

TITLE 40—APPENDIX

The legislation in this Appendix is temporary and terminates on October 1, 2001, pursuant to the provisions of section 405 of this Appendix

APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965

Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended by Pub. L. 89-670, §8(b), (c), Oct. 15, 1966, 80 Stat. 942, 943; Pub. L. 90-103, title I, §§101-114, 116-123, Oct. 11, 1967, 81 Stat. 257-266; Pub. L. 90-448, title II, §201(f), Aug. 1, 1968, 82 Stat. 502; Pub. L. 91-123, title I, §§101-111, Nov. 25, 1969, 83 Stat. 214-216; Pub. L. 91-258, title I, §52(b)(5), May 21, 1970, 84 Stat. 235; Pub. L. 92-65, title II, §§202-214, Aug. 5, 1971, 85 Stat. 168-173; Pub. L. 94-188, title I, §§102-122, 124, Dec. 31, 1975, 89 Stat. 1079-1086; Pub. L. 95-193, §1, Nov. 18, 1977, 91 Stat. 1412; Pub. L. 95-599, title I, §138(a), (b), Nov. 6, 1978, 92 Stat. 2710; Pub. L. 96-506, §3, Dec. 8, 1980, 94 Stat. 2746; Pub. L. 96-545, §2, Dec. 18, 1980, 94 Stat. 3215; Pub. L. 97-35, title XVIII, §1822(a), Aug. 13, 1981, 95 Stat. 767; Pub. L. 98-524, §4(e), Oct. 19, 1984, 98 Stat. 2489; Pub. L. 101-427, Oct. 15, 1990, 104 Stat. 927; Pub. L. 101-434, Oct. 17, 1990, 104 Stat. 985; Pub. L. 102-240, title I, §1087, Dec. 18, 1991, 105 Stat. 2022; Pub. L. 103-437, §14(e), Nov. 2, 1994, 108 Stat. 4591; Pub. L. 104-208, div. A, title I, §101(e) [title VII, §709(a)(5)], Sept. 30, 1996, 110 Stat. 3009-233, 3009-312; Pub. L. 105-178, title I, §§1117(c), 1212(a)(2)(B)(iii), 1222, June 9, 1998, 112 Stat. 160, 193, 223, 224; Pub. L. 105-220, title I, §199(a)(4), Aug. 7, 1998, 112 Stat. 1059; Pub. L. 105-332, §3(g), Oct. 31, 1998, 112 Stat. 3126; Pub. L. 105-393, title II, §§202-220(c)(1), 221, 222, Nov. 13, 1998, 112 Stat. 3618-3625.

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| Sec. | | Sec. | |
| 1. | Short title. | 302. | Administrative expenses and research and demonstration projects. |
| 2. | Findings and statement of purpose. | 303. | Approval of development plans, investment programs, and projects. |
| | TITLE I—THE APPALACHIAN REGIONAL COMMISSION | 304. | Annual report. |
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| 102. | Functions of the Commission. | 401. | Authorization of appropriations. |
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| 105. | Administrative expenses of the Commission. | 404. | Severability. |
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| 107. | Information. | | § 1. Short title |
| 108. | Personal financial interests. | | This Act may be cited as the “Appalachian Regional Development Act of 1965”. |
| 109. | Amendment of section 5334(a) of title 5. | | (Pub. L. 89-4, §1, Mar. 9, 1965, 79 Stat. 5.) |
| | TITLE II—SPECIAL APPALACHIAN PROGRAMS | | SHORT TITLE OF 1998 AMENDMENT |
| | PART A—NEW PROGRAMS | | Pub. L. 105-393, title II, §201, Nov. 13, 1998, 112 Stat. 3618, provided that: “This title [enacting sections 226 and 401 of this Appendix, amending sections 2, 101, 105, 106, 202, 207, 211, 214, 224, 302, and 405 of this Appendix, section 5334 of Title 5, Government Organization and Employees, and section 210 of Title 35, Patents, and repealing sections 203 to 206, 208, 212, and 213 of this Appendix] may be cited as the ‘Appalachian Regional Development Reform Act of 1998.’” |
| 201. | Appalachian development highway system. | | SHORT TITLE OF 1975 AMENDMENT |
| 202. | Demonstration health projects. | | Pub. L. 94-188, title I, §101, Dec. 31, 1975, 89 Stat. 1079, provided that: “This title [enacting sections 225 and 303 of this Appendix, amending sections 2, 101, 102, 105 to 107, 201, 202, 205, 207, 211, 214, 223, 224, 302, 401, and 405 of this Appendix, repealing section 3134 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under sections 2 and 201 of this Appendix] may be cited as the ‘Appalachian Regional Development Act Amendments of 1975.’” |
| 203 to 206. | Repealed. | | |
| 207. | Assistance for proposed low- and middle-income housing projects. | | |
| 208. | Repealed. | | |
| | PART B—SUPPLEMENTATIONS AND MODIFICATIONS OF EXISTING PROGRAMS | | |
| 211 to 213. | Repealed. | | |
| 214. | Supplements to Federal grant-in-aid programs. | | |
| | PART C—GENERAL PROVISIONS | | |
| 221. | Maintenance of effort. | | |
| 222. | Consent of States. | | |
| 223. | Program implementation. | | |
| 224. | Program development criteria. | | |
| 225. | Appalachian State development planning process. | | |
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SHORT TITLE OF 1971 AMENDMENT

Pub. L. 92-65, title II, §201, July 5, 1971, 85 Stat. 168, provided that: "This title [enacting section 208 of this Appendix, amending sections 105, 106, 201, 202, 205, 207, 211, 214, 302, 401, and 405 of this Appendix, and enacting provision set out as note under section 223 of this Appendix] may be cited as the 'Appalachian Regional Development Act Amendments of 1971'."

SHORT TITLE OF 1969 AMENDMENT

Pub. L. 91-123, title I, §101, Nov. 25, 1969, 83 Stat. 214, provided that: "This title [amending sections 105, 201, 202, 205, 207, 214, 302, 401, 403, and 405 of this Appendix] may be cited as the 'Appalachian Regional Development Act Amendments of 1969'."

SHORT TITLE OF 1967 AMENDMENT

Pub. L. 90-103, title I, §101, Oct. 11, 1967, 81 Stat. 257, provided that: "This title [enacting sections 109 and 207 of this Appendix, and amending sections 102, 105, 106, 201, 202, 203, 204, 205, 206, 211, 212, 214, 221, 223, 224, 302, 303, 401, and 403 of this Appendix, section 461 of this title, and section 5334 of Title 5, Government Organization and Employees] may be cited as the 'Appalachian Regional Development Act Amendments of 1967'."

ACTS REFERRED TO IN OTHER SECTIONS

The Appalachian Regional Development Act of 1965 is referred to in title 33 section 1257; title 42 sections 1396b, 3171, 3232, 5153.

The Appalachian Regional Development Act Amendments of 1975 are referred to in title 42 sections 3195, 3196.

§ 2. Findings and statement of purpose

(a) The Congress hereby finds and declares that the Appalachian region of the United States, while abundant in natural resources and rich in potential, lags behind the rest of the Nation in its economic growth and that its people have not shared properly in the Nation's prosperity. The region's uneven past development, with its historical reliance on a few basic industries and a marginal agriculture, has failed to provide the economic base that is a vital prerequisite for vigorous, self-sustaining growth. The State and local governments and the people of the region understand their problems and have been working and will continue to work purposefully toward their solution. The Congress recognizes the comprehensive report of the President's Appalachian Regional Commission documenting these findings and concludes that regionwide development is feasible, desirable, and urgently needed. It is, therefore, the purpose of this Act to assist the region in meeting its special problems, to promote its economic development, and to establish a framework for joint Federal and State efforts toward providing the basic facilities essential to its growth and attacking its common problems and meeting its common needs on a coordinated and concerted regional basis. The public investments made in the region under this Act shall be concentrated in areas where there is a significant potential for future growth, and where the expected return on public dollars invested will be the greatest. The States will be responsible for recommending local and State projects, within their borders, which will receive assistance under this Act. As the region obtains the needed physical and transportation facilities and devel-

ops its human resources, the Congress expects that the region will generate a diversified industry, and that the region will then be able to support itself, through the workings of a strengthened free enterprise economy.

(b) The Congress further finds and declares that while substantial progress has been made toward achieving the foregoing purposes, especially with respect to the provision of essential public facilities, much remains to be accomplished, especially with respect to the provision of essential health, education, and other public services. The Congress recognizes that changes and evolving national purposes in the decade since 1965 affect not only the Appalachian region, but also its relationship to a nation now assigning higher priority to conservation and the quality of life, values long cherished within the region. Appalachia now has the opportunity, in accommodating future growth and development, to demonstrate local leadership and coordinated planning so that housing, public services, transportation and other community facilities will be provided in a way congenial to the traditions and beauty of the region and compatible with conservation values and an enhanced quality of life for the people of the region. The Congress recognizes also that fundamental changes are occurring in national energy requirements and production, which not only risk short-term dislocations but will undoubtedly result in major long-term effects in the region. It is essential that the opportunities for expanded energy production be used so as to maximize the social and economic benefits and minimize social and environmental costs to the region and its people. It is, therefore, also the purpose of this Act to provide a framework for coordinating Federal, State and local efforts toward (1) anticipating the effects of alternative energy policies and practices, (2) planning for accompanying growth and change so as to maximize the social and economic benefits and minimize social and environmental costs, and (3) implementing programs and projects carried out in the region by Federal, State, and local governmental agencies so as to better meet the special problems generated in the region by the Nation's energy needs and policies, including problems of transportation, housing, community facilities, and human services.

(c) 1998 FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress further finds and declares that, while substantial progress has been made in fulfilling many of the objectives of this Act, rapidly changing national and global economies over the past decade have created new problems and challenges for rural areas throughout the United States and especially for the Appalachian region.

(2) PURPOSES.—In addition to the purposes stated in subsections (a) and (b), it is the purpose of this Act—

(A) to assist the Appalachian region in—

(i) providing the infrastructure necessary for economic and human resource development;

(ii) developing the region's industry;

(iii) building entrepreneurial communities;

(iv) generating a diversified regional economy; and

(v) making the region's industrial and commercial resources more competitive in national and world markets;

(B) to provide a framework for coordinating Federal, State, and local initiatives to respond to the economic competitiveness challenges in the Appalachian region through—

(i) improving the skills of the region's workforce;

(ii) adapting and applying new technologies for the region's businesses; and

(iii) improving the access of the region's businesses to the technical and financial resources necessary to development of the businesses; and

(C) to address the needs of severely and persistently distressed areas of the Appalachian region and focus special attention on the areas of greatest need so as to provide a fairer opportunity for the people of the region to share the quality of life generally enjoyed by citizens across the United States.

(Pub. L. 89-4, §2, Mar. 9, 1965, 79 Stat. 5; Pub. L. 94-188, title I, §102, Dec. 31, 1975, 89 Stat. 1079; Pub. L. 105-393, title II, §202, Nov. 13, 1998, 112 Stat. 3618.)

AMENDMENTS

1998—Subsec. (c). Pub. L. 105-393 added subsec. (c).

1975—Pub. L. 94-188 designated existing provisions as subsec. (a) and added subsec. (b).

REPORT TO CONGRESS ON PROGRESS MADE IN IMPLEMENTATION OF REGIONAL DEVELOPMENT ACT OF 1975

Section 122(b) of Pub. L. 94-188 required Appalachian Regional Commission to submit to Congress by July 1, 1977, a report on progress made in implementing subsec. (b) of this section, the energy related enterprise development demonstration authority in section 302 of this Appendix, as well as other amendments made by title I of Pub. L. 94-188.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 302 of this Appendix.

TITLE I—THE APPALACHIAN REGIONAL COMMISSION

§ 101. Membership and voting

(a) IN GENERAL.—

(1) ESTABLISHMENT.—There is hereby established an Appalachian Regional Commission (hereinafter referred to as the "Commission") which shall be composed of one Federal member, hereinafter referred to as the "Federal Cochairman", appointed by the President by and with the advice and consent of the Senate, and one member from each participating State in the Appalachian region. The Federal Cochairman shall be one of the two Cochairmen of the Commission. Each State member shall be the Governor. The State members of the Commission shall elect a Cochairman of the Commission from among their number for a term of not less than one year.

(2) MEETINGS.—

(A) IN GENERAL.—The Commission shall conduct at least 1 meeting each year with the Federal Cochairman and at least a majority of the State members present.

(B) ADDITIONAL MEETINGS.—The Commission may conduct such additional meetings by electronic means as the Commission considers advisable, including meetings to decide matters requiring an affirmative vote.

(b) Except as provided in section 105, decisions by the Commission shall require the affirmative vote of the Federal Cochairman and of a majority of the State members (exclusive of members representing States delinquent under section 105). In matters coming before the Commission, the Federal Cochairman shall, to the extent practicable, consult with the Federal departments and agencies having an interest in the subject matter. A decision involving Commission policy, approval of any State, regional, or subregional development plan or implementing investment program, any modification or revision of the Appalachian Regional Commission Code, any allocation of funds among the States, or any designation of a distressed county or an economically strong county shall not be made without a quorum of the State members. The approval of project and grant proposals shall be a responsibility of the Commission and exercised in accordance with section 303 of this Act.

(c) Each State member may have a single alternate, appointed by the Governor from among the members of the Governor's cabinet or the Governor's personal staff. The President, by and with the advice and consent of the Senate, shall appoint an alternate for the Federal Cochairman. An alternate shall vote in the event of the absence, death, disability, removal, or resignation of the State or Federal representative for which he is an alternate. A State alternate shall not be counted toward the establishment of a quorum of the Commission in any instance in which a quorum of the State members is required. No Commission powers or responsibilities specified in the last two sentences of subsection (b) of this section, nor the vote of any Commission member, may be delegated to any person not a Commission member or who is not entitled to vote in Commission meetings.

(d) The Federal Cochairman shall be compensated by the Federal Government at level III of the Executive Schedule in subchapter II of chapter 53 of title V,¹ United States Code. His alternate shall be compensated by the Federal Government at level V of such Executive Schedule, and when not actively serving as an alternate for the Federal Cochairman, shall perform such functions and duties as are delegated to him by the Federal Cochairman. Each State member and his alternate shall be compensated by the State which they represent at the rate established by law of such State.

(Pub. L. 89-4, title I, §101, Mar. 9, 1965, 79 Stat. 6; Pub. L. 94-188, title I, §§103, 104, Dec. 31, 1975, 89 Stat. 1079, 1080; Pub. L. 105-393, title II, §203, Nov. 13, 1998, 112 Stat. 3619.)

¹ So in original. Probably should be title "5."

REFERENCES IN TEXT

Level III of the Executive Schedule, referred to in subsec. (d), is set out in section 5314 of Title 5, Government Organization and Employees.

Subchapter II of chapter 53 of title V, United States Code, referred to in subsec. (d), means subchapter II (§5311 et seq.) of chapter 53 of Title 5.

Level V of the Executive Schedule, referred to in subsec. (d), is set out in section 5316 of Title 5.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-393, §203(a), (b)(1), inserted subsec. heading, designated existing provisions as par. (1), inserted par. heading, and added par. (2).

Subsec. (b). Pub. L. 105-393, §203(c), added third sentence and struck out former third sentence which read as follows: "No decision involving Commission policy, approval of State, regional or subregional development plans or implementing investment programs, any modification or revision of the Appalachian Regional Commission Code, or any allocation of funds among the States may be made without a quorum of State members present."

Subsec. (c). Pub. L. 105-393, §203(b)(2), struck out "to be present" before period at end of fourth sentence.

1975—Subsec. (a). Pub. L. 94-188, §103(1), (2), substituted provision that each State member shall be the Governor for provision that each State member may be the Governor, or his designee, or such other person as may be provided by the law of the State which he represents, and inserted provision that term of Cochairman shall be for not less than a year.

Subsec. (b). Pub. L. 94-188, §103(3), inserted provisions requiring quorum of State members for Commission policy, approval of State, regional, or subregional development plans or implementing investment programs, modification or revision of the Appalachian Regional Commission Code, or allocation of funds among the States, and that the approval of the project and grant proposals shall be the responsibility of the Commission to be exercised in accordance with section 303 of this Act.

Subsec. (c). Pub. L. 94-188, §103(4), (5), substituted provisions that each State member may have a single alternate, appointed by the Governor from among the members of the Governor's cabinet or the Governor's personal staff for provisions that each State member shall have an alternate, appointed by the Governor or as otherwise may be provided by the law of the State which he represents, and inserted provisions that State alternate shall not be counted toward the establishment of a quorum of the Commission in any instance in which a quorum of the State members is required to be present and that no Commission powers or responsibilities specified in last two sentences of subsec. (b) of this section nor the vote of any Commission member may be delegated to any person not a Commission member or who is not entitled to vote in Commission meetings.

Subsec. (d). Pub. L. 94-188, §104, in provisions relating to compensation of Federal Cochairman and his alternate, substituted references to level III of the Executive Schedule in subchapter II of chapter 53 of title V and level V of such Executive Schedule for references to level IV of the Federal Executive Salary Schedule of the Federal Executive Salary Act of 1964 and grade GS-18 of the Classification Act of 1949, as amended, respectively.

EXECUTIVE ORDER NO. 11209

Ex. Ord. No. 11209, Mar. 25, 1965, 30 F.R. 3929, which established the Federal Development Committee for Appalachia, was revoked by Ex. Ord. No. 11386, Dec. 28, 1967, 33 F.R. 5, formerly set out as a note under section 3121 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 303 of this Appendix; title 42 section 3246c.

§ 102. Functions of the Commission

(a) In carrying out the purposes of this Act, the Commission shall—

(1) develop, on a continuing basis, comprehensive and coordinated plans and programs and establish priorities thereunder, giving due consideration to other Federal, State, and local planning in the region;

(2) conduct and sponsor investigations, research, and studies, including an inventory and analysis of the resources of the region, and, in cooperation with Federal, State, and local agencies, sponsor demonstration projects designed to foster regional productivity and growth;

(3) review and study, in cooperation with the agency involved, Federal, State, and local public and private programs and, where appropriate, recommend modifications or additions which will increase their effectiveness in the region;

(4) formulate and recommend, where appropriate, interstate compacts and other forms of interstate cooperation, and work with State and local agencies in developing appropriate model legislation;

(5) encourage the formation of local development districts;

(6) encourage private investment in industrial, commercial, and recreational projects;

(7) serve as a focal point and coordinating unit for Appalachian programs; and

(8) provide a forum for consideration of problems of the region and proposed solutions and establish and utilize, as appropriate, citizens and special advisory councils and public conferences.

(b) In carrying out its functions under this section, the Commission shall identify the characteristics of, and may distinguish between the needs and goals of appropriate subregional areas, including central, northern, and southern Appalachia.

(Pub. L. 89-4, title I, §102, Mar. 9, 1965, 79 Stat. 7; Pub. L. 90-103, title I, §102, Oct. 11, 1967, 81 Stat. 257; Pub. L. 94-188, title I, §105, Dec. 31, 1975, 89 Stat. 1080.)

AMENDMENTS

1975—Pub. L. 94-188 designated existing provisions as subsec. (a) and added subsec. (b).

1967—Par. (9). Pub. L. 90-103 struck out par. (9) which required the Commission to advise the Secretary of Commerce on applications for grants for administrative expenses to local development districts.

TERMINATION OF ADVISORY COUNCILS

Advisory councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of

such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 103. Recommendations

The Commission may, from time to time, make recommendations to the President and to the State Governors and appropriate local officials with respect to—

(1) the expenditure of funds by Federal, State, and local departments and agencies in the region in the fields of natural resources, agriculture, education, training, health and welfare, and other fields related to the purposes of this Act; and

(2) such additional Federal, State, and local legislation or administrative actions as the Commission deems necessary to further the purposes of this Act.

(Pub. L. 89-4, title I, §103, Mar. 9, 1965, 79 Stat. 7.)

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 104. Liaison between Federal Government and the Commission

The President shall provide effective and continuing liaison between the Federal Government and the Commission and a coordinated review within the Federal Government of the plans and recommendations submitted by the Commission pursuant to sections 102 and 103.

(Pub. L. 89-4, title I, §104, Mar. 9, 1965, 79 Stat. 8.)

§ 105. Administrative expenses of the Commission

Administrative expenses of the Commission shall be paid 50 per centum by the Federal Government and 50 per centum by the States in the region, except that the expenses of the Federal Cochairman, his alternate, and his staff shall be paid solely by the Federal Government. The share to be paid by each State shall be determined by the Commission. The Federal Cochairman shall not participate or vote in such determination. No assistance authorized by this Act shall be furnished to any State or to any political subdivision or any resident of any State, nor shall the State member of the Commission participate or vote in any determination by the Commission while such State is delinquent in payment of its share of such expenses.

(Pub. L. 89-4, title I, §105, Mar. 9, 1965, 79 Stat. 8; Pub. L. 90-103, title I, §103, Oct. 11, 1967, 81 Stat. 257; Pub. L. 91-123, title I, §102, Nov. 25, 1969, 83 Stat. 214; Pub. L. 92-65, title II, §202, Aug. 5, 1971, 85 Stat. 168; Pub. L. 94-188, title I, §106, Dec. 31, 1975, 89 Stat. 1080; Pub. L. 96-506, §3(1), Dec. 8, 1980, 94 Stat. 2746; Pub. L. 97-35, title XVIII, §1822(a)(1), Aug. 13, 1981, 95 Stat. 767;

Pub. L. 105-393, title II, §204, Nov. 13, 1998, 112 Stat. 3619.)

AMENDMENTS

1998—Pub. L. 105-393 struck out subsec. (a) designation, substituted “Administrative expenses of the Commission” for “For the period ending on June 30, 1967, the administrative expenses of the Commission shall be paid by the Federal Government. Thereafter, such expenses” and struck out subsec. (b), which authorized appropriations for two-fiscal-year periods ending June 30, 1971, June 30, 1973, and June 30, 1975, for the period beginning July 1, 1975, and ending Sept. 30, 1977, for the two-fiscal-year periods ending Sept. 30, 1979 and Sept. 30, 1981, and for fiscal year ending Sept. 30, 1982.

1981—Subsec. (b). Pub. L. 97-35 substituted “\$2,900,000 for the fiscal year ending September 30, 1982 (of such amount not to exceed \$400,000” for “\$3,350,000 for the fiscal year ending September 30, 1982 (of such amount not to exceed \$550,000”.

1980—Subsec. (b). Pub. L. 96-506 inserted provisions relating to appropriations for the two-fiscal-year period ending Sept. 30, 1981, and for the fiscal year ending Sept. 30, 1982.

1975—Subsec. (b). Pub. L. 94-188 inserted authorization of appropriations for the period beginning July 1, 1975 and ending September 30, 1977, and for the two-fiscal-year period ending Sept. 30, 1979.

1971—Subsec. (b). Pub. L. 92-65 substituted provisions authorizing appropriation of \$2,700,000 for the two-fiscal-year period ending June 30, 1973, of which up to \$525,000 is to be available for expenses of the Federal Cochairman and his staff, and of \$3,300,000 for the two-fiscal-year period ending June 30, 1975, of which up to \$575,000 is to be available for expenses of the Federal Cochairman and his staff, for provisions authorizing amount up to \$475,000 to be available for the expenses of the Federal Cochairman and his staff.

1969—Subsec. (b). Pub. L. 91-123 substituted provisions authorizing appropriation of \$1,900,000 for the two-fiscal year period ending June 30, 1971, for provisions that authorized appropriation of \$1,700,000 for the two-fiscal year period ending June 30, 1969, increased from \$400,000 to \$475,000 amount authorized to be available for expenses of the Federal cochairman, his alternate, and his staff, and struck out provisions whereby appropriations authorized prior to the Appalachian Regional Development Act Amendments of 1967 were to remain available until expended.

1967—Subsec. (a). Pub. L. 90-103 substituted “June 30, 1967” and “50 per centum by the Federal Government and 50 per centum by the States” for “June 30 of the second full Federal fiscal year following the date of enactment of this Act [Mar. 9, 1965]” and “equally by the Federal Government and the States”, respectively, and provided for payment solely by the Federal Government of the expenses of the Federal Cochairman, his alternate, and his staff.

Subsec. (b). Pub. L. 90-103 authorized appropriation of \$1,700,000 for two-fiscal-year period ending June 30, 1969, made \$400,000 of such sum available for expenses of the Federal Cochairman, his alternate, and his staff, and made unexpended balances of appropriation authorization under this section prior to its amendment available until expended, such provision making \$2,200,000 available to carry out this section as provided in former provisions of section 401 of the Act for period ending June 30, 1967.

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 106. Administrative powers of Commission

To carry out its duties under this Act, the Commission is authorized to—

(1) adopt, amend, and repeal bylaws, rules, and regulations governing the conduct of its business and the performance of its functions.

(2) appoint and fix the compensation of an executive director and such other personnel as may be necessary to enable the Commission to carry out its functions, except that such compensation shall not exceed the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of that title. The executive director shall be responsible for carrying out the administrative functions of the Commission, for direction of the Commission staff, and for such other duties as the Commission may assign. No member, alternate, officer, or employee of the Commission, other than the Federal Cochairman on the Commission, his staff, and his alternate and Federal employees detailed to the Commission under paragraph (3) shall be deemed a Federal employee for any purpose.

(3) request the head of any Federal department or agency (who is hereby so authorized) to detail to temporary duty with the Commission such personnel within his administrative jurisdiction as the Commission may need for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

(4) arrange for the services of personnel from any State or local government or any subdivision or agency thereof, or any intergovernmental agency.

(5) make arrangements, including contracts, with any participating State government for inclusion in a suitable retirement and employee benefit system of such of its personnel as may not be eligible for, or continue in, another governmental retirement or employee benefit system, or otherwise provide for such coverage of its personnel. The Director of the Office of Personnel Management of the United States is authorized to contract with the Commission for continued coverage of Commission employees, who at date of Commission employment are Federal employees, in the retirement program and other employee benefit programs of the Federal Government.

(6) accept, use, and dispose of gifts or donations of services or property, real, personal, or mixed, tangible or intangible.

(7) enter into and perform such contracts, leases (including, notwithstanding any other provision of law, the lease of office space for any term expiring no later than September 30, 2001), cooperative agreements, or other transactions as may be necessary in carrying out its functions and on such terms as it may deem appropriate, with any department, agency, or instrumentality of the United States (which is hereby so authorized to the extent not otherwise prohibited by law) or with any State, or any political subdivision, agency, or instrumentality thereof, or with any person, firm, association, or corporation.

(8) maintain a temporary office in the District of Columbia and establish a permanent office at such a central and appropriate location as it may select and field offices at such other places as it may deem appropriate.

(9) take such other actions and incur such other expenses as may be necessary or appropriate.

(Pub. L. 89-4, title I, §106, Mar. 9, 1965, 79 Stat. 8; Pub. L. 90-103, title I, §104, Oct. 11, 1967, 81 Stat. 257; Pub. L. 92-65, title II, §203, Aug. 5, 1971, 85 Stat. 168; Pub. L. 94-188, title I, §§107, 108, Dec. 31, 1975, 89 Stat. 1080, 1081; Pub. L. 96-506, §3(2), Dec. 8, 1980, 94 Stat. 2746; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783; Pub. L. 105-393, title II, §§205, 206, Nov. 13, 1998, 112 Stat. 3619, 3620.)

AMENDMENTS

1998—Par. (2). Pub. L. 105-393, §205, substituted “the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of that title” for “the salary of the alternate to the Federal Cochairman on the Commission as provided in section 101”.

Par. (7). Pub. L. 105-393, §206, substituted “2001” for “1982”.

1980—Par. (7). Pub. L. 96-506 substituted “September 30, 1982” for “September 30, 1979”.

1975—Par. (2). Pub. L. 94-188, §108, inserted provisions that executive director shall be responsible for carrying out administrative functions of Commission, for direction of Commission staff, and for such other duties as Commission may assign.

Par. (7). Pub. L. 94-188, §107, substituted “September 30, 1979” for “June 30, 1975”.

1971—Par. (7). Pub. L. 92-65 substituted “June 30, 1975” for “June 30, 1971”.

1967—Par. (7). Pub. L. 90-103 inserted “(including, notwithstanding any other provision of law, the lease of office space for any term expiring no later than June 30, 1971)” and “(which is hereby so authorized to the extent not otherwise prohibited by law)”.

TRANSFER OF FUNCTIONS

“Director of the Office of Personnel Management” substituted for “Civil Service Commission” in par. (5), pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred all functions vested by statute in United States Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 108 of this Appendix; title 5 section 5334.

§ 107. Information

(a) In order to obtain information needed to carry out its duties, the Commission shall—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports thereon as it may deem advisable, a Cochairman of the Commission, or any member of the Commission designated by the Commission for the purpose, being hereby authorized to administer oaths when it is determined by the Commission that testimony shall be taken or evidence received under oath;

(2) arrange for the head of any Federal, State, or local department or agency (who is

hereby so authorized to the extent not otherwise prohibited by law) to furnish to the Commission such information as may be available to or procurable by such department or agency; and

(3) keep accurate and complete records of its doings and transactions which shall be made available for public inspection, and for the purpose of audit and examination by the Comptroller General or his duly authorized representatives.

(b) Public participation in the development, revision, and implementation of all plans and programs under this Act by the Commission, any State or any local development district shall be provided for, encouraged, and assisted. The Commission shall develop and publish regulations specifying minimum guidelines for such public participation, including public hearings.

(Pub. L. 89-4, title I, §107, Mar. 9, 1965, 79 Stat. 9; Pub. L. 94-188, title I, §109, Dec. 31, 1975, 89 Stat. 1081.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), means Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, known as the Appalachian Regional Development Act of 1965, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

AMENDMENTS

1975—Pub. L. 94-188 designated existing provisions as subsec. (a) and added subsec. (b).

§ 108. Personal financial interests

(a) Except as permitted by subsection (b) hereof, no State member or alternate and no officer or employee of the Commission shall participate personally and substantially as member, alternate, officer, or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in any proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter in which, to his knowledge, he, his spouse, minor child, partner, organization (other than a State or political subdivision thereof) in which he is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest. Any person who shall violate the provisions of this subsection shall be fined not more than \$10,000, or imprisoned not more than two years, or both.

(b) Subsection (a) hereof shall not apply if the State member, alternate, officer, or employee first advises the Commission of the nature and circumstances of the proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by the Commission that the interest is not so substantial as to be deemed likely to affect the integrity of the services

which the Commission may expect from such State member, alternate, officer, or employee.

(c) No State member or alternate shall receive any salary, or any contribution to or supplementation of salary for his services on the Commission from any source other than his State. No person detailed to serve the Commission under authority of paragraph (4) of section 106 shall receive any salary or any contribution to or supplementation of salary for his services on the Commission from any source other than the State, local, or intergovernmental department or agency from which he was detailed or from the Commission. Any person who shall violate the provisions of this subsection shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

(d) Notwithstanding any other subsection of this section, the Federal Cochairman and his alternate on the Commission and any Federal officers or employees detailed to duty with it pursuant to paragraph (3) of section 106 shall not be subject to any such subsection but shall remain subject to sections 202 through 209 of title 18, United States Code.

(e) The Commission may, in its discretion, declare void and rescind any contract, loan, or grant of or by the Commission in relation to which it finds that there has been a violation of subsection (a) or (c) of this section, or any of the provisions of sections 202 through 209 of title 18, United States Code.

(Pub. L. 89-4, title I, §108, Mar. 9, 1965, 79 Stat. 9.)

§ 109. Amendment of section 5334(a) of title 5

Section 5334(a) of title 5, United States Code, is amended by adding at the end thereof the following new sentence: "For the purpose of this subsection, an individual employed by the Appalachian Regional Commission under section 106(a) of the Appalachian Regional Development Act of 1965, or by a regional commission established pursuant to section 502 of the Public Works and Economic Development Act of 1965, under section 506(2) of such Act, who was a Federal employee immediately prior to such employment by a commission and within six months after separation from such employment is employed in a position to which this subchapter applies, shall be treated as if transferred from a position in the executive branch to which this subchapter does not apply."

(Pub. L. 89-4, title I, §109, as added Pub. L. 90-103, title I, §105, Oct. 11, 1967, 81 Stat. 257.)

REFERENCES IN TEXT

Section 106(a) of the Appalachian Regional Development Act, referred to in text, probably means section 106(2) of Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 8, which is set out in this Appendix.

Section 502 of the Public Works and Economic Development Act of 1965 and section 506(2) of such Act, referred to in text, are sections 502 and 506(2) of Pub. L. 89-136, Aug. 26, 1965, 79 Stat. 564, 567, which enacted sections 3182 and 3186, respectively, of Title 42, The Public Health and Welfare, prior to repeal by Pub. L. 97-35, title XVIII, §1821(a)(8), Aug. 13, 1981, 95 Stat. 766.

This subchapter, referred to in text, means subchapter III (§5331 et seq.) of chapter 53 of Title 5, Government Organization and Employees.

TITLE II—SPECIAL APPALACHIAN
PROGRAMS

PART A—NEW PROGRAMS

§ 201. Appalachian development highway system

(a) In order to provide a highway system which, in conjunction with the Interstate System and other Federal-aid highways in the Appalachian region, will open up an area or areas with a developmental potential where commerce and communication have been inhibited by lack of adequate access, the Secretary of Transportation (hereafter in this section referred to as the "Secretary") is authorized to assist in the construction of an Appalachian development highway system and local access roads serving the Appalachian region. The provisions of sections 106(a) and 118 of title 23, United States Code, relating to the obligation, period of availability, and expenditure of Federal-aid highway funds, shall apply to the development highway system and the local access roads, and all other provisions of such title 23 that are applicable to the construction and maintenance of Federal-aid primary and secondary highways and which the Secretary determines are not inconsistent with this Act shall apply, respectively, to such system and roads. Construction on the development highway system shall not exceed three thousand and twenty-five miles. Construction of local access roads shall not exceed one thousand four hundred miles that will serve specific recreational, residential, educational, commercial, industrial, or other like facilities or will facilitate a school consolidation program.

(b) The Commission shall transmit to the Secretary its designations of (1) the general corridor location and termini of the development highways, (2) local access roads to be constructed, (3) priorities for the construction of segments of the development highways, and (4) other criteria for the program authorized by this section. Before any State member participates in or votes on such designations, he shall have obtained the recommendations of the State transportation department of the State which he represents.

(c) In no event shall the Secretary assist in any construction (including right-of-way acquisition) which would require for its completion the expenditure of Federal funds (other than funds available under title 23, United States Code) in excess of the appropriations authorization in subsection (g). On its completion each development highway not already on the Federal-aid primary system shall be added to such system and each development highway and local access road shall be required to be maintained by the State as provided for Federal-aid highways in title 23, United States Code.

(d) In the construction of highways and roads authorized under this section, the States may give special preference to the use of materials and products indigenous to the Appalachian region.

(e) For the purposes of research and development in the use of coal and coal products in highway construction and maintenance, the Secretary is authorized to require each partici-

pating State, to the maximum extent possible, to use coal derivatives in the construction of not to exceed 10 per centum of the roads authorized under this Act.

(f) Federal assistance to any construction project under this section shall not exceed 80 per centum of the costs of such project.

(g) To carry out this section, there is hereby authorized to be appropriated to the President, to be available until expended, \$175,000,000 for the fiscal year ending June 30, 1971; \$175,000,000 for the fiscal year ending June 30, 1972; \$180,000,000 for the fiscal year ending June 30, 1973; \$180,000,000 for the fiscal year ending June 30, 1974; \$185,000,000 for the fiscal year ending June 30, 1975; \$185,000,000 for the fiscal year ending June 30, 1976; \$185,000,000 for the fiscal year ending June 30, 1977; \$250,000,000 for fiscal year 1978; \$300,000,000 for fiscal year 1979; \$300,000,000 for fiscal year 1980; \$215,000,000 for fiscal year 1981; and \$165,000,000 for fiscal year 1982.

(h)(1) When a participating State proceeds to construct a segment of a development highway without the aid of Federal funds, in accordance with all procedures and requirements applicable to the construction of segments of Appalachian development highways with such funds, except insofar as such procedures and requirements limit a State to the construction of projects for which Federal funds have previously been appropriated, the Secretary, upon application by the State and with the approval of the Commission, is authorized to pay to the State the Federal share not to exceed 80 per centum of the costs of the construction of such segment, from any sums appropriated and allocated to such State to carry out this section.

(2) This subsection shall not be construed as a commitment or obligation on the part of the United States to provide funds for segments of development highways constructed under this subsection, and shall not increase the limitation on construction in subsection (c).

(Pub. L. 89-4, title II, § 201, Mar. 9, 1965, 79 Stat. 10; Pub. L. 89-670, § 8(b), Oct. 15, 1966, 80 Stat. 942; Pub. L. 90-103, title I, § 106, Oct. 11, 1967, 81 Stat. 258; Pub. L. 91-123, title I, § 103, Nov. 25, 1969, 83 Stat. 214; Pub. L. 92-65, title II, § 204, Aug. 5, 1971, 85 Stat. 168; Pub. L. 94-188, title I, § 110, Dec. 31, 1975, 89 Stat. 1081; Pub. L. 95-599, title I, § 138(a), (b), Nov. 6, 1978, 92 Stat. 2710; Pub. L. 96-506, § 3(3), Dec. 8, 1980, 94 Stat. 2746; Pub. L. 97-35, title XVIII, § 1822(a)(2), Aug. 13, 1981, 95 Stat. 767; Pub. L. 105-178, title I, §§ 1117(c), 1212(a)(2)(B)(iii), June 9, 1998, 112 Stat. 160, 193.)

AMENDMENTS

1998—Subsec. (b). Pub. L. 105-178, § 1212(a)(2)(B)(iii), substituted "State transportation department" for "State highway department".

Subsec. (h)(1). Pub. L. 105-178, § 1117(c), substituted "80" for "70".

1981—Subsec. (g). Pub. L. 97-35 substituted "\$165,000,000" for "\$215,000,000" in appropriation for fiscal year 1982.

1980—Subsec. (g). Pub. L. 96-506 increased from \$170,000,000 to \$215,000,000 amount authorized to be appropriated for fiscal year 1981, and inserted provision authorizing to be appropriated \$215,000,000 for fiscal year 1982.

1978—Subsec. (a). Pub. L. 95-599, § 138(b), substituted "three thousand and twenty-five miles" for "two thousand nine hundred miles".

Subsec. (f). Pub. L. 95-599, §138(a), substituted "80 per centum" for "50 per centum" and struck out provision authorizing Commissioner to allow assistance over and above maximum amount.

1975—Subsec. (a). Pub. L. 94-188, §110(1), increased limit on construction of highway system to 2900 miles from 2700 miles and decreased limit on construction of local access roads from 1600 miles to 1400 miles.

Subsec. (g). Pub. L. 94-188, §110(2), increased authorization of appropriation for fiscal year 1978, from \$180,000,000 to \$250,000,000, and inserted authorization of appropriations for fiscal years 1979, 1980, and 1981.

1971—Subsec. (g). Pub. L. 92-65 substituted provisions authorizing to be appropriated \$175,000,000 for the fiscal years ending June 30, 1971, and June 30, 1972, \$180,000,000 for the fiscal years ending June 30, 1973, and June 30, 1974, \$185,000,000 for the fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977, and \$180,000,000 for the fiscal year ending June 30, 1978, for provisions authorizing to be appropriated \$175,000,000 for the fiscal years ending June 30, 1970, June 30, 1971, and June 30, 1972 and \$170,000,000 for the fiscal year ending June 30, 1973.

1969—Subsec. (a). Pub. L. 91-123, §103(a), inserted references to sections 106(a) and 118 of title 23 relating to obligation, period of availability, and expenditures of Federal-aid highway funds as applicable to development of highway system and local access roads.

Subsec. (g). Pub. L. 91-123, §103(b), substituted provisions authorizing to be appropriated \$175,000,000 for the fiscal years ending June 30, 1970, June 30, 1971, and June 30, 1972, and \$170,000,000 for the fiscal year ending June 30, 1973, for provisions authorizing to be appropriated \$715,000,000 for the four-fiscal-year period ending June 30, 1971.

1967—Subsec. (a). Pub. L. 90-103 rearranged text sequence, defined "Secretary" for this section as the Secretary of Transportation, increased development highway system and local access roads mileage from 2,350 to 2,700 and from 1,000 to 1,600 miles, respectively, made title 23 provisions relating to construction and maintenance of Federal-aid primary highways applicable only to the development highway system, made such title 23 provisions as related to Federal-aid secondary highways applicable to local access roads, and provided that such local access roads serve also educational facilities.

Subsec. (b). Pub. L. 90-103 substituted introductory provision respecting transmission of designations for submission of recommendations and in last sentence "designations" for "recommendations" and struck out initial phrase "As soon as feasible", "the designation of" before "local access roads" from cl. 2), and "of the local access roads and of the major" before "segments" from cl. (3).

Subsec. (c). Pub. L. 90-103 included right-of-way acquisition, required State maintenance of local access roads and that State maintenance be as provided for Federal-aid highways in Title 23, and struck out initial provision authorizing the Secretary to approve in whole or in part the recommendations or to require modifications or revisions thereof.

Subsec. (d). Pub. L. 90-103 substituted "materials and products" for "mineral resource materials".

Subsec. (e). Pub. L. 90-103 struck out "of Transportation" after "Secretary" in view of definition in subsec. (a) of this section.

Subsec. (f). Pub. L. 90-103 substituted "the Commission determines" for "the Secretary of Commerce and the Secretary of Transportation determine, pursuant to the recommendation of the Commission".

Subsec. (g). Pub. L. 90-103 substituted appropriation authorization of \$715,000,000 to the President for four-fiscal-year period ending June 30, 1971, to be available until expended, for appropriation authorization of \$840,000,000 to the Secretary of Commerce, who shall transfer funds to the Secretary of Transportation for administration of projects approved by both Secretaries.

Subsec. (h). Pub. L. 90-103 added subsec. (h).

1966—Subsec. (a). Pub. L. 89-670, §8(b)(1), (2), substituted "Transportation" for "Commerce (hereafter in this section referred to as the 'Secretary')", and "Secretary of Transportation" for "Secretary".

Subsec. (b). Pub. L. 89-670, §8(b)(3), inserted "of Commerce" after "Secretary".

Subsec. (c). Pub. L. 89-670, §8(b)(4), (5), inserted provision for the approval of recommendations by the Secretary of Commerce prior to transmittal to the Secretary of Transportation for his approval and inserted "of Transportation" after "Secretary" in existing provisions.

Subsec. (e). Pub. L. 89-670, §8(b)(6), inserted "of Transportation" after "Secretary".

Subsec. (f). Pub. L. 89-670, §8(b)(7), inserted provisions requiring the approval of both the Secretary of Commerce and the Secretary of Transportation to allow Federal assistance in excess of 50 per centum of the cost of a project.

Subsec. (g). Pub. L. 89-670, §8(b)(8), called for appropriation of the authorized funds to the Secretary of Commerce for transfer to the Secretary of Transportation for the administration of projects approved by both Secretaries.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-670 effective Apr. 1, 1967, as prescribed by the President and published in the Federal Register, see section 16(a), formerly §15(a), of Pub. L. 89-670 and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453.

PAYMENT FOR CONSTRUCTION OF FINAL SECTION OF APPROVED APPALACHIAN DEVELOPMENT CORRIDOR HIGHWAY NECESSARY AS ELEMENT OF FLOOD CONTROL PROJECT

Pub. L. 95-599, title I, §138(c), Nov. 6, 1978, 92 Stat. 2710, as amended by Pub. L. 105-178, title I, §1212(a)(2)(B)(iv), June 9, 1998, 112 Stat. 193, provided that: "In any case where an Appalachian development highway on the National Highway System, is the final section of an approved Appalachian development corridor highway within an urbanized area, transects an unincorporated jurisdiction, and is a necessary element of a flood control project for the protection of a commercially zoned area containing not less than seventy commercial and industrial establishments which is authorized under section 205 of the Flood Control Act of 1948 [section 701s of Title 33, Navigation and Navigable Waters], the Secretary of Transportation shall provide to the State transportation department so much of the costs, not to exceed \$1,800,000, as may be necessary to permit construction of that portion of such development highway as is necessary to permit completion of the flood control project. The Federal share of the total cost of any complete Appalachian development highway a portion of which receives assistance under this subsection [this note] shall not exceed (including all assistance under this subsection) that percentage of such total cost which, but for this subsection, would otherwise be applicable to such development highway."

NEW AND INCREASED AUTHORITY TO ENTER INTO CONTRACTS; RELATION TO AMOUNTS APPROPRIATED

Section 124 of Pub. L. 94-188 provided that: "To the extent that any section of this title [see Short Title of 1975 Amendment note set out under section 1 of this Appendix] provides new or increased authority to enter into contracts under section 201 of the Appalachian Regional Development Act of 1965 [this section], such new or increased authority shall be effective for any fiscal year only in such amounts as are provided in appropriation acts."

DISCRIMINATION BASED ON SEX PROHIBITED IN PROGRAMS UNDER APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965

Pub. L. 92-65, title II, §214, Aug. 5, 1971, 85 Stat. 173, provided: "No person in the United States 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 financial assistance under the Appalachian Regional Development Act of 1965 [this Appendix].”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 214, 226, 405 of this Appendix; title 23 section 104.

§ 202. Demonstration health projects

(a) In order to demonstrate the value of adequate health facilities and services to the economic development of the region, the Secretary of Health and Human Services is authorized to make grants for the planning, construction, equipment, and operation of multi-county demonstration health, nutrition, and child care projects, including hospitals, regional health diagnostic and treatment centers and other facilities and services necessary for the purposes of this section. Grants for such construction (including the acquisition of privately owned facilities not operated for profit or previously operated for profit where the acquisition of such facilities is the most cost-effective means for providing increased health services if the Commission finds that but for the acquisition for such facility such health services would not be otherwise provided in the area served by such facility, and initial equipment) shall be made in accordance with section 223 of this Act and shall not be incompatible with the applicable provisions of title VI of the Public Health Service Act (42 U.S.C. 291-291o), the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (77 Stat. 282), and other laws authorizing grants for the construction of health-related facilities, without regard to any provisions therein relating to appropriation authorization ceilings or to allotments among the States. Grants under this section shall be made solely out of funds specifically appropriated for the purpose of carrying out this Act and shall not be taken into account in the computation of the allotments among the States made pursuant to any other provisions of law.

(b) No grant for the construction or equipment of any component of a demonstration health project shall exceed 80 per centum of such costs. The Federal contribution may be provided entirely from funds authorized under this section or in combination with funds provided under other Federal grant-in-aid programs for the construction or equipment of health-related facilities. Notwithstanding any provision of law limiting the Federal share in such other programs, funds authorized under this section may be used to increase Federal grants for component facilities of a demonstration health project to a maximum of 80 per centum of the cost of such facilities.

(c) Grants under this section for operation (including initial operating funds and operating deficits comprising among other items the costs of attracting, training, and retaining qualified personnel) of a demonstration health project, whether or not constructed with funds authorized by this section, may be made for up to 50 percent of the costs of that operation (or 80 per-

cent of those costs in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226). The Federal contribution may be provided entirely from funds appropriated to carry out this section or in combination with funds provided under other Federal grant-in-aid programs for the operation of health related facilities and the provisions of health and child development services, including title IV, parts A and B, and title XX of the Social Security Act. Notwithstanding any provision of the Social Security Act requiring assistance or services on a statewide basis, if a State provides assistance or services under such a program in any area of the region approved by the Commission, such State shall be considered as meeting such requirement. Notwithstanding any provision of law limiting the Federal share in such other programs, funds appropriated to carry out this section may be used to increase Federal grants for operating components of a demonstration health project to the maximum percentage cost thereof authorized by this subsection. No grant for operation of a demonstration health project shall be made unless the facility is publicly owned, or owned by a public or private nonprofit organization, and is not operated for profit. No grants for operation of a demonstration health project shall be made after five years following the commencement of the initial grant for operation of the project, except that child development demonstrations assisted under this section during fiscal year 1979 may, upon State request, be approved under section 303 of this Act for continued support beyond that period if the Commission finds that no Federal, State, or local funds are available to continue such demonstrations. No such grants shall be made unless the Secretary of Health and Human Services is satisfied that the operation of the project will be conducted under efficient management practices designed to obviate operating deficits.

(d) The Secretary of Health and Human Services is authorized to provide funds to the Commission for the support of its Health Advisory Committee and to make grants for expenses of planning necessary for the development and operation of demonstration health projects for the region. The amount of any such grant shall not exceed 75 per centum of such expenses. The Federal contribution to such expenses of planning may be provided entirely from funds authorized under this section or in combination with funds provided under other Federal or Federal grant-in-aid programs. Notwithstanding any provision of law limiting the Federal share in any such other program, funds appropriated to carry out this section may be used to increase such Federal share to the maximum percentage cost thereof authorized by this subsection.

(e) In order to provide for the further development of the Appalachian region's human resources, grants under this section shall give special emphasis to programs and research for the early detection, diagnosis, and treatment of occupational diseases arising from coal mining, such as black lung.

(f) MAXIMUM COMMISSION CONTRIBUTION AFTER SEPTEMBER 30, 1998.—

(1) IN GENERAL.—Subject to paragraph (2), after September 30, 1998, a Commission contribution of not more than 50 percent of any project cost eligible for financial assistance under this section may be provided from funds appropriated to carry out this Act.

(2) DISTRESSED COUNTIES.—In the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226, the maximum Commission contribution under paragraph (1) may be increased to the lesser of—

(A) 80 percent; or

(B) the maximum Federal contribution percentage authorized by this section.

(Pub. L. 89-4, title II, §202, Mar. 9, 1965, 79 Stat. 11; Pub. L. 90-103, title I, §107, Oct. 11, 1967, 81 Stat. 259; Pub. L. 91-123, title I, §104, Nov. 25, 1969, 83 Stat. 214; Pub. L. 92-65, title II, §206, Aug. 5, 1971, 85 Stat. 169; Pub. L. 94-188, title I, §111, Dec. 31, 1975, 89 Stat. 1081; Pub. L. 95-193, §1, Nov. 18, 1977, 91 Stat. 1412; Pub. L. 96-545, §2, Dec. 18, 1980, 94 Stat. 3215; Pub. L. 105-393, title II, §207, Nov. 13, 1998, 112 Stat. 3620.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsec. (a), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Title VI of the Public Health Service Act is classified generally to subchapter IV (§291 et seq.) of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

The Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (77 Stat. 282), referred to in subsec. (a), is Pub. L. 88-164, Oct. 31, 1963, 77 Stat. 282, as amended, which was classified principally to subchapter III (§2689 et seq.) of chapter 33 and chapter 75 (§6000 et seq.) of Title 42. Such subchapter III was popularly known as the Community Mental Health Centers Act prior to repeal by Pub. L. 97-35, title IX, §902(e)(2)(B), Aug. 13, 1981, 95 Stat. 560. For complete classification of these Acts to the Code, see Tables.

The Social Security Act, referred to in subsec. (c), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§301 et seq.) of Title 42, The Public Health and Welfare. Parts A and B of title IV of the Social Security Act are classified generally to part A (§601 et seq.) and part B (§620 et seq.) of subchapter IV of chapter 7 of Title 42. Title XX of the Social Security Act is classified generally to subchapter XX (§1397 et seq.) of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-393, §207(c)(1), substituted “Secretary of Health and Human Services” for “Secretary of Health, Education, and Welfare” in first sentence.

Subsec. (c). Pub. L. 105-393, §207(c)(2), struck out at end “Notwithstanding section 104 of the Public Works and Economic Development Act of 1965 (79 Stat. 554; 42 U.S.C. 3134), a health-related facility constructed under title I of that Act may be a component of a demonstration health project eligible for operating grant assistance under this section.”

Pub. L. 105-393, §207(c)(1), substituted “Secretary of Health and Human Services” for “Secretary of Health, Education, and Welfare” in penultimate sentence.

Pub. L. 105-393, §207(a), substituted “50 percent of the costs of that operation (or 80 percent of those costs in the case of a project to be carried out in a county for

which a distressed county designation is in effect under section 226).” for “100 per centum of the costs thereof for the two-year period beginning, for each component facility or service assisted under any such operating grant, on the first day that such facility or service is in operation as a part of the project. For the next three years of operations such grants shall not exceed 75 per centum of such costs.”

Subsec. (d). Pub. L. 105-393, §207(c)(1), substituted “Secretary of Health and Human Services” for “Secretary of Health, Education, and Welfare” in first sentence.

Subsec. (f). Pub. L. 105-393, §207(b), added subsec. (f). 1980—Subsec. (c). Pub. L. 96-545 substituted provisions relating to child development demonstrations assisted during fiscal year 1979, for provisions relating to maximum amount of transitional funding.

1977—Subsec. (c). Pub. L. 95-193 inserted “except that transitional funding not to exceed 75 per centum of annual operating costs may be approved for not more than two additional years of operations for child development demonstrations if the Commission finds that no Federal, State, or local funds are available to continue such demonstrations” after “the initial grant for operation of the project”.

1975—Subsec. (a). Pub. L. 94-188, §111(1), in provisions relating to acquisition of facilities, inserted reference to facilities previously operated for profit where the acquisition of such facility is the most cost-effective means for providing increased health services on a finding by the Commission that but for the acquisition of such facility such health services would not otherwise be provided in the area served by such facility, and also inserted reference to section 223 of this Act.

Subsec. (c). Pub. L. 94-188, §111(2), in provisions relating to funds from which Federal contributions may be made, inserted reference to title XX of the Social Security Act.

1971—Subsec. (c). Pub. L. 92-65, §206(a), inserted provision that Federal funds authorized under Federal grant programs for the provision of child development services, including title IV of the Social Security Act, may be used in combination with funds provided under this Appendix and further provided an exception to the Social Security Act to permit States to utilize funds for programs or projects that would be implemented in the Appalachian States without regard to any provision of law requiring the providing of this type of assistance or service on a statewide basis.

Subsec. (d). Pub. L. 92-65, §206(b), inserted provision that the Federal contribution to the expenses of planning may be provided entirely from funds under this section or in combination with funds provided under other Federal or Federal grant-in-aid programs and that funds appropriated to carry out this section may be used to increase such Federal share to the maximum percentage cost authorized by this subsection.

1969—Subsec. (a). Pub. L. 91-123, §104(a), authorized the Secretary to make grants for planning, construction, equipment, and operation of multi-county nutrition and child care projects.

Subsec. (c). Pub. L. 91-123, §104(b), increased from 50 to 75 per centum of the costs for health projects the maximum amounts allowed for grants for the third, fourth, and fifty years of operations of such health projects.

Pub. L. 91-123, §104(c), inserted provisions authorizing operating expenses for demonstration projects to be wholly funded by appropriations for this section, or in combination with funds provided to carry out other Federal grant-in-aid programs for the operation of health related facilities, and authorizing funds appropriated for this section to be used to increase Federal grants for operating components of demonstration health projects to the maximum per centum authorized by this subsection.

Subsec. (e). Pub. L. 91-123, §104(d), substituted provisions that grants under this section, give special emphasis to research for the early detection, and treat-

ment of occupational diseases arising from coal mining, for provisions that authorized to be appropriated an amount not to exceed \$50,000,000 of the funds authorized in section 401 of this Act for the two-fiscal year period ending June 30, 1969 to carry out the purposes of this section.

1967—Subsec. (a). Pub. L. 90-103 substituted "health facilities and services" for "health and medical facilities" and "health projects" for "health facilities", authorized planning grants, other services necessary to health, and grants for acquisition of privately owned facilities not operated for profit, and provided that construction grants be also made in accordance with other laws authorizing grants for construction of health-related facilities.

Subsec. (b). Pub. L. 90-103 designated sources of funds for the Federal contribution and authorized use of the funds to increase Federal grants for facilities of a demonstration health project to a maximum of 80 per centum of the costs of such facilities, and eliminated provisions for availability of \$41,000,000 for construction grants for period ending June 30, 1967, as provided in former provisions of section 401 of the Act, now incorporated in subsec. (e) of this section.

Subsec. (c). Pub. L. 90-103 provided for operating funds and operating deficits comprising among other items the costs of attracting, training, and retaining qualified personnel, for projects whether or not constructed with funds authorized by this section, for component facility or service assisted under any operating grant, prohibited grants for operation of a project unless the facility is publicly owned, or owned by a public or private nonprofit organization, and is not operated for profit and unless the Secretary of Health, Education, and Welfare is satisfied that the operation of the project will be conducted under efficient management practices designed to deprive obviate operating deficits, and permitted a health-related facility constructed under title I of the Public Works and Economic Development Act of 1965 to be a component of a health project eligible for operating grant assistance under this section, and struck out provisions for availability of \$28,000,000 for operating grants for period ending June 30, 1967, as provided in former provisions of section 401 of the Act, now incorporated in subsec. (e) of this section.

Subsec. (d). Pub. L. 90-103 added subsec. (d).

Subsec. (e). Pub. L. 90-103 incorporated former second sentence of subsec. (b) and last sentence of subsec. (c) in provisions designated as subsec. (e), substituting provisions for availability of \$50,000,000 for two-fiscal-year period ending June 30, 1969, to carry out this section for former provisions of subsec. (b) for availability of \$41,000,000 for construction grants and former provisions of subsec. (c) for availability of \$28,000,000 for operating grants for period ending June 30, 1967, as provided in former provisions of section 401 of the Act.

TERMINATION OF ADVISORY COMMITTEE

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L.

92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

STUDY OF CHILD DEVELOPMENT PROGRAMS BEING ASSISTED UNDER APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965

Section 2 of Pub. L. 95-193 authorized the Appalachian Regional Commission and the Department of Health, Education, and Welfare to make a full investigation and study of the child development programs being assisted under this Appendix to determine the source and nature of any problems in the phasing out of Federal assistance to such programs, to recommend solutions to such problems, and to report to Congress their findings and recommendations not later than one year after Nov. 18, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 401 of this Appendix.

§§ 203 to 206. Repealed. Pub. L. 105-393, title II, §§ 208-211, Nov. 13, 1998, 112 Stat. 3620

Section 203, Pub. L. 89-4, title II, §203, Mar. 9, 1965, 79 Stat. 12; Pub. L. 90-103, title I, §108, Oct. 11, 1967, 81 Stat. 260, related to land stabilization, conservation, and erosion control.

Section 204, Pub. L. 89-4, title II, §204, Mar. 9, 1965, 79 Stat. 13; Pub. L. 90-103, title I, §109, Oct. 11, 1967, 81 Stat. 260, related to timber development organizations and forest products research institutions.

Section 205, Pub. L. 89-4, title II, §205, Mar. 9, 1965, 79 Stat. 13; Pub. L. 90-103, title I, §110, Oct. 11, 1967, 81 Stat. 261; Pub. L. 91-123, title I, §105, Nov. 25, 1969, 83 Stat. 215; Pub. L. 92-65, title II, §207, Aug. 5, 1971, 85 Stat. 169; Pub. L. 94-188, title I, §112, Dec. 31, 1975, 89 Stat. 1081, related to mining area restoration.

Section 206, Pub. L. 89-4, title II, §206, Mar. 9, 1965, 79 Stat. 15; Pub. L. 89-670, §8(c), Oct. 15, 1966, 80 Stat. 943; Pub. L. 90-103, title I, §111, Oct. 11, 1967, 81 Stat. 261, authorized water resource survey.

§207. Assistance for proposed low- and middle-income housing projects

(a) In order to encourage and facilitate the construction or rehabilitation of housing to meet the needs of low- and moderate-income families and individuals, the Secretary of Housing and Urban Development (hereafter in this section referred to as the "Secretary") is authorized to make grants and loans from the Appalachian Housing Fund established by this section, under such terms and conditions as he may prescribe, to nonprofit, limited dividend, or cooperative organizations and public bodies, for planning and obtaining federally insured mortgage financing or other financial assistance for housing construction or rehabilitation projects for low- and moderate-income families and individuals, under section 221 of the National Housing Act, section 8 of the United States Housing Act of 1937, section 515 of the Housing Act of 1949, or any other law of similar purpose administered by the Secretary or any other department, agency, or instrumentality of the Federal or State government, in any area of the Appalachian region determined by the Commission.

(b) No loan under subsection (a) of this section shall exceed 50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226) of the cost of planning and obtaining financing for a project, including,

but not limited to, preliminary surveys and analyses of market needs, preliminary site engineering and architectural fees, site options, application and mortgage commitment fees, legal fees, and construction loan fees and discounts. Such loans shall be made without interest, except that any loan made to an organization established for profit shall bear interest at the prevailing market rate authorized for an insured or guaranteed loan for such project. The Secretary shall require payments of loans made under this section, under such terms and conditions as he may require, upon completion of the project or sooner, and except in the case of a loan to an organization established for profit, may cancel any part or all of such a loan, if he determines that a permanent loan to finance such project cannot be obtained in an amount adequate for repayment of such loan under this section.

(c)(1) Except as provided in paragraph (2) of this subsection, no grant under this section shall exceed 50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226) of those expenses, incident to planning and obtaining financing for a project, which the Secretary considers not to be recoverable from the proceeds of any permanent loan made to finance such project, and no such grant shall be made to an organization established for profit.

(2) The Secretary is authorized to make grants and commitments for grants, and may advance funds under such terms and conditions as he may require, to nonprofit, limited dividend, or cooperative organizations and public bodies for reasonable site development costs and necessary offsite improvements, such as sewer and water line extensions, whenever such a grant, commitment, or advance is essential to the economic feasibility of any housing construction or rehabilitation project for low- and moderate-income families and individuals which otherwise meets the requirements for assistance under this section, except that no such grant for the construction of housing, shall exceed 10 per centum of the cost of such project, and no such grant for the rehabilitation of housing shall exceed 10 per centum of the reasonable value of such rehabilitation housing, as determined by the Secretary.

(d) All funds allocated to the Secretary for the purposes of this section shall be deposited in a fund which shall be known as the Appalachian Housing Fund and shall be used as a revolving fund by the Secretary for carrying out such purposes. General expenses of administration of this section may be charged to the fund. Moneys in the fund not needed for current operation may be invested in bonds or other obligations guaranteed as to principal and interest by the United States.

(e) The Secretary or the Commission may provide, or contract with public or private organizations to provide, information, advice, and technical assistance with respect to the construction, rehabilitation, and operation by nonprofit organizations of housing for low or moderate income families in such areas of the region and may provide funds to the States for making

grants and loans to nonprofit, limited dividend, or cooperative organizations and public bodies for the purposes for which the Secretary is authorized to provide funds under this section.

(f) Programs and projects assisted under this section shall be subject to the provisions cited in section 402 of this Act, notwithstanding such section, to the extent provided in the laws authorizing assistance for low- and moderate-income housing.

(Pub. L. 89-4, title II, §207, as added Pub. L. 90-103, title I, §112, Oct. 11, 1967, 81 Stat. 261; amended Pub. L. 90-448, title II, §201(f), Aug. 1, 1968, 82 Stat. 502; Pub. L. 91-123, title I, §106, Nov. 25, 1969, 83 Stat. 215; Pub. L. 92-65, title II, §208, Aug. 5, 1971, 85 Stat. 169; Pub. L. 94-188, title I, §113, Dec. 31, 1975, 89 Stat. 1082; Pub. L. 105-393, title II, §212, Nov. 13, 1998, 112 Stat. 3621.)

REFERENCES IN TEXT

Section 221 of the National Housing Act, referred to in subsec. (a), is classified to section 1715f of Title 12, Banks and Banking.

Section 8 of the United States Housing Act of 1937, referred to in subsec. (a), is classified to section 1437f of Title 42, The Public Health and Welfare.

Section 515 of the Housing Act of 1949, referred to in subsec. (a), is classified to 1485 of Title 42, The Public Health and Welfare.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105-393, §212(a), substituted “50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226)” for “80 per centum” in first sentence.

Subsec. (c)(1). Pub. L. 105-393, §212(b), substituted “50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226)” for “80 per centum”.

1975—Subsec. (a). Pub. L. 94-188, §113(1), substituted reference to section 8 of the United States Housing Act of 1937, section 515 of the Housing Act of 1949, or any other law of similar purpose administered by the Secretary or any other department, agency, or instrumentality of the Federal or State government for reference to section 235, or 236 of the National Housing Act.

Subsec. (c)(2). Pub. L. 94-188, §113(2), included limited dividend and cooperative organizations in the list of recipients who may receive grants and commitments for grants and advances, and inserted provisions that no grant for the rehabilitation of housing shall exceed 10 per centum of the reasonable value of such rehabilitation housing as determined by the Secretary.

Subsec. (e). Pub. L. 94-188, §113(3), inserted provision that the Secretary or the Commission may provide funds to the States for making grants and loans to nonprofit, limited dividend, or cooperative organizations and public bodies for the purposes for which the Secretary is authorized to provide funds under this section.

Subsec. (f). Pub. L. 94-188, §113(4), added subsec. (f).

1971—Pub. L. 92-65, §208(a), substituted “low- and moderate-income housing projects” for “housing projects under section 221 and section 236 of the National Housing Act” in section catchline.

Subsec. (a). Pub. L. 92-65, §208(b), substituted provisions authorizing grants and loans for planning and obtaining federally insured mortgage financing for housing construction or rehabilitation projects for low- and moderate-income families and individuals, under section 221, 235, or 236 of the National Housing Act, in any area of the Appalachian region determined by the Commission for provisions authorizing grants and loans for

expenses of planning and obtaining insured mortgage for housing construction or rehabilitation projects, under section 221 or 236 of the National Housing Act, in any area of the Appalachian region determined by the Commission to have significant potential for future growth.

Subsec. (b). Pub. L. 92-65, §208(b), redesignated subsec. (c) as (b), substituted "application and mortgage commitment fees, legal fees" for "Federal Housing Administration, Government National Mortgage Association and Federal National Mortgage Association fees", struck out references to section 221 or 236 in three places, and modified provisions relating to repayment of loans to permit cancellation of all or any part of the loan if the Secretary determines that a permanent loan cannot be obtained in any case except loans to profit-making organizations. Former subsec. (b) redesignated (c)(1) and amended.

Subsec. (c)(1). Pub. L. 92-65, §208(b), redesignated former subsec. (b) as subsec. (c)(1), extended the 80 percent limitation to expenses incident to planning and obtaining financing for a housing project, and exempted par. (2) from the limitation in par. (1).

Subsec. (c)(2). Pub. L. 92-65, §208(b), added par. (2).

Subsec. (e). Pub. L. 92-65, §208(c), extended to the Commission the authority to provide technical assistance for construction, rehabilitation, and operation by nonprofit organizations of low or moderate income housing units.

1969—Subsec. (e). Pub. L. 91-123 substituted provisions that authorized the Secretary to provide technical assistance for construction, rehabilitation, and operation by nonprofit organizations of low- or moderate-income housing units for provisions that authorized to be appropriated an amount not to exceed \$5,000,000 of the funds authorized in section 401 of this Act for the two-fiscal-year period ending June 30, 1969 to carry out the purposes of this section.

1968—Pub. L. 90-448, §201(f)(1), inserted "and section 236" in section catchline.

Subsec. (a). Pub. L. 90-448, §201(f)(2), (3), substituted "section 221 or section 236 of the National Housing Act" for "section 221 of the National Housing Act", and "as section 221" or "section 236" for "as section 221".

Subsec. (b). Pub. L. 90-448, §201(f)(2), inserted reference to section 236.

Subsec. (c). Pub. L. 90-448, §201(f)(2), (4), inserted reference to section 236 and included Government National Mortgage Association fees.

§ 208. Repealed. Pub. L. 105-393, title II, § 213, Nov. 13, 1998, 112 Stat. 3621

Section, Pub. L. 89-4, title II, §208, as added Pub. L. 92-65, title II, §205, Aug. 5, 1971, 85 Stat. 168, authorized grants and obligations of funds for airport safety improvement projects.

**PART B—SUPPLEMENTATIONS AND
MODIFICATIONS OF EXISTING PROGRAMS**

§ 211. Repealed. Pub. L. 105-220, title I, § 199(a)(4), Aug. 7, 1998, 112 Stat. 1059

Section, Pub. L. 89-4, title II, §211, Mar. 9, 1965, 79 Stat. 16; Pub. L. 90-103, title I, §113, Oct. 11, 1967, 81 Stat. 262; Pub. L. 92-65, title II, §209, Aug. 5, 1971, 85 Stat. 170; Pub. L. 94-188, title I, §114, Dec. 31, 1975, 89 Stat. 1082; Pub. L. 96-88, title III, §301, title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 98-524, §4(e)(1), Oct. 19, 1984, 98 Stat. 2489; Pub. L. 105-393, title II, §214, Nov. 13, 1998, 112 Stat. 3621, authorized grants for vocational education facilities and vocational and technical education demonstration projects.

§§ 212, 213. Repealed. Pub. L. 105-393, title II, §§ 215, 216, Nov. 13, 1998, 112 Stat. 3622

Section 212, Pub. L. 89-4, title II, §212, Mar. 9, 1965, 79 Stat. 16; Pub. L. 90-103, title I, §114, Oct. 11, 1967, 81

Stat. 262; 1966 Reorg. Plan No. 2, §1(h)(2), eff. May 10, 1966, 31 F.R. 6857, 80 Stat. 1609; 1970 Reorg. Plan No. 3, §2(a)(1), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2087, authorized grants for construction of sewage treatment works.

Section 213, Pub. L. 89-4, title II, §213, Mar. 9, 1965, 79 Stat. 17, set out amendments to Housing Act of 1954.

§ 214. Supplements to Federal grant-in-aid programs

(a) In order to enable the people, States, and local communities of the region, including local development districts, to take maximum advantage of Federal grant-in-aid programs (as hereinafter defined) for which they are eligible but for which, because of their economic situation, they cannot supply the required matching share, or for which there are insufficient funds available under the Federal grant-in-aid Act authorizing such programs to meet pressing needs of the region, the Federal Cochairman may use amounts made available to carry out this section for all or any portion of the basic Federal contribution to projects or activities (hereinafter referred to as projects) under such Federal grant-in-aid programs authorized by Federal grant-in-aid Acts, and for the purpose of increasing the Federal contribution to projects under such programs, as hereafter defined, above the fixed maximum portion of the cost of such projects otherwise authorized by the applicable law. In the case of any program or project for which all or any portion of the basic Federal contribution to the project under a Federal grant-in-aid program is proposed to be made under this subsection, no such Federal contribution shall be made until the responsible Federal official administering the Federal grant-in-aid Act authorizing such contribution certifies that such program or project meets the applicable requirements of such Federal grant-in-aid Act and could be approved for Federal contribution under such Act if funds were available under such Act for such program or project. Funds may be provided for programs and projects in a State under this subsection only if the Commission determines that the level of Federal and State financial assistance under Acts other than this Act, for the same type of programs or projects in that portion of the State within the region, will not be diminished in order to substitute funds authorized by this subsection. Funds provided pursuant to this Act shall be available without regard to any limitations on areas eligible for assistance or authorizations for appropriation in any other Act. Any findings, report, certification, or documentation required to be submitted to the head of the department, agency, or instrumentality of the Federal Government responsible for the administration of any Federal grant-in-aid programs shall be accepted by the Federal Cochairman with respect to a supplemental grant for any project under such program.

(b) COST SHARING.—

(1) IN GENERAL.—The Federal portion of such costs shall not be increased in excess of the percentages established by the Commission, and shall in no event exceed 80 per centum thereof.

(2) MAXIMUM COMMISSION CONTRIBUTION AFTER SEPTEMBER 30, 1998.—

(A) IN GENERAL.—Subject to subparagraph (B), after September 30, 1998, a Commission contribution of not more than 50 percent of any project cost eligible for financial assistance under this section may be provided from funds appropriated to carry out this Act.

(B) DISTRESSED COUNTIES.—In the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226, the maximum Commission contribution under subparagraph (A) may be increased to 80 percent.

(c) The term “Federal grant-in-aid programs” as used in this section means those Federal grant-in-aid programs authorized by this Act and Acts other than this Act for the acquisition or development of land, the construction or equipment of facilities, or other community or economic development or economic adjustment activities, including but not limited to grant-in-aid programs authorized by the following Acts: Federal Water Pollution Control Act; Watershed Protection and Flood Prevention Act; titles VI and XVI of the Public Health Services Act; Carl D. Perkins Vocational and Technical Education Act of 1998; Federal Airport Act; Airport and Airway Development Act of 1970; part IV of title III of the Communications Act of 1934; title VI (part A) and VII of the Higher Education Act of 1965; Land and Water Conservation Fund Act of 1965; National Defense Education Act of 1958; Consolidated Farm and Rural Development Act; sections 201 and 209 of the Public Works and Economic Development Act of 1965; the housing repair program for homeowners authorized by section 1319 of title 42 United States Code; grants under the Indian Health Service Act (42 Stat. 208); and title I of the Housing and Community Development Act of 1974. The term shall not include (A) the program for the construction of the development highway system authorized by section 201 of this Act or any other program relating to highway or road construction authorized by title 23, United States Code, or (B) any other program for which loans or other Federal financial assistance, except a grant-in-aid program, is authorized by this or any other Act. For the purpose of this section, any sewage treatment works constructed pursuant to section 8(c) of the Federal Water Pollution Control Act without Federal grant-in-aid assistance under such section shall be regarded as if constructed with such assistance.

(d) Not to exceed \$97,000,000 of the funds authorized in section 401 of this Act for the two-fiscal-year period ending June 30, 1969, shall be available to carry out this section.

(Pub. L. 89-4, title II, § 214, Mar. 9, 1965, 79 Stat. 17; Pub. L. 90-103, title I, § 116, Oct. 11, 1967, 81 Stat. 263; Pub. L. 91-123, title I, § 107, Nov. 25, 1969, 83 Stat. 215; Pub. L. 91-258, title I, § 52(b)(5), May 21, 1970, 84 Stat. 235; Pub. L. 92-65, title II, § 210, Aug. 5, 1971, 85 Stat. 171; Pub. L. 94-188, title I, § 115, Dec. 31, 1975, 89 Stat. 1083; Pub. L. 96-506, § 3(4), Dec. 8, 1980, 94 Stat. 2746; Pub. L. 98-524, § 4(e)(2), Oct. 19, 1984, 98 Stat. 2489; Pub. L.

104-208, div. A, title I, § 101(e) [title VII, § 709(a)(5)], Sept. 30, 1996, 110 Stat. 3009-233, 3009-312; Pub. L. 105-332, § 3(g), Oct. 31, 1998, 112 Stat. 3126; Pub. L. 105-393, title II, § 217, Nov. 13, 1998, 112 Stat. 3622.)

REFERENCES IN TEXT

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

The Watershed Protection and Flood Prevention Act, referred to in subsec. (c), is act Aug. 4, 1954, ch. 656, 68 Stat. 666, as amended, which is classified principally to chapter 18 (§ 1001 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 16 and Tables.

The Public Health Service Act, referred to in subsec. (c), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Titles VI and XVI of the Public Health Service Act are classified generally to subchapters IV (§ 291 et seq.) and XIV (§ 300q et seq.), respectively, of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

The Carl D. Perkins Vocational and Technical Education Act of 1998, referred to in subsec. (c), is Pub. L. 88-210, Dec. 18, 1963, 77 Stat. 403, as amended, which is classified generally to chapter 44 (§ 2301 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 20 and Tables.

The Federal Airport Act, referred to in subsec. (c), is act May 13, 1946, ch. 251, 60 Stat. 170, which was classified to chapter 14 (§ 1101 et seq.) of former Title 49, Transportation. The Act was repealed by section 52(a) of the Airport and Airway Development Act of 1970 (Pub. L. 91-258, title I, May 21, 1970, 84 Stat. 235).

The Airport and Airway Development Act of 1970, referred to in subsec. (c), is title I of Pub. L. 91-258, May 21, 1970, 84 Stat. 219, as amended, which was classified principally to chapter 25 (§ 1701 et seq.) of former Title 49. Sections 1 to 30 of title I of Pub. L. 91-258, which enacted sections 1701 to 1703, 1711 to 1713, and 1714 to 1730 of former Title 49 and a provision set out as a note under section 1701 of former Title 49, were repealed by Pub. L. 97-248, title V, § 523(a), Sept. 3, 1982, 96 Stat. 695. Sections 31, 51, 52(a), (b)(4), (6), (c), (d), and 53 of title I of Pub. L. 91-258 were repealed by Pub. L. 103-272, § 7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, see Table at the beginning of Title 49.

The Communications Act of 1934, referred to in subsec. (c), is act June 19, 1934, ch. 652, 48 Stat. 1064, as amended. Part IV of title III of the Communications Act of 1934 is classified generally to part IV (§ 390 et seq.) of subchapter III of chapter 5 of Title 47, Telegraphs, Telephones, and Radiotelegraphs. For complete classification of this Act to the Code, see section 609 of Title 47 and Tables.

The Higher Education Act of 1965, referred to in subsec. (c), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1319, as amended. Part A of title VI of the Act is classified generally to part A (§ 1121 et seq.) of subchapter VI of chapter 28 of Title 20, Education. Title VII of the Act, which related to construction, reconstruction, and renovation of academic facilities and was classified to subchapter VII (§ 1132a et seq.) of chapter 28 of Title 20, was amended generally by Pub. L. 105-244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1786, and now relates to graduate and post-secondary improvement programs and is classified

to subchapter VII (§1133 et seq.) of chapter 28 of Title 20. Prior to the general amendment, part B of title VII was renumbered and transferred by Pub. L. 105-244, title III, §301(a)(3), Oct. 7, 1998, 112 Stat. 1636, to part D (§1066 et seq.) of subchapter III of chapter 28 of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

The Land and Water Conservation Fund Act of 1965, referred to in subsec. (c), is Pub. L. 88-578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§460/-4 et seq.) of subchapter LXIX of chapter 1 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 460/-4 of Title 16 and Tables.

The National Defense Education Act of 1958, referred to in subsec. (c), is Pub. L. 85-864, Sept. 2, 1958, 72 Stat. 1580, as amended, which was classified principally to chapter 17 (§401 et seq.) of Title 20, Education, prior to omission from the Code. For complete classification of this Act to the Code, see Tables.

The Consolidated Farm and Rural Development Act, referred to in subsec. (c), is title III of Pub. L. 87-128, Aug. 8, 1961, 75 Stat. 307, as amended, which is classified principally to chapter 50 (§1921 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of Title 7 and Tables.

Sections 201 and 209 of the Public Works and Economic Development Act of 1965, referred to in subsec. (c), are sections 201 and 209 of Pub. L. 89-136, title II, as added Pub. L. 105-393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3601, 3605, which are classified to sections 3141 and 3149, respectively, of Title 42, The Public Health and Welfare.

The Indian Health Service Act (42 Stat. 208), referred to in subsec. (c), is probably a reference to act Nov. 2, 1921, ch. 115, 42 Stat. 208, as amended, which authorized appropriations and expenditures for the administration of Indian affairs and is classified to section 13 of Title 25, Indians. For complete classification of this Act to the Code, see Tables.

The Housing and Community Development Act of 1974, referred to in subsec. (c), is Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, as amended. Title I of the Housing and Community Development Act of 1974 is classified principally to chapter 69 (§5301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 42 and Tables.

Section 8(c) of the Federal Water Pollution Control Act, referred to in subsec. (c), is section 8(c) of act June 30, 1948, ch. 758, 62 Stat. 1158, which was set out in section 1158(c) of Title 33, Navigation and Navigable Waters, and was omitted from the Code in the general amendment and revision of the Federal Water Pollution Control Act by Pub. L. 92-500, §2, Oct. 18, 1972, 86 Stat. 816. See section 1281 et seq. of Title 33.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-393, §217(a), substituted “the Federal Cochairman may use amounts made available to carry out this section” for “the President is authorized to provide funds to the Federal Cochairman to be used” in first sentence.

Subsec. (b). Pub. L. 105-393, §217(b), inserted subsec. heading, designated existing provisions as par. (1), inserted par. heading, and added par. (2).

Subsec. (c). Pub. L. 105-393, §217(d), inserted “authorized by title 23, United States Code” after “road construction” in second sentence.

Pub. L. 105-393, §217(c)(2), which directed the substitution of “sections 201 and 209 of the Public Works and Economic Development Act of 1965” for “Titles I and IX of the Public Works and Economic Development Act of 1965” in first sentence, was executed by making the substitution for text which read in part “titles” rather than “Titles” to reflect the probable intent of Congress.

Pub. L. 105-393, §217(c)(1), struck out “on or before December 31, 1980,” after “programs authorized” in first sentence.

Pub. L. 105-332 substituted “Carl D. Perkins Vocational and Technical Education Act of 1998” for “Carl D. Perkins Vocational Education Act”.

1996—Subsec. (c). Pub. L. 104-208 struck out “Library Services and Construction Act;” after “Carl D. Perkins Vocational Education Act;”.

1984—Subsec. (c). Pub. L. 98-524, §4(e)(2), substituted “the Carl D. Perkins Vocational Education Act” for “the Vocational Education Act of 1963”. As originally enacted, section 4(e)(2) of Pub. L. 98-524 directed that section 114(e) of the Appalachian Regional Development Act of 1965 be so amended but was executed to subsec. (c) of this section as the probable intent of Congress since such act does not have a section 114 and the language to be substituted for is contained in subsec. (c).

1980—Subsec. (c). Pub. L. 96-506 substituted “December 31, 1980” for “December 31, 1978”.

1975—Subsec. (a). Pub. L. 94-188, §115(1), substituted “portion of the basic Federal contribution to projects or activities (hereinafter referred to as projects) under” for “portion of the basic Federal contribution to projects under”.

Subsec. (c). Pub. L. 94-188, §115(2), updated definition of “Federal grant-in-aid programs” to include additional Federal grant-in-aid programs as eligible for supplementation.

1971—Subsec. (a). Pub. L. 92-65, §210(a), extended the authority to make basic grants when funds available under a basic Federal grant-in-aid program are insufficient, provided that the Federal official administering the program certifies that the program or project to be funded meets the requirements of the program, on a finding by the Commission that the level of Federal and State assistance to the Appalachian region under other acts will not be diminished by the substitution of funds authorized by this subsection.

Subsec. (c). Pub. L. 92-65, §210(b), substituted “December 31, 1974” for “December 31, 1970”.

1970—Subsec. (c). Pub. L. 91-258 inserted reference to Airport and Airway Development Act of 1970.

1969—Subsec. (c). Pub. L. 91-123 substituted “December 31, 1970” for “December 31, 1967”, and provided that for the purposes of this section any sewage treatment works constructed pursuant to section 8(c) of the Federal Water Pollution Control Act be regarded as having been constructed with funds provided under this section.

1967—Subsec. (a). Pub. L. 90-103 substituted authorization of the President to provide funds to the Federal Cochairman for former authorization of the Secretary of Commerce, pursuant to specific recommendations of the Commission approved by him and after consultation with the appropriate Federal officials, to allocate funds appropriated to carry out this section to the heads of the departments, agencies, and instrumentalities of the Federal Government responsible for the administration of Federal grant-in-aid programs, and provided for the acceptance by the Federal Cochairman, with respect to a supplemental grant for any project under the program, of any finding, report, certification, or documentation required to be submitted to the head of the department, agency, or instrumentality of the Federal Government responsible for administration of any Federal grant-in-aid program.

Subsec. (b). Pub. L. 90-103 substituted “established by the Commission, and shall in no event exceed 80 per centum thereof” for “established by regulations promulgated by the Secretary of Commerce, and such regulations shall in no event authorize the Federal portion of such costs to exceed 80 per centum thereof”.

Subsec. (c). Pub. L. 90-103 substituted “on or before December 31, 1967,” and “acquisition of land or the construction” for “on or before the effective date of this Act” and “acquisition of land and the construction”.

Subsec. (d). Pub. L. 90-103 substituted provisions for availability of \$97,000,000 for two-fiscal-year period end-

ing June 30, 1969, for former provisions for availability of \$90,000,000 for period ending June 30, 1967, as provided in former provisions of section 401 of the Act.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 2 of Pub. L. 98-524 provided that:

“(a) This Act [enacting chapter 44 of Title 20, Education, amending this section, section 211 of this Appendix, sections 1013, 1014, 1135c-1, 1205, 1211c, and 3223 of Title 20, and sections 721, 1503, 1532, 1535, 1697, 1751, 1753, 1754, 1772, and 1773 of Title 29, Labor, enacting provisions set out as a note under section 1551 of Title 29, amending provisions set out as a note under section 11 of Title 20, and repealing provisions set out as a note under section 237 of Title 20] shall take effect for fiscal years beginning on or after October 1, 1984, except that the authority of the Secretary to prescribe regulations under this Act and the responsibility of States to submit State plans are effective upon the date of enactment of this Act [Oct. 19, 1984].

“(b) Not later than 90 days after the date of the enactment of this Act, the Secretary shall prescribe regulations for carrying out the provisions of this Act.”

PART C—GENERAL PROVISIONS

§ 221. Maintenance of effort

No State and no political subdivision of such State shall be eligible to receive benefits under this Act unless the aggregate expenditures of State funds, exclusive of expenditures for participation in the Dwight D. Eisenhower System of Interstate and Defense Highways, and exclusive of local funds and Federal funds, for the benefit of the area within the State located in the region are 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 Act. In computing the average level of expenditure for its last two fiscal years, a State's past expenditure for participation in the Dwight D. Eisenhower System of Interstate and Defense Highways and expenditures of local funds and Federal funds shall not be included. The Commission shall recommend to the President or such Federal officer or officers as the President may designate, a lesser requirement when it finds that a substantial population decrease in that portion of a State which lies within the region would not justify a State expenditure equal to the average level of the last two years or when it finds that a State's average level of expenditure, within an individual program, has been disproportionate to the present need for that portion of the State which lies within the region.

(Pub. L. 89-4, title II, §221, Mar. 9, 1965, 79 Stat. 18; Pub. L. 90-103, title I, §117, Oct. 11, 1967, 81 Stat. 263; Pub. L. 101-427, Oct. 15, 1990, 104 Stat. 927.)

REFERENCES IN TEXT

The date of enactment of this Act, referred to in text, is Mar. 9, 1965, the date of approval of Pub. L. 89-4.

AMENDMENTS

1990—Pub. L. 101-427 substituted “Dwight D. Eisenhower System of Interstate and Defense Highways” for “National System of Interstate and Defense Highways” in two places.

1967—Pub. L. 90-103 included as exclusions in first sentence expenditures for participation in the National System of Interstate and Defense Highways and local

funds and in second sentence expenditures of local funds.

§ 222. Consent of States

Nothing contained in this Act shall be interpreted as requiring any State to engage in or accept any program under this Act without its consent.

(Pub. L. 89-4, title II, §222, Mar. 9, 1965, 79 Stat. 18.)

§ 223. Program implementation

No program or project authorized under any section of this title shall be implemented until (1) applications and plans relating to the program or project have been determined by the responsible Federal official to be not incompatible with the provisions and objectives of Federal laws which he administers that are not inconsistent with this Act, and (2) the Commission has approved such program or project and has determined that it meets the applicable criteria under section 224 of this Act and the requirements of the development planning process under section 225, and will contribute to the development of the region, which determination shall be controlling and which shall be accepted by the Federal agencies.

(Pub. L. 89-4, title II, §223, Mar. 9, 1965, 79 Stat. 18; Pub. L. 90-103, title I, §118, Oct. 11, 1967, 81 Stat. 264; Pub. L. 94-188, title I, §116, Dec. 31, 1975, 89 Stat. 1083.)

AMENDMENTS

1975—Pub. L. 94-188 substituted in cl. (1), “to be not incompatible with” for “to be compatible with”, and in cl. (2), inserted reference to the requirements of the development planning process under section 225, and inserted provision that such determination shall be accepted by the Federal agencies.

1967—Pub. L. 90-103 substituted in cl. (1) provisions for determination of compatibility of program or project applications and plans with Federal laws for former provisions for consultations of Commission with State officials securing their recommendations and in cl. (2) provisions for program or project approval by the Commission and controlling determination of meeting or requisite criteria for former provisions for recommendation of plans by the Commission and submission thereof for Executive approval or modification.

DISCRIMINATION BASED ON SEX PROHIBITED IN PROGRAMS UNDER APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965

Pub. L. 92-65, title II, §214, Aug. 5, 1971, 85 Stat. 173, provided: “No person in the United States 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 financial assistance under the Appalachian Regional Development Act of 1965 [this Appendix].”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 202 of this Appendix.

§ 224. Program development criteria

(a) In considering programs and projects to be given assistance under this Act, and in establishing a priority ranking of the requests for assistance presented to the Commission, the Com-

mission shall follow procedures that will insure consideration of the following factors:

(1) the relationship of the project or class of projects to overall regional development including its location in an area determined by the State have a significant potential for growth or in a severely and persistently distressed county or area;

(2) the population and area to be served by the project or class of projects including the relative per capita income and the unemployment rates in the area;

(3) the relative financial resources available to the State or political subdivisions or instrumentalities thereof which seek to undertake the project;

(4) the importance of the project or class of projects in relation to other projects or classes of projects which may be in competition for the same funds;

(5) the prospects that the project for which assistance is sought will improve, on a continuing rather than a temporary basis, the opportunities for employment, the average level of income, or the economic and social development of the area served by the project; and

(6) the extent to which the project design provides for detailed outcome measurements by which grant expenditures may be evaluated.

(b) LIMITATION.—Financial assistance made available under this Act shall not be used to assist establishments relocating from one area to another.

(c) Funds may be provided for programs and projects in a State under this Act only if the Commission determines that the level of Federal and State financial assistance under Acts other than this Act for the same type of programs or projects in that portion of the State within the region, will not be diminished in order to substitute funds authorized by this Act.

(Pub. L. 89-4, title II, §224, Mar. 9, 1965, 79 Stat. 18; Pub. L. 90-103, title I, §119, Oct. 11, 1967, 81 Stat. 264; Pub. L. 94-188, title I, §117, Dec. 31, 1975, 89 Stat. 1084; Pub. L. 105-393, title II, §218(a)-(c), Nov. 13, 1998, 112 Stat. 3622, 3623.)

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105-393, §218(a), inserted “or in a severely and persistently distressed county or area” before semicolon at end.

Subsec. (a)(6). Pub. L. 105-393, §218(b), added par. (6).

Subsec. (b). Pub. L. 105-393, §218(c), added subsec. (b) and struck out former subsec. (b) which read as follows: “No financial assistance shall be authorized under this Act to be used (1) to assist establishments relocating from one area to another; (2) to finance the cost of industrial plants, commercial facilities, machinery, working capital, or other industrial facilities or to enable plant subcontractors to undertake work theretofore performed in another area by other subcontractors or contractors; (3) to finance the cost of facilities for the generation, transmission, or distribution of electric energy; or (4) to finance the cost of facilities for the production, transmission, or distribution of gas (natural, manufactured, or mixed).”

1975—Subsec. (c). Pub. L. 94-188 added subsec. (c).

1967—Subsec. (a). Pub. L. 90-103, §119(a), substituted “In considering” for “In developing recommendations on the” and struck out “within those recommendations” before “a priority ranking”.

Subsec. (b)(1). Pub. L. 90-103, §119(b), substituted “to assist establishments relocating” for “in relocating any establishment or establishments”.

WAIVER OF RESTRICTIONS ON USE OF APPROPRIATED FUNDS; USE OF ENERGY ENTERPRISE LOAN FUNDS

Pub. L. 100-202, §101(d) [title IV, §401], Dec. 22, 1987, 101 Stat. 1329-127, provided in part: “That after the date of enactment of this resolution [Dec. 22, 1987], appropriations for Appalachian regional programs in this or any other Act may be used for the purposes of the Appalachian Regional Development Act [this Appendix] without regard to section 224(b)(2), (3), and (4) of that Act [40 App. U.S.C. 224(b)(2), (3), and (4)] and funds in energy enterprise loan funds may be reapproved by the Commission for similar uses.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 223 of this Appendix.

§ 225. Appalachian State development planning process

(a) Pursuant to policies established by the Commission, each State member shall submit on such schedule as the Commission shall prescribe a development plan for the area of the State within the region. The State development plan shall reflect the goals, objectives, and priorities identified in the regional development plan and in any subregional development plan which may be approved for the subregion of which such State is a part. Such State development plan shall (1) describe the State organization and continuous process for Appalachian development planning, including the procedures established by the State for the participation of local development districts in such process, the means by which such process is related to overall statewide planning and budgeting processes, and the method of coordinating planning and projects in the region under this Act, the Public Works and Economic Development Act of 1965, and other Federal, State, and local programs; (2) set forth the goals, objectives, and priorities of the State for the region, as determined by the Governor, and identify the needs on which such goals, objectives, and priorities are based; and (3) describe the development program for achieving such goals, objectives, and priorities, including funding sources, and recommendations for specific projects to receive assistance under this Act.

(b)(1) Local development districts certified by the State under section 301 of this Act provide the linkage between State and substate planning and development. In carrying out the development planning process, including the selection of programs and projects for assistance, States shall consult with local development districts, local units of government, and citizen groups and take into consideration the goals, objectives, priorities, and recommendations of such bodies. The districts shall assist the States in the coordination of areawide programs and projects, and may prepare and adopt areawide plans or action programs.

(2) The Commission shall encourage the preparation and execution of areawide action programs which specify interrelated projects and schedules of actions together with the necessary

agency fundings and other commitments to implement such programs. Such programs shall make appropriate use of existing plans affecting the area.

(c) To the maximum extent practicable, Federal departments, agencies, and instrumentalities undertaking or providing financial assistance for programs or projects in the region shall (1) take into account the policies, goals, and objectives established by the Commission and its member States pursuant to this Act; (2) recognize Appalachian State development programs approved by the Commission as satisfying requirements for overall economic development planning under such programs or projects; and (3) accept the boundaries and organization of any local development district certified under this Act which the Governor may designate as the areawide agency required under any such program undertaken or assisted by such Federal departments, agencies, and instrumentalities.

(Pub. L. 89-4, title II, § 225, as added Pub. L. 94-188, title I, § 118, Dec. 31, 1975, 89 Stat. 1084.)

REFERENCES IN TEXT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 223 of this Appendix.

§ 226. Distressed and economically strong counties

(a) DESIGNATIONS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, and annually thereafter, the Commission, in accordance with such criteria as the Commission may establish, shall—

(A) designate as “distressed counties” those counties in the region that are the most severely and persistently distressed; and

(B) designate 2 categories of economically strong counties, consisting of—

(i) “competitive counties”, which shall be those counties in the region that are approaching economic parity with the rest of the United States; and

(ii) “attainment counties”, which shall be those counties in the region that have attained or exceeded economic parity with the rest of the United States.

(2) ANNUAL REVIEW OF DESIGNATIONS.—The Commission shall—

(A) conduct an annual review of each designation of a county under paragraph (1) to determine if the county still meets the criteria for the designation; and

(B) renew the designation for another 1-year period only if the county still meets the criteria.

(b) DISTRESSED COUNTIES.—In program and project development and implementation and in

the allocation of appropriations made available to carry out this Act, the Commission shall give special consideration to the needs of those counties for which a distressed county designation is in effect under this section.

(c) ECONOMICALLY STRONG COUNTIES.—

(1) COMPETITIVE COUNTIES.—Except as provided in paragraphs (3) and (4), in the case of a project that is carried out in a county for which a competitive county designation is in effect under this section, assistance under this Act shall be limited to not more than 30 percent of the project cost.

(2) ATTAINMENT COUNTIES.—Except as provided in paragraphs (3) and (4), no funds may be provided under this Act for a project that is carried out in a county for which an attainment county designation is in effect under this section.

(3) EXCEPTIONS.—The requirements of paragraphs (1) and (2) shall not apply to—

(A) any project on the Appalachian development highway system authorized by section 201;

(B) any local development district administrative project assisted under section 302(a)(1); or

(C) any multicounty project that is carried out in 2 or more counties designated under this section if—

(i) at least 1 of the participating counties is designated as a distressed county under this section; and

(ii) the project will be of substantial direct benefit to 1 or more distressed counties.

(4) WAIVER.—

(A) IN GENERAL.—The Commission may waive the requirements of paragraphs (1) and (2) for a project upon a showing by the recipient of assistance for the project of 1 or more of the following:

(i) The existence of a significant pocket of distress in the part of the county in which the project is carried out.

(ii) The existence of a significant potential benefit from the project in 1 or more areas of the region outside the designated county.

(B) REPORTS TO CONGRESS.—The Commission shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual report describing each waiver granted under subparagraph (A) during the period covered by the report.

(Pub. L. 89-4, title II, § 226, as added Pub. L. 105-393, title II, § 219, Nov. 13, 1998, 112 Stat. 3623.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a)(1), is the date of enactment of Pub. L. 105-393, which was approved Nov. 13, 1998.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 202, 207, 214, 302 of this Appendix.

TITLE III—ADMINISTRATION

TITLE REFERRED TO IN OTHER SECTIONS

This title is referred to in title 42 section 3232.

§ 301. Local development districts; certification

For the purposes of this Act, a "local development district" shall be an entity certified to the Commission either by the Governor of the State or States in which such entity is located, or by the State officer designated by the appropriate State law to make such certification, as having a charter or authority that includes the economic development of counties or parts of counties or other political subdivisions within the region. No entity shall be certified as a local development district for the purposes of this Act unless it is one of the following:

- (1) a nonprofit incorporated body organized or chartered under the law of the State in which it is located;
- (2) a nonprofit agency or instrumentality of a State or local government;
- (3) a nonprofit agency or instrumentality created through an interstate compact; or
- (4) a nonprofit association or combination of such bodies, agencies, and instrumentalities.

(Pub. L. 89-4, title III, § 301, Mar. 9, 1965, 79 Stat. 19.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 225 of this Appendix.

§ 302. Administrative expenses and research and demonstration projects

(a) AUTHORIZATION TO MAKE GRANTS.—

(1) IN GENERAL.—The Commission is authorized—

(A) to make grants for administrative expenses, including the development of area-wide plans or action programs and technical assistance activities, of local development districts, but (i) the amount of any such grant shall not exceed 50 percent of such expenses, (ii) no grants for administrative expenses shall be made for a State agency certified as a local development district for a period in excess of three years beginning on the date the initial grant is made for such development district, and (iii) the local development district contributions for administrative expenses may be in cash or in kind, fairly evaluated, including but not limited to space, equipment, and services;

(B) to make grants for assistance to States for a period not in excess of two years to strengthen the State development planning process for the region and the coordination of State planning under this Act, the Public Works and Economic Development Act of 1965, as amended, and other Federal and State programs; and

(C) to make grants for investigation, research, studies, evaluations, and assessments of needs, potentials, or attainments of the people of the region, technical assistance, training programs, demonstrations, and the construction of necessary facilities

incident to such activities, which will further the purposes of this Act. Grant funds may be provided entirely from appropriations to carry out this section or in combination with funds available under other Federal or Federal grant-in-aid programs or from any other source. Notwithstanding any provision of law limiting the Federal share in any such other program, funds appropriated to carry out this section may be used to increase such Federal share, as the Commission determines appropriate.

(2) COST SHARING AFTER SEPTEMBER 30, 1998.—

(A) IN GENERAL.—Except as provided in subparagraph (B), after September 30, 1998, not more than 50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226) of the costs of any activity eligible for financial assistance under this section may be provided from funds appropriated to carry out this Act.

(B) DISCRETIONARY GRANTS.—

(i) IN GENERAL.—Discretionary grants made by the Commission to implement significant regional initiatives, to take advantage of special development opportunities, or to respond to emergency economic distress in the region may be made without regard to the percentage limitations specified in subparagraph (A).

(ii) LIMITATION ON AGGREGATE AMOUNT.—For each fiscal year, the aggregate amount of discretionary grants referred to in clause (i) shall not exceed 10 percent of the amounts appropriated under section 401 for the fiscal year.

(b)(1) The Commission may provide assistance under this section for demonstrations of enterprise development, including site acquisition or development where necessary for the feasibility of the project, in connection with the development of the region's energy resources and the development and stimulation of indigenous arts and crafts of the region. No more than \$3,000,000 shall be obligated for such energy resource related demonstrations in any fiscal year, and no more than \$2,500,000 shall be obligated for such indigenous arts and crafts demonstrations.

(2) In carrying out the purposes of this Act, including section 2(b), and in implementing this section, the Secretary of Energy, the Environmental Protection Agency, and other Federal agencies shall cooperate with the Commission and shall provide such assistance as the Federal Cochairman may request.

(c)(1) The Commission shall, as required by the President, maintain accurate and complete records of transactions and activities financed with Federal funds and report thereon to the President. The records of the Commission shall be available for audit with respect to such grants by the President and the Comptroller General or their duly authorized representatives.

(2) Recipients of Federal assistance under the provisions of this section shall, as required by the Commission, maintain accurate and com-

plete records of transactions and activities financed with Federal funds and report thereon to the Commission. Such records shall be available for audit by the President, the Comptroller General, and the Commission or their duly authorized representatives.

(Pub. L. 89-4, title III, § 302, Mar. 9, 1965, 79 Stat. 19; Pub. L. 90-103, title I, § 120, Oct. 11, 1967, 81 Stat. 264; Pub. L. 91-123, title I, § 108, Nov. 25, 1969, 83 Stat. 215; Pub. L. 92-65, title II, § 211, Aug. 5, 1971, 85 Stat. 172; Pub. L. 94-188, title I, § 119, Dec. 31, 1975, 89 Stat. 1085; Pub. L. 105-393, title II, §§ 218(d), 220(a)-(c)(1), Nov. 13, 1998, 112 Stat. 3623-3625.)

REFERENCES IN TEXT

The Public Works and Economic Development Act of 1965, referred to in subsec. (a)(1)(B), is Pub. L. 89-136, Aug. 26, 1965, 79 Stat. 552, as amended, which is classified generally to chapter 38 (§ 3121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3121 of Title 42 and Tables.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-393, § 220(a), (b), designated introductory provisions as par. (1), substituted “The Commission” for “The President”, redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, and realigned their margins, struck out “to the Commission” after “make grants” wherever appearing, in subpar. (A), redesignated cls. (A) to (C) as (i) to (iii), respectively, in cl. (i), substituted “50 percent” for “75 per centum”, and added par. (2).

Subsec. (b)(1). Pub. L. 105-393, § 218(d), substituted “The Commission” for “Notwithstanding the provisions of section 224(b)(2), (3), or (4), the Commission” in first sentence.

Subsec. (b)(2). Pub. L. 105-393, § 220(c)(1)(A)(i), substituted “Secretary of Energy” for “Federal Energy Administration, the Energy Research and Development Administration”.

Subsec. (b)(3), (4). Pub. L. 105-393, § 220(c)(1)(A)(ii), struck out pars. (3) and (4), which directed Commission to conduct studies on Appalachian migrants and physical hazards which are constraints on land use in the region, respectively.

Subsecs. (d), (e). Pub. L. 105-393, § 220(c)(1)(B), struck out subsecs. (d) and (e), which limited funds available to carry out section for two-fiscal-year period ending June 30, 1969, and set forth provisions relating to public availability and protection of all information, copyrights, uses, processes, patents, and other developments resulting from scientific or technological research or development activity involving appropriated funds.

1975—Subsec. (a)(1). Pub. L. 94-188, § 119(1), substituted “including the development of areawide plans or action programs and technical assistance activities” for “including technical services”.

Subsec. (a)(2), (3). Pub. L. 94-188, § 119(2), added par. (2) and redesignated former par. (2) as (3).

Subsec. (b). Pub. L. 94-188, § 119(3), substituted provisions permitting the Commission to provide assistance for projects relating to the development of energy resources and the development and stimulation of indigenous arts and crafts of the region, that no more than \$3,000,000 shall be obligated for such energy resource related demonstrations in any fiscal year and that no more than \$2,500,000 shall be obligated for such indigenous arts and crafts demonstrations, requiring cooperation among federal agencies, requiring the Commission to study, report, and make recommendations to Congress for removal of constraints on land use within twenty-four months after Dec. 31, 1975, for provisions authorizing the Commission to make a survey and study of acid pollution in the region from mining ac-

tivities and the effects of such pollution, and requiring the President to make a report and recommendations to Congress not later than Mar. 31, 1969.

1971—Subsec. (a)(2). Pub. L. 92-65 extended the authority of the President to make grants for evaluations, assessment of needs, potentials, or attainments of the people of the region, and for construction of facilities, and further provided that grants may be made from appropriations under this Appendix or otherwise, and that funds appropriated to carry out this section may be used to increase the Federal share at the discretion of the Commission.

1969—Subsec. (a)(1)(B). Pub. L. 91-123 prohibited the President from making grants for administrative expenses of a State certified agency.

1967—Subsec. (a). Pub. L. 90-103 substituted authorization of the President to make grants to the Commission in pars. (1) and (2) for former authorization of Secretary of Commerce to make grants in par. (1) either directly or through arrangements with the Commission and to provide funds in par. (2) either directly or through arrangements with appropriate public or private organizations (including the Commission), authorized grants for technical services in par. (1), designated existing provisions of cls. (A) to (C), striking out from cl. (A) the limitation of amount of grants to any one fiscal year, and authorized grants for technical assistance and training programs in par. (2).

Subsec. (b). Pub. L. 90-103 added subsec. (b). Former subsec. (b) redesignated subsec. (c)(2).

Subsec. (c). Pub. L. 90-103 added par. (1) and redesignated former subsec. (b) as par. (2), substituting “as required by the Commission” for “an accordance with regulations to be promulgated by the Secretary of Commerce” and “Commission” for “Secretary of Commerce” in two places, and provided for audit by the President. Former subsec. (c) redesignated (d).

Subsecs. (d), (e). Pub. L. 90-103 redesignated former subsec. (c) as (d), substituted provisions for availability of \$11,000,000 for two-fiscal-year period ending June 30, 1969, for former provisions for availability of \$5,500,000 for period ending June 30, 1967, as provided in former provisions of section 401 of the Act, and limited funds available for purposes of subsec. (b) to \$3,000,000. Former subsec. (d) redesignated (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 226 of this Appendix.

§ 303. Approval of development plans, investment programs, and projects

State and Regional Development Plans and implementing investment programs, and any multistate subregional plans which may be developed, shall be annually reviewed and approved by the Commission in accordance with section 101(b) of this Act. An application for a grant or for any other assistance for a specific project under this Act shall be made through the State member of the Commission representing such applicant, and such State member shall evaluate the application for approval. Only applications for grants or other assistance for specific projects shall be approved which are certified by the State member and determined by the Federal Cochairman to implement the Commission-approved State development plan; to be included in the Commission-approved implementing investment program; to have adequate assurance that the project will be properly administered, operated, and maintained; and to otherwise meet the requirements for assistance under this Act. After the approval of the appropriate State development plan and implement-

ing investment program, certification by a State member of an application for a grant or other assistance for a specific project pursuant to this section shall, when joined by an affirmative vote of the Federal Cochairman for such project, be deemed to satisfy the requirements for affirmative votes for decisions under section 101(b) of this Act.

(Pub. L. 89-4, title III, §303, Mar. 9, 1965, 79 Stat. 20; Pub. L. 90-103, title I, §121, Oct. 11, 1967, 81 Stat. 265; Pub. L. 94-188, title I, §120, Dec. 31, 1975, 89 Stat. 1086.)

AMENDMENTS

1975—Pub. L. 94-188 substantially reenacted this section, made the regional development planning process under section 101(b) of this Act applicable to procedure for approval by the Commission of State development plans, regional development plans, and implementing investment programs, and further provided that once a State development plan is approved, the submission and approval of a project by a State, when joined by an affirmative vote of the Federal Cochairman for such project, shall be deemed to satisfy the requirements for affirmative votes for decisions under section 101(b) of this Act.

1967—Pub. L. 90-103 prohibited approval by the Commission unless the Commission is satisfied that the project will be properly administered, operated, and maintained and struck out provision that application for a grant be made only by a State, a political subdivision of a State, or a local development district.

SECTIONS REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 101, 202 of this Appendix.

§ 304. Annual report

Not later than six months after the close of each fiscal year, the Commission shall prepare and submit to the Governor of each State in the region and to the President, for transmittal to the Congress, a report on the activities carried out under this Act during such year.

(Pub. L. 89-4, title III, §304, Mar. 9, 1965, 79 Stat. 20.)

TITLE IV—APPROPRIATIONS AND MISCELLANEOUS PROVISIONS

§ 401. Authorization of appropriations

(a) IN GENERAL.—In addition to amounts authorized by section 201 and other amounts made available for the Appalachian development highway system program, there are authorized to be appropriated to the Commission to carry out this Act—

- (1) \$68,000,000 for fiscal year 1999;
- (2) \$69,000,000 for fiscal year 2000; and
- (3) \$70,000,000 for fiscal year 2001.

(b) AVAILABILITY.—Sums made available under subsection (a) shall remain available until expended.

(Pub. L. 89-4, title IV, §401, Mar. 9, 1965, 79 Stat. 21; Pub. L. 90-103, title I, §122, Oct. 11, 1967, 81 Stat. 266; Pub. L. 91-123, title I, §109, Nov. 25, 1969, 83 Stat. 215; Pub. L. 92-65, title II, §212, Aug. 5, 1971, 85 Stat. 172; Pub. L. 94-188, title I, §121, Dec. 31, 1975, 89 Stat. 1086; Pub. L. 96-506, §3(5), Dec. 8, 1980, 94 Stat. 2746; Pub. L. 97-35,

title XVIII, §1822(a)(3), (4), Aug. 13, 1981, 95 Stat. 767; Pub. L. 105-393, title II, §221, Nov. 13, 1998, 112 Stat. 3625.)

AMENDMENTS

1998—Pub. L. 105-393 amended section generally, substituting present provisions for provisions which authorized appropriations for fiscal years 1971 to 1982 and provided limitations on use of funds.

1981—Pub. L. 97-35 substituted “\$50,000,000” for “\$140,000,000” and inserted provisions respecting obligation of sums authorized for the fiscal year ending Sept. 30, 1982.

1980—Pub. L. 96-506 inserted provisions authorizing appropriations of \$300,000,000 for the two-fiscal-year period ending Sept. 30, 1981, and \$140,000,000 for the fiscal year ending Sept. 30, 1982.

1975—Pub. L. 94-188 inserted provisions authorizing additional appropriations for the period beginning July 1, 1975 and ending Sept. 30, 1977, and for the two-fiscal-year period ending Sept. 30, 1979.

1971—Pub. L. 92-65 inserted reference to section 208, authorized appropriation of \$282,000,000 for the two-fiscal-year period ending June 30, 1973, and \$294,000,000 for the two-fiscal-year period ending June 30, 1975, and struck out provisions limiting to certain amounts the funds allotted to be used in carrying out specified sections.

1969—Pub. L. 91-123 authorized appropriations in an amount not to exceed \$268,500,000 for the two-fiscal-year period ending June 30, 1971, and designated specific amounts of the authorization to carry out the purposes of enumerated sections.

1967—Pub. L. 90-103 inserted reference to appropriation authorization in section 105 and for local access roads, made the appropriation to the President, and substituted provisions for availability of \$170,000,000 for two-fiscal-year period ending June 30, 1969, for former provisions for availability of \$252,400,000 for period ending June 30, 1967.

APPROPRIATIONS

Provisions appropriating funds to carry out programs authorized by the Appalachian Regional Development Act of 1965, which is set out in this Appendix, notwithstanding section 405 of this Appendix, were contained in the following appropriation acts:

- Pub. L. 105-245, title IV, Oct. 7, 1998, 112 Stat. 1854.
- Pub. L. 105-62, title IV, Oct. 13, 1997, 111 Stat. 1336.
- Pub. L. 104-206, title IV, Sept. 30, 1996, 110 Stat. 3000.
- Pub. L. 104-46, title IV, Nov. 13, 1995, 109 Stat. 416.
- Pub. L. 103-316, title IV, Aug. 26, 1994, 108 Stat. 1720.
- Pub. L. 103-126, title IV, Oct. 28, 1993, 107 Stat. 1331.
- Pub. L. 102-377, title IV, Oct. 2, 1992, 106 Stat. 1339.
- Pub. L. 102-104, title IV, Aug. 17, 1991, 105 Stat. 533.
- Pub. L. 101-514, title IV, Nov. 5, 1990, 104 Stat. 2095.
- Pub. L. 101-101, title IV, Sept. 29, 1989, 103 Stat. 663.
- Pub. L. 100-371, title IV, July 19, 1988, 102 Stat. 871.
- Pub. L. 100-202, §101(d) [title IV], Dec. 22, 1987, 101 Stat. 1329-104, 1329-127.
- Pub. L. 99-500, §101(e) [title IV], Oct. 18, 1986, 100 Stat. 1783-194, 1783-210, and Pub. L. 99-591, §101(e) [title IV], Oct. 30, 1986, 100 Stat. 3341-194, 3341-210.
- Pub. L. 99-141, title IV, Nov. 1, 1985, 99 Stat. 577.
- Pub. L. 98-360, title IV, July 16, 1984, 98 Stat. 418.
- Pub. L. 98-50, title IV, July 14, 1983, 97 Stat. 259.
- Pub. L. 97-377, title I, §101(f), Dec. 21, 1982, 96 Stat. 1906.
- Pub. L. 97-88, title IV, Dec. 4, 1981, 95 Stat. 1146.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 214, 302 of this Appendix.

§ 402. Applicable labor standards

All laborers and mechanics employed by contractors or subcontractors in the construction,

alteration, or repair, including painting and decorating, of projects, buildings, and works which are financially assisted through the Federal funds authorized under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267), and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)).

(Pub. L. 89-4, title IV, § 402, Mar. 9, 1965, 79 Stat. 21.)

REFERENCES IN TEXT

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

Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267), referred to in text, is Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, which is set out in the Appendix to Title 5, Government Organization and Employees.

Section 2 of the Act of June 13, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)), referred to in text, probably means section 276c of Title 40, Public Buildings, Property, and Works.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 207 of this Appendix.

§ 403. Definition of Appalachian region

As used in this Act, the term "Appalachian region" or "the region" means that area of the eastern United States consisting of the following counties (including any political subdivision located within such area):

In Alabama, the counties of Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Colbert, Coosa, Cullman, De Kalb, Elmore, Etowah, Fayette, Franklin, Hale, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Limestone, Macon, Madison, Marion, Marshall, Morgan, Pickens, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Tuscaloosa, Walker, and Winston;

In Georgia, the counties of Banks, Barrow, Bartow, Carroll, Catoosa, Chattooga, Cherokee, Dade, Dawson, Douglas, Elbert, Fannin, Floyd, Forsyth, Franklin, Gilmer, Gordon, Gwinnett, Habersham, Hall, Haralson, Hart, Heard, Jackson, Lumpkin, Madison, Murray, Paulding, Pickens, Polk, Rabun, Stephens, Towns, Union, Walker, White, and Whitfield;

In Kentucky, the counties of Adair, Bath, Bell, Boyd, Breathitt, Carter, Casey, Clark, Clay, Clinton, Cumberland, Elliott, Estill, Fleming, Floyd, Garrard, Green, Greenup, Harlan, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, Lincoln, McCreary, Madison, Magoffin, Martin, Menifee, Monroe, Montgomery,¹ Morgan,

Owsley, Perry, Pike, Powell, Pulaski, Rockcastle, Rowan, Russell, Wayne, Whitley, and Wolfe;

In Maryland, the counties of Allegany, Garrett, and Washington;

In Mississippi, the counties of Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Itawamba, Kemper, Lee, Lowndes, Marshall, Monroe, Noxubee, Oktibbeha, Pontotoc, Prentiss, Tippah, Tishomingo, Union, Webster, Winston, and Yalobusha;

In New York, the counties of Allegany, Broome, Cattaraugus, Chautauqua, Chemung, Chenango, Cortland, Delaware, Otsego, Schoharie, Schuyler, Steuben, Tioga, and Tompkins;

In North Carolina, the counties of Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Davie, Forsyth, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Stokes, Surry, Swain, Transylvania, Watauga, Wilkes, Yadkin, and Yancey;

In Ohio, the counties of Adams, Athens, Belmont, Brown, Carroll, Clermont, Columbiana, Coshocton, Gallia, Guernsey, Harrison, Highland, Hocking, Holmes, Jackson, Jefferson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Scioto, Tuscarawas, Vinton, and Washington;

In Pennsylvania, the counties of Allegheny, Armstrong, Beaver, Bedford, Blair, Bradford, Butler, Cambria, Cameron, Carbon, Centre, Clarion, Clearfield, Clinton, Columbia, Crawford, Elk, Erie, Fayette, Forest, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lackawanna, Lawrence, Luzerne, Lycoming, McKean, Mercer, Mifflin, Monroe, Montour, Northumberland, Perry, Pike, Potter, Schuylkill, Snyder, Somerset, Sullivan, Susquehanna, Tioga, Union, Venango, Warren, Washington, Wayne, Westmoreland, and Wyoming;

In South Carolina, the counties of Anderson, Cherokee, Greenville, Oconee, Pickens, and Spartanburg;

In Tennessee, the counties of Anderson, Bledsoe, Blount, Bradley, Campbell, Cannon, Carter, Claiborne, Clay, Cocke, Coffee, Cumberland, De Kalb, Fentress, Franklin, Grainger, Greene, Grundy, Hamblen, Hamilton, Hancock, Hawkins, Jackson, Jefferson, Johnson, Knox, Loudon, McMinn, Macon, Marion, Megs, Monroe, Morgan, Overton, Pickett, Polk, Putnam, Rhea, Roane, Scott, Sequatchie, Sevier, Smith, Sullivan, Unicoi, Union, Van Buren, Warren, Washington, and White;

In Virginia, the counties of Alleghany, Bath, Bland, Botetourt, Buchanan, Carroll, Craig, Dickenson, Floyd, Giles, Grayson, Highland, Lee, Montgomery, Pulaski, Rockbridge, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe;

All the counties of West Virginia.

No recommendation for any change in the definition of the Appalachian region as set forth in this section shall be proposed or considered by

¹ So in original.

the Commission without a prior resolution by the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives, directing a study of such change.

The President is authorized and directed to make a study of the extent to which portions of upper New York State which are geographically part of the New England region or the Appalachian region and share the social and economic characteristics thereof should be included in either of such regions. He shall submit the results of such study together with his recommendations to Congress not later than June 30, 1970.

(Pub. L. 89-4, title IV, § 403, Mar. 9, 1965, 79 Stat. 21; Pub. L. 90-103, title I, § 123, Oct. 11, 1967, 81 Stat. 266; Pub. L. 91-123, title I, § 110, Nov. 25, 1969, 83 Stat. 215; Pub. L. 101-434, Oct. 17, 1990, 104 Stat. 985; Pub. L. 102-240, title I, § 1087, Dec. 18, 1991, 105 Stat. 2022; Pub. L. 103-437, § 14(e), Nov. 2, 1994, 108 Stat. 4591; Pub. L. 105-178, title I, § 1222(a), June 9, 1998, 112 Stat. 223.)

AMENDMENTS

1998—Pub. L. 105-178 inserted “Hale,” after “Franklin,” and “Macon,” after “Limestone,” in listing of counties in Alabama, inserted “Elbert,” after “Douglas,” and “Hart,” after “Haralson,” in listing of counties in Georgia, substituted “Winston, and Yalobusha” for “and Winston” in listing of counties in Mississippi, and inserted “Montgomery,” after “Lee,” and “Rockbridge,” after “Pulaski,” in listing of counties in Virginia.

1994—Pub. L. 103-437, in penultimate par., substituted “Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives” for “Committee on Public Works of the Senate or of the House of Representatives”.

1991—Pub. L. 102-240 inserted “Calhoun,” after “Benton,” in listing of counties in Mississippi.

1990—Pub. L. 101-434 inserted “Columbiana,” after “Carroll, Clermont,” in listing of counties in Ohio.

1969—Pub. L. 91-123 authorized and directed the President to make a study of the upper portions of New York State to determine which are geographically part of the New England region or the Appalachian region, and share similar socio-economic characteristics of either of such regions, and provided that the results of this study be submitted to Congress no later than June 30, 1970.

1967—Pub. L. 90-103 included the counties of Lamar and Pickens in Alabama, the counties of Mississippi and New York, and the county of Cannon in Tennessee, prohibited future changes in the regional definition without prior request of Congress, and struck out, as executed, provision for consultation between Commission and Governor of New York leading to participation and inclusion of counties of New York in the region.

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives treated as referring to Com-

mittee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102-240, set out as a note under section 104 of Title 23, Highways.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 405 of this Appendix; title 33 section 1257.

§ 404. Severability

If any provision of this Act, or the applicability thereof to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(Pub. L. 89-4, title IV, § 404, Mar. 9, 1965, 79 Stat. 23.)

§ 405. Termination

This Act, other than sections 201 and 403, shall cease to be in effect on October 1, 2001.

(Pub. L. 89-4, title IV, § 405, Mar. 9, 1965, 79 Stat. 23; Pub. L. 91-123, title I, § 111, Nov. 25, 1969, 83 Stat. 216; Pub. L. 92-65, title II, § 213, Aug. 5, 1971, 85 Stat. 173; Pub. L. 94-188, title I, § 122(a), Dec. 31, 1975, 89 Stat. 1086; Pub. L. 96-506, § 3(6), Dec. 8, 1980, 94 Stat. 2746; Pub. L. 105-178, title I, § 1222(b), June 9, 1998, 112 Stat. 224; Pub. L. 105-393, title II, § 222, Nov. 13, 1998, 112 Stat. 3625.)

AMENDMENTS

1998—Pub. L. 105-393 substituted “2001” for “1982”.

Pub. L. 105-178 substituted “sections 201 and 403” for “section 201”.

1980—Pub. L. 96-506 substituted “1982” for “1979”.

1975—Pub. L. 94-188 substituted “October 1, 1979” for “July 1, 1975”.

1971—Pub. L. 92-65 substituted “July 1, 1975” for “July 1, 1971”.

1969—Pub. L. 91-123 provided that section 201 be exempt from the July 1, 1971, termination date of this Act.

CONSTRUCTION OF 1998 AMENDMENT

Pub. L. 105-178, title I, § 1222(b), June 9, 1998, 112 Stat. 224, provided in part that: “This amendment [amending this section] ensures that section 403 [of this Appendix] is still in effect.”