

the cost as is attributable to the direct and special benefits which will accrue to the bridge owner as a result of the alteration, including the expectable savings in repair or maintenance costs; and that part of the cost attributable to the requirements of traffic by railroad or highway, or both, including any expenditure for increased carrying capacity of the bridge, and including such proportion of the actual capital cost of the old bridge or of such part of the old bridge as may be altered or changed or rebuilt, as the used service life of the whole or a part, as the case may be, bears to the total estimated service life of the whole or such part: *Provided*, That in the event the alteration or relocation of any bridge may be desirable for the reason that the bridge unreasonably obstructs navigation, but also for some other reason, the Secretary may require equitable contribution from any interested person, firm, association, corporation, municipality, county, or State desiring such alteration or relocation for such other reason, as a condition precedent to the making of an order for such alteration or relocation. The United States shall bear the balance of the cost, including that part attributable to the necessities of navigation: *And provided further*, That where the bridge owner proceeds with the alteration on a successive partial bid basis the Secretary is authorized to issue an order of apportionment of cost for the entire alteration based on the accepted bid for the first part of the alteration and an estimate of cost for the remainder of the work. The Secretary is authorized to revise the order of apportionment of cost, to the extent he deems reasonable and proper, to meet any changed conditions.

(June 21, 1940, ch. 409, § 6, 54 Stat. 499; July 16, 1952, ch. 889, § 2, 66 Stat. 733; Pub. L. 85-640, § 1(c), Aug. 14, 1958, 72 Stat. 595.)

#### AMENDMENTS

1958—Pub. L. 85-640 permitted issuance of an order of apportionment of cost for entire alteration based on the accepted bid for first part of alteration and an estimate of cost for remainder of work where bridge owner proceeds with alteration on a successive partial bid basis.

1952—Act July 16, 1952, made railroads share equally with proprietors of highways in bearing cost of alterations necessary to remove obstacles to navigation.

#### § 517. Payment of share of United States

Following service of the order requiring alteration of the bridge, the Secretary of Transportation may make partial payments as the work progresses to the extent that funds have been appropriated. The total payments out of Federal funds shall not exceed the proportionate share of the United States of the total cost of the project paid or incurred by the bridge owner, and, if such total cost exceeds the cost guaranteed by the bridge owner, shall not exceed the proportionate share of the United States of such guaranteed cost, except that if the cost of the work exceeds the guaranteed cost by reason of emergencies, conditions beyond the control of the owner, or unforeseen or undetermined conditions, the Secretary of Transportation may, after full review of all the circumstances, provide for additional payments by the United

States to help defray such excess cost to the extent he deems to be reasonable and proper, and shall certify such additional payments to the Secretary of the Treasury for payment. All payments to any bridge owner herein provided for shall be made by the Secretary of the Treasury through the Fiscal Service upon certifications of the Secretary of Transportation.

(June 21, 1940, ch. 409, § 7, 54 Stat. 499; 1940 Reorg. Plan No. III, § 1(a)(1), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; Pub. L. 85-640, § 1(d), Aug. 14, 1958, 72 Stat. 596; Pub. L. 91-605, title I, § 118, Dec. 31, 1970, 84 Stat. 1725; Pub. L. 97-449, § 2(d)(1), Jan. 12, 1983, 96 Stat. 2440.)

#### AMENDMENTS

1983—Pub. L. 97-449 substituted "Secretary of Transportation" for "Secretary of War" wherever appearing, which substitution had previously been made by Pub. L. 91-605. See, also, Transfer of Functions note below.

1970—Pub. L. 91-605 substituted provision permitting Secretary of Transportation to make payments for design work performed prior to the actual commencement of bridge alteration but after the order to alter has been issued for provision requiring Secretary of War to approve alteration plans, the cost guaranty, the fixing of proportionate shares as between the United States and bridge owner, and the commencement of the alteration, before the Chief of Engineers may make payments for bridge alteration, inserted reference to Secretary of Transportation in second sentence, and substituted "Secretary of Transportation" for "Secretary of War" in third sentence.

1958—Pub. L. 85-640 struck out provisions which required Secretary of War to furnish to Secretary of the Treasury a certified copy of his approval of the plans and specifications and guaranty, and of his order fixing the proportionate shares, and which required the Secretary of the Treasury to set aside the share of the United States for the project.

#### TRANSFER OF FUNCTIONS

Section 6(g)(3) of Pub. L. 89-670 transferred functions, powers, and duties of Secretary of the Army [formerly War] and other officers and offices of Department of the Army [formerly War] relating to obstructive bridges under this subchapter to Secretary of Transportation. Pub. L. 97-449 amended this section to reflect transfer made by section 6(g)(3) of Pub. L. 89-670, and repealed section 6(g)(3).

"Fiscal Service" substituted in text for "Division of Disbursement" on authority of section 1(a)(1) of Reorg. Plan No. III of 1940, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231, set out in the Appendix to Title 5, Government Organization and Employees, which consolidated such division into Fiscal Service of Department of the Treasury. See section 306 of Title 31, Money and Finance.

#### § 518. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter.

(June 21, 1940, ch. 409, § 8, 54 Stat. 500.)

#### ALTERATION OF BRIDGES

Pub. L. 108-90, title II, Oct. 1, 2003, 117 Stat. 1144, provided in part: "That in fiscal year 2004 and thereafter, funds for bridge alteration projects conducted pursuant to the Act of June 21, 1940 (33 U.S.C. 511 et seq.) shall be available for such projects only to the extent that the steel, iron, and manufactured products used in such projects are produced in the United States, unless contrary to law or international agreement, or unless the Commandant of the Coast Guard determines such ac-