

VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 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 2000a of Title 42 and Tables.

AMENDMENTS

2021—Pub. L. 117-58 amended section generally. Prior to amendment, section related to reimbursement to States for relocation of utility facilities.

2012—Subsec. (a). Pub. L. 112-141 substituted “on any Federal-aid highway” for “on any Federal-aid system”.

1987—Subsec. (a). Pub. L. 100-17 substituted “any Federal-aid system,” for “the Federal-aid primary or secondary systems or on the Interstate System, including extensions thereof within urban areas.”.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117-58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117-58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

STUDY OF PROCUREMENT PRACTICES AND PROJECT DELIVERY

Pub. L. 105-178, title I, §1213(e), June 9, 1998, 112 Stat. 201, directed the Comptroller General to conduct a study to assess the impact that a utility company’s failure to relocate its facilities in a timely manner has on the delivery and cost of Federal-aid highway and bridge projects, including an assessment of methods States use to mitigate such delays, and directed the Comptroller General to transmit to Congress a report on the results of the study with any appropriate recommendations not later than 1 year after June 9, 1998.

**§ 124. Bridge investment program**

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE PROJECT.—

(A) IN GENERAL.—The term “eligible project” means a project to replace, rehabilitate, preserve, or protect 1 or more bridges on the National Bridge Inventory under section 144(b).

(B) INCLUSIONS.—The term “eligible project” includes—

(i) a bundle of projects described in subparagraph (A), regardless of whether the bundle of projects meets the requirements of section 144(j)(5); and

(ii) a project to replace or rehabilitate culverts for the purpose of improving flood control and improved habitat connectivity for aquatic species.

(2) LARGE PROJECT.—The term “large project” means an eligible project with total eligible project costs of greater than \$100,000,000.

(3) PROGRAM.—The term “program” means the bridge investment program established by subsection (b)(1).

(b) ESTABLISHMENT OF BRIDGE INVESTMENT PROGRAM.—

(1) IN GENERAL.—There is established a bridge investment program to provide financial assistance for eligible projects under this section.

(2) GOALS.—The goals of the program shall be—

(A) to improve the safety, efficiency, and reliability of the movement of people and freight over bridges;

(B) to improve the condition of bridges in the United States by reducing—

(i) the number of bridges—

(I) in poor condition; or

(II) in fair condition and at risk of falling into poor condition within the next 3 years;

(ii) the total person miles traveled over bridges—

(I) in poor condition; or

(II) in fair condition and at risk of falling into poor condition within the next 3 years;

(iii) the number of bridges that—

(I) do not meet current geometric design standards; or

(II) cannot meet the load and traffic requirements typical of the regional transportation network; and

(iv) the total person miles traveled over bridges that—

(I) do not meet current geometric design standards; or

(II) cannot meet the load and traffic requirements typical of the regional transportation network; and

(C) to provide financial assistance that leverages and encourages non-Federal contributions from sponsors and stakeholders involved in the planning, design, and construction of eligible projects.

(c) GRANT AUTHORITY.—

(1) IN GENERAL.—In carrying out the program, the Secretary may award grants, on a competitive basis, in accordance with this section.

(2) GRANT AMOUNTS.—Except as otherwise provided, a grant under the program shall be—

(A) in the case of a large project, in an amount that is—

(i) adequate to fully fund the project (in combination with other financial resources identified in the application); and

(ii) not less than \$50,000,000; and

(B) in the case of any other eligible project, in an amount that is—

(i) adequate to fully fund the project (in combination with other financial resources identified in the application); and

(ii) not less than \$2,500,000.

(3) MAXIMUM AMOUNT.—Except as otherwise provided, for an eligible project receiving assistance under the program, the amount of assistance provided by the Secretary under this section, as a share of eligible project costs, shall be—

(A) in the case of a large project, not more than 50 percent; and

(B) in the case of any other eligible project, not more than 80 percent.

(4) FEDERAL SHARE.—

(A) MAXIMUM FEDERAL INVOLVEMENT.—Federal assistance other than a grant under the

program may be used to satisfy the non-Federal share of the cost of a project for which a grant is made, except that the total Federal assistance provided for a project receiving a grant under the program may not exceed the Federal share for the project under section 120.

(B) OFF-SYSTEM BRIDGES.—In the case of an eligible project for an off-system bridge (as defined in section 133(f)(1))—

- (i) Federal assistance other than a grant under the program may be used to satisfy the non-Federal share of the cost of a project; and
- (ii) notwithstanding subparagraph (A), the total Federal assistance provided for the project shall not exceed 90 percent of the total eligible project costs.

(C) FEDERAL LAND MANAGEMENT AGENCIES AND TRIBAL GOVERNMENTS.—Notwithstanding any other provision of law, Federal funds other than Federal funds made available under this section may be used to pay the remaining share of the cost of a project under the program by a Federal land management agency or a Tribal government or consortium of Tribal governments.

(5) CONSIDERATIONS.—

(A) IN GENERAL.—In awarding grants under the program, the Secretary shall consider—

- (i) in the case of a large project, the ratings assigned under subsection (g)(5)(A);
- (ii) in the case of an eligible project other than a large project, the quality rating assigned under subsection (f)(3)(A)(ii);
- (iii) the average daily person and freight throughput supported by the eligible project;
- (iv) the number and percentage of bridges within the same State as the eligible project that are in poor condition;
- (v) the extent to which the eligible project demonstrates cost savings by bundling multiple bridge projects;
- (vi) in the case of an eligible project of a Federal land management agency, the extent to which the grant would reduce a Federal liability or Federal infrastructure maintenance backlog;
- (vii) geographic diversity among grant recipients, including the need for a balance between the needs of rural and urban communities; and
- (viii) the extent to which a bridge that would be assisted with a grant—
  - (I) is, without that assistance—
    - (aa) at risk of falling into or remaining in poor condition; or
    - (bb) in fair condition and at risk of falling into poor condition within the next 3 years;
  - (II) does not meet current geometric design standards based on—
    - (aa) the current use of the bridge; or
    - (bb) load and traffic requirements typical of the regional corridor or local network in which the bridge is located; or
  - (III) does not meet current seismic design standards.

(B) REQUIREMENT.—The Secretary shall—

(i) give priority to an application for an eligible project that is located within a State for which—

(I) 2 or more applications for eligible projects within the State were submitted for the current fiscal year and an average of 2 or more applications for eligible projects within the State were submitted in prior fiscal years of the program; and

(II) fewer than 2 grants have been awarded for eligible projects within the State under the program;

(ii) during the period of fiscal years 2022 through 2026, for each State described in clause (i), select—

(I) not fewer than 1 large project that the Secretary determines is justified under the evaluation under subsection (g)(4); or

(II) 2 eligible projects that are not large projects that the Secretary determines are justified under the evaluation under subsection (f)(3); and

(iii) not be required to award a grant for an eligible project that the Secretary does not determine is justified under an evaluation under subsection (f)(3) or (g)(4).

(6) CULVERT LIMITATION.—Not more than 5 percent of the amounts made available for each fiscal year for grants under the program may be used for eligible projects that consist solely of culvert replacement or rehabilitation.

(d) ELIGIBLE ENTITY.—The Secretary may make a grant under the program to any of the following:

- (1) A State or a group of States.
- (2) A metropolitan planning organization that serves an urbanized area (as designated by the Bureau of the Census) with a population of over 200,000.
- (3) A unit of local government or a group of local governments.
- (4) A political subdivision of a State or local government.
- (5) A special purpose district or public authority with a transportation function.
- (6) A Federal land management agency.
- (7) A Tribal government or a consortium of Tribal governments.
- (8) A multistate or multijurisdictional group of entities described in paragraphs (1) through (7).

(e) ELIGIBLE PROJECT REQUIREMENTS.—The Secretary may make a grant under the program only to an eligible entity for an eligible project that—

- (1) in the case of a large project, the Secretary recommends for funding in the annual report on funding recommendations under subsection (g)(6), except as provided in subsection (g)(1)(B);
- (2) is reasonably expected to begin construction not later than 18 months after the date on which funds are obligated for the project; and
- (3) is based on the results of preliminary engineering.

(f) COMPETITIVE PROCESS AND EVALUATION OF ELIGIBLE PROJECTS OTHER THAN LARGE PROJECTS.—

(1) COMPETITIVE PROCESS.—

(A) IN GENERAL.—The Secretary shall—

(i) for the first fiscal year for which funds are made available for obligation under the program, not later than 60 days after the date on which the template under subparagraph (B)(i) is developed, and in subsequent fiscal years, not later than 60 days after the date on which amounts are made available for obligation under the program, solicit grant applications for eligible projects other than large projects; and

(ii) not later than 120 days after the date on which the solicitation under clause (i) expires, conduct evaluations under paragraph (3).

(B) REQUIREMENTS.—In carrying out subparagraph (A), the Secretary shall—

(i) develop a template for applicants to use to summarize project needs and benefits, including benefits described in paragraph (3)(B)(i); and

(ii) enable applicants to use data from the National Bridge Inventory under section 144(b) to populate templates described in clause (i), as applicable.

(2) APPLICATIONS.—An eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(3) EVALUATION.—

(A) IN GENERAL.—Prior to providing a grant under this subsection, the Secretary shall—

(i) conduct an evaluation of each eligible project for which an application is received under this subsection; and

(ii) assign a quality rating to the eligible project on the basis of the evaluation under clause (i).

(B) REQUIREMENTS.—In carrying out an evaluation under subparagraph (A), the Secretary shall—

(i) consider information on project benefits submitted by the applicant using the template developed under paragraph (1)(B)(i), including whether the project will generate, as determined by the Secretary—

(I) costs avoided by the prevention of closure or reduced use of the bridge to be improved by the project;

(II) in the case of a bundle of projects, benefits from executing the projects as a bundle compared to as individual projects;

(III) safety benefits, including the reduction of accidents and related costs;

(IV) person and freight mobility benefits, including congestion reduction and reliability improvements;

(V) national or regional economic benefits;

(VI) benefits from long-term resiliency to extreme weather events, flooding, or other natural disasters;

(VII) benefits from protection (as described in section 133(b)(10)), including improving seismic or scour protection;

(VIII) environmental benefits, including wildlife connectivity;

(IX) benefits to nonvehicular and public transportation users;

(X) benefits of using—

(aa) innovative design and construction techniques; or

(bb) innovative technologies; or

(XI) reductions in maintenance costs, including, in the case of a federally-owned bridge, cost savings to the Federal budget; and

(ii) consider whether and the extent to which the benefits, including the benefits described in clause (i), are more likely than not to outweigh the total project costs.

(g) COMPETITIVE PROCESS, EVALUATION, AND ANNUAL REPORT FOR LARGE PROJECTS.—

(1) IN GENERAL.—

(A) APPLICATIONS.—The Secretary shall establish an annual date by which an eligible entity submitting an application for a large project shall submit to the Secretary such information as the Secretary may require, including information described in paragraph (2), in order for a large project to be considered for a recommendation by the Secretary for funding in the next annual report under paragraph (6).

(B) FIRST FISCAL YEAR.—Notwithstanding subparagraph (A), for the first fiscal year for which funds are made available for obligation for grants under the program, the Secretary may establish a date by which an eligible entity submitting an application for a large project shall submit to the Secretary such information as the Secretary may require, including information described in paragraph (2), in order for a large project to be considered for immediate execution of a grant agreement.

(2) INFORMATION REQUIRED.—The information referred to in paragraph (1) includes—

(A) all necessary information required for the Secretary to evaluate the large project; and

(B) information sufficient for the Secretary to determine that—

(i) the large project meets the applicable requirements under this section; and

(ii) there is a reasonable likelihood that the large project will continue to meet the requirements under this section.

(3) DETERMINATION; NOTICE.—On making a determination that information submitted to the Secretary under paragraph (1) is sufficient, the Secretary shall provide a written notice of that determination to—

(A) the eligible entity that submitted the application;

(B) the Committee on Environment and Public Works of the Senate; and

(C) the Committee on Transportation and Infrastructure of the House of Representatives.

(4) **EVALUATION.**—The Secretary may recommend a large project for funding in the annual report under paragraph (6), or, in the case of the first fiscal year for which funds are made available for obligation for grants under the program, immediately execute a grant agreement for a large project, only if the Secretary evaluates the proposed project and determines that the project is justified because the project—

(A) addresses a need to improve the condition of the bridge, as determined by the Secretary, consistent with the goals of the program under subsection (b)(2);

(B) will generate, as determined by the Secretary—

(i) costs avoided by the prevention of closure or reduced use of the bridge to be improved by the project;

(ii) in the case of a bundle of projects, benefits from executing the projects as a bundle compared to as individual projects;

(iii) safety benefits, including the reduction of accidents and related costs;

(iv) person and freight mobility benefits, including congestion reduction and reliability improvements;

(v) national or regional economic benefits;

(vi) benefits from long-term resiliency to extreme weather events, flooding, or other natural disasters;

(vii) benefits from protection (as described in section 133(b)(10)), including improving seismic or scour protection;

(viii) environmental benefits, including wildlife connectivity;

(ix) benefits to nonvehicular and public transportation users;

(x) benefits of using—

(I) innovative design and construction techniques; or

(II) innovative technologies; or

(xi) reductions in maintenance costs, including, in the case of a federally-owned bridge, cost savings to the Federal budget;

(C) is cost effective based on an analysis of whether the benefits and avoided costs described in subparagraph (B) are expected to outweigh the project costs;

(D) is supported by other Federal or non-Federal financial commitments or revenues adequate to fund ongoing maintenance and preservation; and

(E) is consistent with the objectives of an applicable asset management plan of the project sponsor, including a State asset management plan under section 119(e) in the case of a project on the National Highway System that is sponsored by a State.

(5) **RATINGS.**—

(A) **IN GENERAL.**—The Secretary shall develop a methodology to evaluate and rate a large project on a 5-point scale (the points of which include “high”, “medium-high”, “medium”, “medium-low”, and “low”) for each of—

(i) paragraph (4)(B);

(ii) paragraph (4)(C); and

(iii) paragraph (4)(D).

(B) **REQUIREMENT.**—To be considered justified and receive a recommendation for funding in the annual report under paragraph (6), a project shall receive a rating of not less than “medium” for each rating required under subparagraph (A).

(C) **INTERIM METHODOLOGY.**—In the first fiscal year for which funds are made available for obligation for grants under the program, the Secretary may establish an interim methodology to evaluate and rate a large project for each of—

(i) paragraph (4)(B);

(ii) paragraph (4)(C); and

(iii) paragraph (4)(D).

(6) **ANNUAL REPORT ON FUNDING RECOMMENDATIONS FOR LARGE PROJECTS.**—

(A) **IN GENERAL.**—Not later than the first Monday in February of each year, the Secretary shall submit to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Environment and Public Works and Appropriations of the Senate a report that includes—

(i) a list of large projects that have requested a recommendation for funding under a new grant agreement from funds anticipated to be available to carry out this subsection in the next fiscal year;

(ii) the evaluation under paragraph (4) and ratings under paragraph (5) for each project referred to in clause (i);

(iii) the grant amounts that the Secretary recommends providing to large projects in the next fiscal year, including—

(I) scheduled payments under previously signed multiyear grant agreements under subsection (j);

(II) payments for new grant agreements, including single-year grant agreements and multiyear grant agreements; and

(III) a description of how amounts anticipated to be available for the program from the Highway Trust Fund for that fiscal year will be distributed; and

(iv) for each project for which the Secretary recommends a new multiyear grant agreement under subsection (j), the proposed payout schedule for the project.

(B) **LIMITATIONS.**—

(i) **IN GENERAL.**—The Secretary shall not recommend in an annual report under this paragraph a new multiyear grant agreement provided from funds from the Highway Trust Fund unless the Secretary determines that the project can be completed using funds that are anticipated to be available from the Highway Trust Fund in future fiscal years.

(ii) **GENERAL FUND PROJECTS.**—The Secretary—

(I) may recommend for funding in an annual report under this paragraph a large project using funds from the general fund of the Treasury; but

(II) shall not execute a grant agreement for that project unless—

(aa) funds other than from the Highway Trust Fund have been made available for the project; and

(bb) the Secretary determines that the project can be completed using funds other than from the Highway Trust Fund that are anticipated to be available in future fiscal years.

(C) CONSIDERATIONS.—In selecting projects to recommend for funding in the annual report under this paragraph, or, in the case of the first fiscal year for which funds are made available for obligation for grants under the program, projects for immediate execution of a grant agreement, the Secretary shall—

(i) consider the amount of funds available in future fiscal years for multiyear grant agreements as described in subparagraph (B); and

(ii) assume the availability of funds in future fiscal years for multiyear grant agreements that extend beyond the period of authorization based on the amount made available for large projects under the program in the last fiscal year of the period of authorization.

(D) PROJECT DIVERSITY.—In selecting projects to recommend for funding in the annual report under this paragraph, the Secretary shall ensure diversity among projects recommended based on—

(i) the amount of the grant requested; and

(ii) grants for an eligible project for 1 bridge compared to an eligible project that is a bundle of projects.

(h) ELIGIBLE PROJECT COSTS.—A grant received for an eligible project under the program may be used for—

(1) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities;

(2) construction, reconstruction, rehabilitation, acquisition of real property (including land related to the project and improvements to the land), environmental mitigation, construction contingencies, acquisition of equipment, and operational improvements directly related to improving system performance; and

(3) expenses related to the protection (as described in section 133(b)(10)) of a bridge, including seismic or scour protection.

(i) TIFIA PROGRAM.—On the request of an eligible entity carrying out an eligible project, the Secretary may use amounts awarded to the entity to pay subsidy and administrative costs necessary to provide to the entity Federal credit assistance under chapter 6 with respect to the eligible project for which the grant was awarded.

(j) MULTIYEAR GRANT AGREEMENTS FOR LARGE PROJECTS.—

(1) IN GENERAL.—A large project that receives a grant under the program in an amount of not less than \$100,000,000 may be carried out through a multiyear grant agreement in accordance with this subsection.

(2) REQUIREMENTS.—A multiyear grant agreement for a large project described in paragraph (1) shall—

(A) establish the terms of participation by the Federal Government in the project;

(B) establish the maximum amount of Federal financial assistance for the project in accordance with paragraphs (3) and (4) of subsection (c);

(C) establish a payout schedule for the project that provides for disbursement of the full grant amount by not later than 4 fiscal years after the fiscal year in which the initial amount is provided;

(D) determine the period of time for completing the project, even if that period extends beyond the period of an authorization; and

(E) attempt to improve timely and efficient management of the project, consistent with all applicable Federal laws (including regulations).

(3) SPECIAL FINANCIAL RULES.—

(A) IN GENERAL.—A multiyear grant agreement under this subsection—

(i) shall obligate an amount of available budget authority specified in law; and

(ii) may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

(B) STATEMENT OF CONTINGENT COMMITMENT.—The agreement shall state that the contingent commitment is not an obligation of the Federal Government.

(C) INTEREST AND OTHER FINANCING COSTS.—

(i) IN GENERAL.—Interest and other financing costs of carrying out a part of the project within a reasonable time shall be considered a cost of carrying out the project under a multiyear grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing.

(ii) CERTIFICATION.—The applicant shall certify to the Secretary that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

(4) ADVANCE PAYMENT.—Notwithstanding any other provision of law, an eligible entity carrying out a large project under a multiyear grant agreement—

(A) may use funds made available to the eligible entity under this title for eligible project costs of the large project until the amount specified in the multiyear grant agreement for the project for that fiscal year becomes available for obligation; and

(B) if the eligible entity uses funds as described in subparagraph (A), the funds used shall be reimbursed from the amount made available under the multiyear grant agreement for the project.

(k) UNDERTAKING PARTS OF PROJECTS IN ADVANCE UNDER LETTERS OF NO PREJUDICE.—

(1) IN GENERAL.—The Secretary may pay to an applicant all eligible project costs under the program, including costs for an activity for an eligible project incurred prior to the

date on which the project receives funding under the program if—

(A) before the applicant carries out the activity, the Secretary approves through a letter to the applicant the activity in the same manner as the Secretary approves other activities as eligible under the program;

(B) a record of decision, a finding of no significant impact, or a categorical exclusion under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued for the eligible project; and

(C) the activity is carried out without Federal assistance and in accordance with all applicable procedures and requirements.

(2) INTEREST AND OTHER FINANCING COSTS.—

(A) IN GENERAL.—For purposes of paragraph (1), the cost of carrying out an activity for an eligible project includes the amount of interest and other financing costs, including any interest earned and payable on bonds, to the extent interest and other financing costs are expended in carrying out the activity for the eligible project, except that interest and other financing costs may not be more than the cost of the most favorable financing terms reasonably available for the eligible project at the time of borrowing.

(B) CERTIFICATION.—The applicant shall certify to the Secretary that the applicant has shown reasonable diligence in seeking the most favorable financing terms under subparagraph (A).

(3) NO OBLIGATION OR INFLUENCE ON RECOMMENDATIONS.—An approval by the Secretary under paragraph (1)(A) shall not—

(A) constitute an obligation of the Federal Government; or

(B) alter or influence any evaluation under subsection (f)(3)(A)(i) or (g)(4) or any recommendation by the Secretary for funding under the program.

(l) FEDERALLY-OWNED BRIDGES.—

(1) DIVESTITURE CONSIDERATION.—In the case of a bridge owned by a Federal land management agency for which that agency applies for a grant under the program, the agency—

(A) shall consider options to divest the bridge to a State or local entity after completion of the project; and

(B) may apply jointly with the State or local entity to which the bridge may be divested.

(2) TREATMENT.—Notwithstanding any other provision of law, section 129 shall apply to a bridge that was previously owned by a Federal land management agency and has been transferred to a non-Federal entity under paragraph (1) in the same manner as if the bridge was never federally owned.

(m) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, a project assisted under this section shall be treated as a project on a Federal-aid highway under this chapter.

(n) CONGRESSIONAL NOTIFICATION.—Not later than 30 days before making a grant for an eligible project under the program, the Secretary

shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a written notification of the proposed grant that includes—

(1) an evaluation and justification for the eligible project; and

(2) the amount of the proposed grant.

(o) REPORTS.—

(1) ANNUAL REPORT.—Not later than August 1 of each fiscal year, the Secretary shall make available on the website of the Department of Transportation an annual report that lists each eligible project for which a grant has been provided under the program during the fiscal year.

(2) GAO ASSESSMENT AND REPORT.—Not later than 3 years after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Comptroller General of the United States shall—

(A) conduct an assessment of the administrative establishment, solicitation, selection, and justification process with respect to the funding of grants under the program; and

(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes—

(i) the adequacy and fairness of the process under which each eligible project that received a grant under the program was selected; and

(ii) the justification and criteria used for the selection of each eligible project.

(p) LIMITATION.—

(1) LARGE PROJECTS.—Of the amounts made available out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section for each of fiscal years 2022 through 2026, not less than 50 percent, in aggregate, shall be used for large projects.

(2) UNUTILIZED AMOUNTS.—If, in fiscal year 2026, the Secretary determines that grants under the program will not allow for the requirement under paragraph (1) to be met, the Secretary shall use the unutilized amounts to make other grants under the program during that fiscal year.

(q) TRIBAL TRANSPORTATION FACILITY BRIDGE SET ASIDE.—

(1) IN GENERAL.—Of the amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for a fiscal year to carry out this section, the Secretary shall use, to carry out section 202(d)—

(A) \$16,000,000 for fiscal year 2022;

(B) \$18,000,000 for fiscal year 2023;

(C) \$20,000,000 for fiscal year 2024;

(D) \$22,000,000 for fiscal year 2025; and

(E) \$24,000,000 for fiscal year 2026.

(2) TREATMENT.—For purposes of section 201, funds made available for section 202(d) under paragraph (1) shall be considered to be part of the tribal transportation program.

(Added Pub. L. 117-58, div. A, title I, §11118(a), Nov. 15, 2021, 135 Stat. 484.)

**Editorial Notes**

## REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (k)(1)(B), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 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 4321 of Title 42 and Tables.

The date of enactment of the Surface Transportation Reauthorization Act of 2021, referred to in subsec. (o)(2), is the date of enactment of div. A of Pub. L. 117-58, which was approved Nov. 15, 2021.

## PRIOR PROVISIONS

A prior section 124, Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 901; Pub. L. 95-599, title I, §118, Nov. 6, 1978, 92 Stat. 2699; Pub. L. 105-178, title I, §§1212(a)(2)(A)(i), 1226(c), June 9, 1998, 112 Stat. 193; Pub. L. 105-206, title IX, §9003(a), July 22, 1998, 112 Stat. 837, related to advances to States, prior to repeal by Pub. L. 112-141, §3(a), div. A, title I, §1519(b)(1)(A), July 6, 2012, 126 Stat. 413, 575, effective Oct. 1, 2012.

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE

Section effective Oct. 1, 2021, see section 10003 of Pub. L. 117-58, set out as an Effective Date of 2021 Amendment note under section 101 of this title.

**§ 125. Emergency relief**

(a) **IN GENERAL.**—Subject to this section and section 120, an emergency fund is authorized for expenditure by the Secretary for the repair or reconstruction of highways, roads, and trails, in any area of the United States, including Indian reservations, that the Secretary finds have suffered serious damage as a result of—

- (1) a natural disaster over a wide area, such as by a flood, hurricane, tidal wave, earthquake, severe storm, wildfire, or landslide; or
- (2) catastrophic failure from any external cause.

(b) **RESTRICTION ON ELIGIBILITY.**—Funds under this section shall not be used for the repair or reconstruction of a bridge that has been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to a structural deficiency or physical deterioration.

(c) **FUNDING.**—

(1) **IN GENERAL.**—Subject to the limitations described in paragraph (2), there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to establish the fund authorized by this section and to replenish that fund on an annual basis.

(2) **LIMITATIONS.**—The limitations referred to in paragraph (1) are that—

(A) not more than \$100,000,000 is authorized to be obligated in any 1 fiscal year commencing after September 30, 1980, to carry out this section, except that, if for any fiscal year the total of all obligations under this section is less than the amount authorized to be obligated for the fiscal year, the unobligated balance of that amount shall—

- (i) remain available until expended; and
- (ii) be in addition to amounts otherwise available to carry out this section for each year; and

(B)(i) pending such appropriation or replenishment, the Secretary may obligate from any funds appropriated at any time for obligation in accordance with this title, including existing Federal-aid appropriations, such sums as are necessary for the immediate prosecution of the work herein authorized; and

(ii) funds obligated under this subparagraph shall be reimbursed from the appropriation or replenishment.

(d) **ELIGIBILITY.**—

(1) **IN GENERAL.**—The Secretary may expend funds from the emergency fund authorized by this section only for the repair or reconstruction of highways on Federal-aid highways in accordance with this chapter, except that—

(A) no funds shall be so expended unless an emergency has been declared by the Governor of the State with concurrence by the Secretary, unless the President has declared the emergency to be a major disaster for the purposes of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) for which concurrence of the Secretary is not required; and

(B) the Secretary has received an application from the State transportation department that includes a comprehensive list of all eligible project sites and repair costs by not later than 2 years after the natural disaster or catastrophic failure.

(2) **COST LIMITATION.**—

(A) **DEFINITION OF COMPARABLE FACILITY.**—In this paragraph, the term “comparable facility” means a facility that—

- (i) meets the current geometric and construction standards required for the types and volume of traffic that the facility will carry over its design life; and
- (ii) incorporates economically justifiable improvements that will mitigate the risk of recurring damage from extreme weather, flooding, and other natural disasters.

(B) **LIMITATION.**—The total cost of a project funded under this section may not exceed the cost of repair or reconstruction of a comparable facility.

(3) **PROTECTIVE FEATURES.**—

(A) **IN GENERAL.**—The cost of an improvement that is part of a project under this section shall be an eligible expense under this section if the improvement is a protective feature that will mitigate the risk of recurring damage or the cost of future repair from extreme weather, flooding, and other natural disasters.

(B) **PROTECTIVE FEATURES DESCRIBED.**—A protective feature referred to in subparagraph (A) includes—

- (i) raising roadway grades;
- (ii) relocating roadways in a floodplain to higher ground above projected flood elevation levels or away from slide prone areas;
- (iii) stabilizing slide areas;
- (iv) stabilizing slopes;
- (v) lengthening or raising bridges to increase waterway openings;