

116TH CONGRESS  
1ST SESSION

# S. 1909

To amend title 23, United States Code, to ensure that Federal-aid highways and bridges are more resilient, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

JUNE 19, 2019

Mrs. GILLIBRAND 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 ensure that Federal-aid highways and bridges are more resilient, 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 “Resilient Highways  
5       Act of 2019”.

6       **SEC. 2. NATIONAL HIGHWAY PERFORMANCE PROGRAM.**

7       Section 119 of title 23, United States Code, is  
8       amended—

9               (1) in subsection (b)—

1 (A) in paragraph (2), by striking “and” at  
2 the end;

3 (B) in paragraph (3), by striking the pe-  
4 riod at the end and inserting “; and”; and

5 (C) by adding at the end the following:

6 “(4) to provide support for measures to in-  
7 crease the resiliency of Federal-aid highways and  
8 bridges on and off the National Highway System to  
9 mitigate the impacts of sea level rise and extreme  
10 weather events.”; and

11 (2) by adding at the end the following:

12 “(k) PROTECTIVE FEATURES.—

13 “(1) IN GENERAL.—A State may use not more  
14 than 15 percent of the funds apportioned to the  
15 State under section 104(b)(1) for each fiscal year  
16 for a protective feature on a Federal-aid highway or  
17 bridge, if the protective feature is an economically  
18 justified improvement designed to mitigate the risk  
19 of recurring damage or the cost of future repairs  
20 from extreme weather, flooding, and other natural  
21 disasters.

22 “(2) PROTECTIVE FEATURES DESCRIBED.—A  
23 protective feature referred to in paragraph (1) may  
24 include—

25 “(A) raising roadway grades;

1           “(B) relocating roadways in a floodplain to  
2           higher ground above projected flood elevation  
3           levels or away from slide prone areas;

4           “(C) stabilizing slide areas;

5           “(D) stabilizing slopes;

6           “(E) installing riprap;

7           “(F) lengthening or raising bridges to in-  
8           crease waterway openings;

9           “(G) deepening channels to prevent flood-  
10          ing;

11          “(H) increasing the size or number of  
12          drainage structures;

13          “(I) replacing culverts with bridges or  
14          upsizing culverts;

15          “(J) repairing or maintaining tide gates;

16          “(K) installing seismic retrofits on bridges;

17          “(L) adding scour protection at bridges;

18          “(M) adding spur dikes;

19          “(N) the use of natural infrastructure to  
20          mitigate the risk of recurring damage or the  
21          cost of future repair from extreme weather,  
22          flooding, and other natural disasters; and

23          “(O) any other features that mitigate the  
24          risk of recurring damage or the cost of future  
25          repair as a result of extreme weather, flooding,

1           and other natural disasters, as determined by  
2           the Secretary.

3           “(3) SAVINGS PROVISION.—Nothing in this sub-  
4           section limits the ability of a State to carry out a  
5           project otherwise eligible under subsection (d) using  
6           funds apportioned under section 104(b)(1).”.

7   **SEC. 3. FEDERAL SHARE PAYABLE.**

8           Section 120(c) of title 23, United States Code, is  
9   amended by adding at the end the following:

10          “(4) PROTECTIVE FEATURES.—

11               “(A) IN GENERAL.—Notwithstanding any  
12               other provision of law, the Federal share pay-  
13               able for the cost of a protective feature on a  
14               Federal-aid highway or bridge project under  
15               this title may be up to 100 percent, at the dis-  
16               cretion of the State, if the protective feature is  
17               an economically justified improvement to miti-  
18               gate the risk of recurring damage or the cost of  
19               future repair from extreme weather, flooding,  
20               and other natural disasters.

21               “(B) PROTECTIVE FEATURES DE-  
22               SCRIBED.—A protective feature referred to in  
23               subparagraph (A) may include—

24                       “(i) raising roadway grades;

- 1 “(ii) relocating roadways in a flood-
- 2 plain to higher ground above projected
- 3 flood elevation levels or away from slide
- 4 prone areas;
- 5 “(iii) stabilizing slide areas;
- 6 “(iv) stabilizing slopes;
- 7 “(v) installing riprap;
- 8 “(vi) lengthening or raising bridges to
- 9 increase waterway openings;
- 10 “(vii) deepening channels to prevent
- 11 flooding;
- 12 “(viii) increasing the size or number
- 13 of drainage structures;
- 14 “(ix) replacing culverts with bridges
- 15 or upsizing culverts;
- 16 “(x) repairing or maintaining tide
- 17 gates;
- 18 “(xi) installing seismic retrofits on
- 19 bridges;
- 20 “(xii) adding scour protection at
- 21 bridges;
- 22 “(xiii) adding spur dikes;
- 23 “(xiv) the use of natural infrastruc-
- 24 ture to mitigate the risk of recurring dam-
- 25 age or the cost of future repair from ex-

treme weather, flooding, and other natural disasters; and

“(xv) any other features that mitigate the risk of recurring damage or the cost of future repair as a result of extreme weather, flooding, and other natural disasters, as determined by the Secretary.”.

**SEC. 4. EMERGENCY RELIEF.**

Section 125 of title 23, United States Code, is amended—

(1) in subsection (a)(1), by inserting “wildfire, sea level rise,” after “severe storm”;

(2) by striking subsection (b) and inserting the following:

“(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.”; and

(3) in subsection (d)—

(A) in paragraph (2)(A)—

(i) by striking the period at the end and inserting “; and”

(ii) by striking “a facility that meets the current” and inserting the following:

“a facility that—

“(i) meets the current”; and

(iii) by adding at the end the following:

“(ii) incorporates economically justifiable improvements designed to mitigate the risk of recurring damage from extreme weather, flooding, and other natural disasters.”;

(B) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively; and

(C) by inserting after paragraph (2) the following:

“(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 is economically justified to mitigate the risk of recurring damage or the cost of future repair from extreme weather, flooding, and other natural disasters.

1                   “(B)     PROTECTIVE     FEATURES     DE-  
2                   SCRIBED.—A protective feature referred to in  
3                   subparagraph (A) may include—

4                   “(i) raising roadway grades;

5                   “(ii) relocating roadways in a flood-  
6                   plain to higher ground above projected  
7                   flood elevation levels or away from slide  
8                   prone areas;

9                   “(iii) stabilizing slide areas;

10                  “(iv) stabilizing slopes;

11                  “(v) installing riprap;

12                  “(vi) lengthening or raising bridges to  
13                  increase waterway openings;

14                  “(vii) deepening channels to prevent  
15                  flooding;

16                  “(viii) increasing the size or number  
17                  of drainage structures;

18                  “(ix) replacing culverts with bridges  
19                  or upsizing culverts;

20                  “(x) repairing or maintaining tide  
21                  gates;

22                  “(xi) installing seismic retrofits on  
23                  bridges;

24                  “(xii) adding scour protection at  
25                  bridges;



1 “(xiii) adding spur dikes;

2 “(xiv) the use of natural infrastruc-  
3 ture to mitigate the risk of recurring dam-  
4 age or the cost of future repair from ex-  
5 treme weather, flooding, and other natural  
6 disasters; and

7 “(xv) any other features that mitigate  
8 the risk of recurring damage or the cost of  
9 future repair as a result of extreme weath-  
10 er, flooding, and other natural disasters, as  
11 determined by the Secretary.”.

○