

117TH CONGRESS
1ST SESSION

S. 1817

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

MAY 25, 2021

Mr. BROWN (for himself, Mr. INHOFE, Mr. WHITEHOUSE, Mr. WICKER, Mr. WYDEN, Mr. PORTMAN, Mr. VAN HOLLEN, Mr. BOOZMAN, Mr. MARKEY, Mrs. HYDE-SMITH, Ms. STABENOW, Mr. HAGERTY, Mrs. MURRAY, and Mr. CASEY) 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 Act
5 of 2021”.

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

2 (a) IN GENERAL.—Chapter 1 of title 23, United
3 States Code, is amended by inserting after section 123 the
4 following:

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

6 “(a) DEFINITIONS.—In this section:

7 “(1) ELIGIBLE PROJECT.—

8 “(A) IN GENERAL.—The term ‘eligible
9 project’ means a project to replace, rehabilitate,
10 preserve, or protect 1 or more bridges on the
11 National Bridge Inventory under section
12 144(b).

13 “(B) INCLUSIONS.—The term ‘eligible
14 project’ includes—

15 “(i) a bundle of projects described in
16 subparagraph (A), regardless of whether
17 the bundle of projects meets the require-
18 ments of section 144(j)(5); and

19 “(ii) a project to replace or rehabili-
20 tate culverts for the purpose of improving
21 flood control and improved habitat
22 connectivity for aquatic species.

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

1 “(3) PROGRAM.—The term ‘program’ means
2 the bridge investment program established by sub-
3 section (b)(1).

4 “(b) ESTABLISHMENT OF BRIDGE INVESTMENT PRO-
5 GRAM.—

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

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

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

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

16 “(i) the number of bridges—

17 “(I) in poor condition; or

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

21 “(ii) the total person miles traveled
22 over bridges—

23 “(I) in poor condition; or

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

4 “(iii) the number of bridges that—

5 “(I) do not meet current geo-
 6 metric design standards; or

7 “(II) cannot meet the load and
 8 traffic requirements typical of the re-
 9 gional transportation network; and

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

12 “(I) do not meet current geo-
 13 metric design standards; or

14 “(II) cannot meet the load and
 15 traffic requirements typical of the re-
 16 gional transportation network; and

17 “(C) to provide financial assistance that
 18 leverages and encourages non-Federal contribu-
 19 tions from sponsors and stakeholders involved
 20 in the planning, design, and construction of eli-
 21 gible projects.

22 “(c) GRANT AUTHORITY.—

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

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

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

5 “(i) adequate to fully fund the project
6 (in combination with other financial re-
7 sources identified in the application); and

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

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

11 “(i) adequate to fully fund the project
12 (in combination with other financial re-
13 sources identified in the application); and

14 “(ii) not less than \$2,500,000.

15 “(3) MAXIMUM AMOUNT.—Except as otherwise
16 provided, for an eligible project receiving assistance
17 under the program, the amount of assistance pro-
18 vided by the Secretary under this section, as a share
19 of eligible project costs, shall be—

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

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

24 “(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 re-

1 maining share of the cost of a project under the
2 program by a Federal land management agency
3 or a Tribal government or consortium of Tribal
4 governments.

5 “(5) CONSIDERATIONS.—

6 “(A) IN GENERAL.—In awarding grants
7 under the program, the Secretary shall con-
8 sider—

9 “(i) in the case of a large project, the
10 ratings assigned under subsection
11 (g)(5)(A);

12 “(ii) in the case of an eligible project
13 other than a large project, the quality rat-
14 ing assigned under subsection (f)(3)(A)(ii);

15 “(iii) the average daily person and
16 freight throughput supported by the eligi-
17 ble project;

18 “(iv) the number and percentage of
19 bridges within the same State as the eligi-
20 ble project that are in poor condition;

21 “(v) the extent to which the eligible
22 project demonstrates cost savings by bun-
23 dling multiple bridge projects;

24 “(vi) in the case of an eligible project
25 of a Federal land management agency, the

1 extent to which the grant would reduce a
 2 Federal liability or Federal infrastructure
 3 maintenance backlog;

4 “(vii) geographic diversity among
 5 grant recipients, including the need for a
 6 balance between the needs of rural and
 7 urban communities; and

8 “(viii) the extent to which a bridge
 9 that would be assisted with a grant—

10 “(I) is, without that assistance—

11 “(aa) at risk of falling into
 12 or remaining in poor condition;
 13 or

14 “(bb) in fair condition and
 15 at risk of falling into poor condi-
 16 tion within the next 3 years;

17 “(II) does not meet current geo-
 18 metric design standards based on—

19 “(aa) the current use of the
 20 bridge; or

21 “(bb) load and traffic re-
 22 quirements typical of the regional
 23 corridor or local network in
 24 which the bridge is located; or

1 “(III) does not meet current seis-
2 mic design standards.

3 “(B) REQUIREMENT.—The Secretary
4 shall—

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

8 “(I) 2 or more applications for
9 eligible projects within the State were
10 submitted for the current fiscal year
11 and an average of 2 or more applica-
12 tions for eligible projects within the
13 State were submitted in prior fiscal
14 years of the program; and

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

18 “(ii) during the period of fiscal years
19 2022 through 2026, for each State de-
20 scribed in clause (i), select—

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

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

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

11 “(6) CULVERT LIMITATION.—Not more than 5
 12 percent of the amounts made available for each fis-
 13 cal year for grants under the program may be used
 14 for eligible projects that consist solely of culvert re-
 15 placement or rehabilitation.

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

18 “(1) A State or a group of States.

19 “(2) A metropolitan planning organization that
 20 serves an urbanized area (as designated by the Bu-
 21 reau of the Census) with a population of over
 22 200,000.

23 “(3) A unit of local government or a group of
 24 local governments.

1 “(4) A political subdivision of a State or local
2 government.

3 “(5) A special purpose district or public author-
4 ity with a transportation function.

5 “(6) A Federal land management agency.

6 “(7) A Tribal government or a consortium of
7 Tribal governments.

8 “(8) A multistate or multijurisdictional group
9 of entities described in paragraphs (1) through (7).

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

13 “(1) in the case of a large project, the Sec-
14 retary recommends for funding in the annual report
15 on funding recommendations under subsection
16 (g)(6);

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

20 “(3) is based on the results of preliminary engi-
21 neering.

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

24 “(1) COMPETITIVE PROCESS.—

25 “(A) IN GENERAL.—The Secretary shall—

1 “(i) for the first fiscal year for which
2 funds are made available for obligation
3 under the program, not later than 60 days
4 after the date on which the template under
5 subparagraph (B)(i) is developed, and in
6 subsequent fiscal years, not later than 60
7 days after the date on which amounts are
8 made available for obligation under the
9 program, solicit grant applications for eli-
10 gible projects other than large projects;
11 and

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

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

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

22 “(ii) enable applicants to use data
23 from the National Bridge Inventory under
24 section 144(b) to populate templates de-
25 scribed in clause (i), as applicable.

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

5 “(3) EVALUATION.—

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

9 “(i) conduct an evaluation of each eli-
10 gible project for which an application is re-
11 ceived under this subsection; and

12 “(ii) assign a quality rating to the eli-
13 gible project on the basis of the evaluation
14 under clause (i).

15 “(B) REQUIREMENTS.—In carrying out an
16 evaluation under subparagraph (A), the Sec-
17 retary shall—

18 “(i) consider information on project
19 benefits submitted by the applicant using
20 the template developed under paragraph
21 (1)(B)(i), including whether the project
22 will generate, as determined by the Sec-
23 retary—

1 “(I) costs avoided by the preven-
2 tion of closure or reduced use of the
3 bridge to be improved by the project;

4 “(II) in the case of a bundle of
5 projects, benefits from executing the
6 projects as a bundle compared to as
7 individual projects;

8 “(III) safety benefits, including
9 the reduction of accidents and related
10 costs;

11 “(IV) person and freight mobility
12 benefits, including congestion reduc-
13 tion and reliability improvements;

14 “(V) national or regional eco-
15 nomic benefits;

16 “(VI) benefits from long-term re-
17 siliency to extreme weather events,
18 flooding, or other natural disasters;

19 “(VII) benefits from protection
20 (as described in section 133(b)(9)),
21 including improving seismic or scour
22 protection;

23 “(VIII) environmental benefits,
24 including wildlife connectivity;

1 “(IX) benefits to nonvehicular
2 and public transportation users;

3 “(X) benefits of using—

4 “(aa) innovative design and
5 construction techniques; or

6 “(bb) innovative tech-
7 nologies; or

8 “(XI) reductions in maintenance
9 costs, including, in the case of a feder-
10 ally-owned bridge, cost savings to the
11 Federal budget; and

12 “(ii) consider whether and the extent
13 to which the benefits, including the bene-
14 fits described in clause (i), are more likely
15 than not to outweigh the total project
16 costs.

17 “(g) COMPETITIVE PROCESS, EVALUATION, AND AN-
18 NUAL REPORT FOR LARGE PROJECTS.—

19 “(1) IN GENERAL.—The Secretary shall estab-
20 lish an annual date by which an eligible entity sub-
21 mitting an application for a large project shall sub-
22 mit to the Secretary such information as the Sec-
23 retary may require, including information described
24 in paragraph (2), in order for a large project to be
25 considered for a recommendation by the Secretary

1 for funding in the next annual report under para-
2 graph (6).

3 “(2) INFORMATION REQUIRED.—The informa-
4 tion referred to in paragraph (1) includes—

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

7 “(B) information sufficient for the Sec-
8 retary to determine that—

9 “(i) the large project meets the appli-
10 cable requirements under this section; and

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

14 “(3) DETERMINATION; NOTICE.—On making a
15 determination that information submitted to the
16 Secretary under paragraph (1) is sufficient, the Sec-
17 retary shall provide a written notice of that deter-
18 mination to—

19 “(A) the eligible entity that submitted the
20 application;

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

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

1 “(4) EVALUATION.—The Secretary may rec-
2 ommend a large project for funding in the annual
3 report under paragraph (6) only if the Secretary
4 evaluates the proposed project and determines that
5 the project is justified because the project—

6 “(A) addresses a need to improve the con-
7 dition of the bridge, as determined by the Sec-
8 retary, consistent with the goals of the program
9 under subsection (b)(2);

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

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

15 “(ii) in the case of a bundle of
16 projects, benefits from executing the
17 projects as a bundle compared to as indi-
18 vidual projects;

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

21 “(iv) person and freight mobility bene-
22 fits, including congestion reduction and re-
23 liability improvements;

24 “(v) national or regional economic
25 benefits;

1 “(vi) benefits from long-term resil-
2 iency to extreme weather events, flooding,
3 or other natural disasters;

4 “(vii) benefits from protection (as de-
5 scribed in section 133(b)(9)), including im-
6 proving seismic or scour protection;

7 “(viii) environmental benefits, includ-
8 ing wildlife connectivity;

9 “(ix) benefits to nonvehicular and
10 public transportation users;

11 “(x) benefits of using—

12 “(I) innovative design and con-
13 struction techniques; or

14 “(II) innovative technologies; or

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

18 “(C) is cost effective based on an analysis
19 of whether the benefits and avoided costs de-
20 scribed in subparagraph (B) are expected to
21 outweigh the project costs;

22 “(D) is supported by other Federal or non-
23 Federal financial commitments or revenues ade-
24 quate to fund ongoing maintenance and preser-
25 vation; 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).

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

“(A) IN GENERAL.—Not later than the first Monday in February of each year, the Sec-

1 retary shall submit to the Committees on
2 Transportation and Infrastructure and Appro-
3 priations of the House of Representatives and
4 the Committees on Environment and Public
5 Works and Appropriations of the Senate a re-
6 port that includes—

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

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

15 “(iii) the grant amounts that the Sec-
16 retary recommends providing to large
17 projects in the next fiscal year, including—

18 “(I) scheduled payments under
19 previously signed multiyear grant
20 agreements under subsection (j);

21 “(II) payments for new grant
22 agreements, including single-year
23 grant agreements and multiyear grant
24 agreements; and

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

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

10 “(B) LIMITATIONS.—

11 “(i) IN GENERAL.—The Secretary
12 shall not recommend in an annual report
13 under this paragraph a new multiyear
14 grant agreement provided from funds from
15 the Highway Trust Fund unless the Sec-
16 retary determines that the project can be
17 completed using funds that are anticipated
18 to be available from the Highway Trust
19 Fund in future fiscal years.

20 “(ii) GENERAL FUND PROJECTS.—
21 The Secretary—

22 “(I) may recommend for funding
23 in an annual report under this para-
24 graph a large project using funds

1 from the general fund of the Treas-
2 ury; but

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

5 “(aa) funds other than from
6 the Highway Trust Fund have
7 been made available for the
8 project; and

9 “(bb) the Secretary deter-
10 mines that the project can be
11 completed using funds other than
12 from the Highway Trust Fund
13 that are anticipated to be avail-
14 able in future fiscal years.

15 “(C) CONSIDERATIONS.—In selecting
16 projects to recommend for funding in the an-
17 nual report under this paragraph, the Secretary
18 shall—

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

23 “(ii) assume the availability of funds
24 in future fiscal years for multiyear grant
25 agreements that extend beyond the period

1 of authorization based on the amount
2 made available for large projects under the
3 program in the last fiscal year of the pe-
4 riod of authorization.

5 “(D) PROJECT DIVERSITY.—In selecting
6 projects to recommend for funding in the an-
7 nual report under this paragraph, the Secretary
8 shall ensure diversity among projects rec-
9 ommended based on—

10 “(i) the amount of the grant re-
11 quested; and

12 “(ii) grants for an eligible project for
13 1 bridge compared to an eligible project
14 that is a bundle of projects.

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

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

22 “(2) construction, reconstruction, rehabilitation,
23 acquisition of real property (including land related
24 to the project and improvements to the land), envi-
25 ronmental mitigation, construction contingencies, ac-

1 quisition of equipment, and operational improve-
 2 ments directly related to improving system perform-
 3 ance; and

4 “(3) expenses related to the protection (as de-
 5 scribed in section 133(b)(9)) of a bridge, including
 6 seismic or scour protection.

7 “(i) TIFIA PROGRAM.—On the request of an eligible
 8 entity carrying out an eligible project, the Secretary may
 9 use amounts awarded to the entity to pay subsidy and ad-
 10 ministrative costs necessary to provide to the entity Fed-
 11 eral credit assistance under chapter 6 with respect to the
 12 eligible project for which the grant was awarded.

13 “(j) MULTIYEAR GRANT AGREEMENTS FOR LARGE
 14 PROJECTS.—

15 “(1) IN GENERAL.—A large project that re-
 16 ceives a grant under the program in an amount of
 17 not less than \$100,000,000 may be carried out
 18 through a multiyear grant agreement in accordance
 19 with this subsection.

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

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

1 “(B) establish the maximum amount of
2 Federal financial assistance for the project in
3 accordance with paragraphs (3) and (4) of sub-
4 section (c);

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

10 “(D) determine the period of time for com-
11 pleting the project, even if that period extends
12 beyond the period of an authorization; and

13 “(E) attempt to improve timely and effi-
14 cient management of the project, consistent
15 with all applicable Federal laws (including regu-
16 lations).

17 “(3) SPECIAL FINANCIAL RULES.—

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

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

22 “(ii) may include a commitment, con-
23 tingent on amounts to be specified in law
24 in advance for commitments under this
25 paragraph, to obligate an additional

1 amount from future available budget au-
2 thority specified in law.

3 “(B) STATEMENT OF CONTINGENT COM-
4 MITMENT.—The agreement shall state that the
5 contingent commitment is not an obligation of
6 the Federal Government.

7 “(C) INTEREST AND OTHER FINANCING
8 COSTS.—

9 “(i) IN GENERAL.—Interest and other
10 financing costs of carrying out a part of
11 the project within a reasonable time shall
12 be considered a cost of carrying out the
13 project under a multiyear grant agreement,
14 except that eligible costs may not be more
15 than the cost of the most favorable financ-
16 ing terms reasonably available for the
17 project at the time of borrowing.

18 “(ii) CERTIFICATION.—The applicant
19 shall certify to the Secretary that the ap-
20 plicant has shown reasonable diligence in
21 seeking the most favorable financing
22 terms.

23 “(4) ADVANCE PAYMENT.—Notwithstanding
24 any other provision of law, an eligible entity carrying

1 out a large project under a multiyear grant agree-
 2 ment—

3 “(A) may use funds made available to the
 4 eligible entity under this title for eligible project
 5 costs of the large project until the amount spec-
 6 ified in the multiyear grant agreement for the
 7 project for that fiscal year becomes available for
 8 obligation; and

9 “(B) if the eligible entity uses funds as de-
 10 scribed in subparagraph (A), the funds used
 11 shall be reimbursed from the amount made
 12 available under the multiyear grant agreement
 13 for the project.

14 “(k) UNDERTAKING PARTS OF PROJECTS IN AD-
 15 VANCE UNDER LETTERS OF NO PREJUDICE.—

16 “(1) IN GENERAL.—The Secretary may pay to
 17 an applicant all eligible project costs under the pro-
 18 gram, including costs for an activity for an eligible
 19 project incurred prior to the date on which the
 20 project receives funding under the program if—

21 “(A) before the applicant carries out the
 22 activity, the Secretary approves through a letter
 23 to the applicant the activity in the same man-
 24 ner as the Secretary approves other activities as
 25 eligible under the program;

1 “(B) a record of decision, a finding of no
2 significant impact, or a categorical exclusion
3 under the National Environmental Policy Act of
4 1969 (42 U.S.C. 4321 et seq.) has been issued
5 for the eligible project; and

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

9 “(2) INTEREST AND OTHER FINANCING
10 COSTS.—

11 “(A) IN GENERAL.—For purposes of para-
12 graph (1), the cost of carrying out an activity
13 for an eligible project includes the amount of
14 interest and other financing costs, including
15 any interest earned and payable on bonds, to
16 the extent interest and other financing costs are
17 expended in carrying out the activity for the eli-
18 gible project, except that interest and other fi-
19 nancing costs may not be more than the cost of
20 the most favorable financing terms reasonably
21 available for the eligible project at the time of
22 borrowing.

23 “(B) CERTIFICATION.—The applicant shall
24 certify to the Secretary that the applicant has
25 shown reasonable diligence in seeking the most

1 favorable financing terms under subparagraph
2 (A).

3 “(3) NO OBLIGATION OR INFLUENCE ON REC-
4 OMMENDATIONS.—An approval by the Secretary
5 under paragraph (1)(A) shall not—

6 “(A) constitute an obligation of the Fed-
7 eral Government; or

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

12 “(l) FEDERALLY-OWNED BRIDGES.—

13 “(1) DIVESTITURE CONSIDERATION.—In the
14 case of a bridge owned by a Federal land manage-
15 ment agency for which that agency applies for a
16 grant under the program, the agency—

17 “(A) shall consider options to divest the
18 bridge to a State or local entity after comple-
19 tion of the project; and

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

22 “(2) TREATMENT.—Notwithstanding any other
23 provision of law, section 129 shall apply to a bridge
24 that was previously owned by a Federal land man-
25 agement agency and has been transferred to a non-

1 Federal entity under paragraph (1) in the same
 2 manner as if the bridge was never federally owned.

3 “(m) CONGRESSIONAL NOTIFICATION.—Not later
 4 than 30 days before making a grant for an eligible project
 5 under the program, the Secretary shall submit to the Com-
 6 mittee on Transportation and Infrastructure of the House
 7 of Representatives and the Committee on Environment
 8 and Public Works of the Senate a written notification of
 9 the proposed grant that includes—

10 “(1) an evaluation and justification for the eli-
 11 gible project; and

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

13 “(n) REPORTS.—

14 “(1) ANNUAL REPORT.—Not later than August
 15 1 of each fiscal year, the Secretary shall make avail-
 16 able on the website of the Department of Transpor-
 17 tation an annual report that lists each eligible
 18 project for which a grant has been provided under
 19 the program during the fiscal year.

20 “(2) GAO ASSESSMENT AND REPORT.—Not
 21 later than 3 years after the date of enactment of the
 22 Bridge Investment Act of 2021, the Comptroller
 23 General of the United States shall—

24 “(A) conduct an assessment of the admin-
 25 istrative establishment, solicitation, selection,

1 and justification process with respect to the
2 funding of grants under the program; and

3 “(B) submit to the Committee on Trans-
4 portation and Infrastructure of the House of
5 Representatives and the Committee on Environ-
6 ment and Public Works of the Senate a report
7 that describes—

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

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

14 “(o) LIMITATION.—

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

21 “(2) UNUTILIZED AMOUNTS.—If, in fiscal year
22 2026, the Secretary determines that grants under
23 the program will not allow for the requirement under
24 paragraph (1) to be met, the Secretary shall use the

1 unutilized amounts to make other grants under the
2 program during that fiscal year.

3 “(p) TRIBAL TRANSPORTATION FACILITY BRIDGE
4 SET ASIDE.—

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

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

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

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

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

14 and

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

16 “(2) TREATMENT.—For purposes of section
17 201, funds made available for section 202(d) under
18 paragraph (1) shall be considered to be part of the
19 tribal transportation program.”.

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

“124. Bridge investment program.”.

