To amend title VI of the Social Security Act to allow States and local governments to use coronavirus relief funds provided under the American Rescue Plan Act for infrastructure projects, improve the Local Assistance and Tribal Consistency Fund, provide Tribal governments with more time to use Coronavirus Relief Fund payments, and for other purposes.

IN THE SENATE OF THE UNITED STATES

introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend title VI of the Social Security Act to allow States and local governments to use coronavirus relief funds provided under the American Rescue Plan Act for infrastructure projects, improve the Local Assistance and Tribal Consistency Fund, provide Tribal governments with more time to use Coronavirus Relief Fund payments, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.
This Act may be cited as the “State, Local, Tribal, and Territorial Fiscal Recovery, Infrastructure, and Disaster Relief Flexibility Act”.

SEC. 2. AUTHORITY TO USE CORONAVIRUS RELIEF FUNDS FOR INFRASTRUCTURE PROJECTS.
(a) In General.—Title VI of the Social Security Act (42 U.S.C. 801 et seq.), as amended by section 40909 of the Infrastructure Investment and Jobs Act, is amended—

(1) in section 602—

(A) in subsection (a)(1), by inserting “(except as provided in subsection (c)(5))” after “December 31, 2024”; and

(B) in subsection (c)—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), by striking “paragraph (3)” and inserting “paragraphs (3), (4), and (5)”;

(II) by amending subparagraph (C) to read as follows:

“(C) for the provision of government services up to an amount equal to the greater of—

“(i) the amount of the reduction in revenue of such State, territory, or Tribal government due to the COVID–19 public
health emergency relative to revenues collected in the most recent full fiscal year of
the State, territory, or Tribal government prior to the emergency; or

“(ii) $10,000,000;”;

(III) in subparagraph (D), by striking the period at the end and inserting “; or”; and

(IV) by adding at the end the following new subparagraph:

“(E) to provide emergency relief from natural disasters or the negative economic impacts of natural disasters, including temporary emergency housing, food assistance, financial assistance for lost wages, or other immediate needs.”;

and

(ii) by adding at the end the following new paragraph:

“(5) AUTHORITY TO USE FUNDS FOR CERTAIN INFRASTRUCTURE PROJECTS.—

“(A) IN GENERAL.—Subject to subparagraph (C), notwithstanding any other provision of law, a State, territory, or Tribal government receiving a payment under this section may use funds provided under such payment for projects
described in subparagraph (B), including, to the
extent consistent with guidance or rules issued
by the Secretary or the head of a Federal agen-
cy to which the Secretary has delegated author-
ity pursuant to subparagraph (C)(iv)—

“(i) in the case of a project eligible
 under section 117 of title 23, United
States Code, or section 5309 or 6701 of
title 49, United States Code, to satisfy a
non-Federal share requirement applicable
to such a project; and

“(ii) in the case of a project eligible
for credit assistance under the TIFIA pro-
gram under chapter 6 of title 23, United
States Code—

“(I) to satisfy a non-Federal
share requirement applicable to such a
project; and

“(II) to repay a loan provided
under such program.

“(B) PROJECTS DESCRIBED.—A project
referred to in subparagraph (A) is any of the
following:

“(i) A project eligible under section
117 of title 23, United States Code.
“(ii) A project eligible under section 119 of title 23, United States Code.

“(iii) A project eligible under section 124 of title 23, United States Code, as added by the Infrastructure Investment and Jobs Act.

“(iv) A project eligible under section 133 of title 23, United States Code.

“(v) An activity to carry out section 134 of title 23, United States Code.


“(vii) A project eligible under section 149 of title 23, United States Code.

“(viii) A project eligible under section 151(f) of title 23, United States Code, as added by the Infrastructure Investment and Jobs Act.

“(ix) A project eligible under section 165 of title 23, United States Code.

“(x) A project eligible under section 167 of title 23, United States Code.

“(xi) A project eligible under section 173 of title 23, United States Code, as
added by the Infrastructure Investment and Jobs Act.

“(xii) A project eligible under section 175 of title 23, United States Code, as added by the Infrastructure Investment and Jobs Act.

“(xiii) A project eligible under section 176 of title 23, United States Code, as added by the Infrastructure Investment and Jobs Act.


“(xvi) A project eligible under section 204 of title 23, United States Code.

“(xvii) A project eligible under the program for national infrastructure investments (commonly known as the ‘Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grant program’).

“(xviii) A project eligible for credit assistance under the TIFIA program under chapter 6 of title 23, United States Code.
“(xix) A project that furthers the completion of a designated route of the Appalachian Development Highway System under section 14501 of title 40, United States Code.


“(xxi) A project eligible under section 5309 of title 49, United States Code.

“(xxii) A project eligible under section 5311 of title 49, United States Code.

“(xxiii) A project eligible under section 5337 of title 49, United States Code.

“(xxiv) A project eligible under section 5339 of title 49, United States Code.

“(xxv) A project eligible under section 6703 of title 49, United States Code, as added by the Infrastructure Investment and Jobs Act.

“(xxvi) A project eligible under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

“(xxvii) A project eligible under the bridge replacement, rehabilitation, preser-
vation, protection, and construction pro-
gram under paragraph (1) under the head-
ing ‘HIGHWAY INFRASTRUCTURE PROGRAM’
under the heading ‘FEDERAL HIGHWAY
ADMINISTRATION’ under the heading ‘DE-
PARTMENT OF TRANSPORTATION’
under title VIII of division J of the Infra-
structure Investment and Jobs Act.

“(C) LIMITATIONS; APPLICATION OF RE-
QUIREMENTS.—

“(i) LIMITATION ON AMOUNTS TO BE
USED FOR INFRASTRUCTURE PROJECTS.—

“(I) IN GENERAL.—The total
amount that a State, territory, or
Tribal government may use from a
payment made under this section for
uses described in subparagraph (A)
shall not exceed the greater of—

“(aa) $10,000,000; and

“(bb) 30 percent of such
payment.

“(II) RULE OF APPLICATION.—
The spending limitation under sub-
clause (I) shall not apply to any use
of funds permitted under paragraph
(1), and any such use of funds shall be disregarded for purposes of applying such spending limitation.

“(ii) Limitation on Operating Expenses.—Funds provided under a payment made under this section shall not be used for operating expenses of a project described in clauses (xx) through (xxiv) of subparagraph (B).

“(iii) Application of Requirements.—Except as otherwise determined by the Secretary or the head of a Federal agency to which the Secretary has delegated authority pursuant to clause (iv) or provided in this section—

“(I) the requirements of section 60102 of the Infrastructure Investment and Jobs Act shall apply to funds provided under a payment made under this section that are used pursuant to subparagraph (A) for a project described in clause (xxvi) of subparagraph (B) that relates to broadband infrastructure;
“(II) the requirements of titles 23, 40, and 49 of the United States Code, title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply to funds provided under a payment made under this section that are used for projects described in subparagraph (B); and

“(III) a State government receiving a payment under this section may use funds provided under such payment for projects described in clauses (i) through (xxvii) of subparagraph (B), as applicable, that—

“(aa) demonstrate progress in achieving a state of good repair as required by the State’s asset management plan under section 119(e) of title 23, United States Code; and

“(bb) support the achievement of 1 or more performance
targets of the State established under section 150 of title 23, United States Code.

“(iv) Oversight.—The Secretary may delegate oversight and administration of the requirements described in clause (iii) to the appropriate Federal agency.

“(v) Supplement, not supplant.—Amounts from a payment made under this section that are used by a State, territory, or Tribal government for uses described in subparagraph (A) shall supplement, and not supplant, other Federal, State, territorial, Tribal, and local government funds (as applicable) otherwise available for such uses.

“(D) Reports.—The Secretary, in consultation with the Secretary of Transportation, shall provide periodic reports on the use of funds by States, territories, and Tribal governments under subparagraph (A).

“(E) Availability.—Funds provided under a payment made under this section to a State, territory, or Tribal government shall remain available for obligation for a use described
in subparagraph (A) through December 31, 2024, except that no amount of such funds may be expended after September 30, 2026.”; and

(2) in subsection 603—

(A) in subsection (a), by inserting “(except as provided in subsection (c)(6))” after “December 31, 2024”; and

(B) in subsection (e)—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), by striking “paragraphs (3) and (4)” and inserting “paragraphs (3), (4), (5), and (6)”;

(II) by amending subparagraph (C) to read as follows:

“(C) for the provision of government services up to an amount equal to the greater of—

“(i) the amount of the reduction in revenue of such metropolitan city, nonentitlement unit of local government, or county due to the COVID–19 public health emergency relative to revenues collected in the most recent full fiscal year of the metropolitan city, nonentitlement unit of local
government, or county to the emergency;

or

“(ii) $10,000,000;”;

(III) in subparagraph (D), by striking the period at the end and inserting “; or”; and

(IV) by adding at the end the following new subparagraph:

“(E) to provide emergency relief from natural disasters or the negative economic impacts of natural disasters, including temporary emergency housing, food assistance, financial assistance for lost wages, or other immediate needs.”;

and

(ii) by adding at the end the following new paragraph:

“(6) Authority to use funds for certain infrastructure projects.—

“(A) In general.—Subject to subparagraph (B), notwithstanding any other provision of law, a metropolitan city, nonentitlement unit of local government, or county receiving a payment under this section may use funds provided under such payment for projects described in subparagraph (B) of section 602(e)(5), includ-
ing, to the extent consistent with guidance or rules issued by the Secretary or the head of a Federal agency to which the Secretary has delegated authority pursuant to subparagraph (B)(iv)—

“(i) in the case of a project eligible under section 117 of title 23, United States Code, or section 5309 or 6701 of title 49, United States Code, to satisfy a non-Federal share requirement applicable to such a project; and

“(ii) in the case of a project eligible for credit assistance under the TIFIA program under chapter 6 of title 23, United States Code—

“(I) to satisfy a non-Federal share requirement applicable to such a project; and

“(II) to repay a loan provided under such program.

“(B) LIMITATIONS; APPLICATION OF REQUIREMENTS.—

“(i) LIMITATION ON AMOUNTS TO BE USED FOR INFRASTRUCTURE PROJECTS.—
“(I) IN GENERAL.—The total amount that a metropolitan city, non-entitlement unit of local government, or county may use from a payment made under this section for uses described in subparagraph (A) shall not exceed the greater of—

“(aa) $10,000,000; and

“(bb) 30 percent of such payment.

“(II) RULE OF APPLICATION.—The spending limitation under subclause (I) shall not apply to any use of funds permitted under paragraph (1), and any such use of funds shall be disregarded for purposes of applying such spending limitation.

“(ii) LIMITATION ON OPERATING EXPENSES.—Funds provided under a payment made under this section shall not be used for operating expenses of a project described in clauses (xx) through (xxiv) of section 602(c)(5)(B).

“(iii) APPLICATION OF REQUIREMENTS.—Except as otherwise determined
by the Secretary or the head of a Federal agency to which the Secretary has delegated authority pursuant to clause (iv) or provided in this section—

“(I) the requirements of section 60102 of the Infrastructure Investment and Jobs Act shall apply to funds provided under a payment made under this section that are used pursuant to subparagraph (A) for a project described in clause (xxvi) of section 602(c)(5)(B) that relates to broadband infrastructure; and

“(II) the requirements of titles 23, 40, and 49 of the United States Code, title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq) shall apply to funds provided under a payment made under this section that are used for projects described in section 602(c)(5)(B).
“(iv) OVERSIGHT.—The Secretary may delegate oversight and administration of the requirements described in clause (iii) to the appropriate Federal agency.

“(v) SUPPLEMENT, NOT SUPPLANT.—Amounts from a payment made under this section that are used by a metropolitan city, nonentitlement unit of local government, or county for uses described in subparagraph (A) shall supplement, and not supplant, other Federal, State, territorial, Tribal, and local government funds (as applicable) otherwise available for such uses.

“(C) REPORTS.—The Secretary, in consultation with the Secretary of Transportation, shall provide periodic reports on the use of funds by metropolitan cities, nonentitlement units of local government, or counties under subparagraph (A).

“(D) AVAILABILITY.—Funds provided under a payment made under this section to a metropolitan city, nonentitlement unit of local government, or county shall remain available for obligation for a use described in subparagraph (A) through December 31, 2024, except
that no amount of such funds may be expended after September 30, 2026.”.

(b) TECHNICAL AMENDMENTS.—Sections 602(c)(3) and 603(c)(3) of title VI of the Social Security Act (42 U.S.C. 802(c)(3), 803(c)(3)) are each amended by striking “paragraph (17) of”.

c) GUIDANCE AND EFFECTIVE DATE.—

(1) GUIDANCE OR RULE.—Within 60 days of the date of enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Transportation, shall issue guidance or promulgate a rule to carry out the amendments made by this section, including updating reporting requirements on the use of funds under this section.

(2) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the issuance of guidance or the promulgation of a rule described in paragraph (1).

d) DEPARTMENT OF THE TREASURY ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the unobligated balances from amounts made available to the Secretary of the Treasury (referred to in this subsection as the “Secretary”) for administrative expenses pursuant to the
provisions specified in paragraph (2) shall be avail-
able to the Secretary (in addition to any other ap-
propriations provided for such purpose) for any ad-
ministrative expenses of the Department of the
Treasury determined by the Secretary to be nec-
essary to respond to the coronavirus emergency, in-
cluding any expenses necessary to implement any
provision of—

(A) the Coronavirus Aid, Relief, and Eco-

(B) division N of the Consolidated Appro-

(C) the American Rescue Plan Act (Public

Law 117–2); or

(D) title VI of the Social Security Act (42

U.S.C. 801 et seq.).

(2) PROVISIONS SPECIFIED.—The provisions
specified in this paragraph are the following:

(A) Sections 4003(f) and 4112(b) of the

Coronavirus Aid, Relief, and Economic Security

Act (Public Law 116–136).

(B) Section 421(f)(2) of division N of the

Consolidated Appropriations Act, 2021 (Public

Sections 3201(a)(2)(B), 3206(d)(1)(A), and 7301(b)(5) of the American Rescue Plan Act of 2021 (Public Law 117–2).

(D) Section 602(a)(2) of the Social Security Act (42 U.S.C. 802(a)(2)).

SEC. 3. LOCAL ASSISTANCE AND TRIBAL CONSISTENCY FUND.

Section 605 of the Social Security Act (42 U.S.C. 805) is amended to read as follows:

“SEC. 605. LOCAL ASSISTANCE AND TRIBAL CONSISTENCY FUND.

“(a) Appropriation.—In addition to amounts otherwise available, there is appropriated for fiscal year 2021, out of any money in the Treasury not otherwise appropriated, $2,000,000,000 to remain available until September 30, 2023, with amounts to be obligated for each of fiscal years 2022 and 2023 in accordance with subsection (b), for making payments under this section to eligible revenue sharing recipients, eligible Tribal governments, and territories.

“(b) Authority to Make Payments.—

“(1) Allocations and payments to eligible revenue sharing recipients.—

“(A) Allocations to revenue sharing counties.—For each of fiscal years 2022 and
2023, the Secretary shall reserve $742,500,000 of the total amount appropriated under subsection (a) to allocate to each revenue sharing county and, except as provided in subparagraph (B), pay to each revenue sharing county that is an eligible revenue sharing county amounts that are determined by the Secretary taking into account the amount of entitlement land in each revenue sharing county and the economic conditions of each revenue sharing county, using such measurements of poverty, household income, and unemployment over the most recent 20-year period as of September 30, 2021, to the extent data are available, as well as other economic indicators the Secretary determines appropriate.

“(B) Special allocation rules.—

“(i) Revenue sharing counties with limited government functions.—In the case of an amount allocated to a revenue sharing county under subparagraph (A) that is a county with limited government functions, the Secretary shall allocate and pay such amount to each eligible revenue sharing local gov-
ernment within such county with limited
government functions in an amount deter-
mined by the Secretary taking into account
the amount of entitlement land in each eli-
gible revenue sharing local government and
the population of such eligible revenue
sharing local government relative to the
total population of such county with lim-
ited government functions.

“(ii) Eligible revenue sharing
COUNTY IN ALASKA.—In the case of the el-
igible revenue sharing county described in
subparagraph (f)(3)(C), the Secretary shall
pay the amount allocated to such eligible
revenue sharing county to the State of
Alaska. The State of Alaska shall dis-
tribute such payment to home rule cities
and general law cities (as such cities are
defined by the State) located within the
boundaries of the eligible revenue sharing
county for which the payment was re-
ceived.

“(C) Pro rata adjustment author-
ity.—The amounts otherwise determined for al-
location and payment under subparagraphs (A)
and (B) may be adjusted by the Secretary on a pro rata basis to the extent necessary to ensure that all available funds are allocated and paid to eligible revenue sharing recipients in accordance with the requirements specified in each such subparagraph.

“(2) ALLOCATIONS AND PAYMENTS TO ELIGIBLE TRIBAL GOVERNMENTS.—For each of fiscal years 2022 and 2023, the Secretary shall reserve $250,000,000 of the total amount appropriated under subsection (a) to allocate and pay to eligible Tribal governments in amounts that are determined by the Secretary taking into account economic conditions of each eligible Tribe.

“(3) ALLOCATIONS AND PAYMENTS TO TERRITORIES.—For each of fiscal years 2022 and 2023, the Secretary shall reserve $7,500,000 of the total amount appropriated under subsection (a) to allocate and pay to each territory an amount which bears the same proportion to the amount reserved in this paragraph as the population of such territory bears to the total population of all such territories.

“(c) USE OF PAYMENTS.—An eligible revenue sharing recipient, an eligible Tribal government, or a territory may use funds provided under a payment made under this
section for any governmental purpose other than a lobbying activity.

“(d) REPORTING REQUIREMENT.—Any eligible revenue sharing recipient and any territory receiving a payment under this section shall provide to the Secretary periodic reports providing a detailed accounting of the uses of fund by such eligible revenue sharing recipient or territory, as applicable, and such other information as the Secretary may require for the administration of this section.

“(e) RECoupMENT.—Any eligible revenue sharing recipient or any territory that has failed to submit a report required under subsection (d) or failed to comply with subsection (c), shall be required to repay to the Secretary an amount equal to—

“(1) in the case of a failure to comply with subsection (c), the amount of funds used in violation of such subsection; and

“(2) in the case of a failure to submit a report required under subsection (d), such amount as the Secretary determines appropriate, but not to exceed 5 percent of the amount paid to the eligible revenue sharing recipient or the territory under this section for all fiscal years.

“(f) DEFINITIONS.—In this section:
“(1) COUNTY.—The term ‘county’ means a county, parish, or other equivalent county division (as defined by the Bureau of the Census) in 1 of the 50 States.

“(2) COUNTY WITH LIMITED GOVERNMENT FUNCTIONS.—The term ‘county with limited government functions’ means a county in which entitlement land is located that is not an eligible revenue sharing county.

“(3) ELIGIBLE REVENUE SHARING COUNTY.—The term ‘eligible revenue sharing county’ means—

“(A) a unit of general local government (as defined in section 6901(2) of title 31, United States Code) that is a county in which entitlement land is located and which is eligible for a payment under section 6902(a) of title 31, United States Code;

“(B) the District of Columbia; or

“(C) the combined area in Alaska that is within the boundaries of a census area used by the Secretary of Commerce in the decennial census, but that is not included within the boundary of a unit of general local government described in subparagraph (A).
“(4) **Eligible Revenue Sharing Local Government.**—The term ‘eligible revenue sharing local government’ means a unit of general local government (as defined in section 6901(2) of title 31, United States Code) in which entitlement land is located that is not a county or territory and which is eligible for a payment under section 6902(a) of title 31, United States Code.

“(5) **Eligible Revenue Sharing Recipients.**—The term ‘eligible revenue sharing recipients’ means, collectively, eligible revenue sharing counties and eligible revenue sharing local governments.

“(6) **Eligible Tribal Government.**—The term ‘eligible Tribal government’ means the recognized governing body of an eligible Tribe.

“(7) **Eligible Tribe.**—The term ‘eligible Tribe’ means any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published most recently as of March 11, 2021, pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).
“(8) ENTITLEMENT LAND.—The term ‘entitlement land’ has the meaning given to such term in section 6901(1) of title 31, United States Code.

“(9) REVENUE SHARING COUNTY.—The term ‘revenue sharing county’ means—

“(A) an eligible revenue sharing county; or

“(B) a county with limited government functions.

“(10) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury.

“(11) TERRITORY.—The term ‘territory’ means—

“(A) the Commonwealth of Puerto Rico;

“(B) the United States Virgin Islands;

“(C) Guam;

“(D) the Commonwealth of the Northern Mariana Islands; or

“(E) American Samoa.”.

SEC. 4. EXTENSION OF AVAILABILITY OF CORONAVIRUS RELIEF FUND PAYMENTS TO TRIBAL GOVERNMENTS.

Section 601(d)(3) of the Social Security Act (42 U.S.C. 801(d)(3)) is amended by inserting “(or, in the case of costs incurred by a Tribal government, during the
period that begins on March 1, 2020, and ends on December 31, 2022)’’ before the period.

SEC. 5. RESCISSION OF CORONAVIRUS RELIEF AND RECOVERY FUNDS DECLINED BY STATES, TERRITORIES, OR OTHER GOVERNMENTAL ENTITIES.

Title VI of the Social Security Act (42 U.S.C. 801 et seq.) is amended by adding at the end the following new section:

“SEC. 606. RESCISSION OF FUNDS DECLINED BY STATES, TERRITORIES, OR OTHER GOVERNMENTAL ENTITIES.

“(a) Rescission.—

“(1) In general.—Subject to paragraphs (2) and (3), if a State, territory, or other governmental entity provides notice to the Secretary of the Treasury in the manner provided by the Secretary of the Treasury that the State, territory, or other governmental entity intends to decline all or a portion of the amounts that are to be awarded to the State, territory, or other governmental entity from funds appropriated under this title, an amount equal to the unaccepted amounts or portion of such amounts allocated by the Secretary of the Treasury as of the date of such notice that would have been awarded to
the State, territory, or other governmental entity shall be rescinded from the applicable appropriation account.

“(2) Exclusion.—Paragraph (1) shall not apply with respect to funds that are to be paid to a State under section 603 for distribution to non-entitlement units of local government.

“(3) Rules of Construction.—Paragraph (1) shall not be construed as—

“(A) preventing a sub-State governmental entity, including a nonentitlement unit of local government, from notifying the Secretary of the Treasury that the sub-State governmental entity intends to decline all or a portion of the amounts that a State may distribute to the entity from funds appropriated under this title; or

“(B) allowing a State to prohibit or otherwise prevent a sub-State governmental entity from providing such a notice.

“(b) Use for Deficit Reduction.—Amounts rescinded under subsection (a) shall be deposited in the general fund of the Treasury for the sole purpose of deficit reduction.

“(c) State or Other Governmental Entity Defined.—In this section, the term ‘State, territory, or
other governmental entity’ means any entity to which a payment may be made directly to the entity under this title other than a Tribal government, as defined in sections 601(g), 602(g), and 604(d), and an eligible Tribal government, as defined in section 605(f).”.