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96th Congress
2d Session

COMMITTEE PRINT

(96-37)

UNITED STATES CODE
TITLE 23: HIGHWAYS

FEBRUARY 1980



Printed for the use of the Committee on Public Works and Transportation

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FOREWORD

Contained herein is the latest up-to-date edition of Title 23 of the United States Code under which is embodied the laws that govern the Federal Highway program.

Because of the significance and importance of new amendments to the Federal-Aid Highway Act, the Committee on Public Works and Transportation felt there was a need to publish, for handy use and reference, in one package, this version of Title 23 of the United States Code.

The Committee hopes that this latest revision will be helpful to all those who are interested in the transportation programs of our Nation.

HAROLD T. (BIZZ) JOHNSON, *Chairman.*

TITLE 23.—UNITED STATES CODE

HIGHWAYS

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§ 101. Definitions and declaration of policy.

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

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

The term "construction" means the supervising, inspecting, actual building, and all expenses incidental to the construction or reconstruction of a highway, including locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with specifications of the National Oceanic and Atmospheric Administration in the Department of Commerce), resurfacing, restoration, and rehabilitation, acquisition of rights-of-way, relocation assistance, elimination of hazards of railway grade crossings, acquisition of replacement housing sites, acquisition and rehabilitation, relocation, and construction of replacement housing, and improvements which directly facilitate and control traffic flow, such as grade separation of intersections, widening of lanes, channelization of traffic, traffic control systems, and passenger loading and unloading areas. The term also includes capital improvements which directly facilitate an effective vehicle weight enforcement program, such as scales (fixed and portable), scale pits, scale installation, and scale houses.

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

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

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

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

The term "highway" includes roads, streets, and parkways, and also includes rights-of-way, bridges, railroad-highway crossings, tunnels, drainage structures, signs, guardrails, and protective structures, in connection with highways. It further includes that portion of any interstate or international bridge or tunnel and the approaches thereto, the cost of which is assumed by a State highway department including such facilities as may be required by the United States Customs and Immigration Services in connection with the operation of an international bridge or tunnel.

The term "Federal-aid highways" means highways located on one of the Federal-aid systems described in section 103 of this title.

The term "highway safety improvement project" means a project which corrects or improves high hazard locations, eliminates roadside obstacles, improves highway signing and pavement marking, or installs traffic control or warning devices at high accident potential locations.

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

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

The term "park 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.

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

The term "project" means an undertaking to construct a particular portion of a highway, or if the context so implies, the particular portion of a highway so constructed.

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

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

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

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

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

The term "Secretary" means Secretary of Transportation.

The term "urbanized area" means an area 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.

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

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

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

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

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

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.

The term "Interstate System" means the National System of Interstate and Defense Highways described in subsection (e) of section 103 of this title.

The term "urban area" means an urbanized area or, in the case of an urbanized area encompassing more than one State, that part of the urbanized area in each such State, or an urban place as designated by the Bureau of the Census having a population of five thousand or more and not within any urbanized area, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of the Census, except in the case of cities in the State of Maine and in the State of New Hampshire.

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

It is hereby declared that the prompt and early completion of the National System of Interstate and Defense Highways, so named because of its primary importance to the national defense and hereafter referred to as the "Interstate System", is essential to the national interest and is one of the most important objectives of this Act. It is the intent of Congress that the Interstate System be completed as nearly as practicable over the period of availability of the thirty-four 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, 1990, under section 108(b) of the Federal-Aid Highway Act of 1956 (70 Stat. 374), and that the entire system in all States by brought to simultaneous completion. Insofar as possible in consonance with this objective, existing highways located on an interstate route shall be used to the extent that such use is practicable, suitable, and feasible, it being the intent that local needs, to the extent practicable, suitable, and feasible, shall be given equal consideration with the needs of interstate commerce.

It is further declared that since the Interstate System is now in the final phase of completion it shall be the national policy that increased emphasis be placed on the construction and reconstruction of the other Federal-aid systems in accordance with the first paragraph of this subsection, in order to bring all of the Federal-aid systems up to standards and to increase the safety of these systems to the maximum extent.

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

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

(e) It is the national policy that to the maximum extent possible the procedures to be 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.

§ 102. Authorizations.

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.

§ 103. Federal-aid systems.

(a) For the purposes of this title, the four Federal-aid systems, the primary system, the urban system, the secondary system, and the Interstate System, are established and continued pursuant to the provisions of this section.

(b)(1) The Federal-aid primary system shall consist of an adquate system of connected main highways, selected or designated by each State through its State highway department, subject to the approval of the Secretary as provided by subsection (f) of this section. This system shall not exceed 7 per centum of the total highway mileage of such State, exclusive of mileage within national forests, Indian, or other Federal reservations and within urban areas, as shown by the records of the State highway department on November 9, 1921. Whenever provision has been made by any State for the completion and maintenance of 90 per centum of its Federal-aid primary system, as originally designated, said State through its State highway department by and with the approval of the Secretary is authorized to increase the mileage of its Federal-aid primary system by additional mileage equal to not more than 1 per centum of the total mileage of said State as shown by the records on November 9, 1921. Thereafter, it may make like 1 per centum increases in the mileage of its Federal-aid primary system whenever provision has been made for the completion and maintenance of 90 per centum of the entire system, including the additional mileage previously authorized. This system may be located both in rural and urban areas. The mileage limitations in this paragraph shall not apply to the District of Columbia, Hawaii, Alaska, or Puerto Rico.

(2) After June 30, 1976, the Federal-aid primary system shall consist of an adequate system of connected main roads important to interstate, statewide, and regional travel, consisting of rural arterial routes and their extensions into or through urban areas. The Federal-aid primary system shall be designated by each State acting through its State highway department and where appropriate, shall be in accordance with the planning process pursuant to section 134 of this title, subject to the approval of the Secretary as provided by subsection (f) of this section.

(c)(1) The Federal-aid secondary system shall be selected by the State highway departments and the appropriate local road officials in cooperation with each other, subject to approval by the Secretary as provided in subsection (f) of this section. In making such selections, farm-to-market roads, rural mail routes, public school bus routes, local rural roads, access roads to airports, county roads,

township roads, and roads of the county road class may be included, so long as they are not on the Federal-aid primary system or the Interstate system. 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.

(2) After June 30, 1976, the Federal-aid secondary system shall consist of rural major collector routes. The Federal-aid secondary system shall be designated by each State through its State highway department and appropriate local officials in cooperation with each other, subject to the approval of the Secretary as provided in subsection (f) of this section.

(d)(1) The Federal-aid urban system shall be established in each urbanized area, and in such other urban areas as the State highway department may designate. The system shall be so located as to serve the major centers of activity, and shall include high traffic volume arterial and collector routes, including access roads to airports and other transportation terminals. No route on the Federal-aid urban system shall also be a route on any other Federal-aid system. Each route of the system to the extent feasible shall connect with another route on a Federal-aid system. Routes on the Federal-aid urban system 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. Designation of the Federal-aid urban system shall be subject to the approval of the Secretary as provided in subsection (f) of this section. The provisions of chapters 1, 3, and 5 of this title that are applicable to Federal-aid primary highways shall apply to the Federal-aid urban system except as determined by the Secretary to be inconsistent with this subsection.

(2) After June 30, 1976, the Federal-aid urban system shall be located in each urbanized area and such other urban areas as the State highway departments may designate and shall consist of arterial routes and collector routes, exclusive of urban extensions of the Federal-aid primary system. The routes on the Federal-aid urban system shall be designated by appropriate local officials, with the concurrence of the State highway departments, subject to the approval of the Secretary as provided in subsection (f) of this section, and in the case of urbanized areas shall also be in accordance with the planning process required pursuant to the provisions of section 134 of this title.

(e)(1) The Interstate System shall be designated within the United States, including the District of Columbia, and, except as provided in paragraphs (2) and (3) of this subsection, it shall not exceed forty-one thousand miles in total extent. It shall be so located as to connect by routes, as direct as practicable, the principal metropolitan areas, cities, and industrial centers, to serve the national defense, and to the greatest extent possible, to connect at suitable border points with routes of continental importance in the Dominion of Canada and the Republic of Mexico. The routes of this system, to the greatest extent possible, shall be selected by joint action of the State highway departments of its State and the adjoining States, subject to the approval by the Secretary as provided

in subsection (f) of this section. All highways or routes included in the Interstate System as finally approved, if not already coincident with the primary system, shall be added to said system without regard to the mileage limitation set forth in subsection (b) of this section. This system may be located both in rural and urban areas.

(2) In addition to the mileage authorized by the first sentence of paragraph (1) of this subsection, there is hereby authorized additional mileage for the Interstate System of five hundred miles, to be used in making modifications or revisions in the Interstate System as provided in this paragraph. Upon the request of a State highway department the Secretary may withdraw his approval of any route or portion thereof on the Interstate System within that State selected and approved in accordance with this title, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System (including urban routes necessary for metropolitan transportation) and will not be constructed as a part of the Interstate System, and if he 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. After the Secretary has withdrawn his approval of any such route or portion thereof the mileage of such route or portion thereof and the additional mileage authorized by the first sentence of this paragraph shall be available for the designation of interstate routes or portions thereof as provided in this subsection. The provisions of this title applicable to the Interstate System shall apply to all mileage designated under the third sentence of this paragraph. The Secretary shall not designate any Interstate route or portion thereof under authority of this paragaraph after the date of enactment of the Federal Aid Highway Act of 1978.

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

(4) 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 which is within an urbanized area or which passes through and connects urbanized areas within a State and which was selected and approved in accordance with this title, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System 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 the route or portion thereof. When the Secretary withdraws his approval under this paragraph, a sum equal to the Federal share of the cost to complete the withdrawn route or portion thereof, as that cost is included in the latest Interstate System cost estimate approved by Congress, subject to increase or decrease, as determined by the Secretary based on changes in construction costs of the withdrawn route or portion thereof as of the date of enactment of the Federal-Aid Highway Act of 1976 or the date of approval of each substitute project under this paragraph, whichever is later, and in accordance with the design of the route or portion thereof that is the basis of the latest cost esti-

mate, shall be available to the Secretary to incur obligations for the Federal share of either public mass transit projects involving the construction of fixed rail facilities or the purchase of passenger equipment including rolling stock, for any mode of mass transit, or both, or projects authorized under any highway assistance program under section 103 of this title: or both, 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. Substitute projects under this paragraph may not be approved by the Secretary under this paragraph after September 30, 1983, and the Secretary shall not approve any withdrawal of a route under this paragraph after such date, except that this sentence shall not apply to any route which on the date of enactment of the Federal-Aid Highway Act of 1978 is under judicial injunction prohibiting its construction. Approval by the Secretary of the plans, specifications, and estimates for a substitute project shall be deemed to be a contractual obligation of the Federal Government. The Federal share of each substitute project shall not exceed 85 per centum of the cost thereof. The sums available for obligation shall remain available until obligated. The sums obligated for mass transit projects shall become part of, and be administered through, the Urban Mass Transportation Fund. There are authorized to be appropriated for liquidation of the obligations incurred under this paragraph such sums as may be necessary out of the general fund of the Treasury. Unobligated apportionments for the Interstate System in any State where a withdrawal is approved under this paragraph shall, on the date of such approval, be reduced in the proportion that the Federal share of the cost of the withdrawn route or portion thereof bears to the Federal share of the total cost of all Interstate routes in that State as reflected in the latest cost estimate approved by the Congress. In any State where the withdrawal of an Interstate route or portion thereof has been approved under section 103(e)(4) of this title prior to the date of enactment of the Federal-Aid Highway Act of 1976, the unobligated apportionments for the Interstate System in that State on the date of enactment of the Federal-Aid Highway Act of 1976 shall be reduced in the proportion that the Federal share of the cost to complete such route or portion thereof, as shown on the latest cost estimate approved by Congress prior to such approval of withdrawal, bears to the Federal share of the cost of all Interstate routes in that State, as shown on such cost estimate, except that the amount of such proportional reduction shall be credited with the amount of any reduction in such State's Interstate apportionment which was attributable to the Federal share of any substitute project approved under this paragraph prior to enactment of such Federal-Aid Highway Act. 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. The provisions of this paragraph as amended by the Federal-Aid Highway Act of 1976, shall be effective as of August 13, 1973. The provisions of section 3(e)(4) of the Urban Mass Transportation Act of 1964, as

amended, shall apply in carrying out this paragraph. After the date of enactment of this sentence, the Secretary may not designate any mileage as part of the Interstate System pursuant to this paragraph or under any other provision of law. The preceding sentence shall not apply to a designation made under section 139 of this title. After September 30, 1979, the Secretary shall not withdraw his approval under this paragraph of any route or portion thereof on the Interstate System open to traffic before the date of the proposed withdrawal. Any withdrawal of approval of any such route or portion thereof before September 30, 1979, is hereby determined to be authorized by this paragraph.

(5) Notwithstanding any other provision of law, in the case of any withdrawal of approval before November 6, 1978—

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

(B) refund will not be required for the costs of construction items, materials, or rights-of-way of the withdrawn route or portion of the Interstate System which will be or have been applied (i) to a transportation project permissible under this title, (ii) to a public conservation or public recreation purpose, or (iii) to such other public purpose as may be determined by the Secretary to be in the public interest on condition that the State shall make assurances satisfactory to the Secretary that such construction items or materials or rights-of-way have been or will be so applied by the State of any political subdivision thereof to a project under clause (i), (ii), or (iii) within 10 years from the date of the withdrawal of approval; and

(6) Notwithstanding any other provision of law—

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

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

(ii), or (iii) within ten years from the date of withdrawal of approval;

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

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

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

(f) The Secretary shall have authority to approve in whole or in part the Federal-aid primary system, the Federal-aid secondary system, the Federal-aid urban system, and the Interstate System, as and when such systems or portions thereof are designated, or to require modifications or revisions thereof. No Federal-aid system or portion thereof shall be eligible for projects in which Federal funds participate until approved by the Secretary.

(g) The Secretary, on July 1, 1974, shall remove from designation as a part of the Interstate System each segment of such system for which a State has not notified the Secretary that such State intends to construct such segment, and which the Secretary finds is not essential to completion of a unified and connected Interstate System. Any segment of the Interstate System, with respect to which a State has not submitted by July 1, 1975, a schedule for the expenditure of funds for completion of construction of such segment or alternative segment within the period of availability of funds authorized to be appropriated for completion of the Interstate System, and with respect to which the State has not provided the Secretary with assurances satisfactory to him that such schedule with be met, shall be removed from designation as a part of the Interstate System. No segment of the Interstate System removed under the authority of the preceding sentence shall thereafter be designated as a part of the Interstate System except as the Secre-

tary finds necessary in the interest of national defense or for other reasons of national interest. This subsection shall not be applicable to any segment of the Interstate System referred to in section 23(a) of the Federal-Aid Highway Act of 1968.

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

§ 104. Apportionment.

(a) Whenever an apportionment is made of the sums authorized to be appropriated for expenditure upon the Federal-aid systems, the Secretary shall deduct a sum, in such amount not to exceed 3¾ per centum of all sums so authorized, as the Secretary may deem necessary for administering the provisions of law to be financed from appropriations for the Federal-aid systems and for carrying on the research authorized by subsections (a) and (b) of section 307 of this title. In making such determination, the Secretary shall take into account the unexpended balance of any sums deducted for such purposes in prior years. The sum so deducted shall be available for expenditure from the unexpended balance of any appropriation made at any time for expenditure upon the Federal-aid systems, until such sum has been expended.

(b) On October 1 of each fiscal year except as provided in paragraphs (4) and (5) of this subsection, the Secretary, after making the deduction authorized by subsection (a) of this section, shall apportion the remainder of the sums authorized to be appropriated for expenditure upon the Federal-aid systems for that fiscal year, among the several States in the following manner:

(1) 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.

(2) 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 de-

livery 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.

(3) [Repealed P.L. 94–280].

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

One-half in the ratio which the population of each State bears to the total population of all the States as shown by the latest available Federal census, except that no States shall receive less than three-fourths of 1 per centum of the funds so apportioned; and one-half in the manner provided in paragraph (1) of this subsection. The sums authorized by section 108(b) of the Federal-Aid Highway Act of 1956 for the fiscal years ending June 30, 1958, and June 30, 1959, shall be apportioned on a date not less than six months and not more than twelve months in advance of the beginning of the fiscal year for which authorized.

(5)(A) Except as provided in subparagraph (B)—For the Interstate System for the fiscal years 1960 through 1990:

For the fiscal years 1960 through 1966, in the ratio which the estimated cost of completing the Interstate System in such State, as determined and approved in the manner provided in this paragraph, bears to the sum of the estimated cost of completing the Interstate System in all of the States. For the fiscal year 1967 through 1990, in the ratio which the Federal share of the estimated cost of completing the Interstate System in such State, as determined and approved in the manner provided in this paragraph, bears to the sum of the estimated cost of the Federal share of completing the Interstate System in all of the States. Each apportionment herein authorized for the fiscal years 1960 through 1990, inclusive, shall be made on October 1 of the year preceding the fiscal year for which authorized.

As soon as the standards provided for in subsection (b) of section 109 of this title have been adopted, the Secretary, in cooperation with the State highway departments, shall make a detailed estimate of the cost of completing the Interstate System as then designated, after taking into account all previous apportionments made under this section, based upon such standards and in accordance with rules and regulations adopted by him and applied uniformly to all of the States. The Secretary shall transmit such estimates to the Senate and the House of Representatives within ten days subsequent to January 2, 1958. Upon approval of such estimate by the Congress by concurrent resolution, the Secretary shall use such approved estimate in making apportionments for the fiscal years ending June 30, 1960, June 30, 1961, and June 30, 1962. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System, after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1961. Upon approval of such estimate by the Congress by concurrent resolution, the Secretary shall use such approved estimate in making apportionments for the fiscal years ending June

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30, 1963, June 30, 1964, June 30, 1965, and June 30, 1966. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System, after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1965. Upon the approval of such estimate by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1967; June 30, 1968; and June 30, 1969. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1968. Upon the approval by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1970, and June 30, 1971. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives on April 20, 1970. Upon the approval by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1972, and June 30, 1973. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1972. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1975. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimate in making the apportionment for the fiscal year ending September 30, 1977. The Secretary shall make the apportionment for the fiscal year ending September 30, 1978, in accordance with section 103 of the Federal-Aid Highway Act of 1976. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1977. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1979, and September 30, 1980. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous ap-

portionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1979. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1981, and September 30, 1982. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1981. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1983, and September 30, 1984. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1983. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1985, and September 30, 1986. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1985. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1987, and September 30, 1988. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1987. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1989, and September 30, 1990. Whenever the Secretary, pursuant to this subsection, requests and receives estimates of cost from the State highway departments, he shall furnish copies of such estimates at the same time to the Senate and the House of Representatives. The Secretary shall not include in any estimate submitted under this provision after December 31, 1978, any cost of a project to expand or clear zones immediately adjacent to the paved roadway of routes designed prior to February, 1967.

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

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 (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each State bears to the total of all such vehicle miles in all States.

(6) For the Federal-aid urban system:

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

(c)(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.

(d) 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.

(e) On October 1 of each fiscal year the Secretary shall certify to each of the State highway departments the sums which he has apportioned hereunder (other than under subsection (b)(5) of this section) to each State for such fiscal year, and also the sums which he

has deducted for administration and research pursuant to subsection (a) of this section. On October 1 of the year preceding the fiscal year for which authorized, the Secretary shall certify to each of the State highway departments the sums which he has apportioned under subsection (b)(5) of this section to each State for such fiscal year, and also the sums which he has deducted for administration and research pursuant to subsection (a) of this section. To permit the States to develop adequate plans for the utilization of apportioned sums, the Secretary shall advise each State of the amount that will be apportioned each year under this section not later than ninety days before the beginning of the fiscal year for which the sums to be apportioned are authorized, except that in the case of the Interstate System the Secretary shall advise each State ninety days prior to the apportionment of such funds.

(f)(1) On October 1 of each fiscal year, the Secretary, after making the deduction authorized by subsection (a) of this section, shall set aside not to exceed 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, 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.

(2) These funds shall be apportioned to the States in the ratio which the population in urbanized areas or parts thereof, in each State bears to the total population in such urbanized areas in all the States as shown by the latest available census, except that no State shall receive less than one-half per centum of the amount apportioned.

(3) The funds apportioned to any State under paragraph (2) of this subsection shall be made available by the State to the metropolitan planning organizations designated by the State as being responsible for carrying out the provisions of section 134 of this title, except that States receiving the minimum apportionment under paragraph (2) may, in addition, subject to the approval of the Secretary, use the funds apportioned to finance transportation planning outside of urbanized areas. These funds shall be matched in accordance with section 120 of this title unless the Secretary determines that the interests of the Federal-aid highway program would be best served without such matching.

(4) The distribution within any State of the planning funds made available to agencies under paragraph (3) of this subsection shall be in accordance with a formula developed by each State and approved by the Secretary which shall consider but not necessarily be limited to, population, status of planning, and metropolitan area transportation needs.

(g) Not more than 40 per centum of the amount apportioned in any fiscal year to each State in accordance with sections 144, 152, and 153 of this title, or section 203(d) of the Highway Safety Act of 1973, may be transferred from the apportionment under one section to the apportionment under any other of such sections if such a transfer is requested by the State highway department and is approved by the Secretary as being in the public interest. The Secre-

tary may approve the transfer of 100 per centum of the apportionment under one such section to the apportionment under any other of such sections if such transfer is requested by the State highway department, and is approved by the Secretary as being in the public interest, if he has received satisfactory assurances from such State highway department that the purposes of the program from which such funds are to be transferred have been met. 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. Nothing in this subsection authorizes the transfer of any amount apportioned from the Highway Trust Fund to any apportionment the funds for which were not from the Highway Trust Fund, and nothing in this subsection authorizes the transfer of any amount apportioned from funds not from the Highway Trust Fund to any apportionment the funds for which were from the Highway Trust Fund.

(h) 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 the fiscal year.

§ 105. Programs.

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

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

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

(d) In approving programs for projects on the Federal-aid urban system, the Secretary shall require that such projects be selected by the appropriate local officials with the concurrence of the State highway department of each State and, in urbanized areas, also in accordance with the planning process required pursuant to section 134 of this title.

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

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

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

§ 106. Plans, specifications, and estimates.

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

(b) 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.

(c) Items included in any such estimate for construction engineering shall not exceed 10 per centum 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. However, this limitation shall be 15 per centum in any State with respect to which the Secretary finds such higher limitation to be necessary.

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

§ 107. Acquisition of rights-of-way—Interstate System.

(a) In any case in which the Secretary is requested by a State to acquire lands or interests in lands (including within the term "interests in lands", the control of access thereto from adjoining lands) required by such State for right-of-way or other purposes in connection with the prosecution of any project for the construction, reconstruction, or improvement of any section of the Interstate System, the Secretary is authorized, in the name of the United States and prior to the approval of title by the Attorney General, to acquire, enter upon, and take possession of such lands or interests in lands by purchase, donation, condemnation, or otherwise in accordance with the laws of the United States (including the Act of February 26, 1931, 46 Stat. 1421), if—

(1) the Secretary has determined either that the State is unable to acquire necessary lands or interests in lands, or is unable to acquire such lands or interests in lands with sufficient promptness; and

(2) the State has agreed with the Secretary to pay, at such time as may be specified by the Secretary an amount equal to 10 per centum of the costs incurred by the Secretary, in acquiring such lands or interests in lands, or such lesser percentage which represents the State's pro rata share of project costs as determined in accordance with subsection (c) of section 120 of this title.

The authority granted by this section shall also apply to lands and interests in lands received as grants of land from the United States and owned or held by railroads or other corporations.

(b) The costs incurred by the Secretary in acquiring any such lands or interests in lands may include the cost of examination and abstract of title, certificate of title, advertising, and any fees incidental to such acquisition. All costs incurred by the Secretary in connection with the acquisition of any such lands or interests in lands shall be paid from the funds for construction, reconstruction, or improvement of the Interstate System apportioned to the State upon the request of which such lands or interests in lands are acquired, and any sums paid to the Secretary by such State as its share of the costs of acquisition of such lands or interests in lands shall be deposited in the Treasury to the credit of the appropriation for Federal-aid highways and shall be credited to the amount apportioned to such State as its apportionment of funds for construction, reconstruction, or improvement of the Interstate System, or shall be deducted from other moneys due the State for reimbursement from funds authorized to be appropriated under section 108(b) of the Federal-Aid Highway Act of 1956.

(c) The Secretary is further authorized and directed by proper deed, executed in the name of the United States, to convey any such lands or interests in lands acquired in any State under the provisions of this section, except the outside five feet of any such right-of-way in any State which does not provide control of access, to the State highway department of such State or such political subdivision thereof as its laws may provide, upon such terms and conditions as to such lands or interests in lands as may be agreed upon by the Secretary and the State highway department or political subdivisions to which the conveyance is to be made. Whenever the State makes provision for control of access satisfactory to the

Secretary, the outside five feet then shall be conveyed to the State by the Secretary, as herein provided.

(d) Whenever rights-of-way, including control of access, on the Interstate System are required over lands or interests in lands owned by the United States, the Secretary may make such arrangements with the agency having jurisdiction over such lands as may be necessary to give the State or other person constructing the projects on such lands adequate rights-of-way and control of access thereto from adjoining lands, and any such agency is directed to cooperate with the Secretary in this connection.

§ 108. Advance acquisition of rights-of-way.

(a) For the purpose of facilitating the acquisition of rights-of-way on any of the Federal-aid highway systems, including the Interstate System, 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 for expenditure on any of the Federal-aid highway systems, including the Interstate System, 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 ten years following the fiscal year in which such request is made unless a longer period is determined to be reasonable by the Secretary.

(b) Federal participation in the cost of rights-of-way acquired under subsection (a) of this section shall not exceed the Federal pro rata share applicable to the class of funds from which Federal reimbursement is made.

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

(2) For the purpose of acquiring rights-of-way for future construction of highways on any Federal-aid system and for making payments for the moving or relocation of persons, businesses, farms, and other existing uses of real property caused by the acquisition of such rights-of-way, in addition to the authority contained in subsection (a) of this section, the Secretary, upon request of a State highway department, is authorized to advance funds, without interest, to the State from amounts available in the right-of-way revolving fund, in accordance with rules and regulations prescribed by the Secretary. Funds so advanced may be used to pay the entire costs of projects for the acquisition of rights-of-way, including the net cost to the State of property management, if any, and related moving and relocation payments.

(3) Actual construction of a highway on rights-of-way, with respect to which funds are advanced under this subsection, shall be

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

§ 109. Standards.

(a) The Secretary shall not approve plans and specifications for proposed projects on any Federal-aid system 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.

(b) The geometric and construction standards to be adopted for the Interstate System shall be those approved by the Secretary in cooperation with the State highway departments. Such standards, as applied to each actual construction project, shall be adequate to enable such project to accommodate the types and volumes of traffic anticipated for such project for the twenty-year period commencing on the date of approval by the Secretary, under section 106 of this title, of the plans, specifications, and estimates for actual construction of such project. Such standards shall in all cases provide for at least four lanes of traffic. The right-of-way width of the Interstate System shall be adequate to permit construction of projects on the Interstate System to such standards. The Secretary shall apply such standards uniformly throughout all the States.

(c) 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.

(d) On any highway project in which Federal funds hereafter participate, or on any such project constructed since December 20, 1944, the location, form and character of informational, regulatory and warning signs, curb and pavement or other markings, and traffic signals installed or placed by any public authority or other agency, shall be subject to the approval of the State highway department with the concurrence of the Secretary, who is directed to

concur only in such installations as will promote the safe and efficient utilization of the highways.

(e) No funds shall be approved for expenditure on any Federal-aid highway, or highway affected under chapter 2 of this title, unless proper safety protective devices complying with safety standards determined by the Secretary at that time as being adequate shall be installed or be in operation at any highway and railroad grade crossing or drawbridge on that portion of the highway with respect to which such expenditures are to be made.

(f) The Secretary shall not, as a condition precedent to his approval under section 106 of this title, require any State to acquire title to, or control of, any marginal land along the proposed highway in addition to that reasonably necessary for road surfaces, median strips, bikeways, gutters, ditches, and side slopes, and of sufficient width to provide service roads for adjacent property to permit safe access at controlled locations in order to expedite traffic, promote safety, and minimize roadside parking.

(g) The Secretary shall issue within 30 days after the day of enactment of the Federal-Aid Highway Act of 1970 guidelines for minimizing possible soil erosion from highway construction. Such guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines.

(h) Not later than July 1, 1972, the Secretary, after consultation with appropriate Federal and State officials, shall submit to Congress, and not later than 90 days after such submission, promulgate guidelines designed to assure that possible adverse economic, social, and environmental effects relating to any proposed project on any Federal-aid system have been fully considered in developing such project, and that the final decisions on the project are made in the best overall public interest, taking into consideration the need for fast, safe and efficient transportation, public services, and the costs of eliminating or minimizing such adverse effects and the following:

(1) air, noise, and water pollution;

(2) destruction or disruption of man-made and natural resources, aesthetic values, community cohesion and the availability of public facilities and services;

(3) adverse employment effects, and tax and property values losses;

(4) injurious displacement of people, businesses and farms; and

(5) disruption of desirable community and regional growth.

Such guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines.

(i) The Secretary, after consultation with appropriate Federal, State, and local officials, shall develop and promulgate standards for highway noise levels compatible with different land uses and after July 1, 1972, shall not approve plans and specifications for any proposed project on any Federal-aid system for which location approval has not yet been secured unless he determines that such plans and specifications include adequate measures to implement the appropriate noise level standards. The Secretary, after consultation with the Administrator of the Environmental Protection

Agency and appropriate Federal, State, and local officials, may promulgate standards for the control of highway noise levels for highways on any Federal-aid system for which project approval has been secured prior to July 1, 1972. The Secretary may approve any project on a Federal-aid system to which noise-level standards are made applicable under the preceding sentence for the purpose of carrying out such standards. Such project may include, but is not limited to, the acquisition of additional rights-of-way, the construction of physical barriers, and landscaping. Sums apportioned for the Federal-aid system on which such project will be located shall be available to finance the Federal share of such project. Such project shall be deemed a highway project for all purposes of this title.

(j) The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall develop and promulgate guidelines to assure that highways constructed pursuant to this title are consistent with any approved plan for the implementation of any ambient air quality standard for any air quality control region designated pursuant to the Clean Air Act, as amended.

(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 system should be used for accommodating any utility facility, the Secretary shall—

(A) first ascertain the effect such use will have on highway and traffic safety, since in no case shall any use be authorized or otherwise permitted, under this or any other provision of law, which would adversely affect safety;

(B) evaluate the direct and indirect environmental and economic effects of any loss of productive agricultural land or any impairment of the productivity of any agricultural land which would result from the disapproval of the use of such right-of-way for the accommodation of such utility facility; and

(C) consider such environmental and economic effects together with any interference with or impairment of the use of the highway in such right-of-way which would result from the use of such right-of-way for the accommodation of such utility facility.

(2) For the purpose of this subsection—

(A) the term "utility facility" means any privately, publicly, or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, which directly or indirectly serves the public; and

(B) the term "right-of-way" means any real property, or interest therein, acquired, dedicated, or reserved for the construction, operation, and maintenance of a highway.

(m) The Secretary shall issue guidelines describing the criteria applicable to the Interstate System in order to insure that the condition of these routes is maintained at the level required by the

purposes for which they were designed. The initial guidelines shall be issued no later than October 1, 1979.

(n) The Secretary shall not approve any project under this title that will result in the severance or destruction of an existing major route for nonmotorized transportation traffic and light motorcycles, unless such project provides a reasonably alternate route or such a route exists.

§110. Project agreements.

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

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

§111. Agreements relating to use of and access to rights-of-way—Interstate System.

All agreements between the Secretary and the State highway department for the construction of projects on the Interstate System shall contain a clause providing that the State will not add any points of access to, or exit from, the project in addition to those approved by the Secretary in the plans for such project, without the prior approval of the Secretary. Such agreements shall also contain a clause providing that the State will not permit automotive service stations or other commercial establishments for serving motor vehicle users to be constructed or located on the rights-of-way of the Interstate System. Such agreements may, however, authorize a State or political subdivision thereof to use or permit the use of the airspace above and below the established grade line of the highway pavement for such purposes as will not impair the full use and safety of the highway, as will not require or permit vehicular access to such space directly from such established grade line of the highway, or otherwise interfere in any way with the free flow of traffic on the Interstate System. Nothing in this section, or in any agreement entered into under this section, shall require the discontinuance, obstruction, or removal of any establishment for serving motor vehicle users on any highway which has been, or is hereafter, designated as a highway or route on the Interstate System (1) if such establishment (A) was in existence before January 1, 1960, (B) is owned by a State, and (C) is operated through concessionaries or otherwise, and (2) if all access to, and exits from, such establishment conform to the standards established for such a highway under this title.

§ 112. Letting of contracts.

(a) In all cases where the construction is to be performed by the State highway department or under its supervision, a request for submission of bids shall be made by advertisement unless some other method is approved by the Secretary. The Secretary shall require such plans and specifications and such methods of bidding as shall be effective in securing competition.

(b) 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 Secretary shall affirmatively find that, under the circumstances relating to such project, some other method is in the public interest. All such findings shall be reported promptly in writing to the Committees on Public Works of the Senate and the House of Representatives. 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.

(c) The Secretary shall require as a condition precedent to his approval of each contract awarded by competitive bidding pursuant to subsection (b) of this section, and subject to the provisions of this section, a sworn statement, executed by, or on behalf of, the person, firm, association, or corporation to whom such contract is to be awarded, certifying that such person, firm, association, or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with such contract.

(d) No contract awarded by competitive bidding pursuant to subsection (b) of this section, and subject to the provisions of this section, shall be entered into by any State highway department or local subdivision of the State without compliance with the provisions of this section, and without the prior concurrence of the Secretary in the award thereof.

(e) 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.

§ 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 initial construction work performed on highway projects on the Federal-aid systems, the primary and secondary, as well as their extensions in urban areas, and the Interstate System, authorized under the highway laws providing for the expenditure of Federal funds upon the Federal-aid systems, shall be paid wages at rates not less than those prevailing on the same type of work on similar construction in the immediate locality as deter-

mined by the Secretary of Labor in accordance with the Act of August 30, 1935, known as the Davis-Bacon Act (40 U.S.C. 267a).[1]

(b) In carrying out the duties of subsection (a) of this section, the Secretary of Labor shall consult with the highway department of the State in which a project on any of the Federal-aid systems is to be performed. After giving due regard to the information thus obtained, he shall make a predetermination of the minimum wages to be paid laborers and mechanics in accordance with the provisions of subsection (a) of this section which shall be set out in each project advertisement for bids and in each bid proposal form and shall be made a part of the contract covering the project.

(c) The provisions of the section shall not be applicable to employment pursuant to apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting equal employment opportunity in connection with Federal-aid highway construction programs.

§ 114. Construction.

(a) The construction of any highways or portions of highways located on a Federal-aid system shall be undertaken by the respective State highway departments or under their direct supervision. Except as provided in section 117 of this title, such construction shall be subject to the inspection and approval of the Secretary. The construction work and labor in each State shall be performed under the direct supervision of the State highway department and in accordance with the laws of that State and applicable Federal laws. Construction may be begun as soon as funds are available for expenditure pursuant to subsection (a) of section 118 of this title. After July 1, 1973, the State highway department shall not erect on any project where actual construction is in progress and visible to highway users any informational signs other than official traffic control devices conforming with standards developed by the Secretary of Transportation.

(b) Convict labor shall not be used in such construction unless it is labor performed by convicts who are on parole or probation.

§ 115. Construction by States in advance of apportionment.

(a) 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—

(1) prior to the construction of the project the Secretary approves the plans and specifications therefor in the same

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[1] So in original. Probably should be 40 U.S.C. 276a.

manner as other projects on the Federal-aid system involved, and

(2) the project conforms to the applicable standards adopted under section 109 of this title;

The Secretary may not approve an application under this section unless an authorization is in effect for the fiscal year for which the application is sought beyond the currently authorized funds for such State and that no application may be approved which will exceed the State's expected apportionment of such authorizations.

(b)(1) 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.

(2) For any project under construction on January 1, 1978, on the Interstate System and converted to a regularly funded project after January 1, 1978, for which the proceeds of bonds issued by the State, county, city, or other political subdivision of the State were used, any interest earned and payable on such bonds by the date of conversion is an eligible cost of construction, to the extent that the proceeds of such bonds have actually been expended in the construction of such projects.

(c) In determining the apportionment for any fiscal year under the provisions of section 104 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.

§ 116. Maintenance.

(a) It shall be the duty of the State highway department to maintain, or cause to be maintained, any project constructed under the provisions of this chapter or constructed under the provisions of prior Acts. The State's obligation to the United States to maintain any such project shall cease when it no longer constitutes a part of a Federal-aid system.

(b) In any State wherein the State highway department is without legal authority to maintain a project constructed on the Federal-aid secondary system, or within a municipality, such highway department shall enter into a formal agreement for its maintenance with the appropriate officials of the county or municipality in which such project is located.

(c) If at any time the Secretary shall find that any project constructed under the provisions of this chapter, or constructed under

the provisions of prior Acts, is not being properly maintained, he shall call such fact to the attention of the State highway department. If, within ninety days after receipt of such notice, such project has not been put in proper condition of maintenance, the Secretary shall withhold approval of further projects of all types in the entire State until such project shall have been put in proper condition of maintenance, unless such project is subject to an agreement pursuant to subsection (b) of this section, in which case approval shall be withheld only for secondary or urban projects in the county or municipality where such project is located.

(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 purpose 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.

§ 117. Certification acceptance.

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

(b) The Secretary shall make a final inspection of each such project upon its completion and shall require an adequate report of the estimated, and actual, cost of construction as well as such other information as he determines necessary.

(c) The procedure authorized by this section shall be an alternative to that otherwise prescribed in this title. The Secretary shall promulgate such guidelines and regulations as may be necessary to carry out this section.

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

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(e) Nothing in this section shall affect or discharge any responsibility or obligation of the Secretary under any Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.), section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f)), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d), et seq.), title VIII of the Act of April 11, 1968 (Public Law 90–284, 42 U.S.C. 3601 et seq.), and the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (42 U.S.C. 4601, et seq.), other than this title.

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

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

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

§ 118. Availability of sums apportioned.

(a) 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.

(b) Sums apportioned to each Federal-aid system (other than the Interstate System) shall continue available for expenditure in that State for the appropriate Federal-aid system or part thereof (other than the Interstate System) for a period of three 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. Except as provided in this subsection, sums apportioned for the Interstate System in any State shall remain available for expenditure in that State for the Interstate System until the end of the fiscal year for which authorized. Sums not obligated within the time period prescribed by the preceding sentence must be made available by the Secretary to any other State applying for such funds for the Interstate System, if the Secretary determines that the State has obligated all of its apportionments other than an amount which, by itself, is insufficent to pay the Federal share of the cost of a project on the Interstate System which has been submitted by such State to the Secretary for approval, and the applicant is willing and able to (1) obligate the funds within

one year of the date the funds are made available; (2) apply them to a ready-to-commence project; and (3) in the case of construction work, begin work within ninety days of obligation. Sums made available under this subsection shall remain available until expended. Any amount apportioned to the States for the Interstate System under subsection (b)(5)(B) of section 104 of this title 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. Sums apportioned to a Federal-aid system for any fiscal year shall be deemed to be expended if a sum equal to the total of the sums apportioned to the State for such fiscal year and previous fiscal years is obligated. Any Federal-aid highway funds released by the payment of the final voucher or by the modification of the formal project agreement shall be credited to the same class of funds, primary, secondary, urban, or interstate, previously apportioned to the State and be immediately available for expenditure.

(c) 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.

(d) Funds made available to the State of Alaska under this title may be expended for construction of access and development roads on a Federal-aid system that will serve resource development, recreational, residential commercial, industrial, or other like purposes.

§ 119. Interstate System resurfacing.

(a) Beginning with funds apportioned for fiscal year 1980, the Secretary may approve projects for resurfacing, restoring, and rehabilitating those lanes 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). 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 and the Federal share shall be that set forth in section 120(a) of this title.

(b) Not later than one year after the date of issuance of initial guidelines under section 109(m) of this title each State shall have a program for the Interstate system 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 the 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.

§ 120. Federal share payable.

(a) Subject to the provisions of subsection (d) of this section, the Federal share payable on account of any project, financed with primary, secondary, or urban funds, on the Federal-aid primary system, the Federal-aid secondary system, and the Federal-aid urban system shall either (A) not exceed 75 per centum of the cost of construction, 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 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, or (B) not exceed 75 per centum of the cost of construction, 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 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 per centum of the total cost of any such project. In any case where a State elects to have the Federal share provided in clause (B) of this subsection, the State must enter into an agreement with the Secretary covering a period of not less than one year, requiring such State to use solely for highway construction purposes (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 clause (B) and what its share would be if it elected to pay the share provided in clause (A) for all projects subject to such agreement.

(b) Subject to the provisions of subsection (d) of this section, the Federal share payable on account of any project, financed with interstate funds on the Interstate System, authorized to be appropriated prior to June 29, 1956, shall not exceed 60 per centum of the cost of construction, except that in the case of any State containing unappropriated and unreserved public lands and nontaxable Indian lands, individual and tribal, 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. The provisions of subsection (a) of this section shall apply to any project financed with funds authorized by the provisions of section 2 of the Federal-Aid Highway Act of 1952.

(c) Subject to the provisions of subsection (d) of this section, the Federal share payable on account of any project on the Interstate System provided for by funds made available under the provisions of section 108(b) of the Federal-Aid Highway Act of 1956 shall be increased to 90 per centum of the total cost thereof, plus a percentage of the remaining 10 per centum of such cost in any State containing unappropriated and unreserved public lands and nontaxable Indian lands, individual and tribal, exceeding 5 per centum 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 per centum of the total cost of such project.

(d) The Federal share payable on account of any project for the elimination of hazards of railway-highway crossings, as more fully described and subject to the conditions and limitations set forth in section 130 of this title, and for any project for traffic control signalization, may amount to 100 per centum of the cost of construction of such projects, except that not more than 75 per centum of the right-of-way and property damage costs, paid from public funds, on any such project, may be paid from sums apportioned in accordance with section 104 of this title: *Provided,* That not more than 10 per centum of all the sums apportioned for all the Federal-aid systems for any fiscal year in accordance with section 104 of this title shall be used under this subsection.

(e) 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.

(f) 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 75 per centum of the cost thereof: *Provided,* 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 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: *Provided further,* 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, whether or not such highways, roads or trails are on any Federal-aid highway systems. The Secretary may 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 it is in the public interest. 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. Any project agreement for which the final voucher has not been approved by the Secretary on or before the date of this Act may be modified to provide for the Federal share authorized herein.

(g) The Secretary is authorized to cooperate with the State highway departments and with the Department of the Interior in the construction of Federal-aid highways within Indian reservations and national parks and monuments under the jurisdiction of the Department of the Interior and to pay the amount assumed therefor from the funds apportioned in accordance with section 104 of this title to the State wherein the reservations and national parks and monuments are located.

(h) 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.

(i) 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.

§ 121. Payment to States for construction.

(a) The Secretary may, in his discretion, from time to time as the work progresses, make payments to a State for costs of construction incurred by it on a project. These payments shall at no time exceed the Federal share of the costs of construction incurred to the date of the voucher covering such payment plus the Federal share of the value of the materials which have been stockpiled in the vicinity of such construction in conformity to plans and specifications for the project. Such payments may also be made in the case of any such materials not in the vicinity of such construction if the Secretary determines that because of required fabrication at an off-site location the materials cannot be stockpiled in such vicinity.

(b) After completion of a project in accordance with the plans and specifications, and approval of the final voucher by the Secretary, a State shall be entitled to payment out of the appropriate sums apportioned to it of the unpaid balance of the Federal share payable on account of such project.

(c) No payment shall be made under this chapter, except for a project located on a Federal-aid system and covered by a project agreement. No final payment shall be made to a State for its costs of construction of a project until the completion of the construction has been approved by the Secretary following inspections pursuant to section 114(a) of this title.

(d) In making payments pursuant to this section, the Secretary shall be bound by the limitations with respect to the permissible amounts of such payments contained in sections 120 and 130 of this title. Payments for construction engineering on any project financed with Federal-aid highway funds shall not exceed 10 per centum 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. However, this limitation shall be 15 per centum in any State with respect to which the Secretary finds such higher limitation to be necessary.

(e) Such payments shall be made to such official or officals or depository as may be designated by the State highway department and authorized under the laws of the State to receive public funds of the State.

§ 122. Payment to States for bond retirement.

Any State that shall use the proceeds of bonds issued by the State, county, city, or other political subdivision of the State for the construction of one or more projects on the Federal-aid primary or Interstate System, or extensions of any of the Federal-aid highway systems in urban areas, may claim payment of any portion of the sums apportioned to it for expenditure on such system to aid in the retirement of the principal of such bonds the proceeds of which were used for projects on the Federal-aid primary system or extensions of any of the Federal-aid highway systems in urban areas and the retirement of the principal and interest of such bonds the proceeds of which were used for projects on the Interstate System at their maturities, to the extent that the proceeds of such bonds have been actually expended in the construction of one or more of such projects. Such claim for payment may be made only when all of the provisions of this title have been complied with to the same extent and with the same effect as though payment were to be made to the State under section 121 of this title, instead of this section, and the Federal share payable shall not exceed the pro rata basis of payment authorized in section 120 of this title. This section shall not be construed as a commitment or obligation on the part of the United States to provide for the payment of the principal or interest of any such bonds. The payment of interest on such bonds and incidental costs in connection with the sale of such bonds shall not be included in the estimated cost of completing the Interstate System.

§ 123. Relocation of utility facilities.

(a) When a State shall pay for the cost of relocation of utility facilities necessitated by the construction of a project on the Federal-aid primary or secondary systems or on the Interstate System, including extensions thereof within urban areas, Federal funds may be used to reimburse the State for such cost in the same proportion as Federal funds are expended on the project. Federal funds shall not be used to reimburse the State under this section when the payment to the utility violates the law of the State or violates a legal contract between the utility and the State. Such reimbursement shall be made only after evidence satisfactory to the Secretary shall have been presented to him substantiating the fact that the State has paid such cost from its own funds with respect to Federal-aid highway projects for which Federal funds are obligated subsequent to April 16, 1958, for work, including relocation of utility facilities.

(b) The term "utility", for the purposes of this section, shall include publicly, privately, and cooperatively owned utilities.

(c) The term "cost of relocation", for the purposes of this section, shall include the entire amount paid by such utility properly attributable to such relocation after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility.

§ 124. Advances to States.

(a) If the Secretary shall determine that it is necessary for the expeditious completion of projects on any of the Federal-aid systems, including the Interstate System, he may advance to any

State out of any existing appropriations the Federal share of the cost of construction thereof to enable the State highway department to make prompt payments for acquisition of rights-of-way, and for the construction as it progresses. The sums so advanced shall be deposited in a special revolving trust fund, by the State official authorized under the laws of the State to receive Federal-aid highway funds, to be disbursed solely upon vouchers approved by the State highway department for rights-of-way which have been or are being acquired, and for construction which has been actually performed and approved by the Secretary pursuant to this chapter. Upon determination by the Secretary that any part of the funds advanced to any State under the provisions of this section are no longer required, the amount of the advance, which is determined to be in excess of current requirements of the State, shall be repaid upon his demand, and such repayments shall be returned to the credit of the appropriation from which the funds were advanced. Any sum advanced and not repaid on demand shall be deducted from sums due the State for the Federal pro rata share of the cost of construction of Federal-aid projects.

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

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

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

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

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

§ 125. Emergency relief.

(a) An emergency fund is authorized for expenditure by the Secretary, subject to the provisions of this section and section 120 of this title, for (1) the repair or reconstruction of highways, roads, and trails which he shall find have suffered serious damage as the result of (A) natural disaster over a wide area such as by floods, hurricanes, tidal waves, earthquakes, severe storms, or landslides, or (B) catastrophic failures from any cause, in any part of the United States, and (2) 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. Subject to the following limitations, there is hereby authorized to be appropriated such sums as may be necessary to establish the fund authorized by this section and to replenish it on an annual basis: (1) Not more than $50,000,000 is authorized to be expended in any fiscal year ending before July 1, 1972, and not more than $100,000,000 is authorized to be expended in any one fiscal year commencing after June 30, 1972, and ending before June 1, 1976, to carry out the provisions of this section and an additional amount not to exceed $100,000,000 is further authorized to be expended in the fiscal year ending June 30, 1973, to carry out the provisions of this section, and not more than $25,000,000 for the three-month period beginning July 1, 1976, and ending September 30, 1976, is authorized to be expended to carry out the provisions of this section, and not more than $100,000,000 is authorized to be expended in any one fiscal year commencing after September 30, 1976, to carry out the provisions of this section, except that, if in any fiscal year the total of all expenditures under this section is less than the amount authorized to be expended in such fiscal year, the unexpended balance of such amount shall remain available for expenditure during the next two succeeding fiscal years in addition to amounts otherwise available to carry out this section in such years, and (2) prior to the fiscal year ending September 30, 1978, 60 per centum of the expenditures under this section for any fiscal year are authorized to be appropriated from the Highway Trust Fund and the remaining 40 per centum of such expenditures are authorized to be appropriated only from any moneys in the Treasury not otherwise appropriated, and for any fiscal year thereafter, 100 per centum of such expenditures are authorized to be appropriated out of the Highway Trust Fund. For the purposes of this section the period beginning July 1, 1976, and ending September 30, 1976, shall be deemed to be a part of the fiscal year ending September 30, 1977. Pending such appropriation or replenishment the Secretary may expend from any funds heretofore or hereafter appropriated for expenditure in accordance with the provisions of this title, including existing Federal-aid appropriations, such sums as may be necessary for the immediate prosecution of the work herein authorized, such appropriations to be reimbursed from the appropriations herein authorized when made.

(b) The Secretary may expend funds from the emergency fund herein authorized for the repair or reconstruction of highways on the Federal-aid highway systems, including the Interstate System, in accordance with the provisions of this chapter. 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. Except as to highways, roads, and trails mentioned in subsection (c) of this section, no funds shall be so expended unless the Secretary has received an application therefor from the State highway department, and unless an emergency has been declared by the Governor of the State and concurred in by the Secretary, except that if the Presi-

dent has declared such emergency to be a major disaster for the purposes of the disaster Relief Act of 1974 (Public Law 93–288) concurrence of the Secretary is not required.

(c) The Secretary may expend funds from the emergency fund herein authorized, either independently or in cooperation with any other branch of the Government, State agency, organization, or person, for the repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads, whether or not such highways, roads, or trails are on any of the Federal-aid highway systems.

§ 126. Diversion.

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

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

§ 127. Vehicle weight and width limitations—Interstate System.

No funds authorized to be appropriated for any fiscal year under section 108(b) of the Federal-Aid Highway Act of 1956 shall be apportioned to any State within the boundaries of which the Interstate System may lawfully be used by vehicles with weight in excess of twenty thousand pounds carried on any one axle, including all enforcement tolerances; or with a tandem axle weight in excess of thirty-four thousand pounds, including all enforcement tolerances; or with an overall gross weight on a group of two or more consecutive axles produced by application of the following formula:

$$W = 500\left(\frac{LN}{N-1} + 12N + 36\right)$$

where W = overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds, L = distance in feet between the extreme of any group of two or more consecutive axles, and N = number of axles in group under consideration, except that

two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more: *Provided,* That such overall gross weight may not exceed eighty thousand pounds, including all enforcement tolerances, or with a width in excess of ninety-six inches, or the corresponding maximum weights or maximum widths 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 the date of enactment of the Federal-Aid Highway Amendments of 1974, whichever is the greater. Any amount which is withheld from apportionment to any State pursuant to the foregoing provisions shall lapse. This section shall not be construed to deny apportionment to any State allowing the operation within such State of any vehicles or combinations thereof that could be lawfully operated within such State on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974. With respect to the State of Hawaii, laws or regulations in effect on February 1, 1960, shall be applicable for the purposes of this section in lieu of those in effect on July 1, 1956. Notwithstanding any limitation relating to vehicle widths contained in this section, a State may permit any bus having a width of 102 inches or less to operate on any lane of 12 feet or more in width on the Interstate System.

§ 128. Public hearings.

(a) Any State highway department which submits plans for a Federal-aid highway project involving the bypassing of, or going through, any city, town, or village, either incorporated or unincorporated, shall certify to the Secretary that it has had public hearings, or has afforded the opportunity for such hearings, and has considered the economic and social effects of such a location, its impact on the environment, and its consistency with the goals and objectives of such urban planning as has been promulgated by the community. Any State highway department which submits plans for an Interstate System project shall certify to the Secretary that it has had public hearings at a convenient location, or has afforded the opportunity for such hearings, for the purpose of enabling persons in rural areas through or contiguous to whose property the highway will pass to express any objections they may have to the proposed locations of such highway. Such certification shall be accompanied by a report which indicates the consideration given to the economic, social, environmental, and other effects of the plan or highway location or design and various alternatives which were raised during the hearing or which were otherwise considered.

(b) When hearings have been held under subsection (a), the State highway department shall submit a copy of the transcript of said hearings to the Secretary, together with the certification and report.

§ 129. Toll roads, bridges, tunnels, and ferries.

(a) Notwithstanding the provisions of section 301 of this title, the Secretary may permit Federal participation, on the same basis and

in the same manner as in the construction of free highways under this chapter, in the construction of any toll bridge, toll tunnel, or approach thereto, upon compliance with the conditions contained in this section. Such bridge, tunnel, or approach thereto, must be publicly owned and operated. Federal funds may participate in the approaches to a toll bridge or toll tunnel whether such bridge or tunnel is to be or has been constructed, or acquired, by the State or other public authority. The State highway department or departments must be a party or parties to an agreement with the Secretary whereby it or they undertake performance of the following obligations:

(1) all tolls received from the operation of the bridge or tunnel, less the actual cost of such operation and maintenance, shall be applied to the repayment to the State or other public authority of all of the costs of construction or acquisition of such bridge or tunnel, except that part which was contributed by the United States;

(2) no tolls shall be charged for the use of such bridge or tunnel after the State or other public authority shall have been so repaid; and

(3) after the date of final repayment, the bridge or tunnel shall be maintained or operated as a free bridge or free tunnel; except in the case of a bridge which connects the United States with any foreign country: *Provided,* That such tolls or charges do not exceed the amount necessary for the proper maintenance, repair, and operation of the bridge and its approaches under economical management: *And further provided,* That the entity or governmental instrumentality responsible for the operation of the portion of the bridge within the jurisdiction of the foreign country is charging tolls for the use of the bridge.

(b) Upon a finding by the Secretary that such action will promote the development of an integrated Interstate System, the Secretary is authorized to approve as part of the Interstate System any toll road, bridge or tunnel, now or hereafter constructed which meets the standards adopted for the improvement of projects located on the Interstate System, when such toll road, bridge or tunnel is located on a route heretofore or hereafter designated as a part of the Interstate System. No Federal-aid highway funds shall be expended for the construction, reconstruction or improvement of any such toll road, except to the extent permitted by law after June 29, 1956. When any such 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. No Federal-aid highway funds shall be expended for the construction, reconstruction or improvement of any such toll bridge or tunnel, except to the extent permitted by law on or after June 29, 1956. After June 30, 1968, all agreements between the Secretary and a State highway department for the construction of projects on the Interstate System shall contain a clause providing that no toll road will be constructed after June 30, 1968, on the interstate highway route involved without the official concurrence of the Secretary. The Secretary shall not concur in any such construction unless he makes an

affirmative finding that, under the particular circumstances existing, the construction of such road as a toll facility rather than a toll-free facility is in the public interest. The preceding two sentences shall not apply to any toll bridge or toll tunnel.

(c) Funds authorized for expenditure on any of the Federal-aid highway systems, including the Interstate System, shall be available for expenditure on projects approaching any toll road, bridge or tunnel to a point where such project will have some use irrespective of its use for such toll road, bridge or tunnel.

(d) Funds authorized for the Interstate System shall be available for expenditure on Interstate System projects approaching any toll road on the Interstate System, although the project has no use other than an approach to such toll road, if an agreement satisfactory to the Secretary has been reached with the State prior to the approval of such project—

(1) that the section of toll road will become free to the public upon the collection of tolls sufficient to liquidate the cost of the toll road or any bonds outstanding at the time constituting a valid lien against such section of toll road covered in the agreement and their maintenance and operation and debt service during the period of toll collections, and

(2) that there is one or more reasonably satisfactory alternate free routes available to traffic by which the toll section of the system may be bypassed.

(e) Notwithstanding the provisions of subsection (b) of this section, the Secretary may permit Federal participation in the reconstruction and improvement of any toll road providing for only two lanes of traffic, which is designated part of the Interstate System as he may find necessary to bring such two lane toll road to the geometric and construction standards for the Interstate System in order to provide for the safe use of such highway as part of the Interstate System and to facilitate the removal of tolls therefrom. Federal participation in such reconstruction and improvement shall be on the same basis and in the same manner as in the construction of free Interstate System highways under this chapter. No Federal participation shall be permitted pursuant to this subsection except on two lane toll roads which were designated as a part of the Interstate System on or before June 30, 1973. Before Federal participation under this subsection, the State highway department and the toll road authority involved shall enter into an agreement with the Secretary which shall provide that—

(1) no indebtedness which is to be liquidated by the collection of tolls (in addition to indebtedness in existence on date of enactment in this subsection) shall be incurred after the date of enactment of this subsection;

(2) all tolls received from the operation of the toll road, less the actual cost of such operation and maintenance, shall be applied to the repayment of only those bonds outstanding on the date of enactment of this subsection constituting a valid lien against such toll road and its maintenance and operation and debt service during the period of toll collection;

(3) the toll road shall become free to the public upon collection of tolls sufficient to liquidate all such bonds.

(f) Notwithstanding the provisions of section 301, of this title, the Secretary may permit Federal participation under this title in the

construction of a project constituting an approach to a ferry, whether toll or free, the route of which has been approved under section 103 (b) or (c) of this title as a part of one of the Federal-aid systems 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.

(g) Notwithstanding section 301 of this title, the Secretary may permit Federal participation under this title in the construction of ferry boats, whether toll or free, subject to the following conditions:

(1) It is not feasible to build a bridge, tunnel, combination thereof, or other normal highway structure in lieu of the use of such ferry.

(2) The operation of the ferry shall be on a route 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.

(3) Such ferry shall be publicly owned and operated.

(4) The operating authority and the amount of fares charged for passage on such ferry shall be under the control of the State, and all revenues derived therefrom shall be applied to actual and necessary costs of operation, maintenance, and repair.

(5) Such ferry may be operated only within the State (including the islands which comprise the State of Hawaii and the islands which comprise the Commonwealth of Puerto Rico) or between adjoining States. Except with respect to operations between the islands which comprise the State of Hawaii and operations between the islands which comprise the Commonwealth of Puerto Rico and operations between any two points in Alaska and between Alaska and Washington, including stops at appropriated points in the the Dominion of Canada, no part of such ferry operations shall be in any foreign or international waters.

(6) No such ferry shall be sold, leased, or otherwise disposed of without the approval of the Secretary. The Federal share of any proceeds from such a disposition shall be credited to the unprogramed balance of Federal-aid highway funds of the same class last apportioned to such State. Any amounts 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.

(h) Notwithstanding the provisions of section 301 of this title, in the case of each State which, before January 1, 1975, shall have constructed or acquired any interstate toll bridge (including approaches thereto), which before January 1, 1975, caused such toll bridge to be made free, which bridge is owned and maintained by such State or by a political subdivision thereof, and which bridge is on the Federal-aid primary system (other than the Interstate System), sums apportioned to such State in accordance with para-

graphs (1) and (3) of subsection (b) of section 104 of this title shall be available to pay the Federal share of a project under this subsection of (1) such amount as the Secretary determines to be the reasonable value of such bridge after deducting therefrom that portion of such value attributable to any grant or contribution previously paid by the United States in connection with the construction or acquisition of such bridge, and exclusive of rights-of-way, or (2) the amount by which the principal amount of the outstanding unpaid bonds or other obligations created and issued for the construction or acquisition of such bridge exceeds the amount of any funds accumulated or provided for their amortization, on the date such bridge is made free, whichever is the lesser amount.

(i) Notwithstanding section 301 of this title, the Secretary may permit Federal participation, through funds for any Federal-aid system other than the Interstate System, in any engineering and fiscal assessments, traffic analyses, network studies, preliminary modification planning, and any other study necessary to determine whether a privately owned toll bridge should be acquired by a State or political subdivision thereof.

§ 130. Railway-highway crossings.

(a) Except as provided in subsection (d) of section 120 of this title and subsection (b) of this section, the entire cost of construction of projects for the elimination of hazards of railway-highway crossings, including the separation or protection of grades at crossings, the reconstruction of existing railroad grade crossing structures, and the relocation of highways to eliminate grade crossings, may be paid from sums apportioned in accordance with section 104 of this title. In any case when the elimination of the hazards of a railway-highway crossing can be effected by the relocation of a portion of a railway at a cost estimated by the Secretary to be less than the cost of such elimination by one of the methods mentioned in the first sentence of this section, then the entire cost of such relocation project, except as provided in subsection (d) of section 120 of this title and subsection (b) of this section, may be paid from sums apportioned in accordance with section 104 of this title.

(b) The Secretary may classify the various types of projects involved in the elimination of hazards of railway-highway crossings, and may set for each such classification a percentage of the costs of construction which shall be deemed to represent the net benefit to the railroad or railroads for the purpose of determining the railroad's share of the cost of construction. The percentage so determined shall in no case exceed 10 percentum. The Secretary shall determine the appropriate classification of each project.

(c) Any railroad involved in a project for the elimination of hazards of railway-highway crossings paid for in whole or in part from sums made available for expenditure under this title, or prior Acts, shall be liable to the United States for the net benefit to the railroad determined under the classification of such project made pursuant to subsection (b) of this section. Such liability to the United States may be discharged by direct payment to the State highway department of the State in which the project is located, in which case such payment shall be credited to the cost of the project. Such payment may consist in whole or in part of materials and labor furnished by the railroad in connection with the construction of

such project. If any such railroad fails to discharge such liability within a six-month period after completion of the project, it shall be liable to the United States for its share of the cost, and the Secretary shall request the Attorney General to institute proceedings against such railroad for the recovery of the amount for which it is liable under this subsection. The Attorney General is authorized to bring such proceedings on behalf of the United States, in the appropriate district court of the United States, and the United States shall be entitled in such proceedings to recover such sums as it is considered and adjudged by the court that such railroad is liable for in the premises. Any amounts recovered by the United States under this subsection shall be credited to miscellaneous receipts.

§ 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, of 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

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giving specific information in the interest of the traveling public may be erected and maintained. Such signs shall conform to national standards to be promulgated by the Secretary.

(g) Just compensation shall be paid upon the removal of any outdoor advertising sign, display, or device lawfully erected under State law and not permitted under subsection (c) of this section, whether or not removed pursuant to or because of this section. The Federal share of such compensation shall be 75 per centum. Such compensation shall be paid for the following:

(A) The taking from the owner of such sign, display, or device of all right, title, leasehold, and interest in such sign, display, or device; and

(B) The taking from the owner of the real property on which the sign, display, or device is located, of the right to erect and maintain such signs, displays, and devices thereon.

(h) All public lands or reservations of the United States which are adjacent to any portion of the Interstate System and the primary system shall be controlled in accordance with the provisions of this section and the national standards promulgated by the Secretary.

(i) In order to provide information in the specific interest of the traveling public, the State highway departments are authorized to maintain maps and to permit information directories and advertising pamphlets to be made available at safety rest areas. Subject to the approval of the Secretary, a State may also establish information centers at safety rest areas and other travel information systems within the rights-of-way for the purpose of informing the public of places of interest within the State and providing such other information as a State may consider desirable. The Federal share of the cost of establishing such an information center or travel information system shall be that which is provided in section 120 for a highway project on that Federal-aid system to be served by such center or system.

(j) Any State highway department which has, under this section as in effect on June 30, 1965, entered into an agreement with the Secretary to control the erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System shall be entitled to receive the bonus payments as set forth in the agreement, but no such State highway department shall be entitled to such payments unless the State maintains the control required under such agreement: *Provided,* That permission by a State to erect and maintain information displays which may be changed at reasonable intervals by electronic process or remote control and which provide public service information or advertise activities conducted on the property on which they are located shall not be considered a breach of such agreement or the control required thereunder. Such payments shall be paid only from appropriations made to carry out this section. The provisions of this subsection shall not be construed to exempt any State from controlling outdoor advertising as otherwise provided in this section.

(k) Subject to compliance with subsection (g) of this section for the payment of just compensation, nothing in this section shall prohibit a State from establishing standards imposing stricter limitations with respect to signs, displays, and devices on the Federal-aid highway systems than those established under this section.

(l) Not less than sixty days before making a final determination to withhold funds from a State under subsection (b) of this section, or to do so under subsection (b) of section 136, or with respect to failing to agree as to the size, lighting, and spacing of signs, displays, and devices or as to unzoned commercial or industrial areas in which signs, displays, and devices may be erected and maintained under subsection (d) of this section, or with respect to failure to approve under subsection (g) of section 136, the Secretary shall give written notice to the State of his proposed determination and a statement of the reasons therefor, and during such period shall give the State an opportunity for a hearing on such determination. Following such hearing the Secretary shall issue a written order setting forth his final determination and shall furnish a copy of such order to the State. Within forty-five days of receipt of such order, the State may appeal such order to any United States district court for such State, and upon the filing of such appeal such order shall be stayed until final judgment has been entered on such appeal. Summons may be served at any place in the United States. The court shall have jurisdiction to affirm the determination of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the United States court of appeals for the circuit in which the State is located and to the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254. If any part of an apportionment to a State is withheld by the Secretary under subsection (b) of this section or subsection (b) of section 136, the amount so withheld shall not be reapportioned to the other States as long as a suit brought by such State under this subsection is pending. Such amount shall remain available for apportionment in accordance with the final judgment and this subsection. Funds withheld from apportionment and subsequently apportioned or reapportioned under this section shall be available for expenditure for three full fiscal years after the date of such apportionment or reapportionment as the case may be.

(m) There is authorized to be appropriated to carry out the provisions of this section, out of any money in the Treasury not otherwise appropriated, not to exceed $20,000,000 for the fiscal year ending June 30, 1966, not to exceed $20,000,000 for the fiscal year ending June 30, 1967, not to exceed $2,000,000 for the fiscal year ending June 30, 1970, not to exceed $27,000,000 for the fiscal year ending June 30, 1971, not to exceed $20,500,000 for the fiscal year ending June 30, 1972, and not to exceed $50,000,000 for the fiscal year ending June 30, 1973. The provisions of this chapter relating to the obligation, period of availability and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967.

(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.

(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 de-

vices 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.

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

Where a proposed Federal-aid project is to be undertaken by a Federal agency pursuant to an agreement between a State and such Federal agency and the State makes a deposit with or payment to such Federal agency as may be required in fulfillment of the State's obligation under such agreement for the work undertaken or to be undertaken by such Federal agency, the Secretary, upon execution of a project agreement with such State for the proposed Federal-aid project, may reimburse the State out of the appropriate appropriations the estimated Federal share under the provisions of this title of the State's obligation so deposited or paid by such State. Upon completion of such project and its acceptance by the Secretary, an adjustment shall be made in such Federal share payable on account of such project based on the final cost thereof. Any sums reimbursed to the State under this section which may be in excess of the Federal pro rata share under the provisions of this title of the State's share of the cost as set forth in the approved final voucher submitted by the State shall be recovered and credited to the same class of funds from which the Federal payment under this section was made.

§ 133. [Repealed P.L. 90–495].

§ 134. Transportation planning in certain urban areas.

(a) It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with the State and local officials in the development of transportation plans and programs which are formulated on the basis of transportation needs with due consideration to comprehensive long-range land use plans, development objectives, and overall social, economic, environmental, system performance, and energy conservation goals and objectives, and with due consideration to their probable effect on the future development of urban areas of more than fifty thousand population. The planning process shall include an analysis of alternative transportation system management and investment strategies to make more efficient use of existing transportation facilities. The process shall consider all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems. After July 1, 1965, the Secretary shall not approve under section 105 of this title any program for projects in any urban area of more than fifty thousand population unless he finds that such projects are based on a continuing comprehensive transportation planning process carried on cooperatively by States and local communities in conformance with the objectives stated in this section. No highway project may be constructed in any urban area of fifty thousand population or more unless the responsible public officials of such urban area in which the project is located have been consulted and their views considered with respect to the corridor, the location, and design of the project.

(b)(1) Within one year after enactment of this subsection, in the absence of State law to the contrary, units of general purpose local government within an urbanized area or contiguous urbanized areas for which a metropolitan planning organization has been designated prior to enactment of this subsection, may by agreement of at least 75 per centum of the units of general purpose local government representing at least 90 per centum of the population of such urbanized area or areas, and in cooperation with the Governor, redesignate as the metropolitan planning organization any representative organization.

(2) Except as provided in paragraph (1), after the date of enactment of this subsection designations of metropolitan planning organizations shall be by agreement among the units of general purpose local government and the Governor.

(c) The Secretary may define those contiguous interstate areas of the Nation in which the movement of persons and goods between principal metropolitan areas, cities, and industrial centers has reached, or is expected to reach, a critical volume in relation to the capacity of existing and planned transportation systems to efficiently accommodate present transportation demands and future growth. After consultation with the Governors and responsible local officials of affected States, the Secretary may by regulation designate, for administrative and planning purposes, as a critical transportation region or a critical transportation corridor each of

those areas which he determines most urgently require the accelerated development of transportation systems embracing various modes of transport, in accordance with purposes of this section. The Secretary shall immediately notify such Governors and local officials of such designation. The Secretary may, after consultation with the Governors and responsible local officials of the affected States, provide by regulation for the establishment of planning bodies to assist in the development of coordinated transportation planning, including highway planning, to meet the needs of such regions or corridors, composed of representatives of the affected States and metropolitan areas, and may provide assistance including financial assistance to such bodies. There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, not to exceed $500,000 to carry out this subsection.

§ 135. Traffic operations improvement programs.

(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.

§ 136. Control of junkyards.

(a) The Congress hereby finds and declares that the establishment and use and maintenance of junkyards in areas adjacent to the Interstate System and the primary system should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty.

(b) Federal-aid highway funds apportioned on or after January 1, 1968, to any State which the Secretary determines has not made provision for effective control of the establishment and maintenance along the Interstate System and the primary system of outdoor junkyards, which are within one thousand feet of the nearest edge of the right-of-way and visible from the main traveled way of the system, shall be reduced by amounts equal to 10 per centum of the amounts which would otherwise be apportioned to such State under section 104 of this title, until such time as such State shall provide for such effective control. Any amount which is withheld from apportionment to any State hereunder shall be reapportioned to the other States. Whenever he determines it to be in the public interest, the Secretary may suspend, for such periods as he deems necessary, the application of this subsection to a State.

(c) Effective control means that by January 1, 1968, such junkyards shall be screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the main traveled way of the system, or shall be removed from sight.

(d) The term "junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

(e) The term "automobile graveyard" shall mean any establishment or place of business which is maintained, used, or operated

for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

(f) The term "junkyard" shall mean an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

(g) Notwithstanding any provision of this section, junkyards, auto graveyards, and scrap metal processing facilities may be operated within areas adjacent to the Interstate System and the primary system which are within one thousand feet of the nearest edge of the right-of-way and which are zoned industrial under authority of State law, or which are not zoned under authority of State law, but are used for industrial activities, as determined by the several States subject to approval by the Secretary.

(h) Notwithstanding any provision of this section, any junkyard in existence on the date of enactment of this section which does not conform to the requirements of this section and which the Secretary finds as a practical matter cannot be screened, shall not be required to be removed until July 1, 1970.

(i) The Federal share of landscaping and screening costs under this section shall be 75 per centum.

(j) Just compensation shall be paid the owner for the relocation, removal, or disposal of junkyards lawfully established under State law. The Federal share of such compensation shall be 75 per centum.

(k) All public lands or reservations of the United States which are adjacent to any portion of the interstate and primary systems shall be effectively controlled in accordance with the provisions of this section.

(l) Nothing in this section shall prohibit a State from establishing standards imposing stricter limitations with respect to outdoor junkyards on the Federal-aid highway systems than those established under this section.

(m) There is authorized to be appropriated to carry out this section, out of any money in the Treasury not otherwise appropriated, not to exceed $20,000,000 for the fiscal year ending June 30, 1966, not to exceed $20,000,000 for the fiscal year ending June 30, 1967, not to exceed $3,000,000 for the fiscal year ending June 30, 1970, not to exceed $3,000,000 for the fiscal year ending June 30, 1971, not to exceed $3,000,000 for the fiscal year ending June 30, 1972, and not to exceed $5,000,000 for the fiscal year ending June 30, 1973. The provisions of this chapter relating to the obligation, period of availability, and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967.

§ 137. Fringe and corridor parking facilities.

(a) The Secretary may approve as a project on the Federal-aid urban system the acquisition of land adjacent to the right-of-way outside a central business district, as defined by the Secretary, and the construction of publicly owned parking facilities thereon or within such right-of-way, including the use of the air space above and below the established grade line of the highway pavement, to serve an urban area of fifty thousand population or more. Such

parking facility shall be located and designed in conjunction with existing or planned public transportation facilities. In the event fees are charged for the use of any such facility, the rate thereof shall not be in excess of that required for maintenance and operation (including compensation to any person for operating such facility).

(b) The Secretary shall not approve any project under this section until—

(1) he has determined that the State, or the political subdivision thereof, where such project is to be located, or any agency or instrumentality of such State or political subdivision, has the authority and capability of constructing, maintaining, and operating the facility;

(2) he has entered into an agreement governing the financing, maintenance, and operation of the parking facility with such State, political subdivision, agency, or instrumentality, including necessary requirements to insure that adequate public transportation services will be available to persons using such facility; and

(3) he has approved design standards for constructing such facility developed in cooperation with the State highway department.

(c) The term "parking facilities" for purposes of this section shall include access roads, buildings, structures, equipment, improvements, and interests in lands.

(d) Nothing in this section, or in any rule or regulation issued under this section, or in any agreement required by this section, shall prohibit (1) any State, political subdivision, or agency or instrumentality thereof, from contracting with any person to operate any parking facility constructed under this section, or (2) any such person from so operating such facility.

(e) The Secretary shall not approve any project under this section unless he determines that it is based on a continuing comprehensive transportation planning process carried on in accordance with section 134 of this title.

§ 138. Preservation of parklands.

It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites. The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed. After the effective date of the Federal-Aid Highway Act of 1968, the Secretary shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, State, or local significance as so determined by such officials unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and

waterfowl refuge, or historic site resulting from such use. In carrying out the national policy declared in this section the Secretary, in cooperation with the Secretary of the Interior and appropriate State and local officials, is authorized to conduct studies as to the most feasible Federal-aid routes for the movement of motor vehicular traffic through or around national parks so as to best serve the needs of the traveling public while preserving the natural beauty of these areas.

§ 139. Additions to Interstate System.

(a) Whenever the Secretary determines that a highway on the Federal-aid primary system meets all of the standards of a highway on the Interstate System and that such highway is a logical addition or connection to the Interstate System, he may, upon the affirmative recommendation of the State or States involved, designate such highway as a part of the Interstate System. The mileage of any highway designated as part of the Interstate System under this section shall not be charged against the limitation established by the first sentence of section 103(e) of this title. The designation of a highway as part of the Interstate System under this section shall create no Federal financial responsibility with respect to such highway.

(b) Whenever the Secretary determines that a highway on the Federal-aid primary system would be a logical addition or connection to the Interstate System and would qualify for designation as a route on that system in the same manner as set forth in paragraph 1 of subsection (e) of section 103 of this title, he may upon the affirmative recommendation of the State or States involved designate such highway as a future part of the Interstate System. Such designation shall be made only upon the written agreement of the State or States involved that such highway will be constructed to meet all the standards of a highway on the Interstate System within twelve years of the date of the agreement between the Secretary and the State or States involved. The mileage of any highway designated as a future part of the Interstate System under this subsection shall not be charged against the limitations established by the first sentence of section 103(e) of this title. The designation of a highway as a future part of the Interstate System under this subsection shall create no Federal financial responsibility with respect to such highway except that Federal-aid highway funds otherwise available to the State or States involved for the construction of Federal-aid primary system highways may be used for the reconstruction of a highway designated as a route on the Interstate System under this subsection. In the event that the State or States involved have not substantially completed the construction of any highway designated under this subsection within the time provided for in the agreement between the Secretary and State or States involved, the Secretary shall remove the designation of such highway as a future part of the Interstate System. Removal of such designation as result of failure to comply with the agreement provided for in this subsection shall in no way prohibit the Secretary from designating such route as part of the Interstate System pursuant to subsection (a) of this section or under any other provision of law providing for addition to the Interstate System, No law, rule, regulation, map, document, or other record of the United States, or of

any State or political subdivision thereof, shall refer to any highway under this section, nor shall any such highway be signed or marked, as a highway on the Interstate System until such time as such highway is constructed to the geometric and construction standards for the Interstate System and has been designated as a part of the Interstate System.

§ 140. Equal employment opportunity.

(a) Prior to approving any programs for projects as provided for in subsection (a) of section 105 of this title, the Secretary shall require assurances from any State desiring to avail itself of the benefits of this chapter that employment in connection with proposed projects will be provided without regard to race, color, creed or national origin. He shall require that each State shall include in the advertised specifications, notification of the specific equal employment opportunity responsibilities of the successful bidder. In approving programs for projects on any of the Federal-aid systems, the Secretary shall, where he considers it necessary to assure equal employment opportunity, require certification by any State desiring to avail itself of the benefits of this chapter that there are in existence and available on a regional, statewide, or local basis, apprenticeship, skill improvement or other upgrading programs, registered with the Department of Labor or the appropriate State agency, if any, which provide equal opportunity for training and employment without regard to race, color, creed or national origin. The Secretary shall periodically obtain from the Secretary of Labor and the respective State highway departments information which will enable him to judge compliance with the requirements of this section and the Secretary of Labor shall render to the Secretary such assistance and information as he shall deem necessary to carry out the equal employment opportunity program required hereunder.

(b) The Secretary, in cooperation with any other department or agency of the Government, State agency, authority, association, institution, corporation (profit or nonprofit), or any other organization or person, is authorized to develop, conduct, and administer highway construction training, including skill improvement programs. Whenever apportionments are made under section 104(b) of this title, the Secretary shall deduct such sums as he may deem necessary, not to exceed $2,500,000 for the transition quarter ending September 30, 1976, and not to exceed $10,000,000 per fiscal year, for the administration of this subsection. Such sums so deducted shall remain available until expended. The provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), shall not be applicable to contracts and agreements made under the authority herein granted to the Secretary.

§ 141. Enforcement of requirements.

(a) 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.

(b) 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.

(c)(1) Each State shall submit to the Secretary such information as the Secretary shall, by regulation, require as necessary, in his opinion, to verify the certification of such State under subsection (b) of this section.

(2) If a State fails to certify as required by subsection (b) of this section or if the Secretary determines that a State is not adequately enforcing all State laws respecting such maximum vehicle size and weights, notwithstanding such a certification, then Federal-aid highway funds apportioned to such State for such fiscal year shall be reduced by amounts equal to 10 per centum of the amount which would otherwise be apportioned to such State under section 104 of this title.

(3) If within one year from the date that the apportionment for any State is reduced in accordance with paragraph (2) of this subsection the Secretary determines that such State is enforcing all State laws respecting maximum size and weights, the apportionment of such State shall be increased by an amount equal to such reduction. If the Secretary does not make such a determination within such one-year period, the amounts so withheld shall be reapportioned to all other eligible States.

§ 142. Public transportation.

(a)(1) To encourage the development, improvement, and use of public mass transportation systems operating motor vehicles (other than on rail) on Federal-aid highways for the transportation of passengers (hereafter in this section referred to as "buses"), so as to increase the traffic capacity of the Federal-aid systems for the movement of persons, the Secretary may approve as a project on any Federal-aid system the construction of exclusive or preferential bus lanes, highway traffic control devices, bus passenger loading areas and facilities (including shelters), and fringe and transportation corridor parking facilities to serve bus and other 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 (including compensation to any person for operating the facility).

(2) In addition to the projects under paragraph (1), the Secretary may, beginning with the fiscal year ending June 30, 1975, approve as a project on the Federal-aid urban system, for payment from sums apportioned under section 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.

(b) Sums apportioned in accordance with paragraph (5) of subsection (b) of section 104 of this title shall be available to finance the Federal share of projects for exclusive or preferential bus, 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) 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.

(d) 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.

(e)(1) For all purposes of this title, a project authorized by subsection (a)(1) of this section shall be deemed to be a highway project.

(2) Notwithstanding section 209(f)(1) of the Highway Revenue Act of 1956, the Highway Trust Fund shall be available for making expenditures to meet obligations resulting from projects authorized by subsection (a)(2) of this section and such projects shall be subject to, and governed in accordance with, all provisions of this title applicable to projects on the Federal-aid urban system, 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) No project authorized by this section shall be approved unless the Secretary of Transportation has received assurances satisfactory to him from the State that public mass transportation systems will fully utilize the proposed project.

(g) In any case where sufficient land exists within the publicly acquired rights-of-way of any Federal-aid highway to accommodate needed rail or nonhighway 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 pur-

poses wherever he may deem that the public interest will be served thereby.

(h) The provision of assistance under subsection (a)(2) or subsection (c) of this section shall not be construed as bringing within the application of chapter 15 of title 5, United States Code, 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.

(i) Funds available for expenditure to carry out the purposes of subsection (a)(2) and subsection (c) of this section 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.

(j) The provisions of section 3(e)(4) of the Urban Mass Transportation Act of 1964, as amended, shall apply in carrying out subsection (a)(2) and subsection (c) of this section.

(k) 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.

§ 143. Economic growth center development highways.

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

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

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

public ports for water transportation which may be established to serve it, in order to carry out the purposes of this section.

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

(e) Except as otherwise provided in subsection (c) of this section, the Federal share of the cost of any project for construction, reconstruction, or improvement of a development highway under this section shall be the same as that provided under this title for any other project on the Federal-aid system on which such development highway is located.

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

(2) In the case of a project proposed to be conducted within the Appalachian region as defined in section 403 of the Appalachian Regional Development Act of 1965, no project shall be approved by the Secretary under this section until he shall have consulted with the Federal Cochairman of the Appalachian Regional Commission. In the case of a project proposed to be conducted within an economic development region as defined in title V of the Public Works and Economic Development Act of 1965, no project shall be approved by the Secretary under this section until he shall have consulted with the Federal Cochairman for such region and the Secretary of Commerce. In consultation with the appropriate official, the Secretary shall establish criteria for the selection of growth centers eligible for assistance under this section such that the aims and purposes set forth in subsection (a) of this section will be promoted. Such criteria shall include, but not be limited to, the following: (1) growth centers shall be geographically and economically capable of contributing significantly to the development of the area, (2) growth centers shall have a population not in excess of one hundred thousand persons according to the latest available Federal census, and (3) the selection of such growth centers within the Appalachian region and the economic development regions shall take into account the purposes of the Appalachian Regional Development Act of 1965 and the Public Works and Economic Development Act of

1965. In approving projects the Secretary shall give preference to those areas offering the most potential for future economic growth and he shall make arrangements for close coordination throughout the development and implementation of the project with the Federal Cochairman of the Appalachian Regional Commission, or with the appropriate Federal Cochairman of an economic development region, and the Secretary of Commerce, as the case may be.

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

§ 144. Highway bridge replacement and rehabilitation program.

(a) Congress hereby finds and declares it to be in the vital interest of the Nation that a highway bridge replacement and rehabilitation program be established to enable the several States to replace or rehabilitate highway bridges over waterways, other topographical barriers, other highways, or railroads when the States and the Secretary finds that a bridge is significantly important and is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence.

(b) The Secretary, in consultation with the States, shall (1) inventory all those highway bridges on any Federal-aid system which are bridges over waterways, other topographical barriers, other highways, and railroads; (2) classify them according to serviceability, safety, and essentiality for public use; (3) based on that classification, assign each a priority for replacement or rehabilitation; and (4) determine the cost of replacing each such bridge with a comparable facility or by rehabilitating such bridge.

(c)(1) The Secretary, in consultation with the States, shall (1) inventory all those highway bridges on public roads, other than those on any Federal-aid system, which are bridges over waterways, other topographical barriers, other highways, and railroads, (2) classify them according to serviceability, safety, and essentiality for public use, (3) based on the classification, assign each a priority for replacement or rehabilitation and (4) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge.

(2) The Secretary may, at the request of a State, inventory bridges, on and off the Federal-aid system, for historic significance.

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

(e) Funds authorized to carry out this section shall be apportioned on October 1 of the fiscal year for which authorized. Funds authorized to carry out this section for the fiscal year ending September 30, 1979, September 30, 1980, September 30, 1981, and Sep-

tember 30, 1982, shall be apportioned to the States in accordance with revised table 1 of Committee Print 95–49 of the Committee on Public Works and Transportation of the House of Representatives. Fund authorized to carry out this section which are 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 other States in accordance with revised table 1 of Committee Print 95–49 of the Committee on Public Works and Transportation of the House of Representatives.

(f) The Federal share payable on account of any highway bridge replaced or rehabilitated under this section shall be 80 per centum of the cost thereof.

(g) To carry out this section, there is authorized to be appropriated out of the Highway Trust Fund, $100,000,000 for the fiscal year ending June 30, 1972, $150,000,000 for the fiscal year ending June 30, 1973, $25,000,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975, and $125,000,000 for the fiscal year ending June 30, 1976, to be available until expended. Of the amount authorized per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, authorized by paragraph (6) of section 202 of the Highway Safety Act of 1978, all but $200,000,000 per fiscal year shall be apportioned as provided in subsection (e) of this section, $200,000,000 per fiscal year of the amount authorized for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, 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 $200,000,000 shall be at the discretion of the Secretary and shall be only for projects for those highway bridges the replacement or rehabilitation cost of each of which is more than $10,000,000. Not less than 15 per centum nor more than 35 per centum of the amount apportioned to each State in each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, shall be expended for projects to replace or rehabilitate highway bridges located on public roads, other than those on a Federal aid system, and for any project for a highway bridge the replacement or rehabilitation costs 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) of this section for the fiscal year in which application is made for a grant for such bridge. The Secretary after consultation with State and local officials may, with respect to a State, reduce the requirement for expenditure for bridges not on a Federal aid system when he determines that such State has inadequate needs to justify such expenditure.

(h) Notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525–533) shall apply to bridges authorized to be replaced, in whole or in part, by this section, except that subsection (b) of section 502 of such Act of 1946 and section 9 of the Act of March 3, 1899 (30 Stat. 1151) shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with

assistance under this title, if such bridge is over waters which are not subject to the ebb and flow of the tide, and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.

(i) 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.

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

(k) Not later than six months after the date of enactment of this subsection, and periodically thereafter, the Secretary shall review the procedure used in approving or disapproving applications submitted under this section to determine what changes, if any, may be made to expedite such procedure. Any such changes shall be implemented by the Secretary as soon as possible. Not later than nine months after the date of enactment of this subsection, the Secretary shall submit a report to Congress which describes such review and such changes, including any recommendations for legislative changes.

(l) Notwithstanding any other provision of law, any bridge which is owned and operated by an agency (1) which does not have taxing powers, (2) whose functions include operating a federally assisted public transit system subsidized by toll revenues, shall be eligible for assistance under this section but the amount of such assistance shall in no event exceed the cumulative amount which such agency has expended for capital and operating costs to subsidize such transit system. Before authorizing an expenditure of funds under this subsection, the Secretary shall determine that the applicant agency has insufficient reserves, surpluses, and projected revenues (over and above those required for bridge and transit capital and operating costs) to fund the necessary bridge replacement or rehabilitation project.

(m) As used in this section the term "rehabilitate" in any of its forms means major work necessary to restore the structural integrity of a bridge as well as work necessary to correct a major safety defect.

§ 145. Federal-State relationship.

The authorization of the appropriation of Federal funds or their availability for expenditure under this chapter shall in no way infringe on the sovereign rights of the States to determine which projects shall be federally financed. The provisions of this chapter provide for a federally assisted State program.

§ 146. Carpool and vanpool projects.

(a) In order to conserve fuel, decrease traffic congestion during rush hours, improve air quality, and enhance the use of existing highways and parking facilities, the Secretary may approve for Federal financial assistance from funds apportioned under sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title, projects designed to encourage the use of carpools and vanpools. (As used hereafter in this

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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.

§ 147. Priority primary routes.

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

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

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

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

§ 148. Development of a national scenic and recreational highway.

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

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

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

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

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

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

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

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

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

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

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

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

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

reational, or archeological features on the opposite side of the Mississippi River from the Great River Road.

§ 149. Truck lanes.

The Secretary may approve as a project on any Federal-aid system the construction of exclusive or preferential truck lanes.

§ 150. Allocation of urban system funds.

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

§ 151. Pavement marking demonstration program.

(a) Congress hereby finds and declares it to be in the vital interest of the Nation that a pavement marking demonstration program be established to enable the several States to improve the pavement marking of all highways to provide for greater vehicle and pedestrian safety.

(b) Notwithstanding the provisions of the last sentence of subsection (a) of section 105 of this title, the Secretary may approve under this section such pavement marking projects on any highway whether or not on any Federal-aid system, but not included in the Interstate System, as he may find necessary to bring such highway to the pavement marking standards issued or endorsed by the Federal Highway Administrator.

(c) In approving projects under this section, the Secretary shall give priority to those projects which are located in rural areas.

(d) The entire cost of projects approved under subsections (b) and (f) of this section shall be paid from sums authorized to carry out this section.

(e) For the purpose of carrying out the provisions of this section by the Federal Highway Administration, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1974, $25,000,000, and for each of the fiscal years ending June 30, 1975, and June 30, 1976, out of the Highway Trust Fund, the sum of $75,000,000. Such sums shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under this chapter for the Federal-aid primary system. On October

1 of 1978, 1979, and 1980 the Secretary shall allocate the sums authorized to carry out this section for that fiscal year among the several States in such manner as he deems most appropriate to expedite the completion of pavement marking of all highways. Any amounts allocated to the States remaining unobligated at the end of the fiscal year following the fiscal year for which such amounts are authorized shall immediately be reallocated by the Secretary among the other States.

(f) Funds not required for pavement-marking projects authorized by this section may be released by the Secretary for expenditure for projects to eliminate or reduce the hazards to safety at specific locations or sections of highways which are not located on any Federal-aid system and which have high accident experiences or high accident potentials. Funds may be released by the Secretary under this subsection only if the Secretary has received satisfactory assurances from the State highway department that all nonurban area highways within the State are marked in accordance with the pavement-marking standards issued or endorsed by the Federal Highway Administrator for carrying out this program.

(g) Each State shall report to the Secretary of Transportation not later than September 30, 1974, and not later than September 30 of each year thereafter, on the progress being made in implementing the program and the effectiveness of the improvements made under it. Each report shall include an analysis and evaluation of the number, rate, and severity of accidents at improved locations and the cost-benefit ratio of such improvements, comparing an adequate time period before and after treatment in order to properly assess the benefits occurring from such pavement markings. The Secretary of Transportation shall submit a report to the Congress not later than January 1, 1975, and not later than January 1 of each year thereafter, on the progress being made in implementing the program and the safety benefits achieved under it. No State shall submit any such report to the Secretary for any year after the second year following completion of the pavement marking program in that State, and the Secretary shall not submit any such report to Congress after the first year following the completion of the pavement marking program in all States.

§ 152. Hazard elimination program.

(a) Each State shall conduct and systematically maintain an engineering survey of all public roads to identify hazardous locations, sections, and elements, including roadside obstacles and unmarked or poorly marked roads, which may constitute a danger to motorists and pedestrians, assign priorities for the correction of such locations, sections, and elements, and establish and implement a schedule of projects for their improvement.

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

(c) Funds authorized to carry out this section shall be available solely for expenditure for projects on any Federal-aid system (other than the Interstate System) except in the Virgin Islands, Guam, and American Samoa.

(d) The Federal share payable on account of any project under this section shall be 90 percent of the cost thereof.

(e) Funds authorized to be appropriated to carry out this section shall be apportioned to the States as provided in section 402(c) of this title. Such funds shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under section 104(b)(1), except that the Secretary is authorized to waive provisions he deems inconsistent with the purposes of this section

(f) Each State shall establish an evaluation process approved by the Secretary, to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section. Such evaluation process shall develop cost-benefit data for various types of corrections and treatments which shall be used in setting priorities for highway safety improvement projects.

(g) Each State shall report to the Secretary of Transportation not later than December 30 of each year, on the progress being made to implement highway safety improvement projects for hazard elimination and the effectiveness of such improvements. Each State report shall contain an assessment of the cost of, and safety benefits derived from, the various means and methods used to mitigate or eliminate hazards and the previous and subsequent accident experience at these locations. The Secretary of Transportation shall submit a report to the Congress not later than April 1 of each year on the progress being made by the States in implementing the hazard elimination program. 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.

§ 153. Repealed by Public Law 95–599.

§ 154. National maximum speed limit.

(a) The Secretary of Transportation shall not approve any project under section 106 in any State which has (1) a maximum speed limit on any public highway within its jurisdiction in excess of fifty-five miles per hour, or (2) a speed limit on any other portion of a public highway within its jurisdiction which is not uniformly applicable to all types of motor vehicles using such portion of highway, if on November 1, 1973, such portion of highway had a speed limit which was uniformly applicable to all types of motor vehicles using it. A lower speed limit may be established for any vehicle operating under a special permit because of any weight or dimension of such vehicle, including any load thereon. Clause (2) of this subsection shall not apply to any portion of a highway, during such time that the condition of the highway, weather, an accident, or other condition creates a temporary hazard to the safety of traffic on such portion of a highway.

(b) As used in this section the term "motor vehicle" means any vehicle driven or drawn by mechanical power manufactured pri-

marily for use on public highways, except any vehicle operated exclusively on a rail or rails.

(c) Notwithstanding the provisions of section 120 sums apportioned to any State under section 104 shall be available to pay the entire cost of any modification of the signing of the Federal-aid highways for which such sums are apportioned within such State due to a reduction in speed limits to conserve fuel if such change in signing occurs or has occurred after November 1, 1973.

(d) The requirements of this section shall be deemed complied with by administrative action lawfully taken by the Governor or other appropriate State official that complies with this section.

(e) Each State shall submit to the Secretary such data as the Secretary determines by rule is necessary to support its certification under section 141 of this title for the twelve-month period ending on September 30 before the date the certification is required, including data on the percentage of motor vehicles exceeding fifty-five miles per hour on public highways with speed limits posted at fifty-five miles per hour in accordance with criteria to be established by the Secretary, including criteria which takes into account the variability of speedometer readings and criteria based upon the speeds of all vehicles or a representative sample of all vehicles.

(f)(1) For the twelve-month period ending September 30, 1979, if the data sumbitted by a State pursuant to subsection (e) of this section show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 70 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1981.

(2) For the twelve-month period ending September 30, 1980, if the data submitted by a State pursuant to subsection (e) of this section show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 60 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1982.

(3) For the twelve-month period ending September 30, 1981, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 50 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1983.

(4) For the twelve-month period ending September 30, 1982, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 40 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 10 per centum of the amount to be apportioned for the fiscal year ending September 30, 1984.

(5) For the twelve-month period ending September 30, 1983, and for each succeeding twelve-month period thereafter, if the data sub-

mitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 30 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6), of this title in an aggregate amount of up to 10 per centum of the amount to be apportioned for the fiscal year ending September 30, 1985, and for each succeeding fiscal year thereafter.

(g) In any case where the Secretary determines, in accordance with criteria established by the Secretary, that a reduction in apportionment required by subsection (f) of this section would result in hardship to a State, the fiscal year apportionment reduced for such State shall be the apportionment for one fiscal year later than the fiscal year to which such reduction would apply under subsection (f) but for such hardship determination.

(h) The Secretary shall promptly apportion to a State any funds which have been withheld pursuant to subsection (f) of this section if he determines that the percentage of motor vehicles in such State exceeding fifty-five miles per hour has dropped to the level specified for the fiscal year for which the funds were withheld.

(i)(1) For the twelve-month period ending September 30, 1979, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 60 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1980.

(2) For the twelve-month period ending September 30, 1980, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 50 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1981.

(3) For the twelve-month period ending September 30, 1981, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 40 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1982.

(4) For the twelve-month period ending September 30, 1982, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 30 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1983.

(5) For the twelve-month period ending September 30, 1983, and for each succeeding twelve-month period thereafter, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 20 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1984 and succeeding fiscal years.

(6) An incentive grant made to a State under this subsection shall be equal to 10 per centum of the apportionment to such State for the fiscal year on the basis of the data for which such incentive grant is to be made. The apportionment on which such incentive

grant is based shall be that made under section 402(c) of this title for carrying out those provisions of section 402 relating to highway safety programs administered by the National Highway Traffic Safety Administration. Incentive grants made under this subsection may be expended for carrying out any provision of section 402 of this title.

§ 155. Access highways to public recreation areas on certain lakes.

(a) The Secretary is authorized to construct or reconstruct access highways to public recreation areas on lakes in order to accommodate present and projected traffic density. The Secretary shall develop guidelines and standards for the designation of routes and the allocation of funds for the purpose of this section which shall include the following criteria:

(1) No portion of any access highway constructed or reconstructed under this section shall exceed thirty-five miles in length nor shall any portion of such highway be located more than thirty-five miles from the nearest part of such recreation area.

(2) Routes shall be designated by the Secretary on the recommendation of the State and responsible local officials, after consultation with the head of the Federal agency (if any) having jurisdiction over the public recreation area involved.

(b) The Federal share payable on account of any project authorized pursuant to this section shall not exceed 75 per centum of the cost of construction or reconstruction of such project.

(c) All of the provisions of this title applicable to highways on the Federal-aid system (other than the Interstate System) determined appropriate by the Secretary, except those provisions which the Secretary determines are inconsistent with this section, shall apply to any highway designated under this section which is not a part of the Federal-aid system when so designated.

(d) For the purpose of this section the term "lake" means any lake, reservoir, pool, or other body of water resulting from the construction of any lock, dam, or similar structure by the Corps of Engineers, Department of the Army, or the Bureau of Reclamation, Department of the Interior, or the Tennessee Valley Authority, and any multipurpose lake resulting from construction assistance of the Soil Conservation Service, Department of Agriculture. This section shall apply to lakes heretofore or hereafter constructed or authorized for construction.

(e) There is authorized to be appropriated not to exceed $25,000,000 for the fiscal year 1976 to carry out this section. Amounts authorized by this subsection for a fiscal year shall be available for that fiscal year and for the two succeeding fiscal years.

§ 156. Highways crossing Federal projects.

(a) The Secretary is authorized to construct and to reconstruct any public highway or highway bridge across any Federal public works project, notwithstanding any other provision of law, where there has been a substantial change in the requirements and costs of such highway or bridge since the public works project was authorized, and where such increased costs would work an undue hardship upon any one State. No such highway or bridge shall be

constructed or reconstructed under authority of this section until the State shall agree that upon completion of such construction or reconstruction it will accept ownership to such highway or bridge and will thereafter operate and maintain such highway or bridge.

(b) There is hereby authorized to be appropriated not to exceed $100,000,000 to carry out this section. Amounts authorized by this subsection shall be available for the fiscal year in which appropriated and for two succeeding fiscal years.

Chapter 2.—OTHER HIGHWAYS

Sec.

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§ 201. Authorizations.

The provision of this title shall apply to all unappropriated authorizations contained in prior Acts, and also to all unexpended appropriations heretofore made, providing for the expenditure of Federal funds on the following classes of highways: Forest highways, forest development roads and trails, park roads and trails, parkways, Indian reservation roads, public lands highways, and defense access roads. 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.

§ 202. Apportionment or allocation.

(a) On October 1 of each fiscal year, the Secretary shall apportion the sums authorized to be appropriated for such fiscal year for forest highways in the several States, according to the area and value of the land owned by the United States within the national forests therein, which the Secretary of Agriculture is directed to determine and certify to the Secretary from such information, sources, and departments as the Secretary of Agriculture may deem most accurate.

(b) Sums authorized to be appropriated for forest development roads and trails shall be allocated by the Secretary of Agriculture

according to the relative needs of the various national forests, taking into consideration the existing transportation facilities, value of timber or other resources served, relative fire danger, and comparative difficulties of road and trail construction.

(c) Sums authorized to be appropriated for public lands highways shall be allocated by the Secretary among those States having unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations, on the basis of need in such States, respectively, as determined by the Secretary upon application of the State highway departments of the respective States. Preference shall be given to those projects which are located on a Federal-aid system.

§ 203. Availability of funds.

Funds authorized for forest highways, forest development roads and trails, public lands development roads and trails, park roads and trails, parkways, Indian reservation roads, and public lands highways shall be available for contract upon apportionment, or on October 1, of the fiscal year for which authorized if no apportionment is required. Any amount remaining unexpended for a period of three years after the close of the fiscal year for which authorized shall lapse. The Secretary of the Department charged with the administration of such funds is granted authority to incur obligations, approve projects, and enter into contracts under such authorizations and his action in doing so shall be deemed a contractual obligation of the United States for the payment of the cost thereof and such funds shall be deemed to have been expended when so obligated. Any funds heretofore or hereafter authorized for any fiscal year for forest highways, forest development roads and trails, public lands development roads and trails, park roads and trails, parkways, Indian roads and public lands highways shall be deemed to have been expended if a sum equal to the total of the sums authorized for such fiscal year and previous fiscal years since and including the fiscal year ending June 30, 1955, shall have been obligated. Any of such funds released by payment of final voucher or modification of project authorizations shall be credited to the balance of unobligated authorizations and be immediately available for expenditure.

§ 204. Forest highways.

(a) Funds available for forest highways shall be used by the Secretary to pay for the cost of construction and maintenance thereof. In connection therewith, the Secretary may enter into construction contracts and such other contracts with a State, or civil subdivision thereof as he deems advisable.

(b) Cooperation of States, counties, or other local subdivisions, may be accepted but shall not be required by the Secretary.

(c) Construction estimated to cost $5,000 or more per mile, exclusive of bridges, shall be advertised and let to contract. If such estimated cost is less than $5,000 per 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 on his own account. For such purpose, the Secretary may purchase, lease, hire, rent, or otherwise obtain all necessary supplies, materials, tools, equipment, and facilities required to perform the work, and may pay wages,

salaries, and other expenses for help employed in connection with such work.

(d) All appropriations for forest highways shall be administered in conformity with regulations jointly approved by the Secretary and the Secretary of Agriculture.

(e) The Secretary shall transfer to the Secretary of Agriculture from appropriations for forest highways such amounts as may be needed to cover necessary administrative expenses of the Forest Service in connection with the forest-highway program.

(f) Funds available for forest highways shall be available for adjacent vehicular parking areas and for sanitary, water, and fire control facilities.

§ 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 $15,000 or more per mile or $15,000 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 $15,000 per mile or $15,000 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 and for sanitary, water, and fire control facilities.

§ 206. Park roads and trails.

(a) Funds available for park roads and trails shall be used to pay for the cost of construction and improvement thereof.

(b) Appropriations for the construction and improvement of park roads shall be administered in conformity with regulations jointly approved by the Secretary and the Secretary of the Interior.

§ 207. Parkways.

(a) Funds available for parkways shall be used to pay for the cost of construction and improvement thereof, including the acquisition of rights-of-way and related scenic easements.

(b) Appropriations for the construction of parkways shall be administered in conformity with regulations jointly approved by the Secretary and the Secretary of the Interior.

(c) The location of parkways upon public lands, national forests, or other Federal reservations, shall be determined by agreement between the department having jurisdiction over such lands and the Secretary of the Interior.

(d) Any parkway project on a Federal-aid system shall be subject to all of the requirements of this title and of any other law applicable to highways on such system.

§ 208. Indian reservation roads.

(a) Funds available for Indian reservation roads and bridges shall be used to pay for the cost of construction and improvement thereof.

(b) The Secretary shall approve the location, type, and design of all projects for Indian reservation roads and bridges before any expenditures are made thereon and all construction thereof shall be under the general supervision of the Secretary.

(c) Before approving as a project on an Indian reservation road or bridge any project on a Federal-aid system in a State, the Secretary must determine the obligation of funds for such project is supplementary to and not in lieu of the obligation, for projects on Indian reservation roads and bridges, of a fair and equitable share of funds apportioned to such State under section 104 of this title.

(d) Indian labor may be employed in such construction and improvement under such rules and regulations as may be prescribed by the Secretary of the Interior.

(e) Cooperation of States, counties, or other local subdivisions may be accepted in such construction and improvement, and any funds, received from a State, county, or local subdivision shall be credited to appropriations available for Indian reservation roads and bridges.

§ 209. Public lands highways.

(a) Funds available for public lands highways shall be used by the Secretary to pay for the cost of construction and maintenance thereof.

(b) The Secretary is authorized to cooperate with the State highway departments and with the Secretary of the Department having jurisdiction over the particular lands, in the survey, construction, and maintenance of public lands highways.

(c) The provisions of section 112 of this title are applicable to public lands highways.

(d) Funds available for public lands highways shall be available for adjacent vehicular parking areas and for sanitary, water, and fire control facilities.

§ 210. Defense access roads.

(a) 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 material 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 or restrictions at military reservations and defense industry sites.

(b) Funds appropriated for the purposes of this section shall be available, without regard to apportionment among the several

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States, for paying all or any part of the cost of the construction and maintenance of defense access roads.

(c) Not exceeding $5,000,000 of any funds appropriated under the Act approved October 16, 1951 (65 Stat. 422), may be used by the Secretary in areas certified to him by the Secretary of Defense as maneuver areas for such construction, maintenance, and repair work as may be necessary to keep the highways therein, which have been or may be used for training of the Armed Forces, in suitable condition for such training purposes and for repairing the damage caused to such highways by 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 constucted out of the funds heretofore or hereafter authorized to be appropriated for defense access roads.

(e) If the Secretary shall determine that the State highway 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 the Act of February 26, 1931; 46 Stat. 1421). 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 highway 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 highway 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 he may advance to any State out of funds appropriated for defense access roads transferred and available to the Department of Commerce the Federal share of the cost of construction thereof to enable the State highway department to make prompt payments for acquisition of rights-of-way, and for the construction as it progresses. The sums so advanced shall be deposited in a special fund by the State official authorized by State law to receive such funds, to be dis-

bursed solely upon vouchers approved by the State highway department for rights-of-way which have been or are being acquired and for construction which has been actually performed 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 his demand, 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 highway 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.

§ 211. Timber access road hearings.

With respect to any proposed construction of a timber access road from funds authorized for carrying out the provisions of sections 204, 205, and 210 of this title, advisory public hearings may be held at a place of [1] convenient or adjacent to the area of construction with notice and reasonable opportunity for interested persons to present their views as to the practicability and feasibility of such construction.

§ 212. Inter-American Highway.

(a) Funds appropriated for the Inter-American Highway shall be used to enable the United States to cooperate with the Governments of the American Republics situated in Central America—that is, with the Governments of the Republic of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama—in the survey and construction of the Inter-American Highway within the borders of the aforesaid Republics, respectively. Not to exceed one-third of the appropriation authorized for each fiscal year may be expended without requiring the country or countries in which such funds may be expended to match any part thereof, if the Secretary of State shall find that the cost of constructing said highway in such country or countries will be beyond their reasonable capacity to bear. The remainder of such authorized appropriations shall be available for expenditure only when matched to the extent required by this section by the country in which such expenditure may be made. Expenditures from the funds available on a matching basis shall not be made for the survey and construction of any

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[1] So in original.

portion of said highway within the borders of any country named herein unless such country shall provide and make available for expenditure in conjunction therewith a sum equal to at least one-third of the expenditures that may be incurred by that Government and the United States on such portion of the highway. All expenditures by the United States under the provisions of this section for material, equipment, and supplies shall, whenever practicable, be made for products of the United States or of the country in which such survey or construction work is being carried on. Construction work to be performed under contract shall be advertised for a reasonable period by the Minister of Public Works, or other similar official, of the government concerned in each of the participating countries and contracts shall be awarded pursuant to such advertisements with the approval of the Secretary. No part of the appropriations authorized shall be available for obligation or expenditure for work on said highway in any cooperating country unless the government of said country shall have assented to the provisions of this section; shall have furnished satisfactory assurances that it has an organization adequately qualified to administer the functions required of such country under the provisions hereof; and then only as such country may submit requests, from time to time, for the construction of any portion of the highway to standards adequate to meet present and future traffic needs. No part of said appropriations shall be available for obligation or expenditure in any such country until the government of that country shall have entered into an agreement with the United States which shall provide, in part, that said country—

(1) will provide, without participation of funds authorized, all necessary rights-of-way for the construction of said highway, which rights-of-way shall be of a minimum width where practicable of one hundred meters in rural areas and fifty meters in municipalities and shall forever be held inviolate as a part of the highway for public use;

(2) will not impose any highway toll, or permit any such toll to be charged, for use by vehicles or persons of any portion of said highway constructed under the provisions of this section;

(3) will not levy or assess, directly or indirectly, any fee, tax, or other charge for the use of said highway by vehicles or persons from the United States that does not apply equally to vehicles or persons of such country;

(4) will continue to grant reciprocal recognition of vehicle registration and drivers' licenses in accordance with the provisions of the Convention for the Regulation of Inter-American Automotive Traffic, which was opened for signature at the Pan American Union in Washington on December 15, 1943, and to which such country and the United States are parties, or of any other treaty or international convention establishing similar reciprocal recognition; and

(5) will provide for the maintenance of said highway after its completion in condition adequately to serve the needs of present and future traffic.

(b) The survey and construction work authorized by this section shall be under the administration of the Secretary, who shall consult with the appropriate officials of the Department of State with respect to matters involving the foreign relations of this Govern-

ment, and such negotiations with the Governments of the American Republics named in subsection (a) of this section as may be required to carry out the purposes of this section shall be conducted through, or as authorized by, the Department of State.

(c) The provisions of this section shall not create nor authorize the creation of any obligations on the part of the Government of the United States with respect to any expenditures for highway construction or survey heretofore or hereafter undertaken in any of the countries enumerated in subsection (a) of this section, other than the expenditures authorized by the provisions of this section.

(d) Appropriations made pursuant to any authorizations heretofore or hereafter enacted for the Inter-American Highway shall be considered available for expenditure by the Secretary for necessary administrative and engineering expenses in connection with the Inter-American Highway Program.

§ 213. Rama Road.

(a) Recognizing the mutual benefits that will accrue to the Republic of Nicaragua and to the United States from the completion of the road from San Benito to Rama in said Republic of Nicaragua, the construction of which road was begun and partially completed pursuant to an agreement between said Republic and the United States, the Secretary is authorized out of the funds appropriated for such purposes to provide for the construction of such road. Appropriations made for such purposes shall remain available until expended. No expenditure shall be made hereunder for the construction of said road until a request therefor shall have been received by the Secretary of State from the Government of the Republic of Nicaragua nor until an agreement shall have been entered into by said Republic with the Secretary of State which shall provide, in part, that said Republic—

(1) will provide, without participation of funds authorized under this title, or under prior Acts, all necessary right-of-way for the construction of said highway, which right-of-way shall be of a minimum width, where practicable, of one hundred meters in rural areas and fifty meters in municipalities and shall forever be held inviolate as a part of the highway for public use;

(2) will not impose any highway toll, or permit any such toll to be charged for the use of said highway by vehicles or persons;

(3) will not levy or assess, directly or indirectly, any fee, tax, or other charge for the use of said road by vehicles or persons from the United States that does not apply equally to vehicles or persons of such Republic;

(4) will continue to grant reciprocal recognition of vehicle registration and drivers' licenses in accordance with the provisions of the Convention for the Regulation of Inter-American Automotive Traffic, which was opened for signature at the Pan American Union in Washington on December 15, 1943, and to which such Republic and the United States are parties; or any other treaty or international convention establishing similar reciprocal recognition; and

(5) will maintain said road after its completion in proper condition adequately to serve the needs of present and future traffic.

(b) The funds appropriated for such purposes shall be available for expenditure in accordance with the terms of this section for the survey and construction of said road from San Benito to Rama in the Republic of Nicaragua without being matched by said Republic, and all expenditures made under the provisions of this section for materials, equipment, and supplies, shall, whenever practicable, be made for products of the United States or of the Republic of Nicaragua.

(c) The survey and construction work undertaken pursuant to this section shall be under the general supervision of the Secretary.

§ 214. Public lands development roads and trails.

(a) Funds available for public lands development roads and trails shall be used to pay the cost of construction and improvement of such roads and trails.

(b) Funds available for public lands development roads and trails shall be available for adjacent vehicular parking areas and for sanitary, water, and fire control facilities.

(c) The Secretary shall approve the location, type, and design of all projects for public lands development roads and trails before any expenditures are made thereon and all construction thereof shall be under the general supervision of the Secretary.

§ 215. Territorial highway program.

(a) Recognizing the mutual benefits that will accrue to the Virgin Islands, Guam, and American Samoa, and to the United States from the improvement of highways in such territories of the United States, the Secretary is authorized to assist each such territorial government in a program for the construction and improvement of a system of arterial highways, and necessary interisland connectors designated by the Governor of such territory and approved by the Secretary. Federal financial assistance shall be granted under this subsection to such territories upon the basis of a Federal contribution of 100 per centum of the cost of any project.

(b) In order to establish a long-range highway development program, the Secretary is authorized to provide technical assistance for the establishment of an appropriate agency to administer on a continuing basis highway planning, design, construction and maintenance operations, the development of a system of arterial and collector highways, including necessary interisland connectors, and the establishment of advance acquisition of right-of-way and relocation assistance programs.

(c) No part of the appropriations authorized under this section shall be available for obligation or expenditure with respect to any territory until the Governor enters into an agreement with the Secretary providing that the government of such territory (1) will design and construct a system of arterial and collector highways, including necessary interisland connectors, built in accordance with standards approved by the Secretary; (2) will not impose any toll, or permit any such toll to be charged, for use by vehicles or persons of any portion of the facilities constructed or operated under the provisions of this section; (3) will provide for the mainte-

nance of such facilities in a condition to adequately serve the needs of present and future traffic; (4) will implement standards for traffic operations and uniform traffic control devices which are approved by the Secretary.

(d)(1) Three per centum of the sums authorized to be appropriated for each fiscal year for carrying out subsection (a) of this section shall be available for expenditure only for engineering and economic surveys and investigations, for the planning of future highway programs and the financing thereof, for studies of the economy, safety, and convenience of highway usage and the desirable regulation and equitable taxation thereof, and for research and development, necessary in connection with the planning, design, and maintenance of the highway system, and the regulation and taxation of their use.

(2) In addition to the percentage provided in paragraph (1) of the subsection, not to exceed 2 per centum of sums authorized to be appropriated for each fiscal year for carrying out subsection (a) of this section may be expended upon request of the Governor and with the approval of the Secretary for the purposes enumerated in paragraph (1) of this subsection.

(e) None of the funds authorized to be appropriated for carrying out this section shall be obligated or expended for maintenance of the highway system.

(f) The provisions of chapter 1 of this title 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.

§ 216. Darien Gap Highway.

(a) The United States shall cooperate with the Government of the Republic of Panama and with the Government of Colombia in the construction of approximately two hundred and fifty miles of highway in such countries in the location known as the "Darien Gap" to connect the Inter-American Highway authorized by section 212 of this title with the Pan American Highway System of South America. Such highway shall be known as the "Darien Gap Highway". Funds authorized by this section shall be obligated and expended subject to the same terms, conditions, and requirements with respect to the Darien Gap Highway as are funds authorized for the Inter-American Highway by subsection (a) of section 212 of this title.

(b) The construction authorized by this section shall be under the administration of the Secretary who shall consult with the appropriate officials of the Department of State with respect to matters involving the foreign relations of this Government, and such negotiations with the Governments of the Republic of Panama and Colombia as may be required to carry out the purposes of this section shall be conducted through, or authorized by, the Department of State.

(c) The provisions of this section shall not create nor authorize the creation of any obligations on the part of the Government of the United States with respect to any expenditures for highway

survey or construction heretofore or hereafter undertaken in Panama or Colombia, other than the expenditures authorized by the provision of this section.

(d) Appropriations made pursuant to any authorization for the Darien Gap Highway shall be available for expenditure by the Secretary for necessary administrative and engineering expenses in connection with the Darien Gap Highway program.

(e) For the purposes of this section the term "construction" does not include any costs of rights-of-way, relocation assistance, or the elimination of hazards of railway grade crossings.

§ 217. Bicycle transportation and pedestrian walkways.

(a) To encourage energy conservation and the multiple use of highway rights-of-way, including the development, improvement, and use of bicycle transporation and the development and improvement of pedestrian walkways on or in conjunction with highway rights-of-way, the States may, as Federal-aid highway projects, construct new or improved lanes, paths, or shoulders; traffic control devices, shelters for and parking facilities for bicycles; and pedestrian walkways. Sums apportioned in accordance with paragraphs (1), (2), and (6) of section 104(b) of this title shall be available for bicycle projects and pedestrian walkways authorized under this section and such projects shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes.

(b) For all purposes of this title, a bicycle or pedestrian walkway project authorized by subsection (a) of this section shall be deemed to be a highway project, and the Federal share payable on account of such bicycle project or pedestrian walkway shall be that provided in section 120 of this title.

(c) Funds authorized for forest highways, forest development roads and trails, public lands development roads and trails, park roads and trails, 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 bicycle and pedestrian routes in conjunction with such trails, roads, highways, and parkways.

(d) No motorized vehicles shall be permitted on trails and walkways authorized under this section except for maintenance purposes and, when snow conditions and State or local regulations permit, snowmobiles.

(e) Not more than $45,000,000 of funds authorized to be appropriated in any fiscal year may be obligated for projects authorized by subsections (a) and (c) of this section, and no State shall obligate more than $2,500,000 for such projects in any fiscal year.

§ 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 to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to the south Alaskan border, the Secretary is authorized out of the funds appropriated for the purpose of this section to provide for necessary reconstruction of such highway. Such appropriations shall remain available until expended. No expenditures shall be made for the construction of such highways until an agree-

ment has been reached by the Government of Canada and the Government of the United States which shall provide, 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 drivers' 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 pursuant to this section shall be under the general supervision of the Secretary.

§ 219. Safer off-system roads.

(a) The Secretary is authorized to make grants to States for projects for the construction, reconstruction, and improvement of any off-system road, including, but not limited to, the correction of safety hazards, the replacement of bridges, the elimination of high-hazard locations and roadside obstacles.

(b) On October 1 of each fiscal year the Secretary shall apportion the sums authorized to be appropriated to carry out this section among the several States as follows:

(1) Two-thirds according to the following formula—

(A) one-third in the ratio which the area of each State bears to the total area of all States;

(B) 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; and

(C) one-third in the ratio in which the off-system road mileage of each State bears to the total off-system road mileage of all the States. Off-system road mileage as used in this subsection shall be determined 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.

(2) One-third 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.

(c) Sums apportioned to a State under this section shall be made available for obligation throughout such State on a fair and equitable basis. Not less than 50 per centum of the funds obligated in any State under this section in any fiscal year shall be obligated for highway safety improvement projects.

(d) In any State wherein the State is without legal authority to construct or maintain a project under this section, such State shall

enter into a formal agreement for such construction or maintenance with the appropriate local officials of the county or municipality in which such project is located.

(e) Sums apportioned under this section and programs and projects under this section shall be subject to all of the provisions of chapter 1 of this title applicable to highways on the Federal-aid secondary system except the formula for apportionment, the requirement that these roads be on the Federal-aid system, and those other provisions determined by the Secretary to be inconsistent with this section. The Secretary is not authorized to determine as inconsistent with this section any provision relating to the obligation and availability of funds.

(f) As used in this section, the term "off-system road" means any toll-free road (including bridges), which road is not on any Federal-aid system and which is under the jurisdiction of and maintained by a public authority and open to public travel.

Chapter 3.—GENERAL PROVISIONS

Sec.

301. Freedom from tolls.
302. State highway department.
303. Bureau organization.[1]
304. Participation by small business enterprises.
305. Archeological and paleontological salvage.
306. Mapping.
307. Research and planning.
308. Cooperation with Federal and State agencies and foreign countries.
309. Cooperation with other American Republics.
310. Civil Defense.
311. Highway improvements strategically important to the national defense.
312. Detail of Army, Navy, and Air Force officers.
313. [Repealed P.L. 89-564].
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. National Highway Institute.
322. Demonstration project—rail crossings.
323. Donations.
324. Prohibition of discrimination on the basis of sex.

§ 301. Freedom from tolls.

Except as provided in section 129 of this title with respect to certain toil bridges and toll tunnels, all highways constructed under the provisions of this title shall be free from tolls of all kinds.

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[1] Analysis does not conform to section catchline.

§ 302. State highway department.

(a) Any State desiring to avail itself of the provisions of this title shall have a State highway 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. Among other things, the organization shall include a secondary road unit. In meeting the provisions of this subsection, a State may engage to the extent necessary or desirable, the services of private engineering firms.

(b) 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. Administration organization.

(a)(1) In addition to the Administrator of the Federal Highway Administration authorized by section 3(e) of the Department of Transportation Act, there shall be a Deputy Federal Highway Administrator appointed by the Secretary of Transportation, with the approval of the President. The Deputy Federal Highway Administrator shall perform such duties as the Federal Highway Administrator shall prescribe. There shall also be an Assistant Federal Highway Administrator who shall be the chief engineer of the Administration and shall be appointed, with the approval of the President, by the Secretary of Transportation under the classified civil service and who shall perform such functions, powers, and duties as the Federal Highway Administrator shall prescribe.

(2) The Administrator of the Federal Highway Administration shall be compensated at the annual rate of basic pay of level II of the Executive Schedule in section 5313 of title 5, United States Code. The Deputy Federal Highway Administrator shall be compensated at the annual rate of basic pay of level IV of the Executive Schedule in section 5315 of title 5, United States Code. The Assistant Federal Highway Administrator shall be compensated at the annual rate of basic pay of level V of the Executive Schedule in section 5316 of title 5, United States Code.

(b) The Secretary is authorized to employ such assistants, clerks, and other persons in the city of Washington and elsewhere, to be taken from the eligible lists of the Civil Service Commission, to rent buildings outside of the city of Washington, to purchase such supplies, material, equipment, office fixtures and apparatus, to advertise in the city of Washington for work to be performed in areas adjacent thereto, and to incur, and authorize the incurring of, such travel and other expenses as he may deem necessary for carrying out the functions under this title.

(c) The Secretary is authorized to procure temporary services in accordance with the provisions of section 15 of the Act of August 2, 1946 (5 U.S.C. 55a), but at rates for individuals not in excess of $100 per diem.

§ 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 the Federal-aid highway systems, 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.

§ 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.

§ 306. Mapping.

In carrying out the provisions of this title, the Secretary may, wherever practicable, authorize the use of photogrammetric methods in mapping, and the utilization of commercial enterprise for such services.

§ 307. Research and planning.

(a) The Secretary is authorized in his discretion to engage in research on all phases of highway construction, modernization, development, design, maintenance, safety, financing, and traffic conditions, including the effect thereon of State laws and is authorized to test, develop, or assist in the testing and developing of any material, invention, patented article, or process. The Secretary may publish the results of such research. The Secretary may carry out the authority granted hereby, either independently, or in cooperation with any other branch of the Government, State agency, authority, association, institution, corporation (profit or nonprofit), or any other organization, or person. The Secretary is also authorized, acting independently or in cooperation with other Federal departments, agencies, or instrumentalities, to make grants for research fellowships for any purpose for which research is otherwise authorized by this section. The funds required to carry out the provisions of this subsection shall be taken out of the administrative and research funds authorized by section 104 of this title, funds authorized to carry out section 403 of this title, and such funds as may be deposited in a special account with the Secretary of the Treasury for such purposes by any cooperating organization or person. The provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), shall not be applicable to contracts or agreements made under the authority of this subsection.

(b) The Secretary shall include in the highway research program herein authorized studies of economic highway geometrics, structures, and desirable weight and size standards for vehicles using the public highways and of the feasibility of uniformity in State regulations with respect to such standards and he shall report from time to time to the Committees on Public Works of the Senate and of the House of Representatives on the progress and findings with

respect to such studies. The highway research program herein authorized shall also include studies to identify and measure, quantitively and qualitatively, those factors which relate to economic, social, environmental, and other impacts of highway projects.

(c)(1) Not to exceed 1½ per centum of the sums apportioned for each fiscal year beginning with fiscal year 1974 to any State under section 104 of this title shall be available for expenditure upon request of the State highway department, with the approval of the Secretary, with or without State funds, for engineering and economic surveys and investigations; for the planning of future highway programs and local public transportation systems and for planning for the financing thereof; for studies of the economy, safety, and convenience of highway usage and the desirable regulation and equitable taxation thereof; and for research and development, necessary in connection with the planning, design, construction, and maintenance of highways and highway systems, and the regulation and taxation of their use.

(2) One and one-half per centum of the sums apportioned for each fiscal year beginning with the fiscal year 1964 to any State under section 104 of this title shall be available for expenditure by the State highway department only for the purposes enumerated in paragraph (1) of this subsection.

(3) In addition to the percentage provided in paragraph (2) of this subsection, not to exceed one-half of one per centum of sums apportioned for each fiscal year beginning with the fiscal year 1964 under paragraphs (1), (2), and (3) of section 104(b) of this title shall be available for expenditure upon request of the State highway department for the purposes enumerated in paragraph (1) of this subsection, including demonstration projects in connection with such purposes.

(4) Sums made available under paragraphs (2) and (3) of this subsection shall be matched by the State in accordance with section 120 of this title unless the Secretary determines that the interests of the Federal-aid highway program would be best served without such matching.

(d) As used in this section the term "safety" includes, but is not limited to, highway safety systems, research, and development relating to vehicle, highway, and driver characteristics, accident investigations, communications, emergency medical care, and transportation of the injured.

§ 308. Cooperation with Federal and State agencies and foreign countries.

(a) 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.

(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 of 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.

§ 309. Cooperation with other American Republics.

The President is authorized to utilize the services of the Federal Highway Administration in fulfilling the obligations of the United States under the Convention on the Pan-American Highway Between the United States and Other American Republics (51 Stat. 152), cooperating with several governments, members of the Organization of American States, in connection with the survey and construction of the Inter-American Highway, and for performing engineering service in the other American Republics for and upon the request of any agency or governmental corporation of the United States. To the extent authorized in appropriation acts, administrative funds available in accordance with subsection (a) of section 104 of this title shall be available annually for the purpose of this section.

§ 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.

§ 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.

§ 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.

§ 313. [Repealed P.L. 89–564].

§ 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.

§ 315. Rules, regulations, and recommendations.

Except as provided in sections 204(d), 205(a), 206(b), 207(b), and 208(c) 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 highway departments as he deems necessary for preserving and protecting the highways and insuring the safety to traffic thereon.

§ 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 highway 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.

§ 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 highway 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 highway 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 system or under the provisions of chapter 2 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 or 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 highway 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.

§ 319. Landscaping and scenic enhancement.

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 adjacent to such highways.

§ 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 programs, 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

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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.

§ 321. National Highway Institute.

(a) The Secretary is authorized and directed to establish and operate in the Federal Highway Administration a National Highway Institute hereafter referred to as the "Institute". The Institute shall develop and administer, in cooperation with the State highway departments, training programs of instruction for Federal Highway Administration and State and local highway department employees engaged or to be engaged in Federal-aid highway work. Such programs may include, but not be limited to, courses in modern developments, techniques, and procedures, relating to highway planning, environmental factors, acquisition of rights-of-way, engineering, construction, maintenance, contract administration, and inspection. The Secretary shall administer all authority vested in him by this title or by any other provision of law for the development and conduct of educational and training programs relating to highways through the Institute. Sums authorized to be deducted for administrative purposes by subsection (a) of section 104 of this title shall be available for carrying out this subsection.

(b) Not to exceed one-half of 1 per centum of all funds apportioned for any fiscal year beginning after June 30, 1970, to any State under paragraphs (1), (2), and (6) of section 104(b) of this title

shall be available for expenditure by the State highway department, subject to approval by the Secretary, for payment of not to exceed 75 per centum of the cost of tuition and direct educational expenses (but not travel, subsistence, or salaries) in connection with the education and training of State and local highway department employees as provided in this section.

(c) Education and training of Federal, State, and local highway employees authorized by this section may be provided by the Secretary, or, in the case where such education and training is to be paid for under subsection (b) of this section, by the State, subject to the approval of the Secretary, through grants and contracts with public and private agencies, institutions, and individuals.

§ 322. Demonstration project—rail crossings.

(a) The Secretary shall carry out a demonstration project for the elimination of all public ground-level rail-highway crossings along the route of the high-speed ground transportation demonstration projects between Washington, District of Columbia, and Boston, Massachusetts, conducted under authority of the Act entitled "An Act to authorize the Secretary of Commerce to undertake research and development in high-speed ground transportation, and for other purposes", approved September 30, 1965 (49 U.S.C. 1631 et seq.). The Secretary may permit selected individual public crossings of unusually low-potential hazard to remain at ground level, if they are provided with the best available protection.

(b) The Secretary 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, Greenwood, South Carolina.

(c)(1) If the highway involved is on any Federal-aid system, the Federal share of the cost of such work shall be 90 per centum and the railroad's share of such cost shall be 10 per centum.

(2) If the highway involved is not on any Federal-aid system, the Federal share of the cost of such work shall be 80 per centum and the railroad's share of such cost shall be 10 per centum and the remaining 10 per centum of such cost shall be paid by the State in which such crossing is located.

(d) Before paying any part of the cost of the demonstration projects authorized by this section, the Secretary shall enter into such agreements with the States and railroads involved to insure that all non-Federal costs will be provided as required by this section.

(e) The Secretary, in cooperation with State highway departments, shall conduct a full and complete investigation and study of the problem of providing increased highway safety at public and private ground-level rail-highway crossings on a nationwide basis through the elimination of such crossings or otherwise, including specifically high-speed rail operations in all parts of the country, and report to Congress his recommendations resulting from such investigation and study not later than July 1, 1972, including an estimate of the cost of such a program. Funds authorized to carry out section 307 of this title are authorized to be used to carry out the investigation and study required by this subsection.

(f) There is authorized to be appropriated not to exceed $9,000,000 from the Highway Trust Fund to carry out paragraph (1) of subsection (c) of this section. There is authorized to be appropri-

ated out of the general fund not to exceed $22,000,000 to carry out paragraph (2) of subsection (c) of this section.

§ 323. Donations.

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.

§ 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.

Chapter 4.—HIGHWAY SAFETY

Sec.

401. Authority of the Secretary.
402. Highway safety programs.
403. Highway safety research and development.
404. National Highway Safety Advisory Committee.
405. [Repealed P.L. 94-280].
406. School bus driver training.
407. Innovative project grants.

§ 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 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa, 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.

§ 402. Highway safety programs.

(a) Each State shall have a highway safety program approved by the Secretary, designed to reduce traffic accidents and deaths, injuries, and property damage resulting therefrom. Such programs shall be in accordance with uniform standards promulgated by the Secretary. Such uniform standards shall be expressed in terms of performance criteria. Such uniform standards shall be promulgated by the Secretary so as to improve driver performance (including, but not limited to, driver education, driver testing to determine

proficiency to operate motor vehicles, driver examinations (both physical and mental) and driver licensing) and to improve pedestrian performance, and bicycle safety. In addition such uniform standards shall include, but not be limited to provisions for an effective record system of accidents (including injuries and deaths resulting therefrom), accident investigations to determine the probable causes of accidents, injuries, and deaths, vehicle registration, operation, and inspection, highway design and maintenance (including lighting, markings, and surface treatment), traffic control, vehicle codes and laws, surveillance of traffic for detection and correction of high or potentially high accident locations, and emergency services. Such standards as are applicable to State highway safety programs shall, to the extent determined appropriate by the Secretary, be applicable to federally administered areas where a Federal department or agency controls the highways or supervises traffic operations. The Secretary shall be authorized to amend or waive standards on a temporary basis for the purpose of evaluating new or different highway safety programs instituted on an experimental, pilot, or demonstration basis by one or more States, including, but not limited to, such programs for identifying accident causes, adopting measures to reduce accidents, and evaluating effectiveness of such measures, where the Secretary finds that the public interest would be served by such amendment or waiver.

(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 standards 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 that the aggregate expenditure of funds of the State and political subdivisions thereof, exclusive of Federal funds, for highway safety programs will be maintained at a level which does not fall below the average level of such expenditures for its last two full fiscal years preceding the date of enactment of this section.

(E) 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.

(F) 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

(G) 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.

(c) 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 accidents, and deaths and injuries resulting therefrom. 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. 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 funds shall be apportioned 75 per centum in the ratio which the population of each State bears to the total population of all the States, as shown by the latest available Federal census, and 25 per centum in the ratio which the public road mileage in each State bears to the total public road mileage in all States. For the purposes of this subsection, a "public road" means any road under the jurisdiction of and maintained by a public authority and open to public travel. Public road mileage as used in this subsection shall be determined 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. The annual apportionment to each State shall not be less than one-half of 1 per centum of the total apportionment, except that the apportionments to the Virgin Islands, Guam, and American Samoa shall not be less than one-third of 1 per centum of the total apportionment. After December 31, 1969, the Secretary shall not apportion any funds under the subsection to any State which is not implementing a highway safety program approved by the Secretary in accordance with this section. For the purpose of the seventh sentence of this subsection, a high-

way safety program approved by the Secretary shall not include any requirement that a State implement such a program by adopting or enforcing any law, rule, or regulation based on a standard promulgated by the Secretary under this section requiring any motorcycle operator eighteen years of age or older or passenger eighteen years of age or older to wear a safety helmet when operating or riding a motorcycle on the streets and highways of that State. Implementation of a highway safety program under this section shall not be construed to require the Secretary to require compliance with every uniform standard, or with every element of every uniform standard, in every State. Funds apportioned under this section to any State, that does not have a highway safety program approved by the Secretary or that is not implementing an approved program, shall be reduced by amounts equal to not less than 50 per centum of the amounts that would otherwise be apportioned to the State under this section, until such time as the Secretary approves such program or determines that the State is implementing an approved program, as appropriate. The Secretary shall consider the gravity of the State's failure to have or implement an approved program in determining the amount of the reduction. The Secretary shall promptly apportion to the State the funds withheld from its apportionment if he approves the State's highway safety program or determines that the State has begun implementing an approved program, as appropriate, prior to the end of the fiscal year for which the funds were withheld. If the Secretary determines that the State did not correct its failure within such period, the Secretary shall reapportion the withheld funds to the other States in accordance with the formula specified in this subsection not later than 30 days after such determination.

(d) All provisions of chapter 1 of this title 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 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 highway department" as used in such provisions shall mean the Governor of a State for the purposes of this section.

(e) Uniform standards promulgated by the Secretary to carry out this section shall be developed in cooperation with the States, their political subdivision, appropriate Federal departments and agen-

cies, 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 standards 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) 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 standards) or (2) any purpose for which funds are authorized by section 403 of this title.

(h) Each uniform safety standard promulgated under this section on or before July 1, 1973, shall continue in effect unless otherwise specifically provided by law enacted after the date of enactment of the Federal-aid Highway Act of 1973. The Secretary shall not promulgate 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 the date of enactment of the Federal-aid Highway Act of 1973.

(i) 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.

(j)(1) In addition to other grants authorized by this section, the Secretary may make incentive grants in each fiscal year to those States which have adopted legislation requiring the use of seatbelts in accordance with criteria which the Secretary shall establish and publish. Such grants may only be used by recipient States to further the purposes of this chapter. Such grants shall be in addition to other funds authorized by this section. There is hereby authorized to be appropriated to carry out this paragraph, out of the Highway Trust Fund, not to exceed $25,000,000 for the fiscal year ending June 30, 1974, not to exceed $32,000,000 for the fiscal year ending June 30, 1975, and not to exceed $37,500,000 for the fiscal year ending June 30, 1976.

(2) In addition to other grants authorized by this section, the Secretary may make additional incentive grants to those States which have made the most significant progress in reducing traffic fatalities based on the reduction in the ratio of such fatalities per one hundred million-vehicle miles during the calendar year immediately preceding the fiscal year for which such incentive funds are authorized compare with the average annual rate of such fatalities for the four calendar year period preceding such calendar year. Such incentive grants shall be made in accordance with criteria which the Secretary shall establish and publish. Such grants may

only be used by recipient States to further the purposes of this chapter. Such grants shall be in addition to other funds authorized by this section. There is hereby authorized to be appropriated to carry out this paragraph, out of the Highway Trust Fund, not to exceed $12,500,000 for the fiscal year ending June 30, 1974, not to exceed $16,000,000 for the fiscal year ending June 30, 1975, and not to exceed $19,000,000 for the fiscal year ending June 30, 1976.

(3) In addition to other grants authorized by this section, the Secretary may make additional incentive grants to those States which have significantly reduced the actual number of traffic fatalities during the calendar year immediately preceding the fiscal year for which such incentive funds are authorized compared to the average of the actual number of traffic fatalities for the four calendar year period preceding such calendar year. Such incentive grants shall be made in accordance with critiera which the Secretary shall establish and publish. Such grants may only be used by recipient States to further the purposes of this chapter. Such grants shall be in addition to other funds authorized by this section.

(4) No State shall receive from funds authorized for any fiscal year or period by this subsection incentive grants under paragraph (1) of this subsection which exceed an amount equal to 25 per centum of the amount apportioned to such State under this section for such fiscal year or period. No State shall receive from funds authorized for any fiscal year or period by this subsection incentive awards under paragraph (2) of this subsection which exceed an amount equal to 25 per centum of the amount apportioned to such State under this section for such fiscal year or period. No State shall receive from funds authorized for any fiscal year or period by this subsection incentive awards under paragraph (3) of this subsection which exceed an amount equal to 25 per centum of the amount apportioned to such State under this section for such fiscal year or period.

(5) Notwithstanding subsection (c) of this section, no part of the sums authorized by this subsection shall be apportioned as provided in such subsection. Sums authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under subsection (c) of this section.

§ 403. Highway safety research and development.

(a) 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.

(b) 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.

(c) The research authorized by subsection (b) of this section may be conducted by the Secretary through grants and contracts with public and private agencies, institutions, and individuals.

(d) The Secretary may, where he deems it to be in furtherance of the purposes of section 402 of this title, vest in State or local agencies, on such terms and conditions as he deems appropriate, title to equipment purchased for demonstration projects with funds authorized by this section.

(e) In addition to the research authorized by subsection (a) of this section, the Secretary shall, either independently or in cooperation with other Federal departments or agencies, conduct research into, and make grants to or contracts with State or local agencies, institutions, and individuals for projects to demonstrate the administrative adjudication of traffic infractions. Such administrative adjudication demonstration projects shall be designed to improve highway safety by developing fair, efficient, and effective processes and procedures for traffic infraction adjudication, utilizing appropriate punishment, training, and rehabilitative measures for traffic offenders. The Secretary shall report to Congress by July 1, 1975, and each year thereafter during the continuance of the program, on the research and demonstration projects authorized by this subsection, and shall include in such report a comparison of the fairness, efficiency, and effectiveness of administrative adjudication of traffic infractions with other methods of handling such infractions.

(f) 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.

§ 404. National Highway Safety Advisory Committee.

(a)(1) There is established in the Department of Transportation a National Highway Safety Advisory Committee, composed of the Secretary or an officer of the Department appointed by him, the

Federal Highway Administrator, the National Highway Traffic Safety Administrator, and thirty-five members appointed by the President, no more than four of whom shall be Federal officers or employees. The Secretary shall select the Chairman of the Committee from among the Committee members. The appointed members, having due regard for the purposes of this chapter, shall be selected from among representatives of various State and local governments, including State legislatures, of public and private interests contributing to, affected by, or concerned with highway safety, including the national organizations of passenger car, bus, and truck owners, and of other public and private agencies, organizations, or groups demonstrating an active interest in highway safety, as well as research scientists and other individuals who are expert in this field.

(2)(A) Each member appointed by the President shall hold office for a term of three years, except that (i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (ii) the terms of office of members first taking office after the date of enactment of this section shall expire as follows: Twelve at the end of one year after the date such committee members are appointed by the President, twelve at the end of two years after the date such committee members are appointed by the President, and eleven at the end of three years after the date such committee members are appointed, as designated by the President at the time of appointment, and (iii) the term of any member shall be extended until the date on which the successor's appointment is effective. None of the members appointed by the President who has served a three-year term, other than Federal officers or employees, shall be eligible for reappointment within one year following the end of his preceding term.

(B) Members of the Committee who are not officers or employees of the United States shall, while attending meetings or conferences of such Committee or otherwise engaged in the business of such Committee, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding $100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized in section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b–2) for persons in the Government service employed intermittently. Payments under this section shall not render members of the Committee employees or officials of the United States for any purpose.

(b) The National Highway Safety Advisory Committee shall advise, consult with, and make recommendations to, the Secretary on matters relating to the activities and functions of the Department in the field of highway safety. The Committee is authorized (1) to review research projects or programs submitted to or recommended by it in the field of highway safety and recommend to the Secretary, for prosecution under this title, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause and prevention of highway accidents; and (2) to review, prior to issuance, standards proposed to be issued by order of the Secretary under the provisions of section 402(a) of this title and to make recommendations

thereon. Such recommendations shall be published in connection with the Secretary's determination or order.

(c) The National Highway Safety Advisory Committee shall meet from time to time as the Secretary shall direct, but at least once each year.

(d) The Secretary shall provide to the National Highway Safety Committee from among the personnel and facilities of the Department of Commerce such staff and facilities as are necessary to carry out the functions of such Committee.

§ 405. [Repealed P.L. 94–280].

§ 406. School bus driver training.

(a) The Secretary is authorized to make grants to the States for the purpose of carrying out State programs approved by him of driver education and training for persons driving school buses.

(b) A State program under this section shall be approved by the Secretary if such program—

(1) provides for the establishment and enforcement of qualifications for persons driving buses;

(2) provides for initial education and training and for refresher courses;

(3) provides for periodic reports to the Secretary on the results of such program; and

(4) includes persons driving publicly operated, and persons driving privately operated, school buses.

(c) Not less than $7,500,000 of the sums authorized to carry out section 402 of this title for fiscal year 1976 shall be obligated to carry out this section. Not less than $7,000,000 of the sums authorized to carry out section 402 of this title for each of the fiscal years 1977 and 1978 shall be obligated to carry out this section. All sums authorized to carry out this section shall be apportioned among the States in accordance with the formula established under subsection (c) of section 402 of this title, and shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under such subsection (c). The Federal share payable on account of any project to carry out a program under this section shall not exceed 75 per centum of the cost of the project.

§ 407. Innovative project grants.

(a) In addition to other grants authorized by this chapter, the Secretary may make grants in any fiscal year to those States, political subdivisions thereof, and nonprofit organizations which develop innovative approaches to highway safety problems in accordance with criteria to be established by the Secretary in cooperation with the States, political subdivisions thereof, and such nonprofit organizations as the Secretary deems appropriate.

(b) The Secretary shall establish a procedure for the selection of grant applications submitted under this section. In developing such procedure, the Secretary shall consult with the States and political subdivisions thereof, appropriate Federal departments and agencies, and such other public and nonprofit organizations as the Secretary deems appropriate.

(c) Any State, political subdivision thereof, and nonprofit organization may make an application under this section to carry out an innovative project described in subsection (a) of this section. Such

application shall be in such form and contain such information as the Secretary, by regulation, prescribes.

(d) Not to exceed 2 per centum of the funds authorized to be appropriated to carry out this section shall be available to the Secretary for the necessary costs of administering the provisions of this section.

(e) The Secretary shall submit an annual report to the Congress which provides a description of each application received for a grant under this section and an evaluation of innovative projects carried out with grants made under this section.

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