

## TITLE 23.—HIGHWAYS

### Chapter 1.—FEDERAL HIGHWAY ACT

§ 2a. "Highway" further defined. The term "highway" as defined in section 2 of this title, shall be deemed to include such main parkways as may be designated by the State and approved by the Secretary of Agriculture as part of the Federal-aid highway system. (June 16, 1936, c. 582, § 1 (c), 49 Stat. 1519.)

§ 2b. "Highway" further defined. The term "highway" as defined in sections 2 and 2a of this title, shall be deemed to include that portion of any interstate or international bridge and the approaches thereto, the cost of which is assumed by the State highway department, including such facilities as may be required by the United States Customs and Immigration Services in connection with the operation of such bridge. (June 8, 1938, c. 328, § 1 (e), 52 Stat. 634.)

§ 6. Projects to receive Federal aid; approval by Secretary of Agriculture; two classes of highways.

Federal aid to Puerto Rico without regard to the limitations of this section, see section 41b of this title.

§ 7. State funds to be provided.

Act June 8, 1938, c. 328, § 1 (d), 52 Stat. 634, provided as follows with respect to temporary insufficiency of state funds: "If within the fiscal years 1938 and 1939 the Secretary of Agriculture shall find with respect to any State (1) that the proceeds of all special taxes on motor-vehicle transportation, as referred to in section 12 [55 of this title] of the Act of June 18, 1934 (48 Stat. 995), as amended by this Act, are applied to highway purposes as defined in said section; (2) that at least 90 per centum of such proceeds are applied to the administrative and operating expenses of the State highway department, the maintenance of the State and Federal-aid highway systems, and the payment of interest on, and the amortization of, bond obligations of the State for the payment of which such revenues have heretofore been pledged; and (3) that the portion of the proceeds of all such special taxes then available for construction, together with funds available to the State from any other sources for highway purposes, will be insufficient to match all, or any part, of the regular and secondary Federal-aid road funds apportioned to such State for such fiscal years in accordance with the provisions of the Federal Highway Act (42 Stat. 212), as amended and supplemented, then such portion of such apportionment as the Secretary of Agriculture shall find the State is unable to match shall be made available for expenditure in such State in accordance with said Federal Highway Act without being matched by the State."

§ 8a. Approval of methods of bidding, plans and specifications. Hereafter the Secretary of Agriculture shall approve only such methods of bidding and such plans and specifications of highway construction for the type or types proposed as will be effective in securing competition and conducive to safety, durability, and economy of maintenance. (June 8, 1938, c. 328, § 12, 52 Stat. 636.)

§ 9a-1. Additional aid to toll bridges. In the case of each and every State, or political subdivision or subdivisions thereof, which, prior to July 1, 1941, shall have constructed or acquired any toll bridges on the approved system of Federal-aid highways, and which has caused or shall, prior to July 1, 1941, cause any such toll bridge or toll bridges to be made free, the Federal Works Administrator shall be, and he is hereby, authorized to pay out of the regular and secondary Federal-aid road funds apportioned to such State not to exceed 50 per centum of such amount as may be approved by the Federal Works Administrator as the reasonable value or construction cost of any such bridge whichever shall be least: *Provided*, That no payment of Federal funds shall be made on account of any such bridge which was not constructed in accordance with plans and specifications which would meet the standards required by the Secretary of Agriculture at the time such bridge was constructed, nor on account of any bridge the construction of which

was completed prior to March 3, 1927: *And provided further*, That no such payment shall be made which will exceed 50 per centum of the reasonable value or cost of the labor and materials which were actually incorporated in the construction of such bridge, excluding all costs of rights-of-way, property damages, and financing costs, whichever, value or cost, shall be least, and any amount so paid on account of any such bridge from regular Federal-aid road funds shall be used for matching unobligated regular Federal-aid road funds available to the State for expenditure in the improvement of highways on the system of Federal-aid highways, and any amount so paid on account of any such bridge from secondary Federal-aid road funds shall be used for matching unobligated secondary Federal-aid road funds available to the State for expenditure in the improvement of secondary or feeder roads. (Aug. 14, 1937, c. 626, 50 Stat. 640, as amended July 19, 1939, c. 328, § 1, 53 Stat. 1066.)

§ 10b. Construction of roadside and landscape developments. Hereafter the construction of highways by the States with the aid of Federal funds may include such roadside and landscape development, including such sanitary and other facilities as may be deemed reasonably necessary to provide for the suitable accommodation of the public, all within the highway right-of-way and adjacent publicly owned or controlled recreational areas of limited size and with provision for convenient and safe access thereto by pedestrian and vehicular traffic, as may be approved by the Secretary of Agriculture. (June 8, 1938, c. 328, § 1 (c), 52 Stat. 633.)

§ 13a. Emergency relief fund for repair or reconstruction of highways or bridges. Not to exceed \$8,000,000 of any money herein or hereafter appropriated for expenditure in accordance with the provisions of the Federal Highway Act (42 Stat. 212)<sup>1</sup> shall be available for expenditure by the Secretary of Agriculture, in accordance with the provisions of said Federal Highway Act, as an emergency relief fund, after receipt of an application therefor from the highway department of any State, in the repair or reconstruction of highways and bridges on the system of Federal-aid highways, which he finds, after investigation, have been damaged or destroyed by floods, hurricanes, earthquakes, or landslides, and there is hereby authorized to be appropriated any sum or sums necessary to reimburse the funds so expended from time to time under the authority of this section. (June 8, 1938, c. 328, § 4, 52 Stat. 634.)

<sup>1</sup>See section 1 et seq. of this title.

§ 21a. Apportionment of appropriations among states; approval of projects. On or before January 1 of each year, the Secretary of Agriculture shall apportion among the several States, as provided in section 21 of this title, the sums authorized for the fiscal year immediately following. When said apportionment has been made for any fiscal year, the State highway departments may submit projects to the Secretary of Agriculture for his approval. The Secretary of Agriculture shall act upon projects submitted to him under any such apportionment 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: *Provided*, That projects approved under any apportionment before the beginning of the fiscal year for which such apportionment has been made may be contracted for by the States and construction thereon may be begun, but the total reimbursements to any State or Territory before the beginning of such fiscal year shall not exceed the

total of all previous apportionments to such State or Territory. (June 16, 1936, c. 582, § 1 (b), 49 Stat. 1519.)

**§ 21b. Reapportionment of unexpended appropriations.** All sums herein or hereafter authorized and apportioned to the States shall be available for expenditure for one year after the close of the fiscal year for which said sums, respectively, are authorized, and any sum remaining unexpended at the end of the period during which it is available for expenditure shall be reapportioned among the States as provided in section 21 of this title. (June 8, 1938, c. 328, § 1 (a), 52 Stat. 633.)

**§ 23a. Same; manner of expenditure of appropriation; approval of projects.** One-third, but not less than \$3,000,000, of the appropriation made for any fiscal year for carrying out the provisions of section 23 of this title may after June 16, 1936 be expended for the purposes enumerated in the first paragraph of clause (a) of said section 23: *Provided*, That on or before January 1 of each year the Secretary of Agriculture shall apportion and prorate among the several States, Alaska, and Puerto Rico, as provided in said section 23, the sum authorized for the fiscal year immediately following and the Secretary of Agriculture is authorized to approve projects under any such apportionment, and to incur obligations or enter into contracts under his apportionment and prorating of the authorization, and his action in so doing shall be deemed a contractual obligation on the part of the Federal Government for the payment of the cost thereof. (June 16, 1936, c. 582, § 2, 49 Stat. 1520.)

**§ 24a. Safety protective devices at railroad crossings and draw-bridges.** No part of the appropriations made after June 16, 1936 for the purpose of carrying out the provisions of this chapter shall be approved for expenditure on any highway unless proper safety protective devices shall be installed or be in operation at any highway and railroad grade crossing or draw-bridge on that portion of the highway with respect to which such expenditures are to be made and said devices shall comply with the safety standards determined by the United States Bureau of Public Roads at that time as being adequate. (June 16, 1936, c. 582, § 8, 49 Stat. 1521.)

#### Chapter 2.—MISCELLANEOUS PROVISIONS

Act June 8, 1938, c. 328, §§ 10, 13, 52 Stat. 636, provided as follows:

"Sec. 10. With the approval of the Federal Works Administrator not to exceed 1½ per centum of the amount apportioned for any year to any State under the Federal Highway Act [Act June 8, 1938, c. 328, 52 Stat. 633], as amended and supplemented, except sections 3 and 23 thereof, shall hereafter be used with or without State funds for surveys, plans, engineering, and economic investigations of projects for future construction in such State, either on the Federal-aid highway system and extensions thereof or on secondary or feeder roads or grade-crossing eliminations. [Amended by Act June 19, 1939, c. 328, § 2, 53 Stat. 1066.]"

"Sec. 13. The Chief of the Bureau of Public Roads is hereby directed to investigate and make a report of his findings and recommend to the Congress not later than February 1, 1939, with respect to the feasibility of building, and cost of, super-highways not exceeding three in number, running in a general

direction from the eastern to the western portion of the United States, and not exceeding three in number, running in a general direction from the northern to the southern portion of the United States, including the feasibility of a toll system on such roads."

**§ 41a. Federal aid extended to Puerto Rico.** Beginning with the fiscal year ending June 30, 1938, the Territory of Puerto Rico shall be entitled to share in appropriations now or which may hereafter become available for apportionment under chapter 1 of this title, and any Act amendatory thereof or supplementary thereto, upon the same terms and conditions as any of the several States, and the Territory of Puerto Rico shall be included in the calculations to determine the basis of apportionment of such funds: *Provided*, That the system of roads on which Federal-aid apportionments to the Territory of Puerto Rico shall be expended may be determined and agreed upon by the highway departments of said Territory and the Secretary of Agriculture without regard to the limitations in section 6 of this title respecting the selection and designation of such system of roads; and, when the system first determined and agreed upon shall have been completed, additions thereto may be made in like manner as funds become available for the construction and maintenance of such additions. (June 23, 1936, c. 730, 49 Stat. 1891.)

**§ 41b. Federal aid extended to District of Columbia.** Beginning with the fiscal year ending June 30, 1940, the District of Columbia shall be entitled to share in all sums herein or hereafter authorized and apportioned to the States, upon the same terms and conditions as any of the several States, and the District of Columbia shall be included in the calculations to determine the basis of apportionment of such funds: *Provided*, That the system of roads on which Federal-aid apportionments to the District of Columbia shall be expended may be determined and agreed upon by the highway department of the said District and the Secretary of Agriculture without regard to the limitations in section 6 of this title respecting the selection and designation of such system of roads; and, when the system first determined and agreed upon shall have been completed, additions thereto may be made in like manner as funds become available for the construction of such additions. (June 8, 1938, c. 328, § 1 (b), 52 Stat. 633.)

#### § 55a. Transferred.

Section has been transferred to section 12 of Title 4, Flag and Seal, Seat of Government, and the States.

**§ 55b. Reapportionment of sums withheld as a penalty.** Any sums heretofore or hereafter withheld from the Federal-aid road funds apportioned to any State as a penalty for diversion of road-user taxes under the provisions of section 55 of this title, are hereby authorized to be made available for reapportionment in the same manner as any other unexpended balance at the end of the period during which it otherwise would be available for expenditure, in accordance with the provisions of section 21 of this title. (June 8, 1938, c. 328, § 11, 52 Stat. 636.)