secretary following collaborative discussions with applicable Federal land management agencies.

(B) CONSIDERATION BY SECRETARY.—In evaluating an application submitted under subparagraph (A), the Secretary shall consider the extent to which the programs support performance management, including—

(i) the transportation goals of—

(I) a state of good repair of transportation facilities;

(II) a reduction of bridge deficiencies; and

(III) an improvement of safety;

(ii) high-use Federal recreational sites or Federal economic generators; and

(iii) the resource and asset management goals of the Secretary of the respective Federal land management agency.

(C) PERMISSIVE CONTENTS.—Applications may include proposed programs the duration of which extend over a multiple-year period to support long-term transportation planning and resource management initiatives.

(c) NATIONAL FEDERAL LANDS TRANSPORTATION FACILITY INVENTORY.—

(1) IN GENERAL.—The Secretaries of the appropriate Federal land management agencies, in cooperation with the Secretary, shall maintain a comprehensive national inventory of public Federal lands transportation facilities.

(2) TRANSPORTATION FACILITIES INCLUDED IN THE INVENTORIES.—To identify the Federal lands transportation system and determine the relative transportation needs among Federal land management agencies, the inventories shall include, at a minimum, facilities that—

(A) provide access to high-use Federal recreation sites or Federal economic generators, as determined by the Secretary in coordination with the respective Secretaries of the appropriate Federal land management agencies; and

(B) are owned by 1 of the following agencies:

(i) The National Park Service.

(ii) The Forest Service.

(iii) The United States Fish and Wildlife Service.

(iv) The Bureau of Land Management.

(v) The Corps of Engineers.

(vi) The Bureau of Reclamation.

(3) AVAILABILITY.—The inventories shall be made available to the Secretary.

(4) UPDATES.—The Secretaries of the appropriate Federal land management agencies shall update the inventories of the appropriate Federal land management agencies, as determined by the Secretary after collaborative discussions with the Secretaries of the appropriate Federal land management agencies.

(5) REVIEW.—A decision to add or remove a facility from the inventory shall not be considered a Federal action for purposes of review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) BICYCLE SAFETY.—The Secretary of the appropriate Federal land management agency shall prohibit the use of bicycles on each federally owned road that has a speed limit of 30 miles per hour or greater and an adjacent paved path for use by bicycles within 100 yards of the road unless the Secretary determines that the bicycle level of service on that roadway is rated B or higher.

(e) EFFICIENT IMPLEMENTATION OF NEPA.—

(1) DEFINITIONS.—In this subsection:

(A) ENVIRONMENTAL DOCUMENT.—The term "environmental document" means an environmental impact statement, environmental assessment, categorical exclusion, or other document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) PROJECT.—The term "project" means a highway project, public transportation capital project, or multimodal project that—

(i) receives funds under this title; and

(ii) is authorized under this section or section 204.

(C) PROJECT SPONSOR.—The term "project sponsor" means the Federal land management agency that seeks or receives funds under this title for a project.

(2) ENVIRONMENTAL REVIEW TO BE COMPLETED BY FEDERAL HIGHWAY ADMINISTRATION.—The Federal Highway Administration may prepare an environmental document pursuant to the implementing procedures of the Federal Highway Administration to comply with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if—

(A) requested by a project sponsor; and

(B) all areas of analysis required by the project sponsor can be addressed.

(3) FEDERAL LAND MANAGEMENT AGENCIES ADOPTION OF EXISTING

ENVIRONMENTAL REVIEW DOCUMENTS.—

(A) IN GENERAL.—To the maximum extent practicable, if the Federal Highway Administration prepares an environmental document pursuant to paragraph (2), that environmental document shall address all areas of analysis required by a Federal land management agency.

(B) INDEPENDENT EVALUATION.—Notwithstanding any other provision of law, a Federal land management agency shall not be required to conduct an independent evaluation to determine the adequacy of an environmental document prepared by the Federal Highway Administration pursuant to paragraph (2).

(C) USE OF SAME DOCUMENT.—In authorizing or implementing a project, a Federal land management agency may use an environmental document previously prepared by the Federal Highway Administration for a project addressing the same or substantially the same action to the same extent that the Federal land management agency could adopt or use a document previously prepared by another Federal agency.

(4) APPLICATION BY FEDERAL LAND MANAGEMENT AGENCIES OF CATEGORICAL EXCLUSIONS ESTABLISHED BY FEDERAL HIGHWAY ADMINISTRATION.—In carrying out requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for a project, the project sponsor may use categorical exclusions designated under that Act in the implementing regulations of the Federal Highway Administration, subject to the conditions that—

(A) the project sponsor makes a determination, in consultation with the Federal Highway Administration, that the categorical exclusion applies to the project;

(B) the project satisfies the conditions for a categorical exclusion under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(C) the use of the categorical exclusion does not otherwise conflict with the implementing regulations of the project sponsor, except any list of the project sponsor that designates categorical exclusions.

(5) MITIGATION COMMITMENTS.—The Secretary shall assist the Federal land management agency with all design and mitigation commitments made jointly by the Secretary and the project sponsor in any environmental document prepared by the Secretary in accordance with this subsection.

(Added Pub. L. 112–141, div. A, title I, §1119(a), July 6, 2012, 126 Stat. 486; amended Pub. L. 114–94, div. A, title I, §1119, Dec. 4, 2015, 129 Stat. 1358; Pub. L. 117–58, div. A, title I, §§11112, 11311, Nov. 15, 2021, 135 Stat. 479, 536.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (c)(5) and (e), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 203, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 906; Pub. L. 86–657, §8(b), July 14, 1960, 74 Stat. 524; Pub. L. 87–866, §7, Oct. 23, 1962, 76 Stat. 1147; Pub. L. 94–280, title I, §117(b), May 5, 1976, 90 Stat. 437; Pub. L. 97–424, title I, §126(f), Jan. 6, 1983, 96 Stat. 2116; Pub. L. 102–240, title I, §1032(f), Dec. 18, 1991, 105 Stat. 1975; Pub. L. 105–178, title I, §1115(c), (e)(3), June 9, 1998, 112 Stat. 156, 158, related to availability of funds, prior to repeal by Pub. L. 112–141, div. A, title I, §1119(a), July 6, 2012, 126 Stat. 473.

AMENDMENTS

2021—Subsec. (a)(1)(D). Pub. L. 117–58, §11112(1), substituted "$20,000,000" for "$10,000,000".

Subsec. (a)(6). Pub. L. 117–58, §11112(2), added par. (6).
Subsec. (e). Pub. L. 117–58, §11311, added subsec. (e).
2015—Subsec. (a)(1)(B). Pub. L. 114–94, §1119(1)(A), substituted "capital, operations," for "operation".
Subsec. (a)(1)(D). Pub. L. 114–94, §1119(1)(B), substituted "subparagraph (A)(iv)(I)" for "subparagraph (A)(iv)".
Subsec. (b)(1)(B)(vi), (vii). Pub. L. 114–94, §1119(2)(A), added cls. (vi) and (vii).
Subsec. (b)(2)(B). Pub. L. 114–94, §1119(2)(B)(i), inserted "performance management, including" after "support" in introductory provisions.
Subsec. (b)(2)(B)(i)(II). Pub. L. 114–94, §1119(2)(B)(ii), substituted "; and" for ", and".
Subsec. (c)(2)(B)(vi). Pub. L. 114–94, §1119(3), added cl. (vi).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

[1] *So in original.*

§204. Federal lands access program

(a) USE OF FUNDS.—

(1) IN GENERAL.—Funds made available under the Federal lands access program shall be used by the Secretary of Transportation and the Secretary of the appropriate Federal land management agency to pay the cost of—

(A) transportation planning, research, engineering, preventive maintenance, rehabilitation, restoration, context-sensitive solutions, construction, and reconstruction of Federal lands access transportation facilities located on or adjacent to, or that provide access to, Federal land, and—

(i) adjacent vehicular parking areas, including interpretive panels in or adjacent to those areas;

(ii) acquisition of necessary scenic easements and scenic or historic sites;

(iii) provisions for pedestrians and bicycles;

(iv) environmental mitigation in or adjacent to Federal land to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity;

(v) construction and reconstruction of roadside rest areas, including sanitary and water facilities;

(vi) contextual wayfinding markers;

(vii) landscaping;

(viii) cooperative mitigation of visual blight, including screening or removal; and

(ix) other appropriate public road facilities, as determined by the Secretary;

(B) operation and maintenance of transit facilities; and

(C) any transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, Federal land.

(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and

the Secretary of the appropriate Federal land management agency may enter into a contract or other appropriate agreement with respect to the activity with—

(A) a State (including a political subdivision of a State); or

(B) an Indian tribe.

(3) ADMINISTRATION.—All appropriations for the construction and improvement of Federal lands access transportation facilities shall be administered in conformity with regulations and agreements approved by the Secretary.

(4) COOPERATION.—

(A) IN GENERAL.—The cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement.

(B) FUNDS RECEIVED.—Any funds received from a State, county, or local subdivision for a Federal lands access transportation facility project shall be credited to appropriations available under the Federal lands access program.

(5) COMPETITIVE BIDDING.—

(A) IN GENERAL.—Subject to subparagraph (B), construction of each project shall be performed by contract awarded by competitive bidding.

(B) EXCEPTION.—Subparagraph (A) shall not apply if the Secretary or the Secretary of the appropriate Federal land management agency affirmatively finds that, under the circumstances relating to the project, a different method is in the public interest.

(6) NATIVE PLANT MATERIALS.—In carrying out an activity described in paragraph (1), the Secretary shall ensure that the entity carrying out the activity considers, to the maximum extent practicable—

(A) the use of locally adapted native plant materials; and

(B) designs that minimize runoff and heat generation.

(b) PROGRAM DISTRIBUTIONS.—

(1) IN GENERAL.—Funding made available to carry out the Federal lands access program shall be allocated among those States that have Federal land, in accordance with the following formula:

(A) 80 percent of the available funding for use in those States that contain at least 1 ½ percent of the total public land in the United States managed by the agencies described in paragraph (2), to be distributed as follows:

(i) 30 percent in the ratio that—

(I) recreational visitation within each such State; bears to

(II) the recreational visitation within all such States.

(ii) 5 percent in the ratio that—

(I) the Federal land area within each such State; bears to

(II) the Federal land area in all such States.

(iii) 55 percent in the ratio that—

(I) the Federal public road miles within each such State; bears to

(II) the Federal public road miles in all such States.

(iv) 10 percent in the ratio that—

(I) the number of Federal public bridges within each such State; bears to

(II) the number of Federal public bridges in all such States.

(B) 20 percent of the available funding for use in those States that do not contain at least 1 ½ percent of the total public land in the United States managed by the agencies described in

paragraph (2), to be distributed as follows:

(i) 30 percent in the ratio that—
(I) recreational visitation within each such State; bears to
(II) the recreational visitation within all such States.

(ii) 5 percent in the ratio that—
(I) the Federal land area within each such State; bears to
(II) the Federal land area in all such States.

(iii) 55 percent in the ratio that—
(I) the Federal public road miles within each such State; bears to
(II) the Federal public road miles in all such States.

(iv) 10 percent in the ratio that—
(I) the number of Federal public bridges within each such State; bears to
(II) the number of Federal public bridges in all such States.

(2) DATA SOURCE.—Data necessary to distribute funding under paragraph (1) shall be provided by the following Federal land management agencies:
(A) The National Park Service.
(B) The Forest Service.
(C) The United States Fish and Wildlife Service.
(D) The Bureau of Land Management.
(E) The Corps of Engineers.

(c) PROGRAMMING DECISIONS COMMITTEE.—
(1) IN GENERAL.—Programming decisions shall be made within each State by a committee comprised of—
(A) a representative of the Federal Highway Administration;
(B) a representative of the State Department of Transportation; and
(C) a representative of any appropriate political subdivision of the State.

(2) CONSULTATION REQUIREMENT.—The committee described in paragraph (1) shall cooperate with each applicable Federal agency in each State before any joint discussion or final programming decision.
(3) PROJECT PREFERENCE.—In making a programming decision under paragraph (1), the committee shall give preference to projects that provide access to, are adjacent to, or are located within high-use Federal recreation sites or Federal economic generators, as identified by the Secretaries of the appropriate Federal land management agencies.

(Added Pub. L. 112–141, div. A, title I, §1119(a), July 6, 2012, 126 Stat. 489; amended Pub. L. 117–58, div. A, title I, §11113(b), Nov. 15, 2021, 135 Stat. 479.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 204, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 907; Pub. L. 97–424, title I, §126(b), Jan. 6, 1983, 96 Stat. 2114; Pub. L. 100–17, title I, §133(b)(13), (14), Apr. 2, 1987, 101 Stat. 172; Pub. L. 102–240, title I, §§1030, 1032(b), title VI, §6004(c), Dec. 18, 1991, 105 Stat. 1970, 1974, 2169; Pub. L. 105–178, title I, §1115(d), (e)(4), title V, §5119(a), June 9, 1998, 112 Stat. 156, 158, 452; Pub. L. 109–59, title I, §1119(h)–(k), Aug. 10, 2005, 119 Stat. 1187–1189, related to Federal lands highways program, prior to repeal by Pub. L. 112–141, div. A, title I, §1119(a), July 6, 2012, 126 Stat. 473.

AMENDMENTS

2021—Subsec. (a)(1)(A). Pub. L. 117–58, §11113(b)(1)(A), inserted "context-sensitive solutions," after

"restoration," in introductory provisions.

Subsec. (a)(1)(A)(i). Pub. L. 117–58, §11113(b)(1)(B), inserted ", including interpretive panels in or adjacent to those areas" after "areas".

Subsec. (a)(1)(A)(vi) to (ix). Pub. L. 117–58, §11113(b)(1)(C)–(E), added cls. (vi) to (viii) and redesignated former cl. (vi) as (ix).

Subsec. (a)(6). Pub. L. 117–58, §11113(b)(2), added par. (6).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§205. Forest development roads and trails

(a) Funds available for forest development roads and trails shall be used by the Secretary of Agriculture to pay for the costs of construction and maintenance thereof, including roads and trails on experimental and other areas under Forest Service administration. In connection therewith, the Secretary of Agriculture may enter into contracts with a State or civil subdivision thereof, and issue such regulations as he deems advisable.

(b) Cooperation of States, counties, or other local subdivisions may be accepted but shall not be required by the Secretary of Agriculture.

(c) Construction estimated to cost $50,000 or more per mile or $50,000 or more per project for projects with a length of less than one mile, exclusive of bridges and engineering, shall be advertised and let to contract. If such estimated cost is less than $50,000 per mile or $50,000 per project for projects with a length of less than one mile or if, after proper advertising, no acceptable bid is received or the bids are deemed excessive, the work may be done by the Secretary of Agriculture on his own account.

(d) Funds available for forest development roads and trails shall be available for adjacent vehicular parking areas, which may include electric vehicle charging stations or natural gas vehicle refueling stations, and for sanitary, water, and fire control facilities.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 907; Pub. L. 86–657, §8(c), July 14, 1960, 74 Stat. 524; Pub. L. 88–423, §4(d), Aug. 13, 1964, 78 Stat. 398; Pub. L. 90–495, §9, Aug. 23, 1968, 82 Stat. 820; Pub. L. 102–240, title I, §1032(c), Dec. 18, 1991, 105 Stat. 1975; Pub. L. 112–141, div. A, title I, §1513(c), July 6, 2012, 126 Stat. 572.)

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (d). Pub. L. 112–141 inserted ", which may include electric vehicle charging stations or natural gas vehicle refueling stations," after "parking areas".

1991—Subsec. (c). Pub. L. 102–240 substituted "$50,000" for "$15,000" wherever appearing.

1968—Subsec. (c). Pub L. 90–495 increased from $10,000 to $15,000 the cost limitation on construction per mile, or per project for projects of less than a mile, which the Forest Service may construct on its own account and struck out provisions spelling out the functions which the Secretary of Agriculture is authorized to perform in carrying out such construction.

1964—Subsec. (a). Pub. L. 88–423 inserted "and other" after "experimental".

1960—Subsec. (a). Pub. L. 86–657 substituted "may enter into contracts" for "may enter into construction contracts".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

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

EFFECTIVE DATE OF 1968 AMENDMENT

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

§206. Recreational trails program

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

(1) MOTORIZED RECREATION.—The term "motorized recreation" means off-road recreation using any motor-powered vehicle, except for a motorized wheelchair.

(2) RECREATIONAL TRAIL.—The term "recreational trail" means a thoroughfare or track across land or snow, used for recreational purposes such as—

(A) pedestrian activities, including wheelchair use;

(B) skating or skateboarding;

(C) equestrian activities, including carriage driving;

(D) nonmotorized snow trail activities, including skiing;

(E) bicycling or use of other human-powered vehicles;

(F) aquatic or water activities; and

(G) motorized vehicular activities, including all-terrain vehicle riding, motorcycling, snowmobiling, use of off-road light trucks, or use of other off-road motorized vehicles.

(b) PROGRAM.—In accordance with this section, the Secretary, in consultation with the Secretary of the Interior and the Secretary of Agriculture, shall carry out a program to provide and maintain recreational trails.

(c) STATE RESPONSIBILITIES.—To be eligible for apportionments under this section—

(1) the Governor of the State shall designate the State agency or agencies that will be responsible for administering apportionments made to the State under this section; and

(2) the State shall establish a State recreational trail advisory committee that represents both motorized and nonmotorized recreational trail users, which shall meet not less often than once per fiscal year.

(d) USE OF APPORTIONED FUNDS.—

(1) IN GENERAL.—Funds apportioned to a State to carry out this section shall be obligated for recreational trails and related projects that—

(A) have been planned and developed under the laws, policies, and administrative procedures of the State; and

(B) are identified in, or further a specific goal of, a recreational trail plan, or a statewide comprehensive outdoor recreation plan required by chapter 2003 of title 54, that is in effect.

(2) PERMISSIBLE USES.—Permissible uses of funds apportioned to a State for a fiscal year to carry out this section include—

(A) maintenance and restoration of existing recreational trails;

(B) development and rehabilitation of trailside and trailhead facilities and trail linkages for

recreational trails;

(C) purchase and lease of recreational trail construction and maintenance equipment;

(D) construction of new recreational trails, except that, in the case of new recreational trails crossing Federal lands, construction of the trails shall be—

(i) permissible under other law;

(ii) necessary and recommended by a statewide comprehensive outdoor recreation plan that is required by chapter 2003 of title 54 and that is in effect;

(iii) approved by the administering agency of the State designated under subsection (c)(1); and

(iv) approved by each Federal agency having jurisdiction over the affected lands under such terms and conditions as the head of the Federal agency determines to be appropriate, except that the approval shall be contingent on compliance by the Federal agency with all applicable laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

(E) acquisition of easements and fee simple title to property for recreational trails or recreational trail corridors;

(F) assessment of trail conditions for accessibility and maintenance;

(G) development and dissemination of publications and operation of educational programs to promote safety and environmental protection, (as those objectives relate to one or more of the uses of recreational trails, supporting non-law enforcement trail safety and trail use monitoring patrol programs, and providing trail-related training), but in an amount not to exceed 5 percent of the apportionment made to the State for the fiscal year; and

(H) payment of costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment made to the State for the fiscal year.

(3) USE OF APPORTIONMENTS.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), of the apportionments made to a State for a fiscal year to carry out this section—

(i) 40 percent shall be used for recreational trail or related projects that facilitate diverse recreational trail use within a recreational trail corridor, trailside, or trailhead, regardless of whether the project is for diverse motorized use, for diverse nonmotorized use, or to accommodate both motorized and nonmotorized recreational trail use;

(ii) 30 percent shall be used for uses relating to motorized recreation; and

(iii) 30 percent shall be used for uses relating to nonmotorized recreation.

(B) SMALL STATE EXCLUSION.—Any State with a total land area of less than 3,500,000 acres shall be exempt from the requirements of clauses (ii) and (iii) of subparagraph (A).

(C) STATE ADMINISTRATIVE COSTS.—State administrative costs eligible for funding under paragraph (2)(H) shall be exempt from the requirements of subparagraph (A).

(4) GRANTS.—

(A) IN GENERAL.—A State may use funds apportioned to the State to carry out this section to make grants to private organizations, municipal, county, State, and Federal Government entities, and other government entities as approved by the State after considering guidance from the State recreational trail advisory committee established under subsection (c)(2), for uses consistent with this section.

(B) COMPLIANCE.—A State that makes grants under subparagraph (A) shall establish measures to verify that recipients of the grants comply with the conditions of the program for the use of grant funds.

(e) ENVIRONMENTAL BENEFIT OR MITIGATION.—To the extent practicable and consistent

with the other requirements of this section, a State should give consideration to project proposals that provide for the redesign, reconstruction, nonroutine maintenance, or relocation of recreational trails to benefit the natural environment or to mitigate and minimize the impact to the natural environment.

(f) FEDERAL SHARE.—

(1) IN GENERAL.—Subject to the other provisions of this subsection, the Federal share of the cost of a project and the Federal share of the administrative costs of a State under this section shall be determined in accordance with section 120(b).

(2) FEDERAL AGENCY PROJECT SPONSOR.—Notwithstanding any other provision of law, a Federal agency that sponsors a project under this section may contribute additional Federal funds toward the cost of a project, except that—

(A) the share attributable to the Secretary of Transportation may not exceed the amount determined in accordance with section 120(b) for the cost of a project under this section; and

(B) the share attributable to the Secretary and the Federal agency sponsoring the project may not exceed 95 percent of the cost of a project under this section.

(3) USE OF FUNDS FROM FEDERAL PROGRAMS TO PROVIDE NON-FEDERAL SHARE.—Notwithstanding any other provision of law, the non-Federal share of the cost of the project may include amounts made available by the Federal Government under any Federal program that are—

(A) expended in accordance with the requirements of the Federal program relating to activities funded and populations served; and

(B) expended on a project that is eligible for assistance under this section.

(4) USE OF RECREATIONAL TRAILS PROGRAM FUNDS TO MATCH OTHER FEDERAL PROGRAM FUNDS.—Notwithstanding any other provision of law, funds made available under this section may be used toward the non-Federal matching share for other Federal program funds that are—

(A) expended in accordance with the requirements of the Federal program relating to activities funded and populations served; and

(B) expended on a project that is eligible for assistance under this section.

(5) PROGRAMMATIC NON-FEDERAL SHARE.—A State may allow adjustments to the non-Federal share of an individual project for a fiscal year under this section if the Federal share of the cost of all projects carried out by the State under the program (excluding projects funded under paragraph (2) or (3)) using funds apportioned to the State for the fiscal year does not exceed the Federal share as determined in accordance with section 120(b).

(g) USES NOT PERMITTED.—A State may not obligate funds apportioned to carry out this section for—

(1) condemnation of any kind of interest in property;

(2) construction of any recreational trail on National Forest System land for any motorized use unless—

(A) the land has been designated for uses other than wilderness by an approved forest land and resource management plan or has been released to uses other than wilderness by an Act of Congress; and

(B) the construction is otherwise consistent with the management direction in the approved forest land and resource management plan;

(3) construction of any recreational trail on Bureau of Land Management land for any motorized use unless the land—

(A) has been designated for uses other than wilderness by an approved Bureau of Land Management resource management plan or has been released to uses other than wilderness by an Act of Congress; and

(B) the construction is otherwise consistent with the management direction in the approved management plan; or

(4) upgrading, expanding, or otherwise facilitating motorized use or access to recreational trails predominantly used by nonmotorized recreational trail users and on which, as of May 1, 1991, motorized use was prohibited or had not occurred.

(h) PROJECT ADMINISTRATION.—

(1) CREDIT FOR DONATIONS OF FUNDS, MATERIALS, SERVICES, OR NEW RIGHT-OF-WAY.—

(A) IN GENERAL.—Nothing in this title or other law shall prevent a project sponsor from offering to donate funds, materials, services, or a new right-of-way for the purposes of a project eligible for assistance under this section. Any funds, or the fair market value of any materials, services, or new right-of-way, may be donated by any project sponsor and shall be credited to the non-Federal share in accordance with subsection (f).

(B) FEDERAL PROJECT SPONSORS.—Any funds or the fair market value of any materials or services may be provided by a Federal project sponsor and shall be credited to the Federal agency's share in accordance with subsection (f).

(C) PLANNING AND ENVIRONMENTAL ASSESSMENT COSTS INCURRED PRIOR TO PROJECT APPROVAL.—The Secretary may allow preapproval planning and environmental compliance costs to be credited toward the non-Federal share of the cost of a project described in subsection (d)(2) (other than subparagraph (H)) in accordance with subsection (f), limited to costs incurred less than 18 months prior to project approval.

(2) RECREATIONAL PURPOSE.—A project funded under this section is intended to enhance recreational opportunity and is not subject to section 138 of this title or section 303 of title 49.

(3) CONTINUING RECREATIONAL USE.—At the option of each State, funds apportioned to the State to carry out this section may be treated as Land and Water Conservation Fund apportionments for the purposes of section 200305(f)(3) of title 54.

(4) COOPERATION BY PRIVATE PERSONS.—

(A) WRITTEN ASSURANCES.—As a condition of making available apportionments for work on recreational trails that would affect privately owned land, a State shall obtain written assurances that the owner of the land will cooperate with the State and participate as necessary in the activities to be conducted.

(B) PUBLIC ACCESS.—Any use of the apportionments to a State to carry out this section on privately owned land must be accompanied by an easement or other legally binding agreement that ensures public access to the recreational trail improvements funded by the apportionments.

(i) CONTRACT AUTHORITY.—Funds authorized to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that the Federal share of the cost of a project under this section shall be determined in accordance with this section.

(j) USE OF OTHER APPORTIONED FUNDS.—Funds apportioned to a State under section 104(b) that are obligated for a recreational trail or a related project shall be administered as if the funds were made available to carry out this section.

(Added Pub. L. 105–178, title I, §1112(a), June 9, 1998, 112 Stat. 146; amended Pub. L. 109–59, title I, §1109(b)–(e), Aug. 10, 2005, 119 Stat. 1168–1170; Pub. L. 110–244, title I, §101(q), June 6, 2008, 122 Stat. 1576; Pub. L. 113–287, §5(f)(3), Dec. 19, 2014, 128 Stat. 3268; Pub. L. 117–58, div. A, title I, §§11134, 11525(n), Nov. 15, 2021, 135 Stat. 515, 608.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (d)(2)(D)(iv), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Forest and Rangeland Renewable Resources Planning Act of 1974, referred to in subsec. (d)(2)(D)(iv), is Pub. L. 93–378, Aug. 17, 1974, 88 Stat. 476, which is classified generally to subchapter I (§1600 et seq.) of chapter 36 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of Title 16 and Tables.

The Federal Land Policy and Management Act of 1976, referred to in subsec. (d)(2)(D)(iv), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, which is classified principally to chapter 35 (§1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

PRIOR PROVISIONS

A prior section 206, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 908, provided for use of funds for construction and improvement of park roads and trails and for administration of such funds according to regulations jointly approved by the Secretary and the Secretary of the Interior, prior to repeal by Pub. L. 97–424, title I, §126(d), Jan. 6, 1983, 96 Stat. 2115.

AMENDMENTS

2021—Subsec. (d)(2)(G). Pub. L. 117–58, §11525(n), substituted "uses of recreational trails" for "use of recreational trails".

Subsec. (j). Pub. L. 117–58, §11134, added subsec. (j).

2014—Subsec. (d)(1)(B). Pub. L. 113–287, §5(f)(3)(A), substituted "chapter 2003 of title 54" for "the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.)".

Subsec. (d)(2)(D)(ii). Pub. L. 113–287, §5(f)(3)(B), substituted "chapter 2003 of title 54" for "the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.)".

Subsec. (h)(3). Pub. L. 113–287, §5(f)(3)(C), substituted "section 200305(f)(3) of title 54" for "section 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–8(f)(3))".

2008—Subsec. (d)(3)(A). Pub. L. 110–244 substituted "(B) and (C)" for "(B), (C), and (D)" in introductory provisions.

2005—Subsec. (d)(2). Pub. L. 109–59, §1109(b), amended par. (2) generally. Prior to amendment, par. (2) consisted of subpars. (A) to (G) relating to permissible uses of funds apportioned to carry out this section.

Subsec. (d)(3)(C), (D). Pub. L. 109–59, §1109(c), redesignated subpar. (D) as (C), substituted "(2)(H)" for "(2)(F)", and struck out heading and text of former subpar. (C). Text read as follows: "A State recreational trail advisory committee established under subsection (c)(2) may waive, in whole or in part, the requirements of clauses (ii) and (iii) of subparagraph (A) if the State recreational trail advisory committee determines and notifies the Secretary that the State does not have sufficient projects to meet the requirements of clauses (ii) and (iii) of subparagraph (A)."

Subsec. (f)(1). Pub. L. 109–59, §1109(d)(1), inserted "and the Federal share of the administrative costs of a State" after "project" and substituted "be determined in accordance with section 120(b)" for "not exceed 80 percent".

Subsec. (f)(2)(A). Pub. L. 109–59, §1109(d)(2), substituted "the amount determined in accordance with section 120(b) for the cost" for "80 percent of the cost".

Subsec. (f)(2)(B). Pub. L. 109–59, §1109(d)(3), inserted "sponsoring the project" after "Federal agency".

Subsec. (f)(4), (5). Pub. L. 109–59, §1109(d)(4)–(7), added par. (4), redesignated former par. (4) as (5), substituted "the Federal share as determined in accordance with section 120(b)" for "80 percent", and struck out heading and text of former par. (5). Text read as follows: "The Federal share of the administrative costs of a State under this subsection shall be determined in accordance with section 120(b)."

Subsec. (h)(1)(C). Pub. L. 109–59, §1109(e), added subpar. (C).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

NONHIGHWAY RECREATIONAL FUEL STUDY

Pub. L. 117–58, div. A, title I, §11512, Nov. 15, 2021, 135 Stat. 594, provided that:

"(a) DEFINITIONS.—In this section:

"(1) HIGHWAY TRUST FUND.—The term 'Highway Trust Fund' means the Highway Trust Fund established by section 9503(a) of the Internal Revenue Code of 1986 [26 U.S.C. 9503(a)].

"(2) NONHIGHWAY RECREATIONAL FUEL TAXES.—The term 'nonhighway recreational fuel taxes' means taxes under section[s] 4041 and 4081 of the Internal Revenue Code of 1986 [26 U.S.C. 4041, 4081] with respect to fuel used in vehicles on recreational trails or back country terrain (including vehicles registered for highway use when used on recreational trails, trail access roads not eligible for funding under title 23, United States Code, or back country terrain).

"(3) RECREATIONAL TRAILS PROGRAM.—The term 'recreational trails program' means the recreational trails program under section 206 of title 23, United States Code.

"(b) ASSESSMENT; REPORT.—

"(1) ASSESSMENT.—Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021] and not less frequently than once every 5 years thereafter, as determined by the Secretary [of Transportation], the Secretary shall carry out an assessment of the best available estimate of the total amount of nonhighway recreational fuel taxes received by the Secretary of the Treasury and transferred to the Highway Trust Fund for the period covered by the assessment.

"(2) REPORT.—After carrying out each assessment under paragraph (1), the Secretary shall submit to the Committees on Finance and Environment and Public Works of the Senate and the Committees on Ways and Means and Transportation and Infrastructure of the House of Representatives a report that includes—

"(A) to assist Congress in determining an appropriate funding level for the recreational trails program—

"(i) a description of the results of the assessment; and

"(ii) an evaluation of whether the current recreational trails program funding level reflects the amount of nonhighway recreational fuel taxes collected and transferred to the Highway Trust Fund; and

"(B) in the case of the first report submitted under this paragraph, an estimate of the frequency with which the Secretary anticipates carrying out the assessment under paragraph (1), subject to the condition that such an assessment shall be carried out not less frequently than once every 5 years.

"(c) CONSULTATION.—In carrying out an assessment under subsection (b)(1), the Secretary may consult with, as the Secretary determines to be appropriate—

"(1) the heads of—

"(A) State agencies designated by Governors pursuant to section 206(c)(1) of title 23, United States Code, to administer the recreational trails program; and

"(B) division offices of the Department [of Transportation];

"(2) the Secretary of the Treasury;

"(3) the Administrator of the Federal Highway Administration; and

"(4) groups representing recreational activities and interests, including hiking, biking and mountain biking, horseback riding, water trails, snowshoeing, cross-country skiing, snowmobiling, off-highway motorcycling, all-terrain vehicles and other offroad motorized vehicle activities, and recreational trail advocates."

USE OF YOUTH SERVICE AND CONSERVATION CORPS

Pub. L. 112–141, div. A, title I, §1524, July 6, 2012, 126 Stat. 580, provided that:

"(a) IN GENERAL.—The Secretary shall encourage the States and regional transportation planning agencies to enter into contracts and cooperative agreements with qualified youth service or conservation corps, as defined in sections 122(a)(2) of Public Law 101–610 (42 U.S.C. 12572(a)(2)) and 106(c)(3) of Public Law 103–82 (42 U.S.C. 12656(c)(3)) to perform appropriate projects eligible under sections 162, 206, [former] 213, and 217 of title 23, United States Code, and under section 1404 of the SAFETEA–LU (119 Stat. 1228).

"(b) REQUIREMENTS.—Under any contract or cooperative agreement entered into with a qualified youth service or conservation corps under this section, the Secretary shall—

"(1) set the amount of a living allowance or rate of pay for each participant in such corps at—

"(A) such amount or rate as required under State law in a State with such requirements; or

"(B) for corps in States not described in subparagraph (A), at such amount or rate as determined by the Secretary, not to exceed the maximum living allowance authorized by section 140 of Public Law 101–610 (42 U.S.C. 12594); and

"(2) not subject such corps to the requirements of section 112 of title 23, United States Code."

Similar provisions were contained in the following prior acts:
Pub. L. 109–59, title I, §1109(f), Aug. 10, 2005, 119 Stat. 1170.
Pub. L. 105–178, title I, §1112(e), June 9, 1998, 112 Stat. 151.

§207. Tribal transportation self-governance program

(a) ESTABLISHMENT.—Subject to the requirements of this section, the Secretary shall establish and carry out a program to be known as the tribal transportation self-governance program. The Secretary may delegate responsibilities for administration of the program as the Secretary determines appropriate.

(b) ELIGIBILITY.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), an Indian tribe shall be eligible to participate in the program if the Indian tribe requests participation in the program by resolution or other official action by the governing body of the Indian tribe, and demonstrates, for the preceding 3 fiscal years, financial stability and financial management capability, and transportation program management capability.

(2) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPACITY.—For the purposes of paragraph (1), evidence that, during the preceding 3 fiscal years, an Indian tribe had no uncorrected significant and material audit exceptions in the required annual audit of the Indian tribe's self-determination contracts or self-governance funding agreements with any Federal agency shall be conclusive evidence of the required financial stability and financial management capability.

(3) CRITERIA FOR DETERMINING TRANSPORTATION PROGRAM MANAGEMENT CAPABILITY.—The Secretary shall require an Indian tribe to demonstrate transportation program management capability, including the capability to manage and complete projects eligible under this title and projects eligible under chapter 53 of title 49, to gain eligibility for the program.

(c) COMPACTS.—

(1) COMPACT REQUIRED.—Upon the request of an eligible Indian tribe, and subject to the requirements of this section, the Secretary shall negotiate and enter into a written compact with the Indian tribe for the purpose of providing for the participation of the Indian tribe in the program.

(2) CONTENTS.—A compact entered into under paragraph (1) shall set forth the general terms of the government-to-government relationship between the Indian tribe and the United States under the program and other terms that will continue to apply in future fiscal years.

(3) AMENDMENTS.—A compact entered into with an Indian tribe under paragraph (1) may be amended only by mutual agreement of the Indian tribe and the Secretary.

(d) ANNUAL FUNDING AGREEMENTS.—

(1) FUNDING AGREEMENT REQUIRED.—After entering into a compact with an Indian tribe under subsection (c), the Secretary shall negotiate and enter into a written annual funding agreement with the Indian tribe.

(2) CONTENTS.—

(A) IN GENERAL.—

(i) FORMULA FUNDING AND DISCRETIONARY GRANTS.—A funding agreement entered into with an Indian tribe shall authorize the Indian tribe, as determined by the Indian tribe, to plan, conduct, consolidate, administer, and receive full tribal share funding, tribal transit formula funding, and funding to tribes from discretionary and competitive grants administered by the Department for all programs, services, functions, and activities (or portions thereof) that are made available to Indian tribes to carry out tribal transportation programs and programs, services, functions, and activities (or portions thereof) administered by the Secretary that are otherwise available to Indian tribes.

(ii) TRANSFERS OF STATE FUNDS.—

(I) INCLUSION OF TRANSFERRED FUNDS IN FUNDING AGREEMENT.—A funding agreement entered into with an Indian tribe shall include Federal-aid funds apportioned to a State under chapter 1 if the State elects to provide a portion of such funds to the Indian tribe for a project eligible under section 202(a). The provisions of this section shall be in addition to the methods for making funding contributions described in section 202(a)(9). Nothing in this section shall diminish the authority of the Secretary to provide funds to an Indian tribe under section 202(a)(9).

(II) METHOD FOR TRANSFERS.—If a State elects to provide funds described in subclause (I) to an Indian tribe—

(aa) the transfer may occur in accordance with section 202(a)(9); or

(bb) the State shall transfer the funds back to the Secretary and the Secretary shall transfer the funds to the Indian tribe in accordance with this section.

(III) RESPONSIBILITY FOR TRANSFERRED FUNDS.—Notwithstanding any other provision of law, if a State provides funds described in subclause (I) to an Indian tribe—

(aa) the State shall not be responsible for constructing or maintaining a project carried out using the funds or for administering or supervising the project or funds during the applicable statute of limitations period related to the construction of the project; and

(bb) the Indian tribe shall be responsible for constructing and maintaining a project carried out using the funds and for administering and supervising the project and funds in accordance with this section during the applicable statute of limitations period related to the construction of the project.

(B) ADMINISTRATION OF TRIBAL SHARES.—The tribal shares referred to in subparagraph (A) shall be provided without regard to the agency or office of the Department within which the program, service, function, or activity (or portion thereof) is performed.

(C) FLEXIBLE AND INNOVATIVE FINANCING.—

(i) IN GENERAL.—A funding agreement entered into with an Indian tribe under paragraph (1) shall include provisions pertaining to flexible and innovative financing if agreed upon by the parties.

(ii) TERMS AND CONDITIONS.—

(I) AUTHORITY TO ISSUE REGULATIONS.—The Secretary may issue regulations to establish the terms and conditions relating to the flexible and innovative financing provisions referred to in clause (i).

(II) TERMS AND CONDITIONS IN ABSENCE OF REGULATIONS.—If the Secretary does not issue regulations under subclause (I), the terms and conditions relating to the flexible and innovative financing provisions referred to in clause (i) shall be consistent with—

(aa) agreements entered into by the Department under—

(AA) section 202(b)(7); and

(BB) section 202(d)(5), as in effect before the date of enactment of MAP–21 (Public Law 112–141); or

(bb) regulations of the Department of the Interior relating to flexible financing contained in part 170 of title 25, Code of Federal Regulations, as in effect on the date of enactment of the FAST Act.

(3) TERMS.—A funding agreement shall set forth—

(A) terms that generally identify the programs, services, functions, and activities (or portions thereof) to be performed or administered by the Indian tribe; and

(B) for items identified in subparagraph (A)—

(i) the general budget category assigned;

(ii) the funds to be provided, including those funds to be provided on a recurring basis;

(iii) the time and method of transfer of the funds;
(iv) the responsibilities of the Secretary and the Indian tribe; and
(v) any other provision agreed to by the Indian tribe and the Secretary.

(4) SUBSEQUENT FUNDING AGREEMENTS.—
(A) APPLICABILITY OF EXISTING AGREEMENT.—Absent notification from an Indian tribe that the Indian tribe is withdrawing from or retroceding the operation of 1 or more programs, services, functions, or activities (or portions thereof) identified in a funding agreement, or unless otherwise agreed to by the parties, each funding agreement shall remain in full force and effect until a subsequent funding agreement is executed.
(B) EFFECTIVE DATE OF SUBSEQUENT AGREEMENT.—The terms of the subsequent funding agreement shall be retroactive to the end of the term of the preceding funding agreement.

(5) CONSENT OF INDIAN TRIBE REQUIRED.—The Secretary shall not revise, amend, or require additional terms in a new or subsequent funding agreement without the consent of the Indian tribe that is subject to the agreement unless such terms are required by Federal law.

(e) GENERAL PROVISIONS.—
(1) REDESIGN AND CONSOLIDATION.—
(A) IN GENERAL.—An Indian tribe, in any manner that the Indian tribe considers to be in the best interest of the Indian community being served, may—
(i) redesign or consolidate programs, services, functions, and activities (or portions thereof) included in a funding agreement; and
(ii) reallocate or redirect funds for such programs, services, functions, and activities (or portions thereof), if the funds are—
(I) expended on projects identified in a transportation improvement program approved by the Secretary; and
(II) used in accordance with the requirements in—
(aa) appropriations Acts;
(bb) this title and chapter 53 of title 49; and
(cc) any other applicable law.

(B) EXCEPTION.—Notwithstanding subparagraph (A), if, pursuant to subsection (d), an Indian tribe receives a discretionary or competitive grant from the Secretary or receives State apportioned funds, the Indian tribe shall use the funds for the purpose for which the funds were originally authorized.

(2) RETROCESSION.—
(A) IN GENERAL.—
(i) AUTHORITY OF INDIAN TRIBES.—An Indian tribe may retrocede (fully or partially) to the Secretary programs, services, functions, or activities (or portions thereof) included in a compact or funding agreement.
(ii) REASSUMPTION OF REMAINING FUNDS.—Following a retrocession described in clause (i), the Secretary may—
(I) reassume the remaining funding associated with the retroceded programs, functions, services, and activities (or portions thereof) included in the applicable compact or funding agreement;
(II) out of such remaining funds, transfer funds associated with Department of Interior programs, services, functions, or activities (or portions thereof) to the Secretary of the Interior to carry out transportation services provided by the Secretary of the Interior; and
(III) distribute funds not transferred under subclause (II) in accordance with applicable law.

(iii) CORRECTION OF PROGRAMS.—If the Secretary makes a finding under subsection (f)(2)(B) and no funds are available under subsection (f)(2)(A)(ii), the Secretary shall not be required to provide additional funds to complete or correct any programs, functions, services, or activities (or portions thereof).

(B) EFFECTIVE DATE.—Unless the Indian tribe rescinds a request for retrocession, the retrocession shall become effective within the timeframe specified by the parties in the compact or funding agreement. In the absence of such a specification, the retrocession shall become effective on—

(i) the earlier of—

(I) 1 year after the date of submission of the request; or

(II) the date on which the funding agreement expires; or

(ii) such date as may be mutually agreed upon by the parties and, with respect to Department of the Interior programs, functions, services, and activities (or portions thereof), the Secretary of the Interior.

(f) PROVISIONS RELATING TO SECRETARY.—

(1) DECISIONMAKER.—A decision that relates to an appeal of the rejection of a final offer by the Department shall be made either—

(A) by an official of the Department who holds a position at a higher organizational level within the Department than the level of the departmental agency in which the decision that is the subject of the appeal was made; or

(B) by an administrative judge.

(2) TERMINATION OF COMPACT OR FUNDING AGREEMENT.—

(A) AUTHORITY TO TERMINATE.—

(i) PROVISION TO BE INCLUDED IN COMPACT OR FUNDING AGREEMENT.—A compact or funding agreement shall include a provision authorizing the Secretary, if the Secretary makes a finding described in subparagraph (B), to—

(I) terminate the compact or funding agreement (or a portion thereof); and

(II) reassume the remaining funding associated with the reassumed programs, functions, services, and activities included in the compact or funding agreement.

(ii) TRANSFERS OF FUNDS.—Out of any funds reassumed under clause (i)(II), the Secretary may transfer the funds associated with Department of the Interior programs, functions, services, and activities (or portions thereof) to the Secretary of the Interior to provide continued transportation services in accordance with applicable law.

(B) FINDINGS RESULTING IN TERMINATION.—The finding referred to in subparagraph (A) is a specific finding of—

(i) imminent jeopardy to a trust asset, natural resources, or public health and safety that is caused by an act or omission of the Indian tribe and that arises out of a failure to carry out the compact or funding agreement, as determined by the Secretary; or

(ii) gross mismanagement with respect to funds or programs transferred to the Indian tribe under the compact or funding agreement, as determined by the Secretary in consultation with the Inspector General of the Department, as appropriate.

(C) PROHIBITION.—The Secretary shall not terminate a compact or funding agreement (or portion thereof) unless—

(i) the Secretary has first provided written notice and a hearing on the record to the Indian tribe that is subject to the compact or funding agreement; and

(ii) the Indian tribe has not taken corrective action to remedy the mismanagement of funds or programs or the imminent jeopardy to a trust asset, natural resource, or public health and safety.

(D) EXCEPTION.—

(i) IN GENERAL.—Notwithstanding subparagraph (C), the Secretary, upon written notification to an Indian tribe that is subject to a compact or funding agreement, may immediately terminate the compact or funding agreement (or portion thereof) if—

(I) the Secretary makes a finding of imminent substantial and irreparable jeopardy to a trust asset, natural resource, or public health and safety; and

(II) the jeopardy arises out of a failure to carry out the compact or funding agreement.

(ii) HEARINGS.—If the Secretary terminates a compact or funding agreement (or portion thereof) under clause (i), the Secretary shall provide the Indian tribe subject to the compact or agreement with a hearing on the record not later than 10 days after the date of such termination.

(E) BURDEN OF PROOF.—In any hearing or appeal involving a decision to terminate a compact or funding agreement (or portion thereof) under this paragraph, the Secretary shall have the burden of proof in demonstrating by clear and convincing evidence the validity of the grounds for the termination.

(g) COST PRINCIPLES.—In administering funds received under this section, an Indian tribe shall apply cost principles under the applicable Office of Management and Budget circular, except as modified by section 106 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5325), other provisions of law, or by any exemptions to applicable Office of Management and Budget circulars subsequently granted by the Office of Management and Budget. No other audit or accounting standards shall be required by the Secretary. Any claim by the Federal Government against the Indian tribe relating to funds received under a funding agreement based on any audit conducted pursuant to this subsection shall be subject to the provisions of section 106(f) of that Act (25 U.S.C. 5325(f)).

(h) TRANSFER OF FUNDS.—The Secretary shall provide funds to an Indian tribe under a funding agreement in an amount equal to—

(1) the sum of the funding that the Indian tribe would otherwise receive for the program, function, service, or activity in accordance with a funding formula or other allocation method established under this title or chapter 53 of title 49; and

(2) such additional amounts as the Secretary determines equal the amounts that would have been withheld for the costs of the Bureau of Indian Affairs for administration of the program or project.

(i) CONSTRUCTION PROGRAMS.—

(1) STANDARDS.—Construction projects carried out under programs administered by an Indian tribe with funds transferred to the Indian tribe pursuant to a funding agreement entered into under this section shall be constructed pursuant to the construction program standards set forth in applicable regulations or as specifically approved by the Secretary (or the Secretary's designee).

(2) MONITORING.—Construction programs shall be monitored by the Secretary in accordance with applicable regulations.

(j) FACILITATION.—

(1) SECRETARIAL INTERPRETATION.—Except as otherwise provided by law, the Secretary shall interpret all Federal laws, Executive orders, and regulations in a manner that will facilitate—

(A) the inclusion of programs, services, functions, and activities (or portions thereof) and

funds associated therewith, in compacts and funding agreements; and

(B) the implementation of the compacts and funding agreements.

(2) REGULATION WAIVER.—

(A) IN GENERAL.—An Indian tribe may submit to the Secretary a written request to waive application of a regulation promulgated under this section with respect to a compact or funding agreement. The request shall identify the regulation sought to be waived and the basis for the request.

(B) APPROVALS AND DENIALS.—

(i) IN GENERAL.—Not later than 90 days after the date of receipt of a written request under subparagraph (A), the Secretary shall approve or deny the request in writing.

(ii) REVIEW.—The Secretary shall review any application by an Indian tribe for a waiver bearing in mind increasing opportunities for using flexible policy approaches at the Indian tribal level.

(iii) DEEMED APPROVAL.—If the Secretary does not approve or deny a request submitted under subparagraph (A) on or before the last day of the 90-day period referred to in clause (i), the request shall be deemed approved.

(iv) DENIALS.—If the application for a waiver is not granted, the agency shall provide the applicant with the reasons for the denial as part of the written response required in clause (i).

(v) FINALITY OF DECISIONS.—A decision by the Secretary under this subparagraph shall be final for the Department.

(k) DISCLAIMERS.—

(1) EXISTING AUTHORITY.—Notwithstanding any other provision of law, upon the election of an Indian tribe, the Secretary shall—

(A) maintain current tribal transportation program funding agreements and program agreements; or

(B) enter into new agreements under the authority of section 202(b)(7).

(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed to impair or diminish the authority of the Secretary under section 202(b)(7).

(l) APPLICABILITY OF INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.—Except to the extent in conflict with this section (as determined by the Secretary), the following provisions of the Indian Self-Determination and Education Assistance Act shall apply to compact and funding agreements (except that any reference to the Secretary of the Interior or the Secretary of Health and Human Services in such provisions shall be treated as a reference to the Secretary of Transportation):

(1) Subsections (a), (b), (d), (g), and (h) of section 506 of such Act (25 U.S.C. 5386), relating to general provisions.

(2) Subsections (b) through (e) and (g) of section 507 of such Act (25 U.S.C. 5387), relating to provisions relating to the Secretary of Health and Human Services.

(3) Subsections (a), (b), (d), (e), (g), (h), (i), and (k) of section 508 of such Act (25 U.S.C. 5388), relating to transfer of funds.

(4) Section 510 of such Act (25 U.S.C. 5390), relating to Federal procurement laws and regulations.

(5) Section 511 of such Act (25 U.S.C. 5391), relating to civil actions.

(6) Subsections (a)(1), (a)(2), and (c) through (f) of section 512 of such Act (25 U.S.C. 5392), relating to facilitation, except that subsection (c)(1) of that section shall be applied by substituting "transportation facilities and other facilities" for "school buildings, hospitals, and other facilities".

(7) Subsections (a) and (b) of section 515 of such Act (25 U.S.C. 5395), relating to disclaimers.

(8) Subsections (a) and (b) of section 516 of such Act (25 U.S.C. 5396), relating to application of title I provisions.

(9) Section 518 of such Act (25 U.S.C. 5398), relating to appeals.

(m) DEFINITIONS.—

(1) IN GENERAL.—In this section, the following definitions apply (except as otherwise expressly provided):

(A) COMPACT.—The term "compact" means a compact between the Secretary and an Indian tribe entered into under subsection (c).

(B) DEPARTMENT.—The term "Department" means the Department of Transportation.

(C) ELIGIBLE INDIAN TRIBE.—The term "eligible Indian tribe" means an Indian tribe that is eligible to participate in the program, as determined under subsection (b).

(D) FUNDING AGREEMENT.—The term "funding agreement" means a funding agreement between the Secretary and an Indian tribe entered into under subsection (d).

(E) INDIAN TRIBE.—The term "Indian tribe" means any Indian or Alaska Native tribe, band, nation, pueblo, village, or community that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. In any case in which an Indian tribe has authorized another Indian tribe, an intertribal consortium, or a tribal organization to plan for or carry out programs, services, functions, or activities (or portions thereof) on its behalf under this section, the authorized Indian tribe, intertribal consortium, or tribal organization shall have the rights and responsibilities of the authorizing Indian tribe (except as otherwise provided in the authorizing resolution or in this title). In such event, the term "Indian tribe" as used in this section shall include such other authorized Indian tribe, intertribal consortium, or tribal organization.

(F) PROGRAM.—The term "program" means the tribal transportation self-governance program established under this section.

(G) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(H) TRANSPORTATION PROGRAMS.—The term "transportation programs" means all programs administered or financed by the Department under this title and chapter 53 of title 49.

(2) APPLICABILITY OF OTHER DEFINITIONS.—In this section, the definitions set forth in sections 4 and 501 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304; 5381) apply, except as otherwise expressly provided in this section.

(n) REGULATIONS.—

(1) IN GENERAL.—

(A) PROMULGATION.—Not later than 90 days after the date of enactment of the FAST Act, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5 to negotiate and promulgate such regulations as are necessary to carry out this section.

(B) PUBLICATION OF PROPOSED REGULATIONS.—Proposed regulations to implement this section shall be published in the Federal Register by the Secretary not later than 42 months after such date of enactment.

(C) EXPIRATION OF AUTHORITY.—The authority to promulgate regulations under subparagraph (A) shall expire 48 months after such date of enactment.

(D) EXTENSION OF DEADLINES.—A deadline set forth in subparagraph (B) or (C) may be extended up to 180 days if the negotiated rulemaking committee referred to in paragraph (2) concludes that the committee cannot meet the deadline and the Secretary so notifies the appropriate committees of Congress.

(2) COMMITTEE.—

(A) IN GENERAL.—A negotiated rulemaking committee established pursuant to section 565 of title 5 to carry out this subsection shall have as its members only Federal and tribal government representatives, a majority of whom shall be nominated by and be representatives of Indian tribes with funding agreements under this title.

(B) REQUIREMENTS.—The committee shall confer with, and accommodate participation

by, representatives of Indian tribes, inter-tribal consortia, tribal organizations, and individual tribal members.

(C) ADAPTATION OF PROCEDURES.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of self-governance and the government-to-government relationship between the United States and Indian tribes.

(3) Effect.—The lack of promulgated regulations shall not limit the effect of this section.

(4) EFFECT OF CIRCULARS, POLICIES, MANUALS, GUIDANCE, AND RULES.—Unless expressly agreed to by the participating Indian tribe in the compact or funding agreement, the participating Indian tribe shall not be subject to any agency circular, policy, manual, guidance, or rule adopted by the Department, except regulations promulgated under this section.

(Added Pub. L. 114–94, div. A, title I, §1121(a), Dec. 4, 2015, 129 Stat. 1359; amended Pub. L. 115–235, §1, Aug. 14, 2018, 132 Stat. 2443; Pub. L. 117–58, div. A, title I, §11525(o), Nov. 15, 2021, 135 Stat. 608.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of MAP–21, referred to in subsec. (d)(2)(C)(ii)(II)(aa)(BB), is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title.

The date of enactment of the FAST Act, referred to in subsecs. (d)(2)(C)(ii)(II)(bb) and (n)(1)(A), is the date of enactment of Pub. L. 114–94, which was approved Dec. 4, 2015.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (l), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, which is classified principally to chapter 46 (§5301 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 25 and Tables.

PRIOR PROVISIONS

A prior section 207, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 908; Pub. L. 93–87, title I, §150, Aug. 13, 1973, 87 Stat. 275, provided for use of funds for construction and improvement of parkways, including acquisition of rights-of-way and related scenic easements, administration of such funds according to regulations jointly approved by the Secretary and the Secretary of the Interior, and that parkway projects on a Federal-aid system be subject to all requirements of this title and of any other law applicable to highways on such system, prior to repeal by Pub. L. 97–424, title I, §126(d), Jan. 6, 1983, 96 Stat. 2115.

AMENDMENTS

2021—Subsec. (g). Pub. L. 117–58, §11525(o)(1), substituted "(25 U.S.C. 5325)" for "(25 U.S.C. 450j–1)" and "(25 U.S.C. 5325(f))" for "(25 U.S.C. 450j–1(f))".

Subsec. (l)(1). Pub. L. 117–58, §11525(o(2)(A), substituted "(25 U.S.C. 5386)" for "(25 U.S.C. 458aaa–5)".

Subsec. (l)(2). Pub. L. 117–58, §11525(o)(2)(B), substituted "(25 U.S.C. 5387)" for "(25 U.S.C. 458aaa–6)".

Subsec. (l)(3). Pub. L. 117–58, §11525(o)(2)(C), substituted "(25 U.S.C. 5388)" for "(25 U.S.C. 458aaa–7)".

Subsec. (l)(4). Pub. L. 117–58, §11525(o)(2)(D), substituted "(25 U.S.C. 5390)" for "(25 U.S.C. 458aaa–9)".

Subsec. (l)(5). Pub. L. 117–58, §11525(o)(2)(E), substituted "(25 U.S.C. 5391)" for "(25 U.S.C. 458aaa–10)".

Subsec. (l)(6). Pub. L. 117–58, §11525(o)(2)(F), substituted "(25 U.S.C. 5392)" for "(25 U.S.C. 458aaa–11)".

Subsec. (l)(7). Pub. L. 117–58, §11525(o)(2)(G), substituted "(25 U.S.C. 5395)" for "(25 U.S.C. 458aaa–14)".

Subsec. (l)(8). Pub. L. 117–58, §11525(o)(2)(H), substituted "(25 U.S.C. 5396)" for "(25 U.S.C. 458aaa–15)".

Subsec. (l)(9). Pub. L. 117–58, §11525(o)(2)(I), substituted "(25 U.S.C. 5398)" for "(25 U.S.C. 458aaa–17)".

Subsec. (m)(2). Pub. L. 117–58, §11525(o)(3), substituted "501" for "505" and "(25 U.S.C. 5304; 5381)" for "(25 U.S.C. 450b; 458aaa)".

2018—Subsec. (n)(1)(B). Pub. L. 115–235, §1(1), substituted "42 months" for "21 months".

Subsec. (n)(1)(C). Pub. L. 115–235, §1(2), substituted "48 months" for "30 months".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

§208. Safe routes to school

(a) DEFINITIONS.—In this section:

(1) IN THE VICINITY OF SCHOOLS.—The term "in the vicinity of schools", with respect to a school, means the approximately 2-mile area within bicycling and walking distance of the school.

(2) PRIMARY, MIDDLE, AND HIGH SCHOOLS.—The term "primary, middle, and high schools" means schools providing education from kindergarten through 12th grade.

(b) ESTABLISHMENT.—Subject to the requirements of this section, the Secretary shall establish and carry out a safe routes to school program for the benefit of children in primary, middle, and high schools.

(c) PURPOSES.—The purposes of the program established under subsection (b) shall be—

(1) to enable and encourage children, including those with disabilities, to walk and bicycle to school;

(2) to make bicycling and walking to school a safer and more appealing transportation alternative, thereby encouraging a healthy and active lifestyle from an early age; and

(3) to facilitate the planning, development, and implementation of projects and activities that will improve safety and reduce traffic, fuel consumption, and air pollution in the vicinity of schools.

(d) APPORTIONMENT OF FUNDS.—

(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4), amounts made available to carry out this section for a fiscal year shall be apportioned among the States so that each State receives the amount equal to the proportion that—

(A) the total student enrollment in primary, middle, and high schools in each State; bears to

(B) the total student enrollment in primary, middle, and high schools in all States.

(2) MINIMUM APPORTIONMENT.—No State shall receive an apportionment under this section for a fiscal year of less than $1,000,000.

(3) SET-ASIDE FOR ADMINISTRATIVE EXPENSES.—Before apportioning under this subsection amounts made available to carry out this section for a fiscal year, the Secretary shall set aside not more than $3,000,000 of those amounts for the administrative expenses of the Secretary in carrying out this section.

(4) DETERMINATION OF STUDENT ENROLLMENTS.—Determinations under this subsection relating to student enrollments shall be made by the Secretary.

(e) ADMINISTRATION OF AMOUNTS.—Amounts apportioned to a State under this section shall be administered by the State department of transportation.

(f) ELIGIBLE RECIPIENTS.—Amounts apportioned to a State under this section shall be used by the State to provide financial assistance to State, local, Tribal, and regional agencies, including nonprofit organizations, that demonstrate an ability to meet the requirements of this section.

(g) ELIGIBLE PROJECTS AND ACTIVITIES.—

(1) INFRASTRUCTURE-RELATED PROJECTS.—

(A) IN GENERAL.—Amounts apportioned to a State under this section may be used for the planning, design, and construction of infrastructure-related projects that will substantially improve the ability of students to walk and bicycle to school, including sidewalk improvements, traffic calming and speed reduction improvements, pedestrian and bicycle crossing improvements, on-street bicycle facilities, off-street bicycle and pedestrian facilities, secure bicycle parking facilities, and traffic diversion improvements in the vicinity of schools.

(B) LOCATION OF PROJECTS.—Infrastructure-related projects under subparagraph (A) may be carried out on any public road or any bicycle or pedestrian pathway or trail in the vicinity of schools.

(2) NONINFRASTRUCTURE-RELATED ACTIVITIES.—

(A) IN GENERAL.—In addition to projects described in paragraph (1), amounts apportioned to a State under this section may be used for noninfrastructure-related activities to encourage walking and bicycling to school, including public awareness campaigns and outreach to press and community leaders, traffic education and enforcement in the vicinity of schools, student sessions on bicycle and pedestrian safety, health, and environment, and funding for training, volunteers, and managers of safe routes to school programs.

(B) ALLOCATION.—Not less than 10 percent and not more than 30 percent of the amount apportioned to a State under this section for a fiscal year shall be used for noninfrastructure-related activities under this paragraph.

(3) SAFE ROUTES TO SCHOOL COORDINATOR.—Each State shall use a sufficient amount of the apportionment of the State for each fiscal year to fund a full-time position of coordinator of the safe routes to school program of the State.

(h) CLEARINGHOUSE.—

(1) IN GENERAL.—The Secretary shall make grants to a national nonprofit organization engaged in promoting safe routes to schools—

(A) to operate a national safe routes to school clearinghouse;

(B) to develop information and educational programs on safe routes to school; and

(C) to provide technical assistance and disseminate techniques and strategies used for successful safe routes to school programs.

(2) FUNDING.—The Secretary shall carry out this subsection using amounts set aside for administrative expenses under subsection (d)(3).

(i) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, a project assisted under this section shall be treated as a project on a Federal-aid highway under chapter 1.

(Added Pub. L. 117–58, div. A, title I, §11119(a), Nov. 15, 2021, 135 Stat. 495.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 208, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 908; Pub. L. 87–282, Sept. 22, 1961, 75 Stat. 584; Pub. L. 93–643, §102(c), Jan. 4, 1975, 88 Stat. 2281, provided for use of funds for construction and improvement of Indian reservation roads and bridges, supervision of such projects by the Secretary, that such

funds be only supplementary to funds apportioned under section 104 of this title, for use of Indian labor in such projects, and for cooperation with States and localities, prior to repeal by Pub. L. 97–424, title I, §126(d), Jan. 6, 1983, 96 Stat. 2115.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as an Effective Date of 2021 Amendment note under section 101 of this title.

[§209. Repealed. Pub. L. 97–424, title I, §126(d), Jan. 6, 1983, 96 Stat. 2115]

Section, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 908; Pub. L. 88–423, §4(b), Aug. 13, 1964, 78 Stat. 397, provided for use of funds for construction and maintenance of public lands highways, cooperation with State agencies, the application of section 112 of this title to public lands highways, and for use of such funds for adjacent ancillary facilities and services.

§210. Defense access roads

(a) AUTHORIZATION.—

(1) IN GENERAL.—When defense access roads are certified to the Secretary as important to the national defense by the Secretary of Defense or such other official as the President may designate, the Secretary is authorized, out of the funds appropriated for defense access roads, to provide for—

(A) the construction and maintenance of defense access roads (including bridges, tubes, tunnels, and culverts or other hydraulic appurtenances on those roads) to—

(i) military reservations;

(ii) defense industry sites;

(iii) air or sea ports that are necessary for or are planned to be used for the deployment or sustainment of members of the Armed Forces, equipment, or supplies; or

(iv) sources of raw materials;

(B) the reconstruction or enhancement of, or improvements to, those roads to ensure the continued effective use of the roads, regardless of current or projected increases in mean tides, recurrent flooding, or other weather-related conditions or natural disasters; and

(C) replacing existing highways and highway connections that are shut off from general public use by necessary closures, closures due to mean sea level fluctuation and flooding, or restrictions at—

(i) military reservations;

(ii) air or sea ports that are necessary for or are planned to be used for the deployment or sustainment of members of the Armed Forces, equipment, or supplies; or

(iii) defense industry sites.

(2) If it is determined that an action of the Department of Defense will cause a significant transportation impact to access to a military reservation, the Secretary of Defense shall conduct a transportation needs assessment to assess the magnitude of the improvement required to address the impact. The Secretary of Defense, in consultation with the Secretary of Transportation, shall determine the magnitude of the required improvements without regard to the extent to which traffic generated by the reservation is greater than other traffic in the vicinity of the reservation.

(b) Funds appropriated for the purposes of this section shall be available, without regard to apportionment among the several States, for paying all or any part of the cost of construction, reconstruction, resurfacing, restoration, rehabilitation, and preservation of, or enhancements to,

defense access roads.

(c) Funds appropriated for defense maneuvers and exercises, may be used by the Secretary in areas certified to the Secretary by the Secretary of Defense as maneuver areas for such activities for construction, maintenance, reconstruction, enhancement, improvement, and repair as may be necessary to keep the highways in those areas, which have been or may be used for training of the Armed Forces, in suitable condition for—

(1) that training; and

(2) repairing the damage to those highways caused by—

(A) weather-related events, increases in mean high tide levels, recurrent flooding, or natural disasters; or

(B) the operations of men and equipment in such training.

(d) Whenever any project for the construction of a circumferential highway around a city or of a radial intracity route thereto submitted by any State is certified by the Secretary of Defense, or such other official as the President may designate, as being important for civilian or military defense, such project may be constructed out of the funds heretofore or hereafter authorized to be appropriated for defense access roads.

(e) If the Secretary shall determine that the State transportation department of any State is unable to obtain possession and the right to enter upon and use the required rights-of-way, lands, or interest in lands, improved or unimproved, required for any project authorized by this section with sufficient promptness, the Secretary is authorized to acquire, enter upon, take possession thereof, and expend funds for projects thereon, prior to approval of title by the Attorney General, in the name of the United States, such rights-of-way, lands, or interest in lands as may be required in such State for such projects 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). The cost incurred by the Secretary in acquiring any such rights-of-way, lands, or interest in lands may include the cost of examination and abstract of title, certificate of title, advertising, and any fees incidental to such acquisition; and shall be payable out of the funds available for paying the cost or the Federal share of the cost of the project for which such rights-of-way, lands, or interests in lands are acquired. The Secretary is further authorized and directed by proper deed executed in the name of the United States to convey any lands or interests in lands acquired in any State under the provisions of prior Acts or of this section to the State transportation department of such State or to such political subdivision thereof as its laws may provide, upon such terms and conditions as may be agreed upon by the Secretary and the State transportation department, or political subdivisions to which the conveyance is to be made.

(f) The provisions of section 112 of this title are applicable to defense access roads.

(g) If the Secretary shall determine that it is necessary for the expeditious completion of any defense access road project the Secretary may advance to any State out of funds appropriated for defense access roads transferred and available to the Department of Transportation the Federal share of the cost of construction thereof to enable the State transportation department to make prompt payments for acquisition of rights-of-way, and for the construction as it progresses. The sums so advanced shall be deposited in a special fund by the State official authorized by State law to receive such funds, to be disbursed solely upon vouchers approved by the State transportation department for rights-of-way which have been or are being acquired and for construction and other activities actually performed under this section. Upon determination by the Secretary that funds advanced to any State under the provisions of this subsection are no longer required, the amount of the advance which is determined to be in excess of requirements for the project shall be repaid upon demand by the Secretary, and such repayments shall be returned to the credit of the appropriation from which the funds were advanced.

(h) Funds appropriated for the purposes of this section shall be available to pay the cost of repairing damage caused to highways by the operation of vehicles and equipment in the construction of classified military installations and facilities for ballistic missiles if the Secretary shall determine that the State transportation department of any State is, or has been, unable to prevent such damage

by restrictions upon the use of such highways without interference with, or delay in, the completion of a contract for the construction of such military reservations or installations. This subsection shall apply notwithstanding any provision of contract holding a party thereto responsible for such damage, if the Secretary of Defense or his designee shall determine, in fact, that construction estimates and the bid of such party did not include allowance for repairing such damage. This subsection shall apply to damage caused by construction work commenced prior to June 1, 1961, and still in progress on that date and construction work which is commenced or for which a contract is awarded on or after June 1, 1961.

(i) REPAIR OF CERTAIN DAMAGES AND INFRASTRUCTURE.—The funds appropriated to carry out this section may be used to pay the cost of repairing damage caused, or any infrastructure to mitigate a risk posed, to a defense access road by recurrent or projected recurrent flooding, sea level fluctuation, a natural disaster, or any other current or projected change in applicable environmental conditions, if the Secretary determines that continued access to a military installation, defense industry site, air or sea port necessary for or planned to be used for the deployment or sustainment of members of the Armed Forces, equipment, or supplies, or to a source of raw materials, has been or is projected to be impacted by those events or conditions.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 908; Pub. L. 86–657, §8(d), July 14, 1960, 74 Stat. 524; Pub. L. 87–61, title I, §105, June 29, 1961, 75 Stat. 123; Pub. L. 97–424, title I, §155, Jan. 6, 1983, 96 Stat. 2134; Pub. L. 100–17, title I, §133(b)(15), Apr. 2, 1987, 101 Stat. 172; Pub. L. 105–178, title I, §1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 193; Pub. L. 109–284, §3(2), Sept. 27, 2006, 120 Stat. 1211; Pub. L. 110–417, div. B, title XXVIII, §2814(a), Oct. 14, 2008, 122 Stat. 4728; Pub. L. 112–81, div. B, title XXVIII, §2816(a), Dec. 31, 2011, 125 Stat. 1689; Pub. L. 112–141, div. A, title I, §1516, July 6, 2012, 126 Stat. 574; Pub. L. 115–232, div. B, title XXVIII, §2865, Aug. 13, 2018, 132 Stat. 2285; Pub. L. 116–92, div. B, title XXVIII, §2808, Dec. 20, 2019, 133 Stat. 1885.)

EDITORIAL NOTES

AMENDMENTS

2019—Subsec. (a)(1). Pub. L. 116–92, §2808(1), added par. (1) and struck out former par. (1) which read as follows: "The Secretary is authorized, out of the funds appropriated for defense access roads, to provide for the construction and maintenance of defense access roads (including bridges, tubes, and tunnels thereon) to military reservations, to defense industries and defense industry sites, and to the sources of raw materials when such roads are certified to the Secretary as important to the national defense by the Secretary of Defense or such other official as the President may designate, and for replacing existing highways and highway connections that are shut off from the general public use by necessary closures, closures due to mean sea level fluctuation and flooding, or restrictions at military reservations and defense industry sites."

Subsec. (b). Pub. L. 116–92, §2808(2), substituted "construction, reconstruction, resurfacing, restoration, rehabilitation, and preservation of, or enhancements to," for "the construction and maintenance of".

Subsec. (c). Pub. L. 116–92, §2808(3), substituted "certified to the Secretary" for "certified to him", "activities for construction, maintenance, reconstruction, enhancement, improvement, and repair" for "construction, maintenance, and repair work", "in those areas" for "therein", and "condition for—" and pars. (1) and (2) for "condition for such training purposes and for repairing the damage caused to such highways by the operations of men and equipment in such training."

Subsec. (g). Pub. L. 116–92, §2808(4), substituted "the Secretary may advance" for "he may advance", "construction and other activities" for "construction which has been", and "upon demand by the Secretary" for "upon his demand".

Subsec. (i). Pub. L. 116–92, §2808(5), added subsec. (i) and struck out former subsec. (i) which read as follows: "Beginning in fiscal year 2019, funds appropriated for the purposes of this section shall be available to pay the cost of repairing damage caused to, and for any infrastructure to mitigate the risks posed to, highways by recurrent flooding and sea level fluctuation, if the Secretary of Defense shall determine that continued access to a military installation has been impacted by past flooding and mean sea level fluctuation."

2018—Subsec. (a)(1). Pub. L. 115–232, §2865(a), substituted "closures, closures due to mean sea level fluctuation and flooding, or restrictions" for "closures or restrictions".

Subsec. (i). Pub. L. 115–232, §2865(b), added subsec. (i).

2012—Subsec. (a)(2). Pub. L. 112–141 inserted ", in consultation with the Secretary of Transportation,"

before "shall determine".

2011—Subsec. (a)(2). Pub. L. 112–81 inserted at end "The Secretary of Defense shall determine the magnitude of the required improvements without regard to the extent to which traffic generated by the reservation is greater than other traffic in the vicinity of the reservation."

2008—Subsec. (a). Pub. L. 110–417 designated existing provisions as par. (1) and added par. (2).

2006—Subsec. (e). 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—Subsecs. (e), (g), (h). Pub. L. 105–178 substituted "State transportation department" for "State highway department" wherever appearing.

1987—Subsec. (g). Pub. L. 100–17 substituted "Transportation" for "Commerce".

1983—Subsec. (c). Pub. L. 97–424 substituted "Funds appropriated for defense maneuvers and exercises" for "Not exceeding $5,000,000 of any funds appropriated under the Act approved October 16, 1951 (65 Stat. 422)".

1961—Subsec. (h). Pub. L. 87–61 added subsec. (h).

1960—Subsec. (g). Pub. L. 86–657 added subsec. (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

ECONOMIC ADJUSTMENT COMMITTEE CONSIDERATION OF ADDITIONAL DEFENSE ACCESS ROADS FUNDING SOURCES

Pub. L. 112–81, div. B, title XXVIII, §2816(b), Dec. 31, 2011, 125 Stat. 1689, provided that:

"(1) CONVENING OF COMMITTEE.—Not later than 90 days after the date of the enactment of this Act [Dec. 31, 2011], the Secretary of Defense, as the chairperson of the Economic Adjustment Committee established in Executive Order No. 127887 [12788] (10 U.S.C. 2391 note), shall convene the Economic Adjustment Committee to consider additional sources of funding for the defense access roads program under section 210 of title 23, United States Code.

"(2) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report describing the results of the Economic Adjustment Committee deliberations and containing an implementation plan to expand funding sources for the mitigation of significant transportation impacts to access to military reservations pursuant to subsection (b) of section 210 of title 23, United States Code, as amended by subsection (a)."

SEPARATE BUDGET REQUEST FOR PROGRAM

Pub. L. 112–81, div. B, title XXVIII, §2816(c), Dec. 31, 2011, 125 Stat. 1689, provided that: "Amounts requested for a fiscal year for the defense access roads program under section 210 of title 23, United States Code, shall be set forth as a separate budget request in the budget transmitted by the President to Congress for that fiscal year under section 1105 of title 31, United States."

[§211. Repealed. Pub. L. 100–17, title I, §133(e)(1), Apr. 2, 1987, 101 Stat. 173]

Section, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 909, related to timber access road hearings.

[§212. Repealed. Pub. L. 112–141, div. A, title I, §1519(b)(1)(A), July 6, 2012, 126 Stat. 575]

Section, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 909, related to the Inter-American Highway.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination

Dates of 2012 Amendment note under section 101 of this title.

[§213. Repealed. Pub. L. 114–94, div. A, title I, §1109(c)(2), Dec. 4, 2015, 129 Stat. 1343]

Section, added Pub. L. 112–141, div. A, title I, §1122(a), July 6, 2012, 126 Stat. 494, related to transportation alternatives.

A prior section 213, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 911, related to construction of Rama Road in Republic of Nicaragua, prior to repeal by Pub. L. 100–17, title I, §133(e)(1), Apr. 2, 1987, 101 Stat. 173.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

[§214. Repealed. Pub. L. 112–141, div. A, title I, §1119(b), July 6, 2012, 126 Stat. 491]

Section, added Pub. L. 87–866, §6(b), Oct. 23, 1962, 76 Stat. 1147; amended Pub. L. 97–424, title I, §126(d), Jan. 6, 1983, 96 Stat. 2115, related to public lands development roads and trails.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

[§215. Repealed. Pub. L. 112–141, div. A, title I, §1114(b)(2)(A), July 6, 2012, 126 Stat. 468]

Section, added Pub. L. 109–59, title I, §1118(a), Aug. 10, 2005, 119 Stat. 1179, related to territorial highway program.

A prior section 215, added Pub. L. 91–605, title I, §112(a), Dec. 31, 1970, 84 Stat. 1720; amended Pub. L. 95–599, title I, §129(f), Nov. 6, 1978, 92 Stat. 2708; Pub. L. 96–106, §9, Nov. 9, 1979, 93 Stat. 798; Pub. L. 100–17, title I, §133(b)(16), Apr. 2, 1987, 101 Stat. 172, related to territorial highway program, prior to repeal by Pub. L. 109–59, title I, §1118(a), Aug. 10, 2005, 119 Stat. 1179.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

[§216. Repealed. Pub. L. 112–141, div. A, title I, §1519(b)(1)(A), July 6, 2012, 126 Stat. 575]

Section, added Pub. L. 91–605, title I, §113(a), Dec. 31, 1970, 84 Stat. 1721, related to the Darien Gap Highway.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§217. Bicycle transportation and pedestrian walkways

(a) USE OF STP AND CONGESTION MITIGATION PROGRAM FUNDS.—Subject to project approval by the Secretary, a State may obligate funds apportioned to it under sections 104(b)(2) and 104(b)(4) of this title for construction of pedestrian walkways and bicycle and shared micromobility transportation facilities and for carrying out nonconstruction projects related to safe access for bicyclists and pedestrians.

(b) USE OF NATIONAL HIGHWAY PERFORMANCE PROGRAM FUNDS.—Subject to project approval by the Secretary, a State may obligate funds apportioned to it under section 104(b)(1) of this title for construction of pedestrian walkways and bicycle transportation facilities on land adjacent to any highway on the National Highway System.

(c) USE OF FEDERAL LANDS HIGHWAY FUNDS.—Funds authorized for forest highways, forest development roads and trails, public lands development roads and trails, park roads, parkways, Indian reservation roads, and public lands highways shall be available, at the discretion of the department charged with the administration of such funds, for the construction of pedestrian walkways and bicycle transportation facilities.

(d) STATE BICYCLE AND PEDESTRIAN COORDINATORS.—Each State receiving an apportionment under sections 104(b)(2) and 104(b)(4) of this title shall use such amount of the apportionment as may be necessary to fund in the State department of transportation up to 2 positions of bicycle and pedestrian coordinator for promoting and facilitating the increased use of nonmotorized modes of transportation, including developing facilities for the use of pedestrians and bicyclists and public education, promotional, and safety programs for using such facilities.

(e) BRIDGES.—In any case where a highway bridge deck being replaced or rehabilitated with Federal financial participation is located on a highway on which pedestrians or bicyclists are permitted to operate at each end of such bridge, and the Secretary determines that the safe accommodation of pedestrians or bicyclists can be provided at reasonable cost as part of such replacement or rehabilitation, then such bridge shall be so replaced or rehabilitated as to provide such safe accommodations.

(f) FEDERAL SHARE.—For all purposes of this title, construction of a pedestrian walkway or a bicycle or shared micromobility transportation facility shall be deemed to be a highway project and the Federal share payable on account of such construction shall be determined in accordance with section 120(b).

(g) PLANNING AND DESIGN.—

(1) IN GENERAL.—Bicyclists and pedestrians shall be given due consideration in the comprehensive transportation plans developed by each metropolitan planning organization and State in accordance with sections 134 and 135, respectively. Bicycle transportation facilities and pedestrian walkways shall be considered, where appropriate, in conjunction with all new construction and reconstruction of transportation facilities, except where bicycle and pedestrian use are not permitted.

(2) SAFETY CONSIDERATIONS.—Transportation plans and projects shall provide due consideration for safety and contiguous routes for bicyclists and pedestrians. Safety considerations shall include the installation, where appropriate, and maintenance of audible traffic signals and audible signs at street crossings.

(h) USE OF MOTORIZED VEHICLES.—Motorized vehicles may not be permitted on trails and pedestrian walkways under this section, except for—

(1) maintenance purposes;

(2) when snow conditions and State or local regulations permit, snowmobiles;

(3) motorized wheelchairs;

(4) when State or local regulations permit, electric bicycles; and
(5) such other circumstances as the Secretary deems appropriate.

(i) TRANSPORTATION PURPOSE.—No bicycle project may be carried out under this section unless the Secretary has determined that such bicycle project will be principally for transportation, rather than recreation, purposes.

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

(1) BICYCLE TRANSPORTATION FACILITY.—The term "bicycle transportation facility" means a new or improved lane, path, or shoulder for use by bicyclists and a traffic control device, shelter, or parking facility for bicycles.

(2) ELECTRIC BICYCLE.—

(A) IN GENERAL.—The term "electric bicycle" means a bicycle—

(i) equipped with fully operable pedals, a saddle or seat for the rider, and an electric motor of less than 750 watts;

(ii) that can safely share a bicycle transportation facility with other users of such facility; and

(iii) that is a class 1 electric bicycle, class 2 electric bicycle, or class 3 electric bicycle.

(B) CLASSES OF ELECTRIC BICYCLES.—

(i) CLASS 1 ELECTRIC BICYCLE.—For purposes of subparagraph (A)(iii), the term "class 1 electric bicycle" means an electric bicycle, other than a class 3 electric bicycle, equipped with a motor that—

(I) provides assistance only when the rider is pedaling; and

(II) ceases to provide assistance when the speed of the bicycle reaches or exceeds 20 miles per hour.

(ii) CLASS 2 ELECTRIC BICYCLE.—For purposes of subparagraph (A)(iii), the term "class 2 electric bicycle" means an electric bicycle equipped with a motor that—

(I) may be used exclusively to propel the bicycle; and

(II) is not capable of providing assistance when the speed of the bicycle reaches or exceeds 20 miles per hour.

(iii) CLASS 3 ELECTRIC BICYCLE.—For purposes of subparagraph (A)(iii), the term "class 3 electric bicycle" means an electric bicycle equipped with a motor that—

(I) provides assistance only when the rider is pedaling; and

(II) ceases to provide assistance when the speed of the bicycle reaches or exceeds 28 miles per hour.

(3) PEDESTRIAN.—The term "pedestrian" means any person traveling by foot and any mobility-impaired person using a wheelchair.

(4) WHEELCHAIR.—The term "wheelchair" means a mobility aid, usable indoors, and designed for and used by individuals with mobility impairments, whether operated manually or motorized.

(Added Pub. L. 93–87, title I, §124(a), Aug. 13, 1973, 87 Stat. 262; amended Pub. L. 94–280, title I, §134, May 5, 1976, 90 Stat. 441; Pub. L. 95–599, title I, §141(h), Nov. 6, 1978, 92 Stat. 2712; Pub. L. 97–424, title I, §126A, formerly §126, Jan. 6, 1983, 96 Stat. 2116, renumbered §126A, Pub. L. 100–17, title I, §133(a)(2), Apr. 2, 1987, 101 Stat. 170; Pub. L. 100–17, title I, §127, Apr. 2, 1987, 101 Stat. 167; Pub. L. 102–240, title I, §1033, Dec. 18, 1991, 105 Stat. 1975; Pub. L. 104–59, title III, §310(b), Nov. 28, 1995, 109 Stat. 582; Pub. L. 105–178, title I, §1202(a), June 9, 1998, 112 Stat. 168; Pub. L. 109–59, title I, §1954, Aug. 10, 2005, 119 Stat. 1515; Pub. L. 112–141, div. A, title I, §1104(c)(4), July 6, 2012, 126 Stat. 427; Pub. L. 114–94, div. A, title I, §1446(a)(13), Dec. 4, 2015, 129 Stat. 1438; Pub. L. 117–58, div. A, title I, §§11133, 11525(p), Nov. 15, 2021, 135 Stat. 514, 608.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (a). Pub. L. 117–58, §11133(1), substituted "pedestrian walkways and bicycle and shared micromobility" for "pedestrian walkways and bicycle" and "safe access for bicyclists and pedestrians" for "safe bicycle use".

Subsec. (d). Pub. L. 117–58, §§11133(2), 11525(p), substituted "104(b)(4)" for "104(b)(3)" and "up to 2 positions" for "a position".

Subsec. (e). Pub. L. 117–58, §11133(3), substituted "pedestrians or bicyclists" for "bicycles" in two places.

Subsec. (f). Pub. L. 117–58, §11133(4), substituted "or a bicycle or shared micromobility" for "and a bicycle".

Subsec. (j)(2). Pub. L. 117–58, §11133(5), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "The term 'electric bicycle' means any bicycle or tricycle with a low-powered electric motor weighing under 100 pounds, with a top motor-powered speed not in excess of 20 miles per hour."

2015—Subsec. (a). Pub. L. 114–94 substituted "104(b)(4)" for "104(b)(3)".

2012—Subsec. (b). Pub. L. 112–141 substituted "National Highway Performance Program" for "National Highway System" in heading.

2005—Subsec. (c). Pub. L. 109–59 struck out "in conjunction with such trails, roads, highways, and parkways" before period at end.

1998—Subsec. (b). Pub. L. 105–178, §1202(a)(1), inserted "pedestrian walkways and" after "construction of" and struck out "(other than the Interstate System)" after "on the National Highway System".

Subsec. (e). Pub. L. 105–178, §1202(a)(2), struck out ", other than a highway access to which is fully controlled," after "located on a highway".

Subsec. (g). Pub. L. 105–178, §1202(a)(3), added subsec. (g) and struck out heading and text of former subsec. (g). Text read as follows: "Pedestrian walkways and bicycle transportation facilities to be constructed under this section shall be located and designed pursuant to an overall plan to be developed by each metropolitan planning organization and State and incorporated into their comprehensive annual long-range plans in accordance with sections 134 and 135 of this title, respectively. Such plans shall provide due consideration for safety and contiguous routes."

Subsec. (h). Pub. L. 105–178, §1202(a)(4), substituted "Motorized vehicles may not" for "No motorized vehicles shall" in introductory provisions.

Subsec. (h)(3). Pub. L. 105–178, §1202(a)(5), substituted "motorized wheelchairs;" for "when State and local regulations permit, motorized wheelchairs; and".

Subsec. (h)(4), (5). Pub. L. 105–178, §1202(a)(6), added par. (4) and redesignated former par. (4) as (5).

Subsec. (j). Pub. L. 105–178, §1202(a)(7), added subsec. (j) and struck out heading and text of former subsec. (j). Text read as follows: "For purposes of this section, a 'bicycle transportation facility' means new or improved lanes, paths, or shoulders for use by bicyclists, traffic control devices, shelters, and parking facilities for bicycles."

1995—Subsec. (f). Pub. L. 104–59 substituted "determined in accordance with section 120(b)" for "80 percent".

1991—Pub. L. 102–240 substituted "walkways" for "walkway" in section catchline and amended text generally, substituting present provisions for provisions authorizing States to construct pedestrian walkways and bicycle lanes, paths, etc., as Federal-aid highway projects, relating to safe accommodation of bicycles on bridge with deck replaced or rehabilitated with Federal participation, prohibiting bicycle project under this section unless principally for transportation purposes, deeming walkway and bicycle projects as highway projects and setting Federal share at 100 per centum, allowing use of funds authorized for forest highways, forest development roads and trails, etc., for construction of walkways and bicycle routes, prohibiting use of motor vehicles on trails and walkways, and relating to obligation of funds.

1987—Subsec. (b)(1). Pub. L. 100–17 inserted "and sums apportioned or allocated for highway substitute projects in accordance with section 103(e)(4) of this title" after "title" in second sentence.

1983—Subsec. (a). Pub. L. 97–424 designated as subsec. (a) that portion of former subsec. (a) relating to pedestrian walkways. Remainder of former subsec. (a) relating to bicycles was redesignated (b)(1).

Subsec. (b). Pub. L. 97–424 redesignated as par. (1) that portion of former subsec. (a) relating to bicycles and added pars. (2) and (3). Provisions of former subsec. (b) relating to pedestrian walkways and bicycles projects were redesignated (c) and (d), respectively.

Subsec. (c). Pub. L. 97–424 redesignated as subsec. (c) that portion of former subsec. (b) relating to pedestrian walkways. Provisions of former subsec. (c) relating to pedestrian walkways and to bicycle routes were redesignated (e) and (f), respectively.

Subsec. (d). Pub. L. 97–424 redesignated as subsec. (d) that portion of former subsec. (b) relating to bicycle projects. Former subsec. (d) redesignated (g).

Subsec. (e). Pub. L. 97–424 redesignated as subsec. (e) that portion of former subsec. (c) relating to pedestrian walkways. Former subsec. (e) redesignated (h) and amended.

Subsec. (f). Pub. L. 97–424 redesignated as subsec. (f) that portion of former subsec. (c) relating to bicycle routes.

Subsec. (g). Pub. L. 97–424 redesignated former subsec. (d) as (g).

Subsec. (h). Pub. L. 97–424 redesignated former subsec. (e) as (h), substituted reference to subsecs. (a), (b), (e), and (f) of this section for reference to former subsecs. (a) and (c), and substituted provision that no State shall obligate more than $4,500,000 for such projects in any fiscal year, except that the Secretary may, upon application, waive this limitation for a State for any fiscal year for provision that no State was to obligate more than $2,500,000 for such projects for any fiscal year.

1978—Subsec. (a). Pub. L. 95–599 inserted provision relating to energy conservation and struck out requirement that such construction be in conjunction with Federal-aid highways.

1976—Subsec. (e). Pub. L. 94–280 substituted "$45,000,000" for "$40,000,000" and "$2,500,000" for "$2,000,000".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment 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.

ACTIVE TRANSPORTATION INFRASTRUCTURE INVESTMENT PROGRAM

Pub. L. 117–58, div. A, title I, §11529, Nov. 15, 2021, 135 Stat. 612, provided that:

"(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary [of Transportation] shall carry out an active transportation infrastructure investment program to make grants, on a competitive basis, to eligible organizations to construct eligible projects to provide safe and connected active transportation facilities in an active transportation network or active transportation spine.

"(b) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section, an eligible organization shall submit to the Secretary an application in such manner and containing such information as the Secretary may require.

"(2) ELIGIBLE PROJECTS PARTIALLY ON FEDERAL LAND.—With respect to an application for an eligible project that is located in part on Federal land, an eligible organization shall enter into a cooperative agreement with the appropriate Federal agency with jurisdiction over such land to submit an application described in paragraph (1).

"(c) APPLICATION CONSIDERATIONS.—In making a grant for construction of an active transportation network or active transportation spine under this section, the Secretary shall consider the following:

"(1) Whether the eligible organization submitted a plan for an eligible project for the development of walking and bicycling infrastructure that is likely to provide substantial additional opportunities for walking

and bicycling, including effective plans—

"(A) to create an active transportation network connecting destinations within or between communities, including schools, workplaces, residences, businesses, recreation areas, and other community areas, or create an active transportation spine connecting two or more communities, metropolitan regions, or States; and

"(B) to integrate active transportation facilities with transit services, where available, to improve access to public transportation.

"(2) Whether the eligible organization demonstrates broad community support through—

"(A) the use of public input in the development of transportation plans; and

"(B) the commitment of community leaders to the success and timely implementation of an eligible project.

"(3) Whether the eligible organization provides evidence of commitment to traffic safety, regulations, financial incentives, or community design policies that facilitate significant increases in walking and bicycling.

"(4) The extent to which the eligible organization demonstrates commitment of State, local, or eligible Federal matching funds, and land or in-kind contributions, in addition to the local match required under subsection (f)(1), unless the applicant qualifies for an exception under subsection (f)(2).

"(5) The extent to which the eligible organization demonstrates that the grant will address existing disparities in bicyclist and pedestrian fatality rates based on race or income level or provide access to jobs and services for low-income communities and disadvantaged communities.

"(6) Whether the eligible organization demonstrates how investment in active transportation will advance safety for pedestrians and cyclists, accessibility to jobs and key destinations, economic competitiveness, environmental protection, and quality of life.

"(d) USE OF FUNDS.—

"(1) IN GENERAL.—Of the amounts made available to carry out this section and subject to paragraphs (2) and (3), the Secretary shall obligate—

"(A) not less than 30 percent to eligible projects that construct active transportation networks that connect people with public transportation, businesses, workplaces, schools, residences, recreation areas, and other community activity centers; and

"(B) not less than 30 percent to eligible projects that construct active transportation spines.

"(2) PLANNING AND DESIGN GRANTS.—Each fiscal year, the Secretary shall set aside not less than $3,000,000 of the funds made available to carry out this section to provide planning grants for eligible organizations to develop plans for active transportation networks and active transportation spines.

"(3) ADMINISTRATIVE COSTS.—Each fiscal year, the Secretary shall set aside not more than $2,000,000 of the funds made available to carry out this section to cover the costs of administration, research, technical assistance, communications, and training activities under the program.

"(4) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection prohibits an eligible organization from receiving research or other funds under title 23 or 49, United States Code.

"(e) GRANT TIMING.—

"(1) REQUEST FOR APPLICATION.—Not later than 30 days after funds are made available to carry out this section for a fiscal year, the Secretary shall publish in the Federal Register a request for applications for grants under this section for that fiscal year.

"(2) SELECTION OF GRANT RECIPIENTS.—Not later than 150 days after funds are made available to carry out this section for a fiscal year, the Secretary shall select grant recipients of grants under this section for that fiscal year.

"(f) FEDERAL SHARE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Federal share of the cost of an eligible project carried out using a grant under this section shall not exceed 80 percent of the total project cost.

"(2) EXCEPTION FOR DISADVANTAGED COMMUNITIES.—For eligible projects serving communities with a poverty rate of over 40 percent based on the majority of census tracts served by the eligible project, the Secretary may increase the Federal share of the cost of the eligible project up to 100 percent of the total project cost.

"(g) ASSISTANCE TO INDIAN TRIBES.—In carrying out this section, the Secretary may enter into grant agreements, self-determination contracts, and self-governance compacts under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.) with Indian tribes that are eligible organizations, and such agreements, contracts, and compacts shall be administered in accordance with that Act.

"(h) REPORTS.—

"(1) INTERIM REPORT.—Not later than September 30, 2024, the Secretary shall submit to Congress

a report containing the information described in paragraph (3).

"(2) FINAL REPORT.—Not later than September 30, 2026, the Secretary shall submit to Congress a report containing the information described in paragraph (3).

"(3) REPORT INFORMATION.—A report submitted under this subsection shall contain the following, with respect to the period covered by the applicable report:

"(A) A list of grants made under this section.

"(B) Best practices of eligible organizations that receive grants under this section in implementing eligible projects.

"(C) Impediments experienced by eligible organizations that receive grants under this section in developing and shifting to active transportation.

"(i) RULE REQUIRED.—Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], the Secretary shall issue a final rule that encourages the use of the programmatic categorical exclusion, expedited procurement techniques, and other best practices to facilitate productive and timely expenditures for eligible projects that are small, low-impact, and constructed within an existing built environment.

"(j) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to the Secretary to carry out this section $200,000,000 for each of fiscal years 2022 through 2026.

"(2) AVAILABILITY.—The amounts made available to carry out this section shall remain available until expended.

"(k) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, a project assisted under this section shall be treated as a project on a Federal-aid highway under chapter 1 of title 23, United States Code.

"(l) DEFINITIONS.—In this section:

"(1) ACTIVE TRANSPORTATION.—The term 'active transportation' means mobility options powered primarily by human energy, including bicycling and walking.

"(2) ACTIVE TRANSPORTATION NETWORK.—The term 'active transportation network' means facilities built for active transportation, including sidewalks, bikeways, and pedestrian and bicycle trails, that connect between destinations within a community or metropolitan region.

"(3) ACTIVE TRANSPORTATION SPINE.—The term 'active transportation spine' means facilities built for active transportation, including sidewalks, bikeways, and pedestrian and bicycle trails that connect between communities, metropolitan regions, or States.

"(4) COMMUNITY.—The term 'community' means a geographic area that is socioeconomically interdependent and may include rural, suburban, and urban jurisdictions.

"(5) ELIGIBLE ORGANIZATION.—The term 'eligible organization' means—

"(A) a local or regional governmental organization, including a metropolitan planning organization or regional planning organization or council;

"(B) a multicounty special district;

"(C) a State;

"(D) a multistate group of governments; or

"(E) an Indian tribe.

"(6) ELIGIBLE PROJECT.—The term 'eligible project' means an active transportation project or group of projects—

"(A) within or between a community or group of communities, at least one of which falls within the jurisdiction of an eligible organization, which has submitted an application under this section; and

"(B) that has—

"(i) a total cost of not less than $15,000,000; or

"(ii) with respect to planning and design grants, planning and design costs of not less than $100,000.

"(7) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

"(8) TOTAL PROJECT COST.—The term 'total project cost' means the sum total of all costs incurred in the development of an eligible project that are approved by the Secretary as reasonable and necessary, including—

"(A) the cost of acquiring real property;

"(B) the cost of site preparation, demolition, and development;

"(C) expenses related to the issuance of bonds or notes;

"(D) fees in connection with the planning, execution, and financing of the eligible project;

"(E) the cost of studies, surveys, plans, permits, insurance, interest, financing, tax, and

assessments;

"(F) the cost of construction, rehabilitation, reconstruction, and equipping the eligible project;

"(G) the cost of land improvements;

"(H) contractor fees;

"(I) the cost of training and education related to the safety of users of any bicycle or pedestrian network or spine constructed as part of an eligible project; and

"(J) any other cost that the Secretary determines is necessary and reasonable."

NONMOTORIZED TRANSPORTATION PILOT PROGRAM

Pub. L. 109–59, title I, §1807, Aug. 10, 2005, 119 Stat. 1460, as amended by Pub. L. 110–244, title I, §106, June 6, 2008, 122 Stat. 1602, provided that:

"(a) ESTABLISHMENT.—The Secretary [of Transportation] shall establish and carry out a nonmotorized transportation pilot program to construct, in the following 4 communities selected by the Secretary, a network of nonmotorized transportation infrastructure facilities, including sidewalks, bicycle lanes, and pedestrian and bicycle trails, that connect directly with transit stations, schools, residences, businesses, recreation areas, and other community activity centers:

"(1) Columbia, Missouri.

"(2) Marin County, California.

"(3) Minneapolis, Minnesota.

"(4) Sheboygan County, Wisconsin.

"(b) PURPOSE.—The purpose of the program shall be to demonstrate the extent to which bicycling and walking can carry a significant part of the transportation load, and represent a major portion of the transportation solution, within selected communities.

"(c) GRANTS.—In carrying out the program, the Secretary [of Transportation] may make a grant of $6,250,000 per fiscal year for each of the communities set forth in subsection (a) to State, local, and regional agencies that the Secretary determines are suitably equipped and organized to carry out the objectives and requirements of this section. An agency that receives a grant under this section may suballocate grant funds to a nonprofit organization to carry out the program under this section.

"(d) STATISTICAL INFORMATION.—In carrying out the program, the Secretary [of Transportation] shall develop statistical information on changes in motor vehicle, nonmotorized transportation, and public transportation usage in communities participating in the program and assess how such changes decrease congestion and energy usage, increase the frequency of bicycling and walking, and promote better health and a cleaner environment.

"(e) REPORTS.—The Secretary [of Transportation] shall submit to Congress an interim report not later than September 30, 2007, and a final report not later than September 30, 2010, on the results of the program.

"(f) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $25,000,000 for each of fiscal years 2006 through 2009.

"(2) CONTRACT AUTHORITY.—Funds authorized to be appropriated by this section shall be available for obligation in the same manner and to the same extent as if the funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of the project shall be 100 percent, and the funds shall remain available until expended and shall not be transferable.

"(g) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects assisted under this subsection shall be treated as projects on a Federal-aid system under chapter 1 of title 23, United States Code."

DESIGN GUIDANCE

Pub. L. 105–178, title I, §1202(b), June 9, 1998, 112 Stat. 169, provided that:

"(1) IN GENERAL.—In implementing section 217(g) of title 23, United States Code, the Secretary, in cooperation with the American Association of State Highway and Transportation Officials, the Institute of Transportation Engineers, and other interested organizations, shall develop guidance on the various approaches to accommodating bicycles and pedestrian travel.

"(2) ISSUES TO BE ADDRESSED.—The guidance shall address issues such as the level and nature of the demand, volume, and speed of motor vehicle traffic, safety, terrain, cost, and sight distance.

"(3) RECOMMENDATIONS.—The guidance shall include recommendations on amending and updating the policies of the American Association of State Highway and Transportation Officials relating to highway and street design standards to accommodate bicyclists and pedestrians.

"(4) TIME PERIOD FOR DEVELOPMENT.—The guidance shall be developed within 18 months after the

date of enactment of this Act [June 9, 1998]."

ENERGY CONSERVATION BICYCLE TRANSPORTATION PROGRAM; REPORT

Pub. L. 95–619, title VI, §682, Nov. 9, 1978, 92 Stat. 3287, set forth findings respecting an energy conservation bicycle transportation program and required a study and report not more than one year after Nov. 9, 1978, by the Secretary of Transportation for bicycle use potential, etc.

BIKEWAY CONSTRUCTION PROJECTS

Pub. L. 95–599, title I, §141(a)–(e), (i), Nov. 6, 1978, 92 Stat. 2711, 2712, related to establishment by Secretary of design and construction standards for bikeway construction projects and to grants to States for bikeway construction projects, prior to repeal by Pub. L. 100–17, title I, §133(e)(2), Apr. 2, 1987, 101 Stat. 173.

BIKEWAY DEMONSTRATION PROGRAM

Pub. L. 93–643, §119, Jan. 4, 1975, 88 Stat. 2288, authorized grants to States for demonstration projects for construction of bikeways, prior to repeal by Pub. L. 100–17, title I, §133(e)(2), Apr. 2, 1987, 101 Stat. 173.

§218. Alaska Highway

(a) Recognizing the benefits that will accrue to the State of Alaska and to the United States from the reconstruction of the Alaska Highway from the Alaskan border at Beaver Creek, Yukon Territory, to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to Haines, Alaska, the Secretary may provide for the necessary reconstruction of the highway using funds awarded through an applicable competitive grant program, if the highway meets all applicable eligibility requirements for the program, except for the specific requirements established by the agreement for the Alaska Highway Project between the Government of the United States and the Government of Canada. In addition to the funds described in the previous sentence, notwithstanding any other provision of law and on agreement with the State of Alaska, the Secretary is authorized to expend on such highway or the Alaska Marine Highway System any Federal-aid highway funds apportioned to the State of Alaska under this title at a Federal share of 100 per centum. No expenditures shall be made for the construction of the portion of such highways that are in Canada unless an agreement is in place between the Government of Canada and the Government of the United States (including an agreement in existence on the date of enactment of the Surface Transportation Reauthorization Act of 2021) that provides, in part, that the Canadian Government—

(1) will provide, without participation of funds authorized under this title, all necessary right-of-way for the reconstruction of such highways;

(2) will not impose any highway toll, or permit any such toll to be charged for the use of such highways by vehicles or persons;

(3) will not levy or assess, directly or indirectly, any fee, tax, or other charge for the use of such highways by vehicles or persons from the United States that does not apply equally to vehicles or persons of Canada;

(4) will continue to grant reciprocal recognition of vehicle registration and driver's licenses in accordance with agreements between the United States and Canada; and

(5) will maintain such highways after their completion in proper condition adequately to serve the needs of present and future traffic.

(b) The survey and construction work undertaken in Canada pursuant to this section shall be under the general supervision of the Secretary.

(c) For purposes of this section, the term "Alaska Marine Highway System" includes all existing or planned transportation facilities and equipment in Alaska, including the lease, purchase, operation, repair, or construction of vessels, terminals, docks, floats, ramps, staging areas, parking lots, bridges and approaches thereto, and necessary roads.

(d) Notwithstanding any other provision of law, a project assisted under this section in the State of Alaska shall be treated as a project on a Federal-aid highway under chapter 1.

(Added Pub. L. 93–87, title I, §127(a)(1), Aug. 13, 1973, 87 Stat. 264; amended Pub. L. 94–147, Dec. 12, 1975, 89 Stat. 803; Pub. L. 97–424, title I, §158, Jan. 6, 1983, 96 Stat. 2135; Pub. L. 105–277, div. A, §101(g) [title III, §316], Oct. 21, 1998, 112 Stat. 2681–439, 2681–468; Pub. L. 108–7, div. I, title III, §327, Feb. 20, 2003, 117 Stat. 413; Pub. L. 109–59, title IV, §4409, Aug. 10, 2005, 119 Stat. 1778; Pub. L. 112–141, div. A, title I, §1519(c)(10), formerly §1519(c)(11), July 6, 2012, 126 Stat. 576, renumbered §1519(c)(10), Pub. L. 114–94, div. A, title I, §1446(d)(5)(B), Dec. 4, 2015, 129 Stat. 1438; Pub. L. 117–58, div. A, title I, §11116, div. G, title XI, §71103(g)(2), Nov. 15, 2021, 135 Stat. 482, 1326.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Surface Transportation Reauthorization Act of 2021, referred to in subsec. (a), is the date of enactment of div. A of Pub. L. 117–58, which was approved Nov. 15, 2021.

AMENDMENTS

2021—Pub. L. 117–58, §11116, amended section generally. Prior to amendment, section read as follows:

"(a) Notwithstanding any other provision of law upon agreement with the State of Alaska, the Secretary is authorized to expend on the Alaska Marine Highway System any Federal-aid highway funds apportioned to the State of Alaska under this title at a Federal share of 100 per centum.

"(b) For purposes of this section, the term "Alaska Marine Highway System" includes all existing or planned transportation facilities and equipment in Alaska, including the lease, purchase, or construction of vessels, terminals, docks, floats, ramps, staging areas, parking lots, bridges and approaches thereto, and necessary roads."

Subsec. (c). Pub. L. 117–58, §71103(g)(2), inserted "operation, repair," after "purchase,".

2015—Pub. L. 114–94 amended Pub. L. 112–141, §1519(c). See 2012 Amendment notes below.

2012—Subsec. (a). Pub. L. 112–141, §1519(c)(10)(A), formerly §1519(c)(11)(A), as renumbered by Pub. L. 114–94, §1446(d)(5)(B), designated third sentence as subsec. (a), struck out ", in addition to such funds," after "provision of law" and "such highway or" after "expend on", and struck out former first, second, fourth, and fifth sentences, including pars. (1) to (5), relating to reconstruction of the Alaska Highway from the Alaskan border to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to Haines, appropriations for reconstruction, obligation limitation enacted for fiscal year 1983, and certain restrictions on expenditures for construction of highways in Canada.

Subsecs. (b), (c). Pub. L. 112–141, §1519(c)(10)(B), (C), formerly §1519(c)(11)(B), (C), as renumbered by Pub. L. 114–94, §1446(d)(5)(B), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: "The survey and construction work undertaken in Canada pursuant to this section shall be under the general supervision of the Secretary."

2005—Subsec. (a). Pub. L. 109–59, §4409(1), struck out "prior to the date of the enactment of the reauthorization of the Transportation Equity Act for the 21st Century" before "shall not apply" in introductory provisions.

Subsec. (c). Pub. L. 109–59, §4409(2), added subsec. (c).

2003—Subsec. (a). Pub. L. 108–7 inserted "reauthorization of the" before "Transportation".

1998—Subsec. (a). Pub. L. 105–277, §101(g) [title III, §316(1)(A)], substituted "to Haines" for "to the south Alaskan border" in first sentence, substituted "such highway or the Alaska Marine Highway System" for "such highway" in third sentence, substituted "any other fiscal year thereafter, including any portion of any other fiscal year thereafter, prior to the date of the enactment of the Transportation Equity Act for the 21st Century" for "any other fiscal year thereafter" in fourth sentence, substituted "construction of the portion of such highways that are in Canada until an agreement" for "construction of such highways until an agreement" in fifth sentence.

Subsec. (b). Pub. L. 105–277, §101(g) [title III, §316(2)], inserted "in Canada" after "undertaken".

1983—Subsec. (a). Pub. L. 97–424 inserted provision that notwithstanding any other provision of law, upon agreement with the State of Alaska, the Secretary is authorized to expend on the highway any Federal-aid highway funds apportioned to the State of Alaska under this title at a Federal share of 100 per centum, and that any obligation limitation enacted for fiscal year 1983 or for any other fiscal year thereafter shall not apply to such projects.

1975—Subsec. (a)(1). Pub. L. 94–147 struck out provision requiring that the right-of-way granted by the Canadian Government shall forever be held inviolate as part of such highways in public use.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 11116 of Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–94, div. A, title I, §1446(d), Dec. 4, 2015, 129 Stat. 1438, provided that the amendment made by section 1446(d)(5)(B) is effective as of July 6, 2012, and as if included in Pub. L. 112–141 as enacted.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

ALASKAN ROADS STUDY; INVESTIGATION; REPORT TO CONGRESS

Pub. L. 94–280, title I, §151, May 5, 1976, 90 Stat. 448, authorized the Secretary of Transportation to undertake an investigation and study to determine the cost of, and the responsibility for, repairing the damage to Alaska highways that has been or will be caused by heavy truck traffic during construction of the trans-Alaska pipeline, and required the Secretary to report the initial findings to the Congress on or before Sept. 30, 1976, and the final conclusions on rebuilding costs no later than three months after completion of pipeline construction.

APPROPRIATIONS AUTHORIZATION

Pub. L. 93–87, title I, §127(b), Aug. 13, 1973, 87 Stat. 264, provided that: "For the purpose of completing necessary reconstruction of the Alaska Highway from the Alaskan border to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to the south Alaskan border there is authorized to be appropriated the sum of $58,670,000 to be expended in accordance with the provisions of section 218 of title 23 of the United States Code."

[§219. Repealed. Pub. L. 100–17, title I, §133(e)(1), Apr. 2, 1987, 101 Stat. 173]

Section, added Pub. L. 93–643, §122(a), Jan. 4, 1975, 88 Stat. 2289; amended Pub. L. 94–280, title I, §135(a), May 5, 1976, 90 Stat. 441; Pub. L. 95–599, title I, §168(d), Nov. 6, 1978, 92 Stat. 2723; Pub. L. 96–106, §10(a), Nov. 9, 1979, 93 Stat. 798, related to projects for safer off-system roads.

CHAPTER 3—GENERAL PROVISIONS

Sec.

301. Freedom from tolls.
302. State transportation department.
[303. Repealed.]
304. Participation by small business enterprises.
305. Archeological and paleontological salvage.
306. Mapping.
[307. Repealed.]
308. Cooperation with Federal and State agencies and foreign countries.
[309. Repealed.]
310. Civil defense.
311. Highway improvements strategically important to the national defense.
312. Detail of Army, Navy, and Air Force officers.
313. Buy America.
314. Relief of employees in hazardous work.
315. Rules, regulations, and recommendations.
316. Consent by United States to conveyance of property.

317. Appropriation for highway purposes of lands or interests in lands owned by the United States.
318. Highway relocation due to airport.
319. Landscaping and scenic enhancement.
320. Bridges on Federal dams.
321. Signs identifying funding sources.
322. Magnetic levitation transportation technology deployment program.
323. Donations and credits.
324. Prohibition of discrimination on the basis of sex.
[325. Repealed.]
326. State assumption of responsibility for categorical exclusions.
327. Surface transportation project delivery program.
328. Eligibility for environmental restoration and pollution abatement.
329. Eligibility for control of noxious weeds and aquatic noxious weeds and establishment of native species.
330. Program for eliminating duplication of environmental reviews.
331. Evaluation of projects within an operational right-of-way.
332. Pollinator-friendly practices on roadsides and highway rights-of-way.

EDITORIAL NOTES

AMENDMENTS

2021—Pub. L. 117–58, div. A, title I, §§11309(b), 11525(t), 11528(b), Nov. 15, 2021, 135 Stat. 536, 608, 612, added items 331 and 332 and struck out item 325 "State assumption of responsibilities for certain programs and projects".

2015—Pub. L. 114–94, div. A, title I, §1309(d), Dec. 4, 2015, 129 Stat. 1397, added item 330.

2012—Pub. L. 112–141, div. A, title I, §1519(c)(1)(C), July 6, 2012, 126 Stat. 575, struck out items 303 "Management systems" and 309 "Cooperation with other American Republics".

Pub. L. 112–141, div. A, title I, §1313(i), July 6, 2012, 126 Stat. 547, which directed amendment of item 327 in the analysis of title 23, United States Code, by substituting "Surface transportation project delivery program" for "Surface transportation project delivery pilot program", was executed to the analysis for this chapter, to reflect the probable intent of Congress.

2005—Pub. L. 109–59, title I, §§1901(b), 1903(b), title VI, §§6003(b), 6004(b), 6005(b), 6006(c), Aug. 10, 2005, 119 Stat. 1464, 1465, 1867, 1868, 1872, 1873, added items 313, 321, and 325 to 329.

1998—Pub. L. 105–178, title I, §§1212(a)(2)(B)(i), 1218(b), 1301(d)(3), title V, §5119(c), June 9, 1998, 112 Stat. 193, 219, 226, 452, substituted "State transportation department" for "State highway department" in item 302, struck out items 307 "Research and planning" and 321 "National Highway Institute", added item 322, substituted "Donations and credits" for "Donations" in item 323, and struck out items 325 "International highway transportation outreach program" and 326 "Education and training program".

1991—Pub. L. 102–240, title I, §1034(b), title VI, §§6003(b), 6004(b), Dec. 18, 1991, 105 Stat. 1978, 2168, 2169, added items 303, 325, and 326.

1987—Pub. L. 100–17, title I, §133(e)(1), Apr. 2, 1987, 101 Stat. 173, struck out item 322 "Demonstration project—rail crossings".

1983—Pub. L. 97–449, §5(d)(2), Jan. 12, 1983, 96 Stat. 2442, struck out item 303 "Bureau organization".

1973—Pub. L. 93–87, title I, §§145(b), 162(b), Aug. 13, 1973, 87 Stat. 273, 280, added items 323 and 324.

1970—Pub. L. 91–605, title I, §115(b), title II, §205(b), Dec. 31, 1970, 84 Stat. 1723, 1743, added items 321 and 322.

1966—Pub. L. 89–564, title I, §102(b)(2), Sept. 9, 1966, 80 Stat. 735, struck out item 313 relating to Highway Safety Conference.

1965—Pub. L. 89–285, title III, §301(b), Oct. 22, 1965, 79 Stat. 1032, inserted "and scenic enhancement" after "Landscaping" in item 319.

§301. Freedom from tolls

Except as provided in section 129 of this title with respect to certain toll bridges and toll tunnels, all highways constructed under the provisions of this title shall be free from tolls of all kinds.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 912.)

§302. State transportation department

(a) Any State desiring to avail itself of the provisions of this title shall have a State transportation department which shall have adequate powers, and be suitably equipped and organized to discharge to the satisfaction of the Secretary the duties required by this title. In meeting the provisions of this subsection, a State may engage, to the extent necessary or desirable, the services of private engineering firms.

(b) EFFECT OF COMPLIANCE.—Compliance with subsection (a) shall have no effect on the eligibility of costs.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 912; Pub. L. 89–574, §11, Sept. 13, 1966, 80 Stat. 770; Pub. L. 105–178, title I, §1212(a)(1), (2)(A)(i), (B)(ii), June 9, 1998, 112 Stat. 193.)

EDITORIAL NOTES

AMENDMENTS

1998—Pub. L. 105–178, §1212(a)(2)(B)(ii), substituted "State transportation department" for "State highway department" in section catchline.

Subsec. (a). Pub. L. 105–178, §1212(a)(1)(A), (2)(A)(i), substituted "State transportation department" for "State highway department" and struck out after first sentence "Among other things, the organization shall include a secondary road unit."

Subsec. (b). Pub. L. 105–178, §1212(a)(1)(B), added subsec. (b) and struck out former subsec. (b) which read as follows: "The State highway department may arrange with a county or group of counties for competent highway engineering personnel suitably organized and equipped to the satisfaction of the State highway department, to supervise construction and maintenance on a county-unit or group-unit basis, for the construction of projects on the Federal-aid secondary system, financed with secondary funds, and for the maintenance thereof."

[§303. Repealed. Pub. L. 112–141, div. A, title I, §1519(b)(1)(A), July 6, 2012, 126 Stat. 575]

Section, added Pub. L. 102–240, title I, §1034(a), Dec. 18, 1991, 105 Stat. 1977; amended Pub. L. 103–429, §3(8), (9), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 104–59, title II, §205(a), Nov. 28, 1995, 109 Stat. 576, related to management systems.

A prior section 303, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 912; Pub. L. 87–392, §1, Oct. 4, 1961, 75 Stat. 822; Pub. L. 88–426, title III, §305(24), Aug. 14, 1964, 78 Stat. 425; Pub. L. 91–605, title I, §114(a), Dec. 31, 1970, 84 Stat. 1722; Pub. L. 93–87, title I, §152(4), Aug. 13, 1973, 87 Stat. 276, provided for administrative organization of the Federal Highway Administration, prior to repeal by Pub. L. 97–449, §7(b), Jan. 12, 1983, 96 Stat. 2445. See section 104 of Title 49, Transportation.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§304. Participation by small business enterprises

It is declared to be in the national interest to encourage and develop the actual and potential capacity of small business and to utilize this important segment of our economy to the fullest practicable extent in construction of Federal-aid highways, including the Interstate System. In order to carry out that intent and encourage full and free competition, the Secretary should assist, insofar as

feasible, small business enterprises in obtaining contracts in connection with the prosecution of the highway program.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 913; Pub. L. 112–141, div. A, title I, §1104(c)(5), July 6, 2012, 126 Stat. 427.)

EDITORIAL NOTES

AMENDMENTS

2012—Pub. L. 112–141 substituted "Federal-aid highways" for "the Federal-aid highway systems".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§305. Archeological and paleontological salvage

Funds authorized to be appropriated to carry out this title to the extent approved as necessary by the highway department of any State, may be used for archeological and paleontological salvage in that State in compliance with the Act entitled "An Act for the preservation of American antiquities", approved June 8, 1906 (34 Stat. 225), and State laws where applicable,

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 913; Pub. L. 86–657, §8(e), July 14, 1960, 74 Stat. 525.)

EDITORIAL NOTES

REFERENCES IN TEXT

An Act for the preservation of American antiquities, referred to in text, is act June 8, 1906, ch. 3060, 34 Stat. 225, popularly known as the Antiquities Act of 1906. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1960—Pub. L. 86–657 substituted "appropriated to carry out this title to the extent approved" for "appropriated under the Federal-Aid Highway Act of 1956, to the extent approved".

§306. Mapping

(a) IN GENERAL.—In carrying out the provisions of this title, the Secretary shall, wherever practicable, authorize the use of photogrammetric methods in mapping, and the utilization of commercial enterprise for such services.

(b) GUIDANCE.—The Secretary shall issue guidance to encourage States to utilize, to the maximum extent practicable, private sector sources for surveying and mapping services for projects under this title. In carrying out this subsection, the Secretary shall recommend appropriate roles for State government and private mapping and surveying activities, including—

(1) preparation of standards and specifications;

(2) research in surveying and mapping instrumentation and procedures and technology transfer to the private sector;

(3) providing technical guidance, coordination, and administration of State surveying and mapping activities; and

(4) recommending methods for increasing the use by the States of private sector sources for surveying and mapping activities.

(c) IMPLEMENTATION.—The Secretary shall develop a process for the oversight and monitoring, on an annual basis, of the compliance of each State with the guidance issued under subsection (b).

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 913; Pub. L. 104–59, title III, §321, Nov. 28, 1995, 109 Stat. 590; Pub. L. 112–141, div. A, title I, §1517(a), July 6, 2012, 126 Stat. 574.)

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–141, §1517(a)(1), substituted "shall" for "may".

Subsec. (b). Pub. L. 112–141, §1517(a)(2), substituted "State government and" for "State and" in introductory provisions.

Subsec. (c). Pub. L. 112–141, §1517(a)(3), added subsec. (c).

1995—Pub. L. 104–59 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

[§307. Repealed. Pub. L. 105–178, title V, §5119(b), June 9, 1998, 112 Stat. 452]

Section, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 913; Pub. L. 87–866, §11, Oct. 23, 1962, 76 Stat. 1148; Pub. L. 88–157, §6, Oct. 24, 1963, 77 Stat. 277; Pub. L. 89–564, title I, §103, Sept. 9, 1966, 80 Stat. 735; Pub. L. 91–605, title I, §§115(c), 126, 136(c), Dec. 31, 1970, 84 Stat. 1723, 1729, 1735; Pub. L. 93–87, title I, §151, Aug. 13, 1973, 87 Stat. 276; Pub. L. 96–470, title I, §112(b)(2), Oct. 19, 1980, 94 Stat. 2239; Pub. L. 97–424, title I, §§156(a), (b), (d), 160(a), Jan. 6, 1983, 96 Stat. 2134, 2135; Pub. L. 100–17, title I, §§128, 129, 133(b)(17), Apr. 2, 1987, 101 Stat. 167, 169, 172; Pub. L. 102–240, title VI, §§6001, 6005, Dec. 18, 1991, 105 Stat. 2162, 2170; Pub. L. 103–429, §3(10), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 104–59, title III, §325(d), Nov. 28, 1995, 109 Stat. 592, related to research and planning.

STATUTORY NOTES AND RELATED SUBSIDIARIES

INTELLIGENT TRANSPORTATION SYSTEMS

Pub. L. 102–240, title VI, pt. B, Dec. 18, 1991, 105 Stat. 2189, as amended by Pub. L. 102–388, title IV, §404, Oct. 6, 1992, 106 Stat. 1564; Pub. L. 104–59, title III, §338(a), (b), (c)(2), Nov. 28, 1995, 109 Stat. 603, 604; Pub. L. 105–130, §5(d), Dec. 1, 1997, 111 Stat. 2557, related to Intelligent Transportation Systems Act of 1991, including provisions relating to establishment and scope of program, general authorities and requirements, strategic plan, implementation, and report to Congress, technical, planning, and operational testing project assistance, applications of technology, commercial motor vehicle safety technology, funding, and definitions, prior to repeal by Pub. L. 105–178, title V, §5213, June 9, 1998, 112 Stat. 463. See Pub. L. 105–178, title V, §§5201–5213, June 9, 1998, 112 Stat. 452–463, set out as a note under section 502 of this title.

§308. Cooperation with Federal and State agencies and foreign countries

(a) AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—The Secretary may perform, by contract or otherwise, authorized engineering or other services in connection with the survey, construction, maintenance, or improvement of highways for other Federal agencies, cooperating foreign countries, and State cooperating agencies.

(2) INCLUSIONS.—Services authorized under paragraph (1) may include activities authorized under section 214 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(3) REIMBURSEMENT.—Reimbursement for services carried out under this subsection (including depreciation on engineering and road-building equipment) shall be credited to the applicable appropriation.

(4) ALTERNATIVE CONTRACTING METHODS.—

(A) IN GENERAL.—Notwithstanding any other provision of law (including the Federal Acquisition Regulation), in performing services under paragraph (1), the Secretary may use any contracting method available to a State under this title.

(B) METHODS DESCRIBED.—The contracting methods referred to in subparagraph (A) shall include, at a minimum—

(i) project bundling;

(ii) bridge bundling;

(iii) design-build contracting;

(iv) 2-phase contracting;

(v) long-term concession agreements; and

(vi) any method tested, or that could be tested, under an experimental program relating to contracting methods carried out by the Secretary.

(b) Appropriations for the work of the Federal Highway Administration shall be available for expenses of warehouse maintenance and the procurement, care, and handling of supplies, materials, and equipment for distribution to projects under the supervision of the Federal Highway Administration, or for sale or distribution to other Government agencies, cooperating foreign countries, and State cooperating agencies, and the cost of such supplies and materials or the value of such equipment, including the cost of transportation and handling, may be reimbursed to current applicable appropriations.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 914; Pub. L. 93–87, title I, §152(5), Aug. 13, 1973, 87 Stat. 276; Pub. L. 112–141, div. A, title I, §1521(f), July 6, 2012, 126 Stat. 579; Pub. L. 117–58, div. A, title I, §11305(b), Nov. 15, 2021, 135 Stat. 532.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 214 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, referred to in subsec. (a)(2), is classified to section 4634 of Title 42, The Public Health and Welfare.

AMENDMENTS

2021—Subsec. (a)(4). Pub. L. 117–58 added par. (4).

2012—Subsec. (a). Pub. L. 112–141 added subsec. (a) and struck out former subsec. (a) which read as follows: "The Secretary is authorized to perform by contract or otherwise, authorized engineering or other services in connection with the survey, construction, maintenance, or improvement of highways for other Government agencies, cooperating foreign countries, and State cooperating agencies, and reimbursement for such services, which may include depreciation on engineering and roadbuilding equipment used, shall be credited to the appropriation concerned."

1973—Subsec. (b). Pub. L. 93–87 substituted "Federal Highway Administration" for "Bureau of Public Roads" in two places.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112–141, div. A, title I, §1521(g), July 6, 2012, 126 Stat. 579, provided that:

"(1) In general.—Except as provided in paragraph (2), the amendments made by this section [enacting section 4634 of Title 42, The Public Health and Welfare, and amending this section and sections 4622 to 4624 and 4633 of Title 42] shall take effect on the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title].

"(2) Exception.—The amendments made by subsections (a) through (c) [amending sections 4622 to 4624 of Title 42] shall take effect 2 years after the date of enactment of this Act."

[§309. Repealed. Pub. L. 112–141, div. A, title I, §1519(b)(1)(A), July 6, 2012, 126 Stat. 575]

Section, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 914; Pub. L. 93–87, title I, §152(5), Aug. 13, 1973, 87 Stat. 276, related to cooperation with other American Republics.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§310. Civil defense

In order to assure that adequate consideration is given to civil defense aspects in the planning and construction of highways constructed or reconstructed with the aid of Federal funds, the Secretary of Transportation is authorized and directed to consult, from time to time, with the Federal Civil Defense Administrator relative to the civil defense aspects of highways so constructed or reconstructed.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 914; Pub. L. 93–87, title I, §152(3), Aug. 13, 1973, 87 Stat. 276.)

EDITORIAL NOTES

AMENDMENTS

1973—Pub. L. 93–87 substituted "Secretary of Transportation" for "Secretary of Commerce".

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Office of Federal Civil Defense Administrator, referred to in text, abolished and functions thereof transferred to President by Reorg. Plan No. 1 of 1958, set out as a note under section 5195 of Title 42, The Public Health and Welfare. The Plan also established a new agency in the Executive Office of the President, known as the Office of Defense and Civilian Mobilization to be headed by a Director. Office redesignated as the Office of Civil and Defense Mobilization by act Aug. 26, 1958 (72 Stat. 861; 42 U.S.C. 5195 note). Civil defense functions transferred to Secretary of Defense by Executive Order No. 10952 of July 20, 1961, formerly set out as a note under section 2271 of the former Appendix to Title 50, War and National Defense, and remaining functions redesignated Office of Emergency Planning by act Sept. 22, 1961 (75 Stat. 630; 42 U.S.C. 5195 note). Office redesignated Office of Emergency Preparedness by act Oct. 21, 1968 (82 Stat. 1194; 42 U.S.C. 5195 note). Office of Emergency Preparedness including office of Director abolished and functions thereof transferred to President by Reorg. Plan No. 1 of 1973, set out as a note under section 5195 of Title 42.

§311. Highway improvements strategically important to the national defense

Funds made available under subsection (a) of section 104 of this title may be used to pay the entire engineering costs of the surveys, plans, specifications, estimates, and supervision of construction of projects for such urgent improvements of highways strategically important from the standpoint of the national defense as may be undertaken on the order of the Secretary and as the result of request of the Secretary of Defense or such other official as the President may designate. With the consent of a State, funds made available under subsection (b) of section 104 of this title may be used to the extent deemed necessary and advisable by the Secretary to carry out the provisions of this section.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 915.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

NATIONAL DEFENSE HIGHWAYS LOCATED OUTSIDE UNITED STATES

Pub. L. 102–240, title I, §1006(h), Dec. 18, 1991, 105 Stat. 1927, provided that:

"(1) RECONSTRUCTION PROJECTS.—If the Secretary determines, after consultation with the Secretary of Defense, that a highway, or portion of a highway, located outside the United States is important to the national defense, the Secretary may carry out a project for the reconstruction of such highway or portion of highway.

"(2) FUNDING.—The Secretary may make available, from funds appropriated to construct the National System of Interstate and Defense Highways, not to exceed $20,000,000 per fiscal year for each of fiscal years 1993, 1994, 1995, and 1996 to carry out this subsection. Such sums shall remain available until expended."

§312. Detail of Army, Navy, and Air Force officers

The Secretary of Defense, upon request of the Secretary, is authorized to make temporary details to the Federal Highway Administration of officers of the Army, the Navy, and the Air Force, without additional compensation, for technical advice and for consultation regarding highway needs for the national defense. Travel and subsistence expenses of officers so detailed shall be paid from appropriations available to the Department of Transportation on the same basis as authorized by law and by regulations of the Department of Defense for such officers.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 915; Pub. L. 93–87, title I, §152(5), (6), Aug. 13, 1973, 87 Stat. 276.)

EDITORIAL NOTES

AMENDMENTS

1973—Pub. L. 93–87 substituted "Federal Highway Administration" for "Bureau of Public Roads" and "Department of Transportation" for "Department of Commerce".

§313. Buy America

(a) Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title and administered by the Department of Transportation, unless steel, iron, and manufactured products used in such project are produced in the United States.

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

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

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

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

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

(d) The Secretary of Transportation shall not impose any limitation or condition on assistance provided under the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title that restricts any State from imposing more stringent requirements than this section on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with such assistance or restricts any recipient of such assistance from complying with such State imposed requirements.

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

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

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

that person shall be ineligible to receive any contract or subcontract made with funds authorized under the Intermodal Surface Transportation Efficiency Act of 1991 pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

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

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

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

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

(g) WAIVERS.—

(1) IN GENERAL.—Not less than 15 days before issuing a waiver under this section, the Secretary shall provide to the public—

(A) notice of the proposed waiver;

(B) an opportunity for comment on the proposed waiver; and

(C) the reasons for the proposed waiver.

(2) REPORT.—Not less frequently than annually, 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 report on the waivers provided under this section.

(h) APPLICATION TO HIGHWAY PROGRAMS.—The requirements under this section shall apply to all contracts eligible for assistance under this chapter for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this title.

(Added and amended Pub. L. 109–59, title I, §1903(a), (c), Aug. 10, 2005, 119 Stat. 1464, 1465; Pub. L. 112–141, div. A, title I, §1518, July 6, 2012, 126 Stat. 574; Pub. L. 117–58, div. A, title I, §11513, Nov. 15, 2021, 135 Stat. 595.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Surface Transportation Assistance Act of 1982, referred to in subsecs. (a) and (d), is Pub. L. 97–424, Jan. 6, 1983, 96 Stat. 2097. For complete classification of this Act to the Code, see Short Title of 1983 Amendment note set out under section 101 of this title and Tables.

The Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (e), is Pub. L. 102–240, Dec. 18, 1991, 105 Stat. 1914. 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.

The National Environmental Policy Act of 1969, referred to in subsec. (h), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

CODIFICATION

Section, as added by Pub. L. 109–59, consists of text of Pub. L. 97–424, title I, §165, Jan. 6, 1983, 96 Stat. 2136; Pub. L. 98–229, §10, Mar. 9, 1984, 98 Stat. 57; Pub. L. 100–17, title I, §§133(a)(6), 337(a)(1), (b), (c), Apr. 2, 1987, 101 Stat. 171, 241; Pub. L. 102–240, title I, §1048, title III, §3003(b), Dec. 18, 1991, 105 Stat. 1999, 2088; Pub. L. 103–272, §4(r), July 5, 1994, 108 Stat. 1371; Pub. L. 103–429, §7(a)(3)(E), Oct. 31, 1994, 108 Stat. 4389, which was formerly set out as a note under section 101 of this title, and was repealed by Pub. L. 109–59, title I, §1903(d), Aug. 10, 2005, 119 Stat. 1465.

PRIOR PROVISIONS

A prior section 313, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 915, authorized the Secretary to cooperate with State highway departments and other agencies in the promotion of highway safety and authorized the expenditure of $150,000 out of the administrative funds made available in accordance with section 104(a) of this title for the purposes of this section, prior to repeal by Pub. L. 89–564, title I, §102(a), Sept. 9, 1966, 80 Stat. 734. See section 401 et seq. of this title.

AMENDMENTS

2021—Subsecs. (g), (h). Pub. L. 117–58 added subsec. (g) and redesignated former subsec. (g) as (h).

2012—Subsec. (g). Pub. L. 112–141 added subsec. (g).

2005—Subsec. (a). Pub. L. 109–59, §1903(c)(1), substituted "to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title" for "by this Act or by any Act amended by this Act or, after the date of enactment of this Act, any funds authorized to be appropriated to carry out this Act, title 23, United States Code, or the Surface Transportation Assistance Act of 1978".

Subsec. (b)(3), (4). Pub. L. 109–59, §1903(c)(2), redesignated par. (4) as (3).

Subsec. (d). Pub. L. 109–59, §1903(c)(3), substituted "the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title that" for "this Act, the Surface Transportation Assistance Act of 1978 or title 23, United States Code, which".

Subsec. (e) to (g). Pub. L. 109–59, §1903(c)(4), (5), which directed amendment of this section by striking subsec. (e) and redesignating subsecs. (f) and (g) as (e) and (f), respectively, was executed by making the redesignations and by striking out two subsecs. (e), to reflect the probable intent of Congress. The first subsec. (e) based on subsec. (e) of section 165 of Pub. L. 97–424, as originally enacted, repealed section 401 of the Surface Transportation Assistance Act of 1978, Pub. L. 95–599. The second subsec. (e) based on subsec. (e) of section 165 of Pub. L. 97–424, as added by Pub. L. 102–240, §1048(b), related to report on purchases from foreign entities waived under subsec. (b) in fiscal years 1992 and 1993.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

BUY AMERICA WAIVER NOTIFICATION AND ANNUAL REPORTS

Pub. L. 119–75, div. D, title I, §122, Feb. 3, 2026, 140 Stat. 353, provided that: "Not less than 15 days prior to waiving, under his or her statutory authority, any Buy America requirement for Federal-aid highways projects, the Secretary of Transportation shall make an informal public notice and comment opportunity on the intent to issue such waiver and the reasons therefor: *Provided*, That the Secretary shall post on a website any waivers granted under the Buy America requirements."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 118–42, div. F, title I, §122, Mar. 9, 2024, 138 Stat. 321.
Pub. L. 117–328, div. L, title I, §122, Dec. 29, 2022, 136 Stat. 5116.
Pub. L. 117–103, div. L, title I, §122, Mar. 15, 2022, 136 Stat. 704.
Pub. L. 116–260, div. L, title I, §122, Dec. 27, 2020, 134 Stat. 1841.
Pub. L. 116–94, div. H, title I, §122, Dec. 20, 2019, 133 Stat. 2951.
Pub. L. 116–6, div. G, title I, §122, Feb. 15, 2019, 133 Stat. 412.
Pub. L. 115–141, div. L, title I, §122, Mar. 23, 2018, 132 Stat. 986.
Pub. L. 115–31, div. K, title I, §123, May 5, 2017, 131 Stat. 741.
Pub. L. 114–113, div. L, title I, §122, Dec. 18, 2015, 129 Stat. 2847.
Pub. L. 113–235, div. K, title I, §122, Dec. 16, 2014, 128 Stat. 2708.
Pub. L. 113–76, div. L, title I, §122, Jan. 17, 2014, 128 Stat. 586.
Pub. L. 112–55, div. C, title I, §122, Nov. 18, 2011, 125 Stat. 654.
Pub. L. 111–117, div. A, title I, §123, Dec. 16, 2009, 123 Stat. 3048.
Pub. L. 111–8, div. I, title I, §126, Mar. 11, 2009, 123 Stat. 928.
Pub. L. 110–161, div. K, title I, §130, Dec. 26, 2007, 121 Stat. 2389.

Pub. L. 110–244, title I, §117, June 6, 2008, 122 Stat. 1607, provided that:

"(a) WAIVER NOTIFICATION.—

"(1) IN GENERAL.—If the Secretary of Transportation makes a finding under section 313(b) of title 23, United States Code, with respect to a project, the Secretary shall—

"(A) publish in the Federal Register, before the date on which such finding takes effect, a detailed written justification as to the reasons that such finding is needed; and

"(B) provide notice of such finding and an opportunity for public comment on such finding for a period of not to exceed 60 days.

"(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in paragraph (1) shall be construed to require the effective date of a finding referred to in paragraph (1) to be delayed until after the close of the public comment period referred to in paragraph (1)(B).

"(b) ANNUAL REPORTS.—Not later than February 1 of each year beginning after the date of enactment of this Act [June 6, 2008], the Secretary 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 on the projects for which the Secretary made findings under section 313(b) of title 23, United States Code, during the preceding calendar year and the justifications for such findings."

§314. Relief of employees in hazardous work

The Secretary is authorized in an emergency to use appropriations to the Department of Transportation for carrying out the provisions of this title for medical supplies, services, and other assistance necessary for the immediate relief of employees of the Federal Highway Administration engaged in hazardous work.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 915; Pub. L. 93–87, title I, §152(5), (6), Aug. 13, 1973, 87 Stat. 276.)

EDITORIAL NOTES

AMENDMENTS

1973—Pub. L. 93–87 substituted "Department of Transportation" for "Department of Commerce" and "Federal Highway Administration" for "Bureau of Public Roads".

§315. Rules, regulations, and recommendations

Except as provided in sections 202(a)(5), 203(a)(3), and 205(a) of this title, the Secretary is authorized to prescribe and promulgate all needful rules and regulations for the carrying out of the provisions of this title. The Secretary may make such recommendations to the Congress and State transportation departments as he deems necessary for preserving and protecting the highways and insuring the safety of traffic thereon.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 915; Pub. L. 100–17, title I, §133(b)(18), Apr. 2, 1987, 101 Stat. 172; Pub. L. 105–178, title I, §1212(a)(2)(A)(ii), June 9, 1998, 112 Stat. 193; Pub. L. 112–141, div. A, title I, §1119(c)(3), July 6, 2012, 126 Stat. 492.)

EDITORIAL NOTES

AMENDMENTS

2012—Pub. L. 112–141 substituted "202(a)(5), 203(a)(3)," for "204(f)".

1998—Pub. L. 105–178 substituted "State transportation departments" for "State highway departments".

1987—Pub. L. 100–17 which directed that this section be amended by substituting "204(f) and 205(a)" for "204(d), 205(a), 207(b), and 208(c)" was executed by substituting "204(f) and 205(a)" for "204(d), 205(a), 206(b), 207(b), and 208(c)", to reflect the probable intent of Congress.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§316. Consent by United States to conveyance of property

For the purposes of this title the consent of the United States is given to any railroad or canal company to convey to the State transportation department of any State, or its nominee, any part of its right-of-way or other property in that State acquired by grant from the United States.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 915; Pub. L. 105–178, title I, §1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 193.)

EDITORIAL NOTES

AMENDMENTS

1998—Pub. L. 105–178 substituted "State transportation department" for "State highway department".

§317. Appropriation for highway purposes of lands or interests in lands owned by the United States

(a) If the Secretary determines that any part of the lands or interests in lands owned by the United States is reasonably necessary for the right-of-way of any highway, or as a source of materials for the construction or maintenance of any such highway adjacent to such lands or interests in lands, the Secretary shall file with the Secretary of the Department supervising the administration of such lands or interests in lands a map showing the portion of such lands or interests in lands which it is desired to appropriate.

(b) If within a period of four months after such filing, the Secretary of such Department shall not have certified to the Secretary that the proposed appropriation of such land or material is contrary to the public interest or inconsistent with the purposes for which such land or materials have been reserved, or shall have agreed to the appropriation and transfer under conditions which he deems necessary for the adequate protection and utilization of the reserve, then such land and materials may

be appropriated and transferred to the State transportation department, or its nominee, for such purposes and subject to the conditions so specified.

(c) If at any time the need for any such lands or materials for such purposes shall no longer exist, notice of the fact shall be given by the State transportation department to the Secretary and such lands or materials shall immediately revert to the control of the Secretary of the Department from which they had been appropriated.

(d) The provisions of this section shall apply only to projects constructed on a Federal-aid highway or under the provisions of chapter 2 of this title.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 916; Pub. L. 105–178, title I, §1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 193; Pub. L. 112–141, div. A, title I, §1104(c)(6), July 6, 2012, 126 Stat. 427.)

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (d). Pub. L. 112–141 substituted "highway" for "system".

1998—Subsecs. (b), (c). Pub. L. 105–178 substituted "State transportation department" for "State highway department".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§318. Highway relocation due to airport

Federal highway funds shall not be used for the reconstruction or relocation of any highway giving access to an airport constructed or extended after December 20, 1944, or for the reconstruction or relocation of any highway which has been or may be closed or the usefulness of which has been may be impaired by the location or construction of any airport constructed or extended after December 20, 1944, unless, prior to such construction or extension, as the case may be, the State transportation department and the Secretary have concurred with the officials in charge of the airport that the location of such airport or extension thereof and the consequent reconstruction or relocation of the highway are in the public interest.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 916; Pub. L. 105–178, title I, §1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 193.)

EDITORIAL NOTES

AMENDMENTS

1998—Pub. L. 105–178 substituted "State transportation department" for "State highway department".

§319. Landscaping and scenic enhancement

(a) LANDSCAPE AND ROADSIDE DEVELOPMENT.—The Secretary may approve as a part of the construction of Federal-aid highways the costs of landscape and roadside development, including acquisition and development of publicly owned and controlled rest and recreation areas and sanitary and other facilities reasonably necessary to accommodate the traveling public, and for acquisition of interests in and improvement of strips of land necessary for the restoration, preservation, and enhancement of scenic beauty (including the enhancement of habitat and forage for pollinators) adjacent to such highways.

(b) PLANTING OF WILDFLOWERS.—

(1) GENERAL RULE.—The Secretary shall require the planting of native wildflower seeds or seedlings, or both, as part of any landscaping project under this section. At least ¼ of 1 percent of the funds expended for such landscaping project shall be used for such plantings.

(2) WAIVER.—The requirements of this subsection may be waived by the Secretary if a State certifies that native wildflowers or seedlings cannot be grown satisfactorily or planting areas are limited or otherwise used for agricultural purposes.

(3) GIFTS.—Nothing in this subsection shall be construed to prohibit the acceptance of native wildflower seeds or seedlings donated by civic organizations or other organizations and individuals to be used in landscaping projects.

(c) ENCOURAGEMENT OF POLLINATOR HABITAT AND FORAGE DEVELOPMENT AND PROTECTION ON TRANSPORTATION RIGHTS-OF-WAY.—In carrying out any program administered by the Secretary under this title, the Secretary shall, in conjunction with willing States, as appropriate—

(1) encourage integrated vegetation management practices on roadsides and other transportation rights-of-way, including reduced mowing; and

(2) encourage the development of habitat and forage for Monarch butterflies, other native pollinators, and honey bees through plantings of native forbs and grasses, including noninvasive, native milkweed species that can serve as migratory way stations for butterflies and facilitate migrations of other pollinators.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 916; Pub. L. 89–285, title III, §301(a), Oct. 22, 1965, 79 Stat. 1032; Pub. L. 89–574, §8(b), Sept. 13, 1966, 80 Stat. 768; Pub. L. 90–495, §6(f), Aug. 23, 1968, 82 Stat. 818; Pub. L. 94–280, title I, §136(a), May 5, 1976, 90 Stat. 442; Pub. L. 100–17, title I, §130, Apr. 2, 1987, 101 Stat. 169; Pub. L. 114–94, div. A, title I, §1415(a), Dec. 4, 2015, 129 Stat. 1421.)

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–94, §1415(a)(1), inserted "(including the enhancement of habitat and forage for pollinators)" before "adjacent".

Subsec. (c). Pub. L. 114–94, §1415(a)(2), added subsec. (c).

1987—Pub. L. 100–17 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1976—Pub. L. 94–280, in revising section, struck out subsec. (a) designation for existing text; incorporated as part of the section provision of former subsec. (b) for acquisition of interests in and improvement of strips of land necessary for the restoration, preservation, and enhancement of scenic beauty adjacent to Federal-aid highways; and struck out subsec. (b) designation and other subsec. (b) provisions relating to: allocation to a State out of appropriated funds an amount equivalent to 3 per centum of funds apportioned to a State for Federal-aid highways for landscape and roadside development use within the highway right-of-way, including acquisition and development of publicly owned and controlled rest and recreation areas and sanitary and other facilities within or adjacent to the highway right-of-way without being matched by the State; authorization of Secretary to except a State from the requirement upon a showing that amount is in excess of the State needs for the purposes; lapse of unused funds; appropriations authorization of $120,000,000 for fiscal years ending June 30, 1966, and 1967, and $20,000,000 for fiscal year ending June 30, 1970; and provision making chapter 1 respecting obligation, period of availability, and expenditure of Federal-aid primary highway funds applicable to funds authorized to be appropriated to carry out subsec. (b) after June 30, 1967.

1968—Subsec. (b). Pub. L. 90–495 inserted provisions authorizing an appropriation of not to exceed $20,000,000 for the fiscal year ending June 30, 1970.

1966—Subsec. (b). Pub. L. 89–574 substituted provisions making applicable to the funds authorized to be appropriated to carry out this subsection after June 30, 1967, the provisions of chapter 1 of this title relating to the obligations, period of availability, and expenditure of Federal-aid primary highway funds for provisions prohibiting the use of any part of the Highway Trust Fund in carrying out this subsection.

1965—Pub. L. 89–285 rearranged section structurally, made provision for apportionment of an amount, in addition to the state's annual apportionment, equivalent to 3 per centum of the fund annually apportioned to

the state for federal-aid highways to acquire interests and improvements for restoration, preservation, and enhancement of scenic beauty adjacent to Federal-aid highways, authorized appropriations of $120,000,000 for fiscal year ending June 30, 1966, and $120,000,000 for fiscal year ending June 30, 1967, and prohibited use of Highway Trust Fund moneys in carrying out the scenic enhancement provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1968 AMENDMENT

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

CONTINUING AVAILABILITY OF APPROPRIATED FUNDS FOR APPROPRIATION, OBLIGATION, AND EXPENDITURE

Pub. L. 94–280, title I, §136(b), May 5, 1976, 90 Stat. 443, provided that all sums authorized to be appropriated to carry out this section as in effect immediately before May 5, 1976, would continue to be available for appropriation, obligation, and expenditure in accordance with former subsec. (b) of this section.

NATIONAL SCENIC HIGHWAY SYSTEM STUDY AND USER ACCESS STUDY FOR PARKS AND RECREATION AREAS

Pub. L. 93–87, title I, §134, Aug. 13, 1973, 87 Stat. 268, mandated a study to determine the feasibility of a scenic highway system to link together recreational, historical sites, and a study of user access to parks and recreational areas, including alternatives to private automobiles, the results of the studies to be reported to Congress no later than July 1, 1974, and Jan. 1, 1975, respectively.

ACQUISITION OF DWELLINGS

Prohibition against the use of eminent domain to acquire any dwelling (including related buildings) under the terms of Pub. L. 89–285, see section 305 of Pub. L. 89–285, set out as a note under section 131 of this title.

TAKING OF PRIVATE PROPERTY WITHOUT JUST COMPENSATION

Prohibition against the taking of private property or the restriction of reasonable and existing use by such taking without just compensation under the terms of Pub. L. 89–285, see section 401 of Pub. L. 89–285, set out as a note under section 131 of this title.

§320. Bridges on Federal dams

(a) Each executive department, independent establishment, office, board, bureau, commission, authority, administration, corporation wholly owned or controlled by the United States, or other agency of the Government of the United States, hereinafter collectively and individually referred to as "agency", which on or after July 29, 1946, has jurisdiction over and custody of any dam constructed or to be constructed and owned by or for the United States, is authorized, with any funds available to it, to design and construct any such dam in such manner that it will constitute and serve as a suitable and adequate foundation to support a public highway bridge upon and across such dam, and to design and construct upon the foundation thus provided a public highway bridge upon and across such dam. The highway department of the State in which such dam shall be located, jointly with the Secretary, shall first determine and certify to such agency that such bridge is economically desirable and needed as a link in the State or Federal-aid highway systems, and shall request such agency to design and construct such dam so that it will serve as a suitable and adequate foundation for a public highway bridge and to design and construct such public highway bridge upon and across such dam, and shall agree to reimburse such agency pursuant to subsection (d) of this section for any additional costs which it may be required to incur because of the design and construction of such dam so that it will serve as a foundation for a public highway bridge and for expenditures which it

may find it necessary to make in designing and constructing such public highway bridge upon and across such dam. In no case shall the design and construction of a bridge upon and across such dam be undertaken hereunder except by the agency having jurisdiction over and custody of the dam, acting directly or through contractors employed by it, and after such agency shall determine that it will be structurally feasible and will not interfere with the proper functioning and operation of the dam.

(b) Construction of any bridge upon and across any dam pursuant to this section shall not be commenced unless and until the State in which such bridge is to be located, or the appropriate subdivision of such State, shall enter into an agreement with such agency and with the Secretary to construct, or cause to be constructed, with or without the aid of Federal funds, the approach roads necessary to connect such bridge with existing public highways and to maintain, or cause to be maintained, such approach roads from and after their completion. Such agreement may also provide for the design and construction of such bridge upon and across the dam by such agency of the United States and for reimbursing such agency the costs incurred by it in the design and construction of the bridge as provided in subsection (d) of this section. Any such agency is hereby authorized to convey to the State, or to the appropriate subdivision thereof, without costs, such easements and rights-of-way in its custody or over lands of the United States in its custody and control as may be necessary, convenient, or proper for the location, construction, and maintenance of the approach roads referred to in this section including such roadside parks or recreational areas of limited size as may be deemed necessary for the accommodation of the traveling public. Any bridge constructed pursuant to this section upon and across a dam in the custody and jurisdiction of any agency of the United States, including such portion thereof, if any, as may extend beyond the physical limits of the dam, shall constitute and remain a part of said dam and be maintained by the agency. Any such agency may enter into any such contracts and agreements with the State or its subdivisions respecting public use of any bridge so located and constructed as may be deemed appropriate, but no such bridge shall be closed to public use by the agency except in cases of emergency or when deemed necessary in the interest of national security.

(c) All costs and expenses incurred and expenditures made by any agency in the exercise of the powers and authority conferred by this section (but not including any costs, expenses, or expenditures which would have been required in any event to satisfy a legal road or bridge relocation obligation or to meet operating or other agency needs) shall be recorded and kept separate and apart from the other costs, expenses, and expenditures of such agency, and no portion thereof shall be charged or allocated to flood control, navigation, irrigation, fertilizer production, the national defense, the development of power, or other program, purpose, or function of such agency.

(d) Not to exceed $65,000,000 of any money heretofore or hereafter appropriated for expenditure in accordance with the provisions of this title or prior Acts shall be available for expenditure by the Secretary in accordance with the provisions of this section, as an emergency fund, to reimburse any agency for any additional costs or expenditures which it may be required to incur because of the design and construction of any such dam so that it will constitute and serve as a foundation for a public highway bridge upon and across such dam and to reimburse any such agency for any costs, expenses, or expenditures which it may be required to make in designing and constructing any such bridge upon and across a dam in accordance with the provisions of this section, except such costs, expenses, or expenditures as would have been required of such agency in any event to satisfy a legal obligation to relocate a highway or bridge or to meet operating or other agency needs, and there is authorized to be appropriated any sum or sums necessary to reimburse the funds so expended by the Secretary from time to time under the authority of this section. Of each bridge constructed upon and across a dam under the provisions of this section, there may be financed wholly with Federal funds that portion thereof which is located within the physical limits of the masonry structure, or structures, of the dam, and the Secretary shall in his sole discretion determine what additional portion of the bridge, if any, may be so financed, such determination to be final and conclusive. The remainder of the bridge, and any necessary related approach roads, shall be financed by the State or its appropriate subdivision with or without the aid of Federal funds; but said portion of the bridge so financed by the State or its subdivisions, including such portion thereof, if any, as may extend beyond the physical

limits of the dam, shall nevertheless be designed and constructed solely by the agency having custody and jurisdiction of the dam as provided in subsection (a) of this section.

(e) In making, reviewing, or approving the design of any bridge or approach structure to be constructed under this section, the agency shall, in matters relating to roadway design, loadings, clearances and widths, and traffic safeguards, give full consideration to and be guided by the standards and advice of the Secretary.

(f) The authority conferred by this section shall be in addition to and not in limitation of authority conferred upon any agency by any other law, and nothing in this section contained shall affect or be deemed to relate to any bridge, approach structure, or highway constructed or to be constructed by any such agency in furtherance of its lawful purposes and requirements or to satisfy a legal obligation incurred independently of this section.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 917; Pub. L. 86–342, title I, §108, Sept. 21, 1959, 73 Stat. 613; Pub. L. 88–423, §4(c), Aug. 13, 1964, 78 Stat. 398; Pub. L. 91–605, title I, §116(a), Dec. 31, 1970, 84 Stat. 1724; Pub. L. 93–87, title I, §128(a), Aug. 13, 1973, 87 Stat. 265; Pub. L. 93–643, §123(a), Jan. 4, 1975, 88 Stat. 2290; Pub. L. 94–280, title I, §137(a), May 5, 1976, 90 Stat. 443; Pub. L. 95–599, title I, §128(a), Nov. 6, 1978, 92 Stat. 2707.)

EDITORIAL NOTES

AMENDMENTS

1978—Subsec. (d). Pub. L. 95–599 substituted "$65,000,000" for "$50,000,000".

1976—Subsec. (d). Pub. L. 94–280 substituted "$50,000,000" for "$27,761,000".

1975—Subsec. (d). Pub. L. 93–643 substituted "$27,761,000" for "$25,261,000".

1973—Subsec. (d). Pub. L. 93–87 substituted "$25,261,000" for "$16,761,000".

1970—Subsec. (d). Pub. L. 91–605 substituted "$16,761,000" for "$13,000,000".

1964—Subsec. (b). Pub. L. 88–423 substituted "which such bridge is to be located, or the appropriate subdivision of such State, shall enter into an agreement with such agency and with" for "such State, shall enter into an agreement with such agency and with which such bridge is to be located, or the appropriate subdivision of".

1959—Subsec. (d). Pub. L. 86–342 substituted "$13,000,000" for "$10,000,000".

STATUTORY NOTES AND RELATED SUBSIDIARIES

APPROPRIATION OUT OF HIGHWAY TRUST FUND OF SUMS APPROPRIATED UNDER AUTHORITY OF INCREASED AUTHORIZATION

Pub. L. 95–599, title I, §128(b), Nov. 6, 1978, 92 Stat. 2707, provided that: "Sums appropriated or expended under authority of the increased authorization established by the amendment made by subsection (a) of this section [amending subsec. (d) of this section] shall be appropriated out of the Highway Trust Fund for the fiscal year ending September 30, 1978, and for subsequent fiscal years."

APPROPRIATION OF INCREASED AUTHORIZATION

Pub. L. 94–280, title I, §137(b), May 5, 1976, 90 Stat. 443, provided that: "Sums appropriated or expended under authority of the increased authorization established by the amendment made by subsection (a) of this section [to subsec. (d) of this section] shall be appropriated out of the Highway Trust Fund for the fiscal year ending September 30, 1977, and for subsequent fiscal years."

RESTRICTION ON INCREASED AUTHORIZATION OF APPROPRIATIONS

Pub. L. 93–643, §123(b), Jan. 4, 1975, 88 Stat. 2290, provided that: "All sums appropriated under authority of the increased authorization established by the amendment made by subsection (a) of this section shall be available for expenditure in the same manner and for the same purpose as provided for in subsection (b) of section 116 of the Federal-Aid Highway Act of 1970 (Public Law 91–605)."

Pub. L. 93–87, title I, §128(b), Aug. 13, 1973, 87 Stat. 265, provided that: "All sums appropriated under authority of the increased authorization of $8,500,000 established by the amendment made by subsection (a) of this section [to subsec. (d) of this section] shall be available for expenditure only in connection with the construction of a bridge across lock and dam numbered 13 on the Arkansas River near Fort Smith, Arkansas,

in the amount of $2,100,000 and in connection with reconstruction of a bridge across the Chickamauga Dam on the Tennessee River near Chattanooga, Tennessee, in the amount of $6,400,000. No such sums shall be appropriated until all applicable requirements of section 320 of title 23 of the United States Code have been complied with by the appropriate Federal agency, the Secretary of Transportation, and the State of Arkansas for the Fort Smith project, and the State of Tennessee for the Chattanooga project."

Pub. L. 91–605, title I, §116(b), Dec. 31, 1970, 84 Stat. 1724, provided that: "All sums appropriated under authority of the increased authorization of $3,761,000 established by the amendment made by subsection (a) of this section [amending subsec. (d) of this section] shall be available for expenditure only in connection with the construction of a bridge across Markland Dam on the Ohio River near Markland, Indiana, and Warsaw, Kentucky. No such sums shall be appropriated until all applicable requirements of section 320 of title 23 of the United States Code have been complied with by the appropriate Federal agency, the Secretary of Transportation, and the States of Kentucky and Indiana."

§321. Signs identifying funding sources

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

(Added Pub. L. 109–59, title I, §1901(a), Aug. 10, 2005, 119 Stat. 1464.)

EDITORIAL NOTES

CODIFICATION

Section, as added by Pub. L. 109–59, consists of text of Pub. L. 100–17, title I, §154, Apr. 2, 1987, 101 Stat. 209, which was formerly set out as a note under section 101 of this title, and was repealed by Pub. L. 109–59, title I, §1901(c), Aug. 10, 2005, 119 Stat. 1464.

PRIOR PROVISIONS

A prior section 321, added Pub. L. 91–605, title I, §115(a), Dec. 31, 1970, 84 Stat. 1723; amended Pub. L. 96–106, §11, Nov. 9, 1979, 93 Stat. 798; Pub. L. 100–17, title I, §131, Apr. 2, 1987, 101 Stat. 170; Pub. L. 102–240, title VI, §6002, Dec. 18, 1991, 105 Stat. 2166; Pub. L. 105–130, §5(e)(3), Dec. 1, 1997, 111 Stat. 2557, related to National Highway Institute, prior to repeal by Pub. L. 105–178, title V, §5119(b), June 9, 1998, 112 Stat. 452.

§322. Magnetic levitation transportation technology deployment program

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

(1) ELIGIBLE PROJECT COSTS.—The term "eligible project costs"—

(A) means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities, but not including costs incurred for a new station; and

(B) includes the costs of preconstruction planning activities.

(2) FULL PROJECT COSTS.—The term "full project costs" means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

(3) MAGLEV.—The term "MAGLEV" means transportation systems employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per

hour.

(4) PARTNERSHIP POTENTIAL.—The term "partnership potential" has the meaning given the term in the commercial feasibility study of high-speed ground transportation conducted under section 1036 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1978).

(b) FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall make available financial assistance to pay the Federal share of full project costs of eligible projects selected under this section. Financial assistance made available under this section and projects assisted with the assistance shall be subject to section 5333(a) of title 49, United States Code.

(2) FEDERAL SHARE.—The Federal share of full project costs under paragraph (1) shall be not more than 2/3.

(3) USE OF ASSISTANCE.—Financial assistance provided under paragraph (1) shall be used only to pay eligible project costs of projects selected under this section.

(c) SOLICITATION OF APPLICATIONS FOR ASSISTANCE.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall solicit applications from States, or authorities designated by 1 or more States, for financial assistance authorized by subsection (b) for planning, design, and construction of eligible MAGLEV projects.

(d) PROJECT ELIGIBILITY.—To be eligible to receive financial assistance under subsection (b), a project shall—

(1) involve a segment or segments of a high-speed ground transportation corridor that exhibit partnership potential;

(2) require an amount of Federal funds for project financing that will not exceed the sum of—

(A) the amounts made available under subsection (h)(1); and

(B) the amounts made available by States under subsection (h)(3);

(3) result in an operating transportation facility that provides a revenue producing service;

(4) be undertaken through a public and private partnership, with at least 1/3 of full project costs paid using non-Federal funds;

(5) satisfy applicable statewide and metropolitan planning requirements;

(6) be approved by the Secretary based on an application submitted to the Secretary by a State or authority designated by 1 or more States;

(7) to the extent that non-United States MAGLEV technology is used within the United States, be carried out as a technology transfer project; and

(8) be carried out using materials at least 70 percent of which are manufactured in the United States.

(e) PROJECT SELECTION CRITERIA.—Prior to soliciting applications, the Secretary shall establish criteria for selecting which eligible projects under subsection (d) will receive financial assistance under subsection (b). The criteria shall include the extent to which—

(1) a project is nationally significant, including the extent to which the project will demonstrate the feasibility of deployment of MAGLEV technology throughout the United States;

(2) timely implementation of the project will reduce congestion in other modes of transportation and reduce the need for additional highway or airport construction;

(3) States, regions, and localities financially contribute to the project;

(4) implementation of the project will create new jobs in traditional and emerging industries;

(5) the project will augment MAGLEV networks identified as having partnership potential;

(6) financial assistance would foster public and private partnerships for infrastructure development and attract private debt or equity investment;

(7) financial assistance would foster the timely implementation of a project; and

(8) life-cycle costs in design and engineering are considered and enhanced.

(f) PROJECT SELECTION.—

(1) PRECONSTRUCTION PLANNING ACTIVITIES.—Not later than 90 days after a deadline established by the Secretary for the receipt of applications, the Secretary shall evaluate the eligible projects in accordance with the selection criteria and select 1 or more eligible projects to receive financial assistance for preconstruction planning activities, including—

(A) preparation of such feasibility studies, major investment studies, and environmental impact statements and assessments as are required under State law;

(B) pricing of the final design, engineering, and construction activities proposed to be assisted under paragraph (2); and

(C) such other activities as are necessary to provide the Secretary with sufficient information to evaluate whether a project should receive financial assistance for final design, engineering, and construction activities under paragraph (2).

(2) FINAL DESIGN, ENGINEERING, AND CONSTRUCTION ACTIVITIES.—After completion of preconstruction planning activities for all projects assisted under paragraph (1), the Secretary shall select 1 of the projects to receive financial assistance for final design, engineering, and construction activities.

(g) JOINT VENTURES.—A project undertaken by a joint venture of United States and non-United States persons (including a project involving the deployment of non-United States MAGLEV technology in the United States) shall be eligible for financial assistance under this section if the project is eligible under subsection (d) and selected under subsection (f).

(h) FUNDING.—

(1) IN GENERAL.—

(A) CONTRACT AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.—

(i) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $15,000,000 for fiscal year 1999, $20,000,000 for fiscal year 2000, and $25,000,000 for fiscal year 2001.

(ii) CONTRACT AUTHORITY.—Funds authorized by this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

(I) the Federal share of the cost of a project carried out under this section shall be determined in accordance with subsection (b); and

(II) the availability of the funds shall be determined in accordance with paragraph (2).

(B) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

(i) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section (other than subsection (i)) $200,000,000 for each of fiscal years 2000 and 2001, $250,000,000 for fiscal year 2002, and $300,000,000 for fiscal year 2003.

(ii) AVAILABILITY.—Notwithstanding section 118(a), funds made available under clause (i) shall not be available in advance of an annual appropriation.

(2) AVAILABILITY OF FUNDS.—Funds made available under paragraph (1) shall remain available until expended.

(3) OTHER FEDERAL FUNDS.—Notwithstanding any other provision of law, funds made available to a State to carry out the surface transportation block grant program under section 133 and the congestion mitigation and air quality improvement program under section 149 may be used by the State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

(4) OTHER ASSISTANCE.—Notwithstanding any other provision of law, an eligible project selected under this section shall be eligible for other forms of financial assistance provided under this title and the Transportation Equity Act for the 21st Century, including loans, loan guarantees,

and lines of credit.

(i) LOW-SPEED PROJECT.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, of the funds made available by subsection (h)(1)(A) to carry out this section, $5,000,000 shall be made available to the Secretary to make grants for the research and development of low-speed superconductivity magnetic levitation technology for public transportation purposes in urban areas to demonstrate energy efficiency, congestion mitigation, and safety benefits.

(2) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection such sums as are necessary for each of fiscal years 2000 through 2003.

(B) AVAILABILITY.—Notwithstanding section 118(a), funds made available under subparagraph (A)—

(i) shall not be available in advance of an annual appropriation; and

(ii) shall remain available until expended.

(Added and amended Pub. L. 105–178, title I, §1218(a), (c), June 9, 1998, 112 Stat. 216; Pub. L. 105–206, title IX, §9003(i), July 22, 1998, 112 Stat. 841; Pub. L. 114–94, div. A, title I, §1109(c)(3), Dec. 4, 2015, 129 Stat. 1343.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1036 of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (a)(4), is section 1036 of Pub. L. 102–240, title I, Dec. 18, 1991, 105 Stat. 1978, which enacted section 309 of Title 49, Transportation, amended section 831 of Title 45, Railroads, and section 302 of Title 49, and enacted provisions set out as notes under section 831 of Title 45 and section 309 of Title 49.

The date of enactment of this subsection, referred to in subsec. (c), is the date of enactment of Pub. L. 105–178, which was approved June 9, 1998.

The Transportation Equity Act for the 21st Century, referred to in subsec. (h)(4), 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.

PRIOR PROVISIONS

A prior section 322, added Pub. L. 91–605, title II, §205(a), Dec. 31, 1970, 84 Stat. 1742; amended Pub. L. 93–643, §117, Jan. 4, 1975, 88 Stat. 2288; Pub. L. 97–449, §5(d)(3), Jan. 12, 1983, 96 Stat. 2442, related to demonstration projects for elimination or protection of certain ground-level rail-highway crossings and required study of problem of providing increased highway safety at public and private ground-level rail-highway crossings on nationwide basis through elimination of such crossings or otherwise, and report to Congress on such study not later than July 1, 1972, prior to repeal by Pub. L. 100–17, title I, §133(e)(1), Apr. 2, 1987, 101 Stat. 173.

AMENDMENTS

2015—Subsec. (h)(3). Pub. L. 114–94 substituted "surface transportation block grant program" for "surface transportation program".

1998—Subsec. (a)(3). Pub. L. 105–178, §1218(c)(1), as added by Pub. L. 105–206, §9003(i), struck out "or under 50 miles per hour" before period at end.

Subsec. (d)(1). Pub. L. 105–178, §1218(c)(2)(A), as added by Pub. L. 105–206, §9003(i), struck out "or low-speed" after "high-speed".

Subsec. (d)(2)(A). Pub. L. 105–178, §1218(c)(2)(B)(i), as added by Pub. L. 105–206, §9003(i), substituted "(h)(1)" for "(h)(1)(A)".

Subsec. (d)(2)(B). Pub. L. 105–178, §1218(c)(2)(B)(ii), as added by Pub. L. 105–206, §9003(i), substituted "(h)(3)" for "(h)(4)".

Subsec. (h)(1)(B)(i). Pub. L. 105–178, §1218(c)(3), as added by Pub. L. 105–206, §9003(i), inserted "(other than subsection (i))" after "this section".

Subsec. (i). Pub. L. 105–178, §1218(c)(4), as added by Pub. L. 105–206, §9003(i), added subsec. (i).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

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.

DEPLOYMENT OF MAGNETIC LEVITATION TRANSPORTATION PROJECTS

Pub. L. 114–94, div. A, title XI, §11315(c), Dec. 4, 2015, 129 Stat. 1675, as amended by Pub. L. 117–58, div. B, title I, §21301(j)(2), Nov. 15, 2021, 135 Stat. 691, provided that: "A project described in 1307(a)(3) of SAFETEA–LU (Public Law 109–59) [set out below] may be eligible for the Railroad Rehabilitation and Improvement Financing program if the Secretary [of Transportation] determines such project meets the requirements of sections 22402 and 22403 of title 49, United States Code."

Pub. L. 109–59, title I, §1307, Aug. 10, 2005, 119 Stat. 1217, as amended by Pub. L. 110–244, title I, §102(b), (c), June 6, 2008, 122 Stat. 1577, provided that:

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

"(1) ELIGIBLE PROJECT COSTS.—The term 'eligible project costs'—

"(A) means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities, but not including costs incurred for a new station; and

"(B) includes the costs of preconstruction planning activities.

"(2) FULL PROJECT COSTS.—The term 'full project costs' means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

"(3) MAGLEV.—The term 'MAGLEV' means transportation systems employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

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

"(b) IN GENERAL.—

"(1) ASSISTANCE FOR ELIGIBLE PROJECTS.—The Secretary [of Transportation] shall make available financial assistance to pay the Federal share of full project costs of eligible projects authorized by this section.

"(2) USE OF ASSISTANCE.—Financial assistance provided under paragraph (1) shall be used only to pay eligible project costs of projects authorized by this section.

"(3) APPLICABILITY OF OTHER LAWS.—Financial assistance made available under this section, and projects assisted with such assistance, shall be subject to section 5333(a) of title 49, United States Code.

"(c) PROJECT ELIGIBILITY.—To be eligible to receive financial assistance under subsection (b), a project shall—

"(1) involve a segment or segments of a high-speed ground transportation corridor;

"(2) result in an operating transportation facility that provides a revenue producing service; and

"(3) be approved by the Secretary [of Transportation] based on an application submitted to the Secretary by a State or authority designated by one or more States.

"(d) ALLOCATION.—Of the amounts made available to carry out this section for a fiscal year, the Secretary [of Transportation] shall allocate—

"(1) 50 percent to the Nevada department of transportation who shall cooperate with the California-Nevada Super Speed Train Commission for the MAGLEV project between Las Vegas and Primm, Nevada, as a segment of the high-speed MAGLEV system between Las Vegas, Nevada, and Anaheim, California; and

"(2) 50 percent for existing MAGLEV projects located east of the Mississippi River using such criteria as the Secretary deems appropriate.

"(e) CONTRACT AUTHORITY.—Funds authorized under section 1101(a)(18) [119 Stat. 1155] shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United

States Code; except that the funds shall not be transferable and shall remain available until expended, and the Federal share of the cost of a project to be carried out with such funds shall be 80 percent."

[Pub. L. 110–244, title I, §102(d), June 6, 2008, 122 Stat. 1578, provided that: "The amendments made by this section [amending section 1307 of Pub. L. 109–59, set out above] take effect on October 1, 2007."]

ADVANCED TECHNOLOGY PILOT PROJECT

Pub. L. 105–178, title III, §3015(c), June 9, 1998, 112 Stat. 361, as amended by Pub. L. 105–206, title IX, §9009(k)(1), July 22, 1998, 112 Stat. 857; Pub. L. 108–88, §8(q), Sept. 30, 2003, 117 Stat. 1125; Pub. L. 108–202, §9(q), Feb. 29, 2004, 118 Stat. 489; Pub. L. 108–224, §7(q), Apr. 30, 2004, 118 Stat. 637; Pub. L. 108–263, §7(q), June 30, 2004, 118 Stat. 708; Pub. L. 108–280, §7(q), July 30, 2004, 118 Stat. 885; Pub. L. 108–310, §8(q), Sept. 30, 2004, 118 Stat. 1158; Pub. L. 109–14, §7(p), May 31, 2005, 119 Stat. 334; Pub. L. 109–20, §7(p), July 1, 2005, 119 Stat. 356; Pub. L. 109–35, §7(p), July 20, 2005, 119 Stat. 389; Pub. L. 109–37, §7(p), July 22, 2005, 119 Stat. 404; Pub. L. 109–40, §7(p), July 28, 2005, 119 Stat. 420, provided that:

"(1) IN GENERAL.—The Secretary shall make grants for the development of low speed magnetic levitation technology for public transportation purposes in urban areas to demonstrate energy efficiency, congestion mitigation, and safety benefits.

"(2) FUNDING.—Of the amounts made available under section 5001(a)(2) of this Act [112 Stat. 419] for each of fiscal years 1998 through 2004, and for the period of October 1, 2004, through July 30, 2005,, [sic] $5,000,000 per fiscal year and $4,150,685 for such period shall be available to carry out this subsection. Financial assistance made available under this subsection and projects assisted with the assistance shall be subject to section 5333(a) of title 49, United States Code.

"(3) FEDERAL SHARE.—The Federal share payable on account of activities carried out using a grant made under this subsection shall be 80 percent of the cost of such activities."

[Pub. L. 109–35, §7(p)(1), which directed amendment of Pub. L. 105–178, §3015(c)(2), set out above, by substituting "July 21, 2005" for "July 19, 2005," was executed by making the substitution for "July 19, 2005", to reflect the probable intent of Congress.]

[Pub. L. 109–20, §7(p)(1), which directed amendment of Pub. L. 105–178, §3015(c)(2), set out above, by substituting "July 19, 2005" for "June 30, 2005," was executed by making the substitution for "June 30, 2005", to reflect the probable intent of Congress.]

[Pub. L. 108–280, §7(q), which directed amendment of Pub. L. 105–178, §3015(c)(2), set out above, by substituting "2004, $5,000,000 per fiscal year" for "2003, and for the period of October 1, 2003, through July 31, 2004 $5,000,000 per fiscal year and $4,142,083 for such period", was executed by making the substitution for "2003, and for the period of October 1, 2003, through July 31, 2004, $5,000,000 per fiscal year and $4,142,083 for such period", to reflect the probable intent of Congress.]

[Pub. L. 108–224, §7(q)(1), which directed amendment of Pub. L. 105–178, §3015(c)(2), set out above, by substituting "June 30, 2004" for "April 30, 2004," was executed by making the substitution for "April 30, 2004", to reflect the probable intent of Congress.]

§323. Donations and credits

(a) DONATIONS OF PROPERTY BEING ACQUIRED.—Nothing in this title, or in any other provision of law, shall be construed to prevent a person whose real property is being acquired in connection with a project under this title, after he has been fully informed of his right to receive just compensation for the acquisition of his property, from making a gift or donation of such property, or any part thereof, or of any of the compensation paid therefor, to a Federal agency, a State or a State agency, or a political subdivision of a State, as said person shall determine.

(b) CREDIT FOR ACQUIRED LANDS.—

(1) IN GENERAL.—Notwithstanding any other provision of this title, the State share of the cost of a project with respect to which Federal assistance is provided from the Highway Trust Fund (other than the Mass Transit Account) may be credited in an amount equal to the fair market value of any land that—

(A) is lawfully obtained by the State or a unit of local government in the State;

(B) is incorporated into the project;

(C) is not land described in section 138; and

(D) the Secretary determines will not influence the environmental assessment of the project,

including—

(i) the decision as to the need to construct the project;

(ii) the consideration of alternatives; and

(iii) the selection of a specific location.

(2) ESTABLISHMENT OF FAIR MARKET VALUE.—The fair market value of land incorporated into a project and credited under paragraph (1) shall be established in the manner determined by the Secretary, except that—

(A) the fair market value shall not include any increase or decrease in the value of donated property caused by the project; and

(B) the fair market value of donated land shall be established as of the earlier of—

(i) the date on which the donation becomes effective; or

(ii) the date on which equitable title to the land vests in the State.

(3) LIMITATION ON APPLICABILITY.—This subsection shall not apply to donations made by an agency of the Federal Government.

(4) LIMITATION ON AMOUNT OF CREDIT.—The credit received by a State pursuant to this subsection may not exceed the State's matching share for the project.

(c) CREDIT FOR DONATIONS OF FUNDS, MATERIALS, OR SERVICES.—Nothing in this title or any other law shall prevent a person from offering to donate funds, materials, or services, or a local government from offering to donate funds, materials, or services performed by local government employees, in connection with a project eligible for assistance under this title. In the case of such a project with respect to which the Federal Government and the State share in paying the cost, any donated funds, or the fair market value of any donated materials or services, that are accepted and incorporated into the project by the State transportation department shall be credited against the State share.

(d) PROCEDURES.—A gift or donation in accordance with subsection (a) may be made at any time during the development of a project. Any document executed as part of such donation prior to the approval of an environmental document prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall clearly indicate that—

(1) all alternatives to a proposed alignment will be studied and considered pursuant to such Act;

(2) acquisition of property under this section shall not influence the environmental assessment of a project including the decision relative to the need to construct the project or the selection of a specific location; and

(3) any property acquired by gift or donation shall be revested in the grantor or successors in interest if such property is not required for the alignment chosen after public hearings, if required, and completion of the environmental document.

(Added Pub. L. 93–87, title I, §145(a), Aug. 13, 1973, 87 Stat. 273; amended Pub. L. 93–643, §112, Jan. 4, 1975, 88 Stat. 2285; Pub. L. 100–17, title I, §146(a), Apr. 2, 1987, 101 Stat. 179; Pub. L. 104–59, title III, §322, Nov. 28, 1995, 109 Stat. 591; Pub. L. 105–178, title I, §§1212(a)(2)(A)(i), 1301(b)–(d)(1), June 9, 1998, 112 Stat. 193, 225, 226; Pub. L. 109–59, title I, §1902, Aug. 10, 2005, 119 Stat. 1464; Pub. L. 117–58, div. A, title I, §11525(q), Nov. 15, 2021, 135 Stat. 608.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (d), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2021—Subsec. (d). Pub. L. 117–58 inserted "(42 U.S.C. 4321 et seq.)" after "National Environmental

Policy Act of 1969" in introductory provisions.

2005—Subsec. (c). Pub. L. 109–59, §1902(1), inserted ", or a local government from offering to donate funds, materials, or services performed by local government employees," before "in connection with a project".

Subsec. (e). Pub. L. 109–59, §1902(2), struck out heading and text of subsec. (e). Text read as follows: "A contribution by a unit of local government of real property, funds, or material in connection with a project eligible for assistance under this title shall be credited against the State share of the project at the fair market value of the real property, funds, or material."

1998—Pub. L. 105–178, §1301(d)(1), substituted "Donations and credits" for "Donations" in section catchline.

Subsec. (b). Pub. L. 105–178, §1301(b)(1), substituted "Acquired" for "Donated" in heading.

Subsec. (b)(1), (2). Pub. L. 105–178, §1301(b)(2), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

"(1) GENERAL RULE.—Notwithstanding any provision of this title, the State matching share for a project with respect to which Federal assistance is provided out of the Highway Trust Fund (other than the Mass Transit Account) may be credited by the fair market value of land incorporated into the project and lawfully donated to the State after the date of the enactment of this subsection.

"(2) ESTABLISHMENT OF FAIR MARKET VALUE.—The fair market value of the donated land shall be established as determined by the Secretary. Fair market value shall not include increases and decreases in the value of donated property caused by the project. For purposes of this subsection, the fair market value of donated land shall be established as of the date the donation becomes effective or when equitable title to the land vests in the State, whichever is earlier."

Subsec. (b)(3). Pub. L. 105–178, §1301(b)(3), substituted "agency of the Federal Government" for "agency of a Federal, State, or local government".

Subsec. (b)(4). Pub. L. 105–178, §1301(b)(4), struck out "to which the donation is applied" before period at end.

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

Subsec. (e). Pub. L. 105–178, §1301(c), added subsec. (e).

1995—Subsecs. (c), (d). Pub. L. 104–59 added subsec. (c) and redesignated former subsec. (c) as (d).

1987—Pub. L. 100–17 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

1975—Pub. L. 93–643 substituted "after he has been fully informed of his right to receive just compensation for the acquisition of his property" for "after he has been tendered the full amount of the estimated just compensation as established by an approved appraisal of the fair market value of the subject real property".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

§324. Prohibition of discrimination on the basis of sex

No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this title or carried on under this title. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

(Added Pub. L. 93–87, title I, §162(a), Aug. 13, 1973, 87 Stat. 280.)

EDITORIAL NOTES

REFERENCES IN TEXT

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

[§325. Repealed. Pub. L. 117–58, div. A, title I, §11525(r), Nov. 15, 2021, 135 Stat. 608]

Section, added Pub. L. 109–59, title VI, §6003(a), Aug. 10, 2005, 119 Stat. 1865, related to State assumption of responsibilities for certain programs and projects.

A prior section 325, added Pub. L. 102–240, title VI, §6003[(a)], Dec. 18, 1991, 105 Stat. 2168, related to international highway transportation outreach program, prior to repeal by Pub. L. 105–178, title V, §5119(b), June 9, 1998, 112 Stat. 452.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as an Effective Date of 2021 Amendment note under section 101 of this title.

§326. State assumption of responsibility for categorical exclusions

(a) CATEGORICAL EXCLUSION DETERMINATIONS.—

(1) IN GENERAL.—The Secretary may assign, and a State may assume, responsibility for determining whether certain designated activities are included within classes of action identified in regulation by the Secretary that are categorically excluded from requirements for environmental assessments or environmental impact statements pursuant to regulations promulgated by the Council on Environmental Quality under part 1500 of title 40, Code of Federal Regulations (as in effect on October 1, 2003).

(2) SCOPE OF AUTHORITY.—A determination described in paragraph (1) shall be made by a State in accordance with criteria established by the Secretary and only for types of activities specifically designated by the Secretary.

(3) CRITERIA.—The criteria under paragraph (2) shall include provisions for public availability of information consistent with section 552 of title 5 and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(4) PRESERVATION OF FLEXIBILITY.—The Secretary shall not require a State, as a condition of assuming responsibility under this section, to forego project delivery methods that are otherwise permissible for highway projects.

(b) OTHER APPLICABLE FEDERAL LAWS.—

(1) IN GENERAL.—If a State assumes responsibility under subsection (a), the Secretary may also assign and the State may assume all or part of the responsibilities of the Secretary for environmental review, consultation, or other related actions required under any Federal law applicable to activities that are classified by the Secretary as categorical exclusions, with the exception of government-to-government consultation with Indian tribes, subject to the same procedural and substantive requirements as would be required if that responsibility were carried out by the Secretary.

(2) SOLE RESPONSIBILITY.—A State that assumes responsibility under paragraph (1) with respect to a Federal law shall be solely responsible and solely liable for complying with and carrying out that law, and the Secretary shall have no such responsibility or liability.

(c) MEMORANDA OF UNDERSTANDING.—

(1) IN GENERAL.—The Secretary and the State, after providing public notice and opportunity for comment, shall enter into a memorandum of understanding setting forth the responsibilities to be assigned under this section and the terms and conditions under which the assignments are made, including establishment of the circumstances under which the Secretary would reassume responsibility for categorical exclusion determinations.

(2) ASSISTANCE TO STATES.—On request of a Governor of a State, the Secretary shall provide to the State technical assistance, training, or other support relating to—

(A) assuming responsibility under subsection (a);

(B) developing a memorandum of understanding under this subsection; or

(C) addressing a responsibility in need of corrective action under subsection (d)(1)(B).

(3) TERM.—A memorandum of understanding—

(A) except as provided under subparagraph (C), shall have a term of not more than 3 years;

(B) shall be renewable; and

(C) shall have a term of 5 years, in the case of a State that has assumed the responsibility for categorical exclusions under this section for not fewer than 10 years.

(4) ACCEPTANCE OF JURISDICTION.—In a memorandum of understanding, the State shall consent to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary that the State assumes.

(5) MONITORING.—The Secretary shall—

(A) monitor compliance by the State with the memorandum of understanding and the provision by the State of financial resources to carry out the memorandum of understanding; and

(B) take into account the performance by the State when considering renewal of the memorandum of understanding.

(d) TERMINATION.—

(1) TERMINATION BY SECRETARY.—The Secretary may terminate the participation of any State in the program if—

(A) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;

(B) the Secretary provides to the State—

(i) a notification of the determination of noncompliance;

(ii) a period of not less than 120 days to take such corrective action as the Secretary determines to be necessary to comply with the applicable agreement; and

(iii) on request of the Governor of the State, a detailed description of each responsibility in need of corrective action regarding an inadequacy identified under subparagraph (A); and

(C) the State, after the notification and period described in clauses (i) and (ii) of subparagraph (B), fails to take satisfactory corrective action, as determined by the Secretary.

(2) TERMINATION BY THE STATE.—The State may terminate the participation of the State in the program at any time by providing to the Secretary a notice not later than the date that is 90 days before the date of termination, and subject to such terms and conditions as the Secretary may provide.

(e) STATE AGENCY DEEMED TO BE FEDERAL AGENCY.—A State agency that is assigned a responsibility under a memorandum of understanding shall be deemed to be a Federal agency for the purposes of the Federal law under which the responsibility is exercised.

(f) LEGAL FEES.—A State assuming the responsibilities of the Secretary under this section for a specific project may use funds apportioned to the State under section 104(b)(2) for attorney's fees directly attributable to eligible activities associated with the project.

(Added Pub. L. 109–59, title VI, §6004(a), Aug. 10, 2005, 119 Stat. 1867; amended Pub. L. 112–141, div. A, title I, §1312, July 6, 2012, 126 Stat. 545; Pub. L. 114–94, div. A, title I, §1307, Dec. 4, 2015, 129 Stat. 1390; Pub. L. 117–58, div. A, title I, §11314, Nov. 15, 2021, 135 Stat. 540.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a)(3), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 326, added Pub. L. 102–240, title VI, §6004(a), Dec. 18, 1991, 105 Stat. 2169; amended Pub. L. 105–130, §5(e)(4), Dec. 1, 1997, 111 Stat. 2558, related to education and training program, prior to repeal by Pub. L. 105–178, title V, §5119(b), June 9, 1998, 112 Stat. 452.

AMENDMENTS

2021—Subsec. (c)(3)(A). Pub. L. 117–58, §11314(1), added subpar. (A) and struck out former subpar. (A) which read as follows: "shall have a term of not more than 3 years; and".

Subsec. (c)(3)(C). Pub. L. 117–58, §11314(2), (3), added subpar. (C).

2015—Subsec. (c)(2) to (5). Pub. L. 114–94, §1307(1), added par. (2) and redesignated former pars. (2) to (4) as (3) to (5), respectively.

Subsec. (d)(1). Pub. L. 114–94, §1307(2), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: "The Secretary may terminate any assumption of responsibility under a memorandum of understanding on a determination that the State is not adequately carrying out the responsibilities assigned to the State."

2012—Subsec. (a)(4). Pub. L. 112–141, §1312(1), added par. (4).

Subsec. (d). Pub. L. 112–141, §1312(2), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows: "The Secretary may terminate any assumption of responsibility under a memorandum of understanding on a determination that the State is not adequately carrying out the responsibilities assigned to the State."

Subsec. (f). Pub. L. 112–141, §1312(3), added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§327. Surface transportation project delivery program

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall carry out a surface transportation project delivery program (referred to in this section as the "program").

(2) ASSUMPTION OF RESPONSIBILITY.—

(A) IN GENERAL.—Subject to the other provisions of this section, with the written agreement of the Secretary and a State, which may be in the form of a memorandum of

understanding, the Secretary may assign, and the State may assume, the responsibilities of the Secretary with respect to one or more highway projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) ADDITIONAL RESPONSIBILITY.—If a State assumes responsibility under subparagraph (A)—

(i) the Secretary may assign to the State, and the State may assume, all or part of the responsibilities of the Secretary for environmental review, consultation, or other action required under any Federal environmental law pertaining to the review or approval of a specific project;

(ii) at the request of the State, the Secretary may also assign to the State, and the State may assume, the responsibilities of the Secretary with respect to 1 or more railroad, public transportation, or multimodal projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(iii) in a State that has assumed the responsibilities of the Secretary under clause (ii), a recipient of assistance under chapter 53 of title 49 may request that the Secretary maintain the responsibilities of the Secretary with respect to 1 or more public transportation projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); but

(iv) the Secretary may not assign—

(I) any responsibility imposed on the Secretary by section 134 or 135 or section 5303 or 5304 of title 49; or

(II) responsibility for any conformity determination required under section 176 of the Clean Air Act (42 U.S.C. 7506).

(C) PROCEDURAL AND SUBSTANTIVE REQUIREMENTS.—A State shall assume responsibility under this section subject to the same procedural and substantive requirements as would apply if that responsibility were carried out by the Secretary.

(D) FEDERAL RESPONSIBILITY.—Any responsibility of the Secretary not explicitly assumed by the State by written agreement under this section shall remain the responsibility of the Secretary.

(E) NO EFFECT ON AUTHORITY.—Nothing in this section preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency, other than the Department of Transportation, under applicable law (including regulations) with respect to a project.

(F) PRESERVATION OF FLEXIBILITY.—The Secretary may not require a State, as a condition of participation in the program, to forego project delivery methods that are otherwise permissible for projects.

(G) LEGAL FEES.—A State assuming the responsibilities of the Secretary under this section for a specific project may use funds apportioned to the State under section 104(b)(2) for attorneys' fees directly attributable to eligible activities associated with the project, including the payment of fees awarded under section 2412 of title 28.

(b) STATE PARTICIPATION.—

(1) PARTICIPATING STATES.—All States are eligible to participate in the program.

(2) APPLICATION.—Not later than 270 days after the date on which amendments to this section by the MAP-21 take effect, the Secretary shall amend, as appropriate, regulations that establish requirements relating to information required to be contained in any application of a State to participate in the program, including, at a minimum—

(A) the projects or classes of projects for which the State anticipates exercising the authority that may be granted under the program;

(B) verification of the financial resources necessary to carry out the authority that may be granted under the program; and

(C) evidence of the notice and solicitation of public comment by the State relating to participation of the State in the program, including copies of comments received from that

solicitation.

(3) PUBLIC NOTICE.—

(A) IN GENERAL.—Each State that submits an application under this subsection shall give notice of the intent of the State to participate in the program not later than 30 days before the date of submission of the application.

(B) METHOD OF NOTICE AND SOLICITATION.—The State shall provide notice and solicit public comment under this paragraph by publishing the complete application of the State in accordance with the appropriate public notice law of the State.

(4) SELECTION CRITERIA.—The Secretary may approve the application of a State under this section only if—

(A) the regulatory requirements under paragraph (2) have been met;

(B) the Secretary determines that the State has the capability, including financial and personnel, to assume the responsibility; and

(C) the head of the State agency having primary jurisdiction over highway matters enters into a written agreement with the Secretary described in subsection (c).

(5) OTHER FEDERAL AGENCY VIEWS.—If a State applies to assume a responsibility of the Secretary that would have required the Secretary to consult with another Federal agency, the Secretary shall solicit the views of the Federal agency before approving the application.

(c) WRITTEN AGREEMENT.—A written agreement under this section shall—

(1) be executed by the Governor or the top-ranking transportation official in the State who is charged with responsibility for highway construction;

(2) be in such form as the Secretary may prescribe;

(3) provide that the State—

(A) agrees to assume all or part of the responsibilities of the Secretary described in subsection (a);

(B) expressly consents, on behalf of the State, to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary assumed by the State;

(C) certifies that State laws (including regulations) are in effect that—

(i) authorize the State to take the actions necessary to carry out the responsibilities being assumed; and

(ii) are comparable to section 552 of title 5, including providing that any decision regarding the public availability of a document under those State laws is reviewable by a court of competent jurisdiction; and

(D) agrees to maintain the financial resources necessary to carry out the responsibilities being assumed;

(4) require the State to provide to the Secretary any information the Secretary reasonably considers necessary to ensure that the State is adequately carrying out the responsibilities assigned to the State;

(5) except as provided under paragraph (7), have a term of not more than 5 years;

(6) be renewable; and

(7) for any State that has participated in a program under this section (or under a predecessor program) for at least 10 years, have a term of 10 years.

(d) JURISDICTION.—

(1) IN GENERAL.—The United States district courts shall have exclusive jurisdiction over any civil action against a State for failure to carry out any responsibility of the State under this section.

(2) LEGAL STANDARDS AND REQUIREMENTS.—A civil action under paragraph (1) shall be governed by the legal standards and requirements that would apply in such a civil action against the Secretary had the Secretary taken the actions in question.

(3) INTERVENTION.—The Secretary shall have the right to intervene in any action described in paragraph (1).

(e) EFFECT OF ASSUMPTION OF RESPONSIBILITY.—A State that assumes responsibility under subsection (a)(2) shall be solely responsible and solely liable for carrying out, in lieu of and without further approval of the Secretary, the responsibilities assumed under subsection (a)(2), until the program is terminated as provided in subsection (j).

(f) LIMITATIONS ON AGREEMENTS.—Nothing in this section permits a State to assume any rulemaking authority of the Secretary under any Federal law.

(g) AUDITS.—

(1) IN GENERAL.—To ensure compliance by a State with any agreement of the State under subsection (c) (including compliance by the State with all Federal laws for which responsibility is assumed under subsection (a)(2)), for each State participating in the program under this section, the Secretary shall—

(A) not later than 180 days after the date of execution of the agreement, meet with the State to review implementation of the agreement and discuss plans for the first annual audit;

(B) conduct annual audits during each of the first 4 years of State participation;

(C) in the case of an agreement period of greater than 5 years pursuant to subsection (c)(7), conduct an audit covering the first 5 years of the agreement period; and

(D) ensure that the time period for completing an audit, from initiation to completion (including public comment and responses to those comments), does not exceed 180 days.

(2) PUBLIC AVAILABILITY AND COMMENT.—

(A) IN GENERAL.—An audit conducted under paragraph (1) shall be provided to the public for comment.

(B) RESPONSE.—Not later than 60 days after the date on which the period for public comment ends, the Secretary shall respond to public comments received under subparagraph (A).

(3) AUDIT TEAM.—

(A) IN GENERAL.—An audit conducted under paragraph (1) shall be carried out by an audit team determined by the Secretary, in consultation with the State, in accordance with subparagraph (B).

(B) CONSULTATION.—Consultation with the State under subparagraph (A) shall include a reasonable opportunity for the State to review and provide comments on the proposed members of the audit team.

(h) MONITORING.—After the fourth year of the participation of a State in the program, the Secretary shall monitor compliance by the State with the written agreement, including the provision by the State of financial resources to carry out the written agreement.

(i) REPORT TO CONGRESS.—The Secretary shall submit to Congress an annual report that describes the administration of the program.

(j) TERMINATION.—

(1) TERMINATION BY SECRETARY.—The Secretary may terminate the participation of any State in the program if—

(A) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;

(B) the Secretary provides to the State—

(i) a notification of the determination of noncompliance;

(ii) a period of not less than 120 days to take such corrective action as the Secretary

determines to be necessary to comply with the applicable agreement; and

(iii) on request of the Governor of the State, a detailed description of each responsibility in need of corrective action regarding an inadequacy identified under subparagraph (A); and

(C) the State, after the notification and period provided under subparagraph (B), fails to take satisfactory corrective action, as determined by the Secretary.

(2) TERMINATION BY THE STATE.—The State may terminate the participation of the State in the program at any time by providing to the Secretary a notice by not later than the date that is 90 days before the date of termination, and subject to such terms and conditions as the Secretary may provide.

(k) CAPACITY BUILDING.—The Secretary, in cooperation with representatives of State officials, may carry out education, training, peer-exchange, and other initiatives as appropriate—

(1) to assist States in developing the capacity to participate in the assignment program under this section; and

(2) to promote information sharing and collaboration among States that are participating in the assignment program under this section.

(l) RELATIONSHIP TO LOCALLY ADMINISTERED PROJECTS.—A State granted authority under this section may, as appropriate and at the request of a local government—

(1) exercise such authority on behalf of the local government for a locally administered project; or

(2) provide guidance and training on consolidating and minimizing the documentation and environmental analyses necessary for sponsors of a locally administered project to comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any comparable requirements under State law.

(m) AGENCY DEEMED TO BE FEDERAL AGENCY.—A State agency that is assigned a responsibility under an agreement under this section shall be deemed to be an agency for the purposes of section 2412 of title 28.

(Added Pub. L. 109–59, title VI, §6005(a), Aug. 10, 2005, 119 Stat. 1868; amended Pub. L. 111–322, title II, §2203(c), Dec. 22, 2010, 124 Stat. 3526; Pub. L. 112–140, title I, §101(e)(1), June 29, 2012, 126 Stat. 392; Pub. L. 112–141, div. A, title I, §1313(a)–(h), July 6, 2012, 126 Stat. 545–547; Pub. L. 114–94, div. A, title I, §§1308, 1446(d)(3), Dec. 4, 2015, 129 Stat. 1390, 1438; Pub. L. 117–58, div. A, title I, §11313, Nov. 15, 2021, 135 Stat. 539.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (a)(2)(A), (B)(ii), (iii) and (l)(2), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The date on which amendments to this section by the MAP-21 take effect, referred to in subsec. (b)(2), is Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

AMENDMENTS

2021—Subsec. (a)(2)(G). Pub. L. 117–58, §11313(1), inserted ", including the payment of fees awarded under section 2412 of title 28" before period at end.

Subsec. (c)(5). Pub. L. 117–58, §11313(2)(A), added par. (5) and struck out former par. (5) which read as follows: "have a term of not more than 5 years; and".

Subsec. (c)(7). Pub. L. 117–58, §11313(2)(B), (C), added par. (7).

Subsec. (g)(1)(B). Pub. L. 117–58, §11313(3)(A), struck out "and" at end.

Subsec. (g)(1)(C). Pub. L. 117–58, §11313(3)(D), added subpar. (C). Former subpar. (C) redesignated (D).

Pub. L. 117–58, §11313(3)(B), struck out "annual" before "audit,".

Subsec. (g)(1)(D). Pub. L. 117–58, §11313(3)(C), redesignated subpar. (C) as (D).

Subsec. (m). Pub. L. 117–58, §11313(4), added subsec. (m).

2015—Pub. L. 114–94, §1446(d)(3), amended directory language of Pub. L. 112–141, §1313(a)(1). See 2012 Amendment note below.

Subsec. (a)(2)(B)(iii). Pub. L. 114–94, §1308(1), substituted "(42 U.S.C. 4321 et seq.)" for "(42 U.S.C. 13 4321 et seq.)".

Subsec. (c)(4). Pub. L. 114–94, §1308(2), inserted "reasonably" before "considers necessary".

Subsec. (e). Pub. L. 114–94, §1308(3), inserted "and without further approval of" after "in lieu of".

Subsec. (g)(1). Pub. L. 114–94, §1308(4)(A), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: "To ensure compliance by a State with any agreement of the State under subsection (c) (including compliance by the State with all Federal laws for which responsibility is assumed under subsection (a)(2)), for each State participating in the program under this section, the Secretary shall conduct—

"(A) semiannual audits during each of the first 2 years of State participation; and

"(B) annual audits during each of the third and fourth years of State participation."

Subsec. (g)(3). Pub. L. 114–94, §1308(4)(B), added par. (3).

Subsec. (j)(1). Pub. L. 114–94, §1308(5), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: "The Secretary may terminate the participation of any State in the program if—

"(A) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;

"(B) the Secretary provides to the State—

"(i) notification of the determination of noncompliance; and

"(ii) a period of at least 30 days during which to take such corrective action as the Secretary determines is necessary to comply with the applicable agreement; and

"(C) the State, after the notification and period provided under subparagraph (B), fails to take satisfactory corrective action, as determined by the Secretary."

Subsecs. (k), (l). Pub. L. 114–94, §1308(6), added subsecs. (k) and (l).

2012—Pub. L. 112–141, §1313(a)(1), as amended by Pub. L. 114–94, §1446(d)(3), struck out "pilot" before "program" in section catchline.

Subsec. (a)(1). Pub. L. 112–141, §1313(a)(2), struck out "pilot" before "program (referred to".

Subsec. (a)(2)(B)(ii) to (iv). Pub. L. 112–141, §1313(b)(1), added cls. (ii) to (iv) and struck out former cl. (ii) which read as follows: "the Secretary may not assign—

"(I) responsibility for any conformity determination required under section 176 of the Clean Air Act (42 U.S.C. 7506); or

"(II) any responsibility imposed on the Secretary by section 134 or 135."

Subsec. (a)(2)(F), (G). Pub. L. 112–141, §1313(b)(2), added subpars. (F) and (G).

Subsec. (b)(1). Pub. L. 112–141, §1313(c)(1), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: "The Secretary may permit not more than 5 States (including the States of Alaska, California, Ohio, Oklahoma, and Texas) to participate in the program."

Subsec. (b)(2). Pub. L. 112–141, §1313(c)(2), substituted "date on which amendments to this section by the MAP-21 take effect, the Secretary shall amend, as appropriate," for "date of enactment of this section, the Secretary shall promulgate" in introductory provisions.

Subsec. (c)(4) to (6). Pub. L. 112–141, §1313(d), added pars. (4) to (6).

Subsec. (e). Pub. L. 112–141, §1313(e), substituted "subsection (j)" for "subsection (i)".

Subsec. (g)(1)(B). Pub. L. 112–141, §1313(f), substituted "of the third and fourth years" for "subsequent year".

Subsec. (h). Pub. L. 112–141, §1313(g)(2), added subsec. (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 112–141, §1313(g)(1), redesignated subsec. (h) as (i). Former subsec. (i) redesignated (j).

Subsec. (i)(1). Pub. L. 112–140 substituted "September 30, 2012" for "the date that is 7 years after the date of enactment of this section".

Subsec. (j). Pub. L. 112–141, §1313(h), amended subsec. (j) generally. Prior to amendment, subsec. (j) related to termination of the original pilot program on Sept. 30, 2012, and termination of State participation by the Secretary.

Pub. L. 112–141, §1313(g)(1), redesignated subsec. (i) as (j).

2010—Subsec. (i)(1). Pub. L. 111–322 substituted "7 years after" for "6 years after".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Except as otherwise provided, amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

Pub. L. 114–94, div. A, title I, §1446(d), Dec. 4, 2015, 129 Stat. 1438, provided that the amendment made by section 1446(d)(3) is effective as of July 6, 2012, and as if included in Pub. L. 112–141 as enacted.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

Pub. L. 112–140, title I, §101(e)(2), June 29, 2012, 126 Stat. 392, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect as if included in section 101 of the Surface Transportation Extension Act of 2012 [Pub. L. 112–102] and shall not be subject to the special rule in section 1(c) of this Act [set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title]."

§328. Eligibility for environmental restoration and pollution abatement

(a) IN GENERAL.—Subject to subsection (b), environmental restoration and pollution abatement to minimize or mitigate the impacts of any transportation project funded under this title (including retrofitting and construction of stormwater treatment systems to meet Federal and State requirements under sections 401 and 402 of the Federal Water Pollution Control Act (33 U.S.C. 1341; 1342)) may be carried out to address water pollution or environmental degradation caused wholly or partially by a transportation facility.

(b) MAXIMUM EXPENDITURE.—In a case in which a transportation facility is undergoing reconstruction, rehabilitation, resurfacing, or restoration, the expenditure of funds under this section for environmental restoration or pollution abatement described in subsection (a) shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration of the facility.

(Added Pub. L. 109–59, title VI, §6006(b), Aug. 10, 2005, 119 Stat. 1872.)

§329. Eligibility for control of noxious weeds and aquatic noxious weeds and establishment of native species

(a) IN GENERAL.—In accordance with all applicable Federal law (including regulations), funds made available to carry out this section may be used for the following activities if such activities are related to transportation projects funded under this title:

(1) Establishment of plants selected by State and local transportation authorities to perform one or more of the following functions: abatement of stormwater runoff, stabilization of soil, provision of habitat, forage, and migratory way stations for Monarch butterflies, other native pollinators, and honey bees, and aesthetic enhancement.

(2) Management of plants which impair or impede the establishment, maintenance, or safe use of a transportation system.

(b) INCLUDED ACTIVITIES.—The establishment and management under subsection (a)(1) and (a)(2) may include—

(1) right-of-way surveys to determine management requirements to control Federal or State

noxious weeds as defined in the Plant Protection Act (7 U.S.C. 7701 et seq.) or State law, and brush or tree species, whether native or nonnative, that may be considered by State or local transportation authorities to be a threat with respect to the safety or maintenance of transportation systems;

(2) establishment of plants, whether native or nonnative with a preference for native to the maximum extent possible, for the purposes defined in subsection (a)(1);

(3) control or elimination of plants as defined in subsection (a)(2);

(4) elimination of plants to create fuel breaks for the prevention and control of wildfires; and

(5) training.

(c) CONTRIBUTIONS.—

(1) IN GENERAL.—Subject to paragraph (2), an activity described in subsection (a) may be carried out concurrently with, in advance of, or following the construction of a project funded under this title.

(2) CONDITION FOR ACTIVITIES CONDUCTED IN ADVANCE OF PROJECT CONSTRUCTION.—An activity described in subsection (a) may be carried out in advance of construction of a project only if the activity is carried out in accordance with all applicable requirements of Federal law (including regulations) and State transportation planning processes.

(Added Pub. L. 109–59, title VI, §6006(b), Aug. 10, 2005, 119 Stat. 1872; amended Pub. L. 114–94, div. A, title I, §1415(b), Dec. 4, 2015, 129 Stat. 1421.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Plant Protection Act, referred to in subsec. (b)(1), is title IV of Pub. L. 106–224, June 20, 2000, 114 Stat. 438, which is classified principally to chapter 104 (§7701 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 7701 of Title 7 and Tables.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114–94 inserted "provision of habitat, forage, and migratory way stations for Monarch butterflies, other native pollinators, and honey bees," before "and aesthetic enhancement".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

INVASIVE PLANT ELIMINATION PROGRAM

Pub. L. 117–58, div. A, title I, §11522, Nov. 15, 2021, 135 Stat. 604, provided that:

"(a) DEFINITIONS.—In this section:

"(1) INVASIVE PLANT.—The term 'invasive plant' means a nonnative plant, tree, grass, or weed species, including, at a minimum, cheatgrass, Ventenata dubia, medusahead, bulbous bluegrass, Japanese brome, rattail fescue, Japanese honeysuckle, phragmites, autumn olive, Bradford pear, wild parsnip, sericea lespedeza, spotted knapweed, garlic mustard, and palmer amaranth.

"(2) PROGRAM.—The term 'program' means the grant program established under subsection (b).

"(3) TRANSPORTATION CORRIDOR.—The term 'transportation corridor' means a road, highway, railroad, or other surface transportation route.

"(b) ESTABLISHMENT.—The Secretary [of Transportation] shall carry out a program to provide grants to States to eliminate or control existing invasive plants or prevent introduction of or encroachment by new invasive plants along and in areas adjacent to transportation corridor rights-of-way.

"(c) APPLICATION.—To be eligible to receive a grant under the program, a State shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(d) ELIGIBLE ACTIVITIES.—

"(1) IN GENERAL.—Subject to this subsection, a State that receives a grant under the program may use the grant funds to carry out activities to eliminate or control existing invasive plants or prevent introduction of or encroachment by new invasive plants along and in areas adjacent to transportation corridor rights-of-way.

"(2) PRIORITIZATION OF PROJECTS.—In carrying out the program, the Secretary shall give priority to projects that utilize revegetation with native plants and wildflowers, including those that are pollinator-friendly.

"(3) PROHIBITION ON CERTAIN USES OF FUNDS.—Amounts provided to a State under the program may not be used for costs relating to mowing a transportation corridor right-of-way or the adjacent area unless—

"(A) mowing is identified as the best means of treatment according to best management practices; or

"(B) mowing is used in conjunction with another treatment.

"(4) LIMITATION.—Not more than 10 percent of the amounts provided to a State under the program may be used for the purchase of equipment.

"(5) ADMINISTRATIVE AND INDIRECT COSTS.—Not more than 5 percent of the amounts provided to a State under the program may be used for the administrative and other indirect costs (such as full time employee salaries, rent, insurance, subscriptions, utilities, and office supplies) of carrying out eligible activities.

"(e) REQUIREMENTS.—

"(1) COORDINATION.—In carrying out eligible activities with a grant under the program, a State shall coordinate with—

"(A) units of local government, political subdivisions of the State, and Tribal authorities that are carrying out eligible activities in the areas to be treated;

"(B) local regulatory authorities, in the case of a treatment along or adjacent to a railroad right-of-way; and

"(C) with respect to the most effective roadside control methods, State and Federal land management agencies and any relevant Tribal authorities.

"(2) ANNUAL REPORT.—Not later than 1 year after the date on which a State receives a grant under the program, and annually thereafter, that State shall provide to the Secretary an annual report on the treatments carried out using funds from the grant.

"(f) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of the cost of an eligible activity carried out using funds from a grant under the program shall be—

"(A) in the case of a project that utilizes revegetation with native plants and wildflowers, including those that are pollinator-friendly, 75 percent; and

"(B) in the case of any other project not described in subparagraph (A), 50 percent.

"(2) CERTAIN FUNDS COUNTED TOWARD NON-FEDERAL SHARE.—A State may include amounts expended by the State or a unit of local government in the State to address current invasive plant populations and prevent future infestation along or in areas adjacent to transportation corridor rights-of-way in calculating the non-Federal share required under the program.

"(g) FUNDING.—There is authorized to be appropriated to carry out the program $50,000,000 for each of fiscal years 2022 through 2026."

§330. Program for eliminating duplication of environmental reviews

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a pilot program to authorize States that have assumed responsibilities of the Secretary under section 327 and are approved to participate in the program under this section to conduct environmental reviews and make approvals for projects under State environmental laws and regulations instead of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), consistent with the requirements of this section.

(2) PARTICIPATING STATES.—The Secretary may select not more than 2 States to participate in the program.

(3) ALTERNATIVE ENVIRONMENTAL REVIEW AND APPROVAL PROCEDURES DEFINED.—In this section, the term "alternative environmental review and approval procedures"

means—

(A) substitution of 1 or more State environmental laws for—

(i) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(ii) any provisions of section 139 establishing procedures for the implementation of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) that are under the authority of the Secretary, as the Secretary, in consultation with the State, considers appropriate; and

(iii) related regulations and Executive orders; and

(B) substitution of 1 or more State environmental regulations for—

(i) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(ii) any provisions of section 139 establishing procedures for the implementation of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) that are under the authority of the Secretary, as the Secretary, in consultation with the State, considers appropriate; and

(iii) related regulations and Executive orders.

(b) APPLICATION.—To be eligible to participate in the program, a State shall submit to the Secretary an application containing such information as the Secretary may require, including—

(1) a full and complete description of the proposed alternative environmental review and approval procedures of the State, including—

(A) the procedures the State uses to engage the public and consider alternatives to the proposed action; and

(B) the extent to which the State considers environmental consequences or impacts on resources potentially impacted by the proposed action (such as air, water, or species);

(2) each Federal requirement described in subsection (a)(3) that the State is seeking to substitute;

(3) each State law or regulation that the State intends to substitute for such Federal requirement;

(4) an explanation of the basis for concluding that the State law or regulation is at least as stringent as the Federal requirement described in subsection (a)(3);

(5) a description of the projects or classes of projects for which the State anticipates exercising the authority that may be granted under the program;

(6) verification that the State has the financial resources necessary to carry out the authority that may be granted under the program;

(7) evidence of having sought, received, and addressed comments on the proposed application from the public; and

(8) any such additional information as the Secretary, or, with respect to section (d)(1)(A), the Secretary in consultation with the Chair, may require.

(c) REVIEW OF APPLICATION.—In accordance with subsection (d), the Secretary shall—

(1) review and accept public comments on an application submitted under subsection (b);

(2) approve or disapprove the application not later than 120 days after the date of receipt of an application that the Secretary determines is complete; and

(3) transmit to the State notice of the approval or disapproval, together with a statement of the reasons for the approval or disapproval.

(d) APPROVAL OF APPLICATION.—

(1) IN GENERAL.—The Secretary shall approve an application submitted under subsection (b) only if—

(A) the Secretary, with the concurrence of the Chair and after considering any public comments received pursuant to subsection (c), determines that the laws and regulations of the State described in the application are at least as stringent as the Federal requirements described

in subsection (a)(3);

(B) the Secretary, after considering any public comments received pursuant to subsection (c), determines that the State has the capacity, including financial and personnel, to assume the responsibility;

(C) the State has executed an agreement with the Secretary in accordance with section 327; and

(D) the State has executed an agreement with the Secretary under this section that—

(i) has been executed by the Governor or the top-ranking transportation official in the State who is charged with responsibility for highway construction;

(ii) is in such form as the Secretary may prescribe;

(iii) provides that the State—

(I) agrees to assume the responsibilities, as identified by the Secretary, under this section;

(II) expressly consents, on behalf of the State, to accept the jurisdiction of the Federal courts under subsection (e)(1) for the compliance, discharge, and enforcement of any responsibility under this section;

(III) certifies that State laws (including regulations) are in effect that—

(aa) authorize the State to take the actions necessary to carry out the responsibilities being assumed; and

(bb) are comparable to section 552 of title 5, including providing that any decision regarding the public availability of a document under those State laws is reviewable by a court of competent jurisdiction; and

(IV) agrees to maintain the financial resources necessary to carry out the responsibilities being assumed;

(iv) requires the State to provide to the Secretary any information the Secretary reasonably considers necessary to ensure that the State is adequately carrying out the responsibilities assigned to the State;

(v) has a term of not more than 5 years; and

(vi) is renewable.

(2) EXCLUSION.—The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to a decision by the Secretary to approve or disapprove an application submitted under this section.

(e) JUDICIAL REVIEW.—

(1) IN GENERAL.—The United States district courts shall have exclusive jurisdiction over any civil action against a State relating to the failure of the State—

(A) to meet the requirements of this section; or

(B) to follow the alternative environmental review and approval procedures approved pursuant to this section.

(2) LIMITATION ON REVIEW.—

(A) IN GENERAL.—Notwithstanding any other provision of law, a claim seeking judicial review of a permit, license, or approval issued by a State under this section shall be barred unless the claim is filed not later than 150 days as set forth in section 139(l) after the date of publication in the Federal Register by the Secretary of a notice that the permit, license, or approval is final pursuant to the law under which the action is taken.

(B) DEADLINES.—

(i) NOTIFICATION.—The State shall notify the Secretary of the final action of the State not later than 10 days after the final action is taken.

(ii) PUBLICATION.—The Secretary shall publish the notice of final action in the Federal

Register not later than 30 days after the date of receipt of the notice under clause (i).

(C) SAVINGS PROVISION.—Nothing in this subsection creates a right to judicial review or places any limit on filing a claim that a person has violated the terms of a permit, license, or approval.

(3) NEW INFORMATION.—

(A) IN GENERAL.—A State shall consider new information received after the close of a comment period if the information satisfies the requirements for a supplemental environmental impact statement under section 771.130 of title 23, Code of Federal Regulations (or successor regulations).

(B) TREATMENT OF FINAL AGENCY ACTION.—

(i) IN GENERAL.—The final agency action that follows preparation of a supplemental environmental impact statement, if required, shall be considered a separate final agency action, and the deadline for filing a claim for judicial review of the action shall be 150 days as set forth in section 139(l) after the date of publication in the Federal Register by the Secretary of a notice announcing such action.

(ii) DEADLINES.—

(I) NOTIFICATION.—The State shall notify the Secretary of the final action of the State not later than 10 days after the final action is taken.

(II) PUBLICATION.—The Secretary shall publish the notice of final action in the Federal Register not later than 30 days after the date of receipt of the notice under subclause (I).

(f) ELECTION.—A State participating in the programs under this section and section 327, at the discretion of the State, may elect to apply the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) instead of the alternative environmental review and approval procedures of the State.

(g) ADOPTION OR INCORPORATION BY REFERENCE OF DOCUMENTS.—To the maximum extent practicable and consistent with Federal law, other Federal agencies with authority over a project subject to this section shall adopt or incorporate by reference documents produced by a participating State under this section to satisfy the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(h) RELATIONSHIP TO LOCALLY ADMINISTERED PROJECTS.—

(1) IN GENERAL.—A State with an approved program under this section, at the request of a local government, may exercise authority under that program on behalf of up to 25 local governments for locally administered projects.

(2) SCOPE.—For up to 25 local governments selected by a State with an approved program under this section, the State shall be responsible for ensuring that any environmental review, consultation, or other action required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or the State program, or both, meets the requirements of such Act or program.

(i) REVIEW AND TERMINATION.—

(1) IN GENERAL.—A State program approved under this section shall at all times be in accordance with the requirements of this section.

(2) REVIEW.—The Secretary shall review each State program approved under this section not less than once every 5 years.

(3) PUBLIC NOTICE AND COMMENT.—In conducting the review process under paragraph (2), the Secretary shall provide notice and an opportunity for public comment.

(4) WITHDRAWAL OF APPROVAL.—If the Secretary, in consultation with the Chair, determines at any time that a State is not administering a State program approved under this section in accordance with the requirements of this section, the Secretary shall so notify the State, and if appropriate corrective action is not taken within a reasonable time, not to exceed 90 days, the Secretary shall withdraw approval of the State program.

(5) EXTENSIONS AND TERMINATIONS.—At the conclusion of the review process under paragraph (2), the Secretary may extend for an additional 5-year period or terminate the authority of a State under this section to substitute the laws and regulations of the State for the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(j) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this section, and annually thereafter, the Secretary 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 describes the administration of the program, including—

(1) the number of States participating in the program;

(2) the number and types of projects for which each State participating in the program has used alternative environmental review and approval procedures;

(3) a description and assessment of whether implementation of the program has resulted in more efficient review of projects; and

(4) any recommendations for modifications to the program.

(k) SUNSET.—The program shall terminate 12 years after the date of enactment of this section.

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

(1) CHAIR.—The term "Chair" means the Chair of the Council on Environmental Quality.

(2) MULTIMODAL PROJECT.—The term "multimodal project" has the meaning given that term in section 139(a).

(3) PROGRAM.—The term "program" means the pilot program established under this section.

(4) PROJECT.—The term "project" means—

(A) a project requiring approval under this title, chapter 53 of subtitle III of title 49, or subtitle V of title 49; and

(B) a multimodal project.

(Added Pub. L. 114–94, div. A, title I, §1309(b), Dec. 4, 2015, 129 Stat. 1392; amended Pub. L. 115–254, div. B, title V, §578, Oct. 5, 2018, 132 Stat. 3394.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (a)(1), (3)(A)(i), (ii), (B)(i), (ii), (d)(2), (f), (g), (h)(2), and (i)(5), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The date of enactment of this section, referred to in subsecs. (j) and (k), is the date of enactment of Pub. L. 114–94, which was approved Dec. 4, 2015.

AMENDMENTS

2018—Subsec. (a)(2). Pub. L. 115–254, §578(1), substituted "2 States" for "5 States".

Subsec. (e)(2)(A), (3)(B)(i). Pub. L. 115–254, §578(2), substituted "150 days as set forth in section 139(l)" for "2 years".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

PURPOSE

Pub. L. 114–94, div. A, title I, §1309(a), Dec. 4, 2015, 129 Stat. 1392, provided that: "The purpose of this section [enacting this section and provisions set out as a note under this section] is to eliminate duplication of environmental reviews and approvals under State laws and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)."

RULEMAKING

Pub. L. 114–94, div. A, title I, §1309(c), Dec. 4, 2015, 129 Stat. 1396, provided that:

"(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act [Dec. 4, 2015], the Secretary [of Transportation], in consultation with the Chair of the Council on Environmental Quality, shall promulgate regulations to implement the requirements of section 330 of title 23, United States Code, as added by this section.

"(2) DETERMINATION OF STRINGENCY.—As part of the rulemaking required under this subsection, the Chair shall—

"(A) establish the criteria necessary to determine that a State law or regulation is at least as stringent as a Federal requirement described in section 330(a)(3) of title 23, United States Code; and

"(B) ensure that the criteria, at a minimum—

"(i) provide for protection of the environment;

"(ii) provide opportunity for public participation and comment, including access to the documentation necessary to review the potential impact of a project; and

"(iii) ensure a consistent review of projects that would otherwise have been covered under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)."

§331. Evaluation of projects within an operational right-of-way

(a) DEFINITIONS.—

(1) ELIGIBLE PROJECT OR ACTIVITY.—

(A) IN GENERAL.—In this section, the term "eligible project or activity" means a project or activity within an existing operational right-of-way (as defined in section 771.117(c)(22) of title 23, Code of Federal Regulations (or successor regulations))—

(i)(I) eligible for assistance under this title; or

(II) administered as if made available under this title;

(ii) that is—

(I) a preventive maintenance, preservation, or highway safety improvement project (as defined in section 148(a)); or

(II) a new turn lane that the State advises in writing to the Secretary would assist public safety; and

(iii) that—

(I) is classified as a categorical exclusion under section 771.117 of title 23, Code of Federal Regulations (or successor regulations); or

(II) if the project or activity does not receive assistance described in clause (i) would be considered a categorical exclusion if the project or activity received assistance described in clause (i).

(B) EXCLUSION.—The term "eligible project or activity" does not include a project to create a new travel lane.

(2) PRELIMINARY EVALUATION.—The term "preliminary evaluation", with respect to an application described in subsection (b)(1), means an evaluation that is customary or practicable for the relevant agency to complete within a 45-day period for similar applications.

(3) RELEVANT AGENCY.—The term "relevant agency" means a Federal agency, other than the Federal Highway Administration, with responsibility for review of an application from a State for a permit, approval, or jurisdictional determination for an eligible project or activity.

(b) ACTION REQUIRED.—

(1) IN GENERAL.—Subject to paragraph (2), not later than 45 days after the date of receipt of an application by a State for a permit, approval, or jurisdictional determination for an eligible project or activity, the head of the relevant agency shall—

(A) make at least a preliminary evaluation of the application; and
(B) notify the State of the results of the preliminary evaluation under subparagraph (A).

(2) EXTENSION.—The head of the relevant agency may extend the review period under paragraph (1) by not more than 30 days if the head of the relevant agency provides to the State written notice that includes an explanation of the need for the extension.
(3) FAILURE TO ACT.—If the head of the relevant agency fails to meet a deadline under paragraph (1) or (2), as applicable, the head of the relevant agency shall—
(A) not later than 30 days after the date of the missed deadline, submit to the State, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes why the deadline was missed; and
(B) not later than 14 days after the date on which a report is submitted under subparagraph (A), make publicly available, including on the internet, a copy of that report.

(Added Pub. L. 117–58, div. A, title I, §11309(a), Nov. 15, 2021, 135 Stat. 535.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as an Effective Date of 2021 Amendment note under section 101 of this title.

§332. Pollinator-friendly practices on roadsides and highway rights-of-way

(a) IN GENERAL.—The Secretary shall establish a program to provide grants to eligible entities to carry out activities to benefit pollinators on roadsides and highway rights-of-way, including the planting and seeding of native, locally-appropriate grasses and wildflowers, including milkweed.
(b) ELIGIBLE ENTITIES.—An entity eligible to receive a grant under this section is—
(1) a State department of transportation;
(2) an Indian tribe; or
(3) a Federal land management agency.

(c) APPLICATION.—To be eligible to receive a grant under this section, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a pollinator-friendly practices plan described in subsection (d).
(d) POLLINATOR-FRIENDLY PRACTICES PLAN.—
(1) IN GENERAL.—An eligible entity shall include in the application under subsection (c) a plan that describes the pollinator-friendly practices that the eligible entity has implemented or plans to implement, including—
(A) practices relating to mowing strategies that promote early successional vegetation and limit disturbance during periods of highest use by target pollinator species on roadsides and highway rights-of-way, such as—
(i) reducing the mowing swath outside of the State-designated safety zone;
(ii) increasing the mowing height;
(iii) reducing the mowing frequency;
(iv) refraining from mowing monarch and other pollinator habitat during periods in which monarchs or other pollinators are present;
(v) use of a flushing bar and cutting at reduced speeds to reduce pollinator deaths due to mowing; or
(vi) reducing raking along roadsides and highway rights-of-way;

(B) implementation of an integrated vegetation management plan that includes approaches such as mechanical tree and brush removal, targeted and judicious use of herbicides, and mowing, to address weed issues on roadsides and highway rights-of-way;

(C) planting or seeding of native, locally-appropriate grasses and wildflowers, including milkweed, on roadsides and highway rights-of-way to enhance pollinator habitat, including larval host plants;

(D) removing nonnative grasses from planting and seeding mixes, except for use as nurse or cover crops;

(E) obtaining expert training or assistance on pollinator-friendly practices, including—

(i) native plant identification;

(ii) establishment and management of locally-appropriate native plants that benefit pollinators;

(iii) land management practices that benefit pollinators; and

(iv) pollinator-focused integrated vegetation management; or

(F) any other pollinator-friendly practices the Secretary determines to be appropriate.

(2) COORDINATION.—In developing a plan under paragraph (1), an eligible entity that is a State department of transportation or a Federal land management agency shall coordinate with applicable State agencies, including State agencies with jurisdiction over agriculture and fish and wildlife.

(3) CONSULTATION.—In developing a plan under paragraph (1)—

(A) an eligible entity that is a State department of transportation or a Federal land management agency shall consult with affected or interested Indian tribes; and

(B) any eligible entity may consult with nonprofit organizations, institutions of higher education, metropolitan planning organizations, and any other relevant entities.

(e) AWARD OF GRANTS.—

(1) IN GENERAL.—The Secretary shall provide a grant to each eligible entity that submits an application under subsection (c), including a plan under subsection (d), that the Secretary determines to be satisfactory.

(2) AMOUNT OF GRANTS.—The amount of a grant under this section—

(A) shall be based on the number of pollinator-friendly practices the eligible entity has implemented or plans to implement; and

(B) shall not exceed $150,000.

(f) USE OF FUNDS.—An eligible entity that receives a grant under this section shall use the funds for the implementation, improvement, or further development of the plan under subsection (d).

(g) FEDERAL SHARE.—The Federal share of the cost of an activity carried out with a grant under this section shall be 100 percent.

(h) BEST PRACTICES.—The Secretary shall develop and make available to eligible entities best practices for, and a priority ranking of, pollinator-friendly practices on roadsides and highway rights-of-way.

(i) TECHNICAL ASSISTANCE.—On request of an eligible entity that receives a grant under this section, the Secretary shall provide technical assistance with the implementation, improvement, or further development of a plan under subsection (d).

(j) ADMINISTRATIVE COSTS.—For each fiscal year, the Secretary may use not more than 2 percent of the amounts made available to carry out this section for the administrative costs of carrying out this section.

(k) REPORT.—Not later than 1 year after the date on which the first grant is provided under this section, 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 report on the implementation of the program under this section.

(l) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $2,000,000 for each of fiscal years 2022 through 2026.

(2) AVAILABILITY.—Amounts made available under this section shall remain available for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

(Added Pub. L. 117–58, div. A, title I, §11528(a), Nov. 15, 2021, 135 Stat. 610.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as an Effective Date of 2021 Amendment note under section 101 of this title.

CHAPTER 4—HIGHWAY SAFETY

Sec.

401. Authority of the Secretary.
402. Highway safety programs.
403. Highway safety research and development.
404. High-visibility enforcement program.
405. National priority safety programs.
406. General requirements for Federal assistance.
407. Discovery and admission as evidence of certain reports and surveys.
408. Agency accountability.
[409. Renumbered.]
[410, 411. Repealed.]
[412. Renumbered.]

EDITORIAL NOTES

AMENDMENTS

2021—Pub. L. 117–58, div. B, title IV, §24101(d)(2), Nov. 15, 2021, 135 Stat. 785, which directed amendment of this analysis by striking out items 406 to 412 and adding new items 406 to 408, was executed by adding new items 406 to 408 and striking out items 409 "Discovery and admission as evidence of certain reports and surveys" and 412 "Agency accountability" to reflect the probable intent of Congress, as items 406 to 408, 410, and 411 had already been struck out by Pub. L. 112–141. See 2012 Amendment note below.

2015—Pub. L. 114–94, div. A, title IV, §4004(b), Dec. 4, 2015, 129 Stat. 1501, substituted "High-visibility enforcement program" for "National Highway Safety Advisory Committee" in item 404.

2012—Pub. L. 112–141, div. C, title I, §§31105(b), 31109(b)–(f), July 6, 2012, 126 Stat. 755–757, substituted "National priority safety programs" for "Occupant protection incentive grants" in item 405 and struck out items 406 "Safety belt performance grants", 407 "Innovative project grants", 408 "State traffic safety information system improvements", 410 "Alcohol-impaired driving countermeasures", and 411 "State highway safety data improvements".

2005—Pub. L. 109–59, title II, §§2005(b), 2006(b), 2008(b), Aug. 10, 2005, 119 Stat. 1527, 1529, 1535, substituted "Safety belt performance grants" for "School bus driver training" in item 406 and "State traffic safety information system improvements" for "Alcohol traffic safety programs" in item 408 and added item 412.

1998—Pub. L. 105–178, title II, §§2003(a)(2), 2005(b), June 9, 1998, 112 Stat. 327, 334, substituted "Occupant protection incentive grants" for "Repealed" in item 405 and added item 411.

1991—Pub. L. 102–240, title I, §1035(b), title II, §2004(c), Dec. 18, 1991, 105 Stat. 1978, 2079, substituted "Discovery and admission" for "Admission" in item 409 and "Alcohol-impaired driving countermeasures" for "Drunk driving prevention programs" in item 410.

1988—Pub. L. 100–690, title IX, §9002(b), Nov. 18, 1988, 102 Stat. 4525, added item 410.

1987—Pub. L. 100–17, title I, §132(b), Apr. 2, 1987, 101 Stat. 170, added item 409.

1982—Pub. L. 97–364, title I, §101(b), Oct. 25, 1982, 96 Stat. 1740, added item 408.

1978—Pub. L. 95–599, title II, §208(b), Nov. 6, 1978, 92 Stat. 2732, added item 407.

1976—Pub. L. 94–280, title I, §135(d), May 5, 1976, 90 Stat. 442, substituted item 405 "Repealed" for "Federal-aid safer roads demonstration program".

1975—Pub. L. 93–643, §126(b), Jan. 4, 1975, 88 Stat. 2291, added item 406.

1973—Pub. L. 93–87, title II, §230(b), Aug. 13, 1973, 87 Stat. 294, added item 405.

§401. Authority of the Secretary

The Secretary is authorized and directed to assist and cooperate with other Federal departments and agencies, State and local governments, private industry, and other interested parties, to increase highway safety. For the purposes of this chapter, the term "State" means any one of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(Added Pub. L. 89–564, title I, §101, Sept. 9, 1966, 80 Stat. 731; amended Pub. L. 93–87, title II, §218, Aug. 13, 1973, 87 Stat. 290; Pub. L. 98–363, §3(b), July 17, 1984, 98 Stat. 436; Pub. L. 100–17, title I, §133(b)(19), Apr. 2, 1987, 101 Stat. 172.)

EDITORIAL NOTES

AMENDMENTS

1987—Pub. L. 100–17 inserted reference in second sentence to Commonwealth of the Northern Mariana Islands.

1984—Pub. L. 98–363 struck out ", except that all expenditures for carrying out this chapter in the Virgin Islands, Guam, and American Samoa shall be paid out of money in the Treasury not otherwise appropriated" after "and American Samoa".

1973—Pub. L. 93–87 inserted definition of "State" and provided that all expenditures for carrying out this chapter in the Virgin Islands, Guam, and American Samoa shall be paid out of money in the Treasury not otherwise appropriated.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–363, §3(c), July 17, 1984, 98 Stat. 436, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 402 of this title] shall apply to fiscal years beginning after the date of enactment of this Act [July 17, 1984]."

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–240, title II, §2001, Dec. 18, 1991, 105 Stat. 2070, provided that: "This part [part A (§§2001–2009) of title II of Pub. L. 102–240, amending sections 402, 403, and 410 of this title, enacting provisions set out as notes under sections 402, 403, and 410 of this title, and amending provisions set out below] may be cited as the 'Highway Safety Act of 1991'."

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–690, title IX, §9001, Nov. 18, 1988, 102 Stat. 4521, provided that: "This subtitle [subtitle A (§§9001 to 9005) of title IX of Pub. L. 100–690, enacting section 410 of this title and provisions set out as notes under sections 403 and 410 of this title] may be cited as the 'Drunk Driving Prevention Act of 1988'."

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100–17, title II, §201, Apr. 2, 1987, 101 Stat. 218, provided that: "This title [amending sections 402 and 408 of this title and section 2314 of former Title 49, Transportation, enacting provisions set out as notes under this section, section 402 of this title, and section 2204 of former Title 49, and amending provisions set out as a note under this section] be cited as the 'Highway Safety Act of 1987'."

SHORT TITLE OF 1983 AMENDMENT

Pub. L. 97–424, title II, §201, Jan. 6, 1983, 96 Stat. 2137, provided that: "This title [amending section 402 of this title and enacting provisions set out as notes under this section and sections 130, 154, and 408 of this

title] may be cited as the 'Highway Safety Act of 1982'."

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–599, title II, §201, Nov. 6, 1978, 92 Stat. 2727, provided that: "This title [enacting section 407 of this title, amending sections 154 and 402 of this title, and enacting provisions set out as notes under this section and sections 130, 307, 402, and 403 of this title] may be cited as the 'Highway Safety Act of 1978'."

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94–280, title II, §201, May 5, 1976, 90 Stat. 451, provided that: "That title [amending sections 104, 151, 402, 404, and 406 of this title and provisions set out as a note under section 130 of this title and enacting provisions set out as notes under sections 127 and 402 of this title] may be cited as the 'Highway Safety Act of 1976'."

SHORT TITLE OF 1973 AMENDMENT

Pub. L. 93–87, title II, §201, Aug. 13, 1973, 87 Stat. 282, provided that: "This title [enacting sections 151 to 153 and 405 of this title, amending this section and sections 104 and 402 to 404 of this title, and enacting provisions set out as notes under this section and sections 130, 144, 151, 217, and 403 of this title] may be cited as the 'Highway Safety Act of 1973'."

SHORT TITLE OF 1970 AMENDMENT

Pub. L. 91–605, title II, §201, Dec. 31, 1970, 84 Stat. 1739, provided that: "This title [enacting sections 144 and 322 of this title, amending provisions set out as notes under this section and section 402 of this title, and enacting provisions set out as notes under this section and section 402 of this title] may be cited as the 'Highway Safety Act of 1970'."

SHORT TITLE

Pub. L. 89–564, title II, §208, Sept. 9, 1966, 80 Stat. 737, provided that: "This Act [enacting this chapter, amending sections 105 and 307 of this title, repealing sections 135 and 313 of this title, and enacting provisions set out as notes under this section and sections 303, 307, 402, and 403 of this title] may be cited as the 'Highway Safety Act of 1966'."

TRANSPORTATION MANAGEMENT PLANS

Pub. L. 117–58, div. A, title I, §11303, Nov. 15, 2021, 135 Stat. 530, provided that:

"(a) IN GENERAL.—The Secretary [of Transportation] shall amend section 630.1010(c) of title 23, Code of Federal Regulations, to ensure that only a project described in that subsection with a lane closure for 3 or more consecutive days shall be considered to be a significant project for purposes of that section.

"(b) NON-INTERSTATE PROJECTS.—Notwithstanding any other provision of law, a State shall not be required to develop or implement a transportation management plan (as described in section 630.1012 of title 23, Code of Federal Regulations (or successor regulations)) for a highway project not on the Interstate System if the project requires not more than 3 consecutive days of lane closures."

HIGHWAY SAFETY GRANTS EMERGENCY AUTHORITY

Pub. L. 116–260, div. N, title IV, §442, Dec. 27, 2020, 134 Stat. 2069, provided that: "Notwithstanding any other provision of law, in fiscal year 2021, the Secretary of Transportation may exercise the authority provided by section 22005 of division B of the CARES Act (23 U.S.C. 401 note [set out below]; Public Law 116–136)."

Pub. L. 116–136, div. B, title XII, §22005, Mar. 27, 2020, 134 Stat. 613, provided that:

"(a) IN GENERAL.—The Secretary of Transportation (referred to in this section as the 'Secretary') may waive or postpone any requirement under section 402, 404, 405, or 412 of title 23, United States Code, section 4001 of the FAST Act (Public Law 114–94; 129 Stat. 1497) [23 U.S.C. 401 note, 402 note], or part 1300 of title 23, Code of Federal Regulations (or successor regulations), if the Secretary determines that—

"(1) the Coronavirus Disease 2019 (COVID–19) is having a substantial impact on—

"(A) the ability of States to implement or carry out any grant, campaign, or program under those provisions; or

"(B) the ability of the Secretary to carry out any responsibility of the Secretary with respect to a grant, campaign, or program under those provisions; or

"(2) the requirements of those provisions are having a substantial impact on the ability of States or the Secretary to address the Coronavirus Disease 2019 (COVID–19).

"(b) REPORT.—The Secretary shall periodically submit to the relevant committees of Congress a report

describing—

"(1) each determination made by the Secretary under subsection (a); and

"(2) each waiver or postponement of a requirement under that subsection.

"(c) EMERGENCY REQUIREMENT.—The amount provided by this section is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C. 901(b)(2)(A)(i)]."

WILDLIFE VEHICLE COLLISION REDUCTION STUDY

Pub. L. 109–59, title I, §1119(n), Aug. 10, 2005, 119 Stat. 1190, provided that:

"(1) IN GENERAL.—The Secretary [of Transportation] shall conduct a study of methods to reduce collisions between motor vehicles and wildlife (in this subsection referred to as 'wildlife vehicle collisions').

"(2) CONTENTS.—

"(A) AREAS OF STUDY.—The study shall include an assessment of the causes and impacts of wildlife vehicle collisions and solutions and best practices for reducing such collisions.

"(B) METHODS FOR CONDUCTING THE STUDY.—In carrying out the study, the Secretary shall—

"(i) conduct a thorough literature review; and

"(ii) survey current practices of the Department of Transportation.

"(3) CONSULTATION.—In carrying out the study, the Secretary shall consult with appropriate experts in the field of wildlife vehicle collisions.

"(4) REPORT.—

"(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [Aug. 10, 2005], the Secretary shall submit to Congress a report on the results of the study.

"(B) CONTENTS.—The report shall include a description of each of the following:

"(i) Causes of wildlife vehicle collisions.

"(ii) Impacts of wildlife vehicle collisions.

"(iii) Solutions to and prevention of wildlife vehicle collisions.

"(5) MANUAL.—

"(A) DEVELOPMENT.—Based upon the results of the study, the Secretary shall develop a best practices manual to support State efforts to reduce wildlife vehicle collisions.

"(B) AVAILABILITY.—The manual shall be made available to States not later than 1 year after the date of transmission of the report under paragraph (4).

"(C) CONTENTS.—The manual shall include, at a minimum, the following:

"(i) A list of best practices addressing wildlife vehicle collisions.

"(ii) A list of information, technical, and funding resources for addressing wildlife vehicle collisions.

"(iii) Recommendations for addressing wildlife vehicle collisions.

"(iv) Guidance for developing a State action plan to address wildlife vehicle collisions.

"(6) TRAINING.—Based upon the manual developed under paragraph (5), the Secretary shall develop a training course on addressing wildlife vehicle collisions for transportation professionals."

WORKER INJURY PREVENTION AND FREE FLOW OF VEHICULAR TRAFFIC

Pub. L. 109–59, title I, §1402, Aug. 10, 2005, 119 Stat. 1227, provided that: "Not later than 1 year after the date of enactment of this Act [Aug. 10, 2005], the Secretary [of Transportation] shall issue regulations to decrease the likelihood of worker injury and maintain the free flow of vehicular traffic by requiring workers whose duties place them on or in close proximity to a Federal-aid highway (as defined in section 101 of title 23, United States Code) to wear high visibility garments. The regulations may also require such other worker-safety measures for workers with those duties as the Secretary determines to be appropriate."

ROADWAY SAFETY IMPROVEMENTS FOR OLDER DRIVERS AND PEDESTRIANS

Pub. L. 109–59, title I, §1405, Aug. 10, 2005, 119 Stat. 1230, provided that:

"(a) IN GENERAL.—The Secretary [of Transportation] shall carry out a program to improve traffic signs and pavement markings in all States (as such term is defined in section 101 of title 23, United States Code) in a manner consistent with the recommendations included in the publication of the Federal Highway Administration entitled 'Guidelines and Recommendations to Accommodate Older Drivers and Pedestrians (FHWA–RD–01–103)' and dated October 2001.

"(b) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this section shall be determined in accordance with section 120 of title 23, United States Code.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as

may be necessary to carry out this section for each of fiscal years 2005 through 2009."

WORK ZONE AND GUARD RAIL SAFETY TRAINING

Pub. L. 109–59, title I, §1409(a)–(c), Aug. 10, 2005, 119 Stat. 1232, as amended by Pub. L. 114–94, div. A, title I, §1417(a)(2), Dec. 4, 2015, 129 Stat. 1423, provided that:

"(a) IN GENERAL.—The Secretary [of Transportation] shall establish and implement a work zone safety grant program under which the Secretary may make grants to nonprofit organizations and not-for-profit organizations to provide training to prevent or reduce highway work zone injuries and fatalities.

"(b) ELIGIBLE ACTIVITIES.—Grants may be made under the program for the following purposes:

"(1) Training for construction craft workers on the prevention of injuries and fatalities in highway and road construction.

"(2) Development of guidelines for the prevention of highway work zone injuries and fatalities.

"(3) Training for State and local government transportation agencies and other groups implementing guidelines for the prevention of highway work zone injuries and fatalities.

"(4) Development, updating, and delivery of training courses on guard rail installation, maintenance, and inspection.

"(c) 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 $5,000,000 for each of fiscal years 2006 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."

PROHIBITION ON OTHER USES

Pub. L. 117–58, div. B, title IV, §24101(b), Nov. 15, 2021, 135 Stat. 784, provided that: "Except as otherwise provided in chapter 4 of title 23, and chapter 303 of title 49, United States Code, the amounts made available under subsection (a) [of section 24101 of Pub. L. 117–58, 135 Stat. 784] or any other provision of law from the Highway Trust Fund (other than the Mass Transit Account) for a program under those chapters—

"(1) shall only be used to carry out that program; and

"(2) may not be used by a State or local government for construction purposes."

Similar provisions were contained in the following prior acts:

Pub. L. 114–94, div. A, title IV, §4001(b), Dec. 4, 2015, 129 Stat. 1498.

Pub. L. 112–141, div. C, title I, §31101(b), July 6, 2012, 126 Stat. 733.

Pub. L. 109–59, title II, §2001(b), Aug. 10, 2005, 119 Stat. 1520.

USE OF UNIFORMED POLICE OFFICERS ON FEDERAL-AID HIGHWAY CONSTRUCTION PROJECTS

Pub. L. 105–178, title I, §1213(c), June 9, 1998, 112 Stat. 200, provided that the Secretary, in consultation with the States, State transportation departments, and law enforcement organizations, would conduct a study on the extent and effectiveness of use by States of uniformed police officers on Federal-aid highway construction projects, and would submit to Congress, not later than 2 years after June 9, 1998, a report on the results of the study, including any legislative and administrative recommendations.

RADIO AND MICROWAVE TECHNOLOGY FOR MOTOR VEHICLE SAFETY WARNING SYSTEM

Pub. L. 104–59, title III, §358(c), Nov. 28, 1995, 109 Stat. 625, provided that:

"(1) STUDY.—The Secretary, in consultation with the Federal Communications Commission and the National Telecommunications and Information Administration, shall conduct a study to develop and evaluate radio and microwave technology for a motor vehicle safety warning system in furtherance of safety in all types of motor vehicles.

"(2) EQUIPMENT.—Equipment developed under the study shall be directed toward, but not limited to, advance warning to operators of all types of motor vehicles of—

"(A) temporary obstructions in a highway;

"(B) poor visibility and highway surface conditions caused by adverse weather; and

"(C) movement of emergency vehicles.

"(3) SAFETY APPLICATIONS.—In conducting the study, the Secretary shall determine whether the technology described in this subsection has other appropriate safety applications."

WORK ZONE SAFETY PROGRAM

Pub. L. 117–58, div. A, title I, §11302, Nov. 15, 2021, 135 Stat. 530, provided that: "The Secretary [of Transportation] shall amend section 630.1008(e) of title 23, Code of Federal Regulations, to ensure that the work zone process review under that subsection is required not more frequently than once every 5 years."

Pub. L. 109–59, title I, §1410, Aug. 10, 2005, 119 Stat. 1233, provided that:

"(a) GRANTS.—The Secretary [of Transportation] shall make grants for fiscal years 2006 through 2009 to a national nonprofit foundation for the operation of the National Work Zone Safety Information Clearinghouse, authorized by section 358(b)(2) of Public Law 104–59 [set out below], created for the purpose of assembling and disseminating, by electronic and other means, information relating to improvement of roadway work zone safety.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $1,000,000 for each of fiscal years 2006 through 2009.

"(c) 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 the Federal share of the cost of activities carried out using such funds shall be 100 percent, and such funds shall remain available until expended and shall not be transferable."

Pub. L. 104–59, title III, §358(b), Nov. 28, 1995, 109 Stat. 625, provided that: "In carrying out the work zone safety program under section 1051 of the Intermodal Surface Transportation Efficiency Act of 1991 [Pub. L. 102–240] (23 U.S.C. 401 note; 105 Stat. 2001), the Secretary shall utilize a variety of methods to increase safety at highway construction sites, including each of the following:

"(1) Conducting conferences to explore new techniques and stimulate dialogue for improving work zone safety.

"(2) Establishing a national clearinghouse to assemble and disseminate, by electronic and other means, information relating to the improvement of work zone safety.

"(3) Conducting a national promotional campaign in cooperation with the States to provide timely, site-specific information to motorists when construction workers are actually present.

"(4) Encouraging the use of enforceable speed limits in work zones.

"(5) Developing training programs for work site designers and construction workers to promote safe work zone practices.

"(6) Encouraging the use of unit price bid items in contracts for traffic control devices and implementation of traffic control plans."

Pub. L. 102–240, title I, §1051, Dec. 18, 1991, 105 Stat. 2001, provided that: "The Secretary shall develop and implement a work zone safety program which will improve work zone safety at highway construction sites by enhancing the quality and effectiveness of traffic control devices, safety appurtenances, traffic control plans, and bidding practices for traffic control devices and services."

OLDER DRIVERS AND OTHER SPECIAL DRIVER GROUPS

Pub. L. 104–59, title III, §358(a), Nov. 28, 1995, 109 Stat. 625, provided that:

"(1) STUDY.—The Secretary shall conduct a study of technologies and practices to improve the driving performance of older drivers and other special driver groups.

"(2) DEMONSTRATION ACTIVITIES.—In conducting the study under paragraph (1), the Secretary shall undertake demonstration activities that incorporate and build upon gerontology research related to the study of the normal aging process. The Secretary shall initially implement such activities in those States that have the highest population of aging citizens for whom driving a motor vehicle is their primary mobility mode.

"(3) COOPERATIVE AGREEMENT.—The Secretary shall conduct the study under paragraph (1) by entering into a cooperative agreement with an institution that has demonstrated competencies in gerontological research, population demographics, human factors related to transportation, and advanced technology applied to transportation."

Pub. L. 100–17, title II, §208, Apr. 2, 1987, 101 Stat. 222, as amended by Pub. L. 100–202, §101(l) [title III, §348(h)], Dec. 22, 1987, 101 Stat. 1329–358, 1329–389, directed Secretary to enter into appropriate arrangements with National Academy of Sciences to conduct a comprehensive study and investigation of (1) problems which could inhibit the safety and mobility of older drivers using the Nation's roads, and (2) means of addressing these problems, to request the Academy to report to Secretary and Congress not later than 24 months after Apr. 2, 1987, on the results of such study and investigation, to furnish to the Academy any information which it deems necessary for conducting the investigation and study, and to develop, in

conjunction with the study, a pilot program of highway safety improvements to enhance the safety and mobility of older drivers and, not later than 3 years after Apr. 2, 1987, to evaluate the pilot program and report to Congress on the effectiveness of the program in improving the safety and mobility of older drivers.

ANNUAL REPORT BY SECRETARY OF TRANSPORTATION ON HIGHWAY SAFETY PERFORMANCE OF EACH STATE

Pub. L. 97–424, title II, §207, Jan. 6, 1983, 96 Stat. 2139, provided that: "The Secretary of Transportation shall prepare, publish, and submit to Congress not later than December 31 of each calendar year beginning after December 31, 1982, a report on the highway safety performance of each State in the preceding calendar year. Such report shall provide data on highway fatalities and injuries and motor vehicle accidents involving fatalities and injuries and travel in urban areas of each State for each system of highways and in rural areas of such State for each system of highways. Such report shall be in such form and contain such other information on highway accidents as will permit an evaluation and comparison of highway safety performance of the States. For purposes of this section (1) the systems of highways in a State are the Federal-aid primary system, the Federal-aid secondary system, the Federal-aid urban system, and the Interstate System (as such terms are defined in section 101 of title 23, United States Code) and the other highways in such State which are not on the Federal-aid system, and (2) the terms 'State', 'rural areas', and 'urban area' have the meaning such terms have under section 101."

[For termination, effective May 15, 2000, of provisions relating to submittal of report to Congress in section 207 of Pub. L. 97–424, set out above, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 136 of House Document No. 103–7.]

NATIONAL DRIVER REGISTRATION

Pub. L. 97–364, title II, §§201–211, Oct. 25, 1982, 96 Stat. 1740–1748, as amended by Pub. L. 100–223, title III, §305, Dec. 30, 1987, 101 Stat. 1525; Pub. L. 100–342, §4(b), June 22, 1988, 102 Stat. 626; Pub. L. 101–380, title IV, §4105(a), Aug. 18, 1990, 104 Stat. 512; Pub. L. 102–240, title II, §2007, Dec. 18, 1991, 105 Stat. 2080, directed Secretary of Transportation to establish and maintain a National Driver Register to assist States in exchange of information on motor vehicle driving records of individuals and provided for reports by State officials, accessibility of Register information, a pilot test program, criminal penalties, an advisory committee, and a report to Congress by the Secretary, prior to repeal by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, and Pub. L. 103–429, §8(10), Oct. 31, 1994, 108 Stat. 4390, and was restated in part in chapter 303 of Title 49, Transportation.

PILOT PROJECTS FOR HIGHWAY SAFETY EDUCATION AND INFORMATION

Pub. L. 95–599, title II, §209, Nov. 6, 1978, 92 Stat. 2732, as amended by Pub. L. 97–424, title II, §206, Jan. 6, 1983, 96 Stat. 2139; Pub. L. 100–17, title II, §207, Apr. 2, 1987, 101 Stat. 221, provided that:

"(a) The Secretary of Transportation shall carry out six pilot projects designed, through the use of television and radio, to develop and evaluate techniques, methods, and practices to achieve maximum measurable effectiveness in reducing traffic accidents, injuries, and deaths.

"(b) Each pilot project authorized by this section shall be in operation not later than the one hundred and eightieth day after the date of the first appropriation of funds made under authority of this section, and shall be conducted for a one-year period. Not later than the ninetieth day after the end of each such one-year period, the Secretary of Transportation shall report to Congress the results of such project, including, but not limited to, an evaluation of the effectiveness of such project and a statistical analysis of the traffic accidents and fatalities within the project area during such one-year period.

"(c) There is authorized to be appropriated, out of the Highway Trust Fund, to carry out subsections (a) and (b) of this section, $6,000,000, to remain available until expended.

"(d) NATIONAL HIGHWAY SAFETY CAMPAIGN.—Utilizing those techniques, methods, and practices determined most effective under subsection (b), the Secretary of Transportation shall conduct a national highway safety campaign utilizing the local and national television and radio to educate and inform the public of techniques, methods, and practices to reduce the number and severity of highway accidents. Not later than the 180th day after the date of submission of the first report to Congress required by subsection (b) of this section, the Secretary shall commence the conduct of such campaign.

"(e) Such campaign is authorized to be conducted in cooperation with interested government and nongovernment authorities, agencies, organizations, institutions, businesses, and individuals, and shall utilize to the extent possible nongovernmental professional organizations equipped and experienced to conduct such campaign.

"(f) The Secretary of Transportation shall engage such private firms or organizations as he determines necessary to conduct an on-going evaluation of the national campaign authorized by subsection (d) of this

section to determine ways and means for encouraging the participation and cooperation of television and radio station licensees, for measuring audience reactions to on-going highway safety programming for evaluating the effectiveness of such programs in terms of the number of lives saved and the reduction in injuries, and for the purpose of developing new programs for the promotion of highway safety. Such evaluation shall include determinations of those programs designed to encourage the voluntary use of safety belts which are most effective and shall include recommendations for new methods and approaches which will result in greater voluntary utilization of safety belts by the public.

"(g) The Secretary of Transportation shall submit a report to the Congress on July 1 of each year in which the campaign is in progress on the results of such evaluation and on the steps being taken by the Secretary of Transportation to implement the recommendations of such evaluation.

"(h) For the purpose of carrying out subsections (d), (e), (f), and (g) of this section, there is authorized to be appropriated out of the Highway Trust Fund, $10,000,000, to remain available until expended. None of the amounts authorized by this subsection shall be available for obligation for any education or information program conducted in connection with the implementation of Federal Motor Vehicle Safety Standard 208 (49 C.F.R. 571.208).

"(i) All provisions of chapter 1 of title 23, United States Code, that are applicable to Federal-aid primary highway funds, other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section and except that the funds authorized to be appropriated to carry out this section shall not be subject to any obligation limitation."

[For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which a report required under section 209(g) of Pub. L. 95–599, set out above, is listed on page 139), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.]

HIGHWAY SAFETY EDUCATIONAL PROGRAMING AND STUDY; REPORT TO CONGRESS; SERIES OF HIGHWAY SAFETY TELEVISION PROGRAMS; APPROPRIATIONS AUTHORIZATIONS

Pub. L. 93–87, title II, §211, Aug. 13, 1973, 87 Stat. 288, directed Secretary of Transportation, in cooperation with government and nongovernment authorities and individuals, to conduct a full and complete investigation and study of use of mass media for informing and educating the public of ways and means for reducing number and severity of highway accidents, to report to Congress his findings and recommendations by June 30, 1974, and to develop, in consultation with State and local highway safety officials, a series of highway safety television programs of varying lengths for use in accordance with provisions of the Communication Act of 1934 (47 U.S.C. 151 et seq.).

HIGHWAY SAFETY CITIZEN PARTICIPATION STUDY

Pub. L. 93–87, title II, §212, Aug. 13, 1973, 87 Stat. 289, authorized the appropriation of $1,000,000 for a study by the Secretary of Transportation, with cooperation of State and local highway safety authorities, of ways and means of encouraging greater citizen participation in highway safety programs, the results of such study and recommendations to be reported to Congress by June 30, 1974.

NATIONAL CENTER FOR STATISTICAL ANALYSIS OF HIGHWAY OPERATIONS

Pub. L. 93–87, title II, §213, Aug. 13, 1973, 87 Stat. 289, authorized the appropriation of $5,000,000 to make a study of the feasibility of establishing a National Center for Statistical Analysis of Highway Operations designed to acquire, store and retrieve accident data, the results of such study and recommendations to be reported to Congress not later than Jan. 1, 1975.

PEDESTRIAN AND BICYCLE SAFETY STUDY

Pub. L. 93–87, title II, §214, Aug. 13, 1973, 87 Stat. 289, authorized the appropriation of $5,000,000 for a study of pedestrian and bicycle safety, including a review of local ordinances, the relationship between alcohol and pedestrian and bicycle safety, etc., the results of such study and recommendations to be reported to Congress not later than Jan. 31, 1975.

HIGHWAY SAFETY NEEDS STUDY

Pub. L. 93–87, title II, §225, Aug. 13, 1973, 87 Stat. 292, mandated a study by the Secretary of Transportation of highway safety needs of the States, including those of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands and other territories, in order to evaluate continuing safety

programs and furnish Congress with information necessary for authorization of appropriations for continuing safety programs, the results of such study, estimates and recommendations to be submitted to Congress not later than Jan. 10, 1976.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION; CREATION; APPOINTMENT OF ADMINISTRATOR AND DEPUTY ADMINISTRATOR; DUTIES; RETROACTIVE EFFECT

Pub. L. 89–564, title II, §201, Sept. 9, 1966, 80 Stat. 735, as amended by Pub. L. 89–670, §8(h), Oct. 15, 1966, 80 Stat. 943; Pub. L. 90–83, §10(b), Sept. 11, 1967, 81 Stat. 224; Pub. L. 91–605, title II, §202(a), Dec. 31, 1970, 84 Stat. 1739, which provided for the creation of National Highway Traffic Safety Administration in the Department of Transportation, was repealed by Pub. L. 97–449, §7(b), Jan. 12, 1983, 96 Stat. 2444, and reenacted by section 1(b) of Pub. L. 97–449 as section 105 of Title 49, Transportation.

ACTING ADMINISTRATOR OF NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Pub. L. 91–605, title II, §202(b), Dec. 31, 1970, 84 Stat. 1740, permitted President to authorize any person who immediately before Dec. 31, 1970, held the office of Director of the National Highway Safety Bureau, to act as Administrator of the National Highway Traffic Safety Administration until the appointment of the first Administrator.

ANNUAL REPORT TO CONGRESS ON ADMINISTRATION OF HIGHWAY SAFETY ACT OF 1966

Pub. L. 89–564, title II, §202, Sept. 9, 1966, 80 Stat. 736, as amended by Pub. L. 93–87, title II, §224, Aug. 13, 1973, 87 Stat. 292, provided that:

"(a) The Secretary shall prepare and submit to the President for transmittal to the Congress on July 1 of each year a comprehensive report on the administration of the Highway Safety Act of 1966 (including chapter 4 of title 23 of the United States Code) for the preceding calendar year. Such report should include but not be restricted to (1) a thorough statistical compilation of the accidents and injuries occurring in such year; (2) a list of all safety standards issued or in effect in such year; (3) the scope of observance of applicable Federal standards; (4) a statement of enforcement actions including judicial decisions, settlements, or pending litigation during the year; (5) a summary of all current research grants and contracts together with a description of the problems to be considered by such grants and contracts; (6) an analysis and evaluation of completed research activities and technological progress achieved during such year together with the relevant policy recommendations flowing therefrom: (7) the effectiveness of State highway safety program (including local highway safety programs) and (8) the extent to which technical information was being disseminated to the scientific community and consumer-oriented material was made available to the motoring public.

"(b) The annual report shall also contain such recommendations for additional legislation as the Secretary deems necessary to promote cooperation among the several States in the improvement of highway safety and to strengthen the national highway safety program."

[For termination, effective May 15, 2000, of provisions relating to transmittal of report to Congress in section 202 of Pub. L. 89–564, set out above, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 135 of House Document No. 103–7.]

DETAILED COST ESTIMATE OF HIGHWAY SAFETY ACT OF 1966

Pub. L. 89–564, title II, §207, Sept. 9, 1966, 80 Stat. 737, directed Secretary, in cooperation with the Governors of appropriate State highway safety agencies, make a detailed estimate of the cost of carrying out the Highway Safety Act of 1966 in order to provide a basis for evaluating continuing programs under the Act and to furnish Congress information necessary for authorization of appropriations for fiscal years beginning after June 30, 1969, such estimates to be submitted to Congress not later than Jan. 10, 1968.

INTERSTATE COMPACTS FOR HIGHWAY SAFETY

Pub. L. 85–684, Aug. 20, 1958, 72 Stat. 635, as amended by Pub. L. 88–466, Aug. 20 1964, 78 Stat. 564, provided: "That the consent of Congress is hereby given to any two or more of the several States, and one or more of the several States and the District of Columbia, to enter into agreements or compacts—

"(1) for cooperative effort and mutual assistance in the establishment and carrying out of traffic safety programs, including, but not limited to, the enactment of uniform traffic laws, driver education and training, coordination of traffic law enforcement, research into safe automobile and highway design, and research programs of the human factors affecting traffic safety, and

"(2) for the establishment of such agencies, joint or otherwise, as they deem desirable for the establishment and carrying out of such traffic safety programs."

§402. Highway safety programs

(a) PROGRAM REQUIRED.—

(1) IN GENERAL.—Each State shall have in effect a highway safety program that—

(i) is designed to reduce—

(I) traffic crashes; and

(II) deaths, injuries, and property damage resulting from those crashes;

(ii) includes—

(I) an approved, current, triennial highway safety plan in accordance with subsection (k); and

(II) an approved grant application under subsection (l) for the fiscal year;

(iii) demonstrates compliance with the applicable administrative requirements of subsection (b)(1); and

(iv) is approved by the Secretary.

(2) UNIFORM GUIDELINES.—Programs required under paragraph (1) shall comply with uniform guidelines, promulgated by the Secretary and expressed in terms of performance criteria, that—

(A) include programs—

(i) to reduce injuries and deaths resulting from motor vehicles being driven in excess of posted speed limits;

(ii) to encourage the proper use of safety belts by occupants of motor vehicles;

(iii) to encourage more widespread and proper use of child restraints, with an emphasis on underserved populations;

(iv) to reduce injuries and deaths resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance;

(v) to prevent crashes and reduce injuries and deaths resulting from crashes involving motor vehicles and motorcycles;

(vi) to reduce injuries and deaths resulting from crashes involving school buses;

(vii) to reduce crashes resulting from unsafe driving behavior (including aggressive or fatigued driving and distracted driving arising from the use of electronic devices in vehicles);

(viii) to improve law enforcement services in motor vehicle crash prevention, traffic supervision, and post-crash procedures;

(ix) to increase driver awareness of commercial motor vehicles to prevent crashes and reduce injuries and fatalities;

(x) to reduce crashes caused by driver misuse or misunderstanding of new vehicle technology;

(xi) to increase vehicle recall awareness;

(xii) to provide to the public information relating to the risks of child heatstroke death when left unattended in a motor vehicle after the motor is deactivated by the operator;

(xiii) to reduce injuries and deaths resulting from the failure by drivers of motor vehicles to move to another traffic lane or reduce the speed of the vehicle when law enforcement, fire service, emergency medical services, or other emergency or first responder vehicles are stopped or parked on or next to a roadway with emergency lights activated; and

(xiv) to prevent crashes, injuries, and deaths caused by unsecured vehicle loads;

(B) improve driver performance, including—

(i) driver education;

(ii) driver testing to determine proficiency to operate motor vehicles; and

(iii) driver examinations (physical, mental, and driver licensing);

(C) improve pedestrian performance and bicycle safety;
(D) include provisions for—
(i) an effective record system of crashes (including resulting injuries and deaths);
(ii) crash investigations to determine the probable causes of crashes, injuries, and deaths;
(iii) vehicle registration, operation, and inspection; and
(iv) emergency services; and

(E) to the extent determined appropriate by the Secretary, are applicable to federally administered areas where a Federal department or agency controls the highways or supervises traffic operations.

(3) ADDITIONAL CONSIDERATIONS.—A State that has legalized medicinal or recreational marijuana shall take into consideration implementing programs in addition to the programs described in paragraph (2)(A)—
(A) to educate drivers regarding the risks associated with marijuana-impaired driving; and
(B) to reduce injuries and deaths resulting from individuals driving motor vehicles while impaired by marijuana.

(b) ADMINISTRATION OF STATE PROGRAMS.—
(1) ADMINISTRATIVE REQUIREMENTS.—The Secretary shall not approve a State highway safety program under this section which does not—
(A) provide that the Governor of the State shall be responsible for the administration of the program through a State highway safety agency which shall have adequate powers and be suitably equipped and organized to carry out, to the satisfaction of the Secretary, such program;
(B) provide for a comprehensive, data-driven traffic safety program that results from meaningful public participation and engagement from affected communities, particularly those most significantly impacted by traffic crashes resulting in injuries and fatalities;
(C) except as provided in paragraph (2), provide that at least 40 percent of all Federal funds apportioned under this section to the State for any fiscal year will be expended by the political subdivisions of the State, including Indian tribal governments, in carrying out local highway safety programs;
(D) provide adequate and reasonable access for the safe and convenient movement of individuals, including those with disabilities and those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks throughout the State;
(E) as part of a comprehensive program, support—
(i) data-driven traffic safety enforcement programs that foster effective community collaboration to increase public safety; and
(ii) data collection and analysis to ensure transparency, identify disparities in traffic enforcement, and inform traffic enforcement policies, procedures, and activities; and

(F) provide satisfactory assurances that the State will implement activities in support of national highway safety goals to reduce motor vehicle related fatalities that also reflect the primary data-related crash factors within a State as identified by the State highway safety planning process, including—
(i) national, high-visibility law enforcement mobilizations coordinated by the Secretary;
(ii) sustained enforcement of statutes addressing impaired driving, occupant protection, and driving in excess of posted speed limits;
(iii) an annual statewide safety belt use survey in accordance with criteria established by the Secretary for the measurement of State safety belt use rates to ensure that the measurements are accurate and representative;
(iv) development of statewide data systems to provide timely and effective data analysis to support allocation of highway safety resources;

(v) ensuring that the State will coordinate its highway safety plan, data collection, and information systems with the State strategic highway safety plan (as defined in section 148(a)); and

(vi) unless the State highway safety program is developed by American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the United States Virgin Islands, participation in the Fatality Analysis Reporting System.

(2) WAIVER.—The Secretary may waive the requirement of paragraph (1)(C), in whole or in part, for a fiscal year for any State whenever the Secretary determines that there is an insufficient number of local highway safety programs to justify the expenditure in the State of such percentage of Federal funds during the fiscal year.

(c) USE OF FUNDS.—

(1) USE FOR STATE ACTIVITIES.—

(A) IN GENERAL.—The funds authorized to be appropriated to carry out this section shall be used to aid the States to conduct the highway safety programs approved in accordance with subsection (a), including development and implementation of manpower training programs, and of demonstration programs that the Secretary determines will contribute directly to the reduction of crashes, and deaths and injuries resulting therefrom.

(B) NEIGHBORING STATES.—A State, acting in cooperation with any neighboring State, may use funds provided under this section for a highway safety program that may confer a benefit on the neighboring State.

(2) APPORTIONMENT TO STATES.—

(A) DEFINITION OF PUBLIC ROAD.—In this paragraph, the term "public road" means any road that is—

(i) subject to the jurisdiction of, and maintained by, a public authority; and

(ii) held open to public travel.

(B) APPORTIONMENT.—

(i) IN GENERAL.—Except for the amounts identified in section 403(f) and the amounts subject to subparagraph (C), of the funds made available under this section—

(I) 75 percent shall be apportioned to each State based on the ratio that, as determined by the most recent decennial census—

(aa) the population of the State; bears to

(bb) the total population of all States; and

(II) 25 percent shall be apportioned to each State based on the ratio that, subject to clause (ii)—

(aa) the public road mileage in each State; bears to

(bb) the total public road mileage in all States.

(ii) CALCULATION.—For purposes of clause (i)(II), public road mileage shall be—

(I) determined as of the end of the calendar year preceding the year during which the funds are apportioned;

(II) certified by the Governor of the State; and

(III) subject to approval by the Secretary.

(C) MINIMUM APPORTIONMENTS.—The annual apportionment under this section to—

(i) each State shall be not less than ¾ of 1 percent of the total apportionment;

(ii) the Secretary of the Interior shall be not less than 2 percent of the total apportionment; and

(iii) the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of

the Northern Mariana Islands shall be not less than ¼ of 1 percent of the total apportionment.

(D) PENALTY.—

(i) IN GENERAL.—The funds apportioned under this section to a State that does not have approved or in effect a highway safety program described in subsection (a)(1) shall be reduced by an amount equal to not less than 20 percent of the amount that would otherwise be apportioned to the State under this section, until the date on which the Secretary, as applicable—

(I) approves such a highway safety program; or

(II) determines that the State is implementing such a program.

(ii) FACTOR FOR CONSIDERATION.—In determining the amount of the reduction in funds apportioned to a State under this subparagraph, the Secretary shall take into consideration the gravity of the failure by the State to secure approval, or to implement, a highway safety program described in subsection (a)(1).

(E) LIMITATIONS.—

(i) IN GENERAL.—A highway safety program approved by the Secretary shall not include any requirement that a State shall implement such a program by adopting or enforcing any law, rule, or regulation based on a guideline promulgated by the Secretary under this section requiring any motorcycle operator aged 18 years or older, or a motorcycle passenger aged 18 years or older, to wear a safety helmet when operating or riding a motorcycle on the streets and highways of that State.

(ii) EFFECT OF GUIDELINES.—Nothing in this section requires a State highway safety program to require compliance with every uniform guideline, or with every element of every uniform guideline, in every State.

(3) REAPPORTIONMENT.—

(A) IN GENERAL.—The Secretary shall promptly apportion to a State any funds withheld from the State under paragraph (2)(D) if the Secretary makes an approval or determination, as applicable, described in that paragraph by not later than July 31 of the fiscal year for which the funds were withheld.

(B) CONTINUING STATE FAILURE.—If the Secretary determines that a State fails to correct a failure to have approved or in effect a highway safety program described in subsection (a)(1) by the date described in subparagraph (A), the Secretary shall reapportion the funds withheld from that State under paragraph (2)(D) for the fiscal year to the other States in accordance with the formula described in paragraph (2)(B) by not later than the last day of the fiscal year.

(4) AUTOMATED TRAFFIC ENFORCEMENT SYSTEMS.—

(A) AUTOMATED TRAFFIC ENFORCEMENT SYSTEM DEFINED.—In this paragraph, the term "automated traffic enforcement system" means any camera which captures an image of a vehicle for the purposes only of red light and speed enforcement, and does not include hand held radar and other devices operated by law enforcement officers to make an on-the-scene traffic stop, issue a traffic citation, or other enforcement action at the time of the violation.

(B) PROHIBITION.—A State may not expend funds apportioned to that State under this section to carry out a program to purchase, operate, or maintain an automated traffic enforcement system.

(C) SPECIAL RULE FOR SCHOOL AND WORK ZONES.—Notwithstanding subparagraph (B), a State may expend funds apportioned to the State under this section to carry out a program to purchase, operate, or maintain an automated traffic enforcement system in a work zone or school zone.

(D) AUTOMATED TRAFFIC ENFORCEMENT SYSTEM GUIDELINES.—An automated

traffic enforcement system installed pursuant to subparagraph (C) shall comply with such guidelines applicable to speed enforcement camera systems and red light camera systems as are established by the Secretary.

(d) All provisions of chapter 1 of this title that are applicable to National Highway System highway funds other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the highway safety funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section, and except that the aggregate of all expenditures made during any fiscal year by a State and its political subdivisions (exclusive of Federal funds) for carrying out the State highway safety program (other than planning and administration) shall be available for the purpose of crediting such State during such fiscal year for the non-Federal share of the cost of any project under this section (other than one for planning or administration) without regard to whether such expenditures were actually made in connection with such project and except that, in the case of a local highway safety program carried out by an Indian tribe, if the Secretary is satisfied that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of such program, he may increase the Federal share of the cost thereof payable under this Act to the extent necessary. In applying such provisions of chapter 1 in carrying out this section the term "State transportation department" as used in such provisions shall mean the Governor of a State for the purposes of this section.

(e) Uniform guidelines promulgated by the Secretary to carry out this section shall be developed in cooperation with the States, their political subdivisions, appropriate Federal departments and agencies, and such other public and private organizations as the Secretary deems appropriate.

(f) The Secretary may make arrangements with other Federal departments and agencies for assistance in the preparation of uniform guidelines for the highway safety programs contemplated by subsection (a) and in the administration of such programs. Such departments and agencies are directed to cooperate in such preparation and administration, on a reimbursable basis.

(g) RESTRICTION.—Nothing in this section may be construed to authorize the appropriation or expenditure of funds for highway construction, maintenance, or design (other than design of safety features of highways to be incorporated into guidelines).

(h) APPLICATION IN INDIAN COUNTRY.—

(1) USE OF TERMS.—For the purpose of application of this section in Indian country, the terms "State" and "Governor of a State" include the Secretary of the Interior and the term "political subdivision of a State" includes an Indian tribe.

(2) EXPENDITURES FOR LOCAL HIGHWAY PROGRAMS.—Notwithstanding subsection (b)(1)(C), 95 percent of the funds apportioned to the Secretary of the Interior under this section shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions.

(3) ACCESS FOR INDIVIDUALS WITH DISABILITIES.—The requirements of subsection (b)(1)(D) shall be applicable to Indian tribes, except to those tribes with respect to which the Secretary determines that application of such provisions would not be practicable.

(4) INDIAN COUNTRY DEFINED.—In this subsection, the term "Indian country" means—

(A) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent and including rights-of-way running through the reservation;

(B) all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

(C) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

(i) RULEMAKING PROCEEDING.—The Secretary may periodically conduct a rulemaking process to identify highway safety programs that are highly effective in reducing motor vehicle crashes, injuries, and deaths. Any such rulemaking shall take into account the major role of the States

in implementing such programs. When a rule promulgated in accordance with this section takes effect, States shall consider these highly effective programs when developing their highway safety programs.

(j) LAW ENFORCEMENT VEHICULAR PURSUIT TRAINING.—A State shall actively encourage all relevant law enforcement agencies in such State to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police that are in effect on the date of enactment of this subsection or as revised and in effect after such date as determined by the Secretary.

(k) TRIENNIAL HIGHWAY SAFETY PLAN.—

(1) IN GENERAL.—For fiscal year 2024, and not less frequently than once every 3 fiscal years thereafter, the Secretary shall require each State, as a condition of the approval of the State's highway safety program for the 3 fiscal years covered by the plan, to develop and submit to the Secretary for approval a triennial highway safety plan that complies with the requirements under this subsection.

(2) TIMING.—Each State shall submit to the Secretary a triennial highway safety plan by not later than July 1 of the fiscal year preceding the first fiscal year covered by the plan.

(3) ELECTRONIC SUBMISSION.—The Secretary, in coordination with the Governors Highway Safety Association, shall develop procedures to allow States to submit triennial highway safety plans under this subsection, including any attachments to the plans, in electronic form.

(4) CONTENTS.—Each State triennial highway safety plan submitted under paragraph (1) shall include, with respect to the 3 fiscal years covered by the plan, based on the information available on the date of submission under paragraph (2)—

(A) performance measures required by the Secretary or otherwise necessary to support additional State safety goals, including—

(i) documentation of current safety levels for each performance measure;

(ii) quantifiable performance targets that demonstrate constant or improved performance for each performance measure; and

(iii) a justification for each performance target, that explains why each target is appropriate and evidence-based;

(B) a countermeasure strategy for programming funds under this section for projects that will allow the State to meet the performance targets described in subparagraph (A), including a description—

(i) that demonstrates the link between the effectiveness of each proposed countermeasure strategy and those performance targets; and

(ii) of the manner in which each countermeasure strategy is informed by uniform guidelines issued by the Secretary;

(C) data and data analysis supporting the effectiveness of proposed countermeasures;

(D) a description of any Federal funds that the State plans to use, in addition to funds apportioned to the State under this section, to carry out the strategy described in subparagraph (B); and

(E) a report on the State's success in meeting State safety goals and performance targets set forth in the most recently submitted highway safety plan.

(5) PERFORMANCE MEASURES.—The Secretary shall develop minimum performance measures under paragraph (4)(A) in consultation with the Governors Highway Safety Association.

(6) REVIEW OF TRIENNIAL HIGHWAY SAFETY PLANS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall review and approve or disapprove a triennial highway safety plan of a State by not later than 60 days after the date on which the plan is received by the Secretary.

(B) ADDITIONAL INFORMATION.—

(i) IN GENERAL.—The Secretary may request a State to submit to the Secretary such

additional information as the Secretary determines to be necessary for review of the triennial highway safety plan of the State.

(ii) EXTENSION OF DEADLINE.—On providing to a State a request for additional information under clause (i), the Secretary may extend the deadline to approve or disapprove the triennial highway safety plan of the State under subparagraph (A) for not more than an additional 90 days, as the Secretary determines to be necessary to accommodate that request, subject to clause (iii).

(iii) TIMING.—Any additional information requested under clause (i) shall be submitted to the Secretary by not later than 7 business days after the date of receipt by the State of the request.

(C) APPROVALS AND DISAPPROVALS.—

(i) APPROVALS.—The Secretary shall approve a State's triennial highway safety plan if the Secretary determines that—

(I) the plan and the performance targets contained in the plan are evidence-based and supported by data; and

(II) the plan, once implemented, will allow the State to meet the State's performance targets.

(ii) DISAPPROVALS.—The Secretary shall disapprove a State's triennial highway safety plan if the Secretary determines that—

(I) the plan and the performance targets contained in the plan are not evidence-based or supported by data; or

(II) the plan does not provide for programming of funding in a manner sufficient to allow the State to meet the State's performance targets.

(D) ACTIONS UPON DISAPPROVAL.—If the Secretary disapproves a State's triennial highway safety plan, the Secretary shall—

(i) inform the State of the reasons for such disapproval; and

(ii) require the State to resubmit the plan with any modifications that the Secretary determines to be necessary.

(E) REVIEW OF RESUBMITTED PLANS.—If the Secretary requires a State to resubmit a triennial highway safety plan, with modifications, the Secretary shall review and approve or disapprove the modified plan not later than 30 days after the date on which the Secretary receives such plan.

(F) PUBLIC NOTICE.—A State shall make the State's triennial highway safety plan, and decisions of the Secretary concerning approval or disapproval of a revised plan, available to the public.

(l) ANNUAL GRANT APPLICATION AND REPORTING REQUIREMENTS.—

(1) ANNUAL GRANT APPLICATION.—

(A) IN GENERAL.—To be eligible to receive grant funds under this chapter for a fiscal year, each State shall submit to the Secretary an annual grant application that, as determined by the Secretary—

(i) demonstrates alignment with the approved triennial highway safety plan of the State; and

(ii) complies with the requirements under this subsection.

(B) TIMING.—The deadline for submission of annual grant applications under this paragraph shall be determined by the Secretary in accordance with section 406(d)(2).

(C) CONTENTS.—An annual grant application under this paragraph shall include, at a minimum—

(i) such updates, as necessary, to any analysis included in the triennial highway safety plan of the State;

(ii) an identification of each project and subrecipient to be funded by the State using the grants during the upcoming grant year, subject to the condition that the State shall separately submit, on a date other than the date of submission of the annual grant application, a description of any projects or subrecipients to be funded, as that information becomes available;

(iii) a description of the means by which the strategy of the State to use grant funds was adjusted and informed by the previous report of the State under paragraph (2); and

(iv) an application for any additional grants available to the State under this chapter.

(D) REVIEW.—The Secretary shall review and approve or disapprove an annual grant application under this paragraph by not later than 60 days after the date of submission of the application.

(2) REPORTING REQUIREMENTS.—Not later than 120 days after the end of each fiscal year for which a grant is provided to a State under this chapter, the State shall submit to the Secretary an annual report that includes—

(A) an assessment of the progress made by the State in achieving the performance targets identified in the triennial highway safety plan of the State, based on the most currently available Fatality Analysis Reporting System data; and

(B)(i) a description of the extent to which progress made in achieving those performance targets is aligned with the triennial highway safety plan of the State; and

(ii) if applicable, any plans of the State to adjust a strategy for programming funds to achieve the performance targets.

(m) TEEN TRAFFIC SAFETY.—

(1) IN GENERAL.—Subject to the requirements of the applicable triennial highway safety plan of the State, as approved by the Secretary under subsection (k), a State may use a portion of the amounts received under this section to implement statewide efforts to improve traffic safety for teen drivers.

(2) USE OF FUNDS.—Statewide efforts under paragraph (1)—

(A) shall include peer-to-peer education and prevention strategies in schools and communities designed to—

(i) increase safety belt use;

(ii) reduce speeding;

(iii) reduce impaired and distracted driving;

(iv) reduce underage drinking; and

(v) reduce other behaviors by teen drivers that lead to injuries and fatalities; and

(B) may include—

(i) working with student-led groups and school advisors to plan and implement teen traffic safety programs;

(ii) providing subgrants to schools throughout the State to support the establishment and expansion of student groups focused on teen traffic safety;

(iii) providing support, training, and technical assistance to establish and expand school and community safety programs for teen drivers;

(iv) creating statewide or regional websites to publicize and circulate information on teen safety programs;

(v) conducting outreach and providing educational resources for parents;

(vi) establishing State or regional advisory councils comprised of teen drivers to provide input and recommendations to the governor and the governor's safety representative on issues related to the safety of teen drivers;

(vii) collaborating with law enforcement;

(viii) establishing partnerships and promoting coordination among community stakeholders, including public, not-for-profit, and for profit entities;

(ix) increase driver awareness of commercial motor vehicles to prevent crashes and reduce injuries and fatalities; and

(x) support for school-based driver's education classes to improve teen knowledge about—

(I) safe driving practices; and

(II) State graduated driving license requirements, including behind-the-wheel training required to meet those requirements.

(n) PUBLIC TRANSPARENCY.—

(1) IN GENERAL.—The Secretary shall publicly release on a Department of Transportation website, by not later than 45 calendar days after the applicable date of availability—

(A) each triennial highway safety plan approved by the Secretary under subsection (k);

(B) each State performance target under subsection (k); and

(C) an evaluation of State achievement of applicable performance targets under subsection (k).

(2) STATE HIGHWAY SAFETY PLAN WEBSITE.—

(A) IN GENERAL.—In carrying out paragraph (1), the Secretary shall establish a public website that is easily accessible, navigable, and searchable for the information required under that paragraph, in order to foster greater transparency in approved State highway safety programs.

(B) CONTENTS.—The website established under subparagraph (A) shall—

(i) include the applicable triennial highway safety plan, and the annual report, of each State submitted to, and approved by, the Secretary under subsection (k); and

(ii) provide a means for the public to search the website for State highway safety program content required under subsection (k), including—

(I) performance measures required by the Secretary;

(II) progress made toward meeting the applicable performance targets during the preceding program year;

(III) program areas and expenditures; and

(IV) a description of any sources of funds, other than funds provided under this section, that the State proposes to use to carry out the triennial highway safety plan of the State.

(o) UNATTENDED PASSENGERS.—

(1) IN GENERAL.—Each State shall use a portion of the amounts received by the State under this section to carry out a program to educate the public regarding the risks of leaving a child or unattended passenger in a vehicle after the vehicle motor is deactivated by the operator.

(2) PROGRAM PLACEMENT.—Nothing in this subsection requires a State to carry out a program described in paragraph (1) through the State transportation or highway safety office.

(Added Pub. L. 89–564, title I, §101, Sept. 9, 1966, 80 Stat. 731; amended Pub. L. 90–495, §13, Aug. 23, 1968, 82 Stat. 822; Pub. L. 91–605, title II, §§202(c), (d), (e), 203(a), Dec. 31, 1970, 84 Stat. 1740, 1741; Pub. L. 93–87, title II, §§207, 215–217, 219, 228, 229, 231, Aug. 13, 1973, 87 Stat. 285, 290, 293, 294; Pub. L. 94–280, title II, §§204, 208(a), 211, 212, May 5, 1976, 90 Stat. 453, 454, 455; Pub. L. 95–599, title II, §207(a), (b)(1), (c), (d), Nov. 6, 1978, 92 Stat. 2731, 2732; Pub. L. 97–35, title XI, §1107(c)–(e), Aug. 13, 1981, 95 Stat. 626; Pub. L. 97–424, title II, §208, Jan. 6, 1983, 96 Stat. 2140; Pub. L. 98–363, §§3(a), 5, July 17, 1984, 98 Stat. 436; Pub. L. 100–17, title I, §133(b)(20), title II, §206, Apr. 2, 1987, 101 Stat. 172, 221; Pub. L. 102–240, title II, §2002, Dec. 18, 1991, 105 Stat. 2070; Pub. L. 104–66, title I, §1121(d), Dec. 21, 1995, 109 Stat. 724; Pub. L. 105–178, title I, §1212(a)(2)(A)(i), title II, §2001(a)–(e), June 9, 1998, 112 Stat. 193, 323, 324; Pub. L. 109–59, title II, §2002(a)–(d), Aug. 10, 2005, 119 Stat. 1521; Pub. L. 110–244, title III, §303(a)–(c)(1), June 6, 2008, 122 Stat. 1619; Pub. L. 112–141, div. C, title I, §31102, July 6, 2012,

126 Stat. 734; Pub. L. 114–94, div. A, title IV, §§4002, 4014(1), Dec. 4, 2015, 129 Stat. 1499, 1513; Pub. L. 115–420, §5(a), Jan. 3, 2019, 132 Stat. 5445; Pub. L. 117–58, div. B, title IV, §§24102(a), 24222(b), Nov. 15, 2021, 135 Stat. 785, 835.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (d), probably means Pub. L. 93–87, Aug. 13, 1973, 87 Stat. 250. For complete classification of this Act to the Code, see Tables.

The date of enactment of this subsection, referred to in subsec. (j), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

AMENDMENTS

2021—Pub. L. 117–58, §24102(a)(1), (2), substituted "crashes" for "accidents" and "crash" for "accident" wherever appearing. Amendment was executed in subsec. (a)(2)(A)(viii) by substituting "post-crash" for "post-accident" to reflect the probable intent of Congress.

Subsec. (a)(1). Pub. L. 117–58, §24102(a)(3)(A), substituted "shall have in effect a highway safety program that—" and cls. (i) to (iv) for "shall have a highway safety program, approved by the Secretary, that is designed to reduce traffic accidents and the resulting deaths, injuries, and property damage."

Subsec. (a)(2)(A)(ii). Pub. L. 117–58, §24102(a)(3)(B)(i), substituted "safety belts" for "occupant protection devices (including the use of safety belts and child restraint systems)".

Subsec. (a)(2)(A)(iii) to (xiv). Pub. L. 117–58, §24102(a)(3)(B)(ii)–(v), added cls. (iii) and (x) to (xiv) and redesignated former cls. (iii) to (viii) as (iv) to (ix), respectively.

Subsec. (a)(3). Pub. L. 117–58, §24102(a)(3)(C), added par. (3).

Subsec. (b)(1). Pub. L. 117–58, §24102(a)(4)(A), substituted "shall" for "may" in introductory provisions.

Subsec. (b)(1)(B). Pub. L. 117–58, §24102(a)(4)(B), added subpar. (B) and struck out former subpar. (B) which read as follows: "authorize political subdivisions of the State to carry out local highway safety programs within their jurisdictions as a part of the State highway safety program if such local highway safety programs are approved by the Governor and are in accordance with the minimum standards established by the Secretary under this section;".

Subsec. (b)(1)(C). Pub. L. 117–58, §24102(a)(4)(C), struck out "authorized in accordance with subparagraph (B)" after "local highway safety programs".

Subsec. (b)(1)(D). Pub. L. 117–58, §24102(a)(4)(D), substituted ", including those with disabilities and those in wheelchairs" for "with disabilities, including those in wheelchairs".

Subsec. (b)(1)(E). Pub. L. 117–58, §24102(a)(4)(E), added subpar. (E) and struck out former subpar. (E) which read as follows: "beginning on the first day of the first fiscal year after the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012 for which a State submits its highway safety plan under subsection (k), provide for a data-driven traffic safety enforcement program to prevent traffic violations, crashes, and crash fatalities and injuries in areas most at risk for such incidents, to the satisfaction of the Secretary;".

Subsec. (b)(1)(F)(i). Pub. L. 117–58, §24102(a)(4)(F)(i), substituted "national, high-visibility" for "national law enforcement mobilizations and high-visibility".

Subsec. (b)(1)(F)(vi). Pub. L. 117–58, §24102(a)(4)(F)(ii)–(iv), added cl. (vi).

Subsec. (c)(1). Pub. L. 117–58, §24102(a)(5)(A), substituted "USE FOR STATE ACTIVITIES" for "IN GENERAL" in par. heading; designated existing provisions as subpar. (A), inserted subpar. heading, and substituted "The funds authorized" for "Funds authorized"; and added subpar. (B).

Subsec. (c)(2), (3). Pub. L. 117–58, §24102(a)(5)(B), added pars. (2) and (3) and struck out former pars. (2) and (3) which related to apportionment and reapportionment of funds for highway safety programs, respectively.

Subsec. (c)(4). Pub. L. 117–58, §24102(a)(5)(C), redesignated subpars. (A) and (B) as (B) and (A), respectively, added subpars. (C) and (D), and struck out former subpar. (C) which required a State with an automated traffic enforcement system to conduct a biennial survey that the Secretary would make publicly available through the Internet Web site of the Department of Transportation.

Subsec. (k). Pub. L. 117–58, §24102(a)(6)(A), substituted "Triennial Highway Safety Plan" for "Highway Safety Plan and Reporting Requirements" in heading.

Subsec. (k)(1). Pub. L. 117–58, §24102(a)(6)(A), (B), reenacted heading without change and substituted "For fiscal year 2024, and not less frequently than once every 3 fiscal years thereafter" for "With respect to fiscal year 2014, and each fiscal year thereafter" and "for the 3 fiscal years covered by the plan, to develop and

submit to the Secretary for approval a triennial highway safety plan" for "for that fiscal year, to develop and submit to the Secretary for approval a highway safety plan".

Subsec. (k)(2). Pub. L. 117–58, §24102(a)(6)(C), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "Each State shall submit to the Secretary the highway safety plan not later than July 1st of the fiscal year preceding the fiscal year to which the plan applies."

Subsec. (k)(3). Pub. L. 117–58, §24102(a)(6)(D), inserted "triennial" before "highway".

Subsec. (k)(4)(A). Pub. L. 117–58, §24102(a)(6)(E)(i), in introductory provisions, substituted "Each State triennial highway safety plan" for "State highway safety plans" and inserted ", with respect to the 3 fiscal years covered by the plan, based on the information available on the date of submission under paragraph (2)" after "include".

Subsec. (k)(4)(A)(ii). Pub. L. 117–58, §24102(a)(6)(E)(ii), substituted "performance targets that demonstrate constant or improved performance" for "annual performance targets".

Subsec. (k)(4)(B). Pub. L. 117–58, §24102(a)(6)(E)(iii), added subpar. (B) and struck out former subpar. (B) which read as follows: "a strategy for programming funds apportioned to the State under this section on projects and activities that will allow the State to meet the performance targets described in subparagraph (A);".

Subsec. (k)(4)(D). Pub. L. 117–58, §24102(a)(6)(E)(iv), struck out ", State, local, or private" after "any Federal" and inserted "and" after semicolon at end.

Subsec. (k)(4)(E). Pub. L. 117–58, §24102(a)(6)(E)(v), struck out "for the fiscal year preceding the fiscal year to which the plan applies," before "a report" and substituted "performance targets set forth in the most recently submitted highway safety plan." for "performance targets set forth in the previous year's highway safety plan; and".

Subsec. (k)(4)(F). Pub. L. 117–58, §24102(a)(6)(E)(vi), struck out subpar. (F) which read as follows: "an application for any additional grants available to the State under this chapter."

Subsec. (k)(5). Pub. L. 117–58, §24102(a)(6)(F), added par. (5) and struck out former par. (5). Prior to amendment, text read as follows: "For the first highway safety plan submitted under this subsection, the performance measures required by the Secretary under paragraph (3)(A) shall be limited to those developed by the National Highway Traffic Safety Administration and the Governor's Highway Safety Association and described in the report, 'Traffic Safety Performance Measures for States and Federal Agencies' (DOT HS 811 025). For subsequent highway safety plans, the Secretary shall coordinate with the Governor's Highway Safety Association in making revisions to the set of required performance measures."

Subsec. (k)(6). Pub. L. 117–58, §24102(a)(6)(G)(i), inserted "triennial" before "highway" in heading.

Subsec. (k)(6)(A). Pub. L. 117–58, §24102(a)(6)(G)(iv), added subpar. (A) and struck out former subpar. (A). Prior to amendment, text read as follows: "Not later than 45 days after the date on which a State's highway safety plan is received by the Secretary, the Secretary shall review and approve or disapprove the plan."

Subsec. (k)(6)(B). Pub. L. 117–58, §24102(a)(6)(G)(iv), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (k)(6)(C). Pub. L. 117–58, §24102(a)(6)(G)(ii), (iii), redesignated subpar. (B) as (C) and inserted "triennial" before "highway" in two places. Former subpar. (C) redesignated (D).

Subsec. (k)(6)(D) to (F). Pub. L. 117–58, §24102(a)(6)(G)(ii), (iii), redesignated subpars. (C) to (E) as (D) to (F), respectively, and inserted "triennial" before "highway".

Subsec. (l). Pub. L. 117–58, §24102(a)(7), added subsec. (l).

Subsec. (m)(1). Pub. L. 117–58, §24102(a)(8), substituted "the applicable triennial highway safety plan of the State" for "a State's highway safety plan".

Subsec. (n). Pub. L. 117–58, §24102(a)(9), added subsec. (n) and struck out former subsec. (n). Prior to amendment, text read as follows: "The Secretary shall publicly release on its website information that contains each State's performance with respect to the State's highway safety plan under subsection (k) and performance targets set by the States in such plans. Such information shall be posted on the website within 45 calendar days of approval of a State's highway safety plan."

Subsec. (o). Pub. L. 117–58, §24222(b), added subsec. (o).

2019—Subsec. (n). Pub. L. 115–420 added subsec. (n) and struck out former subsec. (n). Prior to amendment, text read as follows: "Not later than October 1, 2015, and biennially thereafter, the Secretary shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that contains—

"(1) an evaluation of each State's performance with respect to the State's highway safety plan under subsection (k) and performance targets set by the States in such plans; and

"(2) such recommendations as the Secretary may have for improvements to activities carried out under

subsection (k)."

2015—Subsec. (a)(2)(A)(viii). Pub. L. 114–94, §4002(1), added cl. (viii).

Subsec. (b)(1)(C). Pub. L. 114–94, §4014(1)(A)(i), substituted "paragraph (2)" for "paragraph (3)".

Subsec. (b)(1)(E). Pub. L. 114–94, §4014(1)(A)(ii), substituted "for which" for "in which" and "under subsection (k)" for "under subsection (f)".

Subsec. (c)(4)(C). Pub. L. 114–94, §4002(2), added subpar. (C).

Subsec. (g). Pub. L. 114–94, §4002(3), added subsec. (g) and struck out former subsec. (g). Prior to amendment, text read as follows:

"(1) IN GENERAL.—Except as provided under paragraph (2), nothing in this section may be construed to authorize the appropriation or expenditure of funds for—

"(A) highway construction, maintenance, or design (other than design of safety features of highways to be incorporated into guidelines); or

"(B) any purpose for which funds are authorized under section 403.

"(2) DEMONSTRATION PROJECTS.—A State may use funds made available to carry out this section to assist in demonstration projects carried out by the Secretary under section 403."

Subsec. (k)(3). Pub. L. 114–94, §4002(4)(B), added par. (3). Former par. (3) redesignated (4).

Subsec. (k)(4). Pub. L. 114–94, §4014(1)(B), which directed substitution of "under paragraph (3)(A)" for "under paragraph (2)(A)" in par. (5) as redesignated by Pub. L. 114–94, §4002(4)(A), was executed by making substitution to par. (4) to reflect the probable intent of Congress. See Effective Date of 2015 Amendment note below.

Pub. L. 114–94, §4002(4)(A) redesignated par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (k)(5). Pub. L. 114–94, §4002(4)(A), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (k)(6). Pub. L. 114–94, §4002(4)(A), redesignated par. (5) as (6).

Subsec. (k)(6)(A). Pub. L. 114–94, §4002(4)(C), substituted "45 days" for "60 days".

Subsec. (m)(2)(B)(ix), (x). Pub. L. 114–94, §4002(5), added cls. (ix) and (x).

2012—Subsec. (a). Pub. L. 112–141, §31102(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) related to State highway programs designed to reduce traffic accidents and deaths in accordance with uniform guidelines promulgated by the Secretary.

Subsec. (b)(1)(E), (F). Pub. L. 112–141, §31102(b)(1)(A)–(C), added subpar. (E) and redesignated former subpar. (E) as (F).

Subsec. (b)(1)(F)(i). Pub. L. 112–141, §31102(b)(1)(D)(i), inserted "and high-visibility law enforcement mobilizations coordinated by the Secretary" after "mobilizations".

Subsec. (b)(1)(F)(v). Pub. L. 112–141, §31102(b)(1)(D)(ii)–(iv), added cl. (v).

Subsec. (b)(3). Pub. L. 112–141, §31102(b)(2), struck out par. (3). Text read as follows: "The Secretary may encourage States to use technologically advanced traffic enforcement devices (including the use of automatic speed detection devices such as photo-radar) by law enforcement officers."

Subsec. (c). Pub. L. 112–141, §31102(c), inserted subsec. and par. headings and substantially revised text of subsec. (c). Prior to amendment, subsec. (c) related to use of funds appropriated to carry out this section.

Subsec. (g). Pub. L. 112–141, §31102(d), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: "Nothing in this section authorizes the appropriation or expenditure of funds for (1) highway construction, maintenance, or design (other than design of safety features of highways to be incorporated into guidelines) or (2) any purpose for which funds are authorized by section 403 of this title."

Subsecs. (h) to (j). Pub. L. 112–141, §31102(e)(2), (3), redesignated subsecs. (i), (j), and (l) as (h), (i), and (j), respectively.

Subsec. (k). Pub. L. 112–141, §31102(e)(1), (f), added subsec. (k) and struck out former subsec. (k) which related to grants to States for the development and use of a comprehensive computerized safety recordkeeping system designed to correlate data regarding traffic accidents, drivers, motor vehicles, and roadways.

Subsec. (l). Pub. L. 112–141, §31102(e)(3), redesignated subsec. (l) as (j).

Subsec. (m). Pub. L. 112–141, §31102(e)(1), (g), added subsec. (m) and struck out former subsec. (m). Prior to amendment, text read as follows: "The Secretary shall establish an approval process by which a State may apply for all grants under this chapter for which a single application process with one annual deadline is appropriate. The Bureau of Indian Affairs shall establish a similar simplified process for applications for grants from Indian tribes under this chapter."

Subsec. (n). Pub. L. 112–141, §31102(h), added subsec. (n).

2008—Subsec. (b). Pub. L. 110–244, §303(c)(1)(A), repealed amendment by Pub. L. 109–59, §2002(b)(2). See 2005 Amendment note below.

Subsec. (b)(1)(E). Pub. L. 110–244, §303(c)(1)(B), renumbered Pub. L. 109–59, §2002(b)(1), (3), (4). See 2005 Amendment note below.

Subsec. (c). Pub. L. 110–244, §303(a), in fifth sentence, substituted "The annual apportionment to each State shall not be less than three-quarters of 1 percent" for "The annual apportionment to each State shall not be less than one-half of 1 per centum".

Subsec. (m). Pub. L. 110–244, §303(b), in first sentence, substituted "for which" for "through" and inserted "is appropriate" before period at end.

2005—Subsec. (a). Pub. L. 109–59, §2002(a)(4), inserted "aggressive driving, fatigued driving, distracted driving," after "school bus accidents," in tenth sentence.

Subsec. (a)(2). Pub. L. 109–59, §2002(a)(1), struck out "and to increase public awareness of the benefit of motor vehicles equipped with airbags" before comma at end.

Subsec. (a)(6), (7). Pub. L. 109–59, §2002(a)(2), (3), added cl. (6) and redesignated former cl. (6) as (7).

Subsec. (b). Pub. L. 109–59, §2002(b)(2), which directed amendment of subsec. (b)(1) by redesignating cl. (6) as (7) and could not be executed, was repealed by Pub. L. 110–244, §303(c)(1)(A).

Subsec. (b)(1)(E). Pub. L. 109–59, §2002(b)(1)–(3), formerly §2002(b)(1), (3), (4), as renumbered by Pub. L. 110–244, §303(c)(1)(B), added subpar. (E).

Subsec. (c). Pub. L. 109–59, §2002(c)(2), which directed amendment of subsec. (c) by substituting "2 percent" for "three-fourths of 1 percent" in sixth sentence, was executed by making the substitution in fifth sentence to reflect the probable intent of Congress and the amendment by Pub. L. 109–59, §2002(c)(1). See below.

Pub. L. 109–59, §2002(c)(1), struck out second sentence which read as follows: "Such funds shall be subject to a deduction not to exceed 5 per centum for the necessary costs of administering the provisions of this section, and the remainder shall be apportioned among the several States."

Subsecs. (l), (m). Pub. L. 109–59, §2002(d), added subsecs. (l) and (m).

1998—Subsec. (a). Pub. L. 105–178, §2001(a), in fourth sentence, substituted "(4) to prevent accidents and" for "(4) to", in eighth sentence, struck out "include information obtained by the Secretary under section 4007 of the Intermodal Surface Transportation Efficiency Act of 1991 and" before "provide for annual reports to the Secretary", and in twelfth sentence, inserted "enforcement of light transmission standards of window glazing for passenger motor vehicles and light trucks as necessary to improve highway safety," before "and emergency services".

Subsec. (b). Pub. L. 105–178, §2001(b), inserted heading, redesignated pars. (3) to (5) as (1) to (3), respectively, substituted "paragraph (3)" for "paragraph (5)" in par. (1)(C) and "paragraph (1)(C)" for "paragraph (3)(C)" in par. (2), and struck out former pars. (1) and (2) which read as follows:

"(b)(1) The Secretary shall not approve any State highway safety program under this section which does not—

"(A) provide that the Governor of the State shall be responsible for the administration of the program through a State highway safety agency which shall have adequate powers, and be suitably equipped and organized to carry out, to the satisfaction of the Secretary, such program.

"(B) authorize political subdivisions of such State to carry out local highway safety programs within their jurisdictions as a part of the State highway safety program if such local highway safety programs are approved by the Governor and are in accordance with the uniform guidelines of the Secretary promulgated under this section.

"(C) provide that at least 40 per centum of all Federal funds apportioned under this section to such State for any fiscal year will be expended by the political subdivisions of such State in carrying out local highway safety programs authorized in accordance with subparagraph (B) of this paragraph.

"(D) provide adequate and reasonable access for the safe and convenient movement of physically handicapped persons, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks throughout the State.

"(E) provide for programs (which may include financial incentives and disincentives) to encourage the use of safety belts by drivers of, and passengers in, motor vehicles.

"(2) The Secretary is authorized to waive the requirement of subparagraph (C) of paragraph (1) of this subsection, in whole or in part, for a fiscal year for any State whenever he determines that there is an insufficient number of local highway safety programs to justify the expenditure in such State of such percentage of Federal funds during such fiscal year."

Subsec. (c). Pub. L. 105–178, §2001(c), in sixth sentence, inserted "the apportionment to the Secretary of the Interior shall not be less than three-fourths of 1 percent of the total apportionment and" before "the apportionments to the Virgin Islands".

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

Subsec. (i). Pub. L. 105–178, §2001(d), inserted heading and amended text of subsec. (i) generally. Prior to

amendment, text read as follows: "For the purpose of the application of this section on Indian reservations, 'State' and 'Governor of a State' includes the Secretary of the Interior and 'political subdivision of a State' includes an Indian tribe: *Provided*, That, notwithstanding the provisions of subparagraph (C) of subsection (b)(1) hereof, 95 per centum of the funds apportioned to the Secretary of the Interior after date of enactment, shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions: *And provided further*, That the provisions of subparagraph (E) of subsection (b)(1) hereof shall be applicable except in those tribal jurisdictions in which the Secretary determines such programs would not be practicable."

Subsec. (j). Pub. L. 105–178, §2001(e), amended heading and text of subsec. (j) generally. Prior to amendment, text read as follows: "The Secretary shall, not later than September 1, 1987, begin a rulemaking process to determine those programs most effective in reducing accidents, injuries, and deaths. Not later than April 1, 1988, the Secretary shall promulgate a final rule establishing those programs determined to be most effective in reducing accidents, injuries, and deaths. If such rule is promulgated by April 1, 1988, then it shall take effect October 1, 1988. If such rule is not promulgated by April 1, 1988, it shall take effect October 1, 1989. After a rule is promulgated in accordance with this subsection, the Secretary may from time to time thereafter revise such rule under a rulemaking process described in the first sentence of this subsection. Any rule under this subsection shall be promulgated taking into account consideration of the States having a major role in establishing programs described in the first sentence of this subsection. When a rule promulgated in accordance with this subsection takes effect, only those programs established by such rule as most effective in reducing accidents, injuries, and deaths shall be eligible to receive Federal financial assistance under this section."

1995—Subsec. (a). Pub. L. 104–66 struck out after fourth sentence "If the Secretary does not designate as priority programs those programs described in the preceding sentence, the Secretary shall submit to Congress a report describing the reasons for not prioritizing such programs."

1991—Subsec. (a). Pub. L. 102–240, §2002(a), inserted after third sentence "In addition, such uniform guidelines shall include programs (1) to reduce injuries and deaths resulting from motor vehicles being driven in excess of posted speed limits, (2) to encourage the proper use of occupant protection devices (including the use of safety belts and child restraint systems) by occupants of motor vehicles and to increase public awareness of the benefit of motor vehicles equipped with airbags, (3) to reduce deaths and injuries resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance, (4) to reduce deaths and injuries resulting from accidents involving motor vehicles and motorcycles, (5) to reduce injuries and deaths resulting from accidents involving school buses, and (6) to improve law enforcement services in motor vehicle accident prevention, traffic supervision, and post-accident procedures. If the Secretary does not designate as priority programs those programs described in the preceding sentence, the Secretary shall submit to Congress a report describing the reasons for not prioritizing such programs. The Secretary shall establish a highway safety program for the collection and reporting of data on traffic-related deaths and injuries by the States. Under such program, the States shall collect and report such data as the Secretary may require. The purposes of the program are to ensure national uniform data on such deaths and injuries and to allow the Secretary to make determinations for use in developing programs to reduce such deaths and injuries and making recommendations to Congress concerning legislation necessary to implement such programs. The program shall include information obtained by the Secretary under section 4007 of the Intermodal Surface Transportation Efficiency Act of 1991 and provide for annual reports to the Secretary on the efforts being made by the States in reducing deaths and injuries occurring at highway construction sites and the effectiveness and results of such efforts. The Secretary shall establish minimum reporting criteria for the program. Such criteria shall include, but not be limited to, criteria on deaths and injuries resulting from police pursuits, school bus accidents, and speeding, on traffic-related deaths and injuries at highway construction sites and on the configuration of commercial motor vehicles involved in motor vehicle accidents."

Subsec. (b)(3) to (5). Pub. L. 102–240, §2002(b), added pars. (3) to (5).

Subsec. (d). Pub. L. 102–240, §2002(c), substituted "National Highway System" for "Federal-aid primary".

1987—Subsec. (a). Pub. L. 100–17, §206(a), (b), substituted "guidelines" for "standards" wherever appearing and struck out provisions authorizing the Secretary to temporarily amend or waive standards in public interest for purpose of evaluating new or different highway safety programs instituted on an experimental, pilot or demonstration basis.

Subsec. (b)(1)(B). Pub. L. 100–17, §206(a), substituted "guidelines" for "standards".

Subsec. (b)(1)(D) to (F). Pub. L. 100–17, §206(c), redesignated subpars. (E) and (F) as (D) and (E), respectively, and struck out former subpar. (D) which read as follows: "provide for comprehensive driver training programs, including (1) the initiation of a State program for driver education in the school systems or for a significant expansion and improvement of such a program already in existence, to be administered by appropriate school officials under the supervision of the Governor as set forth in subparagraph (A) of this

paragraph; (2) the training of qualified school instructors and their certification; (3) appropriate regulation of other driver training schools, including licensing of the schools and certification of their instructors; (4) adult driver training programs, and programs for the retraining of selected drivers; (5) adequate research, development and procurement of practice driving facilities, simulators, and other similar teaching aids for both school and other driver training use, and (6) driver education programs, including research, that will assure greater safety for bicyclists using public roads in such State."

Subsec. (c). Pub. L. 100–17, §§133(b)(20), 206(a), substituted "Such" for "For the fiscal years ending June 30, 1967, June 30, 1968, and June 30, 1969, such funds shall be apportioned 75 per centum on the basis of population and 25 per centum as the Secretary in his administrative discretion may deem appropriate and thereafter such", "American Samoa, and the Commonwealth of the Northern Mariana Islands" for "and American Samoa", "The Secretary shall" for "After December 31, 1969, the Secretary shall", and "guideline" for "standard" wherever appearing.

Subsecs. (e) to (g). Pub. L. 100–17, §206(a), substituted "guidelines" for "standards".

Subsec. (j). Pub. L. 100–17, §206(d), amended subsec. (j) generally. Prior to amendment, subsec. (j) read as follows: "The Secretary of Transportation shall, not later than September 1, 1981, begin a rulemaking process to determine those programs most effective in reducing accidents, injuries, and deaths. Such rule shall be promulgated taking into account consideration of the States having a major role in establishing these programs. Not later than April 1, 1982, the Secretary shall promulgate a final rule establishing those programs determined most effective in reducing accidents, injuries, and deaths. Before such rule shall take effect, it shall be transmitted to Congress. If such rule is not transmitted by April 1, 1982, it shall not take effect before October 1, 1983. If such rule is transmitted by April 1, 1982, it shall take effect October 1, 1982, unless before June 1, 1982, either House of Congress by resolution disapproves such rule. If such rule is disapproved by either House of Congress, the Secretary shall not apportion or obligate any amount authorized to carry out this section for the fiscal year ending September 30, 1983, or any subsequent fiscal year, unless specifically authorized to do so by a statute enacted after the date of enactment of the Omnibus Budget Reconciliation Act of 1981. When a rule promulgated in accordance with this subsection takes effect, only those programs established by such rule as most effective in reducing accidents, injuries, and deaths shall be eligible to receive Federal financial assistance under this chapter."

1984—Subsec. (c). Pub. L. 98–363, §3(a), inserted ", except that the apportionments to the Virgin Islands, Guam, and American Samoa shall be not less than one-quarter of 1 per centum of the total apportionment" in sixth sentence.

Subsec. (k). Pub. L. 98–363, §5, added subsec. (k).

1983—Subsec. (c). Pub. L. 97–424 struck out provision that apportionments to Virgin Islands, Guam, and American Samoa were not to be less than one third of 1 per centum of total apportionment from provision relating to the minimum apportionment for each State.

1981—Subsec. (b)(1). Pub. L. 97–35, §1107(e), struck out subpar. (D) which related to aggregate expenditure of funds, and redesignated subpars. (E) to (G) as (D) to (F), respectively.

Subsec. (h). Pub. L. 97–35, §1107(c), struck out subsec. (h) which related to continuation in effect of uniform safety standards promulgated on or before July 1, 1973.

Subsec. (j). Pub. L. 97–35, §1107(d), substituted provisions requiring the Secretary to begin by Sept. 1, 1981, a rulemaking process to determine the most effective programs to reduce accidents, injuries, and deaths, and procedures applicable to the process, for provisions authorizing the Secretary to make incentive grants to States most progressive in reducing traffic fatalities, criteria, duration, etc., of such grants, and authorization of appropriations.

1978—Subsec. (a). Pub. L. 95–599, §207(a), inserted "including, but not limited to, such programs for identifying accident causes, adopting measures to reduce accidents, and evaluating effectiveness of such measures" after "one or more States".

Subsec. (b)(1)(A). Pub. L. 95–599, §207(b)(1), substituted "State highway safety agency" for "State agency".

Subsec. (b)(1)(G). Pub. L. 95–599, §207(c), added subpar. (G).

Subsec. (d). Pub. L. 95–599, §207(d), inserted "(other than planning and administration)" after "State highway safety program" and "(other than one for planning or administration)" after "cost of any project under this section".

1976—Subsec. (c), sixth sentence. Pub. L. 94–280, §211, inserted exception provision requirement that the apportionments to the Virgin Islands, Guam, and American Samoa be not less than one-third of 1 per centum of the total apportionment.

Subsec. (c), eighth and ninth sentences. Pub. L. 94–280, §208(a), inserted eighth and ninth sentences: excluding from any highway safety program approved by the Secretary any requirement that a State

implement a Federal safety helmet wearing standard for operators or passengers of motorcycles by adopting or enforcing any law, rule, or regulation based on the Federal standard, and authorizing State implementation of a highway safety program without compliance with every uniform standard in every State; and deleted prior eighth, ninth, and tenth sentences providing for: a 10 per centum reduction of funds apportioned to a State on or after January 1, 1970, for nonimplementation of a highway safety program approved by the Secretary during such a period; suspension of application of such provision during necessary periods when in the public interest; and reapportionment of withheld amounts to other States in accordance with applicable provisions of law, now covered in the tenth through thirteenth sentences.

Subsec. (c), tenth through thirteenth sentences. Pub. L. 94–280, §212, inserted provisions for: a 50 per centum reduction of funds apportioned to a State during time of absence or nonimplementation of a highway safety program; gravity rule in determining amount of reduction of funds; apportionment to a State of withheld funds prior to the end of the fiscal year for which the funds were withheld in event of approval of or State implementation of a highway safety program; and for reapportionment of funds to other States in accordance with the prescribed formula not later than 30 days after determination of absence of correction by a State, similar provisions being formerly covered in prior eighth, ninth, and tenth sentences providing for: a 10 per centum reduction of funds apportioned to a State on or after January 1, 1970, for nonimplementation of a highway safety program approved by the Secretary during such a period; suspension of application of such provision during necessary periods when in the public interest; and reapportionment of withheld amounts to other States in accordance with applicable provisions of law.

Subsec. (j)(3) to (5). Pub. L. 94–280, §204, added par. (3) provisions respecting incentive safety grants, struck out prior par. (3) provisions limiting incentive awards authorized by this section to 25 per centum of each State's apportionment as authorized by this chapter, and added pars. (4) and (5).

1973—Subsec. (a). Pub. L. 93–87, §231(a), provided for promulgation of uniform standards so as to improve bicycle safety.

Subsec. (b)(1)(E)(6). Pub. L. 93–87, §231(b), added item (6) of subpar. (E).

Subsec. (b)(1)(F). Pub. L. 93–87, §228, added subpar. (F).

Subsec. (c). Pub. L. 93–87, §§215–217, provided for use of funds for development and implementation of manpower training programs, and of demonstration programs that the Secretary determines will contribute directly to the reduction of accidents, and deaths and injuries resulting therefrom and inserted "Such funds" before "shall be subject to a deduction"; provided for the determination of public road mileage as of the end of the calendar year preceding the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary; and increased the annual apportionment to each State from "one-third of 1 per centum" to "one-half of 1 per centum" of the total apportionment, respectively.

Subsec. (d). Pub. L. 93–87, §207(b), inserted at end of first sentence provision that in the case of a local highway safety program carried out by an Indian tribe, if the Secretary is satisfied that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of such program, he may increase the Federal share of the cost thereof payable under this Act to the extent necessary.

Subsec. (h). Pub. L. 93–87, §229, substituted provisions for continuation of uniform safety standards promulgated under this section on or before July 1, 1973, unless otherwise specifically provided by law enacted after Aug. 13, 1973, and prohibiting the Secretary from promulgating any other uniform safety standard under this section (including by revision of a standard continued in effect by the preceding sentence) unless otherwise specifically provided by law enacted after Aug. 13, 1973, for former prohibition against promulgation of any other uniform safety standard unless at least 90 days prior to the effective date of such standard the Secretary shall have submitted such standard to Congress, except in the case of State safety program elements with respect to which uniform standards have been promulgated by the Secretary before Dec. 31, 1970.

Subsec. (i). Pub. L. 93–87, §207(a), added subsec. (i).

Subsec. (j). Pub. L. 93–87, §219, added subsec. (j).

1970—Subsec. (b)(1)(A). Pub. L. 91–605, §203(A), required the Governor of a State be responsible for the administration of the State highway safety program through a State agency suitably organized and possessed of adequate powers to carry out such programs to the satisfaction of the Secretary.

Subsec. (c). Pub. L. 91–605, §202(c), provided a formula for apportionments to States, after June 30, 1969, to carry out this section, whereby 75% of the appropriation is based on the ratio which the population of each State bears to the total population of all the States and 25% of the appropriation is based on the ratio which the public road mileage in each State bears to the total public road mileage in all States, defined "public road", provided the annual apportionment to each State not to be less than one-third of 1% of the total apportionment, struck out provisions authorizing appropriations after June 30, 1969 to be apportioned as

Congress shall provide and struck out provisions mandating the Secretary to report to Congress his recommendations for a nondiscretionary formula of apportionment for the fiscal year ending June 30, 1970, and the fiscal years thereafter.

Subsec. (d). Pub. L. 91–605, §202(d), provided that the aggregate of all expenditures made during any fiscal year by a State and its political subdivisions for carrying out the State highway safety program be available for crediting such State for the non-Federal share of the cost of any project under this section without regard to whether such expenditures were actually made in connection with such project.

Subsec. (h). Pub. L. 91–605, §202(e), added subsec. (h).

1968—Subsec. (c). Pub. L. 90–495 substituted "December 31, 1969" for "December 31, 1968" as the last day on which the Secretary may apportion funds to States which are not implementing highway safety programs approved by the Secretary and substituted "January 1, 1970" for "January 1, 1969" as the date after which funds apportioned to States not having approved safety programs shall be reduced until a safety program is implemented.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 117–58, div. B, title IV, §24102(b), Nov. 15, 2021, 135 Stat. 792, provided that: "The amendments made by subsection (a) [amending this section] shall take effect with respect to any grant application or State highway safety plan submitted under chapter 4 of title 23, United States Code, for fiscal year 2024 or thereafter."

EFFECTIVE DATE OF 2015 AMENDMENT

Except as otherwise provided, amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

Amendment by section 4002 of Pub. L. 114–94 effective Oct. 1, 2016, see section 4015 of Pub. L. 114–94, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by sections 101(s)(2) and 303(c)(1) of Pub. L. 110–244 effective as of the date of enactment of Pub. L. 109–59 (Aug. 10, 2005) and to be treated as included in Pub. L. 109–59 as of that date, and provisions of Pub. L. 109–59, as in effect on the day before June 6, 2008, that are amended by Pub. L. 110–244 to be treated as not enacted, see section 121(b) of Pub. L. 110–244, set out as a note under section 101 of this title.

Pub. L. 110–244, title III, §303(a), June 6, 2008, 122 Stat. 1619, provided that the amendment made by section 303(a) is effective Oct. 1, 2007.

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–59, title II, §2022, Aug. 10, 2005, 119 Stat. 1544, provided that: "Sections 2002 through 2007 of this title [amending this section and sections 403, 405, 406, 408, and 410 of this title and enacting provisions set out as notes under sections 403 and 410 of this title] (and the amendments and repeals made by such sections) shall take effect October 1, 2005."

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102–240, title II, §2008, Dec. 18, 1991, 105 Stat. 2080, provided that: "Except as otherwise provided, this title [amending this section and sections 403 and 410 of this title and sections 1392, 1413, and 1414 of Title 15, Commerce and Trade, enacting provisions set out as notes under this section and sections 401, 403, and 410 of this title and section 1392 of Title 15, and amending provisions set out as a note under section 401 of this title], including the amendments made by this title, shall take effect on the date of the enactment of this Act [Dec. 18, 1991], shall apply to funds authorized to be appropriated or made available after September 30, 1991, and shall not apply to funds appropriated or made available on or before such date of enactment."

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 3(a) of Pub. L. 98–363 applicable to fiscal years beginning after July 17, 1984, see section 3(c) of Pub. L. 98–363, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97–35, title XI, §1107(c), Aug. 13, 1981, 95 Stat. 626, provided that the amendment made by that section is effective Oct. 1, 1982.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–599, title II, §207(b)(2), Nov. 6, 1978, 92 Stat. 2731, provided that: "The amendment made by paragraph (1) of this subsection [amending this section] shall take effect January 1, 1979."

EFFECTIVE DATE OF 1970 AMENDMENT

Pub. L. 91–605, title II, §203(b), Dec. 31, 1970, 84 Stat. 1741, provided that: "The amendment made by subsection (a) of this section [amending this section] shall take effect December 31, 1971."

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.

PUBLIC SAFETY MESSAGING CAMPAIGN

Pub. L. 117–58, div. B, title IV, §24110(b), Nov. 15, 2021, 135 Stat. 810, provided that:

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], the Secretary [of Transportation] shall establish and implement a public safety messaging campaign that uses public safety media messages, posters, digital media messages, and other media messages distributed to States, State departments of motor vehicles, schools, and other public outlets—

"(A) to highlight the importance of addressing the illegal passing of school buses; and

"(B) to educate students and the public regarding the safe loading and unloading of schools [sic] buses.

"(2) CONSULTATION.—In carrying out paragraph (1), the Secretary shall consult with—

"(A) representatives of the school bus industry from the public and private sectors; and

"(B) States.

"(3) UPDATES.—The Secretary shall periodically update the materials used in the campaign under paragraph (1)."

SAFE STREETS AND ROADS FOR ALL GRANT PROGRAM

Pub. L. 117–58, div. B, title IV, §24112, Nov. 15, 2021, 135 Stat. 815, provided that:

"(a) DEFINITIONS.—In this section:

"(1) COMPREHENSIVE SAFETY ACTION PLAN.—The term 'comprehensive safety action plan' means a plan aimed at preventing transportation-related fatalities and serious injuries in a locality, commonly referred to as a 'Vision Zero' or 'Toward Zero Deaths' plan, that may include—

"(A) a goal and timeline for eliminating fatalities and serious injuries;

"(B) an analysis of the location and severity of vehicle-involved crashes in a locality;

"(C) an analysis of community input, gathered through public outreach and education;

"(D) a data-driven approach to identify projects or strategies to prevent fatalities and serious injuries in a locality, such as those involving—

"(i) education and community outreach;

"(ii) effective methods to enforce traffic laws and regulations;

"(iii) new vehicle or other transportation-related technologies; and

"(iv) roadway planning and design; and

"(E) mechanisms for evaluating the outcomes and effectiveness of the comprehensive safety action plan, including the means by which that effectiveness will be reported to residents in a locality.

"(2) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) a metropolitan planning organization;

"(B) a political subdivision of a State;

"(C) a federally recognized Tribal government; and

"(D) a multijurisdictional group of entities described in any of subparagraphs (A) through (C).

"(3) ELIGIBLE PROJECT.—The term 'eligible project' means a project—

"(A) to develop a comprehensive safety action plan;

"(B) to conduct planning, design, and development activities for projects and strategies identified in a comprehensive safety action plan; or

"(C) to carry out projects and strategies identified in a comprehensive safety action plan.

"(4) PROGRAM.—The term 'program' means the Safe Streets and Roads for All program established

under subsection (b).

"(b) ESTABLISHMENT.—The Secretary [of Transportation] shall establish and carry out a program, to be known as the Safe Streets and Roads for All program, that supports local initiatives to prevent death and serious injury on roads and streets, commonly referred to as 'Vision Zero' or 'Toward Zero Deaths' initiatives.

"(c) GRANTS.—

"(1) IN GENERAL.—In carrying out the program, the Secretary may make grants to eligible entities, on a competitive basis, in accordance with this section.

"(2) LIMITATIONS.—

"(A) IN GENERAL.—Not more than 15 percent of the funds made available to carry out the program for a fiscal year may be awarded to eligible projects in a single State during that fiscal year.

"(B) PLANNING GRANTS.—Of the total amount made available to carry out the program for each fiscal year, not less than 40 percent shall be awarded to eligible projects described in subsection (a)(3)(A).

"(d) SELECTION OF ELIGIBLE PROJECTS.—

"(1) SOLICITATION.—Not later than 180 days after the date on which amounts are made available to provide grants under the program for a fiscal year, the Secretary shall solicit from eligible entities grant applications for eligible projects in accordance with this section.

"(2) APPLICATIONS.—

"(A) IN GENERAL.—To be eligible to receive a grant under the program, an eligible entity shall submit to the Secretary an application in such form and containing such information as the Secretary considers to be appropriate.

"(B) REQUIREMENT.—An application for a grant under this paragraph shall include mechanisms for evaluating the success of applicable eligible projects and strategies.

"(3) CONSIDERATIONS.—In awarding a grant under the program, the Secretary shall take into consideration the extent to which an eligible entity, and each eligible project proposed to be carried out by the eligible entity, as applicable—

"(A) is likely to significantly reduce or eliminate transportation-related fatalities and serious injuries involving various road users, including pedestrians, bicyclists, public transportation users, motorists, and commercial operators, within the timeframe proposed by the eligible entity;

"(B) demonstrates engagement with a variety of public and private stakeholders;

"(C) seeks to adopt innovative technologies or strategies to promote safety;

"(D) employs low-cost, high-impact strategies that can improve safety over a wider geographical area;

"(E) ensures, or will ensure, equitable investment in the safety needs of underserved communities in preventing transportation-related fatalities and injuries;

"(F) includes evidence-based projects or strategies; and

"(G) achieves such other conditions as the Secretary considers to be necessary.

"(4) TRANSPARENCY.—

"(A) IN GENERAL.—The Secretary shall evaluate, through a methodology that is discernible and transparent to the public, the means by, and extent to, which each application under the program addresses any applicable merit criteria established by the Secretary.

"(B) PUBLICATION.—The methodology under subparagraph (A) shall be published by the Secretary as part of the notice of funding opportunity under the program.

"(e) FEDERAL SHARE.—The Federal share of the cost of an eligible project carried out using a grant provided under the program shall not exceed 80 percent.

"(f) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $200,000,000 for each of fiscal years 2022 through 2026, to remain available for a period of 3 fiscal years following the fiscal year for which the amounts are appropriated.

"(2) ADMINISTRATIVE EXPENSES.—Of the amounts made available to carry out the program for a fiscal year, the Secretary may retain not more than 2 percent for the administrative expenses of the program.

"(3) AVAILABILITY TO ELIGIBLE ENTITIES.—Amounts made available under a grant under the program shall remain available for use by the applicable eligible entity until the date that is 5 years after the date on which the grant is provided.

"(g) DATA SUBMISSION.—

"(1) IN GENERAL.—As a condition of receiving a grant under this program, an eligible entity shall submit to the Secretary, on a regular basis as established by the Secretary, data, information, or analyses

collected or conducted in accordance with subsection (d)(3).

"(2) FORM.—The data, information, and analyses under paragraph (1) shall be submitted in such form such manner as may be prescribed by the Secretary.

"(h) REPORTS.—Not later than 120 days after the end of the period of performance for a grant under the program, the eligible entity shall submit to the Secretary a report that describes—

"(1) the costs of each eligible project carried out using the grant;

"(2) the outcomes and benefits that each such eligible project has generated, as—

"(A) identified in the grant application of the eligible entity; and

"(B) measured by data, to the maximum extent practicable; and

"(3) the lessons learned and any recommendations relating to future projects or strategies to prevent death and serious injury on roads and streets.

"(i) BEST PRACTICES.—Based on the information submitted by eligible entities under subsection (g), the Secretary shall—

"(1) periodically post on a publicly available website best practices and lessons learned for preventing transportation-related fatalities and serious injuries pursuant to strategies or interventions implemented under the program; and

"(2) evaluate and incorporate, as appropriate, the effectiveness of strategies and interventions implemented under the program for the purpose of enriching revisions to the document entitled 'Countermeasures That Work: A Highway Safety Countermeasure Guide for State Highway Safety Offices, Ninth Edition' and numbered DOT HS 812 478 (or any successor document)."

PEDESTRIAN AND CYCLISTS INFORMATION AND ENHANCED PERFORMANCE MANAGEMENT

Pub. L. 117–58, div. B, title IV, §24113(b), Nov. 15, 2021, 135 Stat. 818, provided that:

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [Nov. 15, 2021], the Secretary [of Transportation] shall implement the recommendations of the Comptroller General of the United States contained in the report entitled 'Pedestrians and Cyclists: Better Information to States and Enhanced Performance Management Could Help DOT Improve Safety', numbered GAO–21–405, and dated May 20, 2021, by—

"(A) carrying out measures to collect information relating to the range of countermeasures implemented by States;

"(B) analyzing that information to help advance knowledge regarding the effectiveness of those countermeasures; and

"(C) sharing with States any results.

"(2) PERFORMANCE MANAGEMENT PRACTICES.—The Administrator of the National Highway Traffic Safety Administration shall use performance management practices to guide pedestrian and cyclist safety activities by—

"(A) developing performance measures for the Administration and program offices responsible for implementing pedestrian and cyclist safety activities to demonstrate the means by which those activities contribute to safety goals; and

"(B) using performance information to make any necessary changes to advance pedestrian and cyclist safety efforts."

INCREASING PUBLIC AWARENESS OF THE DANGERS OF DRUG-IMPAIRED DRIVING

Pub. L. 114–94, div. A, title IV, §4009, Dec. 4, 2015, 129 Stat. 1511, provided that:

"(a) ADDITIONAL ACTIONS.—The Administrator of the National Highway Traffic Safety Administration, in consultation with the White House Office of National Drug Control Policy, the Secretary of Health and Human Services, State highway safety offices, and other interested parties, as determined by the Administrator, shall identify and carry out additional actions that should be undertaken by the Administration to assist States in their efforts to increase public awareness of the dangers of drug-impaired driving, including the dangers of driving while under the influence of heroin or prescription opioids.

"(b) REPORT.—Not later than 60 days after the date of enactment of this Act [Dec. 4, 2015], the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the additional actions undertaken by the Administration pursuant to subsection (a)."

REGULATORY AUTHORITY; STATE MATCHING REQUIREMENTS; GRANT APPLICATION AND DEADLINE

Pub. L. 114–94, div. A, title IV, §4001(d)–(f), Dec. 4, 2015, 129 Stat. 1498, provided that:

"(d) REGULATORY AUTHORITY.—Grants awarded under this title [title IV of div. A of Pub. L. 114–94, see Tables for classification] shall be carried out in accordance with regulations issued by the Secretary [of Transportation].

"(e) STATE MATCHING REQUIREMENTS.—If a grant awarded under chapter 4 of title 23, United States Code, requires a State to share in the cost, the aggregate of all expenditures for highway safety activities made during a fiscal year by the State and its political subdivisions (exclusive of Federal funds) for carrying out the grant (other than planning and administration) shall be available for the purpose of crediting the State during such fiscal year for the non-Federal share of the cost of any other project carried out under chapter 4 of title 23, United States Code (other than planning or administration), without regard to whether such expenditures were made in connection with such project.

"(f) GRANT APPLICATION AND DEADLINE.—To receive a grant under chapter 4 of title 23, United States Code, a State shall submit an application, and the Secretary shall establish a single deadline for such applications to enable the award of grants early in the next fiscal year."

Similar provisions were contained in the following prior acts:

Pub. L. 112–141, div. C, title I, §31101(d)–(f), July 6, 2012, 126 Stat. 733.

SAFE ROUTES TO SCHOOL PROGRAM

Pub. L. 109–59, title I, §1404, Aug. 10, 2005, 119 Stat. 1228, as amended by Pub. L. 110–244, §101(s)(2), June 6, 2008, 122 Stat. 1577, which required the Secretary of Transportation to establish and carry out a safe routes to school program for the benefit of children in primary and middle schools and apportioned funds to carry out such program to States, was repealed by Pub. L. 117–58, div. A, title I, §11119(b)(2), Nov. 15, 2021, 135 Stat. 497, effective Oct. 1, 2021. See section 208 of this title.

ROADWAY SAFETY

Pub. L. 109–59, title I, §1411, Aug. 10, 2005, 119 Stat. 1234, provided that:

"(a) ROAD SAFETY.—

"(1) IN GENERAL.—The Secretary [of Transportation] shall enter into an agreement to assist in the activities of a national nonprofit organization that is dedicated solely to improving public road safety—

"(A) by improving the quality of data pertaining to public road hazards and design features that affect or increase the severity of motor vehicle crashes;

"(B) by developing and carrying out a public awareness campaign to educate State and local transportation officials, public safety officials, and motorists regarding the extent to which public road hazards and design features are a factor in motor vehicle crashes; and

"(C) by promoting public road safety research and technology transfer activities.

"(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $500,000 for each of fiscal years 2006 through 2009 to carry out this subsection.

"(3) APPLICABILITY OF TITLE 23.—Funds made available by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended.

"(b) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—

"(1) IN GENERAL.—The Secretary [of Transportation] shall make grants to a national, not-for-profit organization engaged in promoting bicycle and pedestrian safety—

"(A) to operate a national bicycle and pedestrian clearinghouse;

"(B) to develop information and educational programs; and

"(C) to disseminate techniques and strategies for improving bicycle and pedestrian safety.

"(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $300,000 for fiscal year 2005 and $500,000 for each of fiscal years 2006 through 2009 to carry out this subsection.

"(3) APPLICABILITY OF TITLE 23.—Funds made available by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended."

GRANT PROGRAM TO PROHIBIT RACIAL PROFILING

Pub. L. 109–59, title I, §1906, Aug. 10, 2005, 119 Stat. 1468, as amended by Pub. L. 114–94, div. A, title IV, §4011, Dec. 4, 2015, 129 Stat. 1512; Pub. L. 117–58, div. B, title V, §25024, Nov. 15, 2021, 135 Stat. 879, provided that:

"(a) GRANTS.—Subject to the requirements of this section, the Secretary [of Transportation] shall make grants to a State that—

"(1) is maintaining and allows public inspection of statistical information for each motor vehicle stop

made by a law enforcement officer on a Federal-aid highway in the State regarding the race and ethnicity of the driver; or

"(2) provides assurances satisfactory to the Secretary that the State is undertaking activities to comply with the requirements of paragraph (1).

"(b) USE OF GRANT FUNDS.—A grant received by a State under subsection (a) shall be used by the State for the costs of—

"(1) collecting and maintaining data on traffic stops;

"(2) evaluating the results of the data; and

"(3) developing and implementing programs, public outreach, and training to reduce the impact of traffic stops described in subsection (a)(1).

"(c) MAXIMUM AMOUNT.—The total amount provided to a State under this section in any fiscal year may not exceed—

"(1) for a State described in subsection (a)(1), 10 percent of the amount made available to carry out this section in that fiscal year; and

"(2) for a State described in subsection (a)(2), 5 percent of the amount made available to carry out this section in that fiscal year.

"(d) FUNDING.—

"(1) IN GENERAL.—From funds made available under section 403 of title 23, United States Code, the Secretary shall set aside $11,500,000 for each fiscal year to carry out this section.

"(2) CONTRACT AUTHORITY.—Funds made available under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except the Federal share of the cost of activities carried out using such funds shall be 80 percent.

"(3) TECHNICAL ASSISTANCE.—The Secretary may allocate not more than 10 percent of the amount made available to carry out this section in a fiscal year to provide technical assistance to States to carry out activities under this section.

"(4) OTHER USES.—The Secretary may reallocate, before the last day of any fiscal year, amounts remaining available under paragraph (1) to increase the amounts made available to carry out any of other activities authorized under section 403 of title 23, United States Code, in order to ensure, to the maximum extent possible, that all such amounts are obligated during such fiscal year."

HIGH VISIBILITY ENFORCEMENT PROGRAM

Pub. L. 109–59, title II, §2009, Aug. 10, 2005, 119 Stat. 1535, as amended by Pub. L. 111–147, title IV, §421(h)(1), Mar. 18, 2010, 124 Stat. 85; Pub. L. 112–30, title I, §121(h)(1), Sept. 16, 2011, 125 Stat. 347; Pub. L. 112–141, div. C, title I, §31106, July 6, 2012, 126 Stat. 755; Pub. L. 113–159, title I, §1101(a)(5)(B), Aug. 8, 2014, 128 Stat. 1843; Pub. L. 114–21, title I, §1101(a)(5)(B), May 29, 2015, 129 Stat. 221; Pub. L. 114–41, title I, §1101(a)(5)(B), July 31, 2015, 129 Stat. 447; Pub. L. 114–73, title I, §1101(a)(5)(B), Oct. 29, 2015, 129 Stat. 571; Pub. L. 114–87, title I, §1101(a)(5)(B), Nov. 20, 2015, 129 Stat. 680, provided that:

"(a) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall establish and administer a program under which at least 3 high-visibility traffic safety law enforcement campaigns will be carried out for the purposes specified in subsection (b) in each of fiscal years 2013 through 2015 and in the period beginning on October 1, 2015, and ending on December 4, 2015. The Administrator may also initiate and support additional campaigns in each of fiscal years 2013 through 2015 and in the period beginning on October 1, 2015, and ending on December 4, 2015, for the purposes specified in subsection (b).

"(b) PURPOSE.—The purpose of each law enforcement campaign under this section shall be to achieve outcomes related to at least 1 of the following objectives:

"(1) Reduce alcohol-impaired or drug-impaired operation of motor vehicles.

"(2) Increase use of seat belts by occupants of motor vehicles.

"(c) ADVERTISING.—The Administrator may use, or authorize the use of, funds available to carry out this section to pay for the development, production, and use of broadcast and print media advertising and Internet-based outreach in carrying out traffic safety law enforcement campaigns under this section. Consideration shall be given to advertising directed at non-English speaking populations, including those who listen, read, or watch nontraditional media.

"(d) COORDINATION WITH STATES.—The Administrator shall coordinate with the States in carrying out the traffic safety law enforcement campaigns under this section, including advertising funded under subsection (c), with a view to—

"(1) relying on States to provide the law enforcement resources for the campaigns out of funding available under this section and sections 402, 405, [former] 406, and [former] 410 of title 23, United States Code; and

"(2) providing out of National Highway Traffic Safety Administration resources most of the means necessary for national advertising and education efforts associated with the law enforcement campaigns.

"(e) USE OF FUNDS.—Funds made available to carry out this section may only be used for activities described in subsection (c).

"(f) STATE DEFINED.—The term 'State' has the meaning such term has under section 401 of title 23, United States Code."

MOTORCYCLIST SAFETY

Pub. L. 109–59, title II, §2010, Aug. 10, 2005, 119 Stat. 1535, as amended by Pub. L. 111–147, title IV, §421(i)(1), Mar. 18, 2010, 124 Stat. 85; Pub. L. 112–30, title I, §121(i)(1), Sept. 16, 2011, 125 Stat. 347, related to grants to States adopting programs for motorcyclist safety, prior to repeal by Pub. L. 112–141, div. C, title I, §31109(g), July 6, 2012, 126 Stat. 757.

FIRST RESPONDER VEHICLE SAFETY PROGRAM

Pub. L. 109–59, title II, §2014, Aug. 10, 2005, 119 Stat. 1540, provided for a Federal program to promote compliance with State and local laws regarding first responder vehicle safety, prior to repeal by Pub. L. 112–141, div. C, title I, §31109(j), July 6, 2012, 126 Stat. 757.

LAW ENFORCEMENT TRAINING

Pub. L. 109–59, title II, §2017(b), Aug. 10, 2005, 119 Stat. 1542, as amended by Pub. L. 111–147, title IV, §421(n)(2), Mar. 18, 2010, 124 Stat. 86; Pub. L. 112–30, title I, §121(n)(2), Sept. 16, 2011, 125 Stat. 348, related to law enforcement training and police chase techniques, prior to repeal by Pub. L. 112–141, div. C, title I, §31109(l), July 6, 2012, 126 Stat. 757, effective Oct. 1, 2012.

NATIONAL BICYCLE SAFETY EDUCATION CURRICULUM

Pub. L. 105–178, title I, §1202(e), June 9, 1998, 112 Stat. 170, provided that:

"(1) DEVELOPMENT.—The Secretary is authorized to develop a national bicycle safety education curriculum that may include courses relating to on-road training.

"(2) REPORT.—Not later than 12 months after the date of enactment of this Act [June 9, 1998], the Secretary shall transmit to Congress a copy of the curriculum.

"(3) FUNDING.—From amounts made available under section 210 [probably should be section 206], the Secretary may use not to exceed $500,000 for fiscal year 1999 to carry out this subsection."

BICYCLE AND PEDESTRIAN SAFETY GRANTS

Pub. L. 105–178, title I, §1212(i), formerly §1212(o), June 9, 1998, 112 Stat. 196; renumbered §1212(i), Pub. L. 105–206, title IX, §9003(e)(5), July 22, 1998, 112 Stat. 840, and amended by Pub. L. 108–88, §5(a)(8), Sept. 30, 2003, 117 Stat. 1114; Pub. L. 108–202, §5(a)(8), Feb. 29, 2004, 118 Stat. 481; Pub. L. 108–224, §4(a)(8), Apr. 30, 2004, 118 Stat. 629; Pub. L. 108–263, §4(a)(8), June 30, 2004, 118 Stat. 700; Pub. L. 108–280, §4(a)(8), July 30, 2004, 118 Stat. 879; Pub. L. 108–310, §5(a)(8), Sept. 30, 2004, 118 Stat. 1149; Pub. L. 109–14, §4(a)(8), May 31, 2005, 119 Stat. 326; Pub. L. 109–20, §4(a)(8), July 1, 2005, 119 Stat. 348; Pub. L. 109–35, §4(a)(8), July 20, 2005, 119 Stat. 381; Pub. L. 109–37, §4(a)(8), July 22, 2005, 119 Stat. 396; Pub. L. 109–40, §4(a)(8), July 28, 2005, 119 Stat. 412; Pub. L. 109–59, title I, §1111(b)(4), Aug. 10, 2005, 119 Stat. 1171, provided that:

"(1) IN GENERAL.—The Secretary shall make grants to a national, not-for-profit organization engaged in promoting bicycle and pedestrian safety—

"(A) to operate a national bicycle and pedestrian clearinghouse;

"(B) to develop information and educational programs; and

"(C) to disseminate techniques and strategies for improving bicycle and pedestrian safety.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $500,000 for each of fiscal years 1998 through 2004 and $415,000 for the period of October 1, 2004, through July 30, 2005.

"(3) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended."

HIGHWAY SAFETY EDUCATION AND INFORMATION

Pub. L. 105–178, title II, §2001(f), June 9, 1998, 112 Stat. 325, provided that:

"(1) IN GENERAL.—For fiscal years 1999 and 2000, the Secretary shall allow any State to use funds apportioned to the State under section 402 of title 23, United States Code, to purchase television and radio

time for highway safety public service messages.

"(2) REPORTS BY STATES.—Any State that uses funds described in paragraph (1) for purchasing television and radio time for highway safety public service messages shall submit to the Secretary a report describing, and assessing the effectiveness of, the messages.

"(3) STUDY.—Based on information contained in the reports submitted under paragraph (2), the Secretary shall prepare and transmit to Congress a report on the effectiveness of purchasing television and radio time for highway safety public service messages using funds described in paragraph (1)."

EVALUATION OF HANDICAPPED PARKING SYSTEM

Pub. L. 102–240, title I, §1088, Dec. 18, 1991, 105 Stat. 2022, directed Secretary to conduct a study on progress being made by States in adopting and implementing uniform system for handicapped parking established in regulations issued pursuant to Pub. L. 100–641 (102 Stat. 3335), set out below, and, not later than 2 years after Dec. 18, 1991, submit to Congress the results of the study.

OBLIGATION LIMITATION

Pub. L. 102–240, title II, §2009(b), Dec. 18, 1991, 105 Stat. 2080, provided that: "If an obligation limitation is placed on sums authorized to be appropriated to carry out section 402 of title 23, United States Code, for fiscal year 1993 or subsequent fiscal years, any amounts made available out of such funds to carry out sections 2004 and 2006 of this Act [amending section 410 of this title and enacting provisions set out as notes under sections 403 and 410 of this title] and section 211(b) of the National Driver Register Act of 1982 [Pub. L. 97–364, set out as a note under section 401 of this title] shall be reduced proportionally."

HANDICAPPED PARKING SYSTEM

Pub. L. 100–641, §3, Nov. 9, 1988, 102 Stat. 3335, provided that:

"(a) REGULATIONS.—Not later than the 180th day following the date of the enactment of this Act [Nov. 9, 1988], the Secretary of Transportation shall issue regulations—

"(1) which establish a uniform system for handicapped parking designed to enhance the safety of handicapped individuals, and

"(2) which encourage adoption of such system by all the States.

In issuing such regulations, the Secretary shall consult the States.

"(b) DEFINITIONS.—For purposes of this section—

"(1) UNIFORM SYSTEM FOR HANDICAPPED PARKING.—A uniform system for handicapped parking designed to enhance the safety of handicapped individuals is a system which—

"(A) adopts the International Symbol of Access (as adopted by Rehabilitation International in 1969 at its 11th World Congress on Rehabilitation of the Disabled) as the only recognized symbol for the identification of vehicles used for transporting individuals with handicaps which limit or impair the ability to walk;

"(B) provides for the issuance of license plates displaying the International Symbol of Access for vehicles which will be used to transport individuals with handicaps which limit or impair the ability to walk, under criteria determined by the State;

"(C) provides for the issuance of removable windshield placards (displaying the International Symbol of Access) to individuals with handicaps which limit or impair the ability to walk, under criteria determined by the State;

"(D) provides that fees charged for the licensing or registration of a vehicle used to transport individuals with handicaps do not exceed fees charged for the licensing or registration of other similar vehicles operated in the State; and

"(E) for purposes of easy access parking, recognizes licenses and placards displaying the International Symbol of Access which have been issued by other States and countries.

"(2) STATE.—The term 'State' has the meaning such term has when used in chapter 4 of title 23, United States Code."

PARKING FOR HANDICAPPED PERSONS; STUDY AND REPORT; PROPOSED UNIFORM STATE LAW

Pub. L. 100–17, title I, §161, Apr. 2, 1987, 101 Stat. 212, provided that:

"(a) STUDY.—The Secretary shall conduct a study for the purpose of determining—

"(1) any problems encountered by handicapped persons in parking motor vehicles; and

"(2) whether or not each State should establish parking privileges for handicapped persons and grant to nonresidents of the State the same parking privileges as are granted to residents.

"(b) REPORT.—Not later than 180 days after the date of the enactment of this Act [Apr. 2, 1987], the

Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the study conducted under subsection (a).

"(c) DEVELOPMENT OF PROPOSED UNIFORM STATE LAW.—

"(1) REQUIREMENT.—If the Secretary determines under subsection (a) that each State should establish parking privileges for handicapped persons and grant to nonresidents of the State the same parking privileges as are granted to residents, the Secretary shall develop a proposed uniform State law with respect to parking privileges for handicapped persons and submit a copy of the proposed uniform State law to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives and each State.

"(2) FACTORS TO CONSIDER.—In developing the proposed uniform State law, the Secretary shall consult with the States and shall consider any advantages—

"(A) of ensuring that parking privileges for handicapped persons may be utilized whether a handicapped person is a passenger or a driver;

"(B) of the use of the international symbol of access as the exclusive symbol identifying parking zones for handicapped persons and identifying vehicles that may park in such parking zones;

"(C) of displaying the international symbol of access on license plates or license plate decals and on identification placards; and

"(D) of designing any identification placard so that the placard is easily visible when placed in the interior of any vehicle.

"(3) REPORT.—If a proposed uniform State law with respect to parking privileges for handicapped persons is developed and submitted to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation [now Committee on Transportation and Infrastructure] of the House of Representatives under paragraph (1), within 12 months after the date of such submission and each year thereafter, the Secretary shall report to such committees on the extent to which each State has adopted the proposed uniform State law."

[For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which a report required under section 161(c)(3) of Pub. L. 100–17, set out above, is listed on page 133), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.]

SCHOOLBUS SAFETY MEASURES; STUDY BY NATIONAL ACADEMY OF SCIENCES AND REPORT; PUBLICATION OF LIST OF MOST EFFECTIVE SAFETY MEASURES IN FEDERAL REGISTER; SCHOOLBUS SAFETY GRANT PROGRAM

Pub. L. 100–17, title II, §204, Apr. 2, 1987, 101 Stat. 219, provided that:

"(a) STUDY.—

"(1) NATIONAL ACADEMY OF SCIENCES.—Not later than 30 days after the date of the enactment of this Act [Apr. 2, 1987], the Secretary shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation of the principal causes of fatalities and injuries to schoolchildren riding in schoolbuses and of the use of seatbelts in schoolbuses and other measures that may improve the safety of schoolbus transportation. The purpose of the study and investigation is to determine those safety measures that are the most effective in protecting the safety of schoolchildren while boarding, leaving, and riding in schoolbuses.

"(2) REPORT.—In entering into any arrangements with the National Academy of Sciences for conducting the study and investigation under this subsection, the Secretary shall request the National Academy of Sciences to submit, not later than 18 months after the date on which such arrangements are completed, to Congress and the Secretary a report on the results of such study and investigation. The report shall contain a list of those safety measures determined by the Academy to be most effective in protecting the safety of schoolchildren while boarding, leaving, and riding in schoolbuses.

"(3) REVIEW OF REPORT.—Upon receipt of the report under paragraph (2), the Secretary shall review such report for the purpose of determining those safety measures that are the most effective in protecting the safety of schoolchildren while boarding, leaving, and riding in schoolbuses. Not later than 2 months after the date of receipt of such report, the Secretary shall publish in the Federal Register a list of those safety measures which the Secretary determines are the most effective in protecting the safety of such children.

"(4) INFORMATION.—Upon request of the National Academy of Sciences, the Secretary shall furnish to the Academy any information which the Academy deems necessary for the purpose of conducting the study and investigation under this subsection.

"(b) SCHOOLBUS SAFETY GRANT PROGRAM.—

"(1) SET-ASIDE.—Before apportioning any funds made available to carry out section 402 of title 23, United States Code, for each of fiscal years 1989, 1990, and 1991, the Secretary may set aside an amount not to exceed $5,000,000 for making grants to States to implement those schoolbus safety measures published by the Secretary under subsection (a).

"(2) APPLICATION.—Any State interested in receiving under this subsection a grant to implement schoolbus safety measures in fiscal year 1989, 1990, or 1991 shall submit to the Secretary an application for such grant. Applications under this subsection shall be submitted at such time and in such form and contain such information as the Secretary may require by regulation.

"(3) LIMITATION.—No State shall receive more than 30 percent of the funds set aside pursuant to this subsection for any fiscal year in grants under this subsection."

SPECIAL PARKING PRIVILEGES FOR HANDICAPPED PERSONS

Pub. L. 98–78, title III, §321, Aug. 15, 1983, 97 Stat. 473, provided that:

"(a) The Congress finds that—

"(1) in this Nation there exist millions of handicapped people with severe physical impairments including partial paralysis, limb amputation, chronic heart condition, emphysema, arthritis, rheumatism, and other debilitating conditions which greatly limit their personal mobility;

"(2) these people reside in each of the several States and have need and reason to travel from one State to another for business and recreational purposes;

"(3) each State maintains the right to establish and enforce its own code of regulations regarding the appropriate use of motor vehicles operating within its jurisdiction;

"(4) within a given State handicapped individuals are oftentimes granted special parking privileges to help offset the limitations imposed by their physical impairment;

"(5) these special parking privileges vary from State to State as do the methods and means of identifying vehicles used by disabled individuals, all of which serve to impede both the enforcement of special parking privileges and the handicapped individual's freedom to properly utilize such privileges;

"(6) there are many efforts currently underway to help alleviate these problems through public awareness and administrative change as encouraged by concerned individuals and national associations directly involved in matters relating to the issue of special parking privileges for disabled individuals; and

"(7) despite these efforts the fact remains that many States may need to give the matter legislative consideration to ensure a proper resolution of this issue, especially as it relates to law enforcement and placard responsibility.

"(b) The Congress encourages each of the several States working through the National Governors Conference to—

"(1) adopt the International Symbol of Access as the only recognized and adopted symbol to be used to identify vehicles carrying those citizens with acknowledged physical impairments;

"(2) grant to vehicles displaying this symbol the special parking privileges which a State may provide; and

"(3) permit the International Symbol of Access to appear either on a specialized license plate, or on a specialized placard placed in the vehicles so as to be clearly visible through the front windshield, or on both such places.

"(c) It is the sense of the Congress that agreements of reciprocity relating to the special parking privileges granted handicapped individuals should be developed and entered into by and between the several States so as to—

"(1) facilitate the free and unencumbered use between the several States, of the special parking privileges afforded those people with acknowledged handicapped conditions, without regard to the State of residence of the handicapped person utilizing such privilege;

"(2) improve the ease of law enforcement in each State of its special parking privileges and to facilitate the handling of violators; and

"(3) ensure that motor vehicles carrying individuals with acknowledged handicapped conditions be given fair and predictable treatment throughout the Nation.

"(d) As used in this section the term 'State' means the several States and the District of Columbia.

"(e) The Secretary of Transportation shall provide a copy of this section to the Governor of each State and the Mayor of the District of Columbia."

MOTORCYCLE HELMET STUDY

Pub. L. 95–599, title II, §210, Nov. 6, 1978, 92 Stat. 2733, provided that the Secretary of Transportation make a full and complete study of the effects of the provision contained in the eighth sentence of subsec. (c)

of this section and that the Secretary report the results of such study to Congress not later than one year after Nov. 6, 1978.

STUDY OF METHODS OF ENCOURAGING USE OF SAFETY BELTS IN AUTOMOBILES

Pub. L. 95–599, title II, §214, Nov. 6, 1978, 92 Stat. 2734, provided that the Secretary of Transportation undertake to enter into arrangements with the National Academy of Sciences to conduct a study and investigation of methods of encouraging the use of safety belts by drivers of, and passengers in, motor vehicles and that the National Academy of Sciences report to the Secretary and the Congress not later than one year after Nov. 6, 1978, on the results of such study.

EVALUATION OF SAFETY STANDARDS; REPORT TO CONGRESS

Pub. L. 94–280, title II, §208(b), May 5, 1976, 90 Stat. 454, provided that the Secretary of Transportation would, in cooperation with the States, conduct an evaluation of the adequacy and appropriateness of all uniform safety standards established under this section in effect on May 5, 1976, and report the findings, together with recommendations, to Congress on or before July 1, 1977.

REPORT TO CONGRESS BY JULY 1, 1967, ON INITIAL STANDARDS

Pub. L. 89–564, title II, §203, Sept. 9, 1966, 80 Stat. 736, required the Secretary of Commerce to report to Congress by July 1, 1967, all standards to be initially applied in carrying out section 402 of this title.

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 89–564, title I, §104, Sept. 9, 1966, 80 Stat. 735, authorized the appropriation of $67,000,000, $100,000,000, and $100,000,000 for the fiscal years ending June 30, 1967, 1968, and 1969, respectively, to carry out this section.

STUDY OF RELATIONSHIP BETWEEN CONSUMPTION OF ALCOHOL AND HIGHWAY SAFETY

Pub. L. 89–564, title II, §204, Sept. 9, 1966, 80 Stat. 736, as amended by Pub. L. 97–449, §2(a), Jan. 12, 1983, 96 Stat. 2439, directed the Secretary to make a thorough and complete study of the relationship between the consumption of alcohol and its effect upon highway safety and drivers of motor vehicles, in consultation with such other government and private agencies as may be necessary. Such study shall cover review and evaluation of State and local laws and enforcement methods and procedures relating to driving under the influence of alcohol, State and local programs for the treatment of alcoholism, and such other aspects of this overall problem as may be useful. The results of this study were required to be reported to the Congress by the Secretary on or before July 1, 1967, with recommendations for legislation if warranted.

EXECUTIVE DOCUMENTS

EX. ORD. NO. 13043. INCREASING SEAT BELT USE IN THE UNITED STATES

Ex. Ord. No. 13043, Apr. 16, 1997, 62 F.R. 19217, as amended by Ex. Ord. No. 13652, §5, Sept. 30, 2013, 78 F.R. 61818, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Highway Safety Act of 1966, 23 U.S.C. 402 and 403, as amended, section 7902(c) of title 5, United States Code, and section 19 of the Occupational Safety and Health Act of 1970, 29 U.S.C. 668, as amended, and in order to require that Federal employees use seat belts while on official business; to require that motor vehicle occupants use seat belts in national park areas and on Department of Defense ("Defense") installations; to encourage Tribal Governments to adopt and enforce seat belt policies and programs for occupants of motor vehicles traveling on highways in Indian Country; and to encourage Federal contractors, subcontractors, and grantees to adopt and enforce on-the-job seat belt use policies and programs, it is hereby ordered as follows:

SECTION 1. *Policies*. (a) *Seat Belt Use by Federal Employees*. Each Federal employee occupying any seating position of a motor vehicle on official business, whose seat is equipped with a seat belt, shall have the seat belt properly fastened at all times when the vehicle is in motion.

(b) *Seat Belt Use in National Parks and on Defense Installations*. Each operator and passenger occupying any seating position of a motor vehicle in a national park area or on a Defense installation, whose seat is equipped with a seat belt or child restraint system, shall have the seat belt or child restraint system properly fastened, as required by law, at all times when the vehicle is in motion.

(c) *Seat Belt Use by Government Contractors, Subcontractors and Grantees*. Each Federal agency, in

contracts, subcontracts, and grants entered into after the date of this order, shall seek to encourage contractors, subcontractors, and grantees to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented, or personally owned vehicles.

(d) *Tribal Governments*. Tribal Governments are encouraged to adopt and enforce seat belt policies and programs for occupants of motor vehicles traveling on highways in Indian Country that are subject to their jurisdiction.

SEC. 2. *Scope of Order*. All agencies of the executive branch are directed to promulgate rules and take other appropriate measures within their existing programs to further the policies of this order. This includes, but is not limited to, conducting education, awareness, and other appropriate programs for Federal employees about the importance of wearing seat belts and the consequences of not wearing them. It also includes encouraging Federal contractors, subcontractors, and grantees to conduct such programs. In addition, the National Park Service and the Department of Defense are directed to initiate rulemaking to consider regulatory changes with respect to enhanced seat belt use requirements and standard (primary) enforcement of such requirements in national park areas and on Defense installations, consistent with the policies outlined in this order, and to widely publicize and actively enforce such regulations. The term "agency" as used in this order means an Executive department, as defined in 5 U.S.C. 101, or any employing unit or authority of the Federal Government, other than those of the legislative and judicial branches.

SEC. 3. *Coordination*. The Secretary of Transportation shall provide leadership and guidance to the heads of executive branch agencies to assist them with the employee seat belt programs established pursuant to this order. The Secretary of Transportation shall also cooperate and consult with the legislative and judicial branches of the Government to encourage and help them to adopt seat belt use programs.

SEC. 4. *Other Powers and Duties*. Nothing in this order shall be construed to impair or alter the powers and duties of the heads of the various Federal agencies pursuant to the Highway Safety Act of 1966, 23 U.S.C. 402 and 403, as amended, section 19 of the Occupational Safety and Health Act of 1970, 29 U.S.C. 668, as amended, or sections 7901, 7902, and 7903 of title 5, United States Code, nor shall it be construed to affect any right, duty, or procedure under the National Labor Relations Act, 29 U.S.C. 151 *et seq*.

SEC. 5. *General Provisions*. (a) Executive Order 12566 of September 26, 1986, is revoked. To the extent that this order is inconsistent with any provisions of any prior Executive order, this order shall control.

(b) If any provision of this order or application of any such provision is held to be invalid, the remainder of this order and other applications of such provision shall not be affected.

(c) Nothing in this order shall be construed to create a new cause of action against the United States, or to alter in any way the United States liability under the Federal Tort Claims Act, 28 U.S.C. 2671-2680.

(d) The Secretary of Defense shall implement the provisions of this order insofar as practicable for vehicles of the Department of Defense.

(e) The Secretary of the Treasury and the Attorney General, consistent with their protective and law enforcement responsibilities, shall determine the extent to which the requirements of this order apply to the protective and law enforcement activities of their respective agencies.

EX. ORD. NO. 13513. FEDERAL LEADERSHIP ON REDUCING TEXT MESSAGING WHILE DRIVING

Ex. Ord. No. 13513, Oct. 1, 2009, 74 F.R. 51225, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 7902(c) of title 5, United States Code, and the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 101 *et seq*. [see Short Title of 1949 Act note set out under section 101 of Title 41, Public Contracts], and in order to demonstrate Federal leadership in improving safety on our roads and highways and to enhance the efficiency of Federal contracting, it is hereby ordered as follows:

SECTION 1. *Policy*. With nearly 3 million civilian employees, the Federal Government can and should demonstrate leadership in reducing the dangers of text messaging while driving. Recent deadly crashes involving drivers distracted by text messaging while behind the wheel highlight a growing danger on our roads. Text messaging causes drivers to take their eyes off the road and at least one hand off the steering wheel, endangering both themselves and others. Every day, Federal employees drive Government-owned, Government-leased, or Government-rented vehicles (collectively, GOV) or privately-owned vehicles (POV) on official Government business, and some Federal employees use Government-supplied electronic devices to text or e-mail while driving. A Federal Government-wide prohibition on the use of text messaging while driving on official business or while using Government-supplied equipment will help save lives, reduce injuries, and set an example for State and local governments, private employers, and individual drivers. Extending this policy to cover Federal contractors is designed to promote economy and efficiency in Federal procurement. Federal contractors and contractor employees who refrain from the unsafe practice of text

messaging while driving in connection with Government business are less likely to experience disruptions to their operations that would adversely impact Federal procurement.

SEC. 2. *Text Messaging While Driving by Federal Employees*. Federal employees shall not engage in text messaging (a) when driving GOV, or when driving POV while on official Government business, or (b) when using electronic equipment supplied by the Government while driving.

SEC. 3. *Scope of Order*. (a) All agencies of the executive branch are directed to take appropriate action within the scope of their existing programs to further the policies of this order and to implement section 2 of this order. This includes, but is not limited to, considering new rules and programs, and reevaluating existing programs to prohibit text messaging while driving, and conducting education, awareness, and other outreach for Federal employees about the safety risks associated with texting while driving. These initiatives should encourage voluntary compliance with the agency's text messaging policy while off duty.

(b) Within 90 days of the date of this order, each agency is directed, consistent with all applicable laws and regulations: (i) to take appropriate measures to implement this order, (ii) to adopt measures to ensure compliance with section 2 of this order, including through appropriate disciplinary actions, and (iii) to notify the Secretary of Transportation of the measures it undertakes hereunder.

(c) Agency heads may exempt from the requirements of this order, in whole or in part, certain employees, devices, or vehicles in their respective agencies that are engaged in or used for protective, law enforcement, or national security responsibilities or on the basis of other emergency conditions.

SEC. 4. *Text Messaging While Driving by Government Contractors, Subcontractors, and Recipients and Subrecipients*. Each Federal agency, in procurement contracts, grants, and cooperative agreements, and other grants to the extent authorized by applicable statutory authority, entered into after the date of this order, shall encourage contractors, subcontractors, and recipients and subrecipients to adopt and enforce policies that ban text messaging while driving company-owned or -rented vehicles or GOV, or while driving POV when on official Government business or when performing any work for or on behalf of the Government. Agencies should also encourage Federal contractors, subcontractors, and grant recipients and subrecipients as described in this section to conduct initiatives of the type described in section 3(a) of this order.

SEC. 5. *Coordination*. The Secretary of Transportation, in consultation with the Administrator of General Services and the Director of the Office of Personnel Management, shall provide leadership and guidance to the heads of executive branch agencies to assist them with any action pursuant to this order.

SEC. 6. *Definitions*.

(a) The term "agency" as used in this order means an executive agency, as defined in 5 U.S.C. 105, except for the Government Accountability Office.

(b) "Texting" or "Text Messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of SMS texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication.

(c) "Driving" means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light or stop sign, or otherwise. It does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary.

SEC. 7. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect or alter:

(i) Authority granted by law or Executive Order to an agency, or the head thereof;

(ii) Powers and duties of the heads of the various departments and agencies pursuant to the Highway Safety Act of 1966, as amended, 23 U.S.C. 402 and 403, section 19 of the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. 668, sections 7901 and 7902 of title 5, United States Code, or the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 101 *et seq.*;

(iii) Rights, duties, or procedures under the National Labor Relations Act, 29 U.S.C. 151 *et seq.*; or

(iv) Functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

§403. Highway safety research and development

(a) DEFINED TERM.—In this section, the term "Federal laboratory" includes—

(1) a government-owned, government-operated laboratory; and

(2) a government-owned, contractor-operated laboratory.

(b) GENERAL AUTHORITY.—

(1) RESEARCH AND DEVELOPMENT ACTIVITIES.—The Secretary may conduct research and development activities, including demonstration projects, training, education, and the collection and analysis of highway and motor vehicle safety data and related information needed to carry out this section, with respect to—

(A) all aspects of highway and traffic safety systems and conditions relating to—

(i) vehicle, highway, driver, passenger, motorcyclist, bicyclist, and pedestrian characteristics;

(ii) crash causation and investigations;

(iii) communications; and

(iv) emergency medical services, including the transportation of the injured;

(B) human behavioral factors and their effect on highway and traffic safety, including—

(i) driver education;

(ii) impaired driving; and

(iii) distracted driving;

(C) an evaluation of the effectiveness of countermeasures to increase highway and traffic safety, including occupant protection and alcohol- and drug-impaired driving technologies and initiatives;

(D) the development of technologies to detect drug impaired drivers;

(E) research on, evaluations of, and identification of best practices related to driver education programs (including driver education curricula, instructor training and certification, program administration, and delivery mechanisms) and make recommendations for harmonizing driver education and multistage graduated licensing systems; and

(F) the effect of State laws on any aspects, activities, or programs described in subparagraphs (A) through (E).

(2) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out this section—

(A) independently;

(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories;

(C) by entering into contracts, cooperative agreements, and other transactions with the National Academy of Sciences, any Federal laboratory, State or local agency, authority, association, institution, foreign government (in coordination with the Department of State) or person (as defined in chapter 1 of title 1); or

(D) by making grants to the National Academy of Sciences, any Federal laboratory, State or local agency, authority, association, institution, or person (as defined in chapter 1 of title 1).

(c) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—To encourage innovative solutions to highway safety problems, stimulate voluntary improvements in highway safety, and stimulate the marketing of new highway safety related technology by private industry, the Secretary is authorized to carry out, on a cost-shared basis, collaborative research and development with—

(A) non-Federal entities, including State and local governments, foreign governments, colleges, universities, corporations, partnerships, sole proprietorships, organizations, and trade associations that are incorporated or established under the laws of any State or the United

States; and

(B) Federal laboratories.

(2) AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)) in which the Secretary provides not more than 50 percent of the cost of any research or development project under this subsection.

(3) USE OF TECHNOLOGY.—The research, development, or use of any technology pursuant to an agreement under this subsection, including the terms under which technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

(d) TITLE TO EQUIPMENT.—In furtherance of the purposes set forth in section 402, the Secretary may vest title to equipment purchased for demonstration projects with funds authorized under this section to State or local agencies on such terms and conditions as the Secretary determines to be appropriate.

(e) PROHIBITION ON CERTAIN DISCLOSURES.—Any report of the National Highway Traffic Safety Administration, or of any officer, employee, or contractor of the National Highway Traffic Safety Administration, relating to any highway traffic crash or the investigation of such crash conducted pursuant to this chapter or chapter 301 of title 49 may only be made available to the public in a manner that does not identify individuals.

(f) COOPERATIVE RESEARCH AND EVALUATION.—

(1) ESTABLISHMENT AND FUNDING.—Notwithstanding the apportionment formula set forth in section 402(c)(2), $3,500,000 of the total amount available for apportionment to the States for highway safety programs under section 402(c) in each fiscal year shall be available for expenditure by the Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, for a cooperative research and evaluation program to research and evaluate priority highway safety countermeasures.

(2) ADMINISTRATION.—The program established under paragraph (1)—

(A) shall be administered by the Administrator of the National Highway Traffic Safety Administration; and

(B) shall be jointly managed by the Governors Highway Safety Association and the National Highway Traffic Safety Administration.

(g) INTERNATIONAL COOPERATION.—The Administrator of the National Highway Traffic Safety Administration may participate and cooperate in international activities to enhance highway safety.

(h) IN-VEHICLE ALCOHOL DETECTION DEVICE RESEARCH.—

(1) DEFINITIONS.—In this subsection:

(A) ALCOHOL-IMPAIRED DRIVING.—The term "alcohol-impaired driving" means the operation of a motor vehicle (as defined in section 30102(a) of title 49) by an individual whose blood alcohol content is at or above the legal limit.

(B) LEGAL LIMIT.—The term "legal limit" means a blood alcohol concentration of 0.08 percent or greater (as set forth in section 163(a)) or such other percentage limitation as may be established by applicable Federal, State, or local law.

(2) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall carry out a collaborative research effort under chapter 301 of title 49 on in-vehicle technology to prevent alcohol-impaired driving.

(3) FUNDING.—The Secretary shall obligate from funds made available to carry out this section for the period covering fiscal years 2022 through 2025, not more than $45,000,000 to conduct the research described in paragraph (2).

(4) PRIVACY PROTECTION.—The Administrator shall not develop requirements for any

device or means of technology to be installed in an automobile intended for retail sale that records a driver's blood alcohol concentration.

(5) REPORTS.—The Administrator shall submit an annual report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and Committee on Science, Space, and Technology of the House of Representatives that—

(A) describes the progress made in carrying out the collaborative research effort; and

(B) includes an accounting for the use of Federal funds obligated or expended in carrying out that effort.

(i) LIMITATION ON DRUG AND ALCOHOL SURVEY DATA.—The Secretary shall establish procedures and guidelines to ensure that any person participating in a program or activity that collects data on drug or alcohol use by drivers of motor vehicles and is carried out under this section is informed that the program or activity is voluntary.

(j) FEDERAL SHARE.—The Federal share of the cost of any project or activity carried out under this section may be not more than 100 percent.

(k) CHILD SAFETY CAMPAIGN.—

(1) IN GENERAL.—The Secretary shall carry out an education campaign to reduce the incidence of vehicular heatstroke of children left in passenger motor vehicles (as defined in section 30102(a) of title 49).

(2) ADVERTISING.—The Secretary may use, or authorize the use of, funds made available to carry out this section to pay for the development, production, and use of broadcast and print media advertising and Internet-based outreach for the education campaign under paragraph (1).

(3) COORDINATION.—In carrying out the education campaign under paragraph (1), the Secretary shall coordinate with—

(A) interested State and local governments;

(B) private industry; and

(C) other parties, as determined by the Secretary.

(l) DEVELOPMENT OF STATE PROCESSES FOR INFORMING CONSUMERS OF RECALLS.—

(1) DEFINITIONS.—In this subsection:

(A) MOTOR VEHICLE.—The term "motor vehicle" has the meaning given the term in section 30102(a) of title 49.

(B) OPEN RECALL.—The term "open recall" means a motor vehicle recall—

(i) for which a notification by a manufacturer has been provided under section 30119 of title 49; and

(ii) that has not been remedied under section 30120 of that title.

(C) PROGRAM.—The term "program" means the program established under paragraph (2)(A).

(D) REGISTRATION.—The term "registration" means the process for registering a motor vehicle in a State (including registration renewal).

(E) STATE.—The term "State" has the meaning given the term in section 101(a).

(2) GRANTS.—

(A) ESTABLISHMENT OF PROGRAM.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall establish a program under which the Secretary shall provide grants to States for use in developing and implementing State processes for informing each applicable owner and lessee of a motor vehicle of any open recall on the motor vehicle at the time of registration of the motor vehicle in the State, in accordance with this paragraph.

(B) ELIGIBILITY.—To be eligible to receive a grant under the program, a State shall—

(i) submit to the Secretary an application at such time, in such manner, and containing such

information as the Secretary may require; and

(ii) agree—

(I) to notify each owner or lessee of a motor vehicle presented for registration in the State of any open recall on that motor vehicle; and

(II) to provide to each owner or lessee of a motor vehicle presented for registration, at no cost—

(aa) the open recall information for the motor vehicle; and

(bb) such other information as the Secretary may require.

(C) FACTORS FOR CONSIDERATION.—In selecting grant recipients under the program, the Secretary shall take into consideration the methodology of a State for—

(i) identifying open recalls on a motor vehicle;

(ii) informing each owner and lessee of a motor vehicle of an open recall; and

(iii) measuring performance in—

(I) informing owners and lessees of open recalls; and

(II) remedying open recalls.

(D) PERFORMANCE PERIOD.—A grant provided under the program shall require a performance period of 2 years.

(E) REPORT.—Not later than 90 days after the date of completion of the performance period under subparagraph (D), each State that receives a grant under the program shall submit to the Secretary a report that contains such information as the Secretary considers to be necessary to evaluate the extent to which open recalls have been remedied in the State.

(F) NO REGULATIONS REQUIRED.—Notwithstanding any other provision of law, the Secretary shall not be required to issue any regulations to carry out the program.

(3) PAPERWORK REDUCTION ACT.—Chapter 35 of title 44 (commonly known as the "Paperwork Reduction Act") shall not apply to information collected under the program.

(4) FUNDING.—

(A) IN GENERAL.—For each of fiscal years 2022 through 2026, the Secretary shall obligate from funds made available to carry out this section $1,500,000 to carry out the program.

(B) REALLOCATION.—To ensure, to the maximum extent practicable, that all amounts described in subparagraph (A) are obligated each fiscal year, the Secretary, before the last day of any fiscal year, may reallocate any of those amounts remaining available to increase the amounts made available to carry out any other activities authorized under this section.

(m) INNOVATIVE HIGHWAY SAFETY COUNTERMEASURES.—

(1) IN GENERAL.—In conducting research under this section, the Secretary shall evaluate the effectiveness of innovative behavioral traffic safety countermeasures, other than traffic enforcement, that are considered promising or likely to be effective for the purpose of enriching revisions to the document entitled "Countermeasures That Work: A Highway Safety Countermeasure Guide for State Highway Safety Offices, Ninth Edition" and numbered DOT HS 812 478 (or any successor document).

(2) TREATMENT.—The research described in paragraph (1) shall be in addition to any other research carried out under this section.

(Added Pub. L. 89–564, title I, §101, Sept. 9, 1966, 80 Stat. 733; amended Pub. L. 93–87, title II, §§208(a), 220–222, 226(a), Aug. 13, 1973, 87 Stat. 286, 291, 292; Pub. L. 102–240, title II, §2003, Dec. 18, 1991, 105 Stat. 2071; Pub. L. 105–178, title II, §2002(a), (b)(1), June 9, 1998, 112 Stat. 325; Pub. L. 109–59, title II, §§2003(a), (b), 2013(e), Aug. 10, 2005, 119 Stat. 1522, 1540; Pub. L. 112–141, div. C, title I, §31103, July 6, 2012, 126 Stat. 739; Pub. L. 113–159, title I, §1101(b), Aug. 8, 2014, 128 Stat. 1843; Pub. L. 114–21, title I, §1101(b), May 29, 2015, 129 Stat. 221; Pub. L. 114–41, title I, §1101(b), July 31, 2015, 129 Stat. 448; Pub. L. 114–73, title I, §1101(b), Oct. 29, 2015, 129 Stat. 571; Pub. L. 114–87, title I, §1101(b), Nov. 20, 2015, 129 Stat. 680; Pub. L. 114–94,

div. A, title IV, §§4003, 4014(2), div. B, title XXIV, §24202(b), Dec. 4, 2015, 129 Stat. 1500, 1513, 1712; Pub. L. 116–159, div. B, title I, §1103, Oct. 1, 2020, 134 Stat. 726; Pub. L. 117–58, div. B, title IV, §24103, Nov. 15, 2021, 135 Stat. 792.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Stevenson-Wydler Technology Innovation Act of 1980, referred to in subsec. (c)(3), is Pub. L. 96–480, Oct. 21, 1980, 94 Stat. 2311, which is classified generally to chapter 63 (§3701 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of Title 15 and Tables.

The date of enactment of this subsection, referred to in subsec. (l)(2)(A), is the date of enactment of Pub. L. 117–58, which was approved Nov. 15, 2021.

AMENDMENTS

2021—Pub. L. 117–58, §24103(1), substituted "crash" for "accident" wherever appearing.

Subsec. (b)(1). Pub. L. 117–58, §24103(2), inserted ", training, education," after "demonstration projects" in introductory provisions.

Subsec. (f)(1). Pub. L. 117–58, §24103(3), substituted "$3,500,000" for "$2,500,000" and "section 402(c) in each fiscal year" for "subsection 402(c) in each fiscal year ending before October 1, 2015, and $443,989 of the total amount available for apportionment to the States for highway safety programs under section 402(c) in the period beginning on October 1, 2015, and ending on December 4, 2015,".

Subsec. (h)(1). Pub. L. 117–58, §24103(4)(C), redesignated par. (5) as (1). Former par. (1) redesignated (2).

Subsec. (h)(2). Pub. L. 117–58, §24103(4)(C), redesignated par. (1) as (2). Former par. (2) redesignated (3).

Pub. L. 117–58, §24103(4)(A), substituted "2022 through 2025, not more than $45,000,000 to conduct the research described in paragraph (2)" for "2017 through 2021 not more than $26,560,000 to conduct the research described in paragraph (1)".

Subsec. (h)(3) to (5). Pub. L. 117–58, §24103(4)(C), redesignated pars. (2) to (4) as (3) to (5), respectively.

Subsec. (h)(5)(A). Pub. L. 117–58, §24103(4)(B), substituted "section 30102(a)" for "section 30102(a)(6)".

Subsecs. (k) to (m). Pub. L. 117–58, §24103(5), added subsecs. (k) to (m).

2020—Subsec. (h)(2). Pub. L. 116–159 substituted "2021" for "2020" and "$26,560,000" for "$21,248,000".

2015—Subsec. (b)(2)(C). Pub. L. 114–94, §24202(b)(1), inserted "foreign government (in coordination with the Department of State)" after "institution,".

Subsec. (c)(1)(A). Pub. L. 114–94, §24202(b)(2), inserted "foreign governments," after "local governments,".

Subsec. (e). Pub. L. 114–94, §4014(2), substituted "chapter 301 of title 49" for "chapter 301".

Subsec. (f)(1). Pub. L. 114–87 substituted "and $443,989 of the total amount available for apportionment to the States for highway safety programs under section 402(c) in the period beginning on October 1, 2015, and ending on December 4, 2015," for "and $348,361 of the total amount available for apportionment to the States for highway safety programs under section 402(c) in the period beginning on October 1, 2015, and ending on November 20, 2015,".

Pub. L. 114–73 substituted "and $348,361 of the total amount available for apportionment to the States for highway safety programs under section 402(c) in the period beginning on October 1, 2015, and ending on November 20, 2015," for "and $198,087 of the total amount available for apportionment to the States for highway safety programs under section 402(c) in the period beginning on October 1, 2015, and ending on October 29, 2015,".

Pub. L. 114–41 substituted "each fiscal year ending before October 1, 2015, and $198,087 of the total amount available for apportionment to the States for highway safety programs under section 402(c) in the period beginning on October 1, 2015, and ending on October 29, 2015," for "each fiscal year ending before October 1, 2014, and $2,082,192 of the total amount available for apportionment to the States for highway safety programs under section 402(c) in the period beginning on October 1, 2014, and ending on July 31, 2015,".

Pub. L. 114–21 substituted "and $2,082,192 of the total amount available for apportionment to the States for highway safety programs under section 402(c) in the period beginning on October 1, 2014, and ending on

July 31, 2015," for "and $1,664,384 of the total amount available for apportionment to the States for highway safety programs under section 402(c) in the period beginning on October 1, 2014, and ending on May 31, 2015,".

Subsec. (h)(1). Pub. L. 114–94, §4003(1)(A), substituted "shall carry" for "may carry".

Subsec. (h)(2). Pub. L. 114–94, §4003(1)(B), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "Funds provided under section 405 may be made to be used by the Secretary to conduct the research described in paragraph (1)."

Subsec. (h)(3). Pub. L. 114–94, §4003(1)(C), substituted "The" for "If the Administrator utilizes the authority under paragraph (1), the".

Subsec. (h)(4). Pub. L. 114–94, §4003(1)(D), substituted "The" for "If the Administrator conducts the research authorized under paragraph (1), the".

Subsecs. (i), (j). Pub. L. 114–94, §4003(2), added subsecs. (i) and (j).

2014—Subsec. (f)(1). Pub. L. 113–159 inserted "ending before October 1, 2014, and $1,664,384 of the total amount available for apportionment to the States for highway safety programs under section 402(c) in the period beginning on October 1, 2014, and ending on May 31, 2015," after "each fiscal year".

2012—Subsecs. (a) to (f). Pub. L. 112–141, §31103(1), added subsecs. (a) to (f) and struck out former subsecs. (a) to (f) which related to authority of the Secretary generally, drugs and driver behavior, authority of Secretary to conduct research through grants and contracts with public and private agencies, institutions, and individuals, authority of Secretary to vest title to equipment purchased for demonstration projects in State and local agencies, authority of Secretary relating to projects to demonstrate the administrative adjudication of traffic infractions, and collaborative research and development, respectively.

Subsec. (h). Pub. L. 112–141, §31103(2), added subsec. (h).

2005—Subsec. (a). Pub. L. 109–59, §2003(a), reenacted heading without change and amended text of subsec. (a) generally, substituting provisions relating to authority of Secretary to use funds for highway safety research programs for former provisions which related to, in par. (1), general authority of Secretary, in par. (2), additional authority of Secretary, and, in par. (3), definition of "safety".

Subsec. (b)(5), (6). Pub. L. 109–59, §2013(e), added pars. (5) and (6).

Subsec. (g). Pub. L. 109–59, §2003(b), added subsec. (g).

1998—Subsec. (a)(2)(A). Pub. L. 105–178, §2002(a), inserted ", including training in work zone safety management" after "personnel".

Subsec. (b)(3), (4). Pub. L. 105–178, §2002(b)(1), added pars. (3) and (4).

1991—Subsec. (a). Pub. L. 102–240, §2003(a), added subsec. (a) and struck out former subsec. (a) which read as follows: "The Secretary is authorized to use funds appropriated to carry out this subsection to carry out safety research which he is authorized to conduct by subsection (a) of section 307 of this title. In addition, the Secretary may use the funds appropriated to carry out this section, either independently or in cooperation with other Federal departments or agencies, for making grants to or contracting with State or local agencies, institutions, and individuals for (1) training or education of highway safety personnel, (2) research fellowships in highway safety, (3) development of improved accident investigation procedures, (4) emergency service plans, (5) demonstration projects, and (6) related activities which the Secretary deems will promote the purposes of this section. The Secretary shall assure that no fees are charged for any meetings or services attendant thereto or other activities relating to training and education of highway safety personnel."

Subsec. (b). Pub. L. 102–240, §2003(a), added subsec. (b) and struck out former subsec. (b) which read as follows: "In addition to the research authorized by subsection (a) of this section, the Secretary, in consultation with such other Government and private agencies as may be necessary, is authorized to carry out safety research on the following:

"(1) The relationship between the consumption and use of drugs and their effect upon highway safety and drivers of motor vehicles; and

"(2) Driver behavior research, including the characteristics of driver performance, the relationships of mental and physical abilities or disabilities to the driving task, and the relationship of frequency of driver accident involvement to highway safety."

Subsec. (c). Pub. L. 102–240, §2003(c), substituted "subsections (a) and (b)" for "subsection (b)".

Subsec. (f). Pub. L. 102–240, §2003(b), added subsec. (f) and struck out former subsec. (f) which read as follows: "In addition to the research authorized by subsection (a) of this section, the Secretary shall carry out research, development, and demonstration projects to improve and evaluate the effectiveness of various types of driver education programs in reducing traffic accidents and deaths, injuries, and property damage resulting therefrom. The research, development, and demonstration projects authorized by this subsection may be carried out by the Secretary through grants and contracts with public and private agencies, institutions, and individuals. The Secretary shall report to the Congress by July 1, 1975, and each year thereafter during the

continuance of the program, on the research, development, and demonstration projects authorized by this subsection, and shall include in such report an evaluation of the effectiveness of driver education programs in reducing traffic accidents and deaths, injuries, and property damage resulting therefrom."

1973—Subsec. (a). Pub. L. 93–87, §§208(a), 220, designated existing provisions as subsec. (a); substituted in first sentence "this subsection" for "this section"; substituted in second sentence "for making grants to or contracting with State or local agencies, institutions, and individuals for (1) training or education of highway safety personnel" for "for (1) grants to State or local agencies, institutions, and individuals for training or education of highway safety personnel" and "(6) related activities which the Secretary deems will promote the purposes of this section" for (6) related activities which are deemed by the Secretary to be necessary to carry out the purposes of this section"; and inserted requirement that the Secretary assure that no fees be charged for any meeting or services attendant thereto or other activities relating to training and education of highway safety personnel.

Subsecs. (b), (c). Pub. L. 93–87, §208(a), added subsecs. (b) and (c).

Subsecs. (d) to (f). Pub. L. 93–87, §§221, 222, 226(a), added subsecs. (d) to (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by div. A of Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by section 2003(a), (b) of Pub. L. 109–59 effective Oct. 1, 2005, see section 2022 of Pub. L. 109–59, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–240, except as otherwise provided, effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and not applicable to funds appropriated or made available on or before Dec. 18, 1991, see section 2008 of Pub. L. 102–240, set out as a note under section 402 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which a report required under subsec. (e) of this section is listed on page 134), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

RESEARCH ON DISTRACTED, INATTENTIVE, AND FATIGUED DRIVERS

Pub. L. 109–59, title II, §2003(d), Aug. 10, 2005, 119 Stat. 1523, provided that: "In conducting research under section 403(a)(3) of title 23, United States Code, the Secretary [of Transportation] shall carry out not less than 2 demonstration projects to evaluate new and innovative means of combating traffic system problems caused by distracted, inattentive, or fatigued drivers. The demonstration projects shall be in addition to any other research carried out under such section."

DRUG-IMPAIRED DRIVING ENFORCEMENT

Pub. L. 109–59, title II, §2013, Aug. 10, 2005, 119 Stat. 1539, as amended by Pub. L. 111–147, title IV, §421(m), Mar. 18, 2010, 124 Stat. 86; Pub. L. 112–30, title I, §121(m), Sept. 16, 2011, 125 Stat. 348, related to agency coordination and research on drug-impaired driving enforcement, prior to repeal by Pub. L. 112–141, div. C, title I, §31109(i), July 6, 2012, 126 Stat. 757.

SAFETY STUDIES

Pub. L. 105–178, title II, §2007, June 9, 1998, 112 Stat. 336, directed the Secretary to study the benefit to public safety of the use of blowout resistant tires on commercial motor vehicles and to study occupant safety in school buses, and to transmit to Congress a report on the results of each study not later than 2 years after June 9, 1998.

SCHOOL TRANSPORTATION SAFETY

Pub. L. 105–178, title IV, §4030, June 9, 1998, 112 Stat. 418, provided that:

"(a) STUDY.—Not later than 3 months after the date of enactment of this Act [June 9, 1998], the Secretary shall offer to enter into an agreement with the Transportation Research Board of the National Academy of Sciences to conduct, subject to the availability of appropriations, a study of the safety issues attendant to the transportation of school children to and from school and school-related activities by various transportation modes.

"(b) TERMS OF AGREEMENT.—The agreement under subsection (a) shall provide that—

"(1) the Transportation Research Board, in conducting the study, shall consider—

"(A) in consultation with the National Transportation Safety Board, the Bureau of Transportation Statistics, and other relevant entities, available crash injury data;

"(B) vehicle design and driver training requirements, routing, and operational factors that affect safety; and

"(C) other factors that the Secretary considers to be appropriate;

"(2) if the data referred to in paragraph (1)(A) is unavailable or insufficient, the Transportation Research Board shall recommend a new data collection regimen and implementation guidelines; and

"(3) a panel shall conduct the study and shall include—

"(A) representatives of—

"(i) highway safety organizations;

"(ii) school transportation;

"(iii) mass transportation operators;

"(iv) employee organizations; and

"(v) bicycling organizations;

"(B) academic and policy analysts; and

"(C) other interested parties.

"(c) REPORT.—Not later than 12 months after the Secretary enters into an agreement under subsection (a), the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that contains the results of the study.

"(d) AUTHORIZATION.—There are authorized to be appropriated to the Department of Transportation to carry out this section $200,000 for fiscal year 2000 and $200,000 for fiscal year 2001. Such sums shall remain available until expended."

DRUG RECOGNITION EXPERT TRAINING PROGRAM

Pub. L. 102–240, title II, §2006, Dec. 18, 1991, 105 Stat. 2079, provided that:

"(a) ESTABLISHMENT.—The Secretary, acting through the National Highway Traffic Safety Administration, shall establish a regional program for implementation of drug recognition programs and for training law enforcement officers (including enforcement officials under the motor carrier safety assistance program) to recognize and identify individuals who are operating a motor vehicle while under the influence of alcohol or one or more controlled substances or other drugs.

"(b) ADVISORY COMMITTEE.—The Secretary shall establish a citizens advisory committee that shall report to Congress annually on the progress of the implementation of subsection (a). Members of the committee shall include 1 member of each of the following: Mothers Against Drunk Driving; a narcotics control organization; American Medical Association; American Bar Association; and such other organizations as the Secretary deems appropriate. The committee shall be subject to the provisions of the [Federal] Advisory Committee Act [see 5 U.S.C. 1001 et seq.] and shall terminate 2 years after the date of the enactment of this Act [Dec. 18, 1991].

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $4,000,000 for each of fiscal years 1992 through 1997.

"(d) DEFINITION.—For purposes of this section, the term 'controlled substance' means any controlled substance, as defined under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), whose use the Secretary has determined poses a risk to transportation safety."

PILOT PROGRAM FOR DRUG RECOGNITION EXPERT TRAINING

Pub. L. 100–690, title IX, §9004, Nov. 18, 1988, 102 Stat. 4525, provided that the Secretary of Transportation, acting through the National Highway Traffic Safety Administration, would establish a 3-year pilot, regional program for training law enforcement officers to recognize and identify individuals operating

motor vehicles while under the influence of alcohol or 1 or more controlled substances or other drugs, and not later than 1 year after the completion of the pilot program, transmit to Congress a report on the effectiveness of such program together with any recommendations.

PILOT GRANT PROGRAM FOR RANDOM TESTING FOR ILLEGAL DRUG USE

Pub. L. 100–690, title IX, §9005, Nov. 18, 1988, 102 Stat. 4526, provided that:

"(a) ESTABLISHMENT OF PILOT PROGRAM.—The Secretary shall design, within 9 months after the date of the enactment of this Act [Nov. 18, 1988], and implement, within 15 months after the date of the enactment of this Act, a pilot State grant program for the purpose of testing individuals described in subsection (e)(1) to determine whether such individuals have used, without lawful authorization, a controlled substance.

"(b) STATE PARTICIPATION.—The Secretary shall solicit the participation of States from those States interested in participating in such a program not more than 4 States to participate in the program.

"(c) STATE SELECTION PROCESS.—The Secretary shall ensure that the selection made pursuant to this section is representative of varying geographical and population characteristics of the Nation, and takes into consideration the historical geographical incidence of motor vehicle accidents involving loss of human life. In selecting the States for participation, the Secretary shall attempt to solicit States which meet the following criteria:

"(1) One of the States shall be a western State which is one of the 3 most populous States, with numerous large cities, with at least one city exceeding 7,000,000 people. The State should have a diverse demographic population with larger than average drug use according to reliable surveys.

"(2) One of the remaining States should be a southern State, one a northeastern State, and one a central State.

"(3) One of the remaining States should be mainly rural and among the least populous States.

"(4) One of the remaining States should have less than average drug use according to reliable surveys.

"(d) LENGTH OF PROGRAM.—The pilot program authorized by this section shall continue for a period of 1 year. The Secretary shall consider alternative methodologies for implementing a system of random testing of such individuals.

"(e) REQUIREMENTS FOR STATE PARTICIPATION.—

"(1) PERSONS TO BE TESTED.—Each State participating in the test program shall test for controlled substances in accordance with paragraph (2) individuals who—

"(A) are applicants seeking the privilege to drive, and

"(B) have never been issued a driver's license by any State.

"(2) TYPES OF TESTING.—To deter drug use and promote highway safety, all individuals described in paragraph (1) shall be subject to random testing—

"(A) prior to issuance of driver's licenses, and

"(B) during the first year following the date of issuance of such licenses.

"(3) DENIAL OF DRIVING PRIVILEGES.—Each State participating in the test program shall deny an individual driving privileges if drug testing required by paragraph (1) indicates that such individual has used illicit drugs, with such denial lasting for a period of at least 1 year following such test or subsequent confirmatory test.

"(4) REINSTITUTION OF DRIVING PRIVILEGES.—The program described in paragraph (3) may allow for reinstitution of driving privileges after a period of 3 months if such reinstitution is accompanied by a requirement that the individual be available for a period of 9 months for drug testing on a regular basis. If any such test indicates that the individual has used illicit drugs, then driving privileges must be denied for 1 year following such test or confirmatory test.

"(f) REGULATIONS.—The Secretary may issue regulations to assist States in implementing the programs described in subsection (e) and to grant temporary exceptions in appropriate circumstances.

"(g) REPORT.—Not later than 30 months after the date of the enactment of this Act [Nov. 18, 1988], the Secretary shall prepare and transmit to Congress a comprehensive report setting forth the results of the pilot program conducted under this section. Such report shall include any recommendations of the Secretary concerning the desirability and implementation of a system for random testing of such operators of motor vehicles.

"(h) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this test program, there is authorized to be appropriated $5,000,000 for fiscal year 1990.

"(i) DEFINITIONS.—For purposes of this section—

"(1) CONTROLLED SUBSTANCE.—The term 'controlled substance' means any controlled substance as defined under section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)) whose use the

Secretary has determined poses a risk to transportation safety.

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

"(3) STATE.—The term 'State' has the meaning such term has when used in chapter 1 of title 23, United States Code."

DRUG AND HIGHWAY SAFETY STUDY AND REPORT

Pub. L. 99–570, title III, §3402, Oct. 27, 1986, 100 Stat. 3207–102, directed Secretary of Transportation to conduct a study to determine relationship between usage of controlled substances and highway safety and, not later than one year after Oct. 27, 1986, submit to Congress a report on results of study.

NATIONAL DRIVER REGISTER STUDY

Pub. L. 95–599, title II, §204, Nov. 6, 1978, 92 Stat. 2729, directed Secretary of Transportation to make a full and complete investigation and study of the need for, and, if necessary, ways and means to establish, a national driver register to assist States in electronically exchanging information regarding motor vehicle driving records of certain individuals, with Secretary to issue a final report to Congress not later than one year after Nov. 6, 1978.

DETECTION AND PREVENTION OF MARIJUANA AND OTHER DRUG USE BY OPERATORS OF MOTOR VEHICLES

Pub. L. 95–599, title II, §212, Nov. 6, 1978, 92 Stat. 2734, directed Secretary to report to Congress not later than Dec. 31, 1979, concerning the progress of efforts to detect and prevent marijuana and drug use by motor vehicle operators, capabilities of law enforcement officials to detect the use of marijuana and drugs by motor vehicle operators, and a description of Federal and State projects undertaken into methods of detection and prevention.

FORM AND USE OF REPORTS OF HIGHWAY TRAFFIC ACCIDENTS OR RESEARCH PROJECTS IN COURT; AVAILABILITY TO PUBLIC

Pub. L. 89–564, title I, §106, Sept. 9, 1966, 80 Stat. 735, as amended by Pub. L. 105–178, title V, §5119(f), June 9, 1998, 112 Stat. 452, provided that: "All facts contained in any report of any Federal department or agency or any officer, employee, or agent thereof, relating to any highway traffic accident or the investigation thereof conducted pursuant to chapter 4 of title 23 of the United States Code shall be available for use in any civil, criminal, or other judicial proceeding arising out of such accident, and any such officer, employee, or agent may be required to testify in such proceedings as to the facts developed in such investigation. Any such report shall be made available to the public in a manner which does not identify individuals. All completed reports on research projects, demonstration projects, and other related activities conducted under section 403 and chapter 5 of title 23, United States Code, shall be made available to the public in a manner which does not identify individuals."

APPROPRIATIONS AUTHORIZATIONS

Pub. L. 93–87, title II, §208(b), Aug. 13, 1973, 87 Stat. 286, provided that: "There is authorized to be appropriated to carry out the amendments made by this section [amending this section] by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, the sum of $10,000,000 per fiscal year for each of the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976."

Pub. L. 93–87, title II, §226(b), Aug. 13, 1973, 87 Stat. 292, provided that: "For the purpose of carrying out the amendment made by subsection (a) of this section [amending this section], there is authorized to be appropriated $10,000,000 out of the Highway Trust Fund."

AUTHORIZATION OF ADDITIONAL APPROPRIATIONS

Authorization of appropriation of additional sum of $10,000,000 for the fiscal year ending June 30, 1967, $20,000,000 for the fiscal year ending June 30, 1968, and $25,000,000 for the fiscal year ending June 30, 1969, for the purpose of carrying out this section and section 307(a) of this title, see section 105 of Pub. L. 89–564, set out as a note under section 307 of this title.

§404. High-visibility enforcement program

(a) IN GENERAL.—The Secretary shall establish and administer a program under which not less than 3 campaigns will be carried out in each of fiscal years 2022 through 2026.

(b) PURPOSE.—The purpose of each campaign carried out under this section shall be to achieve

outcomes related to not less than 1 of the following objectives:

(1) Reduce alcohol-impaired or drug-impaired operation of motor vehicles.

(2) Increase use of seatbelts by occupants of motor vehicles.

(c) ADVERTISING.—The Secretary may use, or authorize the use of, funds available to carry out this section to pay for the development, production, and use of broadcast and print media advertising and Internet-based outreach in carrying out campaigns under this section. In allocating such funds, consideration shall be given to advertising directed at non-English speaking populations, including those who listen to, read, or watch nontraditional media.

(d) COORDINATION WITH STATES.—The Secretary shall coordinate with States in carrying out the campaigns under this section, including advertising funded under subsection (c), with consideration given to—

(1) relying on States to provide law enforcement resources for the campaigns out of funding made available under sections 402 and 405; and

(2) providing, out of National Highway Traffic Safety Administration resources, most of the means necessary for national advertising and education efforts associated with the campaigns.

(e) USE OF FUNDS.—Funds made available to carry out this section may be used only for activities described in subsection (c).

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

(1) CAMPAIGN.—The term "campaign" means a high-visibility traffic safety law enforcement campaign.

(2) STATE.—The term "State" has the meaning given that term in section 401.

(Added Pub. L. 89–564, title I, §101, Sept. 9, 1966, 80 Stat. 733; amended Pub. L. 90–150, Nov. 24, 1967, 81 Stat. 507; Pub. L. 93–87, title II, §223, Aug. 13, 1973, 87 Stat. 292; Pub. L. 94–280, title II, §209, May 5, 1976, 90 Stat. 455; Pub. L. 109–59, title II, §2019, Aug. 10, 2005, 119 Stat. 1543; Pub. L. 114–94, div. A, title IV, §4004(a), Dec. 4, 2015, 129 Stat. 1500; Pub. L. 117–58, div. B, title IV, §24104, Nov. 15, 2021, 135 Stat. 795.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (a). Pub. L. 117–58 substituted "each of fiscal years 2022 through 2026" for "each of fiscal years 2016 through 2020".

2015—Pub. L. 114–94 amended section generally, substituting provisions relating to the high-visibility enforcement program for provisions relating to the National Highway Safety Advisory Committee.

2005—Subsec. (d). Pub. L. 109–59 substituted "Transportation" for "Commerce".

1976—Subsec. (a)(1). Pub. L. 94–280 substituted provision for selection by the Secretary of the Chairman of the Committee from among the Committee members for prior provision making the Secretary or an officer of the Department appointed by him the Chairman of the Committee.

1973—Subsec. (a)(1). Pub. L. 93–87 added the National Highway Traffic Safety Administrator to the membership of the National Highway Safety Advisory Committee.

1967—Subsec. (a)(1). Pub. L. 90–150, §1(1), substituted "Department of Transportation" for "Department of Commerce", increased number of Committee appointees from twenty-nine to thirty-five, and provided for selection of members from representatives of national organizations of passenger car, bus, and truck owners.

Subsec. (a)(2)(A). Pub. L. 90–150, §1(2), substituted provisions for expirations of term of office of initial appointees one, two, and three years after date of appointment for twelve, twelve, and eleven members, respectively, for former provisions for such expiration one, two, and three years following enactment date of Sept. 9, 1966, for ten, ten, and nine members, respectively, and prohibited reappointment within one year after end of preceding term of member serving a three-year term of office.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

§405. National priority safety programs

(a) PROGRAM AUTHORITY.—

(1) IN GENERAL.—Subject to the requirements of this section, the Secretary shall—

(A) manage programs to address national priorities for reducing highway deaths and injuries; and

(B) allocate funds for the purpose described in subparagraph (A) in accordance with this subsection.

(2) OCCUPANT PROTECTION.—In each fiscal year, 13 percent of the funds provided under this section shall be allocated among States that adopt and implement effective occupant protection programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles (as described in subsection (b)).

(3) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—In each fiscal year, 14.5 percent of the funds provided under this section shall be allocated among States that meet requirements with respect to State traffic safety information system improvements (as described in subsection (c)).

(4) IMPAIRED DRIVING COUNTERMEASURES.—In each fiscal year, 53 percent of the funds provided under this section shall be allocated among States that meet requirements with respect to impaired driving countermeasures (as described in subsection (d)).

(5) DISTRACTED DRIVING.—In each fiscal year, 8.5 percent of the funds provided under this section shall be allocated among States that adopt and implement effective laws to reduce distracted driving (as described in subsection (e)).

(6) MOTORCYCLIST SAFETY.—In each fiscal year, 1.5 percent of the funds provided under this section shall be allocated among States that implement motorcyclist safety programs (as described in subsection (f)).

(7) NONMOTORIZED SAFETY.—In each fiscal year, 7 percent of the funds provided under this section shall be allocated among States that meet requirements with respect to nonmotorized safety (as described in subsection (g)).

(8) PREVENTING ROADSIDE DEATHS.—In each fiscal year, 1 percent of the funds provided under this section shall be allocated among States that meet requirements with respect to preventing roadside deaths under subsection (h).

(9) DRIVER OFFICER SAFETY EDUCATION.—In each fiscal year, 1.5 percent of the funds provided under this section shall be allocated among States that meet requirements with respect to driver and officer safety education under subsection (i).

(10) TRANSFERS.—Notwithstanding paragraphs (2) through (9), the Secretary shall reallocate, before the last day of any fiscal year, any amounts remaining available to carry out any of the activities described in subsections (b) through (i) to increase the amount made available under section 402, in order to ensure, to the maximum extent possible, that all such amounts are obligated during such fiscal year.

(11) POLITICAL SUBDIVISIONS.—A State may provide the funds awarded under this section to a political subdivision of the State or an Indian tribal government.

(b) OCCUPANT PROTECTION GRANTS.—

(1) GENERAL AUTHORITY.—Subject to the requirements under this subsection, the Secretary shall award grants to States that adopt and implement effective occupant protection programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles.

(2) FEDERAL SHARE.—The Federal share of the costs of activities funded using amounts from grants awarded under this subsection may not exceed 80 percent for each fiscal year for

which a State receives a grant.

(3) ELIGIBILITY.—

(A) HIGH SEAT BELT USE RATE.—A State with an observed seat belt use rate of 90 percent or higher, based on the most recent data from a survey that conforms with national criteria established by the National Highway Traffic Safety Administration, shall be eligible for a grant in a fiscal year if the State—

(i) submits an occupant protection plan during the first fiscal year;

(ii) participates in the Click It or Ticket national mobilization;

(iii) has an active network of child restraint inspection stations; and

(iv) has a plan to recruit, train, and maintain a sufficient number of child passenger safety technicians.

(B) LOWER SEAT BELT USE RATE.—A State with an observed seat belt use rate below 90 percent, based on the most recent data from a survey that conforms with national criteria established by the National Highway Traffic Safety Administration, shall be eligible for a grant in a fiscal year if—

(i) the State meets all of the requirements under clauses (i) through (iv) of subparagraph (A); and

(ii) the Secretary determines that the State meets at least 3 of the following criteria:

(I) The State conducts sustained (on-going and periodic) seat belt enforcement at a defined level of participation during the year.

(II) The State has enacted and enforces a primary enforcement seat belt use law.

(III) The State has implemented countermeasure programs for high-risk populations, such as drivers on rural roadways, unrestrained nighttime drivers, or teenage drivers.

(IV) The State has enacted and enforces occupant protection laws requiring front and rear occupant protection use by all occupants in an age-appropriate restraint.

(V) The State has implemented a comprehensive occupant protection program in which the State has—

(aa) conducted a program assessment;

(bb) developed a statewide strategic plan;

(cc) designated an occupant protection coordinator; and

(dd) established a statewide occupant protection task force.

(VI) The State—

(aa) completed an assessment of its occupant protection program during the 5-year period preceding the grant year; or

(bb) will conduct such an assessment during the first year of the grant.

(4) USE OF GRANT AMOUNTS.—

(A) IN GENERAL.—Grant funds received pursuant to this subsection may be used to—

(i) carry out a program to support high-visibility enforcement mobilizations, including paid media that emphasizes publicity for the program, and law enforcement;

(ii) carry out a program to train occupant protection safety professionals, police officers, fire and emergency medical personnel, educators, and parents concerning all aspects of the use of child restraints and occupant protection;

(iii) carry out a program to educate the public concerning the proper use and installation of child restraints, including related equipment and information systems;

(iv) carry out a program to provide community child passenger safety services, including programs about proper seating positions for children and how to reduce the improper use of child restraints;

(v) implement programs—

(I) to recruit and train nationally certified child passenger safety technicians among police officers, fire and other first responders, emergency medical personnel, and other

individuals or organizations serving low-income and underserved populations;

(II) to educate parents and caregivers in low-income and underserved populations regarding the importance of proper use and correct installation of child restraints on every trip in a motor vehicle; and

(III) to purchase and distribute child restraints to low-income and underserved populations; and

(vi) establish and maintain information systems containing data concerning occupant protection, including the collection and administration of child passenger safety and occupant protection surveys.

(B) REQUIREMENTS.—Each State that is eligible to receive funds—

(i) under paragraph (3)(A) shall use—

(I) not more than 90 percent of those funds to carry out a project or activity eligible for funding under section 402; and

(II) not less than 10 percent of those funds to carry out subparagraph (A)(v); and

(ii) under paragraph (3)(B) shall use not less than 10 percent of those funds to carry out the activities described in subparagraph (A)(v).

(5) GRANT AMOUNT.—The allocation of grant funds to a State under this subsection for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009.

(6) DEFINITIONS.—In this subsection:

(A) CHILD RESTRAINT.—The term "child restraint" means any device (including child safety seat, booster seat, harness, and excepting seat belts) that is—

(i) designed for use in a motor vehicle to restrain, seat, or position children who weigh 65 pounds (30 kilograms) or less; and

(ii) certified to the Federal motor vehicle safety standard prescribed by the National Highway Traffic Safety Administration for child restraints.

(B) SEAT BELT.—The term "seat belt" means—

(i) with respect to open-body motor vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

(ii) with respect to other motor vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.

(c) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—

(1) GENERAL AUTHORITY.—Subject to the requirements under this subsection, the Secretary shall award grants to States to support the development and implementation of effective State programs that—

(A) improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the State safety data that is needed to identify priorities for Federal, State, and local highway and traffic safety programs;

(B) evaluate the effectiveness of efforts to make such improvements;

(C) link the State data systems, including traffic records, with other data systems within the State, such as systems that contain medical, roadway, and economic data;

(D) improve the compatibility and interoperability of the data systems of the State with national data systems and data systems of other States, including the National EMS Information System;

(E) enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

(2) FEDERAL SHARE.—The Federal share of the cost of adopting and implementing in a fiscal year a State program described in this subsection may not exceed 80 percent.

(3) ELIGIBILITY.—A State shall not be eligible to receive a grant under this subsection for a fiscal year unless the State—

(A) has certified to the Secretary that the State—

(i) has a functioning traffic records coordinating committee (referred to in this paragraph as "TRCC") that meets at least 3 times each year;

(ii) has designated a TRCC coordinator; and

(iii) has established a State traffic record strategic plan that has been approved by the TRCC and describes specific quantifiable and measurable improvements anticipated in the State's core safety databases, including crash, citation or adjudication, driver, emergency medical services or injury surveillance system, roadway, and vehicle databases; and

(B) has demonstrated quantitative progress in relation to the significant data program attribute of—

(i) accuracy;

(ii) completeness;

(iii) timeliness;

(iv) uniformity;

(v) accessibility; or

(vi) integration of a core highway safety database.

(4) USE OF GRANT AMOUNTS.—A State may use a grant received under this subsection to make data program improvements to core highway safety databases relating to quantifiable, measurable progress in any significant data program attribute described in paragraph (3)(B), including through—

(A) software or applications to identify, collect, and report data to State and local government agencies, and enter data into State core highway safety databases, including crash, citation or adjudication, driver, emergency medical services or injury surveillance system, roadway, and vehicle data;

(B) purchasing equipment to improve a process by which data are identified, collated, and reported to State and local government agencies, including technology for use by law enforcement for near-real time, electronic reporting of crash data;

(C) improving the compatibility and interoperability of the core highway safety databases of the State with national data systems and data systems of other States, including the National EMS Information System;

(D) enhancing the ability of a State and the Secretary to observe and analyze local, State, and national trends in crash occurrences, rates, outcomes, and circumstances;

(E) supporting traffic records improvement training and expenditures for law enforcement, emergency medical, judicial, prosecutorial, and traffic records professionals;

(F) hiring traffic records professionals for the purpose of improving traffic information systems (including a State Fatal Accident Reporting System (FARS) liaison);

(G) adoption of the Model Minimum Uniform Crash Criteria, or providing to the public information regarding why any of those criteria will not be used, if applicable;

(H) supporting reporting criteria relating to emerging topics, including—

(i) impaired driving as a result of drug, alcohol, or polysubstance consumption; and

(ii) advanced technologies present on motor vehicles; and

(I) conducting research relating to State traffic safety information systems, including developing programs to improve core highway safety databases and processes by which data are identified, collected, reported to State and local government agencies, and entered into State core safety databases.

(5) GRANT AMOUNT.—The allocation of grant funds to a State under this subsection for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009.

(6) TECHNICAL ASSISTANCE.—

(A) IN GENERAL.—The Secretary shall provide technical assistance to States, regardless of whether a State receives a grant under this subsection, with respect to improving the timeliness, accuracy, completeness, uniformity, integration, and public accessibility of State safety data that are needed to identify priorities for Federal, State, and local highway and traffic safety programs, including on adoption by a State of the Model Minimum Uniform Crash Criteria.

(B) FUNDS.—The Secretary may use not more than 3 percent of the amounts available under this subsection to carry out subparagraph (A).

(d) IMPAIRED DRIVING COUNTERMEASURES.—

(1) IN GENERAL.—Subject to the requirements under this subsection, the Secretary of Transportation shall award grants to States that adopt and implement—

(A) effective programs to reduce driving under the influence of alcohol, drugs, or the combination of alcohol and drugs; or

(B) alcohol-ignition interlock laws.

(2) FEDERAL SHARE.—The Federal share of the costs of activities funded using amounts from grants under this subsection may not exceed 80 percent in any fiscal year in which the State receives a grant.

(3) ELIGIBILITY.—

(A) LOW-RANGE STATES.—Low-range States shall be eligible for a grant under this subsection.

(B) MID-RANGE STATES.—A mid-range State shall be eligible for a grant under this subsection if—

(i) a statewide impaired driving task force in the State developed a statewide plan during the most recent 3 calendar years to address the problem of impaired driving; or

(ii) the State will convene a statewide impaired driving task force to develop such a plan during the first year of the grant.

(C) HIGH-RANGE STATES.—A high-range State shall be eligible for a grant under this subsection if the State—

(i)(I) conducted an assessment of the State's impaired driving program during the most recent 3 calendar years; or

(II) will conduct such an assessment during the first year of the grant;

(ii) convenes, during the first year of the grant, a statewide impaired driving task force to develop a statewide plan that—

(I) addresses any recommendations from the assessment conducted under clause (i);

(II) includes a detailed plan for spending any grant funds provided under this subsection; and

(III) describes how such spending supports the statewide program; and

(iii)(I) submits the statewide plan to the National Highway Traffic Safety Administration during the first year of the grant for the agency's review and approval;

(II) annually updates the statewide plan in each subsequent year of the grant; and

(III) submits each updated statewide plan for the agency's review and comment.

(4) USE OF GRANT AMOUNTS.—

(A) REQUIRED PROGRAMS.—High-range States shall use grant funds for—

(i) high-visibility enforcement efforts; and

(ii) any of the activities described in subparagraph (B) if—

(I) the activity is described in the statewide plan; and

(II) the Secretary approves the use of funding for such activity.

(B) AUTHORIZED PROGRAMS.—Medium-range and low-range States may use grant funds for—

(i) any of the purposes described in subparagraph (A);

(ii) hiring a full-time or part-time impaired driving coordinator of the State's activities to address the enforcement and adjudication of laws regarding driving while impaired by alcohol, drugs, or the combination of alcohol and drugs;

(iii) court support of impaired driving prevention efforts, including—

(I) hiring criminal justice professionals, including law enforcement officers, prosecutors, traffic safety resource prosecutors, judges, judicial outreach liaisons, and probation officers;

(II) training and education of those professionals to assist the professionals in preventing impaired driving and handling impaired driving cases, including by providing compensation to a law enforcement officer to carry out safety grant activities to replace a law enforcement officer who is receiving drug recognition expert training or participating as an instructor in that drug recognition expert training; and

(III) establishing driving while intoxicated courts;

(iv) alcohol ignition interlock programs;

(v) improving blood alcohol and drug concentration screening and testing, detection of potentially impairing drugs (including through the use of oral fluid as a specimen), and reporting relating to testing and detection;

(vi) paid and earned media in support of high-visibility enforcement efforts, conducting initial and continuing standardized field sobriety training, advanced roadside impaired driving evaluation training, law enforcement phlebotomy training, and drug recognition expert training for law enforcement, and equipment and related expenditures used in connection with impaired driving enforcement in accordance with criteria established by the National Highway Traffic Safety Administration;

(vii) training on the use of alcohol and drug screening and brief intervention;

(viii) training for and implementation of impaired driving assessment programs or other tools designed to increase the probability of identifying the recidivism risk of a person convicted of driving under the influence of alcohol, drugs, or a combination of alcohol and drugs and to determine the most effective mental health or substance abuse treatment or sanction that will reduce such risk;

(ix) developing impaired driving information systems;

(x) costs associated with a 24-7 sobriety program; and

(xi) testing and implementing programs, and purchasing technologies, to better identify, monitor, or treat impaired drivers, including—

(I) oral fluid-screening technologies;

(II) electronic warrant programs;

(III) equipment to increase the scope, quantity, quality, and timeliness of forensic toxicology chemical testing;

(IV) case management software to support the management of impaired driving offenders; and

(V) technology to monitor impaired-driving offenders, and equipment and related expenditures used in connection with impaired-driving enforcement in accordance with criteria established by the National Highway Traffic Safety Administration.

(C) OTHER PROGRAMS.—

(i) LOW-RANGE STATES.—Subject to clause (iii), low-range States may use grant funds for any expenditure designed to reduce impaired driving based on problem identification and

may use not more than 50 percent of funds made available under this subsection for any project or activity eligible for funding under section 402.

(ii) MEDIUM-RANGE AND HIGH-RANGE STATES.—Subject to clause (iii), medium-range and high-range States may use funds for any expenditure designed to reduce impaired driving based on problem identification upon approval by the Secretary.

(iii) REPORTING AND IMPAIRED DRIVING MEASURES.—A State may use grant funds for any expenditure relating to—

(I) increasing the timely and accurate reporting to Federal, State, and local databases of—

(aa) crash information, including electronic crash reporting systems that allow accurate real- or near-real-time uploading of crash information; and

(bb) impaired driving criminal justice information; or

(II) researching or evaluating impaired driving countermeasures.

(5) GRANT AMOUNT.—Subject to paragraph (6), the allocation of grant funds to a State under this section for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009.

(6) ADDITIONAL GRANTS.—

(A) GRANTS TO STATES WITH ALCOHOL-IGNITION INTERLOCK LAWS.—The Secretary shall make a separate grant under this subsection to each State that—

(i) adopts, and is enforcing, a mandatory alcohol-ignition interlock law for all individuals convicted of driving under the influence of alcohol or of driving while intoxicated;

(ii) does not allow an individual convicted of driving under the influence of alcohol or of driving while intoxicated to receive any driving privilege or driver's license unless the individual installs on each motor vehicle registered, owned, or leased for operation by the individual an ignition interlock for a period of not less than 180 days; or

(iii) has in effect, and is enforcing—

(I) a State law requiring for any individual who is convicted of, or the driving privilege of whom is revoked or denied for, refusing to submit to a chemical or other appropriate test for the purpose of determining the presence or concentration of any intoxicating substance, a State law requiring a period of not less than 180 days of ignition interlock installation on each motor vehicle to be operated by the individual; and

(II) a compliance-based removal program, under which an individual convicted of driving under the influence of alcohol or of driving while intoxicated shall—

(aa) satisfy a period of not less than 180 days of ignition interlock installation on each motor vehicle to be operated by the individual; and

(bb) have completed a minimum consecutive period of not less than 40 percent of the required period of ignition interlock installation immediately preceding the date of release of the individual, without a confirmed violation.

(B) GRANTS TO STATES WITH 24-7 SOBRIETY PROGRAMS.—The Secretary shall make a separate grant under this subsection to each State that—

(i) adopts and is enforcing a law that requires all individuals convicted of driving under the influence of alcohol or of driving while intoxicated to receive a restriction on driving privileges; and

(ii) provides a 24-7 sobriety program.

(C) USE OF FUNDS.—Grants authorized under subparagraph (A) and subparagraph (B) may be used by recipient States for any eligible activities under this subsection or section 402.

(D) ALLOCATION.—Amounts made available under this paragraph shall be allocated among States described in subparagraph (A) and subparagraph (B) in proportion to the State's apportionment under section 402 for fiscal year 2022.

(E) FUNDING.—

(i) FUNDING FOR GRANTS TO STATES WITH ALCOHOL-IGNITION INTERLOCK LAWS.—Not more than 12 percent of the amounts made available to carry out this subsection in a fiscal year shall be made available by the Secretary for making grants under subparagraph (A).

(ii) FUNDING FOR GRANTS TO STATES WITH 24-7 SOBRIETY PROGRAMS.—Not more than 3 percent of the amounts made available to carry out this subsection in a fiscal year shall be made available by the Secretary for making grants under subparagraph (B).

(F) EXCEPTIONS.—A State alcohol-ignition interlock law under subparagraph (A) may include exceptions for the following circumstances:

(i) The individual is required to operate an employer's motor vehicle in the course and scope of employment and the business entity that owns the vehicle is not owned or controlled by the individual.

(ii) The individual is certified by a medical doctor as being unable to provide a deep lung breath sample for analysis by an ignition interlock device.

(iii) A State-certified ignition interlock provider is not available within 100 miles of the individual's residence.

(7) DEFINITIONS.—In this subsection:

(A) 24-7 SOBRIETY PROGRAM.—The term "24-7 sobriety program" means a State law or program that authorizes a State or local court or an agency with jurisdiction, as a condition of bond, sentence, probation, parole, or work permit, to—

(i) require an individual who was arrested for, plead guilty to, or was convicted of driving under the influence of alcohol or drugs to totally abstain from alcohol or drugs for a period of time; and

(ii) require the individual to be subject to testing for alcohol or drugs—

(I) at least twice per day at a testing location;

(II) by continuous transdermal alcohol monitoring via an electronic monitoring device; or

(III) by an alternate method with the concurrence of the Secretary.

(B) AVERAGE IMPAIRED DRIVING FATALITY RATE.—The term "average impaired driving fatality rate" means the number of fatalities in motor vehicle crashes involving a driver with a blood alcohol concentration of at least 0.08 percent for every 100,000,000 vehicle miles traveled, based on the most recently reported 3 calendar years of final data from the Fatality Analysis Reporting System, as calculated in accordance with regulations prescribed by the Administrator of the National Highway Traffic Safety Administration.

(C) HIGH-RANGE STATE.—The term "high-range State" means a State that has an average impaired driving fatality rate of 0.60 or higher.

(D) LOW-RANGE STATE.—The term "low-range State" means a State that has an average impaired driving fatality rate of 0.30 or lower.

(E) MID-RANGE STATE.—The term "mid-range State" means a State that has an average impaired driving fatality rate that is higher than 0.30 and lower than 0.60.

(e) DISTRACTED DRIVING GRANTS.—

(1) DEFINITIONS.—In this subsection:

(A) DRIVING.—The term "driving"—

(i) means operating a motor vehicle on a public road; and

(ii) does not include operating a motor vehicle when the vehicle has pulled over to the side of, or off, an active roadway and has stopped in a location where it can safely remain stationary.

(B) PERSONAL WIRELESS COMMUNICATIONS DEVICE.—

(i) IN GENERAL.—The term "personal wireless communications device" means—

(I) a device through which personal wireless services (as defined in section 332(c)(7)(C) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(C))) are transmitted; and

(II) a mobile telephone or other portable electronic communication device with which a user engages in a call or writes, sends, or reads a text message using at least 1 hand.

(ii) EXCLUSION.—The term "personal wireless communications device" does not include a global navigation satellite system receiver used for positioning, emergency notification, or navigation purposes.

(C) PRIMARY OFFENSE.—The term "primary offense" means an offense for which a law enforcement officer may stop a vehicle solely for the purpose of issuing a citation in the absence of evidence of another offense.

(D) PUBLIC ROAD.—The term "public road" has the meaning given such term in section 402(c).

(E) TEXT.—The term "text" means—

(i) to read from, or manually to enter data into, a personal wireless communications device, including for the purpose of SMS texting, emailing, instant messaging, or any other form of electronic data retrieval or electronic data communication; and

(ii) manually to enter, send, or retrieve a text message to communicate with another individual or device.

(F) TEXT MESSAGE.—

(i) IN GENERAL.—The term "text message" means—

(I) a text-based message;

(II) an instant message;

(III) an electronic message; and

(IV) email.

(ii) EXCLUSIONS.—The term "text message" does not include—

(I) an emergency, traffic, or weather alert; or

(II) a message relating to the operation or navigation of a motor vehicle.

(2) GRANT PROGRAM.—The Secretary shall provide a grant under this subsection to any State that includes distracted driving awareness as part of the driver's license examination of the State.

(3) ALLOCATION.—

(A) IN GENERAL.—For each fiscal year, not less than 50 percent of the amounts made available to carry out this subsection shall be allocated to States, based on the proportion that—

(i) the apportionment of the State under section 402 for fiscal year 2009; bears to

(ii) the apportionment of all States under section 402 for that fiscal year.

(B) GRANTS FOR STATES WITH DISTRACTED DRIVING LAWS.—

(i) IN GENERAL.—In addition to the allocations under subparagraph (A), for each fiscal year, not more than 50 percent of the amounts made available to carry out this subsection shall be allocated to States that enact and enforce a law that meets the requirements of paragraph (4), (5), or (6)—

(I) based on the proportion that—

(aa) the apportionment of the State under section 402 for fiscal year 2009; bears to

(bb) the apportionment of all States under section 402 for that fiscal year; and

(II) subject to clauses (ii), (iii), and (iv), as applicable.

(ii) PRIMARY LAWS.—Subject to clause (iv), in the case of a State that enacts and enforces a law that meets the requirements of paragraph (4), (5), or (6) as a primary offense, the allocation to the State under this subparagraph shall be 100 percent of the amount calculated to be allocated to the State under clause (i)(I).

(iii) SECONDARY LAWS.—Subject to clause (iv), in the case of a State that enacts and enforces a law that meets the requirements of paragraph (4), (5), or (6) as a secondary enforcement action, the allocation to the State under this subparagraph shall be an amount equal to 50 percent of the amount calculated to be allocated to the State under clause (i)(I).

(iv) TEXTING WHILE DRIVING.—Notwithstanding clauses (ii) and (iii), the allocation under this subparagraph to a State that enacts and enforces a law that prohibits a driver from viewing a personal wireless communications device (except for purposes of navigation) shall be 25 percent of the amount calculated to be allocated to the State under clause (i)(I).

(4) PROHIBITION ON TEXTING WHILE DRIVING.—A State law meets the requirements of this paragraph if the law—

(A) prohibits a driver from texting through a personal wireless communications device while driving;

(B) establishes a fine for a violation of the law; and

(C) does not provide for an exemption that specifically allows a driver to use a personal wireless communications device for texting while stopped in traffic.

(5) PROHIBITION ON HANDHELD PHONE USE WHILE DRIVING.—A State law meets the requirements of this paragraph if the law—

(A) prohibits a driver from holding a personal wireless communications device while driving;

(B) establishes a fine for a violation of that law; and

(C) does not provide for an exemption that specifically allows a driver to use a personal wireless communications device for texting while stopped in traffic.

(6) PROHIBITION ON YOUTH CELL PHONE USE WHILE DRIVING OR STOPPED IN TRAFFIC.—A State law meets the requirements of this paragraph if the law—

(A) prohibits a driver from using a personal wireless communications device while driving if the driver is—

(i) younger than 18 years of age; or

(ii) in the learner's permit or intermediate license stage;

(B) establishes a fine for a violation of the law; and

(C) does not provide for—

(i) an exemption that specifically allows a driver to use a personal wireless communications device for texting while stopped in traffic; or

(ii) an exemption described in paragraph (7)(E).

(7) PERMITTED EXCEPTIONS.—A law that meets the requirements of paragraph (4), (5), or (6) may provide exceptions for—

(A) a driver who uses a personal wireless communications device during an emergency to contact emergency services to prevent injury to persons or property;

(B) emergency services personnel who use a personal wireless communications device while—

(i) operating an emergency services vehicle; and

(ii) engaged in the performance of their duties as emergency services personnel;

(C) an individual employed as a commercial motor vehicle driver or a school bus driver who uses a personal wireless communications device within the scope of such individual's

employment if such use is permitted under the regulations promulgated pursuant to section 31136 of title 49;

(D) a driver who uses a personal wireless communications device for navigation;

(E) except for a law described in paragraph (6), the use of a personal wireless communications device—

(i) in a hands-free manner;

(ii) with a hands-free accessory; or

(iii) with the activation or deactivation of a feature or function of the personal wireless communications device with the motion of a single swipe or tap of the finger of the driver; and

(F) any additional exceptions determined by the Secretary through a rulemaking process.

(8) USE OF GRANT FUNDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), amounts received by a State under this subsection shall be used—

(i) to educate the public through advertising containing information about the dangers of texting or using a cell phone while driving;

(ii) for traffic signs that notify drivers about the distracted driving law of the State; or

(iii) for law enforcement costs related to the enforcement of the distracted driving law.

(B) FLEXIBILITY.—

(i) Not more than 50 percent of amounts received by a State under this subsection may be used for any eligible project or activity under section 402.

(ii) Not more than 75 percent of amounts received by a State under this subsection may be used for any eligible project or activity under section 402 if the State has conformed its distracted driving data to the most recent Model Minimum Uniform Crash Criteria published by the Secretary.

(9) ALLOCATION TO SUPPORT STATE DISTRACTED DRIVING LAWS.—Of the amounts available under this subsection in a fiscal year for distracted driving grants, the Secretary may expend not more than $5,000,000 for the development and placement of broadcast media to reduce distracted driving of motor vehicles.

(f) MOTORCYCLIST SAFETY.—

(1) GRANTS AUTHORIZED.—Subject to the requirements under this subsection, the Secretary shall award grants to States that adopt and implement effective programs to reduce the number of single- and multi-vehicle crashes involving motorcyclists.

(2) GRANT AMOUNT.—The allocation of grant funds to a State under this subsection for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009, except that the amount of a grant awarded to a State for a fiscal year may not exceed 25 percent of the amount apportioned to the State under such section for fiscal year 2009.

(3) GRANT ELIGIBILITY.—A State becomes eligible for a grant under this subsection by adopting or demonstrating to the satisfaction of the Secretary, at least 2 of the following criteria:

(A) MOTORCYCLE RIDER TRAINING COURSES.—An effective motorcycle rider training course that is offered throughout the State, which—

(i) provides a formal program of instruction in crash avoidance and other safety-oriented operational skills to motorcyclists; and

(ii) may include innovative training opportunities to meet unique regional needs.

(B) MOTORCYCLISTS AWARENESS PROGRAM.—An effective statewide program to enhance motorist awareness of the presence of motorcyclists on or near roadways and safe driving practices that avoid injuries to motorcyclists.

(C) HELMET LAW.—A State law requiring the use of a helmet for each motorcycle rider under the age of 18.

(D) REDUCTION OF FATALITIES AND CRASHES INVOLVING MOTORCYCLES.—A reduction for the preceding calendar year in the number of motorcycle fatalities and the rate of motor vehicle crashes involving motorcycles in the State (expressed as a function of 10,000 motorcycle registrations).

(E) IMPAIRED DRIVING PROGRAM.—Implementation of a statewide program to reduce impaired driving, including specific measures to reduce impaired motorcycle operation.

(F) REDUCTION OF FATALITIES AND CRASHES INVOLVING IMPAIRED MOTORCYCLISTS.—A reduction for the preceding calendar year in the number of fatalities and the rate of reported crashes involving alcohol- or drug-impaired motorcycle operators (expressed as a function of 10,000 motorcycle registrations).

(G) FEES COLLECTED FROM MOTORCYCLISTS.—All fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs will be used for motorcycle training and safety purposes.

(4) ELIGIBLE USES.—

(A) IN GENERAL.—A State may use funds from a grant under this subsection only for motorcyclist safety training and motorcyclist awareness programs, including—

(i) improvements to motorcyclist safety training curricula;

(ii) improvements in program delivery of motorcycle training to both urban and rural areas, including—

(I) procurement or repair of practice motorcycles;

(II) instructional materials;

(III) mobile training units; and

(IV) leasing or purchasing facilities for closed-course motorcycle skill training;

(iii) measures designed to increase the recruitment or retention of motorcyclist safety training instructors; and

(iv) public awareness, public service announcements, and other outreach programs to enhance driver awareness of motorcyclists, including "share-the-road" safety messages.

(B) SUBALLOCATIONS OF FUNDS.—An agency of a State that receives a grant under this subsection may suballocate funds from the grant to a nonprofit organization incorporated in that State to carry out this subsection.

(C) FLEXIBILITY.—Not more than 50 percent of grant funds received by a State under this subsection may be used for any eligible project or activity under section 402 if the State is in the lowest 25 percent of all States for motorcycle deaths per 10,000 motorcycle registrations based on the most recent data that conforms with criteria established by the Secretary.

(5) DEFINITIONS.—In this subsection:

(A) MOTORCYCLIST AWARENESS.—The term "motorcyclist awareness" means individual or collective awareness of—

(i) the presence of motorcycles on or near roadways; and

(ii) safe driving practices that avoid injury to motorcyclists.

(B) MOTORCYCLIST AWARENESS PROGRAM.—The term "motorcyclist awareness program" means an informational or public awareness program designed to enhance motorcyclist awareness that is developed by or in coordination with the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State motorcycle safety administrator or a motorcycle advisory council appointed by the governor of the State.

(C) MOTORCYCLIST SAFETY TRAINING.—The term "motorcyclist safety training"

means a formal program of instruction that is approved for use in a State by the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State motorcycle safety administrator or a motorcycle advisory council appointed by the governor of the State.

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

(6) SHARE-THE-ROAD MODEL LANGUAGE.—Not later than 1 year after the date of enactment of this paragraph, the Secretary shall update and provide to the States model language, for use in traffic safety education courses, driver's manuals, and other driver training materials, that provides instruction for drivers of motor vehicles on the importance of sharing the road safely with motorcyclists.

(g) NONMOTORIZED SAFETY.—

(1) DEFINITION OF NONMOTORIZED ROAD USER.—In this subsection, the term "nonmotorized road user" means—

(A) a pedestrian;

(B) an individual using a nonmotorized mode of transportation, including a bicycle, a scooter, or a personal conveyance; and

(C) an individual using a low-speed or low-horsepower motorized vehicle, including an electric bicycle, electric scooter, personal mobility assistance device, personal transporter, or all-terrain vehicle.

(2) GENERAL AUTHORITY.—Subject to the requirements under this subsection, the Secretary shall award grants to States for the purpose of decreasing nonmotorized road user fatalities involving a motor vehicle in transit on a trafficway.

(3) FEDERAL SHARE.—The Federal share of the cost of a project carried out by a State using amounts from a grant awarded under this subsection may not exceed 80 percent.

(4) ELIGIBILITY.—A State shall receive a grant under this subsection in a fiscal year if the annual combined nonmotorized road user fatalities in the State exceed 15 percent of the total annual crash fatalities in the State, based on the most recently reported final data from the Fatality Analysis Reporting System.

(5) USE OF GRANT AMOUNTS.—Grant funds received by a State under this subsection may be used for the safety of nonmotorized road users, including—

(A) training of law enforcement officials relating to nonmotorized road user safety, State laws applicable to nonmotorized road user safety, and infrastructure designed to improve nonmotorized road user safety;

(B) carrying out a program to support enforcement mobilizations and campaigns designed to enforce State traffic laws applicable to nonmotorized road user safety;

(C) public education and awareness programs designed to inform motorists and nonmotorized road users regarding—

(i) nonmotorized road user safety, including information relating to nonmotorized mobility and the importance of speed management to the safety of nonmotorized road users;

(ii) the value of the use of nonmotorized road user safety equipment, including lighting, conspicuity equipment, mirrors, helmets, and other protective equipment, and compliance with any State or local laws requiring the use of that equipment;

(iii) State traffic laws applicable to nonmotorized road user safety, including the responsibilities of motorists with respect to nonmotorized road users; and

(iv) infrastructure designed to improve nonmotorized road user safety; and

(D) the collection of data, and the establishment and maintenance of data systems, relating to nonmotorized road user traffic fatalities.

(6) GRANT AMOUNT.—The allocation of grant funds to a State under this subsection for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009.

(h) PREVENTING ROADSIDE DEATHS.—

(1) IN GENERAL.—The Secretary shall provide grants to States to prevent death and injury from crashes involving motor vehicles striking other vehicles and individuals stopped at the roadside.

(2) FEDERAL SHARE.—The Federal share of the cost of carrying out an activity funded through a grant under this subsection may not exceed 80 percent.

(3) ELIGIBILITY.—A State shall receive a grant under this subsection in a fiscal year if the State submits to the Secretary a plan that describes the method by which the State will use grant funds in accordance with paragraph (4).

(4) USE OF FUNDS.—Amounts received by a State under this subsection shall be used by the State—

(A) to purchase and deploy digital alert technology that—

(i) is capable of receiving alerts regarding nearby first responders; and

(ii) in the case of a motor vehicle that is used for emergency response activities, is capable of sending alerts to civilian drivers to protect first responders on the scene and en route;

(B) to educate the public regarding the safety of vehicles and individuals stopped at the roadside in the State through public information campaigns for the purpose of reducing roadside deaths and injury;

(C) for law enforcement costs relating to enforcing State laws to protect the safety of vehicles and individuals stopped at the roadside;

(D) for programs to identify, collect, and report to State and local government agencies data relating to crashes involving vehicles and individuals stopped at the roadside; and

(E) to pilot and incentivize measures, including optical visibility measures, to increase the visibility of stopped and disabled vehicles.

(5) GRANT AMOUNT.—The allocation of grant funds to a State under this subsection for a fiscal year shall be in proportion to the apportionment of that State under section 402 for fiscal year 2022.

(i) DRIVER AND OFFICER SAFETY EDUCATION.—

(1) DEFINITION OF PEACE OFFICER.—In this subsection, the term "peace officer" includes any individual—

(A) who is an elected, appointed, or employed agent of a government entity;

(B) who has the authority—

(i) to carry firearms; and

(ii) to make warrantless arrests; and

(C) whose duties involve the enforcement of criminal laws of the United States.

(2) GRANTS.—Subject to the requirements of this subsection, the Secretary shall provide grants to—

(A) States that enact or adopt a law or program described in paragraph (4); and

(B) qualifying States under paragraph (7).

(3) FEDERAL SHARE.—The Federal share of the cost of carrying out an activity funded through a grant under this subsection may not exceed 80 percent.

(4) DESCRIPTION OF LAW OR PROGRAM.—A law or program referred to in paragraph (2)(A) is a law or program that requires 1 or more of the following:

(A) DRIVER EDUCATION AND DRIVING SAFETY COURSES.—The inclusion, in driver education and driver safety courses provided to individuals by educational and motor vehicle agencies of the State, of instruction and testing relating to law enforcement practices during traffic stops, including information relating to—

(i) the role of law enforcement and the duties and responsibilities of peace officers;

(ii) the legal rights of individuals concerning interactions with peace officers;

(iii) best practices for civilians and peace officers during those interactions;

(iv) the consequences for failure of an individual or officer to comply with the law or program; and

(v) how and where to file a complaint against, or a compliment relating to, a peace officer.

(B) PEACE OFFICER TRAINING PROGRAMS.—Development and implementation of a training program, including instruction and testing materials, for peace officers and reserve law enforcement officers (other than officers who have received training in a civilian course described in subparagraph (A)) with respect to proper interaction with civilians during traffic stops.

(5) USE OF FUNDS.—A State may use a grant provided under this subsection for—

(A) the production of educational materials and training of staff for driver education and driving safety courses and peace officer training described in paragraph (4); and

(B) the implementation of a law or program described in paragraph (4).

(6) GRANT AMOUNT.—The allocation of grant funds to a State under this subsection for a fiscal year shall be in proportion to the apportionment of that State under section 402 for fiscal year 2022.

(7) SPECIAL RULE FOR CERTAIN STATES.—

(A) DEFINITION OF QUALIFYING STATE.—In this paragraph, the term "qualifying State" means a State that—

(i) has received a grant under this subsection for a period of not more than 5 years; and

(ii) as determined by the Secretary—

(I) has not fully enacted or adopted a law or program described in paragraph (4); but

(II)(aa) has taken meaningful steps toward the full implementation of such a law or program; and

(bb) has established a timetable for the implementation of such a law or program.

(B) WITHHOLDING.—The Secretary shall—

(i) withhold 50 percent of the amount that each qualifying State would otherwise receive under this subsection if the qualifying State were a State described in paragraph (2)(A); and

(ii) direct any amounts withheld under clause (i) for distribution among the States that are enforcing and carrying out a law or program described in paragraph (4).

(Added Pub. L. 105–178, title II, §2003(a)(1), June 9, 1998, 112 Stat. 325; amended Pub. L. 109–59, title II, §§2002(e), 2004, Aug. 10, 2005, 119 Stat. 1522, 1524; Pub. L. 111–147, title IV, §421(c)(1), Mar. 18, 2010, 124 Stat. 84; Pub. L. 112–30, title I, §121(c)(1), Sept. 16, 2011, 125 Stat. 347; Pub. L. 112–141, div. C, title I, §31105(a), July 6, 2012, 126 Stat. 741; Pub. L. 114–94, div. A, title IV, §§4005, 4014(3), Dec. 4, 2015, 129 Stat. 1501, 1513; Pub. L. 117–58, div. B, title IV, §24105(a), Nov. 15, 2021, 135 Stat. 795.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this paragraph, referred to in subsec. (f)(6), is the date of enactment of Pub. L. 114–94, which was approved Dec. 4, 2015.

PRIOR PROVISIONS

A prior section 405, added Pub. L. 93–87, title II, §230(a), Aug. 13, 1973, 87 Stat. 293; amended Pub. L. 93–643, §121, Jan. 4, 1975, 88 Stat. 2289, related to the Federal-aid safer roads demonstration program, prior to repeal by Pub. L. 94–280, title I, §135(c), May 5, 1976, 90 Stat. 442.

AMENDMENTS

2021—Subsec. (a). Pub. L. 117–58, §24105(a)(1)(C), substituted "Program Authority" for "General Authority" in heading and struck out introductory provisions which read as follows: "Subject to the requirements of this section, the Secretary shall manage programs to address national priorities for reducing highway deaths and injuries. Funds shall be allocated according to the following:".

Subsec. (a)(1) to (3). Pub. L. 117–58, §24105(a)(1)(B), (C), added par. (1) and redesignated former pars. (1) and (2) as (2) and (3), respectively. Former par. (3) redesignated (4).

Subsec. (a)(4). Pub. L. 117–58, §24105(a)(1)(B), (D), redesignated par. (3) as (4) and substituted "53 percent" for "52.5 percent". Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 117–58, §24105(a)(1)(B), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (a)(6). Pub. L. 117–58, §24105(a)(1)(A), (B), redesignated par. (5) as (6) and struck out former par. (6). Prior to amendment, text of par. (6) read as follows: "In each fiscal year, 5 percent of the funds provided under this section shall be allocated among States that adopt and implement graduated driver licensing laws (as described in subsection (g))."

Subsec. (a)(7). Pub. L. 117–58, §24105(a)(1)(E), substituted "7 percent" for "5 percent" and "subsection (g)" for "subsection (h)".

Subsec. (a)(8). Pub. L. 117–58, §24105(a)(1)(G), added par. (8). Former par. (8) redesignated (10).

Subsec. (a)(9). Pub. L. 117–58, §24105(a)(1)(A), (G), added par. (9) and struck out former par. (9). Prior to amendment, text read as follows:

"(A) CERTIFICATION.—As part of the grant application required in section 402(k)(3)(F), a State receiving a grant in any fiscal year under subsection (b), (c), or (d) of this section shall provide certification that the lead State agency responsible for programs described in any of those subsections is maintaining aggregate expenditures at or above the average level of such expenditures in the 2 fiscal years prior to the date of enactment of the FAST Act.

"(B) WAIVER.—Upon the request of a State, the Secretary may waive or modify the requirements under subparagraph (A) for not more than 1 fiscal year if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances."

Subsec. (a)(10). Pub. L. 117–58, §24105(a)(1)(F), (H), redesignated par. (8) as (10) and substituted "paragraphs (2) through (9)" for "paragraphs (1) through (7)" and "subsections (b) through (i)" for "subsections (b) through (h)". Former par. (10) redesignated (11).

Subsec. (a)(11). Pub. L. 117–58, §24105(a)(1)(F), redesignated par. (10) as (11).

Subsec. (b)(1). Pub. L. 117–58, §24105(a)(2)(A), struck out "of Transportation" before "shall award grants".

Subsec. (b)(3)(B)(ii)(VI)(aa). Pub. L. 117–58, §24105(a)(2)(B), substituted "5-year" for "3-year".

Subsec. (b)(4)(A)(v). Pub. L. 117–58, §24105(a)(2)(C)(i), added cl. (v) and struck out former cl. (v) which read as follows: "purchase and distribute child restraints to low-income families, provided that not more than 5 percent of the funds received in a fiscal year are used for such purpose; and".

Subsec. (b)(4)(B). Pub. L. 117–58, §24105(a)(2)(C)(ii), added subpar. (B) and struck out former subpar. (B). Prior to amendment, text read as follows: "A State that is eligible for funds under paragraph (3)(A) may use up to 100 percent of such funds for any project or activity eligible for funding under section 402."

Subsec. (c)(1). Pub. L. 117–58, §24105(a)(3)(A)(i), struck out "of Transportation" before "shall award grants" in introductory provisions.

Subsec. (c)(1)(D). Pub. L. 117–58, §24105(a)(3)(A)(ii), substituted "States, including the National EMS Information System;" for "States; and".

Subsec. (c)(3). Pub. L. 117–58, §24105(a)(3)(B)(i), substituted "A State shall not be eligible to receive a grant under this subsection for a fiscal year unless the State—" for "A State is not eligible for a grant under this subsection in a fiscal year unless the State demonstrates, to the satisfaction of the Secretary, that the State—" in introductory provisions.

Subsec. (c)(3)(A). Pub. L. 117–58, §24105(a)(3)(B)(i), (ii)(II), (iii)(II), substituted "has certified to the Secretary that the State—" for "has a functioning", designated remainder of existing provisions as cl. (i), and redesignated subpars. (B) and (C) of par. (3) as cls. (ii) and (iii), respectively, of subpar. (A) and realigned margins.

Subsec. (c)(3)(B). Pub. L. 117–58, §24105(a)(3)(B)(iv), redesignated subpar. (D) as (B). Former subpar. (B) redesignated cl. (ii) of subpar. (A).

Pub. L. 117–58, §24105(a)(3)(B)(ii)(I), inserted "and" after semicolon at end.

Subsec. (c)(3)(B)(vi). Pub. L. 117–58, §24105(a)(3)(B)(v), substituted period for "; and" at end.

Subsec. (c)(3)(C). Pub. L. 117–58, §24105(a)(3)(B)(iii)(I), inserted "and" after semicolon at end.

Subsec. (c)(3)(E). Pub. L. 117–58, §24105(a)(3)(B)(vi), struck out subpar. (E) which read as follows: "has certified to the Secretary that an assessment of the State's highway safety data and traffic records system was conducted or updated during the preceding 5 years."

Subsec. (c)(4). Pub. L. 117–58, §24105(a)(3)(C), added par. (4) and struck out former par. (4). Prior to amendment, text read as follows: "Grant funds received by a State under this subsection shall be used for making data program improvements to core highway safety databases related to quantifiable, measurable progress in any of the 6 significant data program attributes set forth in paragraph (3)(D)."

Subsec. (c)(6). Pub. L. 117–58, §24105(a)(3)(D), added par. (6).

Subsec. (d)(4)(B)(iii). Pub. L. 117–58, §24105(a)(4)(A)(i)(I), added cl. (iii) and struck out former cl. (iii) which read as follows: "court support of high-visibility enforcement efforts, training and education of criminal justice professionals (including law enforcement, prosecutors, judges, and probation officers) to assist such professionals in handling impaired driving cases, hiring traffic safety resource prosecutors, hiring judicial outreach liaisons, and establishing driving while intoxicated courts;".

Subsec. (d)(4)(B)(v). Pub. L. 117–58, §24105(a)(4)(A)(i)(II), added cl. (v) and struck out former cl. (v) which read as follows: "improving blood-alcohol concentration testing and reporting;".

Subsec. (d)(4)(B)(vi). Pub. L. 117–58, §24105(a)(4)(A)(i)(III), substituted "conducting initial and continuing standardized field sobriety training, advanced roadside impaired driving evaluation training, law enforcement phlebotomy training, and" for "conducting standardized field sobriety training, advanced roadside impaired driving evaluation training, and".

Subsec. (d)(4)(B)(xi). Pub. L. 117–58, §24105(a)(4)(A)(i)(IV)–(VI), added cl. (xi).

Subsec. (d)(4)(C). Pub. L. 117–58, §24105(a)(4)(A)(ii), designated first sentence as cl. (i), inserted heading, and substituted "Subject to clause (iii), low-range" for "Low-range"; designated second sentence as cl. (ii), inserted heading, and substituted "Subject to clause (iii), medium-range" for "Medium-range"; and added cl. (iii).

Subsec. (d)(6)(A). Pub. L. 117–58, §24105(a)(4)(B)(i), added subpar. (A) and struck out former subpar. (A). Prior to amendment, text read as follows: "The Secretary shall make a separate grant under this subsection to each State that adopts and is enforcing a mandatory alcohol-ignition interlock law for all individuals convicted of driving under the influence of alcohol or of driving while intoxicated."

Subsec. (d)(6)(D). Pub. L. 117–58, §24105(a)(4)(B)(ii), substituted "2022" for "2009".

Subsec. (d)(7)(A). Pub. L. 117–58, §24105(a)(4)(C), inserted "or local" after "authorizes a State" in introductory provisions.

Subsec. (e)(1). Pub. L. 117–58, §24105(a)(5)(B), (C)(i), redesignated par. (9) as (1) and struck out ", the following definitions apply" after "In this subsection" in introductory provisions. Former par. (1) redesignated (2).

Subsec. (e)(1)(B). Pub. L. 117–58, §24105(a)(5)(C)(ii), added subpar. (B) and struck out former subpar. (B). Prior to amendment, text read as follows: "The term 'personal wireless communications device'—

"(i) means a device through which personal wireless services (as defined in section 332(c)(7)(C)(i) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(C)(i))) are transmitted; and

"(ii) does not include a global navigation satellite system receiver used for positioning, emergency notification, or navigation purposes."

Subsec. (e)(1)(E), (F). Pub. L. 117–58, §24105(a)(5)(C)(iii), added subpars. (E) and (F) and struck out former subpar. (E). Prior to amendment, text of subpar. (E) read as follows: "The term 'texting' means reading from or manually entering data into a personal wireless communications device, including doing so for the purpose of SMS texting, emailing, instant messaging, or engaging in any other form of electronic data retrieval or electronic data communication."

Subsec. (e)(2). Pub. L. 117–58, §24105(a)(5)(B), (D), redesignated par. (1) as (2), struck it out, and added a new par. (2). Prior to amendment, text read as follows: "The Secretary shall award a grant under this subsection to any State that includes distracted driving awareness as part of the State's driver's license examination, and enacts and enforces a law that meets the requirements set forth in paragraphs (2) and (3)." Former par. (2) redesignated (4).

Subsec. (e)(3). Pub. L. 117–58, §24105(a)(5)(D), added par. (3).

Subsec. (e)(4). Pub. L. 117–58, §24105(a)(5)(B), (E)(i), redesignated par. (2) as (4) and substituted "of this" for "set forth in this" in introductory provisions. Former par. (4) redesignated (7).

Subsec. (e)(4)(B). Pub. L. 117–58, §24105(a)(5)(E)(ii)–(iv), redesignated subpar. (C) as (B), struck out "minimum" before "fine", and struck out former subpar. (B) which read as follows: "makes violation of the law a primary offense;".

Subsec. (e)(4)(C), (D). Pub. L. 117–58, §24105(a)(5)(E)(iii), (v), redesignated subpar. (D) as (C) and substituted "use a personal wireless communications device for texting" for "text through a personal wireless communication device". Former subpar. (C) redesignated (B).

Subsec. (e)(5). Pub. L. 117–58, §24105(a)(5)(F), added par. (5).

Subsec. (e)(6). Pub. L. 117–58, §24105(a)(5)(A), (B), (G)(i), redesignated par. (3) as (6), substituted "of this" for "set forth in this" in introductory provisions, and struck out former par. (6) which related to additional grants for activities related to enforcement of distracted driving laws.

Subsec. (e)(6)(A)(ii). Pub. L. 117–58, §24105(a)(5)(G)(ii), struck out "set forth in subsection (g)(2)(B)" after "intermediate license stage".

Subsec. (e)(6)(B). Pub. L. 117–58, §24105(a)(5)(G)(iii)–(v), redesignated subpar. (C) as (B), struck out "minimum" before "fine", and struck out former subpar. (B) which read as follows: "makes violation of the law a primary offense;".

Subsec. (e)(6)(C). Pub. L. 117–58, §24105(a)(5)(G)(vi), added subpar. (C). Former subpar. (C) redesignated (B).

Subsec. (e)(6)(D). Pub. L. 117–58, §24105(a)(5)(G)(iii), struck out subpar. (D) which read as follows: "does not provide for an exemption that specifically allows a driver to text through a personal wireless communication device while stopped in traffic."

Subsec. (e)(7). Pub. L. 117–58, §24105(a)(5)(B), (H)(i), redesignated par. (4) as (7) and substituted "of paragraph (4), (5), or (6)" for "set forth in paragraph (2) or (3)" in introductory provisions. Former par. (7) redesignated (9).

Subsec. (e)(7)(A). Pub. L. 117–58, §24105(a)(5)(H)(ii), added subpar. (A) and struck out former subpar. (A) which read as follows: "a driver who uses a personal wireless communications device to contact emergency services;".

Subsec. (e)(7)(D) to (F). Pub. L. 117–58, §24105(a)(5)(H)(iii)–(v), added subpars. (D) and (E) and redesignated former subpar. (D) as (F).

Subsec. (e)(8). Pub. L. 117–58, §24105(a)(5)(A), (B), redesignated par. (5) as (8) and struck out former par. (8). Prior to amendment, text of par. (8) read as follows: "The allocation of grant funds to a State under this subsection for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009."

Subsec. (e)(9). Pub. L. 117–58, §24105(a)(5)(B), redesignated par. (7) as (9). Former par. (9) redesignated (1).

Subsec. (f)(3)(A)(i). Pub. L. 117–58, §24105(a)(6)(A), substituted "crash" for "accident".

Subsec. (f)(3)(C) to (E). Pub. L. 117–58, §24105(a)(6)(B), (C), added subpar. (C) and redesignated former subpars. (C) and (D) as (D) and (E), respectively. Former subpar. (E) redesignated (F).

Subsec. (f)(3)(F). Pub. L. 117–58, §24105(a)(6)(B), (D), redesignated subpar. (E) as (F) and substituted "crashes" for "accidents" in heading. Former subpar. (F) redesignated (G).

Subsec. (f)(3)(G). Pub. L. 117–58, §24105(a)(6)(B), redesignated subpar. (F) as (G).

Subsec. (g). Pub. L. 117–58, §24105(a)(7), (8), redesignated subsec. (h) as (g) and struck out former subsec. (g) which authorized Secretary to award grants to States that adopt and implement graduated driver licensing laws and meet minimum requirements and to promulgate regulations necessary to implement minimum requirements.

Subsec. (g)(1). Pub. L. 117–58, §24105(a)(9)(B), added par. (1). Former par. (1) redesignated (2).

Subsec. (g)(2). Pub. L. 117–58, §24105(a)(9)(A), (C), redesignated par. (1) as (2) and substituted "nonmotorized road user fatalities involving a motor vehicle in transit on a trafficway" for "pedestrian and bicycle fatalities and injuries that result from crashes involving a motor vehicle". Former par. (2) redesignated (3).

Subsec. (g)(3). Pub. L. 117–58, §24105(a)(9)(A), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (g)(4). Pub. L. 117–58, §24105(a)(9)(A), (D), redesignated par. (3) as (4) and substituted "nonmotorized road user" for "pedestrian and bicycle". Former par. (4) redesignated (5).

Subsec. (g)(5). Pub. L. 117–58, §24105(a)(9)(A), (E), redesignated par. (4) as (5), struck it out, and added a new par. (5). Prior to amendment, par. related to use of grant funds received by a State with traffic laws applicable to pedestrian and bicycle safety. Former par. (5) redesignated (6).

Subsec. (g)(6). Pub. L. 117–58, §24105(a)(9)(A), redesignated par. (5) as (6).

Subsecs. (h), (i). Pub. L. 117–58, §24105(a)(10), added subsecs. (h) and (i). Former subsec. (h)

redesignated (g).

2015—Subsec. (a). Pub. L. 114–94, §4005(a), amended subsec. (a) generally. Prior to amendment, text related to the general authority of the Secretary of Transportation to manage programs to address national priorities for reducing highway deaths and injuries.

Subsec. (b)(4)(B). Pub. L. 114–94, §4005(b), substituted "100 percent" for "75 percent".

Subsec. (d)(4). Pub. L. 114–94, §4005(c)(1), added par. (4) and struck out former par. (4), which related to the use of grant funds.

Subsec. (d)(5). Pub. L. 114–94, §4014(3)(A)(i), substituted "under section 402" for "under section 402(c)".

Subsec. (d)(6). Pub. L. 114–94, §4005(c)(2)(A), amended heading generally. Prior to amendment, heading read as follows: "GRANTS TO STATES THAT ADOPT AND ENFORCE MANDATORY ALCOHOL-IGNITION INTERLOCK LAWS.".

Subsec. (d)(6)(A). Pub. L. 114–94, §4005(c)(2)(B), amended heading generally. Prior to amendment, heading read as follows: "IN GENERAL.—".

Subsec. (d)(6)(B). Pub. L. 114–94, §4005(c)(2)(D), added subpar. (B). Former subsec. (B) redesignated (C).

Subsec. (d)(6)(C). Pub. L. 114–94, §4014(3)(A)(ii), which directed substitution of "in proportion to the State's apportionment under section 402 for fiscal year 2009" for "on the basis of the apportionment formula set forth in section 402(c)" in subpar. (D) as redesignated by Pub. L. 114–94, §4005(c)(2)(C), was executed by making substitution to subpar. (C) to reflect the probable intent of Congress.

Pub. L. 114–94, §4005(c)(2)(C), (E), redesignated subpar. (B) as (C), and in subpar. (C) substituted "and subparagraph (B)" after "subparagraph (A)". Former subpar. (C) redesignated (D).

Subsec. (d)(6)(D). Pub. L. 114–94, §4005(c)(2)(F), inserted "and subparagraph (B)" after "subparagraph (A)".

Pub. L. 114–94, §4005(c)(2)(C), redesignated subpar. (C) as (D). Former subpar. (D) redesignated (E).

Subsec. (d)(6)(E). Pub. L. 114–94, §4005(c)(2)(G), amended subpar. (E) generally. Prior to amendment, subpar. (E) related to funding.

Pub. L. 114–94, §4005(c)(2)(C), redesignated subpar. (D) as (E).

Subsec. (d)(6)(F). Pub. L. 114–94, §4005(c)(2)(H), added subpar. (F).

Subsec. (d)(7)(A). Pub. L. 114–94, §4005(c)(3)(A)(i), in introductory provisions, substituted "or an agency with jurisdiction" for "or a State agency" and inserted "bond," before "sentence".

Subsec. (d)(7)(A)(i). Pub. L. 114–94, §4005(c)(3)(A)(ii), substituted "who was arrested for, plead guilty to, or" for "who plead guilty or".

Subsec. (d)(7)(A)(ii)(I). Pub. L. 114–94, §4005(c)(3)(A)(iii), inserted "at a testing location" after "twice per day".

Subsec. (d)(7)(D). Pub. L. 114–94, §4005(c)(3)(B), struck out second period at end.

Subsec. (e). Pub. L. 114–94, §4005(d), amended subsec. (e) generally. Prior to amendment, section provided for award of distracted driving grants.

Subsec. (f)(2). Pub. L. 114–94, §4005(e)(1), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "The amount of a grant awarded to a State for a fiscal year under this subsection may not exceed 25 percent of the amount apportioned to the State for fiscal year 2003 under section 402."

Subsec. (f)(4)(A)(iv). Pub. L. 114–94, §4014(3)(B), substituted "including" for "such as the" and struck out "developed under subsection (g)" after "safety messages".

Subsec. (f)(4)(C). Pub. L. 114–94, §4005(e)(2), added subpar. (C).

Subsec. (f)(6). Pub. L. 114–94, §4005(e)(3), added par. (6).

Subsec. (g)(2)(A). Pub. L. 114–94, §4005(f)(1)(A), substituted "18" for "21".

Subsec. (g)(2)(B). Pub. L. 114–94, §4005(f)(1)(B), amended subpar. (B) generally. Prior to amendment, subpar. (B) related to state compliance with the 2-stage licensing process.

Subsec. (g)(6). Pub. L. 114–94, §4005(f)(2), added par. (6).

Subsec. (h). Pub. L. 114–94, §4005(g), added subsec. (h).

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to occupant protection incentive grants.

2011—Subsec. (a)(3). Pub. L. 112–30, §121(c)(1)(A), substituted "9" for "8".

Subsec. (a)(4)(C). Pub. L. 112–30, §121(c)(1)(B), substituted "fifth through ninth" for "fifth through eighth".

2010—Subsec. (a)(3). Pub. L. 111–147, §421(c)(1)(A), substituted "8" for "6".

Subsec. (a)(4)(C). Pub. L. 111–147, §421(c)(1)(B), substituted "fifth through eighth" for "fifth and sixth".

2005—Subsec. (a)(2). Pub. L. 109–59, §2004(a)(1), substituted "SAFETEA–LU" for "Transportation Equity Act for the 21st Century".

Subsec. (a)(3). Pub. L. 109–59, §2004(a)(2), substituted "2003" for "1997".

Subsec. (a)(4). Pub. L. 109–59, §2004(a)(3), inserted "beginning after September 30, 2003," after "years" in subpars. (A) to (C).

Subsec. (c). Pub. L. 109–59, §2004(c), substituted "100 percent" for "25 percent" and "2003" for "1997".

Subsec. (d). Pub. L. 109–59, §2002(e), struck out heading and text of subsec. (d). Text read as follows: "Funds authorized to be appropriated to carry out this section in a fiscal year shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 117–58, div. B, title IV, §24105(c), Nov. 15, 2021, 135 Stat. 806, provided that: "The amendments made by subsection (a) [amending this section] shall take effect with respect to any grant application or State highway safety plan submitted under chapter 4 of title 23, United States Code, for fiscal year 2024 or thereafter."

EFFECTIVE DATE OF 2015 AMENDMENT

Except as otherwise provided, amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

Amendment by section 4005 of Pub. L. 114–94 effective Oct. 1, 2016, see section 4015 of Pub. L. 114–94, set out as a note under under section 164 of this title.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109–59 effective Oct. 1, 2005, see section 2022 of Pub. L. 109–59, set out as a note under section 402 of this title.

CRASH DATA

Pub. L. 117–58, div. B, title IV, §24108, Nov. 15, 2021, 135 Stat. 807, provided that:

"(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act [Nov. 15, 2021], the Secretary [of Transportation] shall revise the crash data collection system to include the collection of crash report data elements that distinguish individual personal conveyance vehicles, such as electric scooters and bicycles, from other vehicles involved in a crash.

"(b) COORDINATION.—In carrying out subsection (a), the Secretary may coordinate with States to update the Model Minimum Uniform Crash Criteria to provide guidance to States regarding the collection of information and data elements for the crash data collection system.

"(c) VULNERABLE ROAD USERS.—

"(1) UPDATE.—Based on the information contained in the vulnerable road user safety assessments required by subsection (f) of section 32302 of title 49, United States Code (as added by section 24213(b)(2)), the Secretary shall modify existing crash data collection systems to include the collection of additional crash report data elements relating to vulnerable road user safety.

"(2) INJURY HEALTH DATA.—The Secretary shall coordinate with the Director of the Centers for Disease Control and Prevention to develop and implement a plan for States to combine highway crash data and injury health data to produce a national database of pedestrian injuries and fatalities, disaggregated by demographic characteristics.

"(d) STATE ELECTRONIC DATA COLLECTION.—

"(1) DEFINITIONS.—In this subsection:

"(A) ELECTRONIC DATA TRANSFER.—The term 'electronic data transfer' means a protocol for automated electronic transfer of State crash data to the National Highway Traffic Safety Administration.

"(B) STATE.—The term 'State' means—

"(i) each of the 50 States;

"(ii) the District of Columbia;

"(iii) the Commonwealth of Puerto Rico;

"(iv) the United States Virgin Islands;

"(v) Guam;
"(vi) American Samoa;
"(vii) the Commonwealth of the Northern Mariana Islands; and
"(viii) the Secretary of the Interior, acting on behalf of an Indian Tribe.

"(2) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program under which the Secretary shall—

"(A) provide grants for the modernization of State data collection systems to enable full electronic data transfer under paragraph (3); and

"(B) upgrade the National Highway Traffic Safety Administration system to manage and support State electronic data transfers relating to crashes under paragraph (4).

"(3) STATE GRANTS.—

"(A) IN GENERAL.—The Secretary shall provide grants to States to upgrade and standardize State crash data systems to enable electronic data collection, intrastate data sharing, and electronic data transfers to the National Highway Traffic Safety Administration to increase the accuracy, timeliness, and accessibility of the data, including data relating to fatalities involving vulnerable road users.

"(B) ELIGIBILITY.—A State shall be eligible to receive a grant under this paragraph if the State submits to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, that includes a plan to implement full electronic data transfer to the National Highway Traffic Safety Administration by not later than 5 years after the date on which the grant is provided.

"(C) USE OF FUNDS.—A grant provided under this paragraph may be used for the costs of—

"(i) equipment to upgrade a statewide crash data repository;

"(ii) adoption of electronic crash reporting by law enforcement agencies; and

"(iii) increasing alignment of State crash data with the latest Model Minimum Uniform Crash Criteria.

"(D) FEDERAL SHARE.—The Federal share of the cost of a project funded with a grant under this paragraph may be up to 80 percent.

"(4) NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION SYSTEM UPGRADE .—The Secretary shall manage and support State electronic data transfers relating to vehicle crashes by—

"(A) increasing the capacity of the National Highway Traffic Safety Administration system; and

"(B) making State crash data accessible to the public.

"(e) CRASH INVESTIGATION SAMPLING SYSTEM.—The Secretary may use funds made available to carry out this section to enhance the collection of crash data by upgrading the Crash Investigation Sampling System to include—

"(1) additional program sites;

"(2) an expanded scope that includes all crash types; and

"(3) on-scene investigation protocols.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $150,000,000 for each of fiscal years 2022 through 2026, to remain available for a period of 3 fiscal years following the fiscal year for which the amounts are appropriated."

NATIONAL PRIORITY SAFETY PROGRAM GRANT ELIGIBILITY

Pub. L. 114–94, div. A, title IV, §4010, Dec. 4, 2015, 129 Stat. 1511, as amended by Pub. L. 117–58, div. B, title IV, §24105(b), Nov. 15, 2021, 135 Stat. 806, provided that: "Not later than 60 days after the date on which the Secretary [of Transportation] awards grants under section 405 of title 23, United States Code, the Secretary shall make available on a publicly available Internet Web site of the Department of Transportation—

"(1) an identification of—

"(A) the States that were awarded grants under such section;

"(B) the States that applied and were not awarded grants under such section; and

"(C) the States that did not apply for a grant under such section; and

"(2) a list of all deficiencies that made a State ineligible for a grant under such section for each State under paragraph (1)(B)."

CHILD SAFETY AND CHILD BOOSTER SEAT INCENTIVE GRANTS

Pub. L. 109–59, title II, §2011, Aug. 10, 2005, 119 Stat. 1538, as amended by Pub. L. 111–147, title IV, §421(j)(1), Mar. 18, 2010, 124 Stat. 85; Pub. L. 112–30, title I, §121(j)(1), Sept. 16, 2011, 125 Stat. 348, related to child safety and child booster seat incentive grants, prior to repeal by Pub. L. 112–141, div. C, title I, §31109(h), July 6, 2012, 126 Stat. 757.

CHILD PASSENGER PROTECTION EDUCATION GRANTS

Pub. L. 105–178, title II, §2003(b), June 9, 1998, 112 Stat. 327, authorized the Secretary to make grants to States to implement child passenger protection programs, required reports from States and the Secretary regarding those programs, and authorized appropriations for fiscal years 2000 and 2001.

§406. General requirements for Federal assistance

(a) DEFINITION OF FUNDED PROJECT.—In this section, the term "funded project" means a project funded, in whole or in part, by a grant provided under section 402 or 405.

(b) REGULATORY AUTHORITY.—Each funded project shall be carried out in accordance with applicable regulations promulgated by the Secretary.

(c) STATE MATCHING REQUIREMENTS.—If a grant provided under this chapter requires any State to share in the cost of a funded project, the aggregate of the expenditures made by the State (including any political subdivision of the State) for highway safety activities during a fiscal year, exclusive of Federal funds, for carrying out the funded project (other than expenditures for planning or administration) shall be credited toward the non-Federal share of the cost of any other funded project (other than planning and administration) during that fiscal year, regardless of whether those expenditures were made in connection with the project.

(d) GRANT APPLICATION AND DEADLINE.—

(1) APPLICATIONS.—To be eligible to receive a grant under this chapter, a State shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(2) DEADLINE.—The Secretary shall establish a single deadline for the submission of applications under paragraph (1) to enable the provision of grants under this chapter early in each applicable fiscal year beginning after the date of submission.

(e) DISTRIBUTION OF FUNDS TO STATES.—Not later than 60 days after the later of the start of a fiscal year or the date of enactment of any appropriations Act making funds available to carry out this chapter for that fiscal year, the Secretary shall distribute to each State the portion of those funds to which the State is entitled for the applicable fiscal year.

(Added Pub. L. 117–58, div. B, title IV, §24101(d)(1)(B), Nov. 15, 2021, 135 Stat. 784.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 406, added Pub. L. 93–643, §126(a), Jan. 4, 1975, 88 Stat. 2291; amended Pub. L. 94–280, title II, §205, May 5, 1976, 90 Stat. 453; Pub. L. 95–599, title I, §129(g), Nov. 6, 1978, 92 Stat. 2708; Pub. L. 109–59, title II, §2005(a), Aug. 10, 2005, 119 Stat. 1524, related to safety belt performance grants, prior to repeal by Pub. L. 112–141, §3(a), div. C, title I, §31109(b), July 6, 2012, 126 Stat. 413, 756, effective Oct. 1, 2012.

§407. Discovery and admission as evidence of certain reports and surveys

Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for the purpose of identifying, evaluating, or planning the safety enhancement of potential accident sites, hazardous roadway conditions, or railway-highway crossings, pursuant to sections 130, 144, and 148 of this title or for the purpose of developing any highway safety construction improvement project which may be implemented utilizing Federal-aid highway funds shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location mentioned or addressed in such reports, surveys, schedules, lists, or data.

(Added Pub. L. 100–17, title I, §132(a), Apr. 2, 1987, 101 Stat. 170, §409; amended Pub. L.

102–240, title I, §1035(a), Dec. 18, 1991, 105 Stat. 1978; Pub. L. 104–59, title III, §323, Nov. 28, 1995, 109 Stat. 591; Pub. L. 109–59, title I, §1401(a)(3)(C), Aug. 10, 2005, 119 Stat. 1225; renumbered §407, Pub. L. 117–58, div. B, title IV, §24101(d)(1)(A), Nov. 15, 2021, 135 Stat. 784.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 407, added Pub. L. 95–599, title II, §208(a), Nov. 6, 1978, 92 Stat. 2732, related to innovative project grants, prior to repeal by Pub. L. 112–141, §3(a), div. C, title I, §31109(c), July 6, 2012, 126 Stat. 413, 756, effective Oct. 1, 2012.

AMENDMENTS

2021—Pub. L. 117–58, which directed the amendment of this chapter by renumbering section 409 "and" section 407, was executed by renumbering section 409 as this section as if "and" had read "as", to reflect the probable intent of Congress.

§408. Agency accountability

(a) TRIENNIAL STATE MANAGEMENT REVIEWS.—

(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary shall conduct a review of each State highway safety program at least once every 3 years.

(2) EXCEPTIONS.—The Secretary may conduct reviews of the highway safety programs of the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands as often as the Secretary determines to be appropriate.

(3) COMPONENTS.—Reviews under this subsection shall include—

(A) a management evaluation of all grant programs funded under this chapter;

(B) an assessment of State data collection and evaluation relating to performance measures established by the Secretary;

(C) a comparison of State efforts under subparagraphs (A) and (B) to best practices and programs that have been evaluated for effectiveness; and

(D) the development of recommendations on how each State could—

(i) improve the management and oversight of its grant activities; and

(ii) provide a management and oversight plan for such grant programs.

(b) RECOMMENDATIONS BEFORE SUBMISSION.—In order to provide guidance to State highway safety agencies on matters that should be addressed in the goals and initiatives of the State highway safety program before the program is submitted for review, the Secretary shall provide data-based recommendations to each State at least 90 days before the date on which the program is to be submitted for approval.

(c) STATE PROGRAM REVIEW.—The Secretary shall—

(1) conduct a program improvement review of a highway safety program under this chapter of a State that does not make substantial progress over a 3-year period in meeting its priority program goals; and

(2) provide technical assistance and safety program requirements to be incorporated in the State highway safety program for any goal not achieved.

(d) REGIONAL HARMONIZATION.—The Secretary and the Inspector General of the Department of Transportation shall undertake an administrative review of the practices and procedures of the management reviews and program reviews of State highway safety programs under this chapter conducted by the regional offices of the National Highway Traffic Safety Administration and prepare a written report of best practices and procedures for use by the regional offices in conducting such reviews. The report shall be completed within 180 days after the date of enactment of this section.

(e) BEST PRACTICES GUIDELINES.—

(1) UNIFORM GUIDELINES.—The Secretary shall issue uniform management review guidelines and program review guidelines based on the report under subsection (d). Each regional office shall use the guidelines in executing its State administrative review duties under this section.

(2) PUBLICATION.—The Secretary shall make publicly available on the Web site (or successor electronic facility) of the Administration the following documents upon their completion:

(A) The Secretary's management review guidelines and program review guidelines.

(B) All State highway safety programs submitted under this chapter.

(C) State annual accomplishment reports.

(D) The Administration's Summary Report of findings from Management Reviews and Improvement Plans.

(3) REPORTS TO STATE HIGHWAY SAFETY AGENCIES.—The Secretary may not make publicly available a program, report, or review under paragraph (2) that is directed to a State highway safety agency until after the date on which the program, report, or review is submitted to that agency under this chapter.

(f) TRACKING PROCESS.—The Secretary shall develop a process to identify and mitigate possible systemic issues across States and regional offices by reviewing oversight findings and recommended actions identified in triennial State management reviews.

(Added Pub. L. 109–59, title II, §2008(a), Aug. 10, 2005, 119 Stat. 1533, §412; amended Pub. L. 112–141, div. C, title I, §31107, July 6, 2012, 126 Stat. 755; Pub. L. 114–94, div. A, title IV, §4006, Dec. 4, 2015, 129 Stat. 1510; renumbered §408, Pub. L. 117–58, div. B, title IV, §24101(d)(1)(A), Nov. 15, 2021, 135 Stat. 784.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 408, added Pub. L. 97–364, title I, §101(a), Oct. 25, 1982, 96 Stat. 1738; amended Pub. L. 98–363, §§4, 7, July 17, 1984, 98 Stat. 436, 438; Pub. L. 100–17, title II, §203(a), (b), Apr. 2, 1987, 101 Stat. 219; Pub. L. 109–59, title II, §2006(a), Aug. 10, 2005, 119 Stat. 1527, related to State traffic safety information system improvements, prior to repeal by Pub. L. 112–141, §3(a), div. C, title I, §31109(d), July 6, 2012, 126 Stat. 413, 756, effective Oct. 1, 2012.

AMENDMENTS

2021—Pub. L. 117–58, which directed the amendment of this chapter by renumbering section 412 "and" section 408, was executed by renumbering section 412 as this section as if "and" had read "as", to reflect the probable intent of Congress.

[§409. Renumbered §407]

[§§410, 411. Repealed. Pub. L. 112–141, div. C, title I, §31109(e), (f), July 6, 2012, 126 Stat. 757]

Section 410, added Pub. L. 100–690, title IX, §9002(a), Nov. 18, 1988, 102 Stat. 4521; amended Pub. L. 101–516, title III, §336, Nov. 5, 1990, 104 Stat. 2186; Pub. L. 102–240, title II, §2004(a), Dec. 18, 1991, 105 Stat. 2073; Pub. L. 102–388, title VI, §§601–606, Oct. 6, 1992, 106 Stat. 1569, 1570; Pub. L. 104–59, title III, §324, Nov. 28, 1995, 109 Stat. 591; Pub. L. 105–18, title II, §8003, June 12, 1997, 111 Stat. 195; Pub. L. 105–130, §6(b), Dec. 1, 1997, 111 Stat. 2558; Pub. L. 105–178, title II, §2004(a), June 9, 1998, 112 Stat. 328; Pub. L. 108–88, §6(e)(1), Sept. 30, 2003, 117 Stat. 1120; Pub. L. 108–310, §6(e)(1), Sept. 30, 2004, 118 Stat.

1152; Pub. L. 109–59, title II, §2007(a), (b), Aug. 10, 2005, 119 Stat. 1529; Pub. L. 110–244, title III, §303(c)(2), (3), June 6, 2008, 122 Stat. 1619; Pub. L. 111–147, title IV, §421(f)(1), Mar. 18, 2010, 124 Stat. 85; Pub. L. 112–30, title I, §121(f)(1), Sept. 16, 2011, 125 Stat. 347, related to alcohol-impaired driving countermeasures.

Section 411, added Pub. L. 105–178, title II, §2005(a), June 9, 1998, 112 Stat. 332; amended Pub. L. 110–244, title III, §303(c)(4), June 6, 2008, 122 Stat. 1619, related to State highway safety data improvements.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

REPEAL OF PROGRAMS

Pub. L. 112–141, div. C, title I, §31109(a), July 6, 2012, 126 Stat. 756, provided that: "A repeal made by this section [repealing sections 406 to 408, 410, and 411 of this title and repealing provisions set out as notes under sections 402, 403, and 405 of this title] shall not affect amounts apportioned or allocated before the effective date of such repeal [Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title], provided that such apportioned or allocated funds continue to be subject to the requirements to which such funds were subject under the repealed section as in effect on the day before the date of the repeal."

[§412. Renumbered §408]

CHAPTER 5—RESEARCH, TECHNOLOGY, AND EDUCATION

Sec.

501. Definitions.
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EDITORIAL NOTES

PRIOR PROVISIONS

A prior chapter 5, added Pub. L. 90–495, §30, Aug. 23, 1968, 82 Stat. 830, consisting of sections 501 to 512, related to highway relocation assistance, prior to repeal by Pub. L. 91–646, title II, §220(a)(10), Jan. 2, 1971, 84 Stat. 1903. See section 4601 et seq. of Title 42, The Public Health and Welfare. For Effective Date of Repeal and Savings Provisions, see sections 221 and 220(b) of Pub. L. 91–646, set out as notes under sections 4601 and 4621, respectively, of Title 42.

AMENDMENTS

2021—Pub. L. 117–58, div. A, title III, §13009(b), Nov. 15, 2021, 135 Stat. 644, added item 520.

2015—Pub. L. 114–94, div. A, title VI, §§6010(b), 6019(d)(1)(B), Dec. 4, 2015, 129 Stat. 1568, 1581, struck out item 508 "Transportation research and development strategic planning", substituted "National ITS program plan" for "National ITS Program Plan" in item 512, and added item 519.

2012—Pub. L. 112–141, div. E, title II, §§52002(b), 52003(b), 52006(b), 52007(b), 52008(b), title III, §§53002(b), 53003(b), 53004(b), 53005(b), 53006(b), July 6, 2012, 126 Stat. 872, 880, 882, 899, 901–903, 905, substituted "Surface transportation research, development, and technology" for "Surface transportation research" in item 502 and "Research and technology development and deployment" for "Technology deployment program" in item 503, struck out items 506 "International highway transportation outreach program", 507 "Surface transportation environment and planning cooperative research program", and 509 "National cooperative freight transportation research program", and added items 514 to 518.

2008—Pub. L. 110–244, title I, §111(b)(2)(B), June 6, 2008, 122 Stat. 1605, amended Pub. L. 109–59, §5210. See 2005 Amendment note below.

2005—Pub. L. 109–59, title V, §5210(c), formerly §5210(d), Aug. 10, 2005, 119 Stat. 1804, as renumbered by Pub. L. 110–244, title I, §111(b)(2)(B), June 6, 2008, 122 Stat. 1605, added item 510.

Pub. L. 109–59, title V, §§5201(a)(2), 5207(c), 5208(b), 5209(c), 5211(c), 5301(b), 5302(b), Aug. 10, 2005, 119 Stat. 1781, 1798, 1799, 1801, 1804, 1805, substituted "RESEARCH, TECHNOLOGY, AND EDUCATION" for "RESEARCH AND TECHNOLOGY" in chapter heading, "Surface transportation environment and planning cooperative research program" for "Surface transportation-environment cooperative research program" in item 507, "Transportation research and development strategic planning" for "Surface transportation research strategic planning" in item 508, and added items 509 and 511 to 513.

§501. Definitions

In this chapter, the following definitions apply:

(1) FEDERAL LABORATORY.—The term "Federal laboratory" includes a Government-owned, Government-operated laboratory and a Government-owned, contractor-operated laboratory.

(2) INCIDENT.—The term "incident" means a crash, natural disaster, workzone activity, special event, or other emergency road user occurrence that adversely affects or impedes the normal flow of traffic.

(3) INNOVATION LIFECYCLE.—The term "innovation lifecycle" means the process of innovating through—

(A) the identification of a need;

(B) the establishment of the scope of research to address that need;

(C) setting an agenda;

(D) carrying out research, development, deployment, and testing of the resulting technology or innovation; and

(E) carrying out an evaluation of the costs and benefits of the resulting technology or innovation.

(4) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—The term "intelligent transportation infrastructure" means fully integrated public sector intelligent transportation system components, as defined by the Secretary.

(5) INTELLIGENT TRANSPORTATION SYSTEM.—The terms "intelligent transportation system" and "ITS" mean electronics, photonics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

(6) NATIONAL ARCHITECTURE.—For purposes of this chapter, the term "national architecture" means the common framework for interoperability that defines—

(A) the functions associated with intelligent transportation system user services;

(B) the physical entities or subsystems within which the functions reside;

(C) the data interfaces and information flows between physical subsystems; and

(D) the communications requirements associated with the information flows.

(7) PROJECT.—The term "project" means an undertaking to research, develop, or operationally test intelligent transportation systems or any other undertaking eligible for assistance under this chapter.

(8) SAFETY.—The term "safety" includes highway and traffic safety systems, research, and development relating to vehicle, highway, driver, passenger, bicyclist, and pedestrian characteristics, accident investigations, communications, emergency medical care, and transportation of the injured.

(9) STANDARD.—The term "standard" means a document that—

(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for the intended purposes of the materials, products, processes, and services; and

(B) may support the national architecture and promote—

(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

(ii) interoperability among intelligent transportation system technologies implemented throughout the States.

(Added Pub. L. 105–178, title V, §5101(2), June 9, 1998, 112 Stat. 422; amended Pub. L. 112–141, div. E, title II, §52001, July 6, 2012, 126 Stat. 865.)

PRIOR PROVISIONS

A prior section 501, added Pub. L. 90–495, §30, Aug. 23, 1968, 82 Stat. 830, related to declaration of policy as to highway relocation assistance, prior to repeal by Pub. L. 91–646, title II, §220(a)(10), Jan. 2, 1971, 84 Stat. 1903.

EDITORIAL NOTES

AMENDMENTS

2012—Pars. (2) to (9). Pub. L. 112–141 added pars. (2) to (7), redesignated former par. (2) as (8), and added par. (9).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 114–94, div. A, title VI, §6002, Dec. 4, 2015, 129 Stat. 1561, provided that:

"(a) IN GENERAL.—The following amounts are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

"(1) HIGHWAY RESEARCH AND DEVELOPMENT PROGRAM.—To carry out section 503(b) of title 23, United States Code, $125,000,000 for each of fiscal years 2016 through 2020.

"(2) TECHNOLOGY AND INNOVATION DEPLOYMENT PROGRAM.—To carry out section 503(c) of title 23, United States Code—

"(A) $67,000,000 for fiscal year 2016;

"(B) $67,500,000 for fiscal year 2017;

"(C) $67,500,000 for fiscal year 2018;

"(D) $67,500,000 for fiscal year 2019; and

"(E) $67,500,000 for fiscal year 2020.

"(3) TRAINING AND EDUCATION.—To carry out section 504 of title 23, United States Code, $24,000,000 for each of fiscal years 2016 through 2020.

"(4) INTELLIGENT TRANSPORTATION SYSTEMS PROGRAM.—To carry out sections 512 through 518 of title 23, United States Code, $100,000,000 for each of fiscal years 2016 through 2020.

"(5) UNIVERSITY TRANSPORTATION CENTERS PROGRAM.—To carry out section 5505 of title 49, United States Code—

"(A) $72,500,000 for fiscal year 2016;

"(B) $75,000,000 for fiscal year 2017;

"(C) $75,000,000 for fiscal year 2018;

"(D) $77,500,000 for fiscal year 2019; and

"(E) $77,500,000 for fiscal year 2020.

"(6) BUREAU OF TRANSPORTATION STATISTICS.—To carry out chapter 63 of title 49, United States Code, $26,000,000 for each of fiscal years 2016 through 2020.

"(b) ADMINISTRATION.—The Federal Highway Administration shall—

"(1) administer the programs described in paragraphs (1), (2), and (3) of subsection (a); and

"(2) in consultation with relevant modal administrations, administer the programs described in subsection (a)(4).

"(c) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by subsection (a) shall—

"(1) be available for obligation in the same manner as if those funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project or activity carried out using those funds shall be 80 percent, unless otherwise expressly provided by this Act [div. A of Pub. L. 114–94, see Tables for classification] (including the amendments by this Act) or otherwise determined by the Secretary [of Transportation]; and

"(2) remain available until expended and not be transferable, except as otherwise provided in this Act."

§502. Surface transportation research, development, and technology

(a) BASIC PRINCIPLES GOVERNING RESEARCH AND TECHNOLOGY INVESTMENTS.—

(1) APPLICABILITY.—The research, development, and technology provisions of this section shall apply throughout this chapter.

(2) COVERAGE.—Surface transportation research and technology development shall include all activities within the innovation lifecycle leading to technology development and transfer, as well as the introduction of new and innovative ideas, practices, and approaches, through such mechanisms as field applications, education and training, communications, impact analysis, and technical support.

(3) FEDERAL RESPONSIBILITY.—Funding and conducting surface transportation research and technology transfer activities shall be considered a basic responsibility of the Federal Government when the work—

(A) is of national significance;

(B) delivers a clear public benefit and occurs where private sector investment is less than optimal;

(C) supports a Federal stewardship role in assuring that State and local governments use national resources efficiently;

(D) meets and addresses current or emerging needs;

(E) addresses current gaps in research;

(F) presents the best means to align resources with multiyear plans and priorities;

(G) ensures the coordination of highway research and technology transfer activities, including through activities performed by university transportation centers;

(H) educates transportation professionals; or

(I) presents the best means to support Federal policy goals compared to other policy alternatives.

(4) ROLE.—Consistent with these Federal responsibilities, the Secretary shall—

(A) conduct research;

(B) partner with State highway agencies and other stakeholders as appropriate to facilitate research and technology transfer activities;

(C) communicate the results of ongoing and completed research;

(D) lead efforts to coordinate national emphasis areas of highway research, technology, and innovation deployment;

(E) leverage partnerships with industry, academia, international entities, and State departments of transportation;

(F) lead efforts to reduce unnecessary duplication of effort; and

(G) lead efforts to accelerate innovation delivery.

(5) PROGRAM CONTENT.—A surface transportation research program shall include—

(A) fundamental, long-term highway research;

(B) research aimed at significant highway research gaps and emerging issues with national implications; and

(C) research related to all highway objectives seeking to improve the performance of the transportation system.

(6) STAKEHOLDER INPUT.—Federal surface transportation research and development activities shall address the needs of stakeholders. Stakeholders include States, metropolitan planning organizations, local governments, tribal governments, the private sector, researchers, research sponsors, and other affected parties, including public interest groups.

(7) COMPETITION AND PEER REVIEW.—Except as otherwise provided in this chapter, the Secretary shall award, to the maximum extent practicable, all grants, contracts, and cooperative agreements for research and development under this chapter based on open competition and peer review of proposals.

(8) PERFORMANCE REVIEW AND EVALUATION.—

(A) IN GENERAL.—To the maximum extent practicable, all surface transportation research and development projects shall include a component of performance measurement and evaluation.

(B) PERFORMANCE MEASURES.—Performance measures shall be established during the proposal stage of a research and development project and shall, to the maximum extent possible, be outcome-based.

(C) PROGRAM PLAN.—To the maximum extent practicable, each program pursued under this chapter shall be part of a data-driven, outcome-oriented program plan.

(D) AVAILABILITY OF EVALUATIONS.—All evaluations under this paragraph shall be made readily available to the public.

(9) TECHNOLOGICAL INNOVATION.—The programs and activities carried out under this section shall be consistent with the transportation research and development strategic plan under section 6503 of title 49.

(b) GENERAL AUTHORITY.—

(1) RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—The Secretary may carry out research, development, and technology transfer activities with respect to—

(A) motor carrier transportation;

(B) all phases of transportation planning and development (including construction, operation, transportation system management and operations, modernization, development, design, maintenance, safety, financing, and traffic conditions); and

(C) the effect of State laws on the activities described in subparagraphs (A) and (B).

(2) TESTS AND DEVELOPMENT.—The Secretary may test, develop, or assist in testing and developing any material, invention, patented article, or process.

(3) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out research, development, and technology transfer activities related to transportation—

(A) independently;

(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories; or

(C) by making grants to, or entering into contracts and cooperative agreements with one or more of the following: the National Academy of Sciences, the American Association of State Highway and Transportation Officials, any Federal laboratory, Federal agency, State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, or any other person.

(4) TECHNOLOGICAL INNOVATION.—The programs and activities carried out under this section shall be consistent with the transportation research and development strategic plan under section 6503 of title 49.

(5) FUNDS.—

(A) SPECIAL ACCOUNT.—In addition to other funds made available to carry out this chapter, the Secretary shall use such funds as may be deposited by any cooperating organization or person in a special account of the Treasury established for this purpose.

(B) USE OF FUNDS.—The Secretary shall use funds made available to carry out this chapter to develop, administer, communicate, and promote the use of products of research, development, and technology transfer programs under this chapter.

(6) POOLED FUNDING.—

(A) COOPERATION.—To promote effective utilization of available resources, the Secretary may cooperate with a State and an appropriate agency in funding research, development, and technology transfer activities of mutual interest on a pooled funds basis.

(B) SECRETARY AS AGENT.—The Secretary may enter into contracts, cooperative agreements, and grants as the agent for all participating parties in carrying out such research, development, or technology transfer activities.

(C) TRANSFER OF AMOUNTS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—The Secretary may, at the request of a State, transfer amounts apportioned or allocated to that State under this chapter to another State or the Federal Highway Administration to fund research, development, and technology transfer activities of mutual interest on a pooled funds basis.

(D) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority for amounts transferred under this subsection shall be disbursed in the same manner and for the same amount as provided for the project being transferred.

(7) PRIZE COMPETITIONS.—

(A) IN GENERAL.—The Secretary may use up to 1 percent of the funds made available under section 51001 of the Transportation Research and Innovative Technology Act of 2012 to carry out a program to competitively award cash prizes to stimulate innovation in basic and applied research and technology development that has the potential for application to the national transportation system.

(B) TOPICS.—In selecting topics for prize competitions under this paragraph, the Secretary shall—

(i) consult with a wide variety of governmental and nongovernmental representatives; and

(ii) give consideration to prize goals that demonstrate innovative approaches and strategies to improve the safety, efficiency, and sustainability of the national transportation system.

(C) ADVERTISING.—The Secretary shall encourage participation in the prize competitions through advertising efforts.

(D) REQUIREMENTS AND REGISTRATION.—For each prize competition, the Secretary shall publish a notice on a public website that describes—

(i) the subject of the competition;

(ii) the eligibility rules for participation in the competition;

(iii) the amount of the prize; and
(iv) the basis on which a winner will be selected.

(E) ELIGIBILITY.—An individual or entity may not receive a prize under this paragraph unless the individual or entity—
(i) has registered to participate in the competition pursuant to any rules promulgated by the Secretary under this section;
(ii) has complied with all requirements under this paragraph;
(iii)(I) in the case of a private entity, is incorporated in, and maintains a primary place of business in, the United States; or
(II) in the case of an individual, whether participating singly or in a group, is a citizen or permanent resident of the United States;
(iv) is not a Federal entity or Federal employee acting within the scope of his or her employment; and
(v) has not received a grant to perform research on the same issue for which the prize is awarded.

(F) LIABILITY.—
(i) ASSUMPTION OF RISK.—
(I) IN GENERAL.—A registered participant shall agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from participation in a competition, whether such injury, death, damage, or loss arises through negligence or otherwise.
(II) RELATED ENTITY.—In this subparagraph, the term "related entity" means a contractor, subcontractor (at any tier), supplier, user, customer, cooperating party, grantee, investigator, or detailee.

(ii) FINANCIAL RESPONSIBILITY.—A participant shall obtain liability insurance or demonstrate financial responsibility, in amounts determined by the Secretary, for claims by—
(I) a third party for death, bodily injury, or property damage, or loss resulting from an activity carried out in connection with participation in a competition, with the Federal Government named as an additional insured under the registered participant's insurance policy and registered participants agreeing to indemnify the Federal Government against third party claims for damages arising from or related to competition activities; and
(II) the Federal Government for damage or loss to Government property resulting from such an activity.

(G) JUDGES.—
(i) SELECTION.—Subject to clause (iii), for each prize competition, the Secretary, either directly or through an agreement under subparagraph (H), may appoint 1 or more qualified judges to select the winner or winners of the prize competition on the basis of the criteria described in subparagraph (D).
(ii) SELECTION.—Judges for each competition shall include individuals from outside the Federal Government, including the private sector.
(iii) LIMITATIONS.—A judge selected under this subparagraph may not—
(I) have personal or financial interests in, or be an employee, officer, director, or agent of, any entity that is a registered participant in a prize competition under this paragraph; or
(II) have a familial or financial relationship with an individual who is a registered participant.

(H) ADMINISTERING THE COMPETITION.—The Secretary may enter into an agreement with a private, nonprofit entity to administer the prize competition, subject to the provisions of

this paragraph.

(I) FUNDING.—

(i) IN GENERAL.—

(I) PRIVATE SECTOR FUNDING.—A cash prize under this paragraph may consist of funds appropriated by the Federal Government and funds provided by the private sector.

(II) GOVERNMENT FUNDING.—The Secretary may accept funds from other Federal agencies, State and local governments, and metropolitan planning organizations for a cash prize under this paragraph.

(III) NO SPECIAL CONSIDERATION.—The Secretary may not give any special consideration to any private sector entity in return for a donation under this subparagraph.

(ii) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, amounts appropriated for prize awards under this paragraph—

(I) shall remain available until expended; and

(II) may not be transferred, reprogrammed, or expended for other purposes until after the expiration of the 10-year period beginning on the last day of the fiscal year for which the funds were originally appropriated.

(iii) SAVINGS PROVISION.—Nothing in this subparagraph may be construed to permit the obligation or payment of funds in violation of the Anti-Deficiency Act (31 U.S.C. 1341).

(iv) PRIZE ANNOUNCEMENT.—A prize may not be announced under this paragraph until all the funds needed to pay out the announced amount of the prize have been appropriated by a governmental source or committed to in writing by a private source.

(v) PRIZE INCREASES.—The Secretary may increase the amount of a prize after the initial announcement of the prize under this paragraph if—

(I) notice of the increase is provided in the same manner as the initial notice of the prize; and

(II) the funds needed to pay out the announced amount of the increase have been appropriated by a governmental source or committed to in writing by a private source.

(vi) CONGRESSIONAL NOTIFICATION.—A prize competition under this paragraph may offer a prize in an amount greater than $1,000,000 only after 30 days have elapsed after written notice has been transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Science, Space, and Technology of the House of Representatives.

(vii) AWARD LIMIT.—A prize competition under this section may not result in the award of more than $25,000 in cash prizes without the approval of the Secretary.

(J) COMPLIANCE WITH EXISTING LAW.—The Federal Government shall not, by virtue of offering or providing a prize under this paragraph, be responsible for compliance by registered participants in a prize competition with Federal law, including licensing, export control, and non-proliferation laws, and related regulations.

(K) NOTICE AND ANNUAL REPORT.—

(i) IN GENERAL.—Not later than 30 days prior to carrying out an activity under subparagraph (A), the Secretary shall notify the Committees on Transportation and Infrastructure and Science, Space, and Technology of the House of Representatives and the Committees on Environment and Public Works and Commerce, Science, and Transportation of the Senate of the intent to use such authority.

(ii) REPORTS.—

(I) IN GENERAL.—The Secretary shall submit to the committees described in clause (i) on an annual basis a report on the activities carried out under subparagraph (A) in the preceding fiscal year if the Secretary exercised the authority under subparagraph (A) in that fiscal year.

(II) INFORMATION INCLUDED.—A report under this subparagraph shall include, for each prize competition under subparagraph (A)—

(aa) a description of the proposed goals of the prize competition;

(bb) an analysis of why the use of the authority under subparagraph (A) was the preferable method of achieving the goals described in item (aa) as opposed to other authorities available to the Secretary, such as contracts, grants, and cooperative agreements;

(cc) the total amount of cash prizes awarded for each prize competition, including a description of the amount of private funds contributed to the program, the source of such funds, and the manner in which the amounts of cash prizes awarded and claimed were allocated among the accounts of the Department for recording as obligations and expenditures;

(dd) the methods used for the solicitation and evaluation of submissions under each prize competition, together with an assessment of the effectiveness of such methods and lessons learned for future prize competitions;

(ee) a description of the resources, including personnel and funding, used in the execution of each prize competition together with a detailed description of the activities for which such resources were used and an accounting of how funding for execution was allocated among the accounts of the agency for recording as obligations and expenditures; and

(ff) a description of how each prize competition advanced the mission of the Department.

(c) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—To encourage innovative solutions to surface transportation problems and stimulate the deployment of new technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—

(A) non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State; and

(B) Federal laboratories.

(2) COOPERATION, GRANTS, CONTRACTS, AND AGREEMENTS.—Notwithstanding any other provision of law, the Secretary may directly initiate contracts, cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)) to fund, and accept funds from, the Transportation Research Board of the National Research Council of the National Academy of Sciences, State departments of transportation, cities, counties, and their agents to conduct joint transportation research and technology efforts.

(3) FEDERAL SHARE.—

(A) IN GENERAL.—The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this chapter shall not exceed 80 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.

(B) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).

(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this chapter, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

(5) WAIVER OF ADVERTISING REQUIREMENTS.—Section 6101(b) to (d) of title 41 shall not apply to a contract or agreement entered into under this chapter.

(Added Pub. L. 105–178, title V, §5102, June 9, 1998, 112 Stat. 422; amended Pub. L. 109–59, title V, §§5201(b)–(g), (i)(1), (j)(1), (k), (l), 5202(a)(1), Aug. 10, 2005, 119 Stat. 1781–1785; Pub. L. 110–244, title I, §111(g)(1), June 6, 2008, 122 Stat. 1605; Pub. L. 111–350, §5(e)(2), Jan. 4, 2011, 124 Stat. 3847; Pub. L. 112–141, div. E, title II, §52002(a), July 6, 2012, 126 Stat. 866; Pub. L. 114–94, div. A, title VI, §6019(d)(1)(C), Dec. 4, 2015, 129 Stat. 1581.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 51001 of the Transportation Research and Innovative Technology Act of 2012, referred to in subsec. (b)(7)(A), is section 51001 of title I of div. E of Pub. L. 112–141, which is not classified to the Code.

The Stevenson-Wydler Technology Innovation Act of 1980, referred to in subsec. (c)(4), is Pub. L. 96–480, Oct. 21, 1980, 94 Stat. 2311, which is classified generally to chapter 63 (§3701 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short title note set out under section 3701 of Title 15 and Tables.

PRIOR PROVISIONS

A prior section 502, added Pub. L. 90–495, §30, Aug. 23, 1968, 82 Stat. 831, related to State assurances of adequate highway relocation assistance program, prior to repeal by Pub. L. 91–646, title II, §220(a)(10), Jan. 2, 1971, 84 Stat. 1903.

AMENDMENTS

2015—Subsec. (a)(9). Pub. L. 114–94, §6019(d)(1)(C)(i), substituted "transportation research and development strategic plan under section 6503 of title 49" for "transportation research and technology development strategic plan developed under section 508".

Subsec. (b)(4). Pub. L. 114–94, §6019(d)(1)(C)(ii), substituted "transportation research and development strategic plan under section 6503 of title 49" for "transportation research and development strategic plan of the Secretary developed under section 508".

2012—Pub. L. 112–141, §52002(a)(1), which directed insertion of ", development, and technology" after "surface transportation research" in section catchline, was executed by making the insertion after "Surface transportation research", to reflect the probable intent of Congress.

Subsec. (a)(1). Pub. L. 112–141, §52002(a)(2)(B), added par. (1). Former par. (1) redesignated (2).

Subsec. (a)(2). Pub. L. 112–141, §52002(a)(2)(A), (C), redesignated par. (1) as (2) and inserted "within the innovation lifecycle" after "activities" and "communications, impact analysis," after "training,". Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 112–141, §52002(a)(2)(A), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (a)(3)(B). Pub. L. 112–141, §52002(a)(2)(D)(i), substituted "delivers a clear public benefit and occurs where" for "supports research in which there is a clear public benefit and".

Subsec. (a)(3)(D) to (I). Pub. L. 112–141, §52002(a)(2)(D)(ii)–(iv), added subpars. (D) to (H) and redesignated former subpar. (D) as (I).

Subsec. (a)(4). Pub. L. 112–141, §52002(a)(2)(A), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (a)(4)(B) to (G). Pub. L. 112–141, §52002(a)(2)(E), added subpars. (B) to (G) and struck out former subpars. (B) to (D) which read as follows:

"(B) support and facilitate research and technology transfer activities by State highway agencies;

"(C) share results of completed research; and

"(D) support and facilitate technology and innovation deployment."

Subsec. (a)(5). Pub. L. 112–141, §52002(a)(2)(A), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (a)(5)(C). Pub. L. 112–141, §52002(a)(2)(F), substituted "all highway objectives seeking to improve the performance of the transportation system" for "policy and planning".

Subsec. (a)(6). Pub. L. 112–141, §52002(a)(2)(A), (G), redesignated par. (5) as (6) and inserted "tribal governments," after "local governments,". Former par. (6) redesignated (7).

Subsec. (a)(7). Pub. L. 112–141, §52002(a)(2)(A), redesignated par. (6) as (7). Former par. (7) redesignated

(8).

Subsec. (a)(8). Pub. L. 112–141, §52002(a)(2)(A), (H), redesignated par. (7) as (8), designated first, second, and third sentences as subpars. (A), (B), and (D), respectively, inserted subpar. headings, substituted "All evaluations under this paragraph" for "All evaluations" in subpar. (D), and added subpar. (C). Former par. (8) redesignated (9).

Subsec. (a)(9). Pub. L. 112–141, §52002(a)(2)(A), (I), redesignated par. (8) as (9) and struck out "surface" before "transportation research".

Subsec. (b)(4). Pub. L. 112–141, §52002(a)(3)(A), substituted "transportation research and development strategic plan of the Secretary developed under section 508" for "surface transportation research and technology development strategic plan developed under section 508".

Subsec. (b)(5). Pub. L. 112–141, §52002(a)(3)(B), substituted "chapter" for "section" wherever appearing.

Subsec. (b)(6)(C), (D). Pub. L. 112–141, §52002(a)(3)(C), added subpars. (C) and (D).

Subsec. (b)(7). Pub. L. 112–141, §52002(a)(3)(D), added par. (7).

Subsec. (c)(3)(A). Pub. L. 112–141, §52002(a)(4)(A), substituted "chapter" for "subsection" and "80" for "50".

Subsec. (c)(4). Pub. L. 112–141, §52002(a)(4)(B), substituted "chapter" for "subsection".

Subsecs. (d) to (j). Pub. L. 112–141, §52002(a)(5), struck out subsecs. (d) to (j) relating to contents of research program, exploratory advanced research, long-term pavement performance program, seismic research, infrastructure investment needs report, Turner-Fairbank Highway Research Center, and long-term bridge performance program, respectively.

2011—Subsec. (c)(5). Pub. L. 111–350 substituted "Section 6101(b) to (d) of title 41" for "Section 3709 of the Revised Statutes (41 U.S.C. 5)".

2008—Subsec. (h). Pub. L. 110–244 struck out subsec. (h) relating to infrastructure investment needs report to be submitted not later than Jan. 31, 1999, and Jan. 31 of every second year thereafter.

2005—Subsec. (a). Pub. L. 109–59, §5201(b)(2), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 109–59, §5201(b)(1), redesignated subsec. (a) as (b). Former subsec. (b) redesignated (c).

Subsec. (b)(1)(B). Pub. L. 109–59, §5201(e)(1), inserted "transportation system management and operations," after "operation,".

Subsec. (b)(3). Pub. L. 109–59, §5201(c), reenacted heading without change and amended text of par. (3) generally. Prior to amendment, text read as follows: "The Secretary may carry out this section—

"(A) independently;

"(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories; or

"(C) by making grants to, or entering into contracts, cooperative agreements, and other transactions with, the National Academy of Sciences, the American Association of State Highway and Transportation Officials, or any Federal laboratory, State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, or person."

Subsec. (b)(6). Pub. L. 109–59, §5201(d), added par. (6).

Subsec. (c). Pub. L. 109–59, §5201(b)(1), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (c)(2). Pub. L. 109–59, §5201(f), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: "In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a))."

Subsec. (d). Pub. L. 109–59, §5201(b)(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(5)(C). Pub. L. 109–59, §5201(e)(2), inserted "system management and" before "operations programs".

Subsec. (d)(12) to (14). Pub. L. 109–59, §5201(e)(3), added pars. (12) to (14).

Subsec. (e). Pub. L. 109–59, §5201(g), amended heading and text of subsec. (e) generally, substituting provisions relating to exploratory advanced research for provisions relating to establishment of an advanced research program and authorizing the Secretary to make grants and enter into cooperative agreements and contracts in such areas including: characterization of materials used in highway infrastructure; diagnostics for evaluation of the condition of bridge and pavement structures to enable the assessment of risks of failure; design and construction details for composite structures; safety technology-based problems in the areas of pedestrian and bicycle safety, roadside hazards, and composite materials for roadside safety hardware; environmental research, including particulate matter source apportionment and model development; data

acquisition techniques for system condition and performance monitoring; and human factors, including prediction of the response of travelers to new technologies.

Pub. L. 109–59, §5201(b)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 109–59, §5201(i)(1), reenacted heading without change and amended text of subsec. (f) generally, substituting provisions authorizing tests, monitoring, and data analysis under the long-term pavement performance program through Sept. 30, 2009, for provisions directing the completion of long-term pavement performance program tests through the midpoint of a planned 20-year life of the long-term pavement performance program.

Pub. L. 109–59, §5201(b)(1), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 109–59, §5201(j)(1), amended heading and text of subsec. (g) generally. Prior to amendment, subsec. (g) directed the Secretary to establish a seismic research program and to conduct such program in cooperation with the National Center for Earthquake Engineering Research at the University of Buffalo and in consultation and cooperation with Federal departments and agencies participating in the National Earthquake Hazards Reduction Program.

Pub. L. 109–59, §5201(b)(1), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 109–59, §5201(k), added subsec. (h) relating to infrastructure investment needs report to be submitted not later than July 31, 2006, and July 31 of every second year thereafter.

Pub. L. 109–59, §5201(b)(1), redesignated subsec. (g), relating to infrastructure investment needs report to be submitted not later than Jan. 31, 1999, and Jan. 31 of every second year thereafter, as (h).

Subsec. (i). Pub. L. 109–59, §5201(l), added subsec. (i).

Subsec. (j). Pub. L. 109–59, §5202(a)(1), added subsec. (j).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

SMART COMMUNITY RESOURCE CENTER

Pub. L. 117–58, div. B, title V, §25002, Nov. 15, 2021, 135 Stat. 837, provided that:

"(a) DEFINITIONS.—In this section:

"(1) RESOURCE CENTER.—The term 'resource center' means the Smart Community Resource Center established under subsection (b).

"(2) SMART COMMUNITY.—The term 'smart community' means a community that uses innovative technologies, data, analytics, and other means to improve the community and address local challenges.

"(b) ESTABLISHMENT.—The Secretary [of Transportation] shall work with the modal administrations of the Department [of Transportation] and with such other Federal agencies and departments as the Secretary determines to be appropriate to make available to the public on an Internet website a resource center, to be known as the 'Smart Community Resource Center', that includes a compilation of resources or links to resources for States and local communities to use in developing and implementing—

"(1) intelligent transportation system programs; or

"(2) smart community transportation programs.

"(c) INCLUSIONS.—The resource center shall include links to—

"(1) existing programs and resources for intelligent transportation system or smart community transportation programs, including technical assistance, education, training, funding, and examples of intelligent transportation systems or smart community transportation programs implemented by States and local communities, available from—

"(A) the Department;

"(B) other Federal agencies; and

"(C) non-Federal sources;

"(2) existing reports or databases with the results of intelligent transportation system or smart community transportation programs;

"(3) any best practices developed or lessons learned from intelligent transportation system or smart community transportation programs; and

"(4) such other resources as the Secretary determines to be appropriate.

"(d) DEADLINE.—The Secretary shall establish the resource center by the date that is 1 year after the date of enactment of this Act [Nov. 15, 2021].

"(e) UPDATES.—The Secretary shall ensure that the resource center is updated on a regular basis."

STRENGTHENING MOBILITY AND REVOLUTIONIZING TRANSPORTATION GRANT PROGRAM

Pub. L. 117–58, div. B, title V, §25005, Nov. 15, 2021, 135 Stat. 840, provided that:

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) a State;

"(B) a political subdivision of a State;

"(C) a Tribal government;

"(D) a public transit agency or authority;

"(E) a public toll authority;

"(F) a metropolitan planning organization; and

"(G) a group of 2 or more eligible entities described in any of subparagraphs (A) through (F) applying through a single lead applicant.

"(2) ELIGIBLE PROJECT.—The term 'eligible project' means a project described in subsection (e).

"(3) LARGE COMMUNITY.—The term 'large community' means a community with a population of not less than 400,000 individuals, as determined under the most recent annual estimate of the Bureau of the Census.

"(4) MIDSIZED COMMUNITY.—The term 'midsized community" means any community that is not a large community or a rural community.

"(5) REGIONAL PARTNERSHIP.—The term 'regional partnership' means a partnership composed of 2 or more eligible entities located in jurisdictions with a combined population that is equal to or greater than the population of any midsized community.

"(6) RURAL COMMUNITY.—The term 'rural community' means a community that is located in an area that is outside of an urbanized area (as defined in section 5302 of title 49, United States Code).

"(7) SMART GRANT.—The term 'SMART grant' means a grant provided to an eligible entity under the Strengthening Mobility and Revolutionizing Transportation Grant Program established under subsection (b).

"(b) ESTABLISHMENT OF PROGRAM.—The Secretary [of Transportation] shall establish a program, to be known as the 'Strengthening Mobility and Revolutionizing Transportation Grant Program', under which the Secretary shall provide grants to eligible entities to conduct demonstration projects focused on advanced smart city or community technologies and systems in a variety of communities to improve transportation efficiency and safety.

"(c) DISTRIBUTION.—In determining the projects for which to provide a SMART grant, the Secretary shall consider contributions to geographical diversity among grant recipients, including the need for balancing the needs of rural communities, midsized communities, and large communities, consistent with the requirements of subparagraphs (A) through (C) of subsection (g)(1).

"(d) APPLICATIONS.—

"(1) IN GENERAL.—An eligible entity may submit to the Secretary an application for a SMART grant at such time, in such manner, and containing such information as the Secretary may require.

"(2) TRANSPARENCY.—The Secretary shall include, in any notice of funding availability relating to SMART grants, a full description of the method by which applications under paragraph (1) will be evaluated.

"(3) SELECTION CRITERIA.—

"(A) IN GENERAL.—The Secretary shall evaluate applications for SMART grants based on—

"(i) the extent to which the eligible entity or applicable beneficiary community—

"(I) has a public transportation system or other transit options capable of integration with other systems to improve mobility and efficiency;

"(II) has a population density and transportation needs conducive to demonstrating proposed strategies;

"(III) has continuity of committed leadership and the functional capacity to carry out the proposed project;

"(IV) is committed to open data sharing with the public; and

"(V) is likely to successfully implement the proposed eligible project, including through technical and financial commitments from the public and private sectors; and

"(ii) the extent to which a proposed eligible project will use advanced data, technology, and applications to provide significant benefits to a local area, a State, a region, or the United States,

including the extent to which the proposed eligible project will—
"(I) reduce congestion and delays for commerce and the traveling public;
"(II) improve the safety and integration of transportation facilities and systems for pedestrians, bicyclists, and the broader traveling public;
"(III) improve access to jobs, education, and essential services, including health care;
"(IV) connect or expand access for underserved or disadvantaged populations and reduce transportation costs;
"(V) contribute to medium- and long-term economic competitiveness;
"(VI) improve the reliability of existing transportation facilities and systems;
"(VII) promote connectivity between and among connected vehicles, roadway infrastructure, pedestrians, bicyclists, the public, and transportation systems[;]
"(VIII) incentivize private sector investments or partnerships, including by working with mobile and fixed telecommunication service providers, to the extent practicable;
"(IX) improve energy efficiency or reduce pollution;
"(X) increase the resiliency of the transportation system; and
"(XI) improve emergency response.

"(B) PRIORITY.—In providing SMART grants, the Secretary shall give priority to applications for eligible projects that would—

"(i) demonstrate smart city or community technologies in repeatable ways that can rapidly be scaled;

"(ii) encourage public and private sharing of data and best practices;

"(iii) encourage private-sector innovation by promoting industry-driven technology standards, open platforms, technology-neutral requirements, and interoperability;

"(iv) promote a skilled workforce that is inclusive of minority or disadvantaged groups;

"(v) allow for the measurement and validation of the cost savings and performance improvements associated with the installation and use of smart city or community technologies and practices;

"(vi) encourage the adoption of smart city or community technologies by communities;

"(vii) promote industry practices regarding cybersecurity; and

"(viii) safeguard individual privacy.

"(4) TECHNICAL ASSISTANCE.—On request of an eligible entity that submitted an application under paragraph (1) with respect to a project that is not selected for a SMART grant, the Secretary shall provide to the eligible entity technical assistance and briefings relating to the project.

"(e) USE OF GRANT FUNDS.—

"(1) ELIGIBLE PROJECTS.—

"(A) IN GENERAL.—A SMART grant may be used to carry out a project that demonstrates at least 1 of the following:

"(i) COORDINATED AUTOMATION.—The use of automated transportation and autonomous vehicles, while working to minimize the impact on the accessibility of any other user group or mode of travel.

"(ii) CONNECTED VEHICLES.—Vehicles that send and receive information regarding vehicle movements in the network and use vehicle-to-vehicle and vehicle-to-everything communications to provide advanced and reliable connectivity.

"(iii) INTELLIGENT, SENSOR-BASED INFRASTRUCTURE.—The deployment and use of a collective intelligent infrastructure that allows sensors to collect and report real-time data to inform everyday transportation-related operations and performance.

"(iv) SYSTEMS INTEGRATION.—The integration of intelligent transportation systems with other existing systems and other advanced transportation technologies.

"(v) COMMERCE DELIVERY AND LOGISTICS.—Innovative data and technological solutions supporting efficient goods movement, such as connected vehicle probe data, road weather data, or global positioning data to improve on-time pickup and delivery, improved travel time reliability, reduced fuel consumption and emissions, and reduced labor and vehicle maintenance costs.

"(vi) LEVERAGING USE OF INNOVATIVE AVIATION TECHNOLOGY.—Leveraging the use of innovative aviation technologies, such as unmanned aircraft systems, to support transportation safety and efficiencies, including traffic monitoring and infrastructure inspection.

"(vii) SMART GRID.—Development of a programmable and efficient energy transmission and distribution system to support the adoption or expansion of energy capture, electric vehicle deployment, or freight or commercial fleet fuel efficiency.

"(viii) SMART TECHNOLOGY TRAFFIC SIGNALS.—Improving the active management and functioning of traffic signals, including through—

"(I) the use of automated traffic signal performance measures;

"(II) implementing strategies, activities, and projects that support active management of traffic signal operations, including through optimization of corridor timing, improved vehicle, pedestrian, and bicycle detection at traffic signals, or the use of connected vehicle technologies;

"(III) replacing outdated traffic signals; or

"(IV) for an eligible entity serving a population of less than 500,000, paying the costs of temporary staffing hours dedicated to updating traffic signal technology.

"(2) ELIGIBLE PROJECT COSTS.—A SMART grant may be used for—

"(A) development phase activities, including—

"(i) planning;

"(ii) feasibility analyses;

"(iii) revenue forecasting;

"(iv) environmental review;

"(v) permitting;

"(vi) preliminary engineering and design work;

"(vii) systems development or information technology work; and

"(viii) acquisition of real property (including land and improvements to land relating to an eligible project); and

"(B) construction phase activities, including—

"(i) construction;

"(ii) reconstruction;

"(iii) rehabilitation;

"(iv) replacement;

"(v) environmental mitigation;

"(vi) construction contingencies; and

"(vii) acquisition of equipment, including vehicles.

"(3) PROHIBITED USES.—A SMART grant shall not be used—

"(A) to reimburse any preaward costs or application preparation costs of the SMART grant application;

"(B) for any traffic or parking enforcement activity; or

"(C) to purchase or lease a license plate reader.

"(f) REPORTS.—

"(1) ELIGIBLE ENTITIES.—Not later than 2 years after the date on which an eligible entity receives a SMART grant, and annually thereafter until the date on which the SMART grant is expended, the eligible entity shall submit to the Secretary an implementation report that describes—

"(A) the deployment and operational costs of each eligible project carried out by the eligible entity, as compared to the benefits and savings from the eligible project; and

"(B) the means by which each eligible project carried out by the eligible entity has met the original expectation, as projected in the SMART grant application, including—

"(i) data describing the means by which the eligible project met the specific goals for the project, such as—

"(I) reducing traffic-related fatalities and injuries;

"(II) reducing traffic congestion or improving travel-time reliability;

"(III) providing the public with access to real-time integrated traffic, transit, and multimodal transportation information to make informed travel decisions; or

"(IV) reducing barriers or improving access to jobs, education, or various essential services;

"(ii) the effectiveness of providing to the public real-time integrated traffic, transit, and multimodal transportation information to make informed travel decisions; and

"(iii) lessons learned and recommendations for future deployment strategies to optimize transportation efficiency and multimodal system performance.

"(2) GAO.—Not later than 4 years after the date of enactment of this Act [Nov. 15, 2021], the Comptroller General of the United States shall conduct, and submit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives a report describing the results of, a review of the SMART grant program under this section.

"(3) SECRETARY.—

"(A) REPORT TO CONGRESS.—Not later than 2 years after the date on which the initial SMART grants are provided under this section, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

"(i) describes each eligible entity that received a SMART grant;

"(ii) identifies the amount of each SMART grant provided;

"(iii) summarizes the intended uses of each SMART grant;

"(iv) describes the effectiveness of eligible entities in meeting the goals described in the SMART grant application of the eligible entity, including an assessment or measurement of the realized improvements or benefits resulting from each SMART grant; and

"(v) describes lessons learned and recommendations for future deployment strategies to optimize transportation efficiency and multimodal system performance.

"(B) BEST PRACTICES.—The Secretary shall—

"(i) develop and regularly update best practices based on, among other information, the data, lessons learned, and feedback from eligible entities that received SMART grants;

"(ii) publish the best practices under clause (i) on a publicly available website; and

"(iii) update the best practices published on the website under clause (ii) regularly.

"(g) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to the Secretary $100,000,000 for each of the first 5 fiscal years beginning after the date of enactment of this Act, of which—

"(A) not more than 40 percent shall be used to provide SMART grants for eligible projects that primarily benefit large communities;

"(B) not more than 30 percent shall be provided for eligible projects that primarily benefit midsized communities; and

"(C) not more than 30 percent shall be used to provide SMART grants for eligible projects that primarily benefit rural communities or regional partnerships.

"(2) ADMINISTRATIVE COSTS.—Of the amounts made available under paragraph (1) for each fiscal year, not more than 2 percent shall be used for administrative costs of the Secretary in carrying out this section.

"(3) LIMITATION.—An eligible entity may not use more than 3 percent of the amount of a SMART grant for each fiscal year to achieve compliance with applicable planning and reporting requirements.

"(4) AVAILABILITY.—The amounts made available for a fiscal year pursuant to this subsection shall be available for obligation during the 2-fiscal-year period beginning on the first day of the fiscal year for which the amounts were appropriated."

TRANSPORTATION SAFETY INFORMATION MANAGEMENT SYSTEM PROJECT

Pub. L. 109–59, title V, §5501, Aug. 10, 2005, 119 Stat. 1820, provided that:

"(a) IN GENERAL.—The Secretary [of Transportation] shall fund and carry out a project to further the development of a comprehensive transportation safety information management system (in this section referred to as 'TSIMS').

"(b) PURPOSES.—The purpose of the TSIMS project is to further the development of a software application to provide for the collection, integration, management, and dissemination of safety data from and for use among State and local safety and transportation agencies, including driver licensing, vehicle registration, emergency management system, injury surveillance, roadway inventory, and motor carrier databases.

"(c) FUNDING.—

"(1) FEDERAL FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act [119 Stat. 1779], $1,000,000 for fiscal years 2006 and 2007 shall be available to carry out the TSIMS project under this section.

"(2) STATE CONTRIBUTION.—The sums authorized in paragraph (1) are intended to supplement voluntary contributions to be made by State departments of transportation and other State safety and transportation agencies."

SURFACE TRANSPORTATION CONGESTION RELIEF SOLUTIONS RESEARCH INITIATIVE

Pub. L. 109–59, title V, §5502, Aug. 10, 2005, 119 Stat. 1820, provided that:

"(a) ESTABLISHMENT.—The Secretary [of Transportation] shall establish a surface transportation congestion solutions research initiative consisting of 2 independent research programs described in subsections (b)(1) and (b)(2) and designed to develop information to assist State transportation departments

and metropolitan planning organizations [to] measure and address surface transportation congestion problems.

"(b) SURFACE TRANSPORTATION CONGESTION SOLUTIONS RESEARCH PROGRAM.—

"(1) IMPROVED SURFACE TRANSPORTATION CONGESTION MANAGEMENT SYSTEM MEASURES.—The purposes of the first research program established under this section shall be—

"(A) to examine the effectiveness of surface transportation congestion management systems since enactment of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240) [Dec. 18, 1991];

"(B) to identify best case examples of locally designed reporting methods and incorporate such methods in research on national models for developing and recommending improved surface transportation congestion measurement and reporting; and

"(C) to incorporate such methods in the development of national models and methods to monitor, measure, and report surface transportation congestion information.

"(2) ANALYTICAL TECHNIQUES FOR ACTION ON SURFACE TRANSPORTATION CONGESTION.—The purposes of the second research program established under this section shall be—

"(A) to analyze the effectiveness of procedures used by State transportation departments and metropolitan planning organizations to assess surface transportation congestion problems and communicate those problems to decisionmakers; and

"(B) to identify methods to ensure that the results of surface transportation congestion analyses lead to the targeting of funding for programs, projects, or services with demonstrated effectiveness in reducing travel delay, congestion, and system unreliability.

"(c) TECHNICAL ASSISTANCE AND TRAINING.—In fiscal year 2006, the Secretary [of Transportation] shall develop a technical assistance and training program to disseminate the results of the surface transportation congestion solutions research initiative for the purpose of assisting State transportation departments and local transportation agencies with improving their approaches to surface transportation congestion measurement, analysis, and project programming.

"(d) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act [119 Stat. 1779], $9,000,000 for each of fiscal years 2006 through 2009 shall be available to carry out subsections (a) and (b) of this section. Of the amounts made available by section 5101(a)(2), $750,000 for each of fiscal years 2006 through 2009 shall be available to carry out subsection (c) of this subsection."

THERMAL IMAGING

Pub. L. 109–59, title V, §5513(a), Aug. 10, 2005, 119 Stat. 1829, provided that:

"(1) IN GENERAL.—The Secretary [of Transportation] shall make a grant to carry out a demonstration project that uses a thermal imaging inspection system (TIIS) that leverages state-of-the-art thermal imagery technology, integrated with signature recognition software, providing the capability to identify, in real time, faults and failures in tires, brakes and bearings mounted on commercial motor vehicles.

"(2) USE OF FUNDS.—Funds shall be used—

"(A) to employ a TIIS in a field environment, along the Interstate, to further assess the system's ability to identify faults in tires, brakes, and bearings mounted on commercial motor vehicles;

"(B) to establish, through statistical analysis, the probability of failure for each component; and

"(C) to develop and integrate a predictive tool into the TIIS, which identifies an impending tire, brake, or bearing failure and provides the use of a time frame in which this failure may occur.

"(3) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act [119 Stat. 1779], $2,000,000 in fiscal year 2006 shall be available to carry out this subsection."

STUDY OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM

Pub. L. 105–178, title V, §5112, June 9, 1998, 112 Stat. 445, provided that:

"(a) STUDY.—Not later than 120 days after the date of enactment of this Act [June 9, 1998], the Secretary shall make a grant to, or enter into a cooperative agreement or contract with, the Transportation Research Board of the National Academy of Sciences (in this section referred to as the 'Board') to conduct a study to determine the goals, purposes, research agenda and projects, administrative structure, and fiscal needs for a new strategic highway research program to replace the program established under section 307(d) (as in effect on the day before the date of enactment of this Act), or a similar effort.

"(b) CONSULTATION.—In conducting the study, the Board shall consult with the American Association of State Highway and Transportation Officials and such other entities as the Board determines appropriate to the conduct of the study.

"(c) REPORT.—Not later than 5 years after making a grant or entering into a cooperative agreement or contract under subsection (a), the Board shall submit a final report on the results of the study to the Secretary, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and

Infrastructure of the House of Representatives."

COMMERCIAL REMOTE SENSING PRODUCTS AND SPATIAL INFORMATION TECHNOLOGIES

Pub. L. 109–59, title V, §5506, Aug. 10, 2005, 119 Stat. 1823, provided that:

"(a) IN GENERAL.—The Secretary [of Transportation] shall establish and carry out a program to validate commercial remote sensing products and spatial information technologies for application to national transportation infrastructure development and construction.

"(b) PROGRAM.—

"(1) NATIONAL POLICY.—The Secretary [of Transportation] shall establish and maintain a national policy for the use of commercial remote sensing products and spatial information technologies in national transportation infrastructure development and construction.

"(2) POLICY IMPLEMENTATION.—The Secretary shall develop new applications of commercial remote sensing products and spatial information technologies for the implementation of the national policy established and maintained under paragraph (1).

"(c) COOPERATION.—The Secretary [of Transportation] shall carry out this section in cooperation with a consortium of university research centers.

"(d) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act [119 Stat. 1779], $7,750,000 for each of fiscal years 2006 through 2009 shall be available to carry out this section."

Pub. L. 105–178, title V, §5113, June 9, 1998, 112 Stat. 445, provided that:

"(a) IN GENERAL.—The Secretary shall establish and carry out a program to validate commercial remote sensing products and spatial information technologies for application to national transportation infrastructure development and construction.

"(b) PROGRAM STAGES.—

"(1) FIRST STAGE.—Not later than 18 months after the date of enactment of this Act [June 9, 1998], the Secretary shall establish a national policy for the use of commercial remote sensing products and spatial information technologies in national transportation infrastructure development and construction.

"(2) SECOND STAGE.—After establishment of the national policy under paragraph (1), the Secretary shall develop new applications of commercial remote sensing products and spatial information technologies for the implementation of the national policy.

"(c) COOPERATION.—The Secretary shall carry out this section in cooperation with the Commercial Remote Sensing Program of the National Aeronautics and Space Administration and a consortium of university research centers.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 1999 through 2004."

TRANSPORTATION TECHNOLOGY INNOVATION AND DEMONSTRATION PROGRAM

Pub. L. 109–59, title V, §5204(g), Aug. 10, 2005, 119 Stat. 1794, provided that:

"(1) FUNDAMENTAL PROPERTIES OF ASPHALTS AND MODIFIED ASPHALTS.—The Secretary [of Transportation] shall continue to carry out section 5117(b)(5) of the Transportation Equity Act for the 21st Century [Pub. L. 105–178, set out below] (112 Stat. 450).

"(2) TRANSPORTATION, ECONOMIC, AND LAND USE SYSTEM.—The Secretary shall continue to carry out section 5117(b)(7) of the Transportation Equity Act for the 21st Century (112 Stat. 450).

"(3) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act [119 Stat. 1779], for each of fiscal years 2005 through 2009 $4,200,000 shall be available to carry out paragraph (1) and $1,000,000 shall be available to carry out paragraph (2)."

Pub. L. 105–178, title V, §5117, June 9, 1998, 112 Stat. 448, as amended by Pub. L. 105–206, title IX, §9011(g), (h), July 22, 1998, 112 Stat. 864; Pub. L. 105–277, div. A, §101(g) [title III, §3769 [369]], Oct. 21, 1998, 112 Stat. 2681–439, 2681–478; Pub. L. 107–117, div. B, §1101, Jan. 10, 2002, 115 Stat. 2330; Pub. L. 109–59, title V, §5508, Aug. 10, 2005, 119 Stat. 1824, provided that:

"(a) IN GENERAL.—The Secretary shall carry out a transportation technology innovation and demonstration program in accordance with the requirements of this section.

"(b) CONTENTS OF PROGRAM.—

"(1) MOTOR VEHICLE SAFETY WARNING SYSTEM.—

"(A) IN GENERAL.—The Secretary shall expand and continue the study authorized by section 358(c) of the National Highway System Designation Act of 1995 [Pub. L. 104–59] (23 U.S.C. 401 note; 109 Stat. 625) relating to the development of a motor vehicle safety warning system and shall conduct tests of such system.

"(B) GRANTS.—In carrying out this paragraph, the Secretary may make grants to State and local

governments.

"(C) FUNDING.—Of the amounts made available for each of fiscal years 1998 through 2000 by section 5001(a)(2) of this Act [112 Stat. 419], $700,000 per fiscal year shall be available to carry out this paragraph.

"(2) MOTOR CARRIER ADVANCED SENSOR CONTROL SYSTEM.—

"(A) IN GENERAL.—The Secretary shall conduct research on the deployment of a system of advanced sensors and signal processors in trucks and tractor trailers to determine axle and wheel alignment, monitor collision alarm, check tire pressure and tire balance conditions, measure and detect load distribution in the vehicle, and monitor and adjust automatic braking systems.

"(B) FUNDING.—Of the amounts made available for each of fiscal years 1998 through 2003 by section 5001(a)(2) of this Act, $700,000 per fiscal year shall be available to carry out this paragraph.

"(3) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—

"(A) DEFINITIONS.—In this paragraph:

"(i) CONGESTED AREA.—The term 'congested area' means a metropolitan area that experiences significant traffic congestion, as determined by the Secretary on an annual basis, including the metropolitan areas of Albany, Atlanta, Austin, Burlington, Charlotte, Columbus, Greensboro, Hartford, Jacksonville, Kansas City, Louisville, Milwaukee, Minneapolis-St. Paul, Nashville, New Orleans, Norfolk, Raleigh, Richmond, Sacramento, San Jose, Tuscson, and Tulsa.

"(ii) DEPLOYMENT AREA.—The term 'deployment area' means any of the metropolitan areas of Baltimore, Birmingham, Boston, Chicago, Cleveland, Dallas/Fort Worth, Denver, Detroit, Houston, Indianapolis, Las Vegas, Los Angeles, Miami, New York/Northern New Jersey, Northern Kentucky/Cincinnati, Oklahoma City, Orlando, Philadelphia, Phoenix, Pittsburgh, Portland, Providence, Salt Lake, San Diego, San Francisco, St. Louis, Seattle, Tampa, and Washington, District of Columbia.

"(iii) METROPOLITAN AREA.—The term 'metropolitan area', including a major transportation corridor serving a metropolitan area, means any area that—

"(I) has a population exceeding 300,000; and

"(II) meets criteria established by the Secretary in conjunction with the intelligent vehicle highway systems corridors program.

"(iv) ORIGINAL CONTRACT.—The term 'original contract' means the Department of Transportation contract numbered DTTS 59–99–D–00445 T020013.

"(v) PROGRAM.—The term 'program' means the 2-part intelligent transportation infrastructure program carried out under this paragraph.

"(vi) STATE TRANSPORTATION DEPARTMENT.—The term 'State transportation department' means—

"(I) a State transportation department (as defined in section 101 of title 23, United States Code); and

"(II) a designee of a State transportation department (as so defined) for the purpose of entering into contracts.

"(vii) UNCOMMITTED FUNDS.—The term 'uncommitted funds' means the total amount of funds that, as of the date that is 180 days after the date of enactment of the SAFETEA–LU [Aug. 10, 2005], remain uncommitted under the original contract.

"(B) INTELLIGENT TRANSPORTATION INFRASTRUCTURE PROGRAM.—

"(i) IN GENERAL.—The Secretary shall carry out a 2-part intelligent transportation infrastructure program in accordance with this paragraph to advance the deployment of an operational intelligent transportation infrastructure system, through measurement of various transportation system activities, to simultaneously—

"(I) aid in transportation planning and analysis; and

"(II) make a significant contribution to the ITS program under this title [see Tables for classification].

"(ii) OBJECTIVES.—The objectives of the program are—

"(I) to build or integrate an infrastructure of the measurement of various transportation system metrics to aid in planning, analysis, and maintenance of the Department of Transportation, including the buildout, maintenance, and operation of greater than 40 metropolitan area systems with a total cost not to exceed $2,000,000 for each metropolitan area;

"(II) to provide private technology commercialization initiatives to generate revenues that will be reinvested in the intelligent transportation infrastructure system;

"(III) to aggregate data into reports for multipoint data distribution techniques; and

"(IV) with respect to part I of the program under subparagraph (C), to use an advanced information system designed and monitored by an entity with experience with the Department of Transportation in the

design and monitoring of high-reliability, mission-critical voice and data systems.

"(C) PART I.—

"(i) IN GENERAL.—In carrying out part I of the program, the Secretary shall permit the entity to which the original contract was awarded to use uncommitted funds to deploy intelligent transportation infrastructure systems that have been accepted by the Secretary—

"(I) in accordance with the terms of the original contract; and

"(II) in any deployment area, with the consent of the State transportation department for the deployment area.

"(ii) APPLICABLE CONDITIONS.—The same asset ownership, maintenance, fixed price contract, and revenue sharing model, and the same competitively selected consortium leader, as were used for the deployment of intelligent transportation infrastructure systems under the original contract before the date of enactment of the SAFETEA–LU [Aug. 10, 2005] shall apply to each deployment carried out under clause (i).

"(iii) DEPLOYMENT IN CONGESTED AREAS.—If the entity referred to in clause (i) is unable to use the uncommitted funds by deploying intelligent transportation infrastructure systems in deployment areas, as determined by the Secretary, the entity may deploy the systems in accordance with this paragraph in one or more congested areas, with the consent of the State transportation departments for the congested areas.

"(D) PART II.—

"(i) IN GENERAL.—In carrying out part II of the program, the Secretary shall award, on a competitive basis, contracts for the deployment of intelligent transportation infrastructure systems that have been accepted by the Secretary in congested areas, with the consent of the State transportation departments for the congested areas.

"(ii) REQUIREMENTS.—The Secretary shall award contracts under clause (i)—

"(I) for individual congested areas among entities that seek to deploy intelligent transportation infrastructure systems in the congested areas; and

"(II) on the condition that the terms of each contract awarded requires the entity deploying such system to ensure that the deployed system is compatible (as determined by the Secretary) with systems deployed in other congested areas under this paragraph.

"(iii) PROVISIONS IN CONTRACTS.—The Secretary shall require that each contract for the deployment of an intelligent transportation infrastructure system under this subparagraph contain such provisions relating to asset ownership, maintenance, fixed price, and revenue sharing as the Secretary considers to be appropriate.

"(E) USE OF FUNDS FOR UNDEPLOYED SYSTEMS.—

"(i) IN GENERAL.—If, under part I or part II of the program, a State transportation department for a deployment area or congested area does not consent by the later of the date that is 180 days after the date of enactment of the SAFETEA–LU [Aug. 10, 2005], or another date determined jointly by the State transportation department and the deployment area or congested area, to participate in the deployment of an intelligent transportation infrastructure system in the deployment area or congested area, upon application by any other deployment area or congested area that has consented by that date to participate in the deployment of such a system, the Secretary shall distribute any such unused funds to any other deployment or congested area that has consented by that date to participate in the deployment of such a system.

"(ii) NO INCLUSION IN COST LIMITATION.—Costs paid using funds provided through a distribution under clause (i) shall not be considered in determining the limitation on maximum cost described in subparagraph (F)(ii).

"(F) FEDERAL SHARE; LIMITS ON COSTS OF SYSTEMS FOR METROPOLITAN AREAS.—

"(i) FEDERAL SHARE.—Subject to clause (ii), the Federal share of the cost of any project or activity carried out under the program shall be 80 percent.

"(ii) LIMIT ON COSTS OF SYSTEM FOR EACH METROPOLITAN AREA.—

"(I) IN GENERAL.—Not more than $2,000,000 may be provided under this paragraph for deployment of an intelligent transportation infrastructure system for a metropolitan area.

"(II) FUNDING UNDER EACH PART.—A metropolitan area in which an intelligent transportation infrastructure system is deployed under part I or part II under subparagraphs (C) and (D), respectively, including through a distribution of funds under subparagraph (E), may not receive any additional deployment under the other part of the program.

"(G) USE OF RIGHTS-OF-WAY.—

"(i) IN GENERAL.—An intelligent transportation system project described in this paragraph or paragraph (6) that involves privately owned intelligent transportation system components and is carried out using funds made available from the Highway Trust Fund shall not be subject to any law (including a regulation) of a State or political subdivision of a State prohibiting or regulating commercial activities in the rights-of-way of a highway for which Federal-aid highway funds have been used for planning, design, construction, or maintenance for the project, if the Secretary determines that such use is in the public interest.

"(ii) EFFECT OF SUBPARAGRAPH.—Nothing in this subparagraph affects the authority of a State or political subdivision of a State—

"(I) to regulate highway safety; or

"(II) under sections 253 and 332(c)(7) of the Communications Act of 1934 (47 U.S.C. 253, 332(c)(7)).

"(H) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary for each of fiscal years 2005 through 2009 to carry out this paragraph.

"(4) CORROSION CONTROL AND PREVENTION.—

"(A) IN GENERAL.—The Secretary shall make a grant to conduct a study on the costs and benefits of corrosion control and prevention. The study shall be conducted in conjunction with an interdisciplinary team of experts from the fields of metallurgy, chemistry, economics, and others, as appropriate. Not later than September 30, 2001, the Secretary shall submit to Congress a report on the study results, together with any recommendations.

"(B) FUNDING.—Of the amounts made available for each of fiscal years 1999 and 2000 by section 5001(a)(1) of this Act [112 Stat. 419], $500,000 per fiscal year shall be available to carry out this paragraph.

"(5) FUNDAMENTAL PROPERTIES OF ASPHALTS AND MODIFIED ASPHALTS.—

"(A) IN GENERAL.—The Secretary shall continue to carry out section 6016 of the Intermodal Surface Transportation Efficiency Act of 1991 [Pub. L. 102–240, formerly set out as a note below]. Additional areas of the program under such section shall be asphalt-water interaction studies and asphalt-aggregate thin film behavior studies.

"(B) FUNDING.—Of the amounts made available for each of fiscal years 1998 through 2003 by section 5001(a)(1) of this Act, $1,000,000 for fiscal year 1998 and $3,000,000 for each of fiscal years 1999 through 2003 shall be available to carry out this paragraph.

"(6) ADVANCED TRAFFIC MONITORING AND RESPONSE CENTER.—

"(A) IN GENERAL.—The Secretary shall make grants to the Commonwealth of Pennsylvania, in conjunction with the Pennsylvania Turnpike Commission, to establish an advanced traffic monitoring and emergency response center at Letterkenny Army Depot in Chambersburg, Pennsylvania. The center shall help develop and coordinate traffic monitoring and ITS systems on portions of the Pennsylvania Turnpike system and I–81, coordinate emergency response with State and local governments in the Central Pennsylvania Region and conduct research on emergency response and prototype trauma response.

"(B) FUNDING.—

"(i) ELIGIBILITY UNDER SECTION 5208.—The center established under this paragraph shall be eligible for funding under section 5208 of this Act [set out in a note below].

"(ii) ALLOCATION.—Of the amounts made available for each of fiscal years 1998 through 2003 by section 5001(a)(2) of this Act, $1,667,000 per fiscal year shall be available to carry out this paragraph.

"(7) TRANSPORTATION ECONOMIC AND LAND USE SYSTEM.—

"(A) IN GENERAL.—The Secretary shall continue development and deployment through the New Jersey Institute of Technology to metropolitan planning organizations of the Transportation Economic and Land Use System.

"(B) FUNDING.—Of the amounts made available for each of fiscal years 1998 through 2003 by section 5001(a)(2) of this Act, $1,000,000 per fiscal year shall be available to carry out this paragraph.

"(8) RECYCLED MATERIALS RESOURCE CENTER.—

"(A) ESTABLISHMENT.—The Secretary shall establish at the University of New Hampshire a research program to be known as the 'Recycled Materials Resource Center' (referred to in this paragraph as the 'Center').

"(B) ACTIVITIES.—

"(i) IN GENERAL.—The Center shall—

"(I) systematically test, evaluate, develop appropriate guidelines for, and demonstrate environmentally acceptable and occupationally safe technologies and techniques for the increased use of traditional

and nontraditional recycled and secondary materials in transportation infrastructure construction and maintenance;

"(II) make information available to State transportation departments, the Federal Highway Administration, the construction industry, and other interested parties to assist in evaluating proposals to use traditional and nontraditional recycled and secondary materials in transportation infrastructure construction;

"(III) encourage the increased use of traditional and nontraditional recycled and secondary materials by using sound science to analyze thoroughly all potential long-term considerations that affect the physical and environmental performance of the materials; and

"(IV) work cooperatively with Federal and State officials to reduce the institutional barriers that limit widespread use of traditional and nontraditional recycled and secondary materials and to ensure that such increased use is consistent with the sustained environmental and physical integrity of the infrastructure in which the materials are used.

"(ii) SITES AND PROJECTS UNDER ACTUAL FIELD CONDITIONS.—In carrying out clause (i)(III), the Secretary may authorize the Center to—

"(I) use test sites and demonstration projects under actual field conditions to develop appropriate performance data; and

"(II) develop appropriate tests and guidelines to ensure correct use of recycled and secondary materials in transportation infrastructure construction.

"(C) REVIEW AND EVALUATION.—

"(i) IN GENERAL.—Not less often than every 2 years, the Secretary shall review and evaluate the program carried out by the Center.

"(ii) NOTIFICATION OF DEFICIENCIES.—In carrying out clause (i), if the Secretary determines that the Center is deficient in carrying out subparagraph (B), the Secretary shall notify the Center of each deficiency and recommend specific measures to address the deficiency.

"(iii) DISQUALIFICATION.—If, after the end of the 180-day period that begins on the date of notification to the Center under clause (ii), the Secretary determines that the Center has not corrected each deficiency identified under clause (ii), the Secretary may, after notifying the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the determination, disqualify the Center from further participation under this section.

"(D) FUNDING.—Of the amounts made available for each of fiscal years 1998 through 2003 by section 5001(a)(1) of this Act, $1,500,000 per fiscal year shall be available to carry out this paragraph."

INTELLIGENT TRANSPORTATION SYSTEMS

Pub. L. 117–58, div. A, title I, §11304, Nov. 15, 2021, 135 Stat. 531, provided that:

"(a) IN GENERAL.—The Secretary [of Transportation] shall develop guidance for using existing flexibilities with respect to the systems engineering analysis described in part 940 of title 23, Code of Federal Regulations (or successor regulations).

"(b) IMPLEMENTATION.—The Secretary shall ensure that any guidance developed under subsection (a)—

"(1) clearly identifies criteria for low-risk and exempt intelligent transportation systems projects, with a goal of minimizing unnecessary delay or paperwork burden;

"(2) is consistently implemented by the Department [of Transportation] nationwide; and

"(3) is disseminated to Federal-aid recipients.

"(c) SAVINGS PROVISION.—Nothing in this section prevents the Secretary from amending part 940 of title 23, Code of Federal Regulations (or successor regulations), to reduce State administrative burdens."

Pub. L. 105–178, title V, subtitle C, June 9, 1998, 112 Stat. 452, as amended by Pub. L. 105–206, title IX, §9011(c), July 22, 1998, 112 Stat. 863; Pub. L. 105–277, div. A, §101(g) [title III, §370], Oct. 21, 1998, 112 Stat. 2681–439, 2681–478; Pub. L. 109–59, title V, §5509, Aug. 10, 2005, 119 Stat. 1828; Pub. L. 114–94, div. A, title VI, §6019(d)(2), Dec. 4, 2015, 129 Stat. 1581; Pub. L. 117–286, §4(a)(174), Dec. 27, 2022, 136 Stat. 4325, provided that:

"SEC. 5201. SHORT TITLE.

"This subtitle may be cited as the 'Intelligent Transportation Systems Act of 1998'.

"SEC. 5202. FINDINGS.

"Congress finds that—

"(1) investments authorized by the Intermodal Surface Transportation Efficiency Act of 1991 (105

Stat. 1914 et seq.) [Pub. L. 104–240, see Tables for classification] have demonstrated that intelligent transportation systems can mitigate surface transportation problems in a cost-effective manner; and

"(2) continued investment in architecture and standards development, research, and systems integration is needed to accelerate the rate at which intelligent transportation systems are incorporated into the national surface transportation network, thereby improving transportation safety and efficiency and reducing costs and negative impacts on communities and the environment.

"SEC. 5203. GOALS AND PURPOSES.

"(a) GOALS.—The goals of the intelligent transportation system program include—

"(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade to enable existing facilities to meet a significant portion of future transportation needs, including public access to employment, goods, and services, and to reduce regulatory, financial, and other transaction costs to public agencies and system users;

"(2) achievement of national transportation safety goals, including the enhancement of safe operation of motor vehicles and nonmotorized vehicles, with particular emphasis on decreasing the number and severity of collisions;

"(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments to achieve national environmental goals;

"(4) accommodation of the needs of all users of surface transportation systems, including operators of commercial vehicles, passenger vehicles, and motorcycles, and including individuals with disabilities; and

"(5) improvement of the Nation's ability to respond to emergencies and natural disasters and enhancement of national defense mobility.

"(b) PURPOSES.—The Secretary shall implement activities under the intelligent system transportation program to, at a minimum—

"(1) expedite, in both metropolitan and rural areas, deployment and integration of intelligent transportation systems for consumers of passenger and freight transportation;

"(2) ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for full consideration in the transportation planning process;

"(3) improve regional cooperation and operations planning for effective intelligent transportation system deployment;

"(4) promote the innovative use of private resources;

"(5) develop a workforce capable of developing, operating, and maintaining intelligent transportation systems; and

"(6) complete deployment of Commercial Vehicle Information Systems and Networks in a majority of States by September 30, 2003.

"SEC. 5204. GENERAL AUTHORITIES AND REQUIREMENTS.

"(a) SCOPE.—Subject to the provisions of this subtitle, the Secretary shall conduct an ongoing intelligent transportation system program to research, develop, and operationally test intelligent transportation systems and advance nationwide deployment of such systems as a component of the surface transportation systems of the United States.

"(b) POLICY.—Intelligent transportation system operational tests and deployment projects funded pursuant to this subtitle shall encourage and not displace public-private partnerships or private sector investment in such tests and projects.

"(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.—The Secretary shall carry out the intelligent transportation system program in cooperation with State and local governments and other public entities, the United States private sector, the Federal laboratories, and colleges and universities, including historically black colleges and universities and other minority institutions of higher education.

"(d) CONSULTATION WITH FEDERAL OFFICIALS.—In carrying out the intelligent transportation system program, the Secretary, as appropriate, shall consult with the Secretary of Commerce, the Secretary of the Treasury, the Administrator of the Environmental Protection Agency, the Director of the National Science Foundation, and the heads of other Federal departments and agencies.

"(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

"(f) TRANSPORTATION PLANNING.—The Secretary may provide funding to support adequate consideration of transportation system management and operations, including intelligent transportation

systems, within metropolitan and statewide transportation planning processes.

"(g) INFORMATION CLEARINGHOUSE.—

"(1) IN GENERAL.—The Secretary shall—

"(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subtitle; and

"(B) on request, make that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

"(2) DELEGATION OF AUTHORITY.—

"(A) IN GENERAL.—The Secretary may delegate the responsibility of the Secretary under this subsection, with continuing oversight by the Secretary, to an appropriate entity not within the Department of Transportation.

"(B) FEDERAL ASSISTANCE.—If the Secretary delegates the responsibility, the entity to which the responsibility is delegated shall be eligible for Federal assistance under this section.

"(h) ADVISORY COMMITTEES.—

"(1) IN GENERAL.—In carrying out this subtitle, the Secretary may use 1 or more advisory committees.

"(2) APPLICABILITY OF CHAPTER 10 OF TITLE 5, UNITED STATES CODE.—Any advisory committee so used shall be subject to chapter 10 of title 5, United States Code.

"(i) PROCUREMENT METHODS.—

"(1) TECHNICAL ASSISTANCE.—The Secretary shall develop appropriate technical assistance and guidance to assist State and local agencies in evaluating and selecting appropriate methods of procurement for intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including innovative and nontraditional methods such as the Information Technology Omnibus Procurement.

"(2) INTELLIGENT TRANSPORTATION SYSTEM SOFTWARE.—To the maximum extent practicable, contracting officials shall use as a critical evaluation criterion the Software Engineering Institute's Capability Maturity Model, or another similar recognized standard risk assessment methodology, to reduce the cost, schedule, and performance risks associated with the development, management, and integration of intelligent transportation system software.

"(j) EVALUATIONS.—

"(1) GUIDELINES AND REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall issue guidelines and requirements for the evaluation of operational tests and deployment projects carried out under this subtitle.

"(B) OBJECTIVITY AND INDEPENDENCE.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the evaluator so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this subtitle.

"(C) FUNDING.—The guidelines and requirements issued under subparagraph (A) shall establish evaluation funding levels based on the size and scope of each test or project that ensure adequate evaluation of the results of the test or project.

"(2) SPECIAL RULE.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the evaluation of any test, deployment project, or program assessment activity under this subtitle shall not be subject to chapter 35 of title 44.

"(k) USE OF RIGHTS-OF-WAY.—Intelligent transportation system projects specified in section 5117(b)(3) and 5117(b)(6) [set out above] and involving privately owned intelligent transportation system components that is carried out using funds made available from the Highway Trust Fund shall not be subject to any law or regulation of a State or political subdivision of a State prohibiting or regulating commercial activities in the rights-of-way of a highway for which Federal-aid highway funds have been utilized for planning, design, construction, or maintenance, if the Secretary of Transportation determines that such use is in the public interest. Nothing in this subsection shall affect the authority of a State or political subdivision of a State to regulate highway safety.

"SEC. 5205. NATIONAL ITS PROGRAM PLAN.

"(a) IN GENERAL.—

"(1) UPDATES.—The Secretary shall maintain and update, as necessary, the National ITS Program Plan developed by the Department of Transportation and the Intelligent Transportation Society of America.

"(2) SCOPE.—The National ITS Program Plan shall—

"(A) specify the goals, objectives, and milestones for the research and deployment of intelligent transportation systems in the context of major metropolitan areas, smaller metropolitan and rural areas,

and commercial vehicle operations;

"(B) specify how specific programs and projects will achieve the goals, objectives, and milestones referred to in subparagraph (A), including consideration of the 5- and 10-year timeframes for the goals and objectives;

"(C) identify activities that provide for the dynamic development of standards and protocols to promote and ensure interoperability in the implementation of intelligent transportation system technologies, including actions taken to establish critical standards; and

"(D) establish a cooperative process with State and local governments for determining desired surface transportation system performance levels and developing plans for incorporation of specific intelligent transportation system capabilities into surface transportation systems.

"(b) REPORTING.—The plan described in subsection (a) shall be transmitted and updated as part of the transportation research and development strategic plan under section 6503 of title 49, United States Code.

"SEC. 5206. NATIONAL ARCHITECTURE AND STANDARDS.

"(a) IN GENERAL.—

"(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—Consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 [Pub. L. 104–113] (15 U.S.C. 272 note; 110 Stat. 783), the Secretary shall develop, implement, and maintain a national architecture and supporting standards and protocols to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

"(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the national architecture shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the United States.

"(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—In carrying out this section, the Secretary may use the services of such standards development organizations as the Secretary determines to be appropriate.

"(b) REPORT ON CRITICAL STANDARDS.—Not later than June 1, 1999, the Secretary shall submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure and the Committee on Science [now Committee on Science, Space, and Technology] of the House of Representatives identifying which standards are critical to ensuring national interoperability or critical to the development of other standards and specifying the status of the development of each standard identified.

"(c) PROVISIONAL STANDARDS.—

"(1) IN GENERAL.—If the Secretary finds that the development or balloting of an intelligent transportation system standard jeopardizes the timely achievement of the objectives identified in subsection (a), the Secretary may establish a provisional standard after consultation with affected parties, and using, to the extent practicable, the work product of appropriate standards development organizations.

"(2) CRITICAL STANDARDS.—If a standard identified as critical in the report under subsection (b) is not adopted and published by the appropriate standards development organization by January 1, 2001, the Secretary shall establish a provisional standard after consultation with affected parties, and using, to the extent practicable, the work product of appropriate standards development organizations.

"(3) PERIOD OF EFFECTIVENESS.—A provisional standard established under paragraph (1) or (2) shall be published in the Federal Register and remain in effect until the appropriate standards development organization adopts and publishes a standard.

"(d) WAIVER OF REQUIREMENT TO ESTABLISH PROVISIONAL STANDARD.—

"(1) IN GENERAL.—The Secretary may waive the requirement under subsection (c)(2) to establish a provisional standard if the Secretary determines that additional time would be productive or that establishment of a provisional standard would be counterproductive to achieving the timely achievement of the objectives identified in subsection (a).

"(2) NOTICE.—The Secretary shall publish in the Federal Register a notice describing each standard for which a waiver of the provisional standard requirement has been granted, the reasons for and effects of granting the waiver, and an estimate as to when the standard is expected to be adopted through a process consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 [Pub. L. 104–113] (15 U.S.C. 272 note; 110 Stat. 783).

"(3) WITHDRAWAL OF WAIVER.—At any time the Secretary may withdraw a waiver granted under paragraph (1). Upon such withdrawal, the Secretary shall publish in the Federal Register a notice describing each standard for which a waiver has been withdrawn and the reasons for withdrawing the waiver.

"(e) CONFORMITY WITH NATIONAL ARCHITECTURE.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including funds made available under this subtitle to deploy intelligent transportation system technologies, conform to the national architecture, applicable standards or provisional standards, and protocols developed under subsection (a).

"(2) SECRETARY'S DISCRETION.—The Secretary may authorize exceptions to paragraph (1) for—

"(A) projects designed to achieve specific research objectives outlined in the National ITS Program Plan under section 5205 or the transportation research and development strategic plan under section 6503 of title 49, United States Code; or

"(B) the upgrade or expansion of an intelligent transportation system in existence on the date of enactment of this subtitle [June 9, 1998], if the Secretary determines that the upgrade or expansion—

"(i) would not adversely affect the goals or purposes of this subtitle;

"(ii) is carried out before the end of the useful life of such system; and

"(iii) is cost-effective as compared to alternatives that would meet the conformity requirement of paragraph (1).

"(3) EXCEPTIONS.—Paragraph (1) shall not apply to funds used for operation or maintenance of an intelligent transportation system in existence on the date of enactment of this subtitle.

"(f) SPECTRUM.—The Federal Communications Commission shall consider, in consultation with the Secretary, spectrum needs for the operation of intelligent transportation systems, including spectrum for the dedicated short-range vehicle-to-wayside wireless standard. Not later than January 1, 2000, the Federal Communications Commission shall have completed a rulemaking considering the allocation of spectrum for intelligent transportation systems.

"SEC. 5207. RESEARCH AND DEVELOPMENT.

"(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development and operational tests of intelligent vehicles and intelligent infrastructure systems, and other similar activities that are necessary to carry out this subtitle.

"(b) PRIORITY AREAS.—Under the program, the Secretary shall give higher priority to funding projects that—

"(1) address traffic management, incident management, transit management, toll collection, traveler information, or highway operations systems;

"(2) focus on crash-avoidance and integration of in-vehicle crash protection technologies with other on-board safety systems, including the interaction of air bags and safety belts;

"(3) incorporate human factors research, including the science of the driving process;

"(4) facilitate the integration of intelligent infrastructure, vehicle, and control technologies, including magnetic guidance control systems or other materials or magnetics research; or

"(5) incorporate research on the impact of environmental, weather, and natural conditions on intelligent transportation systems, including the effects of cold climates.

"(c) OPERATIONAL TESTS.—Operational tests conducted under this section shall be designed for the collection of data to permit objective evaluation of the results of the tests, derivation of cost-benefit information that is useful to others contemplating deployment of similar systems, and development and implementation of standards.

"(d) FEDERAL SHARE.—The Federal share of the cost of operational tests and demonstrations under subsection (a) shall not exceed 80 percent.

"[SECS. 5208, 5209. REPEALED. PUB. L. 109–59, TITLE V, §5509, AUG. 10, 2005, 119 STAT. 1828.]

"SEC. 5210. USE OF FUNDS.

"(a) OUTREACH AND PUBLIC RELATIONS LIMITATION.—

"(1) IN GENERAL.—For each fiscal year, not more than $5,000,000 of the funds made available to carry out this subtitle shall be used for intelligent transportation system outreach, public relations, displays, scholarships, tours, and brochures.

"(2) APPLICABILITY.—Paragraph (1) shall not apply to intelligent transportation system training or the publication or distribution of research findings, technical guidance, or similar documents.

"(b) INFRASTRUCTURE DEVELOPMENT.—Funds made available to carry out this subtitle for operational tests and deployment projects—

"(1) shall be used primarily for the development of intelligent transportation system infrastructure; and

"(2) to the maximum extent practicable, shall not be used for the construction of physical highway and transit infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project.

"(c) LIFE CYCLE COST ANALYSIS AND FINANCING AND OPERATIONS PLAN.—The Secretary shall require an applicant for funds made available under sections 5208 and 5209 to submit to the Secretary—

"(1) an analysis of the life-cycle costs of operation and maintenance of intelligent transportation system elements, if the total initial capital costs of the elements exceed $3,000,000; and

"(2) a multiyear financing and operations plan that describes how the project will be cost-effectively operated and maintained.

"(d) USE OF INNOVATIVE FINANCING.—

"(1) IN GENERAL.—The Secretary may use up to 25 percent of the funds made available to carry out this subtitle to make available loans, lines of credit, and loan guarantees for projects that are eligible for assistance under this subtitle and that have significant intelligent transportation system elements.

"(2) CONSISTENCY WITH OTHER LAW.—Credit assistance described in paragraph (1) shall be made available in a manner consistent with the Transportation Infrastructure Finance and Innovation Act of 1998 [see section 1501 of Pub. L. 105–178, set out as a Short Title of 1998 Amendment note under section 101 of this title].

"SEC. 5211. DEFINITIONS.

"In this subtitle, the following definitions apply:

"(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term 'Commercial Vehicle Information Systems and Networks' means the information systems and communications networks that support commercial vehicle operations.

"(2) COMMERCIAL VEHICLE OPERATIONS.—The term 'commercial vehicle operations'—

"(A) means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods, including hazardous materials, and passengers; and

"(B) with respect to the public sector, includes the issuance of operating credentials, the administration of motor vehicle and fuel taxes, and roadside safety and border crossing inspection and regulatory compliance operations.

"(3) CORRIDOR.—The term 'corridor' means any major transportation route that includes parallel limited access highways, major arterials, or transit lines.

"(4) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—The term 'intelligent transportation infrastructure' means fully integrated public sector intelligent transportation system components, as defined by the Secretary.

"(5) INTELLIGENT TRANSPORTATION SYSTEM.—The term 'intelligent transportation system' means electronics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

"(6) NATIONAL ARCHITECTURE.—The term 'national architecture' means the common framework for interoperability adopted by the Secretary that defines—

"(A) the functions associated with intelligent transportation system user services;

"(B) the physical entities or subsystems within which the functions reside;

"(C) the data interfaces and information flows between physical subsystems; and

"(D) the communications requirements associated with the information flows.

"(7) STANDARD.—The term 'standard' means a document that—

"(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

"(B) may support the national architecture and promote—

"(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

"(ii) interoperability among intelligent transportation system technologies implemented throughout the States.

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

"SEC. 5212. PROJECT FUNDING.

"(a) USE OF HAZARDOUS MATERIALS MONITORING SYSTEMS.—

"(1) IN GENERAL.—The Secretary shall conduct research on improved methods of deploying and integrating existing ITS projects to include hazardous materials monitoring systems across various modes of transportation.

"(2) FUNDING.—Of the amounts made available for each of fiscal years 1998 through 2003 by section 5001(a)(6) of this Act [112 Stat. 420], $1,500,000 per fiscal year shall be available to carry out this

paragraph.

"(b) OUTREACH AND TECHNOLOGY TRANSFER ACTIVITIES.—

"(1) IN GENERAL.—The Secretary shall continue to support the Urban Consortium's ITS outreach and technology transfer activities.

"(2) FUNDING.—Of the amounts made available for each of fiscal years 1998 through 2003 by section 5001(a)(5) of this Act [112 Stat. 420], $500,000 per fiscal year shall be available to carry out this paragraph.

"(c) TRANSLINK.—

"(1) IN GENERAL.—The Secretary shall make grants to the Texas Transportation Institute to continue the Translink Research program.

"(2) FUNDING.—Of the amounts allocated for each of fiscal years 1999 through 2001 by section 5001(a)(6) of this Act, $1,300,000 per fiscal year shall be available to carry out this paragraph.

"SEC. 5213. REPEAL.

"The Intermodal Surface Transportation Efficiency Act of 1991 [Pub. L. 102–240] is amended by striking part B [§§6051–6059] of title VI (23 U.S.C. 307 note; 105 Stat. 2189)."

[Pub. L. 109–59, title V, §5509, Aug. 10, 2005, 119 Stat. 1828, provided that the amendment made by section 5509, repealing sections 5208 and 5209 of Pub. L. 105–178, set out above, is effective Oct. 1 2005.]

RESEARCH ADVISORY COMMITTEE

Pub. L. 102–240, title VI, §6011, Dec. 18, 1991, 105 Stat. 2179, as amended by Pub. L. 117–286, §4(a)(175), Dec. 27, 2022, 136 Stat. 4325, provided that:

"(a) ESTABLISHMENT.—Not later than 180 days after the date of transmittal of the report to Congress under section 6010 [of Pub. L. 102–240, formerly set out as a note under section 307 of this title], the Secretary shall establish an independent surface transportation research advisory committee (hereinafter in this section referred to as the 'advisory committee').

"(b) PURPOSES.—The advisory committee shall provide ongoing advice and recommendations to the Secretary regarding needs, objectives, plans, approaches, content, and accomplishments with respect to short-term and long-term surface transportation research and development. The advisory committee shall also assist in ensuring that such research and development is coordinated with similar research and development being conducted outside of the Department of Transportation.

"(c) MEMBERSHIP.—The advisory committee shall be composed of not less than 20 and not more than 30 members appointed by the Secretary from among individuals who are not employees of the Department of Transportation and who are specially qualified to serve on the advisory committee by virtue of their education, training, or experience. A majority of the members of the advisory committee shall be individuals with experience in conducting surface transportation research and development. The Secretary in appointing the members of the advisory committee shall ensure that representatives of Federal, State, and local governments, other public agencies, colleges and universities, public, private, and nonprofit research organizations, and organizations representing transportation providers, shippers, labor, and the financial community are represented on an equitable basis.

"(d) CHAIRMAN.—The chairman of the advisory committee shall be designated by the Secretary.

"(e) PAY AND EXPENSES.—Members of the advisory committee shall serve without pay, except that the Secretary may allow any member, while engaged in the business of the advisory committee or a subordinate committee, travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

"(f) SUBORDINATE COMMITTEES.—The Secretary shall establish a subordinate committee to the advisory committee to provide advice on advanced highway vehicle technology research and development, and may establish other subordinate committees to provide advice on specific areas of surface transportation research and development. Such subordinate committees shall be subject to subsections (e), (g), and (i) of this section.

"(g) ASSISTANCE OF SECRETARY.—Upon request of the advisory committee, the Secretary shall provide such information, administrative services, support staff, and supplies as the Secretary determines to be necessary for the advisory committee to carry out its functions.

"(h) REPORTS.—The advisory committee shall, within 1 year after the date of establishment of the advisory committee, and annually thereafter, submit to the Congress a report summarizing its activities under this section.

"(i) TERMINATION.—Section 1013 of title 5, United States Code, shall not apply to the advisory committee established under this section."

FUNDAMENTAL PROPERTIES OF ASPHALTS AND MODIFIED ASPHALTS

Pub. L. 102–240, title VI, §6016, Dec. 18, 1991, 105 Stat. 2182, as amended by Pub. L. 114–94, div. A, title I, §1419(a), Dec. 4, 2015, 129 Stat. 1423, required the Administrator of the Federal Highway Administration to conduct studies of the fundamental chemical and physical properties of petroleum asphalts and modified asphalts used in highway construction in the United States and to submit reports on the progress of the studies and authorized appropriations for fiscal years 1992 to 1996.

STUDY OF FACTORS AFFECTING SAFE AND EFFICIENT OPERATION OF BRIDGES, TUNNELS AND ROADS WITHIN UNITED STATES

Pub. L. 95–599, title I, §166, Nov. 6, 1978, 92 Stat. 2722, provided that: "The Secretary of Transportation shall make a full and complete investigation and study of all those factors affecting the safe and efficient operation of bridges, tunnels, and roads within the United States, including, but not limited to, structural, operational, environmental, and civil disturbance factors."

§503. Research and technology development and deployment

(a) IN GENERAL.—The Secretary shall—

(1) carry out research, development, and deployment activities that encompass the entire innovation lifecycle; and

(2) ensure that all research carried out under this section aligns with the transportation research and development strategic plan of the Secretary under section 6503 of title 49.

(b) HIGHWAY RESEARCH AND DEVELOPMENT PROGRAM.—

(1) OBJECTIVES.—In carrying out the highway research and development program, the Secretary, to address current and emerging highway transportation needs, shall—

(A) identify research topics;

(B) coordinate research and development activities;

(C) carry out research, testing, and evaluation activities;

(D) provide technology transfer and technical assistance;

(E) engage with public and private entities to spur advancement of emerging transformative innovations through accelerated market readiness; and

(F) consult frequently with public and private entities on new transportation technologies.

(2) IMPROVING HIGHWAY SAFETY.—

(A) IN GENERAL.—The Secretary shall carry out research and development activities from an integrated perspective to establish and implement systematic measures to improve highway safety.

(B) OBJECTIVES.—In carrying out this paragraph, the Secretary shall carry out research and development activities—

(i) to achieve greater long-term safety gains;

(ii) to reduce the number of fatalities and serious injuries on public roads;

(iii) to fill knowledge gaps that limit the effectiveness of research;

(iv) to support the development and implementation of State strategic highway safety plans;

(v) to advance improvements in, and use of, performance prediction analysis for decisionmaking; and

(vi) to expand technology transfer to partners and stakeholders.

(C) CONTENTS.—Research and technology activities carried out under this paragraph may include—

(i) safety assessments and decisionmaking tools;

(ii) data collection and analysis;

(iii) crash reduction projections;

(iv) low-cost safety countermeasures;

(v) innovative operational improvements and designs of roadway and roadside features;
(vi) evaluation of countermeasure costs and benefits;
(vii) development of tools for projecting impacts of safety countermeasures;
(viii) rural road safety measures;
(ix) safety measures for vulnerable road users, including bicyclists and pedestrians;
(x) safety measures to reduce the number of wildlife-vehicle collisions;
(xi) safety policy studies;
(xii) human factors studies and measures;
(xiii) safety technology deployment;
(xiv) safety workforce professional capacity building initiatives;
(xv) safety program and process improvements; and
(xvi) tools and methods to enhance safety performance, including achievement of statewide safety performance targets.

(3) IMPROVING INFRASTRUCTURE INTEGRITY.—
(A) IN GENERAL.—The Secretary shall carry out and facilitate highway and bridge infrastructure research and development activities—
(i) to maintain infrastructure integrity;
(ii) to meet user needs; and
(iii) to link Federal transportation investments to improvements in system performance.

(B) OBJECTIVES.—In carrying out this paragraph, the Secretary shall carry out research and development activities—
(i) to reduce the number of fatalities attributable to infrastructure design characteristics and work zones;
(ii) to improve the safety and security of highway infrastructure;
(iii) to increase the reliability of lifecycle performance predictions used in infrastructure design, construction, and management;
(iv) to improve the ability of transportation agencies to deliver projects that meet expectations for timeliness, quality, and cost;
(v) to reduce user delay attributable to infrastructure system performance, maintenance, rehabilitation, and construction;
(vi) to improve highway condition and performance through increased use of design, materials, construction, and maintenance innovations;
(vii) to reduce the environmental impacts of highway infrastructure through innovations in design, construction, operation, preservation, and maintenance; and
(viii) to study vulnerabilities of the transportation system to seismic activities and extreme events, including weather, and methods to reduce those vulnerabilities.

(C) CONTENTS.—Research and technology activities carried out under this paragraph may include—
(i) long-term infrastructure performance programs addressing pavements, bridges, tunnels, and other structures;
(ii) short-term and accelerated studies of infrastructure performance;
(iii) research to develop more durable infrastructure materials and systems;
(iv) advanced infrastructure design methods;
(v) accelerated highway and bridge construction;
(vi) performance-based specifications;
(vii) construction and materials quality assurance;
(viii) comprehensive and integrated infrastructure asset management;
(ix) infrastructure safety assurance;
(x) sustainable infrastructure design and construction;
(xi) infrastructure rehabilitation and preservation techniques, including techniques to

rehabilitate and preserve historic infrastructure;

(xii) hydraulic, geotechnical, and aerodynamic aspects of infrastructure;

(xiii) improved highway construction technologies and practices;

(xiv) improved tools, technologies, and models for infrastructure management, including assessment and monitoring of infrastructure condition;

(xv) studies to improve flexibility and resiliency of infrastructure systems to withstand extreme weather events and climate variability;

(xvi) studies on the effectiveness of fiber-based additives to improve the durability of surface transportation materials in various geographic regions;

(xvii) studies of infrastructure resilience and other adaptation measures;

(xviii) maintenance of seismic research activities, including research carried out in conjunction with other Federal agencies to study the vulnerability of the transportation system to seismic activity and methods to reduce that vulnerability;

(xix) technology transfer and adoption of permeable, pervious, or porous paving materials, practices, and systems that are designed to minimize environmental impacts, stormwater runoff, and flooding and to treat or remove pollutants by allowing stormwater to infiltrate through the pavement in a manner similar to predevelopment hydrologic conditions; and

(xx) studies on the deployment and revenue potential of the deployment of energy and broadband infrastructure in highway rights-of-way, including potential adverse impacts of the use or nonuse of those rights-of-way.

(D) LIFECYCLE COSTS ANALYSIS STUDY.—

(i) IN GENERAL.—In this subparagraph, the term "lifecycle costs 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, reconstruction, rehabilitation, restoring, and resurfacing costs, over the life of the project segment.

(ii) STUDY.—The Comptroller General shall conduct a study of the best practices for calculating lifecycle costs and benefits for federally funded highway projects, which shall include, at a minimum, a thorough literature review and a survey of current lifecycle cost practices of State departments of transportation.

(iii) CONSULTATION.—In carrying out the study, the Comptroller shall consult with, at a minimum—

(I) the American Association of State Highway and Transportation Officials;

(II) appropriate experts in the field of lifecycle cost analysis; and

(III) appropriate industry experts and research centers.

(E) REPORT.—Not later than 1 year after the date of enactment of the Transportation Research and Innovative Technology Act of 2012, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committees on Transportation and Infrastructure and Science, Space, and Technology of the House of Representatives a report on the results of the study which shall include—

(i) a summary of the latest research on lifecycle cost analysis; and

(ii) recommendations on the appropriate—

(I) period of analysis;

(II) design period;

(III) discount rates; and

(IV) use of actual material life and maintenance cost data.

(4) STRENGTHENING TRANSPORTATION PLANNING AND ENVIRONMENTAL DECISIONMAKING.—

(A) IN GENERAL.—The Secretary may carry out research—

(i) to minimize the cost of transportation planning and environmental decisionmaking processes;

(ii) to improve transportation planning and environmental decisionmaking processes; and
(iii) to minimize the potential impact of surface transportation on the environment.

(B) OBJECTIVES.—In carrying out this paragraph the Secretary may carry out research and development activities—
(i) to minimize the cost of highway infrastructure and operations;
(ii) to reduce the potential impact of highway infrastructure and operations on the environment;
(iii) to advance improvements in environmental analyses and processes and context sensitive solutions for transportation decisionmaking;
(iv) to improve construction techniques;
(v) to accelerate construction to reduce congestion and related emissions;
(vi) to reduce the impact of highway runoff on the environment;
(vii) to improve understanding and modeling of the factors that contribute to the demand for transportation; and
(viii) to improve transportation planning decisionmaking and coordination.

(C) CONTENTS.—Research and technology activities carried out under this paragraph may include—
(i) creation of models and tools for evaluating transportation measures and transportation system designs, including the costs and benefits;
(ii) congestion reduction efforts;
(iii) transportation and economic development planning in rural areas and small communities;
(iv) improvement of State, local, and tribal government capabilities relating to surface transportation planning and the environment; and
(v) streamlining of project delivery processes.

(5) REDUCING CONGESTION, IMPROVING HIGHWAY OPERATIONS, AND ENHANCING FREIGHT PRODUCTIVITY.—
(A) IN GENERAL.—The Secretary shall carry out research under this paragraph with the goals of—
(i) addressing congestion problems;
(ii) reducing the costs of congestion;
(iii) improving freight movement;
(iv) increasing productivity; and
(v) improving the economic competitiveness of the United States.

(B) OBJECTIVES.—In carrying out this paragraph, the Secretary shall carry out research and development activities to identify, develop, and assess innovations that have the potential—
(i) to reduce traffic congestion;
(ii) to improve freight movement; and
(iii) to reduce freight-related congestion throughout the transportation network.

(C) CONTENTS.—Research and technology activities carried out under this paragraph may include—
(i) active traffic and demand management;
(ii) acceleration of the implementation of Intelligent Transportation Systems technology;
(iii) advanced transportation concepts and analysis;
(iv) arterial management and traffic signal operation;
(v) congestion pricing;
(vi) corridor management;
(vii) emergency operations;

(viii) research relating to enabling technologies and applications;
(ix) freeway management;
(x) evaluation of enabling technologies;
(xi) impacts of vehicle size and weight on congestion;
(xii) freight operations and technology;
(xiii) operations and freight performance measurement and management;
(xiv) organization and planning for operations;
(xv) planned special events management;
(xvi) real-time transportation information;
(xvii) road weather management;
(xviii) traffic and freight data and analysis tools;
(xix) traffic control devices;
(xx) traffic incident management;
(xxi) work zone management;
(xxii) communication of travel, roadway, and emergency information to persons with disabilities;
(xxiii) research on enhanced mode choice and intermodal connectivity;
(xxiv) techniques for estimating and quantifying public benefits derived from freight transportation projects; and
(xxv) other research areas to identify and address emerging needs related to freight transportation by all modes.

(6) EXPLORATORY ADVANCED RESEARCH.—The Secretary shall carry out research and development activities relating to exploratory advanced research—
(A) to leverage the targeted capabilities of the Turner-Fairbank Highway Research Center to develop technologies and innovations of national importance;
(B) to develop potentially transformational solutions to improve the durability, efficiency, environmental impact, productivity, and safety aspects of highway and intermodal transportation systems; and
(C) to support research on non-market-ready technologies in consultation with public and private entities.

(7) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.—
(A) IN GENERAL.—The Secretary shall continue to operate in the Federal Highway Administration a Turner-Fairbank Highway Research Center.
(B) USES OF THE CENTER.—The Turner-Fairbank Highway Research Center shall support innovations by leading—
(i) the conduct of highway research and development relating to emerging highway technology;
(ii) the development of understandings, tools, and techniques that provide solutions to complex technical problems through the development of economical and environmentally sensitive designs, efficient and quality-controlled construction practices, and durable materials;
(iii) the development of innovative highway products and practices;
(iv) the conduct of long-term, high-risk research to improve the materials used in highway infrastructure; and
(v) the evaluation of information from accelerated market readiness efforts, including non-market-ready technologies, in consultation with other offices of the Federal Highway Administration, the National Highway Traffic Safety Administration, and other key partners.

(8) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—
(A) IN GENERAL.—Not later than July 31, 2013, and July 31 of every second year thereafter, the Secretary 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 describes estimates of the current conditions and future needs of highways, bridges, and tunnels of the United States, including—

(i) the conditions and performance of the highway network for freight movement;

(ii) intelligent transportation systems;

(iii) resilience needs; and

(iv) the backlog of current highway, bridge, and tunnel needs.

(B) COMPARISONS.—Each report under subparagraph (A) shall include all information necessary to relate and compare the conditions and service measures used in the previous biennial reports to conditions and service measures used in the current report.

(C) INCLUSIONS.—Each report under subparagraph (A) shall provide recommendations to Congress on changes to the highway performance monitoring system that address—

(i) improvements to the quality and standardization of data collection on all functional classifications of Federal-aid highways for accurate system length, lane length, and vehicle-mile of travel; and

(ii) changes to the reporting requirements authorized under section 315, to reflect recommendations under this paragraph for collection, storage, analysis, reporting, and display of data for Federal-aid highways and, to the maximum extent practical, all public roads.

(9) ANALYSIS TOOLS.—The Secretary may develop interactive modeling tools and databases that—

(A) track the full condition of highway assets, including interchanges, and the reconstruction history of those assets;

(B) can be used to assess transportation options;

(C) allow for the monitoring and modeling of network-level traffic flows on highways; and

(D) further Federal and State understanding of the importance of national and regional connectivity and the need for long-distance and interregional passenger and freight travel by highway and other surface transportation modes.

(c) TECHNOLOGY AND INNOVATION DEPLOYMENT PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out a technology and innovation deployment program relating to all aspects of highway transportation, including planning, financing, operation, structures, use of rights-of-way permissible under applicable law, materials, pavements, environment, construction, and the duration of time between project planning and project delivery, with the goals of—

(A) significantly accelerating the adoption of innovative technologies by the surface transportation community;

(B) providing leadership and incentives to demonstrate and promote state-of-the-art technologies, elevated performance standards, and new business practices in highway construction processes that result in improved safety, faster construction, reduced congestion from construction, and improved quality and user satisfaction;

(C) constructing longer-lasting highways through the use of innovative technologies and practices that lead to faster construction of efficient and safe highways and bridges;

(D) improving highway efficiency, safety, mobility, reliability, service life, environmental protection, and sustainability;

(E) developing and deploying new tools, techniques, and practices to accelerate the adoption of innovation in all aspects of highway transportation; and

(F) disseminating and evaluating information from accelerated market readiness efforts, including non-market-ready technologies, to public and private entities.

(2) IMPLEMENTATION.—

(A) IN GENERAL.—The Secretary shall promote, facilitate, and carry out the program

established under paragraph (1) to distribute the products, technologies, tools, methods, or other findings that result from highway research and development activities, including research and development activities carried out under this chapter.

(B) ACCELERATED INNOVATION DEPLOYMENT.—In carrying out the program established under paragraph (1), the Secretary shall—

(i) establish and carry out demonstration programs;

(ii) provide technical assistance, and training to researchers and developers; and

(iii) develop and deploy improved tools and methods to accelerate the adoption of early-stage and proven innovative practices and technologies and, as the Secretary determines to be appropriate, support continued implementation of proven innovative practices and technologies as standard practices.

(C) IMPLEMENTATION OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM FINDINGS AND RESULTS.—

(i) IN GENERAL.—The Secretary, in consultation with the American Association of State Highway and Transportation Officials and the Transportation Research Board of the National Academy of Sciences, shall promote research results and products developed under the future strategic highway research program administered by the Transportation Research Board of the National Academy of Sciences.

(ii) BASIS FOR FINDINGS.—The activities carried out under this subparagraph shall be based on the report submitted to Congress by the Transportation Research Board of the National Academy of Sciences under section 510(e).

(iii) PERSONNEL.—The Secretary may use funds made available to carry out this subsection for administrative costs under this subparagraph.

(D) REPORT.—Not later than 2 years after the date of enactment of this subparagraph and every 2 years thereafter, 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 and make publicly available on an internet website a report that describes—

(i) the activities the Secretary has undertaken to carry out the program established under paragraph (1); and

(ii) how and to what extent the Secretary has worked to disseminate non-market-ready technologies to public and private entities.

(3) ACCELERATED IMPLEMENTATION AND DEPLOYMENT OF PAVEMENT TECHNOLOGIES.—

(A) IN GENERAL.—The Secretary shall establish and implement a program under the technology and innovation deployment program to promote, implement, deploy, demonstrate, showcase, support, and document the application of innovative pavement technologies, practices, performance, and benefits.

(B) GOALS.—The goals of the accelerated implementation and deployment of pavement technologies program shall include—

(i) the deployment of new, cost-effective designs, materials, recycled materials, and practices to extend the pavement life and performance and to improve user satisfaction;

(ii) the reduction of initial costs and lifecycle costs of pavements, including the costs of new construction, replacement, maintenance, and rehabilitation;

(iii) the deployment of accelerated construction techniques to increase safety and reduce construction time and traffic disruption and congestion;

(iv) the deployment of engineering design criteria and specifications for new and efficient practices, products, and materials for use in highway pavements;

(v) the deployment of new nondestructive and real-time pavement evaluation technologies and construction techniques; and

(vi) effective technology transfer and information dissemination to accelerate implementation of new technologies and to improve life, performance, cost effectiveness, safety, and user satisfaction.

(C) HIGH-FRICTION SURFACE TREATMENT APPLICATION STUDY.—

(i) DEFINITION OF INSTITUTION.—In this subparagraph, the term "institution" means a private sector entity, public agency, research university or other research institution, or organization representing transportation and technology leaders or other transportation stakeholders that, as determined by the Secretary, is capable of working with State highway agencies, the Federal Highway Administration, and the highway construction industry to develop and evaluate new products, design technologies, and construction methods that quickly lead to pavement improvements.

(ii) STUDY.—The Secretary shall seek to enter into an agreement with an institution to carry out a study on the use of natural and synthetic calcined bauxite as a high-friction surface treatment application on pavement.

(iii) REPORT.—Not later than 18 months after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall submit a report on the results of the study under clause (ii) to—

(I) the Committee on Environment and Public Works of the Senate;

(II) the Committee on Transportation and Infrastructure of the House of Representatives;

(III) the Federal Highway Administration; and

(IV) the American Association of State Highway and Transportation Officials.

(D) FUNDING.—The Secretary shall obligate for each of fiscal years 2022 through 2026 from funds made available to carry out this subsection $12,000,000 to accelerate the deployment and implementation of pavement technology.

(E) PUBLICATION.—

(i) IN GENERAL.—Not less frequently than once every 3 years, the Secretary shall issue and make available to the public on an Internet website a report on the cost and benefits from deployment of new technology and innovations that substantially and directly resulted from the program established under this paragraph.

(ii) INCLUSIONS.—The report under clause (i) may include an analysis of—

(I) Federal, State, and local cost savings;

(II) project delivery time improvements;

(III) reduced fatalities;

(IV) congestion impacts;

(V) pavement monitoring and data collection practices;

(VI) pavement durability and resilience;

(VII) stormwater management;

(VIII) impacts on vehicle efficiency;

(IX) the energy efficiency of the production of paving materials and the ability of paving materials to enhance the environment and promote sustainability; and

(X) integration of renewable energy in pavement designs.

(4) ADVANCED TRANSPORTATION TECHNOLOGIES AND INNOVATIVE MOBILITY DEPLOYMENT.—

(A) IN GENERAL.—The Secretary shall provide grants to eligible entities to deploy, install, and operate advanced transportation technologies to improve safety, mobility, efficiency, system performance, intermodal connectivity, and infrastructure return on investment.

(B) CRITERIA.—The Secretary shall develop criteria for selection of an eligible entity to receive a grant under this paragraph, including how the deployment of technology will—

(i) improve the mobility of people and goods;

(ii) improve the durability and extend the life of transportation infrastructure;

(iii) reduce costs and improve return on investments, including through optimization of existing transportation capacity;

(iv) protect the environment and deliver environmental benefits that alleviate congestion and streamline traffic flow;

(v) measure and improve the operational performance of the applicable transportation network;

(vi) reduce the number and severity of traffic crashes and increase driver, passenger, and pedestrian safety;

(vii) collect, disseminate, and use real-time traffic, work zone, weather, transit, paratransit, parking, and other transportation-related information to improve mobility, reduce congestion, and provide for more efficient, accessible, and integrated transportation and transportation services;

(viii) facilitate account-based payments for transportation access and services and integrate payment systems across modes;

(ix) monitor transportation assets to improve infrastructure management, reduce maintenance costs, prioritize investment decisions, and ensure a state of good repair;

(x) deliver economic benefits by reducing delays, improving system performance, and providing for the efficient and reliable movement of goods and services;

(xi) accelerate the deployment of vehicle-to-vehicle, vehicle-to-infrastructure, vehicle-to-pedestrian, autonomous vehicles, and other technologies; or

(xii) incentivize travelers—

(I) to share trips during periods in which travel demand exceeds system capacity; or

(II) to shift trips to periods in which travel demand does not exceed system capacity.

(C) APPLICATIONS.—

(i) REQUEST.—Each fiscal year for which funding is made available for activities under this paragraph, the Secretary shall request applications in accordance with clause (ii).

(ii) CONTENTS.—An application submitted under this subparagraph shall include the following:

(I) PLAN.—A plan to deploy and provide for the long-term operation and maintenance of advanced transportation and congestion management technologies to improve safety, mobility, efficiency, system performance, and return on investment.

(II) OBJECTIVES.—Quantifiable system performance improvements, such as—

(aa) reducing traffic-related crashes, congestion, and costs;

(bb) optimizing system efficiency;

(cc) improving access to transportation services; and

(dd) facilitating payment for transportation services.

(III) RESULTS.—Quantifiable safety, mobility, and environmental benefit projections such as data-driven estimates of how the project will improve the region's transportation system efficiency and reduce traffic congestion.

(IV) PARTNERSHIPS.—A plan for partnering with the private sector or public agencies, including multimodal and multijurisdictional entities, research institutions, organizations representing transportation and technology leaders, or other transportation stakeholders.

(V) LEVERAGING.—A plan to leverage and optimize existing local and regional advanced transportation technology investments.

(D) GRANT SELECTION.—

(i) GRANT AWARDS.—Each fiscal year for which funding is made available for activities under this paragraph, the Secretary shall award grants to not less than 5 and not more than 10 eligible entities.

(ii) GEOGRAPHIC DIVERSITY.—

(I) IN GENERAL.—Subject to subclause (II), in awarding a grant under this paragraph, the Secretary shall ensure, to the extent practicable, that grant recipients represent diverse geographic areas of the United States, including urban and rural areas.

(II) RURAL SET-ASIDE.—Not less than 20 percent of the amounts made available to carry out this paragraph shall be reserved for projects serving rural areas.

(iii) TECHNOLOGY DIVERSITY.—In awarding a grant under this paragraph, the Secretary shall ensure, to the extent practicable, that grant recipients represent diverse technology solutions.

(E) USE OF GRANT FUNDS.—A grant recipient may use funds awarded under this paragraph to deploy advanced transportation and congestion management technologies, including—

(i) advanced traveler information systems;

(ii) advanced transportation management technologies;

(iii) advanced transportation technologies to improve emergency evacuation and response by Federal, State, and local authorities;

(iv) infrastructure maintenance, monitoring, and condition assessment;

(v) advanced public transportation systems;

(vi) transportation system performance data collection, analysis, and dissemination systems;

(vii) advanced safety systems, including vehicle-to-vehicle and vehicle-to-infrastructure communications, technologies associated with autonomous vehicles, and other collision avoidance technologies, including systems using cellular technology;

(viii) integration of intelligent transportation systems with the Smart Grid and other energy distribution and charging systems;

(ix) integrated corridor management systems;

(x) advanced parking reservation or variable pricing systems;

(xi) electronic pricing, toll collection, and payment systems;

(xii) technology that enhances high occupancy vehicle toll lanes, cordon pricing, or congestion pricing;

(xiii) integration of transportation service payment systems;

(xiv) advanced mobility, access, and on-demand transportation service technologies, such as dynamic ridesharing and other shared-use mobility applications and information systems to support human services for elderly and disabled individuals;

(xv) retrofitting dedicated short-range communications (DSRC) technology deployed as part of an existing pilot program to cellular vehicle-to-everything (C–V2X) technology, subject to the condition that the retrofitted technology operates only within the existing spectrum allocations for connected vehicle systems; or

(xvi) advanced transportation technologies, in accordance with the research areas described in section 6503 of title 49.

(F) REPORT TO SECRETARY.—For each eligible entity that receives a grant under this paragraph, not later than 1 year after the entity receives the grant, and each year thereafter, the entity shall submit a report to the Secretary that describes—

(i) deployment and operational costs of the project compared to the benefits and savings the project provides; and

(ii) how the project has met the original expectations projected in the deployment plan submitted with the application, such as—

(I) data on how the project has helped reduce traffic crashes, congestion, costs, and other benefits of the deployed systems;

(II) data on the effect of measuring and improving transportation system performance through the deployment of advanced technologies;

(III) the effectiveness of providing real-time integrated traffic, transit, and multimodal transportation information to the public to make informed travel decisions; and

(IV) lessons learned and recommendations for future deployment strategies to optimize transportation mobility, efficiency, multimodal system performance, and payment system performance.

(G) REPORT.—Not later than 3 years after the date that the first grant is awarded under this paragraph, and each year thereafter, the Secretary shall make available to the public on an Internet website a report that describes the effectiveness of grant recipients in meeting their projected deployment plans, including data provided under subparagraph (F) on how the program has—

(i) reduced traffic-related fatalities and injuries;

(ii) reduced traffic congestion and improved travel time reliability;

(iii) reduced transportation-related emissions;

(iv) optimized multimodal system performance;

(v) improved access to transportation alternatives;

(vi) improved integration of payment systems;

(vii) provided the public with access to real-time integrated traffic, transit, and multimodal transportation information to make informed travel decisions;

(viii) provided cost savings to transportation agencies, businesses, and the traveling public; or

(ix) provided other benefits to transportation users and the general public.

(H) ADDITIONAL GRANTS.—The Secretary may cease to provide additional grant funds to a recipient of a grant under this paragraph if—

(i) the Secretary determines from such recipient's report that the recipient is not carrying out the requirements of the grant; and

(ii) the Secretary provides written notice 60 days prior to withholding funds to the Committees on Transportation and Infrastructure and Science, Space, and Technology of the House of Representatives and the Committees on Environment and Public Works and Commerce, Science, and Transportation of the Senate.

(I) FUNDING.—

(i) IN GENERAL.—From funds made available to carry out subsection (b), this subsection, and sections 512 through 518, the Secretary shall set aside for grants awarded under subparagraph (D) $60,000,000 for each of fiscal years 2022 through 2026.

(ii) EXPENSES FOR THE SECRETARY.—Of the amounts set aside under clause (i), the Secretary may set aside $2,000,000 each fiscal year for program reporting, evaluation, and administrative costs related to this paragraph.

(J) FEDERAL SHARE.—The Federal share of the cost of a project for which a grant is awarded under this subsection shall not exceed 80 percent of the cost of the project.

(K) GRANT LIMITATION.—The Secretary may not award more than 20 percent of the amount described under subparagraph (I) in a fiscal year to a single grant recipient.

(L) EXPENSES FOR GRANT RECIPIENTS.—A grant recipient under this paragraph may use not more than 5 percent of the funds awarded each fiscal year to carry out planning and reporting requirements.

(M) GRANT FLEXIBILITY.—

(i) IN GENERAL.—If, by August 1 of each fiscal year, the Secretary determines that there are not enough grant applications that meet the requirements described in subparagraph (C) to carry out this section for a fiscal year, the Secretary shall transfer to the programs specified in clause (ii)—

(I) any of the funds reserved for the fiscal year under subparagraph (I) that the Secretary

has not yet awarded under this paragraph; and

(II) an amount of obligation limitation equal to the amount of funds that the Secretary transfers under subclause (I).

(ii) PROGRAMS.—The programs referred to in clause (i) are—

(I) the program under subsection (b);

(II) the program under this subsection; and

(III) the programs under sections 512 through 518.

(iii) DISTRIBUTION.—Any transfer of funds and obligation limitation under clause (i) shall be divided among the programs referred to in that clause in the same proportions as the Secretary originally reserved funding from the programs for the fiscal year under subparagraph (I).

(N) DEFINITIONS.—In this paragraph:

(i) ELIGIBLE ENTITY.—The term "eligible entity" means a State or local government, a transit agency, metropolitan planning organization, or other political subdivision of a State or local government or a multijurisdictional group or a consortia of research institutions or academic institutions.

(ii) ADVANCED AND CONGESTION MANAGEMENT TRANSPORTATION TECHNOLOGIES.—The term "advanced transportation and congestion management technologies" means technologies that improve the efficiency, safety, or state of good repair of surface transportation systems, including intelligent transportation systems.

(iii) MULTIJURISDICTIONAL GROUP.—The term "multijurisdictional group" means any combination of State governments, local governments, metropolitan planning agencies, transit agencies, or other political subdivisions of a State for which each member of the group—

(I) has signed a written agreement to implement the advanced transportation technologies deployment initiative across jurisdictional boundaries; and

(II) is an eligible entity under this paragraph.

(5) ACCELERATED IMPLEMENTATION AND DEPLOYMENT OF ADVANCED DIGITAL CONSTRUCTION MANAGEMENT SYSTEMS.—

(A) IN GENERAL.—The Secretary shall establish and implement a program under the technology and innovation deployment program established under paragraph (1) to promote, implement, deploy, demonstrate, showcase, support, and document the application of advanced digital construction management systems, practices, performance, and benefits.

(B) GOALS.—The goals of the accelerated implementation and deployment of advanced digital construction management systems program established under subparagraph (A) shall include—

(i) accelerated State adoption of advanced digital construction management systems applied throughout the construction lifecycle (including through the design and engineering, construction, and operations phases) that—

(I) maximize interoperability with other systems, products, tools, or applications;

(II) boost productivity;

(III) manage complexity;

(IV) reduce project delays and cost overruns; and

(V) enhance safety and quality;

(ii) more timely and productive information-sharing among stakeholders through reduced reliance on paper to manage construction processes and deliverables such as blueprints, design drawings, procurement and supply-chain orders, equipment logs, daily progress reports, and punch lists;

(iii) deployment of digital management systems that enable and leverage the use of digital technologies on construction sites by contractors, such as state-of-the-art automated and connected machinery and optimized routing software that allows construction workers to perform tasks faster, safer, more accurately, and with minimal supervision;

(iv) the development and deployment of best practices for use in digital construction management;

(v) increased technology adoption and deployment by States and units of local government that enables project sponsors—

(I) to integrate the adoption of digital management systems and technologies in contracts; and

(II) to weigh the cost of digitization and technology in setting project budgets;

(vi) technology training and workforce development to build the capabilities of project managers and sponsors that enables States and units of local government—

(I) to better manage projects using advanced construction management technologies; and

(II) to properly measure and reward technology adoption across projects of the State or unit of local government;

(vii) development of guidance to assist States in updating regulations of the State to allow project sponsors and contractors—

(I) to report data relating to the project in digital formats; and

(II) to fully capture the efficiencies and benefits of advanced digital construction management systems and related technologies;

(viii) reduction in the environmental footprint of construction projects using advanced digital construction management systems resulting from elimination of congestion through more efficient projects; and

(ix) enhanced worker and pedestrian safety resulting from increased transparency.

(C) FUNDING.—For each of fiscal years 2022 through 2026, the Secretary shall obligate from funds made available to carry out this subsection $20,000,000 to accelerate the deployment and implementation of advanced digital construction management systems.

(D) PUBLICATION.—

(i) IN GENERAL.—Not less frequently than annually, the Secretary shall issue and make available to the public on a website a report on—

(I) progress made in the implementation of advanced digital management systems by States; and

(II) the costs and benefits of the deployment of new technology and innovations that substantially and directly resulted from the program established under this paragraph.

(ii) INCLUSIONS.—The report under clause (i) may include an analysis of—

(I) Federal, State, and local cost savings;

(II) project delivery time improvements;

(III) congestion impacts; and

(IV) safety improvements for roadway users and construction workers.

(6) CENTER OF EXCELLENCE.—

(A) DEFINITIONS.—In this paragraph:

(i) HIGHLY AUTOMATED VEHICLE.—The term "highly automated vehicle" means a motor vehicle that—

(I) has a taxable gross weight (as defined in section 41.4482(b)–1 of title 26, Code of Federal Regulations (or successor regulations)) of 10,000 pounds or less; and

(II) is equipped with a Level 3, Level 4, or Level 5 automated driving system (as defined

in the SAE International Recommended Practice numbered J3016 and dated June 15, 2018 (or a subsequent standard adopted by the Secretary)).

(ii) NEW MOBILITY.—The term "new mobility" includes shared services such as—
(I) docked and dockless bicycles;
(II) docked and dockless electric scooters; and
(III) transportation network companies.

(B) ESTABLISHMENT.—Not later than 1 year after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall establish a Center of Excellence to collect, conduct, and fund research on the impacts of new mobility and highly automated vehicles on land use, urban design, transportation, real estate, equity, and municipal budgets.

(C) REPORT.—Not later than 1 year after the date on which the Center of Excellence is established, the Secretary shall submit a report that describes the results of the research regarding the impacts of new mobility and highly automated vehicles to the Committees on Environment and Public Works and Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives.

(D) PARTNERSHIPS.—In establishing the Center of Excellence under subparagraph (B), the Secretary shall enter into appropriate partnerships with any institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) or public or private research entity.

(Added Pub. L. 105–178, title V, §5103, June 9, 1998, 112 Stat. 427; amended Pub. L. 109–59, title V, §§5202(b)(1), (2), 5203(a), (b)(1), (c)(1), (d), Aug. 10, 2005, 119 Stat. 1786–1789; Pub. L. 112–141, div. E, title II, §52003(a), July 6, 2012, 126 Stat. 872; Pub. L. 114–94, div. A, title VI, §§6003, 6004, Dec. 4, 2015, 129 Stat. 1562; Pub. L. 117–58, div. A, title III, §13006(a)–(c), Nov. 15, 2021, 135 Stat. 630–637.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Transportation Research and Innovative Technology Act of 2012, referred to in subsec. (b)(3)(E), is the date of enactment of div. E of Pub. L. 112–141, which was approved July 6, 2012.

The date of enactment of this subparagraph and the date of enactment of the Surface Transportation Reauthorization Act of 2021, referred to in subsec. (c)(2)(D), (3)(C)(iii), (6)(B), are the date of enactment of div. A of Pub. L. 117–58, which was approved Nov. 15, 2021.

PRIOR PROVISIONS

A prior section 503, added Pub. L. 90–495, §30, Aug. 23, 1968, 82 Stat. 831, related to administration of highway relocation assistance program, prior to repeal by Pub. L. 91–646, title II, §220(a)(10), Jan. 2, 1971, 84 Stat. 1903.

AMENDMENTS

2021—Subsec. (a)(2). Pub. L. 117–58, §13006(a)(1), substituted "section 6503 of title 49" for "section 508".

Subsec. (b)(1)(E), (F). Pub. L. 117–58, §13006(a)(2)(A), added subpars. (E) and (F).

Subsec. (b)(2)(C)(x) to (xvi). Pub. L. 117–58, §13006(a)(2)(B), added cl. (x) and redesignated former cls. (x) to (xv) as (xi) to (xvi), respectively.

Subsec. (b)(3)(B)(viii). Pub. L. 117–58, §13006(a)(2)(C)(i), inserted ", including weather," after "events".

Subsec. (b)(3)(C)(xv). Pub. L. 117–58, §13006(a)(2)(C)(ii)(I), inserted "extreme weather events and" after "withstand".

Subsec. (b)(3)(C)(xx). Pub. L. 117–58, §13006(a)(2)(C)(ii)(II)–(IV), added cl. (xx).

Subsec. (b)(6)(C). Pub. L. 117–58, §13006(a)(2)(D), added subpar. (C).

Subsec. (b)(7)(B). Pub. L. 117–58, §13006(a)(2)(E)(i), inserted "innovations by leading" after "support" in introductory provisions.

Subsec. (b)(7)(B)(v). Pub. L. 117–58, §13006(a)(2)(E)(ii)–(iv), added cl. (v).

Subsec. (b)(8)(A). Pub. L. 117–58, §13006(a)(2)(F), substituted "current conditions and future needs of highways, bridges, and tunnels of the United States, including—" and cls. (i) to (iv) for "future highway and bridge needs of the United States and the backlog of current highway and bridge needs."

Subsec. (b)(9). Pub. L. 117–58, §13006(a)(2)(G), added par. (9).

Subsec. (c)(1). Pub. L. 117–58, §13006(a)(3)(A)(i), inserted "use of rights-of-way permissible under applicable law," after "structures," in introductory provisions.

Subsec. (c)(1)(F). Pub. L. 117–58, §13006(a)(3)(A)(ii)–(iv), added subpar. (F).

Subsec. (c)(2)(B)(iii). Pub. L. 117–58, §13006(a)(3)(B)(i), substituted "and deploy improved tools and methods to accelerate the adoption of early-stage and proven innovative practices and technologies and, as the Secretary determines to be appropriate, support continued implementation" for "improved tools and methods to accelerate the adoption".

Subsec. (c)(2)(D). Pub. L. 117–58, §13006(a)(3)(B)(ii), added subpar. (D).

Subsec. (c)(3)(C). Pub. L. 117–58, §13006(a)(3)(C)(ii), added subpar. (C). Former subpar. (C) redesignated (D).

Subsec. (c)(3)(D). Pub. L. 117–58, §13006(a)(3)(C)(i), (iii), redesignated subpar. (C) as (D) and substituted "fiscal years 2022 through 2026" for "fiscal years 2016 through 2020". Former subpar. (D) redesignated (E).

Subsec. (c)(3)(E). Pub. L. 117–58, §13006(a)(3)(C)(i), redesignated subpar. (D) as (E).

Subsec. (c)(3)(E)(i). Pub. L. 117–58, §13006(a)(3)(C)(iv)(I), substituted "once every 3 years" for "annually".

Subsec. (c)(3)(E)(ii)(V) to (X). Pub. L. 117–58, §13006(a)(3)(C)(iv)(II), added subcls. (V) to (X).

Subsec. (c)(4). Pub. L. 117–58, §13006(b)(1), inserted "and innovative mobility" before "deployment" in heading.

Subsec. (c)(4)(A). Pub. L. 117–58, §13006(b)(2), added subpar. (A) and struck out former subpar. (A). Prior to amendment, text read as follows: "Not later than 6 months after the date of enactment of this paragraph, the Secretary shall establish an advanced transportation and congestion management technologies deployment initiative to provide grants to eligible entities to develop model deployment sites for large scale installation and operation of advanced transportation technologies to improve safety, efficiency, system performance, and infrastructure return on investment."

Subsec. (c)(4)(B)(i). Pub. L. 117–58, §13006(b)(3)(D), added cl. (i). Former cl. (i) redesignated (iii).

Pub. L. 117–58, §13006(b)(3)(A), substituted "optimization" for "the enhanced use".

Subsec. (c)(4)(B)(ii). Pub. L. 117–58, §13006(b)(3)(D), added cl. (ii). Former cl. (ii) redesignated (iv).

Subsec. (c)(4)(B)(iii). Pub. L. 117–58, §13006(b)(3)(C), redesignated cl. (i) as (iii). Former cl. (iii) redesignated (v).

Subsec. (c)(4)(B)(iv). Pub. L. 117–58, §13006(b)(3)(C), (E), redesignated cl. (ii) as (iv) and substituted "protect the environment and deliver" for "deliver". Former cl. (iv) redesignated (vi).

Subsec. (c)(4)(B)(v). Pub. L. 117–58, §13006(b)(3)(C), redesignated cl. (iii) as (v). Former cl. (v) redesignated (vii).

Pub. L. 117–58, §13006(b)(3)(B), substituted "work zone, weather, transit, paratransit," for "transit," and ", accessible, and integrated transportation and transportation services" for "and accessible transportation".

Subsec. (c)(4)(B)(vi), (vii). Pub. L. 117–58, §13006(b)(3)(C), redesignated cls. (iv) and (v) as (vi) and (vii), respectively. Former cl. (vii) redesignated (x).

Subsec. (c)(4)(B)(viii). Pub. L. 117–58, §13006(b)(3)(F), added cl. (viii).

Subsec. (c)(4)(B)(ix). Pub. L. 117–58, §13006(b)(3)(C), redesignated cl. (vi) as (ix).

Subsec. (c)(4)(B)(x). Pub. L. 117–58, §13006(b)(3)(C), (G), redesignated cl. (vii) as (x) and struck out "or" at end.

Subsec. (c)(4)(B)(xi). Pub. L. 117–58, §13006(b)(3)(C), (H), redesignated cl. (viii) as (xi), inserted "vehicle-to-pedestrian," after "vehicle-to-infrastructure,", and substituted "; or" for period at end.

Subsec. (c)(4)(B)(xii). Pub. L. 117–58, §13006(b)(3)(I), added cl. (xii).

Subsec. (c)(4)(C)(i). Pub. L. 117–58, §13006(b)(4)(A), substituted "Each fiscal year for which funding is made available for activities under this paragraph" for "Not later than 6 months after the date of enactment of this paragraph, and for every fiscal year thereafter".

Subsec. (c)(4)(C)(ii)(I). Pub. L. 117–58, §13006(b)(4)(B)(i), inserted "mobility," after "safety,".

Subsec. (c)(4)(C)(ii)(II)(dd). Pub. L. 117–58, §13006(b)(4)(B)(ii), added item (dd).

Subsec. (c)(4)(D)(i). Pub. L. 117–58, §13006(b)(5)(A), substituted "Each fiscal year for which funding is made available for activities under this paragraph" for "Not later than 1 year after the date of enactment of this paragraph, and for every fiscal year thereafter".

Subsec. (c)(4)(D)(ii). Pub. L. 117–58, §13006(b)(5)(B), designated existing provisions as subcl. (I), inserted

heading, substituted "Subject to subclause (II), in awarding" for "In awarding", and added subcl. (II).

Subsec. (c)(4)(E)(iii) to (x). Pub. L. 117–58, §13006(b)(6)(A)–(C), added cls. (iii), (ix), and (x) and redesignated former cls. (iii) to (vii) as (iv) to (viii), respectively. Former cls. (viii) and (ix) redesignated (xi) and (xiv), respectively.

Subsec. (c)(4)(E)(xi). Pub. L. 117–58, §13006(b)(6)(A), (D), redesignated cl. (viii) as (xi), inserted ", toll collection," after "pricing", and struck out "or" at end.

Subsec. (c)(4)(E)(xii), (xiii). Pub. L. 117–58, §13006(b)(6)(E), added cls. (xii) and (xiii).

Subsec. (c)(4)(E)(xiv). Pub. L. 117–58, §13006(b)(6)(A), (F), redesignated cl. (ix) as (xiv), substituted ", access, and on-demand transportation service" for "and access", inserted "and other shared-use mobility applications" after "ridesharing", and substituted semicolon for period at end.

Subsec. (c)(4)(E)(xv), (xvi). Pub. L. 117–58, §13006(b)(6)(G), added cls. (xv) and (xvi).

Subsec. (c)(4)(F)(ii)(IV). Pub. L. 117–58, §13006(b)(7), substituted "mobility, efficiency, multimodal system performance, and payment system performance" for "efficiency and multimodal system performance".

Subsec. (c)(4)(G)(vi) to (ix). Pub. L. 117–58, §13006(b)(8), added cl. (vi) and redesignated former cls. (vi) to (viii) as (vii) to (ix), respectively.

Subsec. (c)(4)(I)(i). Pub. L. 117–58, §13006(b)(9), substituted "fiscal years 2022 through 2026" for "fiscal years 2016 through 2020".

Subsec. (c)(4)(J). Pub. L. 117–58, §13006(b)(10), substituted "80" for "50".

Subsec. (c)(4)(N). Pub. L. 117–58, §13006(b)(11)(A), struck out ", the following definitions apply" after "In this paragraph" in introductory provisions.

Subsec. (c)(4)(N)(i). Pub. L. 117–58, §13006(b)(11)(B), struck out "representing a population of over 200,000" after "metropolitan planning organization".

Subsec. (c)(4)(N)(iii). Pub. L. 117–58, §13006(b)(11)(C), substituted "any" for "a any" in introductory provisions.

Subsec. (c)(5). Pub. L. 117–58, §13006(a)(3)(D), added par. (5).

Subsec. (c)(6). Pub. L. 117–58, §13006(c), added par. (6).

2015—Subsec. (c)(3)(C). Pub. L. 114–94, §6003(1), substituted "2016 through 2020" for "2013 through 2014".

Subsec. (c)(3)(D). Pub. L. 114–94, §6003(2), added subpar. (D).

Subsec. (c)(4). Pub. L. 114–94, §6004, added par. (4).

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to technology deployment.

2005—Subsec. (a). Pub. L. 109–59, §5203(a)(1), struck out "INITIATIVES AND PARTNERSHIPS" before "PROGRAM" in heading.

Subsec. (a)(1). Pub. L. 109–59, §5203(a)(2), added par. (1) and struck out heading and text of former par. (1). Text read as follows: "The Secretary shall develop and administer a national technology deployment initiatives and partnerships program."

Subsec. (a)(7). Pub. L. 109–59, §5203(a)(3), added par. (7) and struck out heading and text of former par. (7). Text read as follows: "Under the program, the Secretary may make grants and enter into cooperative agreements and contracts to foster alliances and support efforts to stimulate advances in transportation technology, including—

"(A) the testing and evaluation of products of the strategic highway research program;

"(B) the further development and implementation of technology in areas such as the Superpave system and the use of lithium salts and other alternatives to prevent and mitigate alkali silica reactivity;

"(C) the provision of support for long-term pavement performance product implementation and technology access; and

"(D) other activities to achieve the goals established under paragraph (3)."

Subsec. (a)(8). Pub. L. 109–59, §5203(a)(4), added par. (8) and struck out heading and text of former par. (8). Text read as follows: "Not later than 18 months after the date of enactment of this section, and biennially thereafter, 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 report on the progress and results of activities carried out under this section."

Subsec. (b)(1). Pub. L. 109–59, §5202(b)(1), reenacted heading without change and amended text of par. (1) generally. Prior to amendment, text read as follows: "The Secretary shall establish and carry out a program to demonstrate the application of innovative material technology in the construction of bridges and other structures."

Subsec. (b)(2). Pub. L. 109–59, §5202(b)(2), reenacted heading without change and amended text of par. (2) generally. Prior to amendment, text read as follows: "The goals of the program shall include—

"(A) the development of new, cost-effective innovative material highway bridge applications;

"(B) the reduction of maintenance costs and life-cycle costs of bridges, including the costs of new construction, replacement, or rehabilitation of deficient bridges;

"(C) the development of construction techniques to increase safety and reduce construction time and traffic congestion;

"(D) the development of engineering design criteria for innovative products and materials for use in highway bridges and structures;

"(E) the development of cost-effective and innovative techniques to separate vehicle and pedestrian traffic from railroad traffic;

"(F) the development of highway bridges and structures that will withstand natural disasters, including alternative processes for the seismic retrofit of bridges; and

"(G) the development of new nondestructive bridge evaluation technologies and techniques."

Subsec. (c). Pub. L. 109–59, §5203(b)(1), added subsec. (c).

Subsec. (d). Pub. L. 109–59, §5203(c)(1), added subsec. (d).

Subsec. (e). Pub. L. 109–59, §5203(d), added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

STRATEGIC INNOVATION FOR REVENUE COLLECTION

Pub. L. 117–58, div. A, title III, §13001(a)–(e), Nov. 15, 2021, 135 Stat. 622–624, provided that:

"(a) IN GENERAL.—The Secretary [of Transportation] shall establish a program to test the feasibility of a road usage fee and other user-based alternative revenue mechanisms (referred to in this section as 'user-based alternative revenue mechanisms') to help maintain the long-term solvency of the Highway Trust Fund, through pilot projects at the State, local, and regional level.

"(b) GRANTS.—

"(1) IN GENERAL.—The Secretary shall provide grants to eligible entities to carry out pilot projects under this section.

"(2) APPLICATIONS.—To be eligible for a grant under this section, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(3) OBJECTIVES.—The Secretary shall ensure that, in the aggregate, the pilot projects carried out using funds provided under this section meet the following objectives:

"(A) To test the design, acceptance, equity, and implementation of user-based alternative revenue mechanisms, including among—

"(i) differing income groups; and

"(ii) rural and urban drivers, as applicable.

"(B) To provide recommendations regarding adoption and implementation of user-based alternative revenue mechanisms.

"(C) To quantify and minimize the administrative costs of any potential user-based alternative revenue mechanisms.

"(D) To test a variety of solutions, including the use of independent and private third-party vendors, for the collection of data and fees from user-based alternative revenue mechanisms, including the reliability and security of those solutions and vendors.

"(E) To test solutions to ensure the privacy and security of data collected for the purpose of implementing a user-based alternative revenue mechanism.

"(F) To conduct public education and outreach to increase public awareness regarding the need

for user-based alternative revenue mechanisms for surface transportation programs.

"(G) To evaluate the ease of compliance and enforcement of a variety of implementation approaches for different users of the surface transportation system.

"(H) To ensure, to the greatest extent practicable, the use of innovation.

"(I) To consider, to the greatest extent practicable, the potential for revenue collection along a network of alternative fueling stations.

"(J) To evaluate the impacts of the imposition of a user-based alternative revenue mechanism on—

"(i) transportation revenues;

"(ii) personal mobility, driving patterns, congestion, and transportation costs; and

"(iii) freight movement and costs.

"(K) To evaluate options for the integration of a user-based alternative revenue mechanism with—

"(i) nationwide transportation revenue collections and regulations;

"(ii) toll revenue collection platforms;

"(iii) transportation network company fees; and

"(iv) any other relevant transportation revenue mechanisms.

"(4) ELIGIBLE ENTITY.—An entity eligible to apply for a grant under this section is—

"(A) a State or a group of States;

"(B) a local government or a group of local governments; or

"(C) a metropolitan planning organization (as defined in section 134(b) of title 23, United States Code) or a group of metropolitan planning organizations.

"(5) USE OF FUNDS.—An eligible entity that receives a grant under this section shall use the grant to carry out a pilot project to address 1 or more of the objectives described in paragraph (3).

"(6) CONSIDERATION.—The Secretary shall consider geographic diversity in awarding grants under this subsection.

"(7) FEDERAL SHARE.—The Federal share of the cost of a pilot project carried out under this section may not exceed—

"(A) 80 percent of the total cost of a project carried out by an eligible entity that has not otherwise received a grant under this section; and

"(B) 70 percent of the total cost of a project carried out by an eligible entity that has received at least 1 grant under this section.

"(c) LIMITATION ON REVENUE COLLECTED.—Any revenue collected through a user-based alternative revenue mechanism established using funds provided under this section shall not be considered a toll under section 301 of title 23, United States Code.

"(d) RECOMMENDATIONS AND REPORT.—Not later than 3 years after the date of enactment of this Act [Nov. 15, 2021], the Secretary, in coordination with the Secretary of the Treasury and the Federal System Funding Alternative Advisory Board established under section 13002(g)(1) [of Pub. L. 117–58, set out below], shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

"(1) summarizes the results of the pilot projects under this section and the national pilot program under section 13002; and

"(2) provides recommendations, if applicable, to enable potential implementation of a nationwide user-based alternative revenue mechanism.

"(e) FUNDING.—

"(1) IN GENERAL.—Of the funds made available to carry out section 503(b) of title 23, United States Code, for each of fiscal years 2022 through 2026[,] $15,000,000 shall be used for pilot projects under this section.

"(2) FLEXIBILITY.—If, by August 1 of each fiscal year, the Secretary determines that there are not enough grant applications to meet the requirements of this section for that fiscal year, the Secretary shall transfer to the national pilot program under section 13002 or to the highway research and development program under section 503(b) of title 23, United States Code—

"(A) any funds reserved for a fiscal year under paragraph (1) that the Secretary has not yet awarded under this section; and

"(B) an amount of obligation limitation equal to the amount of funds that the Secretary transfers under subparagraph (A)."

NATIONAL MOTOR VEHICLE PER-MILE USER FEE PILOT

Pub. L. 117–58, div. A, title III, §13002, Nov. 15, 2021, 135 Stat. 624, provided that:

"(a) DEFINITIONS.—In this section:

"(1) ADVISORY BOARD.—The term 'advisory board' means the Federal System Funding Alternative Advisory Board established under subsection (g)(1).

"(2) COMMERCIAL VEHICLE.—The term 'commercial vehicle' has the meaning given the term commercial motor vehicle in section 31101 of title 49, United States Code.

"(3) HIGHWAY TRUST FUND.—The term 'Highway Trust Fund' means the Highway Trust Fund established under section 9503 of the Internal Revenue Code of 1986 [26 U.S.C. 9503].

"(4) LIGHT TRUCK.—The term 'light truck' has the meaning given the term in section 523.2 of title 49, Code of Federal Regulations (or successor regulations).

"(5) MEDIUM- AND HEAVY-DUTY TRUCK.—The term 'medium- and heavy-duty truck' has the meaning given the term 'commercial medium- and heavy-duty on-highway vehicle' in section 32901(a) of title 49, United States Code.

"(6) PASSENGER MOTOR VEHICLE.—The term 'passenger motor vehicle' has the meaning given the term in section 32101 of title 49, United States Code.

"(7) PER-MILE USER FEE.—The term 'per-mile user fee' means a revenue mechanism that—

"(A) is applied to road users operating motor vehicles on the surface transportation system; and

"(B) is based on the number of vehicle miles traveled by an individual road user.

"(8) PILOT PROGRAM.—The term 'pilot program' means the pilot program established under subsection (b)(1).

"(9) VOLUNTEER PARTICIPANT.—The term 'volunteer participant' means—

"(A) an owner or lessee of a private, personal motor vehicle who volunteers to participate in the pilot program;

"(B) a commercial vehicle operator who volunteers to participate in the pilot program; or

"(C) an owner of a motor vehicle fleet who volunteers to participate in the pilot program.

"(b) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary [of Transportation], in coordination with the Secretary of the Treasury, and consistent with the recommendations of the advisory board, shall establish a pilot program to demonstrate a national motor vehicle per-mile user fee—

"(A) to restore and maintain the long-term solvency of the Highway Trust Fund; and

"(B) to improve and maintain the surface transportation system.

"(2) OBJECTIVES.—The objectives of the pilot program are—

"(A) to test the design, acceptance, implementation, and financial sustainability of a national motor vehicle per-mile user fee;

"(B) to address the need for additional revenue for surface transportation infrastructure and a national motor vehicle per-mile user fee; and

"(C) to provide recommendations relating to the adoption and implementation of a national motor vehicle per-mile user fee.

"(c) PARAMETERS.—In carrying out the pilot program, the Secretary, in coordination with the Secretary of the Treasury, shall—

"(1) provide different methods that volunteer participants can choose from to track motor vehicle miles traveled;

"(2) solicit volunteer participants from all 50 States, the District of Columbia, and the Commonwealth of Puerto Rico;

"(3) ensure an equitable geographic distribution by population among volunteer participants;

"(4) include commercial vehicles and passenger motor vehicles; and

"(5) use components of and, where appropriate, coordinate with—

"(A) the States that received a grant under section 6020 of the FAST Act ([former] 23 U.S.C. 503 note; Public Law 114–94) (as in effect on the day before the date of enactment of this Act [Nov. 15, 2021]); and

"(B) eligible entities that received a grant under section 13001 [of Pub. L. 117–58, set out above].

"(d) METHODS.—

"(1) TOOLS.—In selecting the methods described in subsection (c)(1), the Secretary shall coordinate with entities that voluntarily provide to the Secretary for use under the pilot program any of the following vehicle-miles-traveled collection tools:

"(A) Third-party on-board diagnostic (OBD-II) devices.

"(B) Smart phone applications.

"(C) Telemetric data collected by automakers.

"(D) Motor vehicle data obtained by car insurance companies.

"(E) Data from the States that received a grant under section 6020 of the FAST Act ([former] 23 U.S.C. 503 note; Public Law 114–94) (as in effect on the day before the date of enactment of this Act [Nov. 15, 2021]).

"(F) Motor vehicle data obtained from fueling stations.

"(G) Any other method that the Secretary considers appropriate.

"(2) COORDINATION.—

"(A) SELECTION.—The Secretary shall determine which collection tools under paragraph (1) are selected for the pilot program.

"(B) VOLUNTEER PARTICIPANTS.—In a manner that the Secretary considers appropriate, the Secretary shall enable each volunteer participant to choose 1 of the selected collection tools under paragraph (1).

"(e) MOTOR VEHICLE PER-MILE USER FEES.—For the purposes of the pilot program, the Secretary of the Treasury shall establish, on an annual basis, per-mile user fees for passenger motor vehicles, light trucks, and medium- and heavy-duty trucks, which amount may vary between vehicle types and weight classes to reflect estimated impacts on infrastructure, safety, congestion, the environment, or other related social impacts.

"(f) VOLUNTEER PARTICIPANTS.—The Secretary, in coordination with the Secretary of the Treasury, shall—

"(1)(A) ensure, to the extent practicable, that the greatest number of volunteer participants participate in the pilot program; and

"(B) ensure that such volunteer participants represent geographically diverse regions of the United States, including from urban and rural areas; and

"(2) issue policies relating to the protection of volunteer participants, including policies that—

"(A) protect the privacy of volunteer participants; and

"(B) secure the data provided by volunteer participants.

"(g) FEDERAL SYSTEM FUNDING ALTERNATIVE ADVISORY BOARD.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Nov. 15, 2021], the Secretary shall establish an advisory board, to be known as the 'Federal System Funding Alternative Advisory Board', to assist with—

"(A) providing the Secretary with recommendations related to the structure, scope, and methodology for developing and implementing the pilot program;

"(B) carrying out the public awareness campaign under subsection (h); and

"(C) developing the report under subsection (n).

"(2) MEMBERSHIP.—The advisory board shall include, at a minimum, the following representatives and entities, to be appointed by the Secretary:

"(A) State departments of transportation.

"(B) Any public or nonprofit entity that led a surface transportation system funding alternatives pilot project under section 6020 of the FAST Act ([former] 23 U.S.C. 503 note; Public Law 114–94) (as in effect on the day before the date of enactment of this Act [Nov. 15, 2021]).

"(C) Representatives of the trucking industry, including owner-operator independent drivers.

"(D) Data security experts with expertise in personal privacy.

"(E) Academic experts on surface transportation systems.

"(F) Consumer advocates, including privacy experts.

"(G) Advocacy groups focused on equity.

"(H) Owners of motor vehicle fleets.

"(I) Owners and operators of toll facilities.

"(J) Tribal groups or representatives.

"(K) Any other representatives or entities, as determined appropriate by the Secretary.

"(3) RECOMMENDATIONS.—Not later than 1 year after the date on which the advisory board is established under paragraph (1), the advisory board shall provide the Secretary with the recommendations described in subparagraph (A) of that paragraph, which the Secretary shall use in implementing the pilot program.

"(h) PUBLIC AWARENESS CAMPAIGN.—

"(1) IN GENERAL.—The Secretary, with guidance from the advisory board, may carry out a public awareness campaign to increase public awareness regarding a national motor vehicle per-mile user fee, including distributing information—

"(A) related to the pilot program;

"(B) from the State surface transportation system funding alternatives pilot program under section 6020 of the FAST Act ([former] 23 U.S.C. 503 note; Public Law 114–94) (as in effect on the day before the date of enactment of this Act [Nov. 15, 2021]); and

"(C) related to consumer privacy.

"(2) CONSIDERATIONS.—In carrying out the public awareness campaign under this subsection, the Secretary shall consider issues unique to each State.

"(i) REVENUE COLLECTION.—The Secretary of the Treasury, in coordination with the Secretary, shall establish a mechanism to collect motor vehicle per-mile user fees established under subsection (e) from volunteer participants, which—

"(1) may be adjusted as needed to address technical challenges; and

"(2) may allow independent and private third-party vendors to collect the motor vehicle per-mile user fees and forward such fees to the Treasury.

"(j) AGREEMENT.—The Secretary may enter into an agreement with a volunteer participant containing such terms and conditions as the Secretary considers necessary for participation in the pilot program.

"(k) LIMITATION.—Any revenue collected through the mechanism established under subsection (i) shall not be considered a toll under section 301 of title 23, United States Code.

"(l) HIGHWAY TRUST FUND.—The Secretary of the Treasury shall ensure that any revenue collected under subsection (i) is deposited into the Highway Trust Fund.

"(m) PAYMENT.—Not more than 60 days after the end of each calendar quarter in which a volunteer participant has participated in the pilot program, the Secretary of the Treasury, in consultation with the Secretary of Transportation, shall estimate an amount of payment for each volunteer based on the vehicle miles submitted by the volunteer for the calendar quarter and issue such payment to such volunteer participant.

"(n) REPORT TO CONGRESS.—Not later than 1 year after the date on which volunteer participants begin participating in the pilot program, and each year thereafter for the duration of the pilot program, the Secretary and the Secretary of the Treasury shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes an analysis of—

"(1) whether the objectives described in subsection (b)(2) were achieved;

"(2) how volunteer participant protections in subsection (f)(2) were complied with;

"(3) whether motor vehicle per-mile user fees can maintain the long-term solvency of the Highway Trust Fund and improve and maintain the surface transportation system, which shall include estimates of administrative costs related to collecting such motor vehicle per mile user fees;

"(4) how the privacy of volunteers was maintained; and

"(5) equity impacts of the pilot program, including the impacts of the pilot program on low-income commuters.

"(o) FUNDING.—

"(1) IN GENERAL.—Of the funds made available to carry out section 503(b) of title 23, United States Code, for each of fiscal years 2022 through 2026[,] $10,000,000 shall be used to carry out the pilot program under this section.

"(2) EXCESS FUNDS.—Any excess funds remaining after carrying out the pilot program under this section shall be available to make grants for pilot projects under section 13001 [of Pub. L. 117–58, set out above]."

DATA INTEGRATION PILOT PROGRAM

Pub. L. 117–58, div. A, title III, §13004, Nov. 15, 2021, 135 Stat. 629, provided that:

"(a) ESTABLISHMENT.—The Secretary [of Transportation] shall establish a pilot program—

"(1) to provide research and develop models that integrate, in near-real-time, data from multiple sources, including geolocated—

"(A) weather conditions;

"(B) roadway conditions;

"(C) incidents, work zones, and other nonrecurring events related to emergency planning; and

"(D) information from emergency responders; and

"(2) to facilitate data integration between the Department [of Transportation], the National Weather Service, and other sources of data that provide real-time data with respect to roadway conditions during or as a result of severe weather events, including, at a minimum—

"(A) winter weather;

"(B) heavy rainfall; and

"(C) tropical weather events.

"(b) REQUIREMENTS.—In carrying out subsection (a)(1), the Secretary shall—

"(1) address the safety, resiliency, and vulnerability of the transportation system to disasters; and

"(2) develop tools for decisionmakers and other end-users who could use or benefit from the integrated data described in that subsection to improve public safety and mobility.

"(c) TREATMENT.—Except as otherwise provided in this section, the Secretary shall carry out activities under the pilot program under this section as if—

"(1) those activities were authorized under chapter 5 of title 23, United States Code; and

"(2) the funds made available to carry out the pilot program were made available under that chapter.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,500,000 for each of fiscal years 2022 through 2026, to remain available until expended."

EMERGING TECHNOLOGY RESEARCH PILOT PROGRAM

Pub. L. 117–58, div. A, title III, §13005, Nov. 15, 2021, 135 Stat. 629, provided that:

"(a) ESTABLISHMENT.—The Secretary [of Transportation] shall establish a pilot program to conduct emerging technology research in accordance with this section.

"(b) ACTIVITIES.—The pilot program under this section shall include—

"(1) research and development activities relating to leveraging advanced and additive manufacturing technologies to increase the structural integrity and cost-effectiveness of surface transportation infrastructure; and

"(2) research and development activities (including laboratory and test track supported accelerated pavement testing research regarding the impacts of connected, autonomous, and platooned vehicles on pavement and infrastructure performance)—

"(A) to reduce the impact of automated and connected driving systems and advanced driver-assistance systems on pavement and infrastructure performance; and

"(B) to improve transportation infrastructure design in anticipation of increased usage of automated driving systems and advanced driver-assistance systems.

"(c) TREATMENT.—Except as otherwise provided in this section, the Secretary shall carry out activities under the pilot program under this section as if—

"(1) those activities were authorized under chapter 5 of title 23, United States Code; and

"(2) the funds made available to carry out the pilot program were made available under that chapter.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2022 through 2026, to remain available until expended."

OPEN CHALLENGE AND RESEARCH PROPOSAL PILOT PROGRAM

Pub. L. 117–58, div. A, title III, §13006(e), Nov. 15, 2021, 135 Stat. 638, provided that:

"(1) IN GENERAL.—The Secretary [of Transportation] shall establish an open challenge and research proposal pilot program under which eligible entities may propose open highway challenges and research proposals that are linked to identified or potential research needs.

"(2) REQUIREMENTS.—A research proposal submitted to the Secretary by an eligible entity shall address—

"(A) a research need identified by the Secretary or the Administrator of the Federal Highway Administration; or

"(B) an issue or challenge that the Secretary determines to be important.

"(3) ELIGIBLE ENTITIES.—An entity eligible to submit a research proposal under the pilot program under paragraph (1) is—

"(A) a State;

"(B) a unit of local government;

"(C) a university transportation center under section 5505 of title 49, United States Code;

"(D) a private nonprofit organization;

"(E) a private sector organization working in collaboration with an entity described in subparagraphs (A) through (D); and

"(F) any other individual or entity that the Secretary determines to be appropriate.

"(4) PROJECT REVIEW.—The Secretary shall—

"(A) review each research proposal submitted under the pilot program under paragraph (1); and

"(B) provide to the eligible entity a written notice that—

"(i) if the research proposal is not selected—

"(I) notifies the eligible entity that the research proposal has not been selected for funding;

"(II) provides an explanation as to why the research proposal was not selected, including if

the research proposal does not cover an area of need; and

"(III) if applicable, recommend that the research proposal be submitted to another research program and provide guidance and direction to the eligible entity and the proposed research program office; and

"(ii) if the research proposal is selected, notifies the eligible entity that the research proposal has been selected for funding.

"(5) FEDERAL SHARE.—

"(A) IN GENERAL.—The Federal share of the cost of an activity carried out under this subsection shall not exceed 80 percent.

"(B) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, facility, and hardware development costs, shall be credited toward the non-Federal share of the cost of an activity carried out under this subsection."

RESEARCH ON CONNECTED VEHICLE TECHNOLOGY

Pub. L. 117–58, div. B, title IV, §24219, Nov. 15, 2021, 135 Stat. 831, provided that: "The Administrator of the National Highway Traffic Safety Administration, in collaboration with the head of the Intelligent Transportation Systems Joint Program Office and the Administrator of the Federal Highway Administration, shall—

"(1) not later than 180 days after the date of enactment of this Act [Nov. 15, 2021], expand vehicle-to-pedestrian research efforts focused on incorporating bicyclists and other vulnerable road users into the safe deployment of connected vehicle systems; and

"(2) not later than 2 years after the date of enactment of this Act, submit to Congress and make publicly available a report describing the findings of the research efforts described in paragraph (1), including an analysis of the extent to which applications supporting vulnerable road users can be accommodated within existing spectrum allocations for connected vehicle systems."

SURFACE TRANSPORTATION SYSTEM FUNDING ALTERNATIVES

Pub. L. 114–94, div. A, title VI, §6020, Dec. 4, 2015, 129 Stat. 1582, which established a program to provide grants to States to demonstrate user-based alternative revenue mechanisms that utilize a user fee structure to maintain the long-term solvency of the Highway Trust Fund, was repealed by Pub. L. 117–58, div. A, title III, §13001(f)(1), Nov. 15, 2021, 135 Stat. 624.

HIGH PERFORMING STEEL BRIDGE RESEARCH AND TECHNOLOGY TRANSFER

Pub. L. 109–59, title V, §5202(c), Aug. 10, 2005, 119 Stat. 1786, provided that:

"(1) IN GENERAL.—The Secretary [of Transportation] shall carry out a program to demonstrate the application of high-performing steel in the construction and rehabilitation of bridges.

"(2) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act [119 Stat. 1779], $4,100,000 for each of fiscal years 2006 through 2009 shall be available to carry out this subsection."

STEEL BRIDGE TESTING

Pub. L. 109–59, title V, §5202(d), Aug. 10, 2005, 119 Stat. 1787, provided that:

"(1) IN GENERAL.—The Secretary [of Transportation] shall carry out a program to test steel bridges using a nondestructive technology that is able to detect growing cracks, including subsurface flaws as small as 0.010 inches in length or depth, in the bridges.

"(2) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act [119 Stat. 1779], $1,250,000 for each of fiscal years 2006 through 2009 shall be available to carry out this subsection.

"(3) FEDERAL SHARE.—The Federal share of the cost of activities carried out in accordance with this subsection shall be 80 percent."

§504. Training and education

(a) NATIONAL HIGHWAY INSTITUTE.—

(1) IN GENERAL.—The Secretary shall operate in the Federal Highway Administration a National Highway Institute (in this subsection referred to as the "Institute"). The Secretary shall administer, through the Institute, the authority vested in the Secretary by this title or by any other law for the development and conduct of education and training programs relating to highways.

(2) DUTIES OF THE INSTITUTE.—In cooperation with State transportation departments,

United States industry, and any national or international entity, the Institute shall develop and administer education and training programs of instruction for—

(A) Federal Highway Administration, State, and local transportation agency employees and the employees of any other applicable Federal agency;

(B) regional, State, and metropolitan planning organizations;

(C) State and local police, public safety, and motor vehicle employees; and

(D) United States citizens and foreign nationals engaged or to be engaged in surface transportation work of interest to the United States.

(3) COURSES.—

(A) IN GENERAL.—The Institute shall—

(i) develop or update existing courses in asset management, including courses that include such components as—

(I) the determination of life-cycle costs;

(II) the valuation of assets;

(III) benefit-to-cost ratio calculations; and

(IV) objective decisionmaking processes for project selection; and

(ii) continually develop courses relating to the application of emerging technologies for—

(I) transportation infrastructure applications and asset management;

(II) intelligent transportation systems;

(III) operations (including security operations);

(IV) the collection and archiving of data;

(V) reducing the amount of time required for the planning and development of transportation projects; and

(VI) the intermodal movement of individuals and freight.

(B) ADDITIONAL COURSES.—In addition to the courses developed under subparagraph (A), the Institute, in consultation with State transportation departments, metropolitan planning organizations, and the American Association of State Highway and Transportation Officials, may develop courses relating to technology, methods, techniques, engineering, construction, safety, maintenance, environmental mitigation and compliance, regulations, management, inspection, and finance.

(C) REVISION OF COURSES OFFERED.—The Institute shall periodically—

(i) review the course inventory of the Institute; and

(ii) revise or cease to offer courses based on course content, applicability, and need.

(4) SET-ASIDE; FEDERAL SHARE.—Not to exceed ½ of 1 percent of the funds apportioned to a State under section 104(b)(2) for the surface transportation block grant program shall be available for expenditure by the State transportation department for the payment of not to exceed 80 percent of the cost of tuition and direct educational expenses (excluding salaries) in connection with the education and training of employees of State and local transportation agencies in accordance with this subsection.

(5) FEDERAL RESPONSIBILITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), education and training of employees of Federal, State, and local transportation (including highway) agencies authorized under this subsection may be provided—

(i) by the Secretary at no cost to the States and local governments if the Secretary determines that provision at no cost is in the public interest; or

(ii) by the State through grants, cooperative agreements, and contracts with public and private agencies, institutions, individuals, and the Institute.

(B) PAYMENT OF FULL COST BY PRIVATE PERSONS.—Private agencies, international

or foreign entities, and individuals shall pay the full cost of any education and training received by them unless the Secretary determines that a lower cost is of critical importance to the public interest.

(6) TRAINING FELLOWSHIPS; COOPERATION.—The Institute may—

(A) engage in training activities authorized under this subsection, including the granting of training fellowships; and

(B) carry out its authority independently or in cooperation with any other branch of the Federal Government or any State agency, authority, association, institution, for-profit or nonprofit corporation, other national or international entity, or other person.

(7) COLLECTION OF FEES.—

(A) GENERAL RULE.—In accordance with this subsection, the Institute may assess and collect fees solely to defray the costs of the Institute in developing or administering education and training programs under this subsection.

(B) LIMITATION.—Fees may be assessed and collected under this subsection only in a manner that may reasonably be expected to result in the collection of fees during any fiscal year in an aggregate amount that does not exceed the aggregate amount of the costs referred to in subparagraph (A) for the fiscal year.

(C) PERSONS SUBJECT TO FEES.—Fees may be assessed and collected under this subsection only with respect to—

(i) persons and entities for whom education or training programs are developed or administered under this subsection; and

(ii) persons and entities to whom education or training is provided under this subsection.

(D) AMOUNT OF FEES.—The fees assessed and collected under this subsection shall be established in a manner that ensures that the liability of any person or entity for a fee is reasonably based on the proportion of the costs referred to in subparagraph (A) that relate to the person or entity.

(E) USE.—All fees collected under this subsection shall be used to defray costs associated with the development or administration of education and training programs authorized under this subsection.

(8) RELATION TO FEES.—The funds made available to carry out this subsection may be combined with or held separate from the fees collected under paragraph (7).

(b) LOCAL TECHNICAL ASSISTANCE PROGRAM.—

(1) AUTHORITY.—The Secretary shall carry out a local technical assistance program that will provide access to surface transportation technology to—

(A) highway and transportation agencies in urbanized and rural areas;

(B) contractors that perform work for the agencies; and

(C) infrastructure security staff.

(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The Secretary may make grants and enter into cooperative agreements and contracts to provide education and training, technical assistance, and related support services to—

(A) assist rural, local transportation agencies and tribal governments, and the consultants and construction personnel working for the agencies and governments, to—

(i) develop and expand expertise in road and transportation areas (including pavement, bridge, concrete structures, intermodal connections, safety management systems, intelligent transportation systems, incident response, operations, and traffic safety countermeasures);

(ii) improve roads and bridges;

(iii) enhance—

(I) programs for the movement of passengers and freight; and
(II) intergovernmental transportation planning and project selection; and

(iv) deal effectively with special transportation-related problems by preparing and providing training packages, manuals, guidelines, and technical resource materials;

(B) develop technical assistance for tourism and recreational travel;
(C) identify, package, and deliver transportation technology and traffic safety information to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with transportation-related problems (particularly the promotion of regional cooperation);
(D) operate, in cooperation with State transportation departments and universities—
(i) local technical assistance program centers designated to provide transportation technology transfer services to rural areas and to urbanized areas; and
(ii) local technical assistance program centers designated to provide transportation technical assistance to tribal governments; and

(E) allow local transportation agencies and tribal governments, in cooperation with the private sector, to enhance new technology implementation.

(3) FEDERAL SHARE.—
(A) LOCAL TECHNICAL ASSISTANCE CENTERS.—
(i) IN GENERAL.—Subject to subparagraph (B), the Federal share of the cost of an activity carried out by a local technical assistance center under paragraphs (1) and (2) shall be 50 percent.
(ii) NON-FEDERAL SHARE.—The non-Federal share of the cost of an activity described in clause (i) may consist of amounts provided to a recipient under subsection (e) or section 505, up to 100 percent of the non-Federal share.

(B) TRIBAL TECHNICAL ASSISTANCE CENTERS.—The Federal share of the cost of an activity carried out by a tribal technical assistance center under paragraph (2)(D)(ii) shall be 100 percent.

(c) RESEARCH FELLOWSHIPS.—
(1) GENERAL AUTHORITY.—The Secretary, acting either independently or in cooperation with other Federal departments, agencies, and instrumentalities, may make grants for research fellowships for any purpose for which research is authorized by this chapter.
(2) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—
(A) IN GENERAL.—The Secretary shall establish and implement a transportation research fellowship program for the purpose of attracting qualified students to the field of transportation, which program shall be known as the "Dwight David Eisenhower Transportation Fellowship Program".
(B) USE OF AMOUNTS.—Amounts provided to institutions of higher education to carry out this paragraph shall be used to provide direct support of student expenses.

(d) GARRETT A. MORGAN TECHNOLOGY AND TRANSPORTATION EDUCATION PROGRAM.—
(1) IN GENERAL.—The Secretary shall establish the Garrett A. Morgan Technology and Transportation Education Program to improve the preparation of students, particularly women and minorities, in science, technology, engineering, and mathematics through curriculum development and other activities related to transportation.
(2) AUTHORIZED ACTIVITIES.—The Secretary shall award grants under this subsection on the basis of competitive peer review. Grants awarded under this subsection may be used for

enhancing science, technology, engineering, and mathematics at the elementary and secondary school level through such means as—

(A) internships that offer students experience in the transportation field;

(B) programs that allow students to spend time observing scientists and engineers in the transportation field; and

(C) developing relevant curriculum that uses examples and problems related to transportation.

(3) APPLICATION AND REVIEW PROCEDURES.—

(A) IN GENERAL.—An entity described in subparagraph (C) seeking funding under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Such application, at a minimum, shall include a description of how the funds will be used to serve the purposes described in paragraph (2).

(B) PRIORITY.—In making awards under this subsection, the Secretary shall give priority to applicants that will encourage the participation of women and minorities.

(C) ELIGIBILITY.—Local educational agencies and State educational agencies, which may enter into a partnership agreement with institutions of higher education, businesses, or other entities, shall be eligible to apply for grants under this subsection.

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

(A) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(B) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given that term in section 8101 of the Elementary and Secondary Education Act of 1965.

(C) STATE EDUCATIONAL AGENCY.—The term "State educational agency" has the meaning given that term in section 8101 of the Elementary and Secondary Education Act of 1965.

(e) SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT, TRAINING, AND EDUCATION.—

(1) FUNDING.—Subject to project approval by the Secretary, a State may obligate funds apportioned to the State under paragraphs (1) through (4) of section 104(b) for surface transportation workforce development, training, and education, including—

(A) tuition and direct educational expenses, excluding salaries, in connection with the education and training of employees of State and local transportation agencies;

(B) employee professional development;

(C) student internships;

(D) pre-apprenticeships, apprenticeships, and career opportunities for on-the-job training;

(E) university, college, community college, or vocational school support;

(F) education activities, including outreach, to develop interest and promote participation in surface transportation careers;

(G) activities associated with workforce training and employment services, such as targeted outreach and partnerships with industry, economic development organizations, workforce development boards, and labor organizations;

(H) activities carried out by the National Highway Institute under subsection (a); and

(I) local technical assistance programs under subsection (b).

(2) FEDERAL SHARE.—The Federal share of the cost of activities carried out in accordance with this subsection shall be 100 percent, except for activities carried out under paragraph (1)(I), for which the Federal share shall be 50 percent.

(3) SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT, TRAINING, AND

EDUCATION DEFINED.—In this subsection, the term "surface transportation workforce development, training, and education" means activities associated with surface transportation career awareness, student transportation career preparation, and training and professional development for surface transportation workers, including—

(A) activities for women and minorities;

(B) activities that address current workforce gaps, such as work on construction projects, of State and local transportation agencies;

(C) activities to develop a robust surface transportation workforce with new skills resulting from emerging transportation technologies; and

(D) activities to attract new sources of job-creating investment.

(f) TRANSPORTATION EDUCATION AND TRAINING DEVELOPMENT AND DEPLOYMENT PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a program to make grants to educational institutions or State departments of transportation, in partnership with industry and relevant Federal departments and agencies—

(A) to develop, test, and review new curricula and education programs to train individuals at all levels of the transportation workforce; or

(B) to implement the new curricula and education programs to provide for hands-on career opportunities to meet current and future needs.

(2) SELECTION OF GRANT RECIPIENTS.—In selecting applications for awards under this subsection, the Secretary may consider—

(A) the degree to which the new curricula or education program meets the specific current or future needs of a segment of the transportation industry, States, or regions;

(B) providing for practical experience and on-the-job training;

(C) proposals oriented toward practitioners in the field rather than the support and growth of the research community;

(D) the degree to which the new curricula or program will provide training in areas other than engineering, such as business administration, economics, information technology, environmental science, and law;

(E) programs or curricula that train professionals for work in the transportation field, such as construction, materials, information technology, environmental science, urban planning, and industrial or emerging technology; and

(F) the commitment of industry or a State's department of transportation to the program.

(3) REPORTING.—The Secretary shall establish minimum reporting requirements for grant recipients under this subsection, which may include, with respect to a program carried out with a grant under this subsection—

(A) the percentage or number of program participants that are employed during the second quarter after exiting the program;

(B) the percentage or number of program participants that are employed during the fourth quarter after exiting the program;

(C) the median earnings of program participants that are employed during the second quarter after exiting the program;

(D) the percentage or number of program participants that obtain a recognized postsecondary credential or a secondary school diploma (or a recognized equivalent) during participation in the program or by not later than 1 year after exiting the program; and

(E) the percentage or number of program participants that, during a program year—

(i) are in an education or training program that leads to a recognized postsecondary credential or employment; and

(ii) are achieving measurable skill gains toward such a credential or employment.

(4) LIMITATIONS.—The amount of a grant under this subsection shall not exceed $300,000 per year. After a recipient has received 3 years of Federal funding under this subsection, Federal funding may equal not more than 75 percent of a grantee's program costs.

(g) FREIGHT CAPACITY BUILDING PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a freight planning capacity building initiative to support enhancements in freight transportation planning in order to—

(A) better target investments in freight transportation systems to maintain efficiency and productivity; and

(B) strengthen the decisionmaking capacity of State transportation departments and local transportation agencies with respect to freight transportation planning and systems.

(2) AGREEMENTS.—The Secretary shall enter into agreements to support and carry out administrative and management activities relating to the governance of the freight planning capacity initiative.

(3) STAKEHOLDER INVOLVEMENT.—In carrying out this section, the Secretary shall consult with the Association of Metropolitan Planning Organizations, the American Association of State Highway and Transportation Officials, and other freight planning stakeholders, including the other Federal agencies, State transportation departments, local governments, nonprofit entities, academia, and the private sector.

(4) ELIGIBLE ACTIVITIES.—The freight planning capacity building initiative shall include research, training, and education in the following areas:

(A) The identification and dissemination of best practices in freight transportation.

(B) Providing opportunities for freight transportation staff to engage in peer exchange.

(C) Refinement of data and analysis tools used in conjunction with assessing freight transportation needs.

(D) Technical assistance to State transportation departments and local transportation agencies reorganizing to address freight transportation issues.

(E) Facilitating relationship building between governmental and private entities involved in freight transportation.

(F) Identifying ways to target the capacity of State transportation departments and local transportation agencies to address freight considerations in operations, security, asset management, and environmental stewardship in connection with long-range multimodal transportation planning and project implementation.

(5) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this section shall be up to 100 percent, and such funds shall remain available until expended.

(6) USE OF FUNDS.—Funds made available for the program established under this subsection may be used for research, program development, information collection and dissemination, and technical assistance. The Secretary may use such funds independently or make grants to and enter into contracts and cooperative agreements with a Federal agency, State agency, local agency, federally recognized Indian tribal government or tribal consortium, authority, association, nonprofit or for-profit corporation, or institution of higher education, to carry out the purposes of this subsection.

(h) CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.—

(1) IN GENERAL.—The Secretary shall make grants under this section to establish and maintain centers for surface transportation excellence.

(2) GOALS.—The goals of a center referred to in paragraph (1) shall be to promote and support strategic national surface transportation programs and activities relating to the work of State departments of transportation in the areas of environment, surface transportation safety, rural safety, and project finance.

(3) ROLE OF THE CENTERS.—To achieve the goals set forth in paragraph (2), any centers

established under paragraph (1) shall provide technical assistance, information sharing of best practices, and training in the use of tools and decisionmaking processes that can assist States in effectively implementing surface transportation programs, projects, and policies.

(4) PROGRAM ADMINISTRATION.—

(A) COMPETITION.—A party entering into a contract, cooperative agreement, or other transaction with the Secretary under this subsection, or receiving a grant to perform research or provide technical assistance under this subsection, shall be selected on a competitive basis.

(B) STRATEGIC PLAN.—The Secretary shall require each center to develop a multiyear strategic plan, that—

(i) is submitted to the Secretary at such time as the Secretary requires; and

(ii) describes—

(I) the activities to be undertaken by the center; and

(II) how the work of the center will be coordinated with the activities of the Federal Highway Administration and the various other research, development, and technology transfer activities authorized under this chapter.

(i) USE OF FUNDS.—The Secretary may use funds made available to carry out this section to carry out activities related to workforce development and technical assistance and training if—

(1) the activities are authorized by another provision of this title; and

(2) the activities are for entities other than employees of the Secretary, such as States, units of local government, Federal land management agencies, and Tribal governments.

(Added Pub. L. 105–178, title V, §5104, June 9, 1998, 112 Stat. 429; amended Pub. L. 109–59, title V, §5204(a)(1), (b), (d)(1), (e), (h)(1), Aug. 10, 2005, 119 Stat. 1790, 1792–1794; Pub. L. 112–141, div. E, title II, §52004, July 6, 2012, 126 Stat. 880; Pub. L. 114–94, div. A, title I, §1109(c)(4), Dec. 4, 2015, 129 Stat. 1343; Pub. L. 114–95, title IX, §9215(vvv), Dec. 10, 2015, 129 Stat. 2191; Pub. L. 117–58, div. A, title I, §11525(s), title III, §13007, Nov. 15, 2021, 135 Stat. 608, 639.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 8101 of the Elementary and Secondary Education Act of 1965, referred to in subsec. (d)(4)(B), (C), is classified to section 7801 of Title 20, Education.

PRIOR PROVISIONS

A prior section 504, added Pub. L. 90–495, §30, Aug. 23, 1968, 82 Stat. 831, related to Federal reimbursement for highway relocation assistance, prior to repeal by Pub. L. 91–646, title II, §220(a)(10), Jan. 2, 1971, 84 Stat. 1903.

AMENDMENTS

2021—Subsec. (e)(1)(D). Pub. L. 117–58, §13007(a)(1)(B), added subpar. (D). Former subpar. (D) redesignated (E).

Subsec. (e)(1)(E). Pub. L. 117–58, §13007(a)(1)(A), (C), redesignated subpar. (D) as (E) and substituted ", college, community college, or vocational school" for "or community college". Former subpar. (E) redesignated (F).

Subsec. (e)(1)(F) to (I). Pub. L. 117–58, §13007(a)(1)(A), (D), added subpar. (G) and redesignated former subpars. (E) to (G) as (F), (H), and (I), respectively.

Subsec. (e)(2). Pub. L. 117–58, §13007(a)(2), substituted "paragraph (1)(I)" for "paragraph (1)(G)".

Subsec. (e)(3). Pub. L. 117–58, §13007(a)(3), inserted dash after "including" and subpar. (A) designation before "activities" and added subpars. (B) to (D).

Subsec. (f). Pub. L. 117–58, §13007(b)(1), substituted "and Training Development and Deployment" for "Development" in heading.

Subsec. (f)(1). Pub. L. 117–58, §13007(b)(2), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: "The Secretary shall establish a program to make grants to institutions of

higher education that, in partnership with industry or State departments of transportation, will develop, test, and revise new curricula and education programs to train individuals at all levels of the transportation workforce."

Subsec. (f)(2). Pub. L. 117–58, §13007(b)(3)(A), substituted "may" for "shall" in introductory provisions.

Subsec. (f)(2)(A). Pub. L. 117–58, §13007(b)(3)(B), inserted "current or future" after "specific".

Subsec. (f)(2)(E). Pub. L. 117–58, §13007(b)(3)(C), struck out "in nontraditional departments" after "curricula" and inserted "construction," after "such as" and "or emerging" after "industrial".

Subsec. (f)(3), (4). Pub. L. 117–58, §13007(b)(4), (5), added par. (3) and redesignated former par. (3) as (4).

Subsec. (g)(6). Pub. L. 117–58, §11525(s), substituted "make grants to" for "make grants or to".

Subsec. (i). Pub. L. 117–58, §13007(c), added subsec. (i).

2015—Subsec. (a)(4). Pub. L. 114–94 substituted "104(b)(2)" for "104(b)(3)" and "surface transportation block grant program" for "surface transportation program".

Subsec. (d)(4)(B), (C). Pub. L. 114–95 substituted "section 8101 of the Elementary and Secondary Education Act of 1965" for "section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)".

2012—Subsec. (a)(2)(A). Pub. L. 112–141, §52004(1)(A), inserted "and the employees of any other applicable Federal agency" before the semicolon at end.

Subsec. (a)(3)(A)(ii)(V). Pub. L. 112–141, §52004(1)(B), substituted "reducing the amount of time required for" for "expediting".

Subsec. (b)(3). Pub. L. 112–141, §52004(2), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: "The Federal share of the cost of activities carried out by the tribal technical assistance centers under paragraph (2)(D)(ii) shall be 100 percent."

Subsec. (c)(2). Pub. L. 112–141, §52004(3), designated existing provisions as subpar. (A), inserted subpar. heading, substituted ", which program" for ". The program", and added subpar. (B).

Subsec. (e)(1). Pub. L. 112–141, §52004(4)(A)(i), substituted "paragraphs (1) through (4) of section 104(b)" for "sections 104(b)(1), 104(b)(2), 104(b)(3), 104(b)(4), and 144(e)" in introductory provisions.

Subsec. (e)(1)(F), (G). Pub. L. 112–141, §52004(4)(A)(ii)–(iv), added subpars. (F) and (G).

Subsec. (e)(2). Pub. L. 112–141, §52004(4)(B), inserted ", except for activities carried out under paragraph (1)(G), for which the Federal share shall be 50 percent" before the period at end.

Subsec. (f). Pub. L. 112–141, §52004(5), struck out "PILOT" before "PROGRAM" in heading.

Subsec. (g)(4)(F). Pub. L. 112–141, §52004(6), substituted "stewardship" for "excellence".

Subsec. (h). Pub. L. 112–141, §52004(7), added subsec. (h).

2005—Subsec. (a)(3). Pub. L. 109–59, §5204(a)(1), reenacted heading without change and amended text of par. (3) generally. Prior to amendment, text read as follows: "The Institute may develop and administer courses in modern developments, techniques, methods, regulations, management, and procedures relating to surface transportation, environmental mitigation and compliance, acquisition of rights-of-way, relocation assistance, engineering, safety, construction, maintenance and operations, contract administration, motor carrier safety activities, inspection, and highway finance."

Subsec. (b). Pub. L. 109–59, §5204(b), reenacted heading without change and amended text of subsec. (b) generally, substituting provisions relating to authority to carry out a local technical assistance program, authority to make grants and enter into cooperative agreements and contracts, and Federal share of the cost of activities carried out by tribal technical assistance centers, consisting of pars. (1) to (3), for provisions relating to authority to carry out a local technical assistance program and authority to make grants and enter into cooperative agreements and contracts, consisting of pars. (1) and (2).

Subsec. (d). Pub. L. 109–59, §5204(d)(1), added subsec. (d).

Subsecs. (e), (f). Pub. L. 109–59, §5204(e), added subsecs. (e) and (f).

Subsec. (g). Pub. L. 109–59, §5204(h)(1), added subsec. (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of Title 20, Education.

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

CENTER FOR TRANSPORTATION ADVANCEMENT AND REGIONAL DEVELOPMENT

Pub. L. 109–59, title V, §5504, Aug. 10, 2005, 119 Stat. 1822, provided that:

"(a) ESTABLISHMENT.—The Secretary [of Transportation] shall establish a Center for Transportation Advancement and Regional Development (referred to in this section as the 'Center') to assist, through training, education, and research, in the comprehensive development of small metropolitan and rural regional transportation systems that are responsive to the needs of businesses and local communities.

"(b) ACTIVITIES.—In carrying out this section, the Center shall—

"(1) provide training, information, and professional resources for small metropolitan and rural regions to pursue innovative strategies to expand the capabilities, capacity, and effectiveness of a region's transportation network, including activities related to freight projects, transit system upgrades, roadways and bridges, and intermodal transfer facilities and operations;

"(2) assist local officials, rural transportation and economic development planners, officials from State departments of transportation and economic development, business leaders, and other stakeholders in developing public-private partnerships to enhance their transportation systems; and

"(3) promote the leveraging of regional transportation planning with regional economic and business development planning to assure that appropriate transportation systems are created.

"(c) PROGRAM ADMINISTRATION.—To carry out this section, the Secretary [of Transportation] shall make a grant to, or enter into a cooperative agreement or contract with the National Association of Development Organizations.

"(d) FUNDING.—

"(1) IN GENERAL.—Of the amounts made available by section 5101(a)(1) of this Act [119 Stat. 1779], $625,000 shall be available for each of fiscal years 2006 through 2009 to carry out this section.

"(2) FEDERAL SHARE.—The Federal share of the cost of activities carried out in accordance with this subsection shall be 100 percent."

TRANSPORTATION SCHOLARSHIP OPPORTUNITIES PROGRAM

Pub. L. 109–59, title V, §5505, Aug. 10, 2005, 119 Stat. 1822, provided that:

"(a) IN GENERAL.—

"(1) ESTABLISHMENT OF PROGRAM.—The Secretary [of Transportation] may establish and implement a scholarship program for the purpose of attracting qualified students for transportation-related critical jobs.

"(2) PARTNERSHIP.—The Secretary may establish the program in partnership with appropriate nongovernmental institutions.

"(b) PARTICIPATION.—An operating administration of the Department and the Office of Inspector General may participate in the scholarship program.

"(c) FUNDING.—Notwithstanding any other provision of law, the Secretary [of Transportation] may use funds available to an operating administration or from the Office of Inspector General of the Department for the purpose of carrying out this section."

§505. State planning and research

(a) GENERAL RULE.—Two percent of the sums apportioned to a State for fiscal year 1998 and each fiscal year thereafter under paragraphs (1) through (5) of section 104(b) shall be available for expenditure by the State, in consultation with the Secretary, only for the following purposes:

(1) Engineering and economic surveys and investigations.

(2) The planning of future highway programs and local public transportation systems and the planning of the financing of such programs and systems, including metropolitan and statewide planning under sections 134 and 135.

(3) Development and implementation of management systems, plans, and processes under sections 119, 148, 149, and 167.

(4) Studies of the economy, safety, and convenience of surface transportation systems and the desirable regulation and equitable taxation of such systems.

(5) Research, development, and technology transfer activities necessary in connection with the planning, design, construction, management, and maintenance of highway, public transportation, and intermodal transportation systems.

(6) Study, research, and training on the engineering standards and construction materials for transportation systems described in paragraph (5), including the evaluation and accreditation of inspection and testing and the regulation and taxation of their use.

(7) The conduct of activities relating to the planning of real-time monitoring elements.

(b) MINIMUM EXPENDITURES ON RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—

(1) IN GENERAL.—Subject to paragraph (2), not less than 25 percent of the funds subject to subsection (a) that are apportioned to a State for a fiscal year shall be expended by the State for research, development, and technology transfer activities described in subsection (a), relating to highway, public transportation, and intermodal transportation systems.

(2) WAIVERS.—The Secretary may waive the application of paragraph (1) with respect to a State for a fiscal year if the State certifies to the Secretary for the fiscal year that total expenditures by the State for transportation planning under sections 134 and 135 will exceed 75 percent of the funds described in paragraph (1) and the Secretary accepts such certification.

(3) NONAPPLICABILITY OF ASSESSMENT.—Funds expended under paragraph (1) shall not be considered to be part of the extramural budget of the agency for the purpose of section 9 of the Small Business Act (15 U.S.C. 638).

(c) IMPLEMENTATION OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM FINDINGS AND RESULTS.—

(1) FUNDS.—A State shall make available to the Secretary to carry out section 503(c)(2)(C) a percentage of funds subject to subsection (a) that are apportioned to that State, that is agreed to by ¾ of States for each of fiscal years 2013 and 2014.

(2) TREATMENT OF FUNDS.—Funds expended under paragraph (1) shall not be considered to be part of the extramural budget of the agency for the purpose of section 9 of the Small Business Act (15 U.S.C. 638).

(d) FEDERAL SHARE.—The Federal share of the cost of a project carried out using funds subject to subsection (a) shall be 80 percent unless the Secretary determines that the interests of the Federal-aid highway program would be best served by decreasing or eliminating the non-Federal share.

(e) ADMINISTRATION OF SUMS.—Funds subject to subsection (a) shall be combined and administered by the Secretary as a single fund and shall be available for obligation for the period described in section 118(b).

(Added Pub. L. 105–178, title V, §5105, June 9, 1998, 112 Stat. 432; amended Pub. L. 109–59, title V, §5205, Aug. 10, 2005, 119 Stat. 1795; Pub. L. 112–141, div. E, title II, §52005, July 6, 2012, 126 Stat. 882; Pub. L. 114–94, div. A, title I, §1104(e)(6), Dec. 4, 2015, 129 Stat. 1332.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 505, added Pub. L. 90–495, §30, Aug. 23, 1968, 82 Stat. 831, related to highway relocation assistance payments, prior to repeal by Pub. L. 91–646, title II, §220(a)(10), Jan. 2, 1971, 84 Stat. 1903.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–94 substituted "through (5)" for "through (4)" in introductory provisions.

2012—Subsec. (a). Pub. L. 112–141, §52005(1)(A), substituted "paragraphs (1) through (4) of section 104(b)" for "section 104 (other than sections 104(f) and 104(h)) and under section 144" in introductory

provisions.

Subsec. (a)(3). Pub. L. 112–141, §52005(1)(B), substituted ", plans, and processes under sections 119, 148, 149, and 167" for "under section 303".

Subsecs. (c), (d). Pub. L. 112–141, §52005(2), (3), added subsec. (c) and redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 112–141, §52005(2), (4), redesignated subsec. (d) as (e) and substituted "section 118(b)" for "section 118(b)(2)".

2005—Subsec. (a)(7). Pub. L. 109–59, §5205(1), added par. (7).

Subsec. (d). Pub. L. 109–59, §5205(2), substituted "for the period described in section 118(b)(2)" for "for the same period as funds apportioned under section 104(b)(1)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

ALASKA HIGHWAY STUDY

Pub. L. 87–866, §13, Oct. 23, 1962, 76 Stat. 1149, as amended by Pub. L. 97–449, §2(a), Jan. 12, 1983, 96 Stat. 2439, provided that:

"(a) The Secretary of Transportation, in cooperation with the State of Alaska, is hereby authorized to make engineering studies and estimates and planning surveys relative to a highway construction program for the State of Alaska, and, in accordance with treaties or other agreements to be negotiated with Canada by the Secretary of State in consultation with the Secretary of Transportation, engineering studies, estimates, and planning surveys relative to connecting Alaskan roads with Canadian roads at the International boundary.

"(b) On or before May 15, 1964, the Secretary of Transportation shall submit a report to the Congress which shall include—

"(1) an analysis of the adequacy of the Federal-aid highway program to provide for a satisfactory program in both the populated and the undeveloped areas in Alaska;

"(2) specific recommendations as to the construction of roads through undeveloped areas of Alaska and connection of such roads with Canadian roads at the International boundary; and

"(3) a feasible program for implementing such specific recommendations, including cost estimates, recommendations as to the sharing of cost responsibilities, and other pertinent matters.

"(c) From time to time, either before or after submission of the report provided for in subsection (b) of this section, the Secretary of Transportation may submit recommendations to the Congress with respect to the construction of particular highways to carry out the purposes of this section.

"(d) Nothing in this section shall be construed as creating any obligation in the Congress, express or implied, to carry out the recommendations referred to in subsections (b) and (c).

"(e) There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to be available until expended, the sum of $800,000 for the purpose of making the studies, surveys, and report authorized by subsections (a) and (b) hereof."

[§§506, 507. Repealed. Pub. L. 112–141, div. E, title II, §§52006(a), 52007(a), July 6, 2012, 126 Stat. 882]

Section 506, added Pub. L. 105–178, title V, §5106, June 9, 1998, 112 Stat. 433; amended Pub. L. 109–59, title V, §5206(a), Aug. 10, 2005, 119 Stat. 1795, related to international highway transportation outreach program.

A prior section 506, added Pub. L. 90–495, §30, Aug. 23, 1968, 82 Stat. 832; amended Pub. L. 91–605, title I, §137, Dec. 31, 1970, 84 Stat. 1735, related to replacement housing, prior to repeal by Pub. L. 91–646, title II, §220(a)(10), Jan. 2, 1971, 84 Stat. 1903.

Section 507, added Pub. L. 105–178, title V, §5107, June 9, 1998, 112 Stat. 434; amended Pub. L. 109–59, title V, §5207(a), Aug. 10, 2005, 119 Stat. 1797, related to surface transportation-environmental cooperative

research program.

A prior section 507, added Pub. L. 90–495, §30, Aug. 23, 1968, 82 Stat. 832, related to expenses incidental to transfer of property, prior to repeal by Pub. L. 91–646, title II, §220(a)(10), Jan. 2, 1971, 84 Stat. 1903.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

[§508. Repealed. Pub. L. 114–94, div. A, title VI, §6019(d)(1)(A), Dec. 4, 2015, 129 Stat. 1581]

Section, added Pub. L. 105–178, title V, §5108, June 9, 1998, 112 Stat. 435; amended Pub. L. 109–59, title V, §5208(a), Aug. 10, 2005, 119 Stat. 1798; Pub. L. 112–141, div. E, title II, §52013, July 6, 2012, 126 Stat. 897, related to transportation research and development strategic planning.

A prior section 508, added Pub. L. 90–495, §30, Aug. 23, 1968, 82 Stat. 833, related to highway relocation services, prior to repeal by Pub. L. 91–646, title II, §220(a)(10), Jan. 2, 1971, 84 Stat. 1903.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

[§509. Repealed. Pub. L. 112–141, div. E, title II, §52008(a), July 6, 2012, 126 Stat. 882]

Section, added Pub. L. 109–59, title V, §5209(a), Aug. 10, 2005, 119 Stat. 1800, related to national cooperative freight transportation research program.

A prior section 509, added Pub. L. 90–495, §30, Aug. 23, 1968, 82 Stat. 833, related to relocation assistance programs on Federal highway projects, prior to repeal by Pub. L. 91–646, title II, §220(a)(10), Jan. 2, 1971, 84 Stat. 1903.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§510. Future strategic highway research program

(a) ESTABLISHMENT.—The Secretary, in consultation with the American Association of State Highway and Transportation Officials, shall establish and carry out, acting through the National Research Council of the National Academy of Sciences, the future strategic highway research program.

(b) COOPERATIVE AGREEMENTS.—The Secretary may make grants to, and enter into cooperative agreements with, the American Association of State Highway and Transportation Officials and the National Academy of Sciences to carry out such activities under this section as the Secretary determines are appropriate.

(c) PROGRAM PRIORITIES.—

(1) PROGRAM ELEMENTS.—The program established under this section shall be based on

the National Research Council Special Report 260, entitled "Strategic Highway Research: Saving Lives, Reducing Congestion, Improving Quality of Life" and the results of the detailed planning work subsequently carried out in 2002 and 2003 to identify the research areas through National Cooperative Research Program Project 20–58. The research program shall include an analysis of the following:

(A) Renewal of aging highway infrastructure with minimal impact to users of the facilities.

(B) Driving behavior and likely crash causal factors to support improved countermeasures.

(C) Reducing highway congestion due to nonrecurring congestion.

(D) Planning and designing new road capacity to meet mobility, economic, environmental, and community needs.

(2) DISSEMINATION OF RESULTS.—The research results of the program, expressed in terms of technologies, methodologies, and other appropriate categorizations, shall be disseminated to practicing engineers for their use, as soon as practicable.

(d) PROGRAM ADMINISTRATION.—In carrying out the program under this section, the National Research Council shall ensure, to the maximum extent practicable, that—

(1) projects and researchers are selected to conduct research for the program on the basis of merit and open solicitation of proposals and review by panels of appropriate experts;

(2) State department of transportation officials and other stakeholders, as appropriate, are involved in the governance of the program at the overall program level and technical level through the use of expert panels and committees;

(3) the Council acquires a qualified, permanent core staff with the ability and expertise to manage the program and multiyear budget; and

(4) there is no duplication of research effort between the program and any other research effort of the Department.

(e) REPORT ON IMPLEMENTATION OF RESULTS.—

(1) REPORT.—The Transportation Research Board of the National Research Council shall complete a report on the strategies and administrative structure to be used for implementation of the results of the future strategic highway research program.

(2) COMPONENTS.—The report under paragraph (1) shall include with respect to the program—

(A) an identification of the most promising results of research under the program (including the persons most likely to use the results);

(B) a discussion of potential incentives for, impediments to, and methods of, implementing those results;

(C) an estimate of costs of implementation of those results; and

(D) recommendations on methods by which implementation of those results should be conducted, coordinated, and supported in future years, including a discussion of the administrative structure and organization best suited to carry out those recommendations.

(3) CONSULTATION.—In developing the report, the Transportation Research Board shall consult with a wide variety of stakeholders, including—

(A) the Federal Highway Administration;

(B) the National Highway Traffic Safety Administration; and

(C) the American Association of State Highway and Transportation Officials.

(4) SUBMISSION.—Not later than February 1, 2009, the report shall be submitted to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(f) FUNDING.—

(1) FEDERAL SHARE.—The Federal share of the cost of an activity carried out using amounts made available under a grant or cooperative agreement under this section shall be 100 percent, and such funds shall remain available until expended.

(2) ADVANCE PAYMENTS.—The Secretary may make advance payments as necessary to carry out the program under this section.

(g) LIMITATION OF REMEDIES.—

(1) SAME REMEDY AS IF UNITED STATES.—The remedy against the United States provided by sections 1346(b) and 2672 of title 28 for injury, loss of property, personal injury, or death shall apply to any claim against the National Academy of Sciences for money damages for injury, loss of property, personal injury, or death caused by any negligent or wrongful act or omission by employees and individuals described in paragraph (3) arising from activities conducted under or in connection with this section. Any such claim shall be subject to the limitations and exceptions which would be applicable to such claim if such claim were against the United States. With respect to any such claim, the Secretary shall be treated as the head of the appropriate Federal agency for purposes of sections 2672 and 2675 of title 28.

(2) EXCLUSIVENESS OF REMEDY.—The remedy referred to in paragraph (1) shall be exclusive of any other civil action or proceeding for the purpose of determining liability arising from any such act or omission without regard to when the act or omission occurred.

(3) TREATMENT.—Employees of the National Academy of Sciences and other individuals appointed by the president of the National Academy of Sciences and acting on its behalf in connection with activities carried out under this section shall be treated as if they are employees of the Federal Government under section 2671 of title 28 for purposes of a civil action or proceeding with respect to a claim described in paragraph (1). The civil action or proceeding shall proceed in the same manner as any proceeding under chapter 171 of title 28 or action against the United States filed pursuant to section 1346(b) of title 28 and shall be subject to the limitations and exceptions applicable to such a proceeding or action.

(4) SOURCES OF PAYMENTS.—Payment of any award, compromise, or settlement of a civil action or proceeding with respect to a claim described in paragraph (1) shall be paid first out of insurance maintained by the National Academy of Sciences, second from funds made available to carry out this section, and then from sums made available under section 1304 of title 31. For purposes of such section, such an award, compromise, or settlement shall be deemed to be a judgment, award, or settlement payable under section 2414 or 2672 of title 28. The Secretary may establish a reserve of funds to carry out this section for making payments under this paragraph.

(h) IMPLEMENTATION.—Notwithstanding any other provision of this section, the Secretary may use funds made available to carry out this section for implementation of research products related to the future strategic highway research program, including development, demonstration, evaluation, and technology transfer activities.

(Added Pub. L. 109–59, title V, §5210(a), Aug. 10, 2005, 119 Stat. 1801; amended Pub. L. 111–322, title II, §2203(d), Dec. 22, 2010, 124 Stat. 3526.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 510, added Pub. L. 91–605, title I, §117(b), Dec. 31, 1970, 84 Stat. 1724, related to construction of replacement housing, prior to repeal by Pub. L. 91–646, title II, §220(a)(10), Jan. 2, 1971, 84 Stat. 1903.

Another prior section 510 was renumbered section 511 of this title and subsequently repealed.

AMENDMENTS

2010—Subsec. (h). Pub. L. 111–322 added subsec. (h).

§511. Multistate corridor operations and management

(a) IN GENERAL.—The Secretary shall encourage multistate cooperative agreements, coalitions, or other arrangements to promote regional cooperation, planning, and shared project implementation for programs and projects to improve transportation system management and operations.

(b) INTERSTATE ROUTE 95 CORRIDOR COALITION TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—The Secretary shall make grants under this subsection to States to continue intelligent transportation system management and operations in the Interstate Route 95 corridor coalition region initiated under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240).

(Added Pub. L. 109–59, title V, §5211(a), Aug. 10, 2005, 119 Stat. 1804.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (b), is Pub. L. 102–240, Dec. 18, 1991, 105 Stat. 1914. For complete classification of this Act to the Code, see Short Title of 1991 Amendment note set out under section 101 of Title 49, Transportation, and Tables.

PRIOR PROVISIONS

A prior section 511, formerly 510, added Pub. L. 90–495, §30, Aug. 23, 1968, 82 Stat. 834; renumbered §511, Pub. L. 91–605, title I, §117(a), Dec. 31, 1970, 84 Stat. 1724, related to authority of Secretary, prior to repeal by Pub. L. 91–646, title II, §220(a)(10), Jan. 2, 1971, 84 Stat. 1903.

Another prior section 511 was renumbered section 512 of this title and subsequently repealed.

§512. National ITS program plan

(a) IN GENERAL.—

(1) UPDATES.—Not later than 1 year after the date of enactment of the SAFETEA–LU, the Secretary, in consultation with interested stakeholders (including State transportation departments) shall develop a 5-year National Intelligent Transportation System (in this section referred to as "ITS") program plan.

(2) SCOPE.—The National ITS program plan shall—

(A) specify the goals, objectives, and milestones for the research and deployment of intelligent transportation systems in the contexts of—

(i) major metropolitan areas;

(ii) smaller metropolitan and rural areas; and

(iii) commercial vehicle operations;

(B) specify the manner in which specific programs and projects will achieve the goals, objectives, and milestones referred to in subparagraph (A), including consideration of a 5-year timeframe for the goals and objectives;

(C) identify activities that provide for the dynamic development, testing, and necessary revision of standards and protocols to promote and ensure interoperability in the implementation of intelligent transportation system technologies, including actions taken to establish standards; and

(D) establish a cooperative process with State and local governments for—

(i) determining desired surface transportation system performance levels; and

(ii) developing plans for accelerating the incorporation of specific intelligent transportation system capabilities into surface transportation systems.

(b) REPORTING.—The National ITS program plan shall be submitted and biennially updated.

(Added Pub. L. 109–59, title V, §5301(a), Aug. 10, 2005, 119 Stat. 1804; amended Pub. L. 114–94,

div. A, title VI, §6019(d)(1)(D), Dec. 4, 2015, 129 Stat. 1581.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the SAFETEA–LU, referred to in subsec. (a)(1), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

PRIOR PROVISIONS

A prior section 512, formerly 511, added Pub. L. 90–495, §30, Aug. 23, 1968, 82 Stat. 834; renumbered §512, Pub. L. 91–605, title I, §117(a), Dec. 31, 1970, 84 Stat. 1724, related to definitions for chapter, prior to repeal by Pub. L. 91–646, title II, §220(a)(10), Jan. 2, 1971, 84 Stat. 1903.

AMENDMENTS

2015—Subsec. (b). Pub. L. 114–94 struck out "as part of the transportation research and development strategic plan developed under section 508" before period at end.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

INTELLIGENT TRANSPORTATION SYSTEM PROGRAM

Pub. L. 109–59, title V, §§5303–5310, Aug. 10, 2005, 119 Stat. 1806–1813, as amended by Pub. L. 114–94, div. A, title VI, §6019(d)(3), Dec. 4, 2015, 129 Stat. 1582; Pub. L. 117–286, §4(a)(176), (177), Dec. 27, 2022, 136 Stat. 4325, provided that:

"SEC. 5303. GOALS AND PURPOSES.

"(a) GOALS.—The goals of the intelligent transportation system program include—

"(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade to enable existing facilities to meet a significant portion of future transportation needs, including public access to employment, goods, and services and to reduce regulatory, financial, and other transaction costs to public agencies and system users;

"(2) achievement of national transportation safety goals, including the enhancement of safe operation of motor vehicles and nonmotorized vehicles and improved emergency response to a crash, with particular emphasis on decreasing the number and severity of collisions;

"(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments to achieve national environmental goals;

"(4) accommodation of the needs of all users of surface transportation systems, including operators of commercial motor vehicles, passenger motor vehicles, motorcycles, bicycles and pedestrians, including individuals with disabilities; and

"(5) improvement of the Nation's ability to respond to security-related or other manmade emergencies and natural disasters and enhancement of national defense mobility.

"(b) PURPOSES.—The Secretary [of Transportation] shall implement activities under the intelligent system transportation program to, at a minimum—

"(1) expedite, in both metropolitan and rural areas, deployment and integration of intelligent transportation systems for consumers of passenger and freight transportation;

"(2) ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for consideration in the transportation planning process;

"(3) improve regional cooperation and operations planning for effective intelligent transportation system deployment;

"(4) promote the innovative use of private resources;

"(5) facilitate, in cooperation with the motor vehicle industry, the introduction of vehicle-based safety enhancing systems;

"(6) support the application of intelligent transportation systems that increase the safety and efficiency of commercial motor vehicle operations;

"(7) develop a workforce capable of developing, operating, and maintaining intelligent transportation systems; and

"(8) provide continuing support for operations and maintenance of intelligent transportation systems.

"SEC. 5304. INFRASTRUCTURE DEVELOPMENT.

"Funds made available to carry out this subtitle [subtitle C (§§5301–5310) of title V of Pub. L. 109–59, enacting this section and section 513 of this title] for operational tests—

"(1) shall be used primarily for the development of intelligent transportation system infrastructure; and

"(2) to the maximum extent practicable, shall not be used for the construction of physical highway and public transportation infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project.

"SEC. 5305. GENERAL AUTHORITIES AND REQUIREMENTS.

"(a) SCOPE.—Subject to the provisions of this subtitle [subtitle C (§§5301–5310) of title V of Pub. L. 109–59, enacting this section and section 513 of this title], the Secretary [of Transportation] shall conduct an ongoing intelligent transportation system program to research, develop, and operationally test intelligent transportation systems and to provide technical assistance in the nationwide application of those systems as a component of the surface transportation systems of the United States.

"(b) POLICY.—Intelligent transportation system research projects and operational tests funded pursuant to this subtitle shall encourage and not displace public-private partnerships or private sector investment in such tests and projects.

"(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.—The Secretary shall carry out the intelligent transportation system program in cooperation with State and local governments and other public entities, the private sector firms of the United States, the Federal laboratories, and colleges and universities, including historically Black colleges and universities and other minority institutions of higher education.

"(d) CONSULTATION WITH FEDERAL OFFICIALS.—In carrying out the intelligent transportation system program, the Secretary shall consult with the heads of other Federal departments and agencies, as appropriate.

"(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

"(f) TRANSPORTATION PLANNING.—The Secretary may provide funding to support adequate consideration of transportation systems management and operations, including intelligent transportation systems, within metropolitan and statewide transportation planning processes.

"(g) INFORMATION CLEARINGHOUSE.—

"(1) IN GENERAL.—The Secretary shall—

"(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subtitle (including the amendments made by this subtitle); and

"(B) make, on request, that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

"(2) AGREEMENT.—

"(A) IN GENERAL.—The Secretary may enter into an agreement with a third party for the maintenance of the repository for technical and safety data under paragraph (1)(A).

"(B) FEDERAL FINANCIAL ASSISTANCE.—If the Secretary enters into an agreement with an entity for the maintenance of the repository, the entity shall be eligible for Federal financial assistance under this section.

"(3) AVAILABILITY OF INFORMATION.—Information in the repository shall not be subject to sections 552 and 555 of title 5, United States Code.

"(h) ADVISORY COMMITTEE.—

"(1) IN GENERAL.—The Secretary shall establish an Advisory Committee to advise the Secretary on carrying out this subtitle.

"(2) MEMBERSHIP.—The Advisory Committee shall have no more than 20 members, be balanced between metropolitan and rural interests, and include, at a minimum—

"(A) a representative from a State highway department;

"(B) a representative from a local highway department who is not from a metropolitan planning organization;

"(C) a representative from a State, local, or regional transit agency;

"(D) a representative from a metropolitan planning organization;

"(E) a private sector user of intelligent transportation system technologies;

"(F) an academic researcher with expertise in computer science or another information science field related to intelligent transportation systems, and who is not an expert on transportation issues;

"(G) an academic researcher who is a civil engineer;

"(H) an academic researcher who is a social scientist with expertise in transportation issues;

"(I) a representative from a nonprofit group representing the intelligent transportation system industry;

"(J) a representative from a public interest group concerned with safety;

"(K) a representative from a public interest group concerned with the impact of the transportation system on land use and residential patterns; and

"(L) members with expertise in planning, safety, and operations.

"(3) DUTIES.—The Advisory Committee shall, at a minimum, perform the following duties:

"(A) Provide input into the development of the Intelligent Transportation System aspects of the 5-year strategic plan under [section] 6503 of title 49, United States Code.

"(B) Review, at least annually, areas of intelligent transportation systems research being considered for funding by the Department, to determine—

"(i) whether these activities are likely to advance either the state-of-the-practice or state-of-the-art in intelligent transportation systems;

"(ii) whether the intelligent transportation system technologies are likely to be deployed by users, and if not, to determine the barriers to deployment; and

"(iii) the appropriate roles for government and the private sector in investing in the research and technologies being considered.

"(4) REPORT.—Not later than February 1 of each year after the date of enactment of this Act [Aug. 10, 2005], the Secretary shall transmit to the Congress a report including—

"(A) all recommendations made by the Advisory Committee during the preceding calendar year;

"(B) an explanation of how the Secretary has implemented those recommendations; and

"(C) for recommendations not implemented, the reasons for rejecting the recommendations.

"(5) APPLICABILITY OF CHAPTER 10 OF TITLE 5, UNITED STATES CODE.—The Advisory Committee shall be subject to chapter 10 of title 5, United States Code.

"(i) REPORTING.—

"(1) GUIDELINES AND REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall issue guidelines and requirements for the reporting and evaluation of operational tests and deployment projects carried out under this subtitle.

"(B) OBJECTIVITY AND INDEPENDENCE.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the reporting entity so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this subtitle.

"(C) FUNDING.—The guidelines and requirements issued under subparagraph (A) shall establish reporting funding levels based on the size and scope of each test or project that ensure adequate reporting of the results of the test or project.

"(2) SPECIAL RULE.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the reporting of any test, deployment project, or program assessment activity under this subtitle shall not be subject to chapter 35 of title 44, United States Code.

"SEC. 5306. RESEARCH AND DEVELOPMENT.

"(a) IN GENERAL.—The Secretary [of Transportation] shall carry out a comprehensive program of intelligent transportation system research, development, and operational tests of intelligent vehicles and intelligent infrastructure systems and other similar activities that are necessary to carry out this subtitle [subtitle C (§§5301–5310) of title V of Pub. L. 109–59, enacting this section and section 513 of this title].

"(b) PRIORITY AREAS.—Under the program, the Secretary shall give higher priority to funding projects that—

"(1) enhance mobility and productivity through improved traffic management, incident management, transit management, freight management, road weather management, toll collection, traveler information, or highway operations systems and remote sensing products;

"(2) utilize interdisciplinary approaches to develop traffic management strategies and tools to address multiple impacts of congestion concurrently;

"(3) address traffic management, incident management, transit management, toll collection traveler information, or highway operations systems with goals of—

"(A) reducing metropolitan congestion by not less than 5 percent by 2010;

"(B) ensuring that a national, interoperable 5–1–1 system, along with a national traffic information system that includes a user-friendly, comprehensive website, is fully implemented for use by travelers throughout the United States by September 30, 2010; and

"(C)(i) improving incident management response, particularly in rural areas, so that rural emergency response times are reduced by an average of 10 minutes; and

"(ii) improving communication between emergency care providers and trauma centers;

"(4) incorporate research on the impact of environmental, weather, and natural conditions on intelligent transportation systems, including the effects of cold climates;

"(5) enhance intermodal use of intelligent transportation systems for diverse groups, including for emergency and health-related services;

"(6) enhance safety through improved crash avoidance and protection, crash and other notification, commercial motor vehicle operations, and infrastructure-based or cooperative safety systems; and

"(7) facilitate the integration of intelligent infrastructure, vehicle, and control technologies.

"(c) FEDERAL SHARE.—The Federal share of the cost of operational tests and demonstrations under subsection (a) shall not exceed 80 [sic].

"SEC. 5307. NATIONAL ARCHITECTURE AND STANDARDS.

"(a) IN GENERAL.—

"(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—Consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 [Pub. L. 104–113] (15 U.S.C. 272 note; 110 Stat. 783), the Secretary [of Transportation] shall develop, implement, and maintain a national architecture and supporting standards and protocols to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

"(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the national architecture shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the United States.

"(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—In carrying out this section, the Secretary shall use the services of such standards development organizations as the Secretary determines to be appropriate.

"(4) USE OF EXPERT PANEL.—

"(A) DESIGNATION.—The Secretary shall designate a panel of experts to recommend ways to expedite and streamline the process for developing the standards and protocols to be developed pursuant to paragraph (1).

"(B) NONAPPLICABILITY OF CHAPTER 10 OF TITLE 5, UNITED STATES CODE.—The expert panel shall not be subject to chapter 10 of title 5, United States Code.

"(C) DEADLINE FOR RECOMMENDATION.—Not later than September 30, 2007, the expert panel shall provide the Secretary with a recommendation relating to such standards development.

"(b) PROVISIONAL STANDARDS.—

"(1) IN GENERAL.—If the Secretary finds that the development or balloting of an intelligent transportation system standard jeopardizes the timely achievement of the objectives identified in subsection (a), the Secretary may establish a provisional standard, after consultation with affected parties, using, to the extent practicable, the work product of appropriate standards development organizations.

"(2) PERIOD OF EFFECTIVENESS.—A provisional standard established under paragraph (1) shall be published in the Federal Register and remain in effect until the appropriate standards development organization adopts and publishes a standard.

"(c) CONFORMITY WITH NATIONAL ARCHITECTURE.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including funds made available under this subtitle to deploy intelligent transportation system technologies, conform to the national architecture, applicable standards or provisional standards, and protocols developed under subsection (a).

"(2) SECRETARY'S DISCRETION.—The Secretary may authorize exceptions to paragraph (1) for—

"(A) projects designed to achieve specific research objectives outlined in the national intelligent transportation system program plan or the surface transportation research and development strategic plan developed under section 508 of title 23, United States Code; or

"(B) the upgrade or expansion of an intelligent transportation system in existence on the date of enactment of this Act [Aug. 10, 2005] if the Secretary determines that the upgrade or expansion—

"(i) would not adversely affect the goals or purposes of this subtitle [subtitle C (§§5301–5310) of title V of Pub. L. 109–59, enacting this section and section 513 of this title];

"(ii) is carried out before the end of the useful life of such system; and

"(iii) is cost-effective as compared to alternatives that would meet the conformity requirement of paragraph (1).

"(3) EXCEPTIONS.—Paragraph (1) shall not apply to funds used for operation or maintenance of an intelligent transportation system in existence on the date of enactment of this Act.

"SEC. 5308. ROAD WEATHER RESEARCH AND DEVELOPMENT PROGRAM.

"(a) ESTABLISHMENT.—The Secretary [of Transportation] shall establish a road weather research and development program to—

"(1) maximize use of available road weather information and technologies;

"(2) expand road weather research and development efforts to enhance roadway safety, capacity, and efficiency while minimizing environmental impacts; and

"(3) promote technology transfer of effective road weather scientific and technological advances.

"(b) STAKEHOLDER INPUT.—In carrying out this section, the Secretary shall consult with the National Oceanic and Atmospheric Administration, the National Science Foundation, the American Association of State Highway and Transportation Officials, nonprofit organizations, and the private sector.

"(c) CONTENTS.—The program established under this section shall solely carry out research and development called for in the National Research Council's report entitled 'A Research Agenda for Improving Road Weather Services'. Such research and development includes—

"(1) integrating existing observational networks and data management systems for road weather applications;

"(2) improving weather modeling capabilities and forecast tools, such as the road surface and atmospheric interface;

"(3) enhancing mechanisms for communicating road weather information to users, such as transportation officials and the public; and

"(4) integrating road weather technologies into an information infrastructure.

"(d) ACTIVITIES.—In carrying out this section, the Secretary shall—

"(1) enable efficient technology transfer;

"(2) improve education and training of road weather information users, such as State and local transportation officials and private sector transportation contractors; and

"(3) coordinate with transportation weather research programs in other modes, such as aviation.

"(e) FUNDING.—

"(1) IN GENERAL.—In awarding funds under this section, the Secretary shall give preference to applications with significant matching funds from non-Federal sources.

"(2) FUNDS FOR ROAD WEATHER RESEARCH AND DEVELOPMENT.—Of the amounts made available by section 5101(a)(5) of this Act [119 Stat. 1779], $5,000,000 for each of fiscal years 2006 through 2009 shall be available to carry out this section.

"SEC. 5309. CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.

"(a) ESTABLISHMENT.—The Secretary [of Transportation] shall establish 4 centers for surface transportation excellence.

"(b) GOALS.—The goals of the centers for surface transportation excellence are to promote and support strategic national surface transportation programs and activities relating to the work of State departments of transportation in the areas of environment, surface transportation safety, rural safety, and project finance.

"(c) ROLE OF CENTERS.—To achieve the goals set forth in subsection (b), the Secretary shall establish the 4 centers as follows:

"(1) ENVIRONMENTAL EXCELLENCE.—To provide technical assistance, information sharing of best practices, and training in the use of tools and decision-making processes that can assist States in planning and delivering environmentally sound surface transportation projects.

"(2) SURFACE TRANSPORTATION SAFETY.—To develop and disseminate advanced transportation safety techniques and innovations in both rural areas and urban communities. The center will use a controlled access highway with state-of-the-art features, to test safety devices and techniques that enhance driver performance, examine advanced pavement and lighting systems, and develop techniques to address older driver and fatigue driver issues.

"(3) RURAL SAFETY.—To provide research, training, and outreach on innovative uses of technology to enhance rural safety and economic development, assess local community needs to improve access to mobile emergency treatment, and develop online and seminar training needs of rural transportation

practitioners and policy-makers.

"(4) PROJECT FINANCE.—To provide support to State transportation departments in the development of finance plans and project oversight tools and to develop and offer training in state-of-the-art financing methods to advance projects and leverage funds.

"(d) FUNDING.—

"(1) IN GENERAL.—Of the amounts made available by section 5101(a)(1) of this Act [119 Stat. 1779], $3,750,000 for each of fiscal years 2006 through 2009 shall be available to carry out this section.

"(2) ALLOCATION OF FUNDS.—Of the funds made available under paragraph (1) the Secretary shall use such amounts as follows:

"(A) $1,250,000 to establish the Center for Environmental Excellence.

"(B) $750,000 to establish the Center for Excellence in Surface Transportation Safety at the Virginia Tech Transportation Institute.

"(C) $875,000 to establish the Center for Excellence in Rural Safety at the Hubert H. Humphrey Institute, Minnesota.

"(D) $875,000 to establish the Center for Excellence in Project Finance.

"(3) APPLICABILITY OF TITLE 23.—Funds authorized by 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 the Federal share shall be 100 percent.

"(e) PROGRAM ADMINISTRATION.—

"(1) COMPETITION.—A party entering into a contract, cooperative agreement, or other transaction with the Secretary, or receiving a grant to perform research or provide technical assistance under subsections (d)(2)(A) and (d)(2)(D) shall be selected on a competitive basis, to the maximum extent practicable.

"(2) STRATEGIC PLAN.—The Secretary shall require each center to develop a multiyear strategic plan that describes—

"(A) the activities to be undertaken; and

"(B) how the work of the center is coordinated with the activities of the Federal Highway Administration and the various other research, development, and technology transfer activities authorized by this title [see Tables for classification]. Such plans shall be submitted to the Secretary by January 1, 2006, and each year thereafter.

"SEC. 5310. DEFINITIONS.

"In this subtitle [subtitle C (§§5301–5310) of title V of Pub. L. 109–59, enacting this section and section 513 of this title], the following definitions apply:

"(1) INCIDENT.—The term 'incident' means a crash, a natural disaster, workzone activity, special event, or other emergency road user occurrence that adversely affects or impedes the normal flow of traffic.

"(2) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—The term 'intelligent transportation infrastructure' means fully integrated public sector intelligent transportation system components, as defined by the Secretary [of Transportation].

"(3) INTELLIGENT TRANSPORTATION SYSTEM.—The term 'intelligent transportation system' means electronics, photonics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

"(4) NATIONAL ARCHITECTURE.—The term 'national architecture' means the common framework for interoperability that defines—

"(A) the functions associated with intelligent transportation system user services;

"(B) the physical entities or subsystems within which the functions reside;

"(C) the data interfaces and information flows between physical subsystems; and

"(D) the communications requirements associated with the information flows.

"(5) PROJECT.—The term 'project' means an undertaking to research, develop, or operationally test intelligent transportation systems or any other undertaking eligible for assistance under this subtitle.

"(6) STANDARD.—The term 'standard' means a document that—

"(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

"(B) may support the national architecture and promote—

"(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

"(ii) interoperability among intelligent transportation system technologies implemented throughout the States.

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

"(8) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—The term 'transportation systems management and operations' has the meaning given the term under section 101(a) of title 23, United States Code [section 101(a) of this title does not define the term]."

ENVIRONMENTAL REVIEW OF ACTIVITIES THAT SUPPORT DEPLOYMENT OF INTELLIGENT TRANSPORTATION SYSTEMS

Pub. L. 109–59, title VI, §6010, Aug. 10, 2005, 119 Stat. 1877, provided that:

"(a) CATEGORICAL EXCLUSIONS.—Not later than one year after the date of enactment of this Act [Aug. 10, 2005], the Secretary [of Transportation] shall initiate a rulemaking process to establish, to the extent appropriate, categorical exclusions for activities that support the deployment of intelligent transportation infrastructure and systems from the requirement that an environmental assessment or an environmental impact statement be prepared under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) in compliance with the standards for categorical exclusions established by that Act [42 U.S.C. 4321 et seq.].

"(b) NATIONWIDE PROGRAMMATIC AGREEMENT.—

"(1) DEVELOPMENT.—The Secretary [of Transportation] shall develop a nationwide programmatic agreement governing the review of activities that support the deployment of intelligent transportation infrastructure and systems in accordance with section 106 of the National Historic Preservation Act ([former] 16 U.S.C. 470f) [see 54 U.S.C. 306108] and the regulations of the Advisory Council on Historic Preservation.

"(2) CONSULTATION.—The Secretary shall develop the agreement under paragraph (1) in consultation with the National Conference of State Historic Preservation Officers and the Advisory Council on Historic Preservation established under title II of the National Historic Preservation Act (26 [sic] U.S.C. 470i et seq. [former 16 U.S.C. 470i et seq., see 54 U.S.C. 304101 et seq.]) and after soliciting the views of other interested parties.

"(c) INTELLIGENT TRANSPORTATION INFRASTRUCTURE AND SYSTEMS DEFINED.—In this section, the term 'intelligent transportation infrastructure and systems' means intelligent transportation infrastructure and intelligent transportation systems, as such terms are defined in subtitle C of title V of this Act [subtitle C (§§5301–5310) of title V of Pub. L. 109–59, enacting this section and section 513 of this title and provisions set out as a note above]."

§513. Use of funds for ITS activities

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

(1) ELIGIBLE ENTITY.—The term "eligible entity" means a State or local government, tribal government, transit agency, public toll authority, metropolitan planning organization, other political subdivision of a State or local government, or a multistate or multijurisdictional group applying through a single lead applicant.

(2) MULTIJURISDICTIONAL GROUP.—The term "multijurisdictional group" means a combination of State governments, local governments, metropolitan planning agencies, transit agencies, or other political subdivisions of a State that—

(A) have signed a written agreement to implement an activity that meets the grant criteria under this section; and

(B) is comprised of at least 2 members, each of whom is an eligible entity.

(b) PURPOSE.—The purpose of this section is to develop, administer, communicate, and promote the use of products of research, technology, and technology transfer programs.

(c) ITS ADOPTION.—

(1) INNOVATIVE TECHNOLOGIES AND STRATEGIES.—The Secretary shall encourage the deployment of ITS technologies that will improve the performance of the National Highway System in such areas as traffic operations, emergency response, incident management, surface transportation network management, freight management, traffic flow information, and congestion management by accelerating the adoption of innovative technologies through the use of—

(A) demonstration programs;

(B) grant funding;

(C) incentives to eligible entities; and

(D) other tools, strategies, or methods that will result in the deployment of innovative ITS technologies.

(2) COMPREHENSIVE PLAN.—To carry out this section, the Secretary shall develop a detailed and comprehensive plan that addresses the manner in which incentives may be adopted, as appropriate, through the existing deployment activities carried out by surface transportation modal administrations.

(Added Pub. L. 109–59, title V, §5302(a), Aug. 10, 2005, 119 Stat. 1805; amended Pub. L. 112–141, div. E, title III, §53001, July 6, 2012, 126 Stat. 897.)

EDITORIAL NOTES

AMENDMENTS

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section read as follows:

"(a) IN GENERAL.—For each fiscal year, not more than $250,000 of the funds made available to carry out this subtitle C of title V of the SAFETEA–LU shall be used for intelligent transportation system outreach, public relations, displays, tours, and brochures.

"(b) APPLICABILITY.—Subsection (a) shall not apply to intelligent transportation system training, scholarships, or the publication or distribution of research findings, technical guidance, or similar documents."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§514. Goals and purposes

(a) GOALS.—The goals of the intelligent transportation system program include—

(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade to enable existing facilities to meet a significant portion of future transportation needs, including public access to employment, goods, and services and to reduce regulatory, financial, and other transaction costs to public agencies and system users;

(2) achievement of national transportation safety goals, including enhancement of safe operation of motor vehicles and nonmotorized vehicles and improved emergency response to collisions, with particular emphasis on decreasing the number and severity of collisions;

(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments to achieve national environmental goals;

(4) accommodation of the needs of all users of surface transportation systems, including operators of commercial motor vehicles, passenger motor vehicles, motorcycles, bicycles, and pedestrians (including individuals with disabilities);

(5) enhancement of national defense mobility and improvement of the ability of the United States to respond to security-related or other manmade emergencies and natural disasters; and

(6) enhancement of the national freight system and support to national freight policy goals.

(b) PURPOSES.—The Secretary shall implement activities under the intelligent transportation system program, at a minimum—

(1) to expedite, in both metropolitan and rural areas, deployment and integration of intelligent transportation systems for consumers of passenger and freight transportation;

(2) to ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for consideration in the transportation planning process;

(3) to improve regional cooperation and operations planning for effective intelligent transportation system deployment;

(4) to promote the innovative use of private resources in support of intelligent transportation system development;

(5) to facilitate, in cooperation with the motor vehicle industry, the introduction of vehicle-based safety enhancing systems;

(6) to support the application of intelligent transportation systems that increase the safety and efficiency of commercial motor vehicle operations;

(7) to develop a workforce capable of developing, operating, and maintaining intelligent transportation systems;

(8) to provide continuing support for operations and maintenance of intelligent transportation systems;

(9) to ensure a systems approach that includes cooperation among vehicles, infrastructure, and users; and

(10) to assist in the development of cybersecurity research in cooperation with relevant modal administrations of the Department of Transportation and other Federal agencies to help prevent hacking, spoofing, and disruption of connected and automated transportation vehicles.

(Added Pub. L. 112–141, div. E, title III, §53002(a), July 6, 2012, 126 Stat. 898; amended Pub. L. 114–94, div. A, title VI, §§6005, 6006, Dec. 4, 2015, 129 Stat. 1567.)

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (a)(6). Pub. L. 114–94, §6005, added par. (6).
Subsec. (b)(10). Pub. L. 114–94, §6006, added par. (10).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§515. General authorities and requirements

(a) SCOPE.—Subject to the provisions of sections 512 through 518, the Secretary shall conduct an ongoing intelligent transportation system program—

(1) to research, develop, and operationally test intelligent transportation systems; and

(2) to provide technical assistance in the nationwide application of those systems as a component of the surface transportation systems of the United States.

(b) POLICY.—Intelligent transportation system research projects and operational tests funded pursuant to sections 512 through 518 shall encourage and not displace public-private partnerships or private sector investment in those tests and projects.

(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES .—The Secretary shall carry out the intelligent transportation system program in cooperation with State and local governments and other public entities, the private sector firms of the United States, the Federal laboratories, and institutions of higher education, including historically Black colleges and universities and other minority institutions of higher education.

(d) CONSULTATION WITH FEDERAL OFFICIALS.—In carrying out the intelligent

transportation system program, the Secretary shall consult with the heads of other Federal agencies, as appropriate.

(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

(f) TRANSPORTATION PLANNING.—The Secretary may provide funding to support adequate consideration of transportation systems management and operations, including intelligent transportation systems, within metropolitan and statewide transportation planning processes.

(g) INFORMATION CLEARINGHOUSE.—

(1) IN GENERAL.—The Secretary shall—

(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under sections 512 through 518; and

(B) make, on request, that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

(2) AGREEMENT.—

(A) IN GENERAL.—The Secretary may enter into an agreement with a third party for the maintenance of the repository for technical and safety data under paragraph (1)(A).

(B) FEDERAL FINANCIAL ASSISTANCE.—If the Secretary enters into an agreement with an entity for the maintenance of the repository, the entity shall be eligible for Federal financial assistance under this section.

(3) AVAILABILITY OF INFORMATION.—Information in the repository shall not be subject to sections 552 and 555 of title 5, United States Code.

(h) ADVISORY COMMITTEE.—

(1) IN GENERAL.—The Secretary shall establish an Advisory Committee (referred to in this subsection as the "Advisory Committee") to advise the Secretary on carrying out sections 512 through 518.

(2) MEMBERSHIP.—The Advisory Committee shall have no more than 25 members, be balanced between metropolitan and rural interests, and include, at a minimum—

(A) a representative from a State highway department;

(B) a representative from a local highway department who is not from a metropolitan planning organization;

(C) a representative from a State, local, or regional transit agency;

(D) a representative from a State, local, or regional wildlife, land use, or resource management agency;

(E) a representative from a metropolitan planning organization;

(F) a representative of a national transit association;

(G) a representative of a national, State, or local transportation agency or association;

(H) a private sector user of intelligent transportation system technologies;

(I) a private sector developer of intelligent transportation system technologies, which may include emerging vehicle technologies;

(J) an academic researcher with expertise in computer science or another information science field related to intelligent transportation systems, and who is not an expert on transportation issues;

(K) an academic researcher who is a civil engineer;

(L) an academic researcher who is a social scientist with expertise in transportation issues;

(M) an academic researcher who is a biological or ecological scientist with expertise in transportation issues;

(N) a representative from a nonprofit group representing the intelligent transportation system industry;

(O) a representative from a public interest group concerned with safety;

(P) a representative of a labor organization;
(Q) a representative of a mobility-providing entity;
(R) an expert in traffic management;
(S) a representative from a public interest group concerned with the impact of the transportation system on land use and residential patterns;
(T) a representative from a public interest group concerned with the impact of the transportation system on terrestrial and aquatic species and the habitat of those species; and
(U) members with expertise in planning, safety, telecommunications, and operations;
(V) an expert in cybersecurity; and
(W) an automobile manufacturer.

(3) TERM.—
(A) IN GENERAL.—The term of a member of the Advisory Committee shall be 3 years.
(B) RENEWAL.—On expiration of the term of a member of the Advisory Committee, the member—
(i) may be reappointed; or
(ii) if the member is not reappointed under clause (i), may serve until a new member is appointed.

(4) MEETINGS.—The Advisory Committee—
(A) shall convene not less frequently than twice each year; and
(B) may convene with the use of remote video conference technology.

(5) DUTIES.—The Advisory Committee shall, at a minimum, perform the following duties:
(A) Provide input into the development of the intelligent transportation system aspects of the strategic plan under section 6503 of title 49.
(B) Review, at least annually, areas of intelligent transportation systems programs and research being considered for funding by the Department, to determine—
(i) whether these activities are likely to advance either the state-of-the-practice or state-of-the-art in intelligent transportation systems;
(ii) whether the intelligent transportation system technologies are likely to be deployed by users, and if not, to determine the barriers to deployment; and
(iii) the appropriate roles for government and the private sector in investing in the programs, research, and technologies being considered.

(6) REPORT.—Not later than May 1 of each year, the Secretary shall make available to the public on a Department of Transportation website a report that includes—
(A) all recommendations made by the Advisory Committee during the preceding calendar year;
(B) an explanation of the manner in which the Secretary has implemented those recommendations; and
(C) for recommendations not implemented, the reasons for rejecting the recommendations.

(7) APPLICABILITY OF CHAPTER 10 OF TITLE 5, UNITED STATES CODE.—The Advisory Committee shall be subject to chapter 10 of title 5, United States Code.

(i) REPORTING.—
(1) GUIDELINES AND REQUIREMENTS.—
(A) IN GENERAL.—The Secretary shall issue guidelines and requirements for the reporting and evaluation of operational tests and deployment projects carried out under sections 512 through 518.
(B) OBJECTIVITY AND INDEPENDENCE.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of

the reporting entity so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under sections 512 through 518.

(C) FUNDING.—The guidelines and requirements issued under subparagraph (A) shall establish reporting funding levels based on the size and scope of each test or project that ensure adequate reporting of the results of the test or project.

(2) SPECIAL RULE.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the reporting of any test, deployment project, or program assessment activity under sections 512 through 518 shall not be subject to chapter 35 of title 44, United States Code.

(Added Pub. L. 112–141, div. E, title III, §53003(a), July 6, 2012, 126 Stat. 899; amended Pub. L. 114–94, div. A, title I, §1446(a)(14), title VI, §6007, Dec. 4, 2015, 129 Stat. 1438, 1567; Pub. L. 117–58, div. A, title III, §13008(a), div. B, title V, §25001, Nov. 15, 2021, 135 Stat. 641, 836; Pub. L. 117–286, §4(a)(178), Dec. 27, 2022, 136 Stat. 4325.)

EDITORIAL NOTES

AMENDMENTS

2022—Subsec. (h)(7). Pub. L. 117–286, which directed amendment of subsec. (h)(5) by substituting " CHAPTER 10 OF TITLE 5, UNITED STATES CODE" for "FEDERAL ADVISORY COMMITTEE ACT" in heading and "chapter 10 of title 5, United States Code." for "the Federal Advisory Committee Act (5 U.S.C. App.)." in text, was executed by making the substitutions in subsec. (h)(7) to reflect the probable intent of Congress and the prior amendment by Pub. L. 117–58, §25001(4). See 2021 Amendment note, below.

2021—Subsec. (h)(1). Pub. L. 117–58, §25001(1), inserted "(referred to in this subsection as the 'Advisory Committee')" after "an Advisory Committee".

Subsec. (h)(2). Pub. L. 117–58, §25001(2)(A), substituted "25 members" for "20 members" in introductory provisions.

Subsec. (h)(2)(D) to (W). Pub. L. 117–58, §13008(a) and §25001(2)(D)–(G), added various subpars. and successively redesignated existing subpars., resulting in ultimate redesignations of original subpars. as follows: (D) as (E), (E) as (H), (F) as (J), (G) as (K), (H) as (L), (I) as (N), (J) as (O), (K) as (S), and (L) as (U). For newly added subpars., see notes below.

Subsec. (h)(2)(D). Pub. L. 117–58, §13008(a)(3), added subpar. (D).

Subsec. (h)(2)(F), (G). Pub. L. 117–58, §25001(2)(D), added subpars. (F) and (G).

Subsec. (h)(2)(I). Pub. L. 117–58, §25001(2)(E), added subpar. (I).

Subsec. (h)(2)(J). Pub. L. 117–58, §13008(a)(4), added subpar. (J), which was subsequently redesignated (M) by Pub. L. 117–58, §25001(2)(C).

Subsec. (h)(2)(N). Pub. L. 117–58, §13008(a)(5), added subpar. (N), which was subsequently redesignated (T) by Pub. L. 117–58, §25001(2)(C).

Subsec. (h)(2)(O). Pub. L. 117–58, §25001(2)(B), prior to redesignation of subpar. (O) as (U), struck out "utilities," after "telecommunications," and substituted semicolon for period at end.

Subsec. (h)(2)(P) to (R). Pub. L. 117–58, §25001(2)(F), added subpars. (P) to (R).

Subsec. (h)(2)(V), (W). Pub. L. 117–58, §25001(2)(G), added subpars. (V) and (W).

Subsec. (h)(3). Pub. L. 117–58, §25001(5), added par. (3). Former par. (3) redesignated (5).

Subsec. (h)(3)(A). Pub. L. 117–58, §25001(3)(A), substituted "section 6503 of title 49" for "section 508".

Subsec. (h)(3)(B). Pub. L. 117–58, §25001(3)(B)(i), inserted "programs and" before "research" in introductory provisions.

Subsec. (h)(3)(B)(iii). Pub. L. 117–58, §25001(3)(B)(ii), substituted "programs, research, and" for "research and".

Subsec. (h)(4). Pub. L. 117–58, §25001(5), added par. (4). Former par. (4) redesignated (6).

Subsec. (h)(5) to (7). Pub. L. 117–58, §25001(4), redesignated pars. (3) to (5) as (5) to (7), respectively.

2015—Pub. L. 114–94, §1446(a)(14), substituted "sections 512 through 518" for "this chapter" wherever appearing.

Subsec. (h)(4). Pub. L. 114–94, §6007, in introductory provisions, substituted "May 1 of each year" for "February 1 of each year after the date of enactment of the Transportation Research and Innovative Technology Act of 2012" and "make available to the public on a Department of Transportation website" for

"submit to Congress".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 13008(a) of Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§516. Research and development

(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research and development, and operational tests of intelligent vehicles, intelligent infrastructure systems, and other similar activities that are necessary to carry out this chapter.

(b) PRIORITY AREAS.—Under the program, the Secretary shall give higher priority to funding projects that—

(1) enhance mobility and productivity through improved traffic management, incident management, transit management, freight management, road weather management, toll collection, traveler information, or highway operations systems and remote sensing products;

(2) use interdisciplinary approaches to develop traffic management strategies and tools to address multiple impacts of congestion concurrently;

(3) address traffic management, incident management, transit management, toll collection traveler information, or highway operations systems;

(4) incorporate research on the potential impact of environmental, weather, and natural conditions on intelligent transportation systems, including the effects of cold climates;

(5) enhance intermodal use of intelligent transportation systems for diverse groups, including for emergency and health-related services;

(6) enhance safety through improved crash avoidance and protection, crash and other notification, commercial motor vehicle operations, and infrastructure-based or cooperative safety systems, including animal detection systems to reduce the number of wildlife-vehicle collisions; or

(7) facilitate the integration of intelligent infrastructure, vehicle, and control technologies.

(c) FEDERAL SHARE.—The Federal share payable on account of any project or activity carried out under subsection (a) shall not exceed 80 percent.

(Added Pub. L. 112–141, div. E, title III, §53004(a), July 6, 2012, 126 Stat. 902; amended Pub. L. 117–58, div. A, title III, §13008(b), Nov. 15, 2021, 135 Stat. 641.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (b)(6). Pub. L. 117–58 inserted ", including animal detection systems to reduce the number of wildlife-vehicle collisions" after "systems".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§517. National architecture and standards

(a) IN GENERAL.—

(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—In accordance with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783; 115 Stat. 1241), the Secretary shall develop and maintain a national ITS architecture and supporting ITS standards and protocols to promote the use of systems engineering methods in the widespread deployment and evaluation of intelligent transportation systems as a component of the surface transportation systems of the United States.

(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the national ITS architecture and supporting ITS standards and protocols shall promote interoperability among, and efficiency of, intelligent transportation systems and technologies implemented throughout the United States.

(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—In carrying out this section, the Secretary shall support the development and maintenance of standards and protocols using the services of such standards development organizations as the Secretary determines to be necessary and whose memberships include representatives of the surface transportation and intelligent transportation systems industries.

(b) STANDARDS FOR NATIONAL POLICY IMPLEMENTATION.—If the Secretary finds that a standard is necessary for implementation of a nationwide policy relating to user fee collection or other capability requiring nationwide uniformity, the Secretary, after consultation with stakeholders, may establish and require the use of that standard.

(c) PROVISIONAL STANDARDS.—

(1) IN GENERAL.—If the Secretary finds that the development or balloting of an intelligent transportation system standard jeopardizes the timely achievement of the objectives described in subsection (a), the Secretary may establish a provisional standard, after consultation with affected parties, using, to the maximum extent practicable, the work product of appropriate standards development organizations.

(2) PERIOD OF EFFECTIVENESS.—A provisional standard established under paragraph (1) shall be published in the Federal Register and remain in effect until the appropriate standards development organization adopts and publishes a standard.

(d) CONFORMITY WITH NATIONAL ARCHITECTURE.—

(1) In general.—Except as provided in paragraph (2), the Secretary shall ensure that intelligent transportation system projects carried out using amounts made available from the Highway Trust Fund, including amounts made available to deploy intelligent transportation systems, conform to the appropriate regional ITS architecture, applicable standards, and protocols developed under subsection (a) or (c).

(2) DISCRETION OF THE SECRETARY.—The Secretary, at the discretion of the Secretary, may offer an exemption from paragraph (1) for projects designed to achieve specific research objectives outlined in the national intelligent transportation system program plan or the surface transportation research and development strategic plan developed under section 508.[1]

(Added Pub. L. 112–141, div. E, title III, §53005(a), July 6, 2012, 126 Stat. 902; amended Pub. L. 114–94, div. A, title VI, §6008, Dec. 4, 2015, 129 Stat. 1567.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 12(d) of the National Technology Transfer and Advancement Act of 1995, referred to in subsec. (a)(1), is section 12(d) of Pub. L. 104–113, Mar. 7, 1996, 110 Stat. 783, which is set out as a note under section 272 of Title 15, Commerce and Trade.

Section 508, referred to in subsec. (d)(2), was repealed by Pub. L. 114–94, div. A, title VI, §6019(d)(1)(A), Dec. 4, 2015, 129 Stat. 1581, effective Oct. 1, 2015.

AMENDMENTS

2015—Subsec. (a)(3). Pub. L. 114–94 substituted "memberships include representatives of" for "memberships are comprised of, and represent,".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

[1] *See References in Text note below.*

§518. Vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment

(a) IN GENERAL.—Not later than July 6, 2016, the Secretary shall make available to the public on a Department of Transportation website a report that—

(1) assesses the status of dedicated short-range communications technology and applications developed through research and development;

(2) analyzes the known and potential gaps in short-range communications technology and applications;

(3) defines a recommended implementation path for dedicated short-range communications technology and applications that—

(A) is based on the assessment described in paragraph (1); and

(B) takes into account the analysis described in paragraph (2);

(4) includes guidance on the relationship of the proposed deployment of dedicated short-range communications to the National ITS Architecture and ITS Standards; and

(5) ensures competition by not preferencing the use of any particular frequency for vehicle to infrastructure operations.

(b) REPORT REVIEW.—The Secretary shall enter into agreements with the National Research Council and an independent third party with subject matter expertise for the review of the report described in subsection (a).

(Added Pub. L. 112–141, div. E, title III, §53006(a), July 6, 2012, 126 Stat. 904; amended Pub. L. 114–94, div. A, title VI, §6009, Dec. 4, 2015, 129 Stat. 1567.)

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–94, in introductory provisions, substituted "Not later than July 6, 2016, the Secretary shall make available to the public on a Department of Transportation website a report" for "Not later than 3 years after the date of enactment of this section, the Secretary shall submit to the Committees on Commerce, Science, and Transportation and Environment and Public Works of the Senate and the Committees on Transportation and Infrastructure, Energy and Commerce, and Science, Space, and Technology of the House of Representatives".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§519. Infrastructure development

Funds made available to carry out this chapter for operational tests of intelligent transportation systems—

(1) shall be used primarily for the development of intelligent transportation system infrastructure, equipment, and systems; and

(2) to the maximum extent practicable, shall not be used for the construction of physical surface transportation infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project.

(Added Pub. L. 114–94, div. A, title VI, §6010(a), Dec. 4, 2015, 129 Stat. 1567.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

§520. Transportation Resilience and Adaptation Centers of Excellence

(a) DEFINITION OF CENTER OF EXCELLENCE.—In this section, the term "Center of Excellence" means a Center of Excellence for Resilience and Adaptation designated under subsection (b).

(b) DESIGNATION.—The Secretary shall designate 10 regional Centers of Excellence for Resilience and Adaptation and 1 national Center of Excellence for Resilience and Adaptation, which shall serve as a coordinator for the regional Centers, to receive grants to advance research and development that improves the resilience of regions of the United States to natural disasters and extreme weather by promoting the resilience of surface transportation infrastructure and infrastructure dependent on surface transportation.

(c) ELIGIBILITY.—An entity eligible to be designated as a Center of Excellence is—

(1) an institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)); or

(2) a consortium of nonprofit organizations led by an institution of higher education.

(d) APPLICATION.—To be eligible to be designated as a Center of Excellence, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such

information as the Secretary may require, including a proposal that includes a description of the activities to be carried out with a grant under this section.

(e) SELECTION.—

(1) REGIONAL CENTERS OF EXCELLENCE.—The Secretary shall designate 1 regional Center of Excellence in each of the 10 Federal regions that comprise the Standard Federal Regions established by the Office of Management and Budget in the document entitled "Standard Federal Regions" and dated April 1974 (circular A–105).

(2) NATIONAL CENTER OF EXCELLENCE.—The Secretary shall designate 1 national Center of Excellence to coordinate the activities of all 10 regional Centers of Excellence to minimize duplication and promote coordination and dissemination of research among the Centers.

(3) CRITERIA.—In selecting eligible entities to designate as a Center of Excellence, the Secretary shall consider—

(A) the past experience and performance of the eligible entity in carrying out activities described in subsection (g);

(B) the merits of the proposal of an eligible entity and the extent to which the proposal would—

(i) advance the state of practice in resilience planning and identify innovative resilience solutions for transportation assets and systems;

(ii) support activities carried out under the PROTECT program under section 176;

(iii) support and build on work being carried out by another Federal agency relating to resilience;

(iv) inform transportation decisionmaking at all levels of government;

(v) engage local, regional, Tribal, State, and national stakeholders, including, if applicable, stakeholders representing transportation, transit, urban, and land use planning, natural resources, environmental protection, hazard mitigation, and emergency management; and

(vi) engage community groups and other stakeholders that will be affected by transportation decisions, including underserved, economically disadvantaged, rural, and predominantly minority communities; and

(C) the local, regional, Tribal, State, and national impacts of the proposal of the eligible entity.

(f) GRANTS.—Subject to the availability of appropriations, the Secretary shall provide to each Center of Excellence a grant of not less than $5,000,000 for each of fiscal years 2022 through 2031 to carry out the activities described in subsection (g).

(g) ACTIVITIES.—In carrying out this section, the Secretary shall ensure that a Center of Excellence uses the funds from a grant under subsection (f) to promote resilient transportation infrastructure, including through—

(1) supporting climate vulnerability assessments informed by climate change science, including national climate assessments produced by the United States Global Change Research Program under section 106 of the Global Change Research Act of 1990 (15 U.S.C. 2936), relevant feasibility analyses of resilient transportation improvements, and transportation resilience planning;

(2) development of new design, operations, and maintenance standards for transportation infrastructure that can inform Federal and State decisionmaking;

(3) research and development of new materials and technologies that could be integrated into existing and new transportation infrastructure;

(4) development, refinement, and piloting of new and emerging resilience improvements and strategies, including natural infrastructure approaches and relocation;

(5) development of and investment in new approaches for facilitating meaningful engagement in transportation decisionmaking by local, Tribal, regional, or national stakeholders and communities;

(6) technical capacity building to facilitate the ability of local, regional, Tribal, State, and

national stakeholders—

(A) to assess the vulnerability of transportation infrastructure assets and systems;

(B) to develop community response strategies;

(C) to meaningfully engage with community stakeholders; and

(D) to develop strategies and improvements for enhancing transportation infrastructure resilience under current conditions and a range of potential future conditions;

(7) workforce development and training;

(8) development and dissemination of data, tools, techniques, assessments, and information that informs Federal, State, Tribal, and local government decisionmaking, policies, planning, and investments;

(9) education and outreach regarding transportation infrastructure resilience; and

(10) technology transfer and commercialization.

(h) FEDERAL SHARE.—The Federal share of the cost of an activity under this section, including the costs of establishing and operating a Center of Excellence, shall be 50 percent.

(Added Pub. L. 117–58, div. A, title III, §13009(a), Nov. 15, 2021, 135 Stat. 642.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as an Effective Date of 2021 Amendment note under section 101 of this title.

CHAPTER 6—INFRASTRUCTURE FINANCE

Sec.

601. Generally applicable provisions.
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603. Secured loans.
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EDITORIAL NOTES

CODIFICATION

This chapter, consisting of sections 601 to 610 of this title, was previously set out as subchapter II, consisting of sections 181 to 190, of chapter 1 of this title.

AMENDMENTS

2021—Pub. L. 117–58, div. G, title X, §71001(a)(2), Nov. 15, 2021, 135 Stat. 1320, added item 611.

§601. Generally applicable provisions

(a) DEFINITIONS.—The following definitions apply to sections 601 through 609:

(1) CONTINGENT COMMITMENT.—The term "contingent commitment" means a commitment to obligate an amount from future available budget authority that is—

(A) contingent on those funds being made available in law at a future date; and
(B) not an obligation of the Federal Government.

(2) ELIGIBLE PROJECT COSTS.—The term "eligible project costs" means amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including the cost of—
(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;
(B) construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land relating to the project and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment;
(C) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction; and
(D) capitalizing a rural projects fund.

(3) FEDERAL CREDIT INSTRUMENT.—The term "Federal credit instrument" means a secured loan, loan guarantee, or line of credit authorized to be made available under the TIFIA program with respect to a project.
(4) INVESTMENT-GRADE RATING.—The term "investment-grade rating" means a rating of BBB minus, Baa3, bbb minus, BBB (low), or higher assigned by a rating agency to project obligations.
(5) LENDER.—The term "lender" means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), including—
(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and
(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

(6) LETTER OF INTEREST.—The term "letter of interest" means a letter submitted by a potential applicant prior to an application for credit assistance in a format prescribed by the Secretary on the website of the TIFIA program that—
(A) describes the project and the location, purpose, and cost of the project;
(B) outlines the proposed financial plan, including the requested credit assistance and the proposed obligor;
(C) provides a status of environmental review; and
(D) provides information regarding satisfaction of other eligibility requirements of the TIFIA program.

(7) LINE OF CREDIT.—The term "line of credit" means an agreement entered into by the Secretary with an obligor under section 604 to provide a direct loan at a future date upon the occurrence of certain events.
(8) LIMITED BUYDOWN.—The term "limited buydown" means, subject to the conditions described in section 603(b)(4)(C), a buydown of the interest rate by the obligor if the interest rate has increased between—
(A)(i) the date on which a project application acceptable to the Secretary is submitted; or
(ii) the date on which the Secretary entered into a master credit agreement; and
(B) the date on which the Secretary executes the Federal credit instrument.

(9) LOAN GUARANTEE.—The term "loan guarantee" means any guarantee or other pledge by the Secretary to pay all or part of the principal of and interest on a loan or other debt obligation

issued by an obligor and funded by a lender.

(10) MASTER CREDIT AGREEMENT.—The term "master credit agreement" means a conditional agreement to extend credit assistance for a program of related projects secured by a common security pledge covered under section 602(b)(2)(A) or for a single project covered under section 602(b)(2)(B) that does not provide for a current obligation of Federal funds, and that would—

(A) make contingent commitments of 1 or more secured loans or other Federal credit instruments at future dates, subject to—

(i) the availability of future funds being made available to carry out the TIFIA program; and

(ii) the satisfaction of all of the conditions for the provision of credit assistance under the TIFIA program, including section 603(b)(1);

(B) establish the maximum amounts and general terms and conditions of the secured loans or other Federal credit instruments;

(C) identify the 1 or more dedicated non-Federal revenue sources that will secure the repayment of the secured loans or secured Federal credit instruments;

(D) provide for the obligation of funds for the secured loans or secured Federal credit instruments after all requirements have been met for the projects subject to the master credit agreement, including—

(i) completion of an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(ii) receiving an investment grade rating from a rating agency;

(iii) compliance with such other requirements as are specified under the TIFIA program, including sections 602(c) and 603(b)(1); and

(iv) the availability of funds to carry out the TIFIA program; and

(E) require that contingent commitments result in a financial close and obligation of credit assistance not later than 5 years after the date of entry into the master credit agreement, or release of the commitment, unless otherwise extended by the Secretary.

(11) OBLIGOR.—The term "obligor" means a party that—

(A) is primarily liable for payment of the principal of or interest on a Federal credit instrument; and

(B) may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

(12) PROJECT.—The term "project" means—

(A) any surface transportation project eligible for Federal assistance under this title or chapter 53 of title 49;

(B) a project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible;

(C) a project for intercity passenger bus or rail facilities and vehicles, including facilities and vehicles owned by the National Railroad Passenger Corporation and components of magnetic levitation transportation systems;

(D) a project that—

(i) is a project—

(I) for a public freight rail facility or a private facility providing public benefit for highway users by way of direct freight interchange between highway and rail carriers;

(II) for an intermodal freight transfer facility;

(III) for a means of access to a facility described in subclause (I) or (II);

(IV) for a service improvement for a facility described in subclause (I) or (II) (including a capital investment for an intelligent transportation system); or

(V) that comprises a series of projects described in subclauses (I) through (IV) with the common objective of improving the flow of goods;

(ii) may involve the combining of private and public sector funds, including investment of public funds in private sector facility improvements;

(iii) if located within the boundaries of a port terminal, includes only such surface transportation infrastructure modifications as are necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port; and

(iv) is composed of related highway, surface transportation, transit, rail, or intermodal capital improvement projects eligible for assistance under this section in order to meet the eligible project cost threshold under section 602, by grouping related projects together for that purpose, subject to the condition that the credit assistance for the projects is secured by a common pledge;

(E) a project to improve or construct public infrastructure—

(i) that—

(I) is located within walking distance of, and accessible to, a fixed guideway transit facility, passenger rail station, intercity bus station, or intermodal facility, including a transportation, public utility, or capital project described in section 5302(4)(G)(v) [1] of title 49, and related infrastructure; or

(II) is a project for economic development, including commercial and residential development, and related infrastructure and activities—

(aa) that incorporates private investment;

(bb) that is physically or functionally related to a passenger rail station or multimodal station that includes rail service;

(cc) for which the project sponsor has a high probability of commencing the contracting process for construction by not later than 90 days after the date on which credit assistance under the TIFIA program is provided for the project; and

(dd) that has a high probability of reducing the need for financial assistance under any other Federal program for the relevant passenger rail station or service by increasing ridership, tenant lease payments, or other activities that generate revenue exceeding costs; and

(ii) for which, by not later than September 30, 2026, the Secretary has—

(I) received a letter of interest; and

(II) determined that the project is eligible for assistance;

(F) the capitalization of a rural projects fund;

(G) an eligible airport-related project (as defined in section 40117(a) of title 49) for which, not later than September 30, 2025, the Secretary has—

(i) received a letter of interest; and

(ii) determined that the project is eligible for assistance; and

(H) a project for the acquisition of plant and wildlife habitat pursuant to a conservation plan that—

(i) has been approved by the Secretary of the Interior pursuant to section 10 of the Endangered Species Act of 1973 (16 U.S.C. 1539); and

(ii) in the judgment of the Secretary, would mitigate the environmental impacts of transportation infrastructure projects otherwise eligible for assistance under this title.

(13) PROJECT OBLIGATION.—The term "project obligation" means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of a project, other than a Federal credit instrument.

(14) RATING AGENCY.—The term "rating agency" means a credit rating agency registered with the Securities and Exchange Commission as a nationally recognized statistical rating organization (as that term is defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))).

(15) RURAL INFRASTRUCTURE PROJECT.—The term "rural infrastructure project" means a surface transportation infrastructure project located in an area that is outside of an urbanized area with a population greater than 150,000 individuals, as determined by the Bureau of the Census.

(16) RURAL PROJECTS FUND.—The term "rural projects fund" means a fund—

(A) established by a State infrastructure bank in accordance with section 610(d)(4);

(B) capitalized with the proceeds of a secured loan made to the bank in accordance with sections 602 and 603; and

(C) for the purpose of making loans to sponsors of rural infrastructure projects in accordance with section 610.

(17) SECURED LOAN.—The term "secured loan" means a direct loan or other debt obligation issued by an obligor and funded by the Secretary in connection with the financing of a project under section 603.

(18) STATE.—The term "State" has the meaning given the term in section 101.

(19) STATE INFRASTRUCTURE BANK.—The term "State infrastructure bank" means an infrastructure bank established under section 610.

(20) SUBSIDY AMOUNT.—The term "subsidy amount" means the amount of budget authority sufficient to cover the estimated long-term cost to the Federal Government of a Federal credit instrument—

(A) calculated on a net present value basis; and

(B) excluding administrative costs and any incidental effects on governmental receipts or outlays in accordance with the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(21) SUBSTANTIAL COMPLETION.—The term "substantial completion" means—

(A) the opening of a project to vehicular or passenger traffic; or

(B) a comparable event, as determined by the Secretary and specified in the credit agreement.

(22) TIFIA PROGRAM.—The term "TIFIA program" means the transportation infrastructure finance and innovation program of the Department established under sections 602 through 609.

(b) TREATMENT OF CHAPTER.—For purposes of this title, this chapter shall be treated as being part of chapter 1.

(Added Pub. L. 105–178, title I, §1503(a), June 9, 1998, 112 Stat. 241, §181; renumbered §601 and amended Pub. L. 109–59, title I, §§1601(a), 1602(b)(1), (5), (d), Aug. 10, 2005, 119 Stat. 1239, 1246, 1247; Pub. L. 109–291, §4(b)(6), Sept. 29, 2006, 120 Stat. 1338; Pub. L. 110–244, title I, §101(r), June 6, 2008, 122 Stat. 1577; Pub. L. 112–141, div. A, title II, §2002, July 6, 2012, 126 Stat. 607; Pub. L. 114–94, div. A, title II, §2001(a), Dec. 4, 2015, 129 Stat. 1439; Pub. L. 117–58, div. A, title II, §12001(a), div. C, §30001(b)(1), Nov. 15, 2021, 135 Stat. 617, 890.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Securities Act of 1933, referred to in subsec. (a)(5), is act May 27, 1933, ch. 38, title I, 48 Stat. 74, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

The Internal Revenue Code of 1986, referred to in subsec. (a)(5), is set out in Title 26, Internal Revenue Code.

The National Environmental Policy Act of 1969, referred to in subsec. (a)(10)(D)(i), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health

and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Federal Credit Reform Act of 1990, referred to in subsec. (a)(20)(B), is title V of Pub. L. 93–344, as added by Pub. L. 101–508, title XIII, §13201(a), Nov. 5, 1990, 104 Stat. 1388–609, which is classified generally to subchapter III (§661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

AMENDMENTS

2021—Subsec. (a)(10)(E). Pub. L. 117–58, §12001(a)(1), substituted "5 years" for "3 years".

Subsec. (a)(12)(E). Pub. L. 117–58, §30001(b)(1), substituted "section 5302(4)(G)(v)" for "section 5302(3)(G)(v)".

Pub. L. 117–58, §12001(a)(2)(A), added subpar. (E) and struck out former subpar. (E) which read as follows: "a project to improve or construct public infrastructure that is located within walking distance of, and accessible to, a fixed guideway transit facility, passenger rail station, intercity bus station, or intermodal facility, including a transportation, public utility, or capital project described in section 5302(3)(G)(v) of title 49, and related infrastructure; and".

Subsec. (a)(12)(G), (H). Pub. L. 117–58, §12001(a)(2)(B), (C), added subpars. (G) and (H).

2015—Subsec. (a). Pub. L. 114–94, §2001(a)(1), in introductory provisions, substituted "The" for "In this chapter, the" and inserted "to sections 601 through 609" after "apply".

Subsec. (a)(2)(D). Pub. L. 114–94, §2001(a)(2), added subpar. (D).

Subsec. (a)(3). Pub. L. 114–94, §2001(a)(3), substituted "the TIFIA program" for "this chapter".

Subsec. (a)(10). Pub. L. 114–94, §2001(a)(4)(A), inserted heading and introductory provisions and struck out former heading and introductory provisions. Prior to amendment, introductory provisions read as follows: "The term 'master credit agreement' means an agreement to extend credit assistance for a program of projects secured by a common security pledge (which shall receive an investment grade rating from a rating agency), or for a single project covered under section 602(b)(2) that would—".

Subsec. (a)(10)(A). Pub. L. 114–94, §2001(a)(4)(B), substituted "subject to—" for "subject to the availability of future funds being made available to carry out this chapter;" and added cls. (i) and (ii).

Subsec. (a)(10)(D)(ii). Pub. L. 114–94, §2001(a)(4)(C)(ii), added cl. (ii). Former cl. (ii) redesignated (iii).

Subsec. (a)(10)(D)(iii). Pub. L. 114–94, §2001(a)(4)(C)(i), (iii), redesignated cl. (ii) as (iii) and substituted "under the TIFIA program, including sections 602(c) and 603(b)(1)" for "in section 602(c)". Former cl. (iii) redesignated (iv).

Subsec. (a)(10)(D)(iv). Pub. L. 114–94, §2001(a)(4)(C)(i), (iv), redesignated cl. (iii) as (iv) and substituted "the TIFIA program" for "this chapter".

Subsec. (a)(12)(E), (F). Pub. L. 114–94, §2001(a)(5), added subpars. (E) and (F).

Subsec. (a)(15). Pub. L. 114–94, §2001(a)(6), substituted "means a surface transportation infrastructure project located in an area that is outside of an urbanized area with a population greater than 150,000 individuals, as determined by the Bureau of the Census." for "means a surface transportation infrastructure project located in any area other than a city with a population of more than 250,000 inhabitants within the city limits."

Subsec. (a)(16) to (22). Pub. L. 114–94, §2001(a)(7)–(10), added pars. (16) and (19), redesignated former pars. (16), (17), (18), (19), and (20) as pars. (17), (18), (20), (21), and (22), respectively, and inserted "established under sections 602 through 609" after "Department" in par. (22).

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to generally applicable provisions.

2008—Subsec. (a)(3). Pub. L. 110–244 inserted "bbb minus, BBB (low)," after "Baa3,".

2006—Subsec. (a)(10). Pub. L. 109–291, which directed amendment of section 181(11) of this title by substituting "registered with the Securities and Exchange Commission as a nationally recognized statistical rating organization, as that term is defined in section 3(a) of the Securities Exchange Act of 1934" for "identified by the Securities and Exchange Commission as a nationally recognized statistical rating organization", was executed to subsec. (a)(10) of this section by making the substitution for "identified by the Securities and Exchange Commission as a Nationally Recognized Statistical Rating Organization" to reflect the probable intent of Congress and the amendment by Pub. L. 109–59. See 2005 Amendment notes below.

2005—Pub. L. 109–59, §1602(d), renumbered section 181 of this title as this section.

Pub. L. 109–59, §1602(b)(1), (5), substituted "Generally applicable provisions" for "Definitions" in section catchline, designated existing provisions as subsec. (a), inserted heading, substituted "In this chapter" for "In this subchapter" in introductory provisions, "this chapter" for "this subchapter" in par. (2), "604" for "184" in par. (5), "603" for "183" in par. (11), and added subsec. (b).

Par (3). Pub. L. 109–59, §1601(a)(1), struck out "category" after "rating" and "offered into the capital markets" after "obligations".

Par. (7). Pub. L. 109–59, §1601(a)(2), redesignated par. (8) as (7) and struck out heading and text of former par. (7). Text read as follows: "The term 'local servicer' means—

"(A) a State infrastructure bank established under this title; or

"(B) a State or local government or any agency of a State or local government that is responsible for servicing a Federal credit instrument on behalf of the Secretary."

Par. (8). Pub. L. 109–59, §1601(a)(2), (3), redesignated par. (9) as (8), substituted semicolon for period at end of subpar. (B), added subpar. (D), and struck out former subpar. (D) which read as follows: "a project for publicly owned intermodal surface freight transfer facilities, other than seaports and airports, if the facilities are located on or adjacent to National Highway System routes or connections to the National Highway System." Former par. (8) redesignated (7).

Par. (9). Pub. L. 109–59, §1601(a)(2), redesignated par. (10) as (9). Former par. (9) redesignated (8).

Par. (10). Pub. L. 109–59, §1601(a)(2), (4), redesignated par. (11) as (10) and substituted "credit" for "bond". Former par. (10) redesignated (9).

Pars. (11) to (15). Pub. L. 109–59, §1601(a)(2), redesignated pars. (12) to (15) as (11) to (14), respectively. Former par. (11) redesignated (10).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 12001(a) of Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

VALUE FOR MONEY ANALYSIS

Pub. L. 117–58, div. G, title VII, §70701, Nov. 15, 2021, 135 Stat. 1286, provided that:

"(a) IN GENERAL.—Notwithstanding any other provision of law, in the case of a project described in subsection (b), the entity carrying out the project shall, during the planning and project development process and prior to signing any Project Development Agreement, conduct a value for money analysis or comparable analysis of the project, which shall include an evaluation of—

"(1) the life-cycle cost and project delivery schedule;

"(2) the costs of using public funding versus private financing for the project;

"(3) a description of the key assumptions made in developing the analysis, including—

"(A) an analysis of any Federal grants or loans and subsidies received or expected (including tax depreciation costs);

"(B) the key terms of the proposed public-private partnership agreement, if applicable (including the expected rate of return for private debt and equity), and major compensation events;

"(C) a discussion of the benefits and costs associated with the allocation of risk;

"(D) the determination of risk premiums assigned to various project delivery scenarios;

"(E) assumptions about use, demand, and any user fee revenue generated by the project; and

"(F) any externality benefits for the public generated by the project;

"(4) a forecast of user fees and other revenues expected to be generated by the project, if applicable; and

"(5) any other information the Secretary of Transportation determines to be appropriate.

"(b) PROJECT DESCRIBED.—A project referred to in subsection (a) is a transportation project—

"(1) with an estimated total cost of more than $750,000,000;

"(2) carried out—

"(A) by a public entity that is a State, territory, Indian Tribe, unit of local government, transit agency, port authority, metropolitan planning organization, airport authority, or other political subdivision of a State or local government; and

"(B) in a State in which there is in effect a State law authorizing the use and implementation of public-private partnerships for transportation projects; and

"(3)(A) that intends to submit a letter of interest, or has submitted a letter of interest after the date of enactment of this Act [Nov. 15, 2021], to be carried out with—

"(i) assistance under the TIFIA [Transportation Infrastructure Finance and Innovation Act of 1998, Pub. L. 105–178] program under chapter 6 of title 23, United States Code; or

"(ii) assistance under the Railroad Rehabilitation and Improvement Financing Program of the Federal Railroad Administration established under chapter 224 of title 49, United States Code; and

"(B) that is anticipated to generate user fees or other revenues that could support the capital and operating costs of such project.

"(c) REPORTING REQUIREMENTS.—

"(1) PROJECT REPORTS.—For each project described in subsection (b), the entity carrying out the project shall—

"(A) include the results of the analysis under subsection (a) on the website of the project; and

"(B) submit the results of the analysis to the Build America Bureau and the Secretary of Transportation.

"(2) REPORT TO CONGRESS.—The Secretary of Transportation, in coordination with the Build America Bureau, shall, not later than 2 years after the date of enactment of this Act—

"(A) compile the analyses submitted under paragraph (1)(B); and

"(B) submit to Congress a report that—

"(i) includes the analyses submitted under paragraph (1)(B);

"(ii) describes—

"(I) the use of private financing for projects described in subsection (b); and

"(II) the costs and benefits of conducting a value for money analysis; and

"(iii) identifies best practices for private financing of projects described in subsection (b).

"(d) GUIDANCE.—The Secretary of Transportation, in coordination with the Build America Bureau, shall issue guidance on performance benchmarks, risk premiums, and expected rates of return on private financing for projects described in subsection (b)."

REGIONAL INFRASTRUCTURE ACCELERATOR DEMONSTRATION PROGRAM

Pub. L. 114–94, div. A, title I, §1441, Dec. 4, 2015, 129 Stat. 1435, provided that:

"(a) IN GENERAL.—The Secretary [of Transportation] shall establish a regional infrastructure demonstration program (referred to in this section as the 'program') to assist entities in developing improved infrastructure priorities and financing strategies for the accelerated development of a project that is eligible for funding under the TIFIA program under chapter 6 of title 23, United States Code.

"(b) DESIGNATION OF REGIONAL INFRASTRUCTURE ACCELERATORS.—In carrying out the program, the Secretary may designate regional infrastructure accelerators that will—

"(1) serve a defined geographic area; and

"(2) act as a resource in the geographic area to qualified entities in accordance with this section.

"(c) APPLICATION.—To be eligible for a designation under subsection (b), a proposed regional infrastructure accelerator shall submit to the Secretary a proposal at such time, in such manner, and containing such information as the Secretary may require.

"(d) CRITERIA.—In evaluating a proposal submitted under subsection (c), the Secretary shall consider—

"(1) the need for geographic diversity among regional infrastructure accelerators; and

"(2) the ability of the proposal to promote investment in covered infrastructure projects, which shall include a plan—

"(A) to evaluate and promote innovative financing methods for local projects, including the use of the TIFIA program under chapter 6 of title 23, United States Code;

"(B) to build capacity of State, local, and tribal governments to evaluate and structure projects involving the investment of private capital;

"(C) to provide technical assistance and information on best practices with respect to financing the projects;

"(D) to increase transparency with respect to infrastructure project analysis and using innovative financing for public infrastructure projects;

"(E) to deploy predevelopment capital programs designed to facilitate the creation of a pipeline of infrastructure projects available for investment;

"(F) to bundle smaller-scale and rural projects into larger proposals that may be more attractive for investment; and

"(G) to reduce transaction costs for public project sponsors.

"(e) ANNUAL REPORT.—Not less frequently than once each year, the Secretary shall submit to Congress a report that describes the findings and effectiveness of the program.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the program $12,000,000, of which the Secretary shall use—

"(1) $11,750,000 for initial grants to regional infrastructure accelerators under subsection (b); and

"(2) $250,000 for administrative costs of carrying out the program."

CONGRESSIONAL FINDINGS

Pub. L. 105–178, title I, §1502, June 9, 1998, 112 Stat. 241, provided that: "Congress finds that—

"(1) a well-developed system of transportation infrastructure is critical to the economic well-being, health, and welfare of the people of the United States;

"(2) traditional public funding techniques such as grant programs are unable to keep pace with the infrastructure investment needs of the United States because of budgetary constraints at the Federal, State, and local levels of government;

"(3) major transportation infrastructure facilities that address critical national needs, such as intermodal facilities, border crossings, and multistate trade corridors, are of a scale that exceeds the capacity of Federal and State assistance programs in effect on the date of enactment of this Act [June 9, 1998];

"(4) new investment capital can be attracted to infrastructure projects that are capable of generating their own revenue streams through user charges or other dedicated funding sources; and

"(5) a Federal credit program for projects of national significance can complement existing funding resources by filling market gaps, thereby leveraging substantial private co-investment."

STATE INFRASTRUCTURE BANK PILOT PROGRAMS

Pub. L. 105–178, title I, §1511, June 9, 1998, 112 Stat. 251, as amended by Pub. L. 107–117, div. B, §1108, Jan. 10, 2002, 115 Stat. 2332, provided that:

"(a) DEFINITIONS.—In this section:

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

"(A) to provide credit enhancements;

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

"(C) to subsidize interest rates;

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

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

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

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

"(2) STATE.—The term 'State' has the meaning given the term under section 401 of title 23, United States Code.

"(b) COOPERATIVE AGREEMENTS.—

"(1) IN GENERAL.—

"(A) PURPOSE OF AGREEMENTS.—Subject to this section, the Secretary may enter into cooperative agreements with the States of California, Florida, Missouri, and [sic] Rhode Island, and Texas for the establishment of State infrastructure banks and multistate infrastructure banks for making loans and providing other assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under this section, provided that Texas may not compete for funds previously allocated or appropriated to any other State.

"(B) CONTENTS OF AGREEMENTS.—Each cooperative agreement shall specify procedures and guidelines for establishing, operating, and providing assistance from the infrastructure bank.

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

"(c) FUNDING.—

"(1) CONTRIBUTION.—Notwithstanding any other provision of law, the Secretary may allow, subject to subsection (h)(1), a State that enters into a cooperative agreement under this section to contribute to the infrastructure bank established by the State not to exceed—

"(A)(i) the total amount of funds apportioned to the State under each of [former] paragraphs (1), (3), and (4) of section 104(b) and [former] section 144 of title 23, United States Code, excluding funds

set aside under paragraphs (1) and (2) of [former] section 133(d) of such title; and

"(ii) the total amount of funds allocated to the State under [former] section 105 of such title;

"(B) the total amount of funds made available to the State or other Federal transit grant recipient for capital projects (as defined in section 5302 of title 49, United States Code) under sections 5307, 5309, and 5311 of such title; and

"(C) the total amount of funds made available to the State under subtitle V of title 49, United States Code.

"(2) CAPITALIZATION GRANT.—For the purposes of this section, Federal funds contributed to the infrastructure bank under this subsection shall constitute a capitalization grant for the infrastructure bank.

"(3) SPECIAL RULE FOR URBANIZED AREAS OF OVER 200,000.—Funds that are apportioned or allocated to a State under [former] section 104(b)(3) of title 23, United States Code, and attributed to urbanized areas of a State with a population of over 200,000 individuals under [former] section 133(d)(2) of such title may be used to provide assistance from an infrastructure bank under this section with respect to a project only if the metropolitan planning organization designated for the area concurs, in writing, with the provision of the assistance.

"(d) FORMS OF ASSISTANCE FROM INFRASTRUCTURE BANKS.—

"(1) IN GENERAL.—An infrastructure bank established under this section may make loans or provide other assistance to a public or private entity in an amount equal to all or part of the cost of carrying out a project eligible for assistance under this section.

"(2) SUBORDINATION OF LOANS.—The amount of any loan or other assistance provided for the project may be subordinated to any other debt financing for the project.

"(3) INITIAL ASSISTANCE.—Initial assistance provided with respect to a project from Federal funds contributed to an infrastructure bank under this section shall not be made in the form of a grant.

"(e) QUALIFYING PROJECTS.—

"(1) IN GENERAL.—Subject to paragraph (2), funds in an infrastructure bank established under this section may be used only to provide assistance with respect to projects eligible for assistance under title 23, United States Code, for capital projects (as defined in section 5302 of title 49, United States Code), or for any other project related to surface transportation that the Secretary determines to be appropriate.

"(2) INTERSTATE FUNDS.—Funds contributed to an infrastructure bank from funds apportioned to a State under [former] section 104(b)(4) of title 23, United States Code, may be used only to provide assistance with respect to projects eligible for assistance under such paragraph.

"(3) RAIL PROGRAM FUNDS.—Funds contributed to an infrastructure bank from funds made available to a State under subtitle V of title 49, United States Code, shall be used in a manner consistent with any project description specified under the law making the funds available to the State.

"(f) INFRASTRUCTURE BANK REQUIREMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), in order to establish an infrastructure bank under this section, each State establishing such a bank shall—

"(A) contribute, at a minimum, to the bank from non-Federal sources an amount equal to 25 percent of the amount of each capitalization grant made to the State and contributed to the bank under subsection (c), except that if the State has a higher Federal share payable under section 120(b) of title 23, United States Code, the State shall be required to contribute only an amount commensurate with the higher Federal share;

"(B) ensure that the bank maintains on a continuing basis an investment grade rating on its debt issuances and its ability to pay claims under credit enhancement programs of the bank;

"(C) ensure that investment income generated by funds contributed to the bank will be—

"(i) credited to the bank;

"(ii) available for use in providing loans and other assistance to projects eligible for assistance from the bank; and

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

"(D) ensure that any loan from the bank will bear interest at or below market rates, as determined by the State, to make the project that is the subject of the loan feasible;

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

"(F) ensure that the term for repaying any loan will not exceed the lesser of—

"(i) 35 years after the date of the first payment on the loan under subparagraph (E); or

"(ii) the useful life of the investment; and

"(G) require the bank to make a biennial report to the Secretary and to make such other reports as the Secretary may require in guidelines.

"(2) WAIVERS BY THE SECRETARY.—The Secretary may waive a requirement of any of subparagraphs (C) through (G) of paragraph (1) with respect to an infrastructure bank if the Secretary determines that the waiver is consistent with the objectives of this section.

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

"(h) SECRETARIAL REQUIREMENTS.—In administering this section, the Secretary shall—

"(1) ensure that Federal disbursements shall be at an annual rate of not more than 20 percent of the amount designated by the State for State infrastructure bank capitalization under subsection (c)(1), except that the Secretary may disburse funds to a State in an amount needed to finance a specific project; and

"(2) revise cooperative agreements entered into with States under section 350 of the National Highway System Designation Act of 1995 (Public Law 104–59 [set out below]) to comply with this section.

"(i) APPLICABILITY OF FEDERAL LAW.—

"(1) IN GENERAL.—The requirements of titles 23 and 49, United States Code, that would otherwise apply to funds made available under such title and projects assisted with those funds shall apply to—

"(A) funds made available under such title and contributed to an infrastructure bank established under this section, including the non-Federal contribution required under subsection (f); and

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

except to the extent that the Secretary determines that any requirement of such title (other than sections 113 and 114 of title 23 and section 5333 of title 49), is not consistent with the objectives of this section.

"(2) REPAYMENTS.—The requirements of titles 23 and 49, United States Code, shall apply to repayments from non-Federal sources to an infrastructure bank from projects assisted by the bank. Such a repayment shall be considered to be Federal funds.

"(j) UNITED STATES NOT OBLIGATED.—

"(1) IN GENERAL.—The contribution of Federal funds to an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party. No third party shall have any right against the United States for payment solely by virtue of the contribution.

"(2) STATEMENT.—Any security or debt financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

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

"(l) PROGRAM ADMINISTRATION.—

"(1) IN GENERAL.—A State may expend not to exceed 2 percent of the Federal funds contributed to an infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank.

"(2) NON-FEDERAL FUNDS.—The limitation described in paragraph (1) shall not apply to non-Federal funds."

Pub. L. 104–59, title III, §350, Nov. 28, 1995, 109 Stat. 618, provided that:

"(a) IN GENERAL.—

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

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

"(b) FUNDING.—

"(1) SEPARATE ACCOUNTS.—An infrastructure bank established under this section shall maintain a separate highway account for Federal funds contributed to the bank under paragraph (2) and a separate transit account for Federal funds contributed to the bank under paragraph (3). No Federal funds contributed

or credited to an account of an infrastructure bank established under this section may be commingled with Federal funds contributed or credited to any other account of such bank.

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

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

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

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

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

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

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

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

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

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

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

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

"(A) credited to the account;

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

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

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

section;

"(5) ensure that any loan from the bank will bear interest at or below market interest rates, as determined by the State, to make the project that is the subject of the loan feasible;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(A) to provide credit enhancements;

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

"(C) to subsidize interest rates;

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

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

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

"(G) to provide other forms of debt financing and methods of leveraging funds that are approved

by the Secretary and that relate to the project with respect to which such assistance is being provided.

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

[1] *So in original. Probably should be "section 5302(4)(G)(vi)".*

§602. Determination of eligibility and project selection

(a) ELIGIBILITY.—

(1) IN GENERAL.—A project shall be eligible to receive credit assistance under the TIFIA program if—

(A) the entity proposing to carry out the project submits a letter of interest prior to submission of a formal application for the project; and

(B) the project meets the criteria described in this subsection.

(2) CREDITWORTHINESS.—

(A) IN GENERAL.—To be eligible for assistance under the TIFIA program, a project shall satisfy applicable creditworthiness standards, which, at a minimum, shall include—

(i) a rate covenant, if applicable;

(ii) adequate coverage requirements to ensure repayment;

(iii) an investment grade rating from at least 2 rating agencies on debt senior to the Federal credit instrument; and

(iv) an investment-grade rating from at least 2 rating agencies on the Federal credit instrument, subject to the condition that, with respect to clause (iii), if the total amount of the senior debt and the Federal credit instrument is less than $150,000,000, 1 rating agency opinion for each of the senior debt and Federal credit instrument shall be sufficient.

(B) SENIOR DEBT.—Notwithstanding subparagraph (A), in a case in which the Federal credit instrument is senior debt, the Federal credit instrument shall be required to receive an investment grade rating from at least 2 rating agencies, unless the total amount of other senior debt and the Federal credit instrument is less than $150,000,000, in which case 1 rating agency opinion shall be sufficient.

(3) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—A project shall satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an agreement to make available a Federal credit instrument is entered into under the TIFIA program.

(4) APPLICATION.—A State, local government, public authority, public-private partnership, or any other legal entity undertaking the project and authorized by the Secretary shall submit a project application that is acceptable to the Secretary.

(5) ELIGIBLE PROJECT COST PARAMETERS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a project under the TIFIA program shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

(i) $50,000,000; and

(ii) 331/3 percent of the amount of Federal highway funds apportioned for the most recently completed fiscal year to the State in which the project is located.

(B) EXCEPTIONS.—

(i) INTELLIGENT TRANSPORTATION SYSTEMS.—In the case of a project principally involving the installation of an intelligent transportation system, eligible project costs shall be reasonably anticipated to equal or exceed $15,000,000.

(ii) TRANSIT-ORIENTED DEVELOPMENT PROJECTS.—In the case of a project

described in section 601(a)(12)(E), eligible project costs shall be reasonably anticipated to equal or exceed $10,000,000.

(iii) RURAL PROJECTS.—In the case of a rural infrastructure project or a project capitalizing a rural projects fund, eligible project costs shall be reasonably anticipated to equal or exceed $10,000,000, but not to exceed $100,000,000.

(iv) LOCAL INFRASTRUCTURE PROJECTS.—Eligible project costs shall be reasonably anticipated to equal or exceed $10,000,000 in the case of a project or program of projects—

(I) in which the applicant is a local government, public authority, or instrumentality of local government;

(II) located on a facility owned by a local government; or

(III) for which the Secretary determines that a local government is substantially involved in the development of the project.

(6) DEDICATED REVENUE SOURCES.—The applicable Federal credit instrument shall be repayable, in whole or in part, from—

(A) tolls;

(B) user fees;

(C) payments owing to the obligor under a public-private partnership; or

(D) other dedicated revenue sources that also secure or fund the project obligations.

(7) PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—In the case of a project that is undertaken by an entity that is not a State or local government or an agency or instrumentality of a State or local government, the project that the entity is undertaking shall be publicly sponsored as provided in paragraph (3).

(8) APPLICATIONS WHERE OBLIGOR WILL BE IDENTIFIED LATER.—A State, local government, agency or instrumentality of a State or local government, or public authority may submit to the Secretary an application under paragraph (4), under which a private party to a public-private partnership will be—

(A) the obligor; and

(B) identified later through completion of a procurement and selection of the private party.

(9) BENEFICIAL EFFECTS.—The Secretary shall determine that financial assistance for the project under the TIFIA program will—

(A) foster, if appropriate, partnerships that attract public and private investment for the project;

(B) enable the project to proceed at an earlier date than the project would otherwise be able to proceed or reduce the lifecycle costs (including debt service costs) of the project; and

(C) reduce the contribution of Federal grant assistance for the project.

(10) PROJECT READINESS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), to be eligible for assistance under the TIFIA program, the applicant shall demonstrate a reasonable expectation that the contracting process for construction of the project can commence by no later than 90 days after the date on which a Federal credit instrument is obligated for the project under the TIFIA program.

(B) RURAL PROJECTS FUND.—In the case of a project capitalizing a rural projects fund, the State infrastructure bank shall demonstrate, not later than 2 years after the date on which a secured loan is obligated for the project under the TIFIA program, that the bank has executed a loan agreement with a borrower for a rural infrastructure project in accordance with section 610. After the demonstration is made, the bank may draw upon the secured loan. At the end of the 2-year period, to the extent the bank has not used the loan commitment, the Secretary may extend the term of the loan or withdraw the loan commitment.

(11) PUBLIC-PRIVATE PARTNERSHIPS.—In the case of a project to be carried out through a public-private partnership, the public partner shall have—

(A) conducted a value for money analysis or similar comparative analysis; and

(B) determined the appropriateness of the public-private partnership agreement.

(b) SELECTION AMONG ELIGIBLE PROJECTS.—

(1) ESTABLISHMENT.—The Secretary shall establish a rolling application process under which projects that are eligible to receive credit assistance under subsection (a) shall receive credit assistance on terms acceptable to the Secretary, if adequate funds are available to cover the subsidy costs associated with the Federal credit instrument.

(2) MASTER CREDIT AGREEMENTS.—

(A) PROGRAM OF RELATED PROJECTS.—The Secretary may enter into a master credit agreement for a program of related projects secured by a common security pledge on terms acceptable to the Secretary.

(B) ADEQUATE FUNDING NOT AVAILABLE.—If the Secretary fully obligates funding to eligible projects for a fiscal year and adequate funding is not available to fund a credit instrument, a project sponsor of an eligible project may elect to enter into a master credit agreement and wait to execute a credit instrument until the fiscal year for which additional funds are available to receive credit assistance.

(3) PRELIMINARY RATING OPINION LETTER.—The Secretary shall require each project applicant to provide a preliminary rating opinion letter from at least 1 rating agency—

(A) indicating that the senior obligations of the project, which may be the Federal credit instrument, have the potential to achieve an investment-grade rating; and

(B) including a preliminary rating opinion on the Federal credit instrument.

(c) FEDERAL REQUIREMENTS.—

(1) IN GENERAL.—In addition to the requirements of this title for highway projects, the requirements of chapter 53 of title 49 for transit projects, the requirements of section 5333(a) of title 49 for rail projects, and the requirements of sections 47112(b) and 50101 of title 49 for airport-related projects, the following provisions of law shall apply to funds made available under the TIFIA program and projects assisted with those funds:

(A) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(B) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(C) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(2) NEPA.—No funding shall be obligated for a project that has not received an environmental categorical exclusion, a finding of no significant impact, or a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) PAYMENT AND PERFORMANCE SECURITY.—

(A) IN GENERAL.—The Secretary shall ensure that the design and construction of a project carried out with assistance under the TIFIA program shall have appropriate payment and performance security, regardless of whether the obligor is a State, local government, agency or instrumentality of a State or local government, public authority, or private party.

(B) WRITTEN DETERMINATION.—If payment and performance security is required to be furnished by applicable State or local statute or regulation, the Secretary may accept such payment and performance security requirements applicable to the obligor if the Federal interest with respect to Federal funds and other project risk related to design and construction is adequately protected.

(C) NO DETERMINATION OR APPLICABLE REQUIREMENTS.—If there are no

payment and performance security requirements applicable to the obligor, the security under section 3131(b) of title 40 or an equivalent State or local requirement, as determined by the Secretary, shall be required.

(d) APPLICATION PROCESSING PROCEDURES.—

(1) PROCESSING TIMELINES.—Except in the case of an application described in subsection (a)(8) and to the maximum extent practicable, the Secretary shall provide an applicant with a specific estimate of the timeline for the approval or disapproval of the application of the applicant, which, to the maximum extent practicable, the Secretary shall endeavor to complete by not later than 150 days after the date on which the applicant submits a letter of interest to the Secretary.

(2) NOTICE OF COMPLETE APPLICATION.—Not later than 30 days after the date of receipt of an application under this section, the Secretary shall provide to the applicant a written notice to inform the applicant whether—

(A) the application is complete; or

(B) additional information or materials are needed to complete the application.

(3) APPROVAL OR DENIAL OF APPLICATION.—Not later than 60 days after the date of issuance of the written notice under paragraph (2), the Secretary shall provide to the applicant a written notice informing the applicant whether the Secretary has approved or disapproved the application.

(e) DEVELOPMENT PHASE ACTIVITIES.—Any credit instrument secured under the TIFIA program may be used to finance up to 100 percent of the cost of development phase activities as described in section 601(a)(2)(A).

(Added Pub. L. 105–178, title I, §1503(a), June 9, 1998, 112 Stat. 243, §182; renumbered §602 and amended Pub. L. 109–59, title I, §§1601(b), (c), 1602(b)(2), (5), (d), Aug. 10, 2005, 119 Stat. 1240, 1247; Pub. L. 112–141, div. A, title II, §2002, July 6, 2012, 126 Stat. 611; Pub. L. 114–94, div. A, title II, §2001(b), Dec. 4, 2015, 129 Stat. 1440; Pub. L. 117–58, div. A, title I, §11508(d)(3), title II, §§12001(b)–(d), (g), 12002(a), Nov. 15, 2021, 135 Stat. 588, 618, 619, 622.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (c)(1)(A), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (c)(1)(B), (2), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, referred to in subsec. (c)(1)(C), is act Jan. 2, 1971, Pub. L. 91–646, 84 Stat. 1894, and which is classified principally to chapter 61 (§4601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of Title 42 and Tables.

AMENDMENTS

2021—Subsec. (a)(2)(A)(iv). Pub. L. 117–58, §12001(b)(1), substituted "an investment-grade rating" for "a rating" and "$150,000,000" for "$75,000,000".

Subsec. (a)(2)(B). Pub. L. 117–58, §12001(b)(2), substituted "is senior debt" for "is the senior debt" and "total amount of other senior debt and the Federal credit instrument is less than $150,000,000" for "credit instrument is for an amount less than $75,000,000".

Subsec. (a)(11). Pub. L. 117–58, §11508(d)(3), added par. (11).

Subsec. (c)(1). Pub. L. 117–58, §12001(c), substituted "the requirements of section 5333(a) of title 49 for rail projects, and the requirements of sections 47112(b) and 50101 of title 49 for airport-related projects," for

"and the requirements of section 5333(a) of title 49 for rail projects," in introductory provisions.

Subsec. (c)(3). Pub. L. 117–58, §12002(a), added par. (3).

Subsec. (d). Pub. L. 117–58, §12001(d), added par. (1), redesignated former pars. (1) and (2) as (2) and (3), respectively, and, in par. (3), substituted "paragraph (2)" for "paragraph (1)".

Subsec. (e). Pub. L. 117–58, §12001(g), substituted "section 601(a)(2)(A)" for "section 601(a)(1)(A)".

2015—Subsec. (a)(1), (2)(A), (3). Pub. L. 114–94, §2001(b)(1)(A)–(C), substituted "the TIFIA program" for "this chapter".

Subsec. (a)(5). Pub. L. 114–94, §2001(b)(1)(D)(i), substituted "ELIGIBLE PROJECT COST PARAMETERS" for "ELIGIBLE PROJECT COSTS" in heading.

Subsec. (a)(5)(A). Pub. L. 114–94, §2001(b)(1)(D)(ii)(I), substituted "subparagraph (B), a project under the TIFIA program" for "subparagraph (B), to be eligible for assistance under this chapter, a project" in introductory provisions.

Subsec. (a)(5)(A)(i). Pub. L. 114–94, §2001(b)(1)(D)(ii)(II), added cl. (i) and struck out former cl. (i) which read as follows:

"(I) $50,000,000; or

"(II) in the case of a rural infrastructure project, $25,000,000; and".

Subsec. (a)(5)(A)(ii). Pub. L. 114–94, §2001(b)(1)(D)(ii)(III), struck out "assistance" after "highway".

Subsec. (a)(5)(B). Pub. L. 114–94, §2001(b)(1)(D)(iii), substituted "EXCEPTIONS" for "INTELLIGENT TRANSPORTATION SYSTEM PROJECTS" in heading, designated existing provisions as cl. (i), inserted cl. (i) heading, and added cls. (ii) to (iv).

Subsec. (a)(9). Pub. L. 114–94, §2001(b)(1)(E), substituted "the TIFIA program" for "this chapter" in introductory provisions.

Subsec. (a)(10). Pub. L. 114–94, §2001(b)(1)(F), designated existing provisions as subpar. (A), inserted subpar. (A) heading, substituted "Except as provided in subparagraph (B), to be eligible" for "To be eligible", "the TIFIA program" for "this chapter" in two places, and "no later than" for "not later than", and added subpar. (B).

Subsec. (b)(2). Pub. L. 114–94, §2001(b)(2), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "If the Secretary fully obligates funding to eligible projects in a fiscal year, and adequate funding is not available to fund a credit instrument, a project sponsor of an eligible project may elect to enter into a master credit agreement and wait until the earlier of—

"(A) the following fiscal year; and

"(B) the fiscal year during which additional funds are available to receive credit assistance."

Subsecs. (c)(1), (e). Pub. L. 114–94, §2001(b)(3), (4), substituted "the TIFIA program" for "this chapter".

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to determination of eligibility and project selection, consisting of subsecs. (a) to (c).

2005—Pub. L. 109–59, §1602(d), renumbered section 182 of this title as this section.

Subsec. (a). Pub. L. 109–59, §1602(b)(5), substituted "this chapter" for "this subchapter" in introductory provisions.

Subsec. (a)(1). Pub. L. 109–59, §1602(b)(5), substituted "this chapter" for "this subchapter".

Pub. L. 109–59, §1601(b)(1), added par. (1) and struck out heading and text of former par. (1). Text read as follows: "The project—

"(A) shall be included in the State transportation plan required under section 135; and

"(B) at such time as an agreement to make available a Federal credit instrument is entered into under this subchapter, shall be included in the approved State transportation improvement program required under section 134."

Subsec. (a)(2). Pub. L. 109–59, §1601(b)(1), added par. (2) and struck out heading and text of former par. (2). Text read as follows: "A State, a local servicer identified under section 185(a), or the entity undertaking the project shall submit a project application to the Secretary."

Subsec. (a)(3)(A). Pub. L. 109–59, §1602(b)(5), substituted "this chapter" for "this subchapter" in introductory provisions.

Subsec. (a)(3)(A)(i). Pub. L. 109–59, §1601(b)(2), substituted "$50,000,000" for "$100,000,000".

Subsec. (a)(3)(A)(ii). Pub. L. 109–59, §1601(b)(3), substituted "331/3" for "50".

Subsec. (a)(3)(B). Pub. L. 109–59, §1601(b)(4), substituted "$15,000,000" for "$30,000,000".

Subsec. (a)(4). Pub. L. 109–59, §1601(b)(5), substituted "The Federal credit instrument" for "Project financing" and inserted "that also secure the project obligations" before period at end.

Subsec. (b)(1). Pub. L. 109–59, §1601(c)(1), substituted "eligibility requirements" for "eligibility criteria".

Subsec. (b)(2)(A)(iii), (iv), (vi). Pub. L. 109–59, §1602(b)(5), substituted "this chapter" for "this subchapter".

Subsec. (b)(2)(A)(viii). Pub. L. 109–59, §1602(b)(2), inserted "and chapter 1" after "this chapter".

Subsec. (b)(2)(B). Pub. L. 109–59, §1601(c)(2), inserted ", which may be the Federal credit instrument," after "obligations".

Subsec. (c). Pub. L. 109–59, §1602(b)(5), substituted "this chapter" for "this subchapter" in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 11508(d)(3) of Pub. L. 117–58 only applicable to a public-private partnership agreement entered into on or after Nov. 15, 2021, see section 11508(e) of Pub. L. 117–58, set out in a Requirements for Transportation Projects Carried Out Through Public-Private Partnerships note under section 106 of this title.

Amendment by section 12001(b)–(d), (g) of Pub. L. 117–58 effective Oct. 1, 2021, except as otherwise provided, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

Pub. L. 117–58, div. A, title II, §12002(b), Nov. 15, 2021, 135 Stat. 622, provided that: "The amendments made by this section [amending this section] shall apply with respect to any agreement for credit assistance entered into on or after the date of enactment of this Act [Nov. 15, 2021]."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§603. Secured loans

(a) IN GENERAL.—

(1) AGREEMENTS.—Subject to paragraphs (2) and (3), the Secretary may enter into agreements with 1 or more obligors to make secured loans, the proceeds of which shall be used—

(A) to finance eligible project costs of any project selected under section 602;

(B) to refinance interim construction financing of eligible project costs of any project selected under section 602;

(C) to refinance existing Federal credit instruments for rural infrastructure projects; or

(D) to refinance long-term project obligations or Federal credit instruments, if the refinancing provides additional funding capacity for the completion, enhancement, or expansion of any project that—

(i) is selected under section 602; or

(ii) otherwise meets the requirements of section 602.

(2) LIMITATION ON REFINANCING OF INTERIM CONSTRUCTION FINANCING.—A loan under paragraph (1) shall not refinance interim construction financing under paragraph (1)(B)—

(A) if the maturity of such interim construction financing is later than 1 year after the substantial completion of the project; and

(B) later than 1 year after the date of substantial completion of the project.

(3) RISK ASSESSMENT.—Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget, shall determine an appropriate capital reserve subsidy amount for each secured loan, taking into account each rating letter provided by an agency under section 602(b)(3)(B).

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A secured loan under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines to be appropriate.

(2) MAXIMUM AMOUNT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of a secured loan under this section shall not exceed the lesser of 49 percent of the reasonably anticipated eligible project costs or if the secured loan does not receive an investment grade rating, the amount of the senior project obligations.

(B) RURAL PROJECTS FUND.—In the case of a project capitalizing a rural projects fund, the maximum amount of a secured loan made to a State infrastructure bank shall be determined in accordance with section 602(a)(5)(B)(iii).

(3) PAYMENT.—A secured loan under this section—

(A) shall—

(i) be payable, in whole or in part, from—

(I) tolls;

(II) user fees;

(III) payments owing to the obligor under a public-private partnership;

(IV) other dedicated revenue sources that also secure the senior project obligations; or

(V) in the case of a secured loan for a project capitalizing a rural projects fund, any other dedicated revenue sources available to a State infrastructure bank, including repayments from loans made by the bank for rural infrastructure projects; and

(ii) include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

(B) may have a lien on revenues described in subparagraph (A), subject to any lien securing project obligations.

(4) INTEREST RATE.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the interest rate on a secured loan under this section shall be not less than the yield on United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

(B) RURAL INFRASTRUCTURE PROJECTS.—

(i) IN GENERAL.—The interest rate of a loan offered to a rural infrastructure project or a rural projects fund under the TIFIA program shall be at ½ of the Treasury Rate in effect on the date of execution of the loan agreement.

(ii) APPLICATION.—The rate described in clause (i) shall only apply to any portion of a loan the subsidy cost of which is funded by amounts set aside for rural infrastructure projects and rural project funds under section 608(a)(3)(A).

(C) LIMITED BUYDOWNS.—The interest rate of a secured loan under this section may not be lowered by more than the lower of—

(i) 1½ percentage points (150 basis points); or

(ii) the amount of the increase in the interest rate.

(5) MATURITY DATE.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the final maturity date of the secured loan shall be the lesser of—

(i) 35 years after the date of substantial completion of the project; and

(ii) if the useful life of the capital asset being financed is of a lesser period, the useful life of the asset.

(B) RURAL PROJECTS FUND.—In the case of a project capitalizing a rural projects fund, the final maturity date of the secured loan shall not exceed 35 years after the date on which the secured loan is obligated.

(C) LONG LIVED ASSETS.—In the case of a capital asset with an estimated life of more than 50 years, the final maturity date of the secured loan shall be the lesser of—

(i) 75 years after the date of substantial completion of the project; or

(ii) 75 percent of the estimated useful life of the capital asset.

(6) NONSUBORDINATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the secured loan shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(B) PREEXISTING INDENTURE.—

(i) IN GENERAL.—The Secretary shall waive the requirement under subparagraph (A) for a public agency borrower that is financing ongoing capital programs and has outstanding senior bonds under a preexisting indenture, if—

(I) the secured loan is rated in the A category or higher;

(II) the secured loan is secured and payable from pledged revenues not affected by project performance, such as a tax-backed revenue pledge or a system-backed pledge of project revenues; and

(III) the TIFIA program share of eligible project costs is 33 percent or less.

(ii) LIMITATION.—If the Secretary waives the nonsubordination requirement under this subparagraph—

(I) the maximum credit subsidy to be paid by the Federal Government shall be not more than 10 percent of the principal amount of the secured loan; and

(II) the obligor shall be responsible for paying the remainder of the subsidy cost, if any.

(7) FEES.—The Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government of making a secured loan under this section.

(8) NON-FEDERAL SHARE.—The proceeds of a secured loan under the TIFIA program may be used for any non-Federal share of project costs required under this title or chapter 53 of title 49, if the loan is repayable from non-Federal funds.

(9) MAXIMUM FEDERAL INVOLVEMENT.—

(A) IN GENERAL.—The total Federal assistance provided for a project receiving a loan under the TIFIA program shall not exceed 80 percent of the total project cost.

(B) RURAL PROJECTS FUND.—A project capitalizing a rural projects fund shall satisfy subparagraph (A) through compliance with the Federal share requirement described in section 610(e)(3)(B).

(c) REPAYMENT.—

(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on—

(A) the projected cash flow from project revenues and other repayment sources; and

(B) the useful life of the project.

(2) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a secured loan under this section shall commence not later than 5 years after the date of substantial completion of the project.

(3) DEFERRED PAYMENTS.—

(A) IN GENERAL.—If, at any time after the date of substantial completion of the project, the project is unable to generate sufficient revenues to pay the scheduled loan repayments of

principal and interest on the secured loan, the Secretary may, subject to subparagraph (C), allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

(B) INTEREST.—Any payment deferred under subparagraph (A) shall—

(i) continue to accrue interest in accordance with subsection (b)(4) until fully repaid; and

(ii) be scheduled to be amortized over the remaining term of the loan.

(C) CRITERIA.—

(i) IN GENERAL.—Any payment deferral under subparagraph (A) shall be contingent on the project meeting criteria established by the Secretary.

(ii) REPAYMENT STANDARDS.—The criteria established pursuant to clause (i) shall include standards for reasonable assurance of repayment.

(4) PREPAYMENT.—

(A) USE OF EXCESS REVENUES.—

(i) IN GENERAL.—Except as provided in clause (ii), any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the secured loan without penalty.

(ii) CERTAIN APPLICANTS.—In the case of a secured loan or other secured Federal credit instrument provided after the date of enactment of the Surface Transportation Reauthorization Act of 2021, if the obligor is a governmental entity, agency, or instrumentality, the obligor shall not be required to prepay the secured loan or other secured Federal credit instrument with any excess revenues described in clause (i) if the obligor enters into an agreement to use those excess revenues only for purposes authorized under this title or title 49.

(B) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

(d) SALE OF SECURED LOANS.—

(1) IN GENERAL.—Subject to paragraph (2), as soon as practicable after substantial completion of a project and after notifying the obligor, the Secretary may sell to another entity or reoffer into the capital markets a secured loan for the project if the Secretary determines that the sale or reoffering can be made on favorable terms.

(2) CONSENT OF OBLIGOR.—In making a sale or reoffering under paragraph (1), the Secretary may not change the original terms and conditions of the secured loan without the written consent of the obligor.

(e) LOAN GUARANTEES.—

(1) IN GENERAL.—The Secretary may provide a loan guarantee to a lender in lieu of making a secured loan under this section if the Secretary determines that the budgetary cost of the loan guarantee is substantially the same as that of a secured loan.

(2) TERMS.—The terms of a loan guarantee under paragraph (1) shall be consistent with the terms required under this section for a secured loan, except that the rate on the guaranteed loan and any prepayment features shall be negotiated between the obligor and the lender, with the consent of the Secretary.

(f) STREAMLINED APPLICATION PROCESS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of the FAST Act, the Secretary shall make available an expedited application process or processes available at the request of entities seeking secured loans under the TIFIA program that use a set or sets of conventional terms established pursuant to this section.

(2) TERMS.—In establishing the streamlined application process required by this subsection, the Secretary may include terms commonly included in prior credit agreements and allow for an expedited application period, including—

(A) the secured loan is in an amount of not greater than $100,000,000;

(B) the secured loan is secured and payable from pledged revenues not affected by project performance, such as a tax-backed revenue pledge, tax increment financing, or a system-backed pledge of project revenues; and

(C) repayment of the loan commences not later than 5 years after disbursement.

(3) ADDITIONAL TERMS FOR EXPEDITED DECISIONS.—

(A) IN GENERAL.—Not later than 120 days after the date of enactment of this paragraph, the Secretary shall implement an expedited decision timeline for public agency borrowers seeking secured loans that meet—

(i) the terms under paragraph (2); and

(ii) the additional criteria described in subparagraph (B).

(B) ADDITIONAL CRITERIA.—The additional criteria referred to in subparagraph (A)(ii) are the following:

(i) The secured loan is made on terms and conditions that substantially conform to the conventional terms and conditions established by the National Surface Transportation Innovative Finance Bureau.

(ii) The secured loan is rated in the A category or higher.

(iii) The TIFIA program share of eligible project costs is 33 percent or less.

(iv) The applicant demonstrates a reasonable expectation that the contracting process for the project can commence by not later than 90 days after the date on which a Federal credit instrument is obligated for the project under the TIFIA program.

(v) The project has received a categorical exclusion, a finding of no significant impact, or a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(C) WRITTEN NOTICE.—The Secretary shall provide to an applicant seeking a secured loan under the expedited decision process under this paragraph a written notice informing the applicant whether the Secretary has approved or disapproved the application by not later than 180 days after the date on which the Secretary submits to the applicant a letter indicating that the National Surface Transportation Innovative Finance Bureau has commenced the creditworthiness review of the project.

(Added Pub. L. 105–178, title I, §1503(a), June 9, 1998, 112 Stat. 245, §183; renumbered §603 and amended Pub. L. 109–59, title I, §§1601(d), 1602(b)(3), (5), (d), Aug. 10, 2005, 119 Stat. 1240, 1247; Pub. L. 112–141, div. A, title II, §2002, July 6, 2012, 126 Stat. 614; Pub. L. 114–94, div. A, title II, §2001(c), Dec. 4, 2015, 129 Stat. 1442; Pub. L. 117–58, div. A, title II, §12001(e), (f), (h), Nov. 15, 2021, 135 Stat. 619.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Surface Transportation Reauthorization Act of 2021 and the date of enactment of this paragraph, referred to in subsecs. (c)(4)(A)(ii) and (f)(3)(A), are the date of enactment of div. A of Pub. L. 117–58, which was approved Nov. 15, 2021.

The date of enactment of the FAST Act, referred to in subsec. (f)(1), is the date of enactment of Pub. L. 114–94, which was approved Dec. 4, 2015.

The National Environmental Policy Act of 1969, referred to in subsec. (f)(3)(B)(v), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2021—Subsec. (b)(5)(A). Pub. L. 117–58, §12001(e)(1), substituted "subparagraphs (B) and (C)" for "subparagraph (B)" in introductory provisions.

Subsec. (b)(5)(C). Pub. L. 117–58, §12001(e)(2), added subpar. (C).

Subsec. (c)(4)(A). Pub. L. 117–58, §12001(f), designated existing provisions as cl. (i), inserted heading, substituted "Except as provided in clause (ii), any excess" for "Any excess", and added cl. (ii).

Subsec. (f)(3). Pub. L. 117–58, §12001(h), added par. (3).

2015—Subsec. (a)(2). Pub. L. 114–94, §2001(c)(1), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "A loan under paragraph (1) shall not refinance interim construction financing under paragraph (1)(B) later than 1 year after the date of substantial completion of the project."

Subsec. (b)(2). Pub. L. 114–94, §2001(c)(2)(A), designated existing provisions as subpar. (A), inserted subpar. (A) heading, substituted "Except as provided in subparagraph (B), the amount of" for "The amount of", and added subpar. (B).

Subsec. (b)(3)(A)(i)(V). Pub. L. 114–94, §2001(c)(2)(B), added subcl. (V).

Subsec. (b)(4)(B)(i). Pub. L. 114–94, §2001(c)(2)(C)(i), substituted "or a rural projects fund under the TIFIA program" for "under this chapter".

Subsec. (b)(4)(B)(ii). Pub. L. 114–94, §2001(c)(2)(C)(ii), inserted "and rural project funds" after "rural infrastructure projects".

Subsec. (b)(5). Pub. L. 114–94, §2001(c)(2)(D), designated existing provisions as subpar. (A) and inserted heading, substituted "Except as provided in subparagraph (B), the final" for "The final", redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (A), and added subpar. (B).

Subsec. (b)(8). Pub. L. 114–94, §2001(c)(2)(E), substituted "the TIFIA program" for "this chapter".

Subsec. (b)(9). Pub. L. 114–94, §2001(c)(2)(F), designated existing provisions as subpar. (A) and inserted heading, substituted "The total Federal assistance provided for a project receiving a loan under the TIFIA program" for "The total Federal assistance provided on a project receiving a loan under this chapter", and added subpar. (B).

Subsec. (f). Pub. L. 114–94, §2001(c)(3), added subsec. (f).

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to secured loans.

2005—Pub. L. 109–59, §1602(d), renumbered section 183 of this title as this section.

Subsec. (a)(1). Pub. L. 109–59, §1601(d)(1), in subpars. (A) and (B) inserted "of any project selected under section 602" after "costs", added subpar. (C), and struck out concluding provisions which read as follows: "of any project selected under section 182."

Subsec. (a)(3). Pub. L. 109–59, §1602(b)(3), substituted "602(b)(2)(B)" for "182(b)(2)(B)".

Subsec. (a)(4). Pub. L. 109–59, §1601(d)(2), substituted "The execution" for "The funding" and struck out before period at end ", except that—

"(A) the Secretary may fund an amount of the secured loan not to exceed the capital reserve subsidy amount determined under paragraph (3) prior to the obligations receiving an investment-grade rating; and

"(B) the Secretary may fund the remaining portion of the secured loan only after the obligations have received an investment-grade rating by at least 1 rating agency".

Subsec. (b)(2). Pub. L. 109–59, §1601(d)(3)(A), inserted "the lesser of" before "33 percent" and "or, if the secured loan does not receive an investment grade rating, the amount of the senior project obligations" before period at end.

Subsec. (b)(3)(A)(i). Pub. L. 109–59, §1601(d)(3)(B), inserted "that also secure the senior project obligations" after "sources".

Subsec. (b)(4). Pub. L. 109–59, §1601(d)(3)(C), struck out "marketable" before "United States Treasury securities".

Subsec. (b)(8). Pub. L. 109–59, §1602(b)(5), substituted "this chapter" for "this subchapter".

Subsec. (c)(3) to (5). Pub. L. 109–59, §1601(d)(4), redesignated pars. (4) and (5) as (3) and (4), respectively, in par. (3)(A), struck out "during the 10 years" after "at any time", in par. (3)(B)(ii), substituted "loan" for "loan beginning not later than 10 years after the date of substantial completion of the project in accordance with paragraph (1)", and struck out heading and text of former par. (3). Text read as follows: "The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§604. Lines of credit

(a) IN GENERAL.—

(1) AGREEMENTS.—Subject to paragraphs (2) through (4), the Secretary may enter into agreements to make available to 1 or more obligors lines of credit in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any project selected under section 602.

(2) USE OF PROCEEDS.—The proceeds of a line of credit made available under this section shall be available to pay debt service on project obligations issued to finance eligible project costs, extraordinary repair and replacement costs, operation and maintenance expenses, and costs associated with unexpected Federal or State environmental restrictions.

(3) RISK ASSESSMENT.—Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget and each rating agency providing a preliminary rating opinion letter under section 602(b)(3), shall determine an appropriate capital reserve subsidy amount for each line of credit, taking into account the rating opinion letter.

(4) INVESTMENT-GRADE RATING REQUIREMENT.—The funding of a line of credit under this section shall be contingent on the senior obligations of the project receiving an investment-grade rating from 2 rating agencies.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A line of credit under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines to be appropriate.

(2) MAXIMUM AMOUNTS.—The total amount of a line of credit under this section shall not exceed 33 percent of the reasonably anticipated eligible project costs.

(3) DRAWS.—Any draw on a line of credit under this section shall—

(A) represent a direct loan; and

(B) be made only if net revenues from the project (including capitalized interest, but not including reasonably required financing reserves) are insufficient to pay the costs specified in subsection (a)(2).

(4) INTEREST RATE.—Except as provided in subparagraphs (B) and (C) of section 603(b)(4), the interest rate on a direct loan resulting from a draw on the line of credit shall be not less than the yield on 30-year United States Treasury securities, as of the date of execution of the line of credit agreement.

(5) SECURITY.—A line of credit issued under this section—

(A) shall—

(i) be payable, in whole or in part, from—

(I) tolls;

(II) user fees;

(III) payments owing to the obligor under a public-private partnership; or

(IV) other dedicated revenue sources that also secure the senior project obligations; and

(ii) include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

(B) may have a lien on revenues described in subparagraph (A), subject to any lien securing project obligations.

(6) PERIOD OF AVAILABILITY.—The full amount of a line of credit under this section, to the extent not drawn upon, shall be available during the 10-year period beginning on the date of substantial completion of the project.

(7) RIGHTS OF THIRD-PARTY CREDITORS.—

(A) AGAINST FEDERAL GOVERNMENT.—A third-party creditor of the obligor shall not have any right against the Federal Government with respect to any draw on a line of credit under this section.

(B) ASSIGNMENT.—An obligor may assign a line of credit under this section to—

(i) 1 or more lenders; or

(ii) a trustee on the behalf of such a lender.

(8) NONSUBORDINATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a direct loan under this section shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(B) PRE-EXISTING INDENTURE.—

(i) IN GENERAL.—The Secretary shall waive the requirement of subparagraph (A) for a public agency borrower that is financing ongoing capital programs and has outstanding senior bonds under a preexisting indenture, if—

(I) the line of credit is rated in the A category or higher;

(II) the TIFIA program loan resulting from a draw on the line of credit is payable from pledged revenues not affected by project performance, such as a tax-backed revenue pledge or a system-backed pledge of project revenues; and

(III) the TIFIA program share of eligible project costs is 33 percent or less.

(ii) LIMITATION.—If the Secretary waives the nonsubordination requirement under this subparagraph—

(I) the maximum credit subsidy to be paid by the Federal Government shall be not more than 10 percent of the principal amount of the secured loan; and

(II) the obligor shall be responsible for paying the remainder of the subsidy cost.

(9) FEES.—The Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government of providing a line of credit under this section.

(10) RELATIONSHIP TO OTHER CREDIT INSTRUMENTS.—A project that receives a line of credit under this section also shall not receive a secured loan or loan guarantee under section 603 in an amount that, combined with the amount of the line of credit, exceeds 49 percent of eligible project costs.

(c) REPAYMENT.—

(1) TERMS AND CONDITIONS.—The Secretary shall establish repayment terms and conditions for each direct loan under this section based on—

(A) the projected cash flow from project revenues and other repayment sources; and

(B) the useful life of the asset being financed.

(2) TIMING.—All repayments of principal or interest on a direct loan under this section shall be scheduled—

(A) to commence not later than 5 years after the end of the period of availability specified in subsection (b)(6); and

(B) to conclude, with full repayment of principal and interest, by the date that is 25 years after the end of the period of availability specified in subsection (b)(6).

(Added Pub. L. 105–178, title I, §1503(a), June 9, 1998, 112 Stat. 247, §184; renumbered §604 and amended Pub. L. 109–59, title I, §§1601(e), 1602(b)(4), (d), Aug. 10, 2005, 119 Stat. 1241, 1247; Pub. L. 112–141, div. A, title II, §2002, July 6, 2012, 126 Stat. 617.)

EDITORIAL NOTES

AMENDMENTS

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to lines of credit.

2005—Pub. L. 109–59, §1602(d), renumbered section 184 of this title as this section.

Subsec. (a)(1). Pub. L. 109–59, §1602(b)(4)(A), substituted "602" for "182".

Subsec. (a)(3). Pub. L. 109–59, §1602(b)(4)(B), substituted "602(b)(2)(B)" for "182(b)(2)(B)".

Subsec. (b)(2). Pub. L. 109–59, §1601(e)(1)(A), added par. (2) and struck out heading and text of former par. (2). Text read as follows:

"(A) TOTAL AMOUNT.—The total amount of the line of credit shall not exceed 33 percent of the reasonably anticipated eligible project costs.

"(B) 1-YEAR DRAWS.—The amount drawn in any 1 year shall not exceed 20 percent of the total amount of the line of credit."

Subsec. (b)(3). Pub. L. 109–59, §1601(e)(1)(B), substituted "but not including reasonably required financing reserves" for ", any debt service reserve fund, and any other available reserve".

Subsec. (b)(4). Pub. L. 109–59, §1601(e)(1)(C), struck out "marketable" before "United States Treasury securities" and substituted "date of execution of the line of credit agreement" for "date on which the line of credit is obligated".

Subsec. (b)(5)(A)(i). Pub. L. 109–59, §1601(e)(1)(D), inserted "that also secure the senior project obligations" after "sources".

Subsec. (b)(6). Pub. L. 109–59, §1601(e)(1)(E), substituted "The full amount of the line of credit, to the extent not drawn upon," for "The line of credit".

Subsec. (b)(10). Pub. L. 109–59, §1602(b)(4)(C), substituted "603" for "183".

Subsec. (c)(2). Pub. L. 109–59, §1601(e)(2)(A), struck out "scheduled" before "repayments", inserted "be scheduled to" after "shall", and substituted "to conclude, with full repayment of principal and interest," for "be fully repaid, with interest,".

Subsec. (c)(3). Pub. L. 109–59, §1601(e)(2)(B), struck out heading and text of par. (3). Text read as follows: "The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§605. Program administration

(a) REQUIREMENT.—The Secretary shall establish a uniform system to service the Federal credit instruments made available under the TIFIA program.

(b) FEES.—The Secretary may collect and spend fees, contingent on authority being provided in appropriations Acts, at a level that is sufficient to cover—

(1) the costs of services of expert firms retained pursuant to subsection (d); and

(2) all or a portion of the costs to the Federal Government of servicing the Federal credit instruments.

(c) SERVICER.—

(1) IN GENERAL.—The Secretary may appoint a financial entity to assist the Secretary in servicing the Federal credit instruments.

(2) DUTIES.—A servicer appointed under paragraph (1) shall act as the agent for the Secretary.

(3) FEE.—A servicer appointed under paragraph (1) shall receive a servicing fee, subject to approval by the Secretary.

(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.

(e) EXPEDITED PROCESSING.—The Secretary shall implement procedures and measures to economize the time and cost involved in obtaining approval and the issuance of credit assistance under the TIFIA program.

(f) ASSISTANCE TO SMALL PROJECTS.—

(1) RESERVATION OF FUNDS.—Of the funds made available to carry out the TIFIA program for each fiscal year, and after the set aside under section 608(a)(6), not less than $2,000,000 shall be made available for the Secretary to use in lieu of fees collected under subsection (b) for projects under the TIFIA program having eligible project costs that are reasonably anticipated not to equal or exceed $75,000,000.

(2) RELEASE OF FUNDS.—Any funds not used under paragraph (1) in a fiscal year shall be made available on October 1 of the following fiscal year to provide credit assistance to any project under the TIFIA program.

(Added Pub. L. 105–178, title I, §1503(a), June 9, 1998, 112 Stat. 249, §185; renumbered §605 and amended Pub. L. 109–59, title I, §§1601(f), 1602(b)(5), (d), Aug. 10, 2005, 119 Stat. 1241, 1247; Pub. L. 112–141, div. A, title II, §2002, July 6, 2012, 126 Stat. 619; Pub. L. 114–94, div. A, title II, §2001(d), Dec. 4, 2015, 129 Stat. 1443; Pub. L. 117–58, div. A, title II, §12001(i)(2), Nov. 15, 2021, 135 Stat. 621.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (f)(1). Pub. L. 117–58 substituted "section 608(a)(6)" for "section 608(a)(5)".

2015—Subsecs. (a), (e). Pub. L. 114–94, §2001(d)(1), substituted "the TIFIA program" for "this chapter".

Subsec. (f). Pub. L. 114–94, §2001(d)(2), added subsec. (f).

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to program administration, consisting of subsecs. (a) to (d).

2005—Pub. L. 109–59, §1602(d), renumbered section 185 of this title as this section.

Pub. L. 109–59, §1601(f), amended section catchline and text generally, substituting provisions relating to establishment by the Secretary of a uniform system to service the Federal credit instruments made available under this subchapter for provisions authorizing a State to identify a local servicer to assist the Secretary in servicing the Federal credit instrument made available under this subchapter.

Subsec. (a). Pub. L. 109–59, §1602(b)(5), substituted "this chapter" for "this subchapter".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an

Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§606. State and local permits

The provision of credit assistance under the TIFIA program with respect to a project shall not—

(1) relieve any recipient of the assistance of any obligation to obtain any required State or local permit or approval with respect to the project;

(2) limit the right of any unit of State or local government to approve or regulate any rate of return on private equity invested in the project; or

(3) otherwise supersede any State or local law (including any regulation) applicable to the construction or operation of the project.

(Added Pub. L. 105–178, title I, §1503(a), June 9, 1998, 112 Stat. 249, §186; renumbered §606 and amended Pub. L. 109–59, title I, §1602(b)(5), (d), Aug. 10, 2005, 119 Stat. 1247; Pub. L. 112–141, div. A, title II, §2002, July 6, 2012, 126 Stat. 620; Pub. L. 114–94, div. A, title II, §2001(e), Dec. 4, 2015, 129 Stat. 1444.)

EDITORIAL NOTES

AMENDMENTS

2015—Pub. L. 114–94 substituted "the TIFIA program" for "this chapter" in introductory provisions.

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section read as follows: "The provision of financial assistance under this chapter with respect to a project shall not—

"(1) relieve any recipient of the assistance of any obligation to obtain any required State or local permit or approval with respect to the project;

"(2) limit the right of any unit of State or local government to approve or regulate any rate of return on private equity invested in the project; or

"(3) otherwise supersede any State or local law (including any regulation) applicable to the construction or operation of the project."

2005—Pub. L. 109–59, §1602(d), renumbered section 186 of this title as this section.

Pub. L. 109–59, §1602(b)(5), substituted "this chapter" for "this subchapter" in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§607. Regulations

The Secretary may promulgate such regulations as the Secretary determines to be appropriate to carry out the TIFIA program.

(Added Pub. L. 105–178, title I, §1503(a), June 9, 1998, 112 Stat. 249, §187; renumbered §607 and amended Pub. L. 109–59, title I, §1602(b)(5), (d), Aug. 10, 2005, 119 Stat. 1247; Pub. L. 112–141, div. A, title II, §2002, July 6, 2012, 126 Stat. 620; Pub. L. 114–94, div. A, title II, §2001(f), Dec. 4, 2015, 129 Stat. 1444.)

EDITORIAL NOTES

AMENDMENTS

2015—Pub. L. 114–94 substituted "the TIFIA program" for "this chapter".

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section read as follows: "The Secretary may issue such regulations as the Secretary determines appropriate to carry out this chapter."

2005—Pub. L. 109–59, §1602(d), renumbered section 187 of this title as this section.

Pub. L. 109–59, §1602(b)(5), substituted "this chapter" for "this subchapter".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§608. Funding

(a) FUNDING.—

(1) SPENDING AND BORROWING AUTHORITY.—Spending and borrowing authority for a fiscal year to enter into Federal credit instruments shall be promptly apportioned to the Secretary on a fiscal-year basis.

(2) REESTIMATES.—If the subsidy cost of a Federal credit instrument is reestimated, the cost increase or decrease of the reestimate shall be borne by, or benefit, the general fund of the Treasury, consistent with section 504(f) of the Congressional Budget Act of 1974 (2 U.S.C. 661c(f)).

(3) RURAL SET-ASIDE.—

(A) IN GENERAL.—Of the total amount of funds made available to carry out the TIFIA program for each fiscal year, not more than 10 percent shall be set aside for rural infrastructure projects or rural projects funds.

(B) REOBLIGATION.—Any amounts set aside under subparagraph (A) that remain unobligated by June 1 of the fiscal year for which the amounts were set aside shall be available for obligation by the Secretary on projects other than rural infrastructure projects or rural projects funds.

(4) LIMITATION FOR CERTAIN PROJECTS.—

(A) TRANSIT-ORIENTED DEVELOPMENT PROJECTS.—For each fiscal year, the Secretary may use to carry out projects described in section 601(a)(12)(E) not more than 15 percent of the amounts made available to carry out the TIFIA program for that fiscal year.

(B) AIRPORT-RELATED PROJECTS.—The Secretary may use to carry out projects described in section 601(a)(12)(G)—

(i) for each fiscal year, not more than 15 percent of the amounts made available to carry out the TIFIA program under the Surface Transportation Reauthorization Act of 2021 for that fiscal year; and

(ii) for the period of fiscal years 2022 through 2026, not more than 15 percent of the unobligated carryover balances (as of October 1, 2021).

(5) AVAILABILITY.—Amounts made available to carry out the TIFIA program shall remain available until expended.

(6) ADMINISTRATIVE COSTS.—Of the amounts made available to carry out the TIFIA program, the Secretary may use not more than $10,000,000 for each of fiscal years 2022 through 2026 for the administration of the TIFIA program.

(b) CONTRACT AUTHORITY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, execution of a term sheet by the Secretary of a Federal credit instrument that uses amounts made available under the TIFIA program shall impose on the United States a contractual obligation to fund the Federal credit investment.

(2) AVAILABILITY.—Amounts made available to carry out the TIFIA program for a fiscal year shall be available for obligation on October 1 of the fiscal year.

(Added and amended Pub. L. 105–178, title I, §1503(a), (c), June 9, 1998, 112 Stat. 249, §188; Pub. L. 105–206, title IX, §9007(a), July 22, 1998, 112 Stat. 849; Pub. L. 108–88, §5(a)(10), Sept. 30, 2003, 117 Stat. 1115; Pub. L. 108–202, §5(a)(10), Feb. 29, 2004, 118 Stat. 481; Pub. L. 108–224, §4(a)(10), Apr. 30, 2004, 118 Stat. 629; Pub. L. 108–263, §4(a)(10), June 30, 2004, 118 Stat. 700; Pub. L. 108–280, §4(a)(10), July 30, 2004, 118 Stat. 879; Pub. L. 108–310, §5(a)(10), Sept. 30, 2004, 118 Stat. 1149; Pub. L. 109–14, §4(a)(10), May 31, 2005, 119 Stat. 327; Pub. L. 109–20, §4(a)(10), July 1, 2005, 119 Stat. 348; Pub. L. 109–35, §4(a)(10), July 20, 2005, 119 Stat. 381; Pub. L. 109–37, §4(a)(10), July 22, 2005, 119 Stat. 396; Pub. L. 109–40, §4(a)(10), July 28, 2005, 119 Stat. 413; renumbered §608 and amended Pub. L. 109–59, title I, §§1601(g), 1602(b)(5), (d), Aug. 10, 2005, 119 Stat. 1242, 1247; Pub. L. 112–141, div. A, title II, §2002, July 6, 2012, 126 Stat. 620; Pub. L. 114–94, div. A, title II, §2001(g), Dec. 4, 2015, 129 Stat. 1444; Pub. L. 117–58, div. A, title II, §12001(i)(1), Nov. 15, 2021, 135 Stat. 620.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Surface Transportation Reauthorization Act of 2021, referred to in subsec. (a)(4)(B)(i), is Pub. L. 117–58, div. A, §10001, Nov. 15, 2021, 135 Stat. 443. For complete classification of this Act to the Code, see Short Title of 2021 Amendment note set out under section 101 of this title and Tables.

AMENDMENTS

2021—Subsec. (a)(4), (5). Pub. L. 117–58, §12001(i)(1)(A), (B), added par. (4) and redesignated former par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (a)(6). Pub. L. 117–58, §12001(i)(1)(A), (C), redesignated par. (5) as (6), struck it out, and added a new par. (6). Prior to amendment, text read as follows: "Of the amounts made available to carry out the TIFIA program, the Secretary may use not more than $6,875,000 for fiscal year 2016, $7,081,000 for fiscal year 2017, $7,559,000 for fiscal year 2018, $8,195,000 for fiscal year 2019, and $8,441,000 for fiscal year 2020 for the administration of the TIFIA program."

2015—Pub. L. 114–94, §2001(g)(1), substituted "the TIFIA program" for "this chapter" wherever appearing.

Subsec. (a)(2). Pub. L. 114–94, §2001(g)(2)(A), inserted "of" after "504(f)".

Subsec. (a)(3)(A), (B). Pub. L. 114–94, §2001(g)(2)(B), inserted "or rural projects funds" after "rural infrastructure projects".

Subsec. (a)(4). Pub. L. 114–94, §2001(g)(2)(C), redesignated par. (5) as (4) and struck out former par. (4) which related to redistribution of authorized funding.

Subsec. (a)(5). Pub. L. 114–94, §2001(g)(2)(D), added par. (5). Former par. (5) redesignated (4).

Subsec. (a)(6). Pub. L. 114–94, §2001(g)(2)(C), struck out par. (6). Text read as follows: "Of the amounts made available to carry out this chapter, the Secretary may use not more than 0.50 percent for each fiscal year for the administration of this chapter."

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to funding for fiscal years 2005 through 2009 and contract authority.

2005—Pub. L. 109–59, §1602(d), renumbered section 188 of this title as this section.

Pub. L. 109–59, §1601(g), reenacted section catchline without change and amended text generally, substituting provisions relating to funding for fiscal years 2005 through 2009 and contract authority, consisting of subsecs. (a) and (b), for provisions relating to funding for fiscal years 1999 through 2004 and for the period of Oct. 1, 2004, through July 30, 2005, contract authority, and limitations on credit amounts, consisting of subsecs. (a) to (c).

Subsec. (a)(1). Pub. L. 109–59, §1602(b)(5), substituted "this chapter" for "this subchapter".

Subsec. (a)(1)(G). Pub. L. 109–40, §4(a)(10)(A), added subpar. (G) and struck out former subpar. (G) which read as follows: "$106,849,340 for the period of October 1, 2004, through July 27, 2005."

Pub. L. 109–37, §4(a)(10)(A), added subpar. (G) and struck out former subpar. (G) which read as follows: "$105,300,000 for the period of October 1, 2004, through July 21, 2005."

Pub. L. 109–35, §4(a)(10)(A), added subpar. (G) and struck out former subpar. (G) which read as follows: "$104,000,000 for the period of October 1, 2004, through July 19, 2005."

Pub. L. 109–20, §4(a)(10)(A), added subpar. (G) and struck out former subpar. (G) which read as follows: "$97,500,000 for the period of October 1, 2004, through June 30, 2005."

Pub. L. 109–14, §4(a)(10)(A), added subpar. (G) and struck out former subpar. (G) which read as follows: "$86,666,667 for the period of October 1, 2004, through May 31, 2005."

Subsec. (a)(2). Pub. L. 109–40, §4(a)(10)(B), substituted "$1,660,000 for the period of October 1, 2004, through July 30, 2005" for "$1,643,836 for the period of October 1, 2004, through July 27, 2005".

Pub. L. 109–37, §4(a)(10)(B), substituted "$1,643,836 for the period of October 1, 2004, through July 27, 2005" for "$1,620,000 for the period of October 1, 2004, through July 21, 2005".

Pub. L. 109–35, §4(a)(10)(B), substituted "$1,620,000 for the period of October 1, 2004, through July 21, 2005" for "$1,600,000 for the period of October 1, 2004, through July 19, 2005".

Pub. L. 109–20, §4(a)(10)(B), substituted "$1,600,000 for the period of October 1, 2004, through July 19, 2005" for "$1,500,000 for the period of October 1, 2004, through June 30, 2005".

Pub. L. 109–14, §4(a)(10)(B), substituted "$1,500,000 for the period of October 1, 2004, through June 30, 2005" for "$1,333,333 for the period of October 1, 2004, through May 31, 2005".

Subsec. (a)(3). Pub. L. 109–59, §1602(b)(5), substituted "administration of this chapter" for "administration of this subchapter".

Subsec. (b)(1). Pub. L. 109–59, §1602(b)(5), substituted "this chapter" for "this subchapter".

Subsec. (c). Pub. L. 109–40, §4(a)(10)(C), substituted "$2,158,000,000" for "$2,136,986,800" in item relating to fiscal year 2005 in table.

Pub. L. 109–37, §4(a)(10)(C), substituted "$2,136,986,800" for "$2,106,000,000" in item relating to fiscal year 2005 in table.

Pub. L. 109–35, §4(a)(10)(C), substituted "$2,106,000,000" for "$2,080,000,000" in item relating to fiscal year 2005 in table.

Pub. L. 109–20, §4(a)(10)(C), substituted "$2,080,000,000" for "$1,950,000,000" in item relating to fiscal year 2005 in table.

Pub. L. 109–14, §4(a)(10)(C), substituted "$1,950,000,000" for "$1,733,333,333" in item relating to fiscal year 2005 in table.

2004—Subsec. (a)(1)(F). Pub. L. 108–280, §4(a)(10)(A), added subpar. (F) and struck out former subpar. (F) which read as follows: "$116,666,667 for the period of October 1, 2003, through July 31, 2004."

Pub. L. 108–263, §4(a)(10)(A), added subpar. (F) and struck out former subpar. (F) which read as follows: "$105,000,000 for the period of October 1, 2003, through June 30, 2004."

Pub. L. 108–224, §4(a)(10)(A), added subpar. (F) and struck out former subpar. (F) which read as follows: "$81,666,666 for the period of October 1, 2003, through April 30, 2004."

Pub. L. 108–202, §5(a)(10)(A), added subpar. (F) and struck out former subpar. (F) which read as follows: "$58,333,333 for the period of October 1, 2003, through February 29, 2004."

Subsec. (a)(1)(G). Pub. L. 108–310, §5(a)(10)(A), added subpar. (G).

Subsec. (a)(2). Pub. L. 108–310, §5(a)(10)(B), inserted "and $1,333,333 for the period of October 1, 2004, through May 31, 2005" before period at end.

Pub. L. 108–280, §4(a)(10)(B), struck out "2003 and $1,666,667 for the period of October 1, 2003, through July 31," before "2004."

Pub. L. 108–263, §4(a)(10)(B), substituted "$1,666,667 for the period of October 1, 2003, through July 31, 2004" for "$1,500,000 for the period of October 1, 2003, through June 30, 2004".

Pub. L. 108–224, §4(a)(10)(B), substituted "$1,500,000 for the period of October 1, 2003, through June 30, 2004" for "$1,166,667 for the period of October 1, 2003, through April 30, 2004".

Pub. L. 108–202, §5(a)(10)(B), substituted "$1,166,667 for the period of October 1, 2003, through April 30, 2004" for "$833,333 for the period of October 1, 2003, through February 29, 2004".

Subsec. (c). Pub. L. 108–310, §5(a)(10)(C), substituted "2005" for "2004" in introductory provisions and inserted item in table relating to fiscal year 2005.

Pub. L. 108–280, §4(a)(10)(C), substituted "$2,600,000,000" for "$2,166,666,667" in item relating to fiscal year 2004 in table.

Pub. L. 108–263, §4(a)(10)(C), substituted "$2,166,666,667" for "$1,950,000,000" in item relating to fiscal year 2004 in table.

Pub. L. 108–224, §4(a)(10)(C), substituted "$1,950,000,000" for "$1,516,666,667" in item relating to fiscal year 2004 in table.

Pub. L. 108–202, §5(a)(10)(C), substituted "$1,516,666,667" for "$1,083,333,333" in item relating to fiscal year 2004 in table.

2003—Subsec. (a)(1)(F). Pub. L. 108–88, §5(a)(10)(A), added subpar. (F).

Subsec. (a)(2). Pub. L. 108–88, §5(a)(10)(B), inserted "and $833,333 for the period of October 1, 2003, through February 29, 2004" after "2003".

Subsec. (c). Pub. L. 108–88, §5(a)(10)(C), substituted "2004" for "2003" and inserted item in table relating to fiscal year 2004.

1998—Subsec. (a)(2). Pub. L. 105–178, §1503(c)(1), as added by Pub. L. 105–206, §9007(a), substituted "1999" for "1998".

Subsec. (c). Pub. L. 105–178, §1503(c)(2), as added by Pub. L. 105–206, §9007(a), substituted "1999" for "1998" in introductory provisions, and substituted table for former table which read as follows:

"Fiscal year:	**Maximum amount of credit:**
1998	$1,200,000,000
1999	$1,200,000,000
2000	$1,800,000,000
2001	$1,800,000,000
2002	$2,300,000,000
2003	$2,300,000,000."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of this title.

§609. Reports to Congress

(a) IN GENERAL.—On June 1, 2012, and every 2 years thereafter, the Secretary shall submit to Congress a report summarizing the financial performance of the projects that are receiving, or have received, assistance under the TIFIA program, including a recommendation as to whether the objectives of the TIFIA program are best served by—

(1) continuing the program under the authority of the Secretary;

(2) establishing a Federal corporation or federally sponsored enterprise to administer the program; or

(3) phasing out the program and relying on the capital markets to fund the types of infrastructure investments assisted by the TIFIA program without Federal participation.

(b) APPLICATION PROCESS REPORT.—

(1) IN GENERAL.—Not later than December 1, 2012, and annually thereafter, the Secretary 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 list of all of the letters of interest and applications received from project sponsors for assistance under the TIFIA program during the preceding fiscal year.

(2) INCLUSIONS.—

(A) IN GENERAL.—Each report under paragraph (1) shall include, at a minimum, a description of, with respect to each letter of interest and application included in the report—

(i) the date on which the letter of interest or application was received;

(ii) the date on which a notification was provided to the project sponsor regarding whether the application was complete or incomplete;

(iii) the date on which a revised and completed application was submitted (if applicable);

(iv) the date on which a notification was provided to the project sponsor regarding whether the project was approved or disapproved; and

(v) if the project was not approved, the reason for the disapproval.

(B) CORRESPONDENCE.—Each report under paragraph (1) shall include copies of any correspondence provided to the project sponsor in accordance with section 602(d).

(c) STATUS REPORTS.—

(1) IN GENERAL.—The Secretary shall publish on the website for the TIFIA program—

(A) on a monthly basis, a current status report on all submitted letters of interest and applications received for assistance under the TIFIA program; and

(B) on a quarterly basis, a current status report on all approved applications for assistance under the TIFIA program.

(2) INCLUSIONS.—Each monthly and quarterly status report under paragraph (1) shall include, at a minimum, with respect to each project included in the status report—

(A) the name of the party submitting the letter of interest or application;

(B) the name of the project;

(C) the date on which the letter of interest or application was received;

(D) the estimated project eligible costs;

(E) the type of credit assistance sought; and

(F) the anticipated fiscal year and quarter for closing of the credit assistance.

(Added Pub. L. 105–178, title I, §1503(a), June 9, 1998, 112 Stat. 250, §189; renumbered §609 and amended Pub. L. 109–59, title I, §§1601(h), 1602(d), Aug. 10, 2005, 119 Stat. 1242, 1247; Pub. L. 112–141, div. A, title II, §2002, July 6, 2012, 126 Stat. 621; Pub. L. 114–94, div. A, title II, §2001(h), Dec. 4, 2015, 129 Stat. 1444; Pub. L. 117–58, div. A, title II, §12001(j), Nov. 15, 2021, 135 Stat. 621.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (c). Pub. L. 117–58 added subsec. (c).

2015—Pub. L. 114–94 substituted "the TIFIA program" for "this chapter (other than section 610)" wherever appearing.

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section read as follows: "On June 1, 2006, and every 2 years thereafter, the Secretary shall submit to Congress a report summarizing the financial performance of the projects that are receiving, or have received, assistance under this chapter (other than section 610), including a recommendation as to whether the objectives of this chapter (other than section 610) are best served—

"(1) by continuing the program under the authority of the Secretary;

"(2) by establishing a Government corporation or Government-sponsored enterprise to administer the program; or

"(3) by phasing out the program and relying on the capital markets to fund the types of infrastructure investments assisted by this chapter (other than section 610) without Federal participation."

2005—Pub. L. 109–59, §1602(d), renumbered section 189 of this title as this section.

Pub. L. 109–59, §1601(h), substituted "Reports" for "Report" in section catchline, "On June 1, 2006, and every 2 years thereafter," for "Not later than 4 years after the date of enactment of this subchapter," in introductory provisions, and "chapter (other than section 610)" for "subchapter" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§610. State infrastructure bank program

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

(1) CAPITAL PROJECT.—The term "capital project" has the meaning such term has under section 5302 of title 49.

(2) OTHER FORMS OF CREDIT ASSISTANCE.—The term "other forms of credit assistance" includes any use of funds in an infrastructure bank—

(A) to provide credit enhancements;

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

(C) to subsidize interest rates;

(D) to insure or guarantee letters of credit and credit instruments against credit risk of loss;

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

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

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

(3) STATE.—The term "State" has the meaning such term has under section 401.

(4) CAPITALIZATION.—The term "capitalization" means the process used for depositing funds as initial capital into a State infrastructure bank to establish the infrastructure bank.

(5) COOPERATIVE AGREEMENT.—The term "cooperative agreement" means written consent between a State and the Secretary which sets forth the manner in which the infrastructure bank established by the State in accordance with this section will be administered.

(6) LOAN.—The term "loan" means any form of direct financial assistance from a State infrastructure bank that is required to be repaid over a period of time and that is provided to a project sponsor for all or part of the costs of the project.

(7) GUARANTEE.—The term "guarantee" means a contract entered into by a State infrastructure bank in which the bank agrees to take responsibility for all or a portion of a project sponsor's financial obligations for a project under specified conditions.

(8) INITIAL ASSISTANCE.—The term "initial assistance" means the first round of funds that

are loaned or used for credit enhancement by a State infrastructure bank for projects eligible for assistance under this section.

(9) LEVERAGE.—The term "leverage" means a financial structure used to increase funds in a State infrastructure bank through the issuance of debt instruments.

(10) LEVERAGED.—The term "leveraged", as used with respect to a State infrastructure bank, means that the bank has total potential liabilities that exceed the capital of the bank.

(11) RURAL INFRASTRUCTURE PROJECT.—The term "rural infrastructure project" has the meaning given the term in section 601.

(12) RURAL PROJECTS FUND.—The term "rural projects fund" has the meaning given the term in section 601.

(b) COOPERATIVE AGREEMENTS.—Subject to the provisions of this section, the Secretary may enter into cooperative agreements with States for the establishment of State infrastructure banks for making loans and providing other forms of credit assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under this section.

(c) INTERSTATE COMPACTS.—

(1) IN GENERAL.—Congress grants consent to two or more of the States, entering into a cooperative agreement under subsection (a) with the Secretary for the establishment by such States of a multistate infrastructure bank in accordance with this section, to enter into an interstate compact establishing such bank in accordance with this section.

(2) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

(d) FUNDING.—

(1) HIGHWAY ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank to deposit into the highway account of the bank not to exceed—

(A) 10 percent of the funds apportioned to the State for each of fiscal years 2022 through 2026 under each of paragraphs (1), (2), and (5) of section 104(b); and

(B) 10 percent of the funds allocated to the State for each of such fiscal years.

(2) TRANSIT ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank, and any other recipient of Federal assistance under section 5307, 5309, or 5311 of title 49, to deposit into the transit account of the bank not to exceed 10 percent of the funds made available to the State or other recipient in each of fiscal years 2022 through 2026 for capital projects under each of such sections.

(3) RAIL ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank, and any other recipient of Federal assistance under subtitle V of title 49, to deposit into the rail account of the bank funds made available to the State or other recipient in each of fiscal years 2022 through 2026 for capital projects under such subtitle.

(4) RURAL PROJECTS FUND.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank to deposit into the rural projects fund of the bank the proceeds of a secured loan made to the bank in accordance with sections 602 and 603.

(5) CAPITAL GRANTS.—

(A) HIGHWAY ACCOUNT.—Federal funds deposited into a highway account of a State infrastructure bank under paragraph (1) shall constitute for purposes of this section a capitalization grant for the highway account of the bank.

(B) TRANSIT ACCOUNT.—Federal funds deposited into a transit account of a State infrastructure bank under paragraph (2) shall constitute for purposes of this section a capitalization grant for the transit account of the bank.

(C) RAIL ACCOUNT.—Federal funds deposited into a rail account of a State infrastructure bank under paragraph 3 shall constitute for purposes of this section a capitalization grant for the rail account of the bank.

(6) SPECIAL RULE FOR URBANIZED AREAS OF OVER 200,000.—Funds in a State infrastructure bank that are attributed to urbanized areas of a State with urbanized populations of over 200,000 under section 133(d)(1)(A)(i) may be used to provide assistance with respect to a project only if the metropolitan planning organization designated for such area concurs, in writing, with the provision of such assistance.

(7) DISCONTINUANCE OF FUNDING.—If the Secretary determines that a State is not implementing the State's infrastructure bank in accordance with a cooperative agreement entered into under subsection (b), the Secretary may prohibit the State from contributing additional Federal funds to the bank.

(e) FORMS OF ASSISTANCE FROM STATE INFRASTRUCTURE BANKS.—

(1) IN GENERAL.—A State infrastructure bank established under this section may—

(A) with funds deposited into the highway account, transit account, or rail account of the bank, make loans or provide other forms of credit assistance to a public or private entity to carry out a project eligible for assistance under this section; and

(B) with funds deposited into the rural projects fund, make loans to a public or private entity to carry out a rural infrastructure project.

(2) SUBORDINATION OF LOAN.—The amount of a loan or other form of credit assistance provided for a project described in paragraph (1) may be subordinated to any other debt financing for the project.

(3) MAXIMUM AMOUNT OF ASSISTANCE.—A State infrastructure bank established under this section may—

(A) with funds deposited into the highway account, transit account, or rail account of the bank, make loans or provide other forms of credit assistance to a public or private entity in an amount up to 100 percent of the cost of carrying out a project eligible for assistance under this section; and

(B) with funds deposited into the rural projects fund, make loans to a public or private entity in an amount not to exceed 80 percent of the cost of carrying out a rural infrastructure project.

(4) INITIAL ASSISTANCE.—Initial assistance provided with respect to a project from Federal funds deposited into a State infrastructure bank under this section may not be made in the form of a grant.

(f) ELIGIBLE PROJECTS.—Subject to subsection (e), funds in an infrastructure bank established under this section may be used only to provide assistance for projects eligible for assistance under this title and capital projects defined in section 5302 of title 49, and any other projects relating to surface transportation that the Secretary determines to be appropriate.

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

(1) deposit in cash, at a minimum, into the highway account, the transit account, and the rail account of the bank from non-Federal sources an amount equal to 25 percent of the amount of each capitalization grant made to the State and deposited into such account; except that, if the deposit is into the highway account of the bank and the State has a non-Federal share under section 120(b) that is less than 25 percent, the percentage to be deposited from non-Federal sources shall be the lower percentage of such grant;

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

(3) ensure that investment income derived from funds deposited to an account of the bank are—

(A) credited to the account;

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

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

(4) ensure that any loan from the bank will bear interest at or below market interest rates, as determined by the State, to make the project that is the subject of the loan feasible, except that any loan funded from the rural projects fund of the bank shall bear interest at or below the interest rate charged for the TIFIA loan provided to the bank under section 603;

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

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

(7) require the bank to make an annual report to the Secretary on its status no later than September 30 of each year and such other reports as the Secretary may require under guidelines issued to carry out this section.

(h) APPLICABILITY OF FEDERAL LAW.—

(1) IN GENERAL.—The requirements of this title and title 49 that would otherwise apply to funds made available under this title or such title and projects assisted with those funds shall apply to—

(A) funds made available under this title or such title and contributed to an infrastructure bank established under this section, including the non-Federal contribution required under subsection (g); and

(B) projects assisted by the bank through the use of the funds,

except to the extent that the Secretary determines that any requirement of such title (other than sections 113 and 114 of this title and section 5333 of title 49) is not consistent with the objectives of this section.

(2) REPAYMENTS.—The requirements of this title and title 49 shall apply to repayments from non-Federal sources to an infrastructure bank from projects assisted by the bank. Such a repayment shall be considered to be Federal funds.

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

(j) MANAGEMENT OF FEDERAL FUNDS.—Sections 3335 and 6503 of title 31 shall not apply to funds deposited into an infrastructure bank under this section.

(k) PROGRAM ADMINISTRATION.—For each of fiscal years 2022 through 2026, a State may expend not to exceed 2 percent of the Federal funds contributed to an infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank.

(Added Pub. L. 109–59, title I, §1602(a), Aug. 10, 2005, 119 Stat. 1243, §190; renumbered §610, Pub. L. 109–59, title I, §1602(d), Aug. 10, 2005, 119 Stat. 1247, as amended Pub. L. 110–244, title I, §101(f), June 6, 2008, 122 Stat. 1574; Pub. L. 112–141, div. A, title I, §1519(c)(11), formerly

§1519(c)(12), July 6, 2012, 126 Stat. 577, renumbered §1519(c)(11), Pub. L. 114–94, div. A, title I, §1446(d)(5)(B), Dec. 4, 2015, 129 Stat. 1438; Pub. L. 114–94, div. A, title II, §2001(i), Dec. 4, 2015, 129 Stat. 1444; Pub. L. 117–58, div. A, title II, §12001(k), Nov. 15, 2021, 135 Stat. 621.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (d)(1)(A), (2), (3). Pub. L. 117–58, §12001(k)(1), substituted "fiscal years 2022 through 2026" for "fiscal years 2016 through 2020".

Subsec. (k). Pub. L. 117–58, §12001(k)(2), substituted "fiscal years 2022 through 2026" for "fiscal years 2016 through 2020".

2015—Subsec. (a)(11), (12). Pub. L. 114–94, §2001(i)(1), added pars. (11) and (12).

Subsec. (d)(1)(A). Pub. L. 114–94, §2001(i)(2)(A), substituted "each of fiscal years 2016 through 2020 under each of paragraphs (1), (2), and (5) of section 104(b); and" for "fiscal years 2005 through 2009 under each of sections 104(b)(1), 104(b)(3), 104(b)(4), and 144; and".

Subsec. (d)(1)(B). Pub. L. 114–94, §1446(d)(5)(B), amended Pub. L. 112–141, div. A, title I, §1519(c). See 2012 Amendment note below.

Subsec. (d)(2), (3). Pub. L. 114–94, §2001(i)(2)(B), (C), substituted "fiscal years 2016 through 2020" for "fiscal years 2005 through 2009".

Subsec. (d)(4) to (7). Pub. L. 114–94, §2001(i)(2)(D)–(F), added par. (4), redesignated former pars. (4) to (6) as (5) to (7), respectively, and substituted "section 133(d)(1)(A)(i)" for "section 133(d)(3)" in par. (6).

Subsec. (e). Pub. L. 114–94, §2001(i)(3), added subsec. (e) and struck out former subsec. (e) which related to forms of assistance from infrastructure banks.

Subsec. (g)(1). Pub. L. 114–94, §2001(i)(4)(A), substituted "the highway account, the transit account, and the rail account" for "each account".

Subsec. (g)(4). Pub. L. 114–94, §2001(i)(4)(B), inserted ", except that any loan funded from the rural projects fund of the bank shall bear interest at or below the interest rate charged for the TIFIA loan provided to the bank under section 603" after "feasible".

Subsec. (k). Pub. L. 114–94, §2001(i)(5), substituted "fiscal years 2016 through 2020" for "fiscal years 2005 through 2009".

2012—Subsec. (d)(1)(B). Pub. L. 112–141, §1519(c)(11), formerly §1519(c)(12), as renumbered by Pub. L. 114–94, §1446(d)(5)(B), struck out "under section 105" before period at end.

2008—Pub. L. 110–244 amended Pub. L. 109–59, §1602(d). See 2005 Amendment note below.

2005—Pub. L. 109–59, as amended by Pub. L. 110–244, renumbered section 190 of this title as this section.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Except as otherwise provided, amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

Pub. L. 114–94, div. A, title I, §1446(d), Dec. 4, 2015, 129 Stat. 1438, provided that the amendment made by section 1446(d)(5)(B) is effective as of July 6, 2012, and as if included in Pub. L. 112–141 as enacted.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–244 effective as of the date of enactment of Pub. L. 109–59 (Aug. 10, 2005) and to be treated as included in Pub. L. 109–59 as of that date, and provisions of Pub. L. 109–59, as in effect on the day before June 6, 2008, that are amended by Pub. L. 110–244 to be treated as not enacted, see section 121(b) of Pub. L. 110–244, set out as a note under section 101 of this title.

§611. Asset concessions and innovative finance assistance

(a) DEFINITIONS.—In this section:

(1) APPROVED INFRASTRUCTURE ASSET.—The term "approved infrastructure asset" means—

(A) a project (as defined in section 601(a)); and

(B) a group of projects (as defined in section 601(a)) considered together in a single asset concession or long-term lease to a concessionaire by 1 or more eligible entities.

(2) ASSET CONCESSION.—The term "asset concession" means a contract between an eligible entity and a concessionaire—

(A) under which—

(i) the eligible entity agrees to enter into a concession agreement or long-term lease with the concessionaire relating to an approved infrastructure asset owned, controlled, or maintained by the eligible entity;

(ii) as consideration for the agreement or lease described in clause (i), the concessionaire agrees—

(I) to provide to the eligible entity 1 or more asset concession payments; and

(II) to maintain or exceed the condition, performance, and service level of the approved infrastructure asset, as compared to that condition, performance, and service level on the date of execution of the agreement or lease; and

(iii) the eligible entity and the concessionaire agree that the costs for a fiscal year of the agreement or lease, and any project carried out under the agreement or lease, shall not be shifted to any taxpayer the annual household income of whom is less than $400,000 per year, including through taxes, user fees, tolls, or any other measure, for use of an approved infrastructure asset; and

(B) the terms of which do not include any noncompete or exclusivity restriction (or any other, similar restriction) on the approval of another project.

(3) ASSET CONCESSION PAYMENT.—The term "asset concession payment" means a payment that—

(A) is made by a concessionaire to an eligible entity for fair market value that is determined as part of the asset concession; and

(B) may be—

(i) a payment made at the financial close of an asset concession; or

(ii) a series of payments scheduled to be made for—

(I) a fixed period; or

(II) the term of an asset concession.

(4) CONCESSIONAIRE.—The term "concessionaire" means a private individual or a private or publicly chartered corporation or entity that enters into an asset concession with an eligible entity.

(5) ELIGIBLE ENTITY.—

(A) IN GENERAL.—The term "eligible entity" means an entity described in subparagraph (B) that—

(i) owns, controls, or maintains an approved infrastructure asset; and

(ii) has the legal authority to enter into a contract to transfer ownership, maintenance, operations, revenues, or other benefits and responsibilities for an approved infrastructure asset.

(B) ENTITIES DESCRIBED.—An entity referred to in subparagraph (A) is any of the following:

(i) A State.
(ii) A Tribal government.
(iii) A unit of local government.
(iv) An agency or instrumentality of a State, Tribal government, or unit of local government.
(v) A special purpose district or public authority.

(b) ESTABLISHMENT.—The Secretary shall establish a program to facilitate access to expert services for, and to provide grants to, eligible entities to enhance the technical capacity of eligible entities to facilitate and evaluate public-private partnerships in which the private sector partner could assume a greater role in project planning, development, financing, construction, maintenance, and operation, including by assisting eligible entities in entering into asset concessions.

(c) APPLICATIONS.—To be eligible to receive a grant under this section, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(d) ELIGIBLE ACTIVITIES.—

(1) TECHNICAL ASSISTANCE GRANTS.—An eligible entity may use amounts made available from a grant under this section for technical assistance to build the organizational capacity of the eligible entity to develop, review, or enter into an asset concession, including for—

(A) identifying appropriate assets or projects for asset concessions;
(B) soliciting and negotiating asset concessions, including hiring staff in public agencies;
(C) conducting a value-for-money analysis, or a comparable analysis, to evaluate the comparative benefits of asset concessions and public debt or other procurement methods;
(D) evaluating options for the structure and use of asset concession payments;
(E) evaluating and publicly presenting the risks and benefits of all contract provisions for the purpose of transparency and accountability;
(F) identifying best practices to protect the public interest and priorities;
(G) identifying best practices for managing transportation demand and mobility along a corridor, including through provisions of the asset concession, to facilitate transportation demand management strategies along the corridor that is subject to the asset concession; and
(H) integrating and coordinating pricing, data, and fare collection with other regional operators that exist or may be developed.

(2) EXPERT SERVICES.—An eligible entity seeking to leverage public and private funding in connection with the development of an early-stage approved infrastructure asset, including in the development of alternative approaches to project delivery or procurement, may use amounts made available from a grant under this section to retain the services of an expert firm to provide to the eligible entity direct project level assistance, which services may include—

(A) project planning, feasibility studies, revenue forecasting, economic assessments and cost-benefit analyses, public benefit studies, value-for-money analyses, business case development, lifecycle cost analyses, risk assessment, financing and funding options analyses, procurement alternatives analyses, statutory and regulatory framework analyses and other pre-procurement and pre-construction activities;
(B) financial and legal planning (including the identification of statutory authorization, funding, and financing options);
(C) early assessment of permitting, environmental review, and regulatory processes and costs; and
(D) assistance with entering into an asset concession.

(e) DISTRIBUTION.—

(1) MAXIMUM AMOUNT.—

(A) TECHNICAL ASSISTANCE GRANTS.—The maximum amount of a technical assistance grant under subsection (d)(1) shall be $2,000,000.

(B) EXPERT SERVICES.—The maximum amount of the value of expert services retained by an eligible entity under subsection (d)(2) shall be $2,000,000.

(2) COST SHARING.—
(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of the cost of an activity carried out under this section may be up to 100 percent.
(B) CERTAIN PROJECTS.—If the amount of the grant provided to an eligible entity under this section is more than $1,000,000, the Federal share of the cost of an activity carried out using grant amounts in excess of $1,000,000 shall be 50 percent.

(3) STATEWIDE MAXIMUM.—The aggregate amount made available under this section to eligible entities within a State shall not exceed, on a cumulative basis for all eligible entities within the State during any 3-year period, $4,000,000.

(f) REQUIREMENTS.—
(1) IN GENERAL.—The Secretary shall ensure that, as a condition of receiving a grant under this section, for any asset concession for which the grant provides direct assistance—
(A) the asset concession shall not prohibit, discourage, or make it more difficult for an eligible entity to construct new infrastructure, to provide or expand transportation services, or to manage associated infrastructure in publicly beneficial ways, along a transportation corridor or in the proximity of a transportation facility that was a part of the asset concession;
(B) the eligible entity shall have adopted binding rules to publish all major business terms of the proposed asset concession not later than the date that is 30 days before entering into the asset concession, to enable public review, including a certification of public interest based on the results of an assessment under subparagraph (D);
(C) the asset concession shall not result in displacement, job loss, or wage reduction for the existing workforce of the eligible entity or other public entities;
(D) the eligible entity or the concessionaire shall carry out a value-for-money analysis, or similar assessment, to compare the aggregate costs and benefits to the eligible entity of the asset concession against alternative options to determine whether the asset concession generates additional public benefits and serves the public interest;
(E) the full amount of any asset concession payment received by the eligible entity under the asset concession, less any amount paid for transaction costs relating to the asset concession, shall be used to pay infrastructure costs of the eligible entity; and
(F) the terms of the asset concession shall not result in any increase in costs under the asset concession being shifted to taxpayers the annual household income of whom is less than $400,000 per year, including through taxes, user fees, tolls, or any other measure, for use of an approved infrastructure asset.

(2) AUDIT.—Not later than 3 years after the date on which an eligible entity enters into an asset concession as a result of a grant under this section—
(A) the eligible entity shall hire an independent auditor to evaluate the performance of the concessionaire based on the requirements described in paragraph (1); and
(B) the independent auditor shall submit to the eligible entity, and make publicly available, a report describing the results of the audit under subparagraph (A).

(3) TREATMENT.—Unless otherwise provided under paragraph (1), the Secretary shall not, as a condition of receiving a grant under this section, prohibit or otherwise prevent an eligible entity from entering into, or receiving any asset concession payment under, an asset concession for an approved infrastructure asset owned, controlled, or maintained by the eligible entity.
(4) APPLICABILITY OF FEDERAL LAWS.—Nothing in this section exempts a concessionaire or an eligible entity from a compliance obligation with respect to any applicable Federal or State law that would otherwise apply to the concessionaire, the eligible entity, or an

approved infrastructure asset.

(g) FUNDING.—

(1) IN GENERAL.—On October 1, 2021, and on each October 1 thereafter through October 1, 2025, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this section $20,000,000, to remain available until expended.

(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

(Added Pub. L. 117–58, div. G, title X, §71001(a)(1), Nov. 15, 2021, 135 Stat. 1316.)