

115TH CONGRESS
2D SESSION

S. 2279

To amend title 23, United States Code, to establish a competitive grant program to repair, improve, rehabilitate, or replace bridges to improve the safety, efficiency, and reliability of the movement of people and freight over bridge crossings, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 4, 2018

Mr. BROWN (for himself, Mr. WHITEHOUSE, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend title 23, United States Code, to establish a competitive grant program to repair, improve, rehabilitate, or replace bridges to improve the safety, efficiency, and reliability of the movement of people and freight over bridge crossings, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Bridge Investment
5 Act”.

1 **SEC. 2. BRIDGE INVESTMENT PROGRAM.**

2 (a) IN GENERAL.—Title 23, United States Code, is
3 amended by inserting after section 123 the following:

4 **“§ 124. Bridge investment program**

5 “(a) DEFINITIONS.—In this section:

6 “(1) ELIGIBLE PROJECT.—The term ‘eligible
7 project’ means—

8 “(A) a large project to repair, improve, re-
9 habilitate, or replace a bridge on a public road;

10 “(B) a medium or small project to repair,
11 improve, rehabilitate, or replace a bridge on a
12 public road; and

13 “(C) a program of medium or small
14 projects to repair, improve, rehabilitate, or re-
15 place a bridge on a public road.

16 “(2) LARGE PROJECT.—The term ‘large
17 project’ means a project with total eligible project
18 costs, as determined by the Secretary under sub-
19 section (j), of greater than \$100,000,000.

20 “(3) MEDIUM OR SMALL PROJECT.—The term
21 ‘medium or small project’ means a project with total
22 eligible project costs, as determined by the Secretary
23 under subsection (j), equal to or less than
24 \$100,000,000.

1 “(4) NATIONALLY OR REGIONALLY SIGNIFI-
 2 CANT PROJECT.—The term ‘nationally or regionally
 3 significant project’ means a large project—

4 “(A) for which an eligible applicant seeks
 5 more than \$500,000,000 of assistance under
 6 this section; and

7 “(B) that addresses significant national or
 8 regional needs, as determined by the Secretary.

9 “(5) PROGRAM.—The term ‘program’ means
 10 the bridge investment program established by sub-
 11 section (b)(1).

12 “(6) PROGRAM OF MEDIUM OR SMALL
 13 PROJECTS.—The term ‘program of medium or small
 14 projects’ means the simultaneous development of 2
 15 of more medium or small projects for which the total
 16 eligible project costs, as determined by the Secretary
 17 under subsection (j) for all projects, are equal to or
 18 less than \$100,000,000.

19 “(7) RURAL AREA.—The term ‘rural area’
 20 means an area that is outside an urbanized area
 21 with a population of over 200,000.

22 “(b) ESTABLISHMENT OF PROGRAM.—

23 “(1) IN GENERAL.—There is established a
 24 bridge investment program to provide financial as-
 25 sistance for eligible projects under this section.

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

3 “(A) to repair, improve, rehabilitate, or re-
4 place bridges to improve the safety, efficiency,
5 and reliability of the movement of people and
6 freight over bridges;

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

9 “(i) the number of bridges in need of
10 significant repairs;

11 “(ii) the number of bridges with de-
12 signs that do not meet applicable engineer-
13 ing standards that are current as of the
14 date of review of the designs;

15 “(iii) the number of bridges with de-
16 signs that are not suitable for the use (as
17 determined on the date of review of the de-
18 signs) of those bridges; and

19 “(iv) the number of bridges with
20 structural elements the failure of which
21 would cause the bridge or a portion of the
22 bridge to collapse; and

23 “(C) to provide financial assistance that
24 leverages and encourages non-Federal contribu-
25 tions from sponsors and stakeholders involved

1 in the planning, development, and construction
2 of eligible projects.

3 “(c) GRANT AUTHORITY.—

4 “(1) IN GENERAL.—In carrying out the pro-
5 gram, the Secretary may award grants, on a com-
6 petitive basis, in accordance with this section.

7 “(2) GRANT AMOUNTS.—Except as otherwise
8 provided, a grant under this program shall be—

9 “(A) in the case of a large project, not less
10 than \$40,000,000; and

11 “(B) in the case of a medium or small
12 project or a program of medium or small
13 projects, not less than \$2,500,000.

14 “(3) MINIMUM AMOUNT.—Except as otherwise
15 provided, for an eligible project receiving assistance
16 under the program, the total amount of assistance
17 provided by the Secretary under this section shall be
18 not less than 40 percent of total eligible project
19 costs, as determined by the Secretary under sub-
20 section (j), unless the eligible applicant requests a
21 smaller amount of assistance.

22 “(4) DISTRIBUTION OF GRANTS.—

23 “(A) GRANTS LESS THAN \$100,000,000.—To
24 the maximum extent practicable, if the Sec-
25 retary awards for an eligible project a grant in

1 an amount less than \$100,000,000, the funds
2 shall be made available in 1 distribution.

3 “(B) GRANTS EQUAL TO OR GREATER
4 THAN \$100,000,000.—To the maximum extent
5 practicable, if the Secretary awards for an eligi-
6 ble project a grant in an amount equal to or
7 greater than \$100,000,000, the funds shall be
8 made available in accordance with a multiyear
9 grant agreement under subsection (m).

10 “(d) ELIGIBLE APPLICANTS.—

11 “(1) IN GENERAL.—The Secretary may make a
12 grant under the program to any of the following:

13 “(A) A State or a group of States.

14 “(B) A metropolitan planning organization
15 that serves an urbanized area (as defined by
16 the Bureau of the Census).

17 “(C) A unit of local government or a group
18 of local governments.

19 “(D) A political subdivision of a State or
20 local government.

21 “(E) A special purpose district or public
22 authority with a transportation function.

23 “(F) A Federal land management agency
24 that applies jointly with a State or group of
25 States.

1 “(G) An Indian tribe.

2 “(H) A multistate or multijurisdictional
3 group of entities described in subparagraphs
4 (A) through (G).

5 “(2) APPLICATIONS.—To be eligible for a grant
6 under the program, an eligible entity shall submit to
7 the Secretary an application in such form, at such
8 time, and containing such information as the Sec-
9 retary determines to be appropriate.

10 “(e) ELIGIBLE PROJECT REQUIREMENTS.—The Sec-
11 retary may make a grant under the program only for an
12 eligible project that—

13 “(1) the Secretary determines is justified based
14 on an evaluation under subsection (g) or (h), as ap-
15 plicable;

16 “(2) the Secretary recommends for funding in
17 the annual report on funding recommendations
18 under subsection (i);

19 “(3) is reasonably expected to begin construc-
20 tion not later than 18 months after the date on
21 which funds are obligated for the project; and

22 “(4) is based on—

23 “(A) the results of preliminary engineer-
24 ing; or

1 “(B) asset management planning that in-
 2 cludes a reasonable cost estimate for a noncom-
 3 plex project or noncomplex elements of a pro-
 4 gram of medium or small projects.

5 “(f) PROJECT PHASES.—

6 “(1) PROJECT DEVELOPMENT PHASE.—

7 “(A) IN GENERAL.—A project shall be con-
 8 sidered to have entered the project development
 9 phase if—

10 “(i) an eligible entity under subsection
 11 (d)(1)—

12 “(I) submits an application to
 13 the Secretary describing the project
 14 and requesting entry into the project
 15 development phase; and

16 “(II) activities required to be car-
 17 ried out under the National Environ-
 18 mental Policy Act of 1969 (42 U.S.C.
 19 4321 et seq.) with respect to the
 20 project have been initiated; and

21 “(ii) not later than 45 days after the
 22 date on which the Secretary receives the
 23 application under clause (i)(I), the Sec-
 24 retary—

1 “(I) provides to the applicant
2 written notice that the information
3 provided is sufficient to enter into the
4 project development phase; and

5 “(II) submits to the Committee
6 on Environment and Public Works of
7 the Senate and the Committee on
8 Transportation and Infrastructure of
9 the House of Representatives a writ-
10 ten notice that the project is entering
11 the project development phase.

12 “(B) ACTIVITIES DURING PROJECT DEVEL-
13 OPMENT PHASE.—Concurrent with the analysis
14 required to be made under the National Envi-
15 ronmental Policy Act of 1969 (42 U.S.C. 4321
16 et seq.), each applicant shall develop sufficient
17 information to enable the Secretary to evaluate
18 the project under subsection (g) or (h), as ap-
19 plicable.

20 “(C) COMPLETION OF PROJECT DEVELOP-
21 MENT ACTIVITIES REQUIRED.—

22 “(i) IN GENERAL.—Not later than 1
23 year after the date on which a project en-
24 ters the project development phase, the ap-
25 plicant shall—

1 “(I) complete the activities re-
 2 quired for the Secretary to evaluate
 3 the project under subsection (g) or
 4 (h), as applicable; and

5 “(II) submit to the Secretary
 6 documentation of the completion of
 7 those activities.

8 “(ii) EXTENSION OF TIME.—On the
 9 request of an applicant, the Secretary may
 10 extend the time period under clause (i), if
 11 the applicant submits to the Secretary—

12 “(I) a reasonable plan for com-
 13 pleting the activities required under
 14 this paragraph; and

15 “(II) an estimated time period
 16 within which the applicant will com-
 17 plete the activities.

18 “(2) POST-EVALUATION AND FINAL DEVELOP-
 19 MENT PHASE.—A project shall be considered to be
 20 in the post-evaluation and final development phase if
 21 the Secretary, in the annual report under subsection
 22 (i)—

23 “(A) determines the project is justified
 24 under subsection (g) or (h), as applicable; and

1 “(B) recommends a grant amount under
2 this section in accordance with subsection (c)
3 for the project.

4 “(3) PROJECT ADVANCEMENT.—A proposed
5 project may not advance from the project develop-
6 ment phase to the post-evaluation and final develop-
7 ment phase, or from the post-evaluation and final
8 development phase, to the construction phase, unless
9 the Secretary determines that—

10 “(A) the project meets the applicable re-
11 quirements under this section; and

12 “(B) there is a reasonable likelihood that
13 the project will continue to meet the require-
14 ments under this section.

15 “(g) EVALUATION OF LARGE PROJECTS.—

16 “(1) IN GENERAL.—The Secretary may select a
17 large project for a grant under the program only if
18 the Secretary evaluates the proposed project and de-
19 termines that the project is justified because the
20 project—

21 “(A) in the case of a rehabilitation or im-
22 provement project, addresses a need to improve
23 the condition of the bridge, as determined by
24 the Secretary, by—

1 “(i) undertaking significant repairs
2 and improvements, including any repairs
3 that address conditions that caused the
4 Secretary to identify the bridge as struc-
5 turally deficient under section 144(b);

6 “(ii) updating features that do not
7 meet applicable engineering standards that
8 are current as of the date of review of the
9 features for the use of the bridge; or

10 “(iii) improving structural elements
11 the failure of which would cause the
12 bridge, or a portion of the bridge, to col-
13 lapse;

14 “(B) in the case of a replacement project,
15 will obviate a need, as determined by the Sec-
16 retary—

17 “(i) to undertake significant repairs
18 and improvements, including any repairs
19 that address conditions that caused the
20 Secretary to identify the bridge as struc-
21 turally deficient under section 144(b);

22 “(ii) to update features that do not
23 meet applicable engineering standards that
24 are current as of the date of review of the
25 features for the use of the bridge; or

1 “(iii) to improve structural elements
2 the failure of which would cause the
3 bridge, or a portion of the bridge, to col-
4 lapse;

5 “(C) will generate, as determined by the
6 Secretary, measurable—

7 “(i) benefits derived from the preven-
8 tion of closure or reduced use of a bridge
9 to be rehabilitated, improved, or replaced;

10 “(ii) safety benefits, including the re-
11 duction of accidents and related costs;

12 “(iii) mobility benefits, including con-
13 gestion reduction;

14 “(iv) national or regional economic
15 benefits;

16 “(v) benefits from long-term resiliency
17 to extreme weather, flooding, or sea level
18 rise;

19 “(vi) benefits from addressing seismic
20 vulnerability;

21 “(vii) environmental benefits; or

22 “(viii) benefits to nonvehicular and
23 public transportation users;

24 “(D) is supported by an acceptable degree
25 of non-Federal financial commitment, including

1 stable and dependable sources of funding and
2 financing;

3 “(E) is included in, and consistent with the
4 goals of, applicable asset management plans of
5 the project sponsor, including a State asset
6 management plan under section 119(e) in the
7 case of a project sponsored by a State; and

8 “(F) on completion and subsequent oper-
9 ation, will not reduce support, including the use
10 of Federal and non-Federal contributions, by
11 the project sponsor or other governmental enti-
12 ties in the region of the project for the repair
13 and maintenance of transportation facilities eli-
14 gible for assistance under this title.

15 “(2) RATINGS.—

16 “(A) IN GENERAL.—The Secretary shall
17 develop a methodology to evaluate and rate a
18 project under this subsection on a 5-point scale
19 (the points of which include ‘high’, ‘medium-
20 high’, ‘medium’, ‘medium-low’, and ‘low’) for
21 each of—

22 “(i) subparagraph (A) or (B) of para-
23 graph (1), as applicable;

24 “(ii) paragraph (1)(C); and

25 “(iii) paragraph (1)(D).

“(B) REQUIREMENT.—To be eligible for a grant under this subsection, a project shall receive a rating of not less than ‘medium’ under each of—

“(i) subparagraph (A) or (B) of paragraph (1), as applicable;

“(ii) paragraph (1)(C); and

“(iii) paragraph (1)(D).

“(C) EVALUATING CERTAIN PROJECTS.—In evaluating and rating a project under this paragraph with respect to the benefits described in paragraph (1)(C)—

“(i) except as provided in clause (ii), the Secretary shall evaluate the category of benefit described in each of clauses (i) through (vii) of that paragraph on a 5-point scale described in subparagraph (A);

“(ii) in any case in which the project sponsor determines that a category of benefit referred to in clause (i) shall not be applicable to a proposed project, the Secretary shall not assign a rating to the category; and

“(iii) for a project to receive a cumulative rating of ‘medium’ for that para-

graph, the Secretary shall not require a minimum level of benefits from any single category of benefit described in any of clauses (i) through (vii) of that paragraph.

“(D) NON-FEDERAL FINANCIAL REQUIREMENT.—In determining if a project is justified for purposes of paragraph (1)(D), the Secretary shall require that—

“(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases or funding shortfalls; and

“(ii) each proposed non-Federal source of capital and operating funding and financing is stable, reliable, and available within the proposed project timetable.

“(E) EVALUATION OF NON-FEDERAL FINANCIAL COMMITMENT.—In assessing the stability, reliability, and availability of proposed sources of proposed sources of non-Federal funding and financing for purposes of paragraph (1)(D), the Secretary shall consider—

“(i) the reliability of the forecasting methods used to estimate costs and reve-

1 nues made by the applicant and the con-
2 tractors of the applicant;

3 “(ii) existing grant commitments;

4 “(iii) the degree to which financing
5 sources are dedicated to the proposed pur-
6 poses;

7 “(iv) any debt obligation that exists,
8 or is proposed by the applicant, for the
9 proposed project or other purpose;

10 “(v) the extent to which the project
11 has a non-Federal financial commitment
12 that exceeds the required non-Federal
13 share of the cost of the project; and

14 “(vi) the extent to which the eligible
15 applicant, project partners, or the entity
16 that will operate the bridge following com-
17 pletion of the project will have sufficient fi-
18 nancial resources to maintain or improve
19 the condition of bridges under the control
20 of that entity, including the bridge to be
21 repaired, improved or replaced under the
22 program following project completion.

23 “(h) EVALUATION OF MEDIUM OR SMALL
24 PROJECTS.—

1 “(1) IN GENERAL.—The Secretary may select a
2 medium or small project or a program of medium or
3 small projects for a grant under the program only
4 if the Secretary evaluates the proposed project and
5 determines that the project is justified because the
6 project—

7 “(A) in the case of a rehabilitation project,
8 addresses a need, as determined by the Sec-
9 retary, to improve the condition of the bridge
10 by—

11 “(i) undertaking significant repairs
12 and improvements, including any repairs
13 that address conditions that caused the
14 Secretary to identify the bridge as struc-
15 turally deficient under section 144(b);

16 “(ii) updating features that do not
17 meet applicable engineering standards that
18 are current as of the date of review of the
19 features for the use of the bridge; or

20 “(iii) improving structural elements
21 the failure of which would cause the
22 bridge, or a portion of the bridge, to col-
23 lapse;

24 “(B) in the case of a replacement or im-
25 provement project—

1 “(i) will obviate a need, as determined
2 by the Secretary—

3 “(I) to undertake significant re-
4 pairs and improvements, including
5 any repairs that address conditions
6 that caused the Secretary to identify
7 the bridge as structurally deficient
8 under section 144(b);

9 “(II) to update features that do
10 not meet applicable engineering stand-
11 ards that are current as of the date of
12 review of the features for the use of
13 the bridge; or

14 “(III) to improve structural ele-
15 ments the failure of which would
16 cause the bridge or a portion of the
17 bridge to collapse;

18 “(C) in the case of a project for which the
19 project sponsor requests a grant in an amount
20 greater than \$25,000,000 under this section,
21 will generate, as determined by the Secretary,
22 measurable—

23 “(i) benefits derived from the preven-
24 tion of closure or reduced use of a bridge

1 or bridges to be rehabilitated, improved, or
 2 replaced;

3 “(ii) benefits from executing a pro-
 4 gram of medium or small projects com-
 5 pared to traditionally delivered projects;

6 “(iii) safety benefits, including the re-
 7 duction of accidents and related costs;

8 “(iv) mobility benefits, including con-
 9 gestion reduction;

10 “(v) economic benefits;

11 “(vi) benefits from long-term resil-
 12 iency to extreme weather, flooding, or sea
 13 level rise;

14 “(vii) benefits from addressing seismic
 15 vulnerability;

16 “(viii) environmental benefits; or

17 “(ix) benefits to nonvehicular and
 18 public transportation users;

19 “(D) is supported by an acceptable degree
 20 of non-Federal financial commitment, including
 21 stable and dependable sources of funding and
 22 financing;

23 “(E) is included in, and consistent with the
 24 goals of, applicable asset management plans of
 25 the sponsor, including a State asset manage-

ment plan under section 119(e), in the case of
a project sponsored by a State; and

“(F) on completion and subsequent operation, will not reduce support by the project sponsor for the repair and maintenance of transportation facilities eligible under this title.

“(2) RATINGS.—

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

“(i) subparagraph (A) or (B) of paragraph (1), as applicable;

“(ii) paragraph (1)(C), if applicable;
and

“(iii) paragraph (1)(D).

“(B) REQUIREMENT.—To be eligible for a grant under this subsection, a project shall receive a rating of not less than ‘medium’ under each of—

“(i) subparagraph (A) or (B) of paragraph (1), as applicable;

1 “(ii) paragraph (1)(C), if applicable;

2 and

3 “(iii) paragraph (1)(D).

4 “(C) EVALUATING CERTAIN PROJECTS.—

5 In evaluating and rating a project under this
6 paragraph with respect to the benefits described
7 in paragraph (1)(C)—

8 “(i) except as provided in clause (ii),
9 the Secretary shall evaluate the category of
10 benefit described in each of clauses (i)
11 through (viii) of that paragraph on a 5-
12 point scale described in subparagraph (A);

13 “(ii) in any case in which the project
14 sponsor determines that a category of ben-
15 efit referred to in clause (i) shall not be
16 applicable to a proposed project, the Sec-
17 retary shall not assign a rating to the cat-
18 egory; and

19 “(iii) for a project to receive a cumu-
20 lative rating of ‘medium’ for that para-
21 graph, the Secretary shall not require a
22 minimum level of benefits from any single
23 category of benefit described in any of
24 clauses (i) through (viii) of that paragraph.

25 “(D) OPTIONAL BENEFIT EVALUATION.—

1 “(i) IN GENERAL.—In the case of a
2 project for which the project sponsor re-
3 quests a grant in an amount of
4 \$25,000,000 or less under this section, the
5 project sponsor may request that the Sec-
6 retary carry out an evaluation described in
7 paragraph (1)(C).

8 “(ii) CONSIDERATION.—If a project
9 sponsor requests an evaluation under
10 clause (i), the evaluation shall be consid-
11 ered by the Secretary in making funding
12 recommendations under subsection (i).

13 “(E) NON-FEDERAL FINANCIAL REQUIRE-
14 MENT.—In determining if a project is justified
15 for purposes of paragraph (1)(D), the Secretary
16 shall require that each proposed non-Federal
17 source of capital and operating funding and fi-
18 nancing is stable, reliable, and available within
19 the proposed project timetable.

20 “(F) EVALUATION OF NON-FEDERAL FI-
21 NANCIAL COMMITMENT.—In the case of a
22 project for which the project sponsor requests a
23 grant in an amount greater than \$25,000,000
24 under this section, in assessing the stability, re-
25 liability, and availability of proposed sources of

1 proposed sources of non-Federal funding and fi-
2 nancing for purposes of paragraph (1)(D), the
3 Secretary shall consider—

4 “(i) the extent to which the project
5 has a non-Federal financial commitment
6 that exceeds the required non-Federal
7 share of the cost of the project; and

8 “(ii) the extent to which the eligible
9 applicant, project partners, or the entity
10 that will operate the bridge following com-
11 pletion of the project will have sufficient fi-
12 nancial resources to maintain or improve
13 the condition of bridges under the control
14 of that entity, including the bridge to be
15 repaired, improved or replaced under the
16 program following project completion.

17 “(i) ANNUAL REPORT ON FUNDING RECOMMENDA-
18 TIONS.—

19 “(1) IN GENERAL.—Not later than the first
20 Monday in February of each year, the Secretary
21 shall submit to the Committee on Transportation
22 and Infrastructure of the House of Representatives
23 and the Committee on Environment and Public
24 Works of the Senate a report that includes—

1 “(A) a list of projects that have entered
2 the project development phase under subsection
3 (f)(1);

4 “(B) a list of projects—

5 “(i) that have a signed multiyear
6 grant agreement under subsection (m) and
7 the amounts that the Secretary anticipates
8 distributing for those projects based on the
9 payout schedules in the multiyear grant
10 agreements from funds anticipated to be
11 available under this section for the next
12 fiscal year; and

13 “(ii) for which the Secretary antici-
14 pates signing a multiyear grant agreement
15 under subsection (m), including—

16 “(I) any projects based on a
17 prior recommendation from a report
18 under this subsection; and

19 “(II) the amounts that the Sec-
20 retary anticipates distributing for the
21 projects based on the payout sched-
22 ules in a multiyear grant agreement
23 from funds anticipated to be available
24 under this section for the following
25 fiscal year and future fiscal years;

1 “(C) a list of projects—

2 “(i) that received a single year grant
3 under subsection (c)(4)(A) and the
4 amounts the Secretary distributed to those
5 projects; and

6 “(ii) to which the Secretary antici-
7 pates awarding a grant under subsection
8 (c)(4)(A), including—

9 “(I) any projects based on a
10 prior recommendation from a report
11 under this subsection; and

12 “(II) the amounts the Secretary
13 intends to distribute to the projects;
14 and

15 “(D) in the case of a project that has en-
16 tered the post-evaluation and final development
17 phase under subsection (f)(2), as part of the
18 lists under subparagraphs (B) and (C), as ap-
19 plicable—

20 “(i) the evaluations and ratings under
21 subsections (g) and (h), as applicable, for
22 each project, used to determine whether
23 the project is justified; and

24 “(ii) a recommended amount of Fed-
25 eral assistance for each project from funds

1 anticipated to be available under this sec-
2 tion for the next fiscal year.

3 “(2) CONSIDERATIONS.—In making rec-
4 ommendations for funding under paragraph
5 (1)(D)(ii), the Secretary—

6 “(A) shall consider the need for a balance
7 between the needs of rural and urban commu-
8 nities;

9 “(B) shall allocate not less than 20 percent
10 of the amount anticipated to be available for
11 grants under the program for each fiscal year
12 to projects in rural areas;

13 “(C) shall allocate not less than 20 percent
14 of the amount anticipated to be available for
15 grants under the program for each fiscal year
16 to projects for off-system bridges under section
17 133(f);

18 “(D) shall allocate not less than 40 percent
19 of the amount anticipated to be available for
20 grants under the program for each fiscal year
21 to large projects;

22 “(E) shall allocate not less than 20 percent
23 of the amount anticipated to be available for
24 grants under the program for each fiscal year

1 to nationally or regionally significant projects;
 2 and

3 “(F) may consider use of innovative design
 4 and construction techniques, or innovative tech-
 5 nologies.

6 “(3) EXCESS FUNDING.—

7 “(A) IN GENERAL.—In any fiscal year in
 8 which the Secretary determines that the total
 9 amounts allocated for any of subparagraphs (B)
 10 through (E) of paragraph (2) will not be award-
 11 ed in the next fiscal year, the Secretary shall
 12 use the unutilized amounts to make other
 13 grants under the program.

14 “(B) EXPLANATION.—If the Secretary
 15 makes a determination described in subpara-
 16 graph (A), the Secretary shall include in the
 17 annual report under paragraph (1) an expla-
 18 nation as to why the allocated amounts will not
 19 be awarded.

20 “(4) PRIVATE SECTOR PARTICIPATION.—The
 21 extent of private sector participation in projects that
 22 receive a grant under the program, including the use
 23 of nontraditional financing—

24 “(A) shall be determined by State and
 25 local policies, criteria, and decisionmaking; and

1 “(B) shall not alter or influence any eval-
 2 uation under subsection (g) or (h) or rec-
 3 ommendation for funding under this section by
 4 the Secretary.

5 “(5) DEADLINE FOR EVALUATION.—To the
 6 maximum extent practicable, the Secretary shall es-
 7 tablish an annual date by which, for a project to be
 8 recommended by the Secretary for funding in the
 9 next annual report under paragraph (1), an appli-
 10 cant shall complete the activities required for the
 11 Secretary to evaluate the project under subsection
 12 (g) or (h), as applicable, and submit to the Secretary
 13 documentation of the completion of those activities.

14 “(j) ELIGIBLE PROJECT COSTS.—

15 “(1) IN GENERAL.—A grant received for an eli-
 16 gible project under the program may be used for—

17 “(A) development phase activities, includ-
 18 ing planning, feasibility analysis, revenue fore-
 19 casting, environmental review, preliminary engi-
 20 neering and design work, and other
 21 preconstruction activities;

22 “(B) construction, reconstruction, rehabili-
 23 tation, acquisition of real property (including
 24 land related to the project and improvements to
 25 the land), environmental mitigation, construc-

tion contingencies, acquisition of equipment,
and operational improvements directly related
to improving system performance;

“(C) expenses related to access roads and
structures, including interchanges, related to
the bridge to be replaced or rehabilitated that
are necessary for the efficient operation of the
bridge or delivery of measurable benefits fol-
lowing completion of the project;

“(D) project elements, infrastructure, and
features that facilitate crossing or access for
public transportation, bicycle traffic, and pedes-
trians;

“(E) advanced transportation, safety, and
congestion management technologies that are
necessary for the efficient operation of the
bridge or delivery of measurable benefits fol-
lowing completion of the project, including ad-
vanced traveler information systems, advanced
transportation management technologies, infra-
structure maintenance and condition assess-
ment technologies, transportation system per-
formance and monitoring technologies, ad-
vanced safety systems, technologies associated

1 with autonomous vehicles, or collision avoidance
 2 technologies;

3 “(F) expenses related to seismic retrofits
 4 of bridges; and

5 “(G) expenses related to the installation of
 6 fiber optic cable or other communication tech-
 7 nology that benefits the public.

8 “(2) CALCULATION.—In calculating the total el-
 9 igible costs for a project, the Secretary shall include
 10 the cost of all activities described in paragraph (1),
 11 regardless of the source of funding or financing used
 12 by an eligible applicant to carry out a project.

13 “(k) FEDERAL SHARE.—

14 “(1) IN GENERAL.—The Federal share of the
 15 cost of a project for which a grant is provided under
 16 the program may not exceed—

17 “(A) in the case of a large project—

18 “(i) 80 percent of eligible project
 19 costs, as determined by the Secretary
 20 under subsection (j), for the first
 21 \$100,000,000; and

22 “(ii) 60 percent of eligible project
 23 costs, as determined by the Secretary
 24 under subsection (j), for additional project
 25 costs; and

1 “(B) in the case of a medium or small
 2 project or a program of medium or small
 3 projects, 80 percent of total eligible project
 4 costs, as determined by the Secretary under
 5 subsection (j).

6 “(2) MAXIMUM FEDERAL INVOLVEMENT.—Fed-
 7 eral assistance other than a grant under the pro-
 8 gram may be used to satisfy the non-Federal share
 9 of the cost of a project for which a grant is made,
 10 except that the total Federal assistance provided for
 11 a project receiving a grant under the program may
 12 not exceed 80 percent of the total eligible project
 13 costs, as determined by the Secretary under sub-
 14 section (j).

15 “(3) EXCEPTIONS.—

16 “(A) CERTAIN STATES.—In the case of
 17 project for which a grant is provided under the
 18 program in a State described in section
 19 120(b)(1)—

20 “(i) the Federal share of the cost of
 21 the project shall be calculated in accord-
 22 ance with the formula under that section;
 23 and

1 “(ii) the total Federal assistance for
 2 the project shall be calculated in accord-
 3 ance with the formula under that section.

4 “(B) OFF-SYSTEM BRIDGES.—In the case
 5 of project for which a grant is provided under
 6 the program to repair, rehabilitate or replace a
 7 structurally deficient off-system bridge—

8 “(i) Federal assistance other than a
 9 grant under the program may be used to
 10 satisfy the non-Federal share of the cost of
 11 a project; and

12 “(ii) the total Federal assistance pro-
 13 vided for the project shall not exceed 90
 14 percent of the total eligible project costs,
 15 as determined by the Secretary under sub-
 16 section (j).

17 “(4) FEDERAL LAND MANAGEMENT AGEN-
 18 CIES.—Notwithstanding any other provision of law,
 19 any Federal funds other than those made available
 20 under this title or title 49 may be used to pay the
 21 non-Federal share of the cost of a project under the
 22 program by a Federal land management agency, as
 23 described in subsection (d)(1)(F).

24 “(l) TIFIA PROGRAM.—On the request of an eligible
 25 applicant under this section, the Secretary may use

1 amounts awarded to the entity to pay subsidy and admin-
 2 istrative costs necessary to provide to the entity Federal
 3 credit assistance under chapter 6 with respect to the
 4 project for which the grant was awarded.

5 “(m) MULTIYEAR GRANT AGREEMENTS.—

6 “(1) IN GENERAL.—An eligible project for
 7 which a grant is provided under subsection (c)(4)(B)
 8 shall be carried out through a multiyear grant agree-
 9 ment in accordance with this subsection.

10 “(2) REQUIREMENTS.—A multiyear grant
 11 agreement for a project shall—

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

14 “(B) establish the maximum amount of
 15 Federal financial assistance for the project;

16 “(C) determine the period of time for com-
 17 pleting the project, even if that period extends
 18 beyond the period of an authorization; and

19 “(D) consistent with all applicable Federal
 20 laws (including regulations), attempt to improve
 21 timely and efficient management of the project.

22 “(3) SPECIAL FINANCIAL RULES.—

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

1 “(i) shall obligate an amount of avail-
2 able budget authority specified in law; and

3 “(ii) may include a commitment, con-
4 tingent on amounts to be specified in law
5 in advance for commitments under this
6 paragraph, to obligate an additional
7 amount from future available budget au-
8 thority specified in law.

9 “(B) STATEMENT OF CONTINGENT COM-
10 MITMENT.—The agreement shall state that the
11 contingent commitment is not an obligation of
12 the Federal Government.

13 “(C) INTEREST AND OTHER FINANCING
14 COSTS.—

15 “(i) IN GENERAL.—Interest and other
16 financing costs of efficiently carrying out a
17 part of the project within a reasonable
18 time shall be considered a cost of carrying
19 out the project under a multiyear grant
20 agreement, except that eligible costs may
21 not be more than the cost of the most fa-
22 vorable financing terms reasonably avail-
23 able for the project at the time of bor-
24 rowing.

1 “(ii) CERTIFICATION.—The applicant
 2 shall certify to the Secretary that the ap-
 3 plicant has shown reasonable diligence in
 4 seeking the most favorable financing
 5 terms.

6 “(n) EARLY SYSTEMS WORK AGREEMENTS.—

7 “(1) IN GENERAL.—In order to expedite a
 8 project under this section, to the maximum extent
 9 practicable, the Secretary shall enter into one or
 10 more early systems work agreements.

11 “(2) CONDITIONS.—The Secretary may enter
 12 into an early systems work agreement with an appli-
 13 cant if—

14 “(A) a record of decision under the Na-
 15 tional Environmental Policy Act of 1969 (42
 16 U.S.C. 4321 et seq.) has been issued on the
 17 project; and

18 “(B) the project has entered the post-eval-
 19 uation and final development phase under sub-
 20 section (f)(2).

21 “(3) CONTENTS.—

22 “(A) IN GENERAL.—An early systems
 23 work agreement under this subsection shall—

24 “(i) obligate to the applicant budget
 25 authority available under this title; and

1 “(ii) provide for reimbursement of
2 preliminary costs of carrying out the
3 project, including the cost of—

4 “(I) land acquisition;

5 “(II) timely procurement of sys-
6 tem elements for which specifications
7 are decided; and

8 “(III) other activities the Sec-
9 retary determines to be appropriate to
10 make efficient, long-term project man-
11 agement easier.

12 “(B) CREDIT.—An early systems work
13 agreement may provide that on execution of a
14 grant agreement under this section, budget au-
15 thority available under this section may be cred-
16 ited to the applicant to reimburse budget au-
17 thority obligated under the early systems work
18 agreement if the early systems work agreement
19 does not alter the financing plan the applicant
20 submitted to Secretary for the project to be
21 evaluated under subsection (g) or (h), as appli-
22 cable.

23 “(C) INTEREST AND OTHER FINANCING
24 COSTS.—

1 “(i) IN GENERAL.—Interest and other
2 financing costs of efficiently carrying out
3 the early systems work agreement within a
4 reasonable time shall be considered a cost
5 of carrying out the agreement, except that
6 eligible costs may not be more than the
7 cost of the most favorable financing terms
8 reasonably available for the project at the
9 time of borrowing.

10 “(ii) CERTIFICATION.—To be eligible
11 to enter into an agreement under this sub-
12 section, the applicant shall certify to the
13 Secretary that the applicant has shown
14 reasonable diligence in seeking the most
15 favorable financing terms.

16 “(D) FAILURE TO CARRY OUT PROJECT.—
17 If an applicant does not carry out the project
18 for reasons within the control of the applicant,
19 the applicant shall repay all Federal grant
20 funds awarded for the project from all Federal
21 funding sources, for all project activities, facili-
22 ties, and equipment, plus reasonable interest
23 and penalty charges allowable by law or estab-
24 lished by the Secretary in the early systems
25 work agreement.

1 “(o) UNDERTAKING PARTS OF PROJECTS IN AD-
2 VANCE UNDER LETTERS OF NO PREJUDICE.—

3 “(1) IN GENERAL.—The Secretary may pay to
4 an applicant all eligible project costs under the pro-
5 gram, including costs for an eligible project incurred
6 prior to the date on which the project receives fund-
7 ing under the program if—

8 “(A) before the applicant carries out the
9 applicable portion of the eligible project, the
10 Secretary approves through a letter to the ap-
11 plicant the plans and specifications for the ap-
12 plicable part of the eligible project in the same
13 manner as the Secretary approves plans and
14 specifications for other projects under the pro-
15 gram; and

16 “(B) the portion of the eligible project is
17 carried out without Federal assistance and in
18 accordance with all applicable procedures and
19 requirements.

20 “(2) INTEREST AND OTHER FINANCING
21 COSTS.—

22 “(A) IN GENERAL.—For purposes of para-
23 graph (1), the cost of carrying out part of an
24 eligible project includes the amount of interest
25 and other financing costs, including any inter-

est earned and payable on bonds, to the extent interest and other financing costs are expended in carrying out the part of 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 (g) or (h) or any recommendation by the Secretary for funding under the program.

“(p) CONGRESSIONAL NOTIFICATION.—Not later than 30 days before making a grant for a project under the program, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of

1 Representatives and the Committee on Environment and
 2 Public Works of the Senate a written notification of the
 3 proposed grant that includes—

4 “(1) an evaluation and justification for the
 5 project; and

6 “(2) the amount of the proposed grant.

7 “(q) REPORTS.—

8 “(1) ANNUAL REPORT.—Not later than Sep-
 9 tember 30 of each fiscal year, the Secretary shall
 10 make available on the website of the Department of
 11 Transportation an annual report that lists each
 12 project for which a grant has been provided under
 13 the program during the fiscal year.

14 “(2) GAO ASSESSMENT AND REPORT.—

15 “(A) ASSESSMENT.—Not later than 1 year
 16 after the date of enactment of the Bridge In-
 17 vestment Act, the Comptroller General of the
 18 United States shall conduct an assessment of
 19 the administrative establishment, solicitation,
 20 selection, and justification process with respect
 21 to the funding of grants under the program.

22 “(B) REPORT.—Not later than 1 year
 23 after the date on which a grant is first awarded
 24 under the program, the Comptroller General of
 25 the United States shall submit to the Com-

mittee on Transportation and Infrastructure of
the House of Representatives and the Com-
mittee on Environment and Public Works of the
Senate a report that describes—

“(i) the adequacy and fairness of the
process under which each project that re-
ceived a grant under the program was se-
lected; and

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

“(r) POLICY GUIDANCE AND RULES.—

“(1) POLICY GUIDANCE.—The Secretary shall
issue policy guidance regarding the review and eval-
uation process and criteria under subsections (f),
(g), and (h), as applicable—

“(A) not later than 180 days after the date
of enactment of the Bridge Investment Act; and

“(B) each time the Secretary makes sig-
nificant changes to the process and criteria, but
not less frequently than once every 2 years.

“(2) RULEMAKING.—Not later than 1 year
after the date of enactment of the Bridge Invest-
ment Act, the Secretary shall issue regulations es-
tablishing an evaluation and rating process for—

1 “(A) large projects under subsection (g);
2 and

3 “(B) medium or small projects and pro-
4 grams of medium or small projects under sub-
5 section (h).

6 “(s) MAINTENANCE OF EFFORT AND TREATMENT OF
7 PROJECTS.—

8 “(1) MAINTENANCE OF EFFORT.—

9 “(A) IN GENERAL.—For each grant
10 awarded to a project under this section, not
11 later than 30 days after the date on which the
12 grant is awarded, the Governor of the State in
13 which the project is located shall submit to the
14 Secretary—

15 “(i) a certification that the State will
16 maintain effort with regard to State fund-
17 ing for the repair and maintenance of
18 transportation facilities eligible for assist-
19 ance under this title; and

20 “(ii) as part of the certification, a
21 statement that identifies the amount of
22 funds the State planned to expend from
23 State sources for the fiscal year preceding
24 the year in which a grant is distributed.

1 “(B) PROHIBITION ON ADDITIONAL OBLI-
2 GATION AUTHORITY.—If a State is unable to
3 maintain the level of effort certified under sub-
4 paragraph (A), the Secretary shall not redis-
5 tribute additional obligation authority under
6 section 1102 of the FAST Act (23 U.S.C. 104
7 note; Public Law 114–94) to the State for the
8 next fiscal year.

9 “(C) CERTAIN CROSSINGS.—

10 “(i) INTERSTATE CROSSINGS.—For
11 purposes of subparagraph (A), in the case
12 of a project that involves an interstate
13 crossing—

14 “(I) the Governors of each State
15 in which the project is located shall
16 determine the amount that shall be
17 attributable to each State from the
18 amount that is distributed to a project
19 under this section; and

20 “(II) if the Governors do not
21 make the determination under sub-
22 clause (I) by the date that is 30 days
23 after the date on which a grant is
24 awarded, the Secretary shall make the
25 determination.

1 “(ii) INTERNATIONAL CROSSINGS.—

2 For purposes of subparagraph (A), in the
3 case of a project that involves an inter-
4 national crossing, the Secretary shall de-
5 termine the amount that shall be attrib-
6 utable to the State in which the crossing
7 originates.

8 “(2) TREATMENT OF PROJECTS.—Notwith-
9 standing any other provision of law, a project under
10 this section shall be treated as a highway project on
11 a Federal-aid highway under this chapter.

12 “(t) AUTHORIZATION OF APPROPRIATIONS.—There
13 is authorized to be appropriated out of the Highway Trust
14 Fund (other than the Mass Transit Account) to carry out
15 this section \$7,500,000,000 for each of fiscal years 2018
16 through 2027.”.

17 (b) CLERICAL AMENDMENT.—The analysis for chap-
18 ter 1 of title 23, United States Code, is amended by insert-
19 ing after the item relating to section 123 the following:

“124. Bridge investment program.”.

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