§ 125. Emergency relief

(a) General Eligibility.— 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 part of the United States, including Indian reservations, that the Secretary finds have suffered serious damage as a result of—

(1) natural disaster over a wide area, such as by a flood, hurricane, tidal wave, earthquake, severe storm, or landslide; or

(2) catastrophic failure from any external cause.

(b) Restriction on Eligibility.— In no event shall funds be used pursuant to this section for the repair or reconstruction of bridges that have 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.— Subject to the following limitations, there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to establish the fund authorized by this section and to replenish it on an annual basis:

(1) Not more than $100,000,000 is authorized to be obligated in any 1 fiscal year commencing after September 30, 1980, to carry out the provisions of this section; except that, if in any fiscal year the total of all obligations under this section is less than the amount authorized to be obligated in such fiscal year, the unobligated balance of such amount shall remain available until expended and shall be in addition to amounts otherwise available to carry out this section each year.

(2) Pending such appropriation or replenishment, the Secretary may obligate from any funds heretofore or hereafter appropriated for obligation in accordance with this title, including existing Federal-aid appropriations, such sums as may be necessary for the immediate prosecution of the work herein authorized. Funds obligated under this paragraph shall be reimbursed from such appropriation or replenishment.

(d) The Secretary may expend funds from the emergency fund herein authorized for the repair or reconstruction of highways on Federal-aid highways in accordance with the provisions of this chapter: Provided, That

(1) obligations for projects under this section, including those on highways, roads, and trails mentioned in subsection (e) of this section, resulting from a single natural disaster or a single catastrophic failure in a State shall not exceed $100,000,000, and

(2) the total obligations for projects under this section in any fiscal year in the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not exceed $20,000,000. Notwithstanding any provision of this chapter actual and necessary costs of maintenance and operation of ferryboats providing temporary substitute highway traffic service, less the amount of fares charged, may be expended from the emergency fund herein authorized on Federal-aid highways. Except as to highways, roads, and trails mentioned in subsection (e) of this section, no funds shall be so expended unless the Secretary has received an application therefor from the State transportation department, and unless an emergency has been declared by the Governor of the State and concurred in by the Secretary, except that if the President has declared such 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.) concurrence of the Secretary is not required.

(e) The Secretary may expend funds from the emergency fund herein authorized, either independently or in cooperation with any other branch of the Government, State agency, organization, or person, for the repair or reconstruction of forest highways, forest development roads and trails, park roads
and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads, whether or not such highways, roads, or trails are Federal-aid highways.

(f) Treatment of Territories.—For purposes of this section, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be considered to be States and parts of the United States, and the chief executive officer of each such territory shall be considered to be a Governor of a State.


References in Text

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (d), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§ 5121 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 5121 of Title 42 and Tables.

Amendments

1998—Subsec. (a). Pub. L. 105–178, § 1113(b)(2), added subsec. (a) and struck out former subsec. (a) which authorized expenditures by Secretary from emergency fund for repair or reconstruction of highways, roads, or trails which have suffered serious damage from natural disasters or catastrophic failures from external sources, including provisions relating to restrictions on eligibility and funding.

Subsecs. (b), (c). Pub. L. 105–178, § 1113(b)(1), (2), added subsecs. (b) and (c) and redesignated former subsecs. (b) and (c) as (d) and (e), respectively.


Pub. L. 105–178, § 1113(b)(3), substituted “reconstruction of highways on Federal-aid highways in accordance” for “reconstruction of highways on the Federal-aid highway systems, including the Interstate System, in accordance” in first sentence, “subsection (e) of this section” for “subsection (c) of this section” in two places, “authorized on Federal-aid highways” for “authorized on the Federal-aid highway systems, including the Interstate System” before period at end of second sentence, and “Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)” for “Disaster Relief and Emergency Assistance Act (Public Law 93–288)” in third sentence.

Pub. L. 105–178, § 1113(b)(1), redesignated subsec. (b) as (d). Former subsec. (d) redesignated (f).


Pub. L. 105–178, § 1113(b)(1), redesignated subsec. (c) as (e).


1991—Subsec. (b)(2). Pub. L. 102–240 substituted “$20,000,000” for “$5,000,000”.


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1987—Subsec. (b). Pub. L. 100–17, § 133(b)(9)(A), substituted “the Federal-aid highway systems, including the Interstate System” for “the Federal-aid highway systems, including the Interstate System, the Primary System, and on any routes functionally classified as arterials or major collectors” in two places.

Pub. L. 100–17, § 118(a)(1), substituted “in a State shall not exceed $100,000,000.” for “shall not exceed $30,000,000 ($55,000,000 for projects in connection with disasters or failures occurring in calendar year 1985) in any State.”

Pub. L. 100–17, § 118(b)(2), designated existing provisions related to limitations placed upon obligations for projects under this section as cl. (1) and added cl. (2).

Subsec. (c). Pub. L. 100–17, § 133(b)(9)(B), substituted “on any of the Federal-aid highway systems” for “routes functionally classified as arterials or major collectors”.


1983—Subsec. (a). Pub. L. 97–424, § 153(a)(1), inserted “(1)” before “the repair or reconstruction of highways”, and substituted “Secretary” for “he” before “shall find have suffered”; (A) and (B) for (1) and (2), respectively; “In no event shall funds be used pursuant to this section for the” for “and (2)”; and “or responsible local official” for “after December 31, 1967, and prior to December 31, 1970,”.


Pub. L. 97–424, § 153(c), inserted “and not more than $100,000,000 is authorized to be expended in any one fiscal year commencing after September 30, 1976,” after “after September 30, 1976,”.

Subsec. (b). Pub. L. 97–424, § 153(d), inserted proviso establishing a $30,000,000 limit for obligations relating to a single natural disaster in any one State.

Pub. L. 97–424, § 153(h)(1), substituted “the Interstate System, the Primary System, and on any routes functionally classified as arterials or major collectors,” for “the Federal-aid highway systems, including the Interstate System”, wherever appearing.

Subsec. (c). Pub. L. 97–424, § 153(h)(2), substituted “routes functionally classified as arterials or major collectors” for “on any of the Federal-aid highway systems”.

1979—Subsec. (b). Pub. L. 96–106 inserted provision that notwithstanding any provision of this chapter actual and necessary costs of maintenance and operation of ferryboats providing temporary substitute highway traffic service, less the amount of fares charged, may be expended from the emergency fund herein authorized on the Federal-aid highway systems, including the Interstate System.


1976—Subsec. (a). Pub. L. 94–280, § 119(a)(1)–(3), inserted “, and ending before June 1, 1976,” after “June 30, 1972,”, authorized expenditure of not more than $25,000,000 for the three-month period beginning July 1, 1976, and ending September 30, 1976, and not more than $100,000,000 in any one fiscal year commencing after September 30, 1976, and inserted provision that for the purposes of this section the period beginning July 1, 1976, and ending September 30, 1976, shall be deemed to be a part of the fiscal year ending September 30, 1977.

Subsec. (b). Pub. L. 94–280, § 119(b), excepted from the requirement of a concurrence by the Secretary an emergency declared by the President to be a major disaster for purposes of the Disaster Relief Act of 1974.


1970—Subsec. (a). Pub. L. 91–605 provided emergency relief for the repair or reconstruction of bridges which have been permanently closed to all vehicular traffic by the State after December 31, 1967, and prior to December 31, 1970, because of imminent danger of collapse due to structural deficiencies or physical deterioration.

1968—Subsec. (a). Pub. L. 90–495 permitted the use of the emergency fund for repair or construction caused by other than natural catastrophes.

1966—Subsec. (a). Pub. L. 89–574, § 9(c), raised from $30,000,000 to $50,000,000 the upper limit on allowable annual appropriations to establish and replenish the fund, provided that, if, in any fiscal year the total of all expenditures under this section is less than $50,000,000, the unexpended balance of such amount shall remain available for expenditure during the next two succeeding fiscal years in addition to amount otherwise available, and provided that 60 per centum
of the expenditures under this section are authorized to be appropriated from the Highway Trust Fund and the remaining
40 per centum of such expenditures are authorized to be appropriated only from any monies in the Treasury not
otherwise appropriated.

Subsec. (c). Pub. L. 89–574, § 9(b), added parkways, public lands highways, public lands development roads, and
trails to the list of types of roads the repair or reconstruction of which may be paid for out of the emergency fund.

1959—Pub. L. 86–342, among other changes, made expenditures from the emergency fund subject to the provisions
of section 120 of this title, and permitted the Secretary to expend funds from the emergency fund, either independently
or in cooperation with any other branch of the Government, State agency, organization, or person, for the repair or
reconstruction of forest highways, forest development roads and trails, park roads and trails, and Indian reservation
roads, whether or not such highways, roads, or trails are on any of the Federal-aid highway systems.

Effective Date of 1991 Amendment

Amendment by Pub. L. 102–240 applicable only to natural disasters and catastrophic failures occurring after Dec. 18,
1991, see section 1022(c) of Pub. L. 102–240, set out as a note under section 120 of this title.

Effective Date of 1987 Amendment

Section 118(a)(2) of Pub. L. 100–17 provided that: “The amendment made by paragraph (1) [amending this section]
shall apply with respect to natural disasters and catastrophic failures occurring after December 31, 1985.”

Section 118(b)(3) of Pub. L. 100–17 provided that: “The amendments made by paragraphs (1) and (2) [amending this
section] shall take effect on the date of the enactment of this Act [Apr. 2, 1987].”

Effective Date of 1983 Amendment

Section 153(e) of Pub. L. 97–424 provided that: “The amendments made by subsection (d) of this section [amending
this section] shall apply to natural disasters or catastrophic failures which the Secretary finds eligible for emergency
relief subsequent to the date of enactment of this section [Jan. 6, 1983].”

Effective Date of 1968 Amendment

Section 27(c) of Pub. L. 90–495 provided that: “The amendments made by this section [amending this section and
section 120 of this title] shall be applicable to repair or reconstruction with respect to which project agreements have
been entered into on or after January 1, 1968.”

Effective Date of 1966 Amendment

Section 9(d) of Pub. L. 89–574 provided that: “The amendments made by this section [amending this section] shall
take effect July 1, 1966.”

Expenditures Made Prior to Fiscal Year Ending September 30, 1978;
Appropriation From Highway Trust Fund

Section 153(b) of Pub. L. 97–424 provided that: “Notwithstanding any other provision of law, all expenditures made
under section 125 of title 23, United States Code, prior to the fiscal year ending September 30, 1978, are authorized
to have been appropriated from the Highway Trust Fund.”