§ 119. Interstate maintenance program

(a) The Secretary may approve projects for resurfacing, restoring and rehabilitating routes on the Interstate System designated under sections 103 and 139(c) of this title and routes on the Interstate System designated before the date of enactment of this sentence under section 139(a) and (b) of this title; except that the Secretary may only approve a project pursuant to this subsection on a toll road if such road is subject to a Secretarial agreement provided for in subsection (e). Sums authorized to be appropriated for this section shall be out of the Highway Trust Fund and shall be apportioned in accordance with section 104(b)(5)(B) of this title.

(b) Not later than one year after the date of issuance of initial guidelines under section 109(m) of this title each State shall have a program for the Interstate system in accordance with such guidelines. Each State shall certify on January 1st of each year that it has such a program and the Interstate system is maintained in accordance with that program. If a State fails to certify as required or if the Secretary determines a State is not adequately maintaining the Interstate system in accordance with such program then the next apportionment of funds to such State for the Interstate system shall be reduced by amounts equal to 10 per centum of the amount which would otherwise be apportioned to such State under section 104 of this title. If, within one year from the date the apportionment for a State is reduced under this subsection, the Secretary determines that such State is maintaining the Interstate system in accordance with the guidelines the apportionment of funds for such State under section 104(b)(5)(B) shall be increased by an amount equal to the reduction. If the Secretary does not make such a determination within such one year period the amount so withheld shall be reapportioned to all other eligible States.

(c) ELIGIBLE ACTIVITIES.—Activities authorized in subsection (a) may include the reconstruction of bridges, interchanges, and over crossings along existing Interstate routes, including the acquisition of right-of-way where necessary, but shall not include the construction of new travel lanes other than high occupancy vehicle lanes or auxiliary lanes.

(d) TRANSFER OF INTERSTATE CONSTRUCTION APPORTIONS.—Upon application by a State (other than the State of Massachusetts) and approval by the Secretary, the Secretary may transfer to the apportionments to such State under section 104(b)(1) or 104(b)(5)(B) any amount of the funds apportioned to such State for any fiscal year under section 104(b)(5)(A) if such amount does not exceed the Federal share of the costs of construction of segments of the Interstate System open to traffic in such State (other than high occupancy vehicle lanes) included in the most recent Interstate cost estimate. Upon transfer of such amount, the construction on which such amount is based on open-to-traffic segments of the Interstate System in such State as included in the latest Interstate cost estimate shall be ineligible and shall not be included in future Interstate cost estimates approved or adjusted under section 104(b)(5)(A).

(e) PREVENTIVE MAINTENANCE.—Preventive maintenance activities shall be eligible under this section when a State can demonstrate, through its pavement management system, that such activities are a cost-effective means of extending Interstate pavement life.

(f) TRANSFER OF FUNDS FOR SURFACE TRANSPORTATION PROGRAM PROJECTS.—

(1) UPON CERTIFICATION ACCEPTANCE.—If a State certifies to the Secretary that any part of the sums apportioned to the State under section 104(b)(5)(B) of this title are in excess of the needs of the State for resurfacing, restoring, or rehabilitating Interstate System routes and the State is adequately maintaining the Interstate System and the Secretary accepts such certification, the State may transfer such excess part to its apportionment under sections 104(b)(1) and 104(b)(3).

(2) UNCONDITIONAL.—Notwithstanding paragraph (1), a State may transfer to its apportionment under sections 104(b)(1) and 104(b)(3) of this title:

(A) in fiscal year 1987, an amount not to exceed 20 percent of the funds apportioned to the State under section 104(b)(5)(B) which are not obligated at the time of the transfer; and

(B) in any fiscal year thereafter, an amount not to exceed 20 percent of the funds apportioned to the State under section 104(b)(5)(B) for such fiscal year.

(g) LIMITATION ON NEW CAPACITY.—Notwithstanding any other provision of this title, the portion of the cost of any project undertaken pursuant to this section that is attributable to the expansion of the capacity of any Interstate highway or bridge, where such new capacity consists of one or more new travel lanes that are not high-occupancy vehicle lanes or auxiliary lanes, shall not be eligible for funding under this section.


REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), means the date of enactment of Pub. L. 98–229, which was approved Mar. 9, 1984.
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PRIOR PROVISIONS


AMENDMENTS


Subsec. (a). Pub. L. 102–240, §1009(e)(5)(A), (B), substituted “and rehabilitating” for “, rehabilitating, and reconstructing” and struck out at end “The Federal share for any project under this subsection shall be that set forth in section 129(c) of this title.”

Subsec. (c). Pub. L. 102–240, §1009(e)(3), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “Reconstructing as authorized in subsection (a) of this section may include, but is not limited to, the addition of travel lanes and the construction and reconstruction of interchanges and crossings along existing completed interstate routes, including the acquisition of right-of-way where necessary.”

Subsec. (e). Pub. L. 102–240, §1009(e)(4), amended subsec. (e) generally, substituting present provisions for provisions authorizing Secretary to approve projects on toll roads only after reaching agreement with State highway department and public authorities that road will become free upon collection of tolls sufficient to liquidate cost of road and outstanding bonds and cost of maintenance, operation and debt service during period toll collections, provisions relating to repayment to Federal Treasury, or reduction in apportionment, if road did not become free after collection of sufficient tolls, and provisions requiring pre-existing agreements to be treated as agreements under subsection (e).


Subsec. (f)(1). Pub. L. 102–240, §1009(b)(9), (e)(5)(D), (E), substituted “or rehabilitating” for “rehabilitating, or reconstructing”, substituted “sections 104(b)(4)” for “section 104(b)(4)”, and inserted “the State is adequately maintaining the Interstate System and” after “routes and”.

Subsec. (f)(2). Pub. L. 102–240, §1009(e)(5)(E), substituted “sections 104(b)(1) and 104(b)(3)” for “section 104(b)(1) and 104(b)(3)” in introductory provisions.

Subsec. (g). Pub. L. 102–240, §1009(a), added subsec. (g).


Subsec. (d). Pub. L. 100–17, §116(a)(4), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “Upon application by a State and approval by the Secretary, the Secretary may authorize the transfer of so much of the amount apportioned to such State for any fiscal year under paragraphs (5)(A) of subsection (b) of section 104 of this title, as does not exceed the Federal share of the cost of segments of the Interstate System open to traffic in such State (other than high occupancy vehicle lanes), in the most recent cost estimate, to the apportionment under paragraph (5)(B) of subsection (b) of section 104 of this title, except that not more than 50 centum of the total apportionment under such paragraph (5)(A) for a fiscal year shall be transferred under this subsection for such fiscal year. The next cost estimate submitted to Congress under paragraph (5)(A) of subsection (b) of such section 104 of the cost of completing segments of the Interstate System open to traffic in that State (other than high occupancy vehicle lanes) shall be reduced for such State in an amount equal to the amount transferred under this subsection. Notwithstanding any other provision of law, and for the purposes of this subsection, the phrase ‘segments of the interstate system open to traffic’ shall include a proposed four-lane, limited access highway, 6.4 miles in length, the construction of which will relocate to a southern alignment a portion of an existing interstate highway which was originally built without the aid of funds authorized by section 108(b) of the Federal-Aid Highway Act of 1956, as amended, and which connects to the east with an interstate highway on which tolls are charged. The construction of the proposed highway shall include a bridge over the Monongahela River.”

Subsec. (e). Pub. L. 100–17, §116(b), added subsec. (e).

Subsec. (f). Pub. L. 100–202 substituted “amount not to exceed” for “amount equal to” in par. (2)(B).


1983—Subsec. (d). Pub. L. 97–424, §116(a)(1), inserted provision that, additionally, beginning with funds apportioned for fiscal year 1984, the Secretary may approve projects for resurfacing, restoring, rehabilitating, and reconstructing those routes or portions thereof on the Interstate System designated before Jan. 6, 1983, under section 139(a) of this title, which routes or portions were so designated in conjunction with the withdrawal of approval of another route or portion on the Interstate System under section 103(e)(4) of this title and provision that the Federal share be that as set forth in section 120(c) of this title for provision that the Federal share be that as set forth in section 120(c) of this title and that effective on or after Dec. 29, 1981, the Federal share be that as set forth in section 120(c) of this title.

1981—Subsec. (a). Pub. L. 97–424, §116(a)(1), inserted provision that, additionally, beginning with funds apportioned for fiscal year 1984, the Secretary may approve projects for resurfacing, restoring, rehabilitating, and reconstructing those routes or portions thereof on the Interstate System designated before Jan. 6, 1983, under section 139(a) of this title (other than routes on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) which routes or portions were so designated in conjunction with the withdrawal of approval of another route or portion thereof on the Interstate System under section 103(e)(4) of this title.

Pub. L. 97–424, §116(a)(2), substituted “under this subsection” for “designated under sections 103 and 139(c) of this title” before “shall be that set forth in section 139(c) of this title”.

Subsecs. (b), (c). Pub. L. 97–424, §116(b), redesignated the second of two sections designated (b) as (c).


1981—Subsec. (a). Pub. L. 97–134, §§6(a), 7, substituted “rehabilitating, and reconstructing routes of the Interstate System designated under sections 103 and 139(c) of this title” for “and rehabilitating those lanes in use for more than five years on the Interstate System”, and inserted provision that effective on and after Dec. 29, 1981, the Federal share for projects financed by funds apportioned under section 104(b)(b) of this title for resurfacing, restoring, rehabilitating, and reconstructing routes of the Interstate System designated under sections 103 and 139(c) of this title shall be that set forth in section 120(c) of this title.

Subsec. (b). Pub. L. 97–134, §6(b), added subsec. (b) providing that reconstruction may include the addition of travel lanes and the construction and reconstruction of interchanges and crossings along existing completed interstate routes, including the acquisition of right-of-way of necessary.
1979—Subsec. (b). Pub. L. 96–106 substituted ‘‘January 1st’’ for ‘‘October 1st’’ and ‘‘next apportionment of funds to such State’’ for ‘‘funds apportioned to such State for that fiscal year’’.

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

GUIDANCE TO STATES
Section 1009(c) of Pub. L. 102–240 provided that: ‘‘The Secretary shall develop and make available to the States criteria for determining—

‘‘(1) what share of any project funded under section 119 of title 23, United States Code, is attributable to the expansion of the capacity of an Interstate highway or bridge; and

‘‘(2) what constitutes adequate maintenance of the Interstate System for the purposes of section 119(f)(1) of title 23, United States Code.’’

INNOVATIVE TECHNOLOGIES
Section 142 of Pub. L. 97–424 provided that:

‘‘(a) The Congress hereby finds and declares that it is in the national interest to encourage and promote utilization by the States of highway and bridge surfacing, resurfacing, or restoration materials which are produced from recycled materials or which contain asphalt additives to strengthen the materials. Such materials conserve energy and reduce the cost of resurfacing or restoring our highways.

‘‘(b) The Secretary of Transportation is hereby authorized for each of the fiscal years through September 30, 1985, to increase the Federal share as provided in sections 119, 120, and 144 of title 23, United States Code, by 5 per centum of any project submitted by the State highway departments which contains in the plans, specifications, and estimates submitted pursuant to section 106, of title 23, United States Code, the use of the materials described in subsection (a). To be eligible for such supplemental Federal assistance, significant amounts of asphalt additives or recycled materials must be used in each project approved by the Secretary.

‘‘(c) The Secretary shall establish a procedure within ninety days of the date of enactment of this Act [Jan. 6, 1983] for increasing the Federal share under this section.’’

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in sections 118, 129 of this title.

§ 120. Federal share payable

(a) INTERSTATE SYSTEM PROJECTS.—Except as otherwise provided in this chapter, the Federal share payable on account of any project on the Interstate System (including a project to add high occupancy vehicle lanes and a project to add auxiliary lanes but excluding a project to add any other lanes) shall be 90 percent of the total cost thereof, plus a percentage of the remaining 10 percent of such cost in any State containing unappropriated and unreserved public lands and nontaxable Indian lands, individual and tribal, exceeding 5 percent of the total area of all lands therein, equal to the percentage that the area of such lands in such State is of its total area; except that such Federal share payable on any project in any State shall not exceed 95 percent of the total cost of such project.

(b) OTHER PROJECTS.—Except as otherwise provided in this title, the Federal share payable on account of any project or activity carried out under this title (other than a project subject to subsection (a)) shall be—

(1) 80 percent of the cost thereof, except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 percent of the total area of all lands therein, the Federal share, for purposes of this chapter, shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area; or

(2) 80 percent of the cost thereof, except that in the case of any State containing nontaxable Indian lands, individual and tribal, public domain lands (both reserved and unreserved), national forests, and national parks and monuments, the Federal share, for purposes of this chapter, shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area;

except that the Federal share payable on any project in a State shall not exceed 95 percent of the total cost of any such project. In any case where a State elects to have the Federal share provided in paragraph (2) of this subsection, the State must enter into an agreement with the Secretary covering a period of not less than 1 year, requiring such State to use solely for purposes eligible for assistance under this title (other than paying its share of projects approved under this title) during the period covered by such agreement the difference between the State’s share as provided in paragraph (2) and what its share would be if it elected to pay the share provided in paragraph (1) for all projects subject to such agreement.

(c) INCREASED FEDERAL SHARE FOR CERTAIN SAFETY PROJECTS.—The Federal share payable on account of any project for traffic control signalization, safety rest areas, pavement marking, commuter carpooling and vanpooling, or installation of traffic signs, traffic lights, guardrails, impact attenuators, concrete barrier endtreatments, breakaway utility poles, or priority control systems for emergency vehicles at signalized intersections may amount to 100 percent of the cost of construction of such projects; except that not more than 10 percent of all sums apportioned for all the Federal-aid systems for any fiscal year in accordance with section 104 of this title shall be used under this subsection. In this subsection, the term ‘‘safety rest area’’ means an area where motor vehicle operators can park their vehicles and rest, where food, fuel, and lodging services are not available, and that is located on a segment of highway with respect to which the Secretary determines there is a shortage of public and private areas at which motor vehicle operators can park their vehicles and rest.

(d) The Secretary may rely on a statement from the Secretary of the Interior as to the area of the lands referred to in subsections (a) and (b) of this section. The Secretary of the Interior is