

111TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend the SAFETEA-LU, titles 23 and 49, United States Code, and the Indian Self-Determination and Education Assistance Act to modify provisions relating to highway projects, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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

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**A BILL**

To amend the SAFETEA-LU, titles 23 and 49, United States Code, and the Indian Self-Determination and Education Assistance Act to modify provisions relating to highway projects, 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 “Tribal Reauthorization  
5 of Indian Programs Act of 2009”.

1 **SEC. 2. SAFETEA-LU AMENDMENTS.**

2 (a) FEDERAL LANDS HIGHWAYS PROGRAM.—Section  
3 1101(a)(9) of the SAFETEA-LU (119 Stat. 1154) is  
4 amended—

5 (1) in subparagraph (A), by striking clauses (i)  
6 through (v) and inserting the following:

7 “(i) \$800,000,000 for fiscal year  
8 2010;

9 “(ii) \$850,000,000 for fiscal year  
10 2011;

11 “(iii) \$900,000,000 for fiscal year  
12 2012;

13 “(iv) \$950,000,000 for fiscal year  
14 2013;

15 “(v) \$1,000,000,000 for fiscal year  
16 2014; and

17 “(vi) \$1,050,000,000 for fiscal year  
18 2015.”; and

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

20 “(E) INDIAN RESERVATION ROAD BRIDGE  
21 PROGRAM.—For the Indian reservation road  
22 bridge program under section 202(d)(4) of such  
23 title—

24 “(i) \$75,000,000 for fiscal year 2010;

25 “(ii) \$87,500,000 for fiscal year 2011;

1 “(iii) \$100,000,000 for fiscal year  
2 2012;

3 “(iv) \$100,000,000 for fiscal year  
4 2013;

5 “(v) \$100,000,000 for fiscal year  
6 2014; and

7 “(vi) \$100,000,000 for fiscal year  
8 2015.

9 “(F) TRIBAL TRANSPORTATION SAFETY  
10 PROGRAM.—For the tribal transportation safety  
11 program under section 202(d)(6) of such title,  
12 \$50,000,000 for each of fiscal years 2010  
13 through 2015.”.

14 (b) OBLIGATION CEILING.—Section 1102(b) of the  
15 SAFETEA-LU (23 U.S.C. 104 note; 119 Stat. 1157) is  
16 amended—

17 (1) in paragraph (10), by striking “and” at the  
18 end;

19 (2) in paragraph (11), by striking the period at  
20 the end and inserting “; and”; and

21 (3) by adding at the end the following:

22 “(12) section 202(d) of title 23, United States  
23 Code.”.

1 (c) SAFE ROUTES TO SCHOOL PROGRAM.—Section  
2 1404(c) of the SAFETEA–LU (23 U.S.C. 402 note; 119  
3 Stat. 1228) is amended—

4 (1) in paragraph (1), by striking “paragraphs  
5 (2), (3), and (4)” and inserting “paragraphs (2)  
6 through (5)”; and

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

8 “(5) TRIBAL SAFE ROUTES TO SCHOOLS TO  
9 SCHOOLS.—

10 “(A) IN GENERAL.—Of the amount appor-  
11 tioned for each fiscal year under subsection  
12 (f)(1), the Secretary shall use not less than  
13 \$10,000,000 to provide grants to Indian tribal  
14 governments during that fiscal year for any eli-  
15 gible purpose under this section, in accordance  
16 with the Indian Self-Determination and Edu-  
17 cation Assistance Act (25 U.S.C. 450 et seq.)  
18 and section 202(d)(5) of title 23, United States  
19 Code.

20 “(B) FEDERAL SHARE.—The Federal  
21 share of the cost of a project under this para-  
22 graph shall be 100 percent.”.

23 (d) HIGHWAYS FOR LIFE PILOT PROGRAM.—Section  
24 1502(b) of the SAFETEA–LU (23 U.S.C. 114 note; 119  
25 Stat. 1236) is amended—

1           (1) in paragraph (1), by inserting “or Indian  
2           tribal government” after “State” each place it ap-  
3           pears;

4           (2) in paragraph (2), by striking subparagraph  
5           (A) and inserting the following:

6                   “(A) constructs, reconstructs, or rehabili-  
7                   tates a route or connection on—

8                           “(i) a Federal-aid highway eligible for  
9                           assistance under chapter 1 of title 23,  
10                          United States Code; or

11                           “(ii) a route included in the national  
12                          tribal transportation facility inventory  
13                          under section 202(d)(2)(G) of title 23,  
14                          United States Code;”;

15           (3) by striking paragraph (6) and inserting the  
16           following:

17                   “(6) PROJECT SELECTIONS.—During fiscal  
18                   years 2010 through 2015, the Secretary shall ap-  
19                   prove, to the maximum extent practicable—

20                           “(A) for that period in each State, not less  
21                          than 1 project for participation in the pilot pro-  
22                          gram and for financial assistance under para-  
23                          graph (5), if—

24                           “(i) the State submits an application;

25                           and

1 “(ii) the project meets the eligibility  
2 requirements and selection criteria under  
3 this subsection; and

4 “(B) for each fiscal year, not less than 2  
5 projects of Indian tribal governments for par-  
6 ticipation in the pilot program and for financial  
7 assistance under paragraph (5), if—

8 “(i) Indian tribal governments submit  
9 an application; and

10 “(ii) the projects meet the eligibility  
11 requirements and selection criteria under  
12 this subsection.”; and

13 (4) in paragraph (7), by striking “15” and in-  
14 serting “17”.

15 (e) MOTORCYCLIST SAFETY.—Section 2010(f)(4) of  
16 the SAFETEA-LU (23 U.S.C. 402 note; 119 Stat. 1537)  
17 is amended—

18 (1) by striking “The term” and inserting the  
19 following:

20 “(A) IN GENERAL.—The term”; and

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

22 “(B) INCLUSION.—The term ‘State’ in-  
23 cludes any Indian tribal government.”.

24 (f) TRAINING AND EDUCATION.—Section 5204(e) of  
25 the SAFETEA-LU (119 Stat. 1791) is amended—

1 (1) by striking “2005 through 2009” and in-  
2 sserting “2010 through 2016”; and

3 (2) by inserting before the period at the end the  
4 following: “, of which not less than \$2,100,000 shall  
5 be made available to carry out subsection  
6 (b)(2)(D)(ii) of that section”.

7 **SEC. 3. HIGHWAYS AMENDMENTS.**

8 (a) DEFINITIONS.—Section 101 of title 23, United  
9 States Code, is amended by adding at the end the fol-  
10 lowing:

11 “(40) INDIAN TRIBE; TRIBAL GOVERNMENT.—

12 “(A) IN GENERAL.—The terms ‘Indian  
13 tribe’ and ‘tribal government’ have the meaning  
14 given the term ‘Indian tribe’ in section 4 of the  
15 Indian Self-Determination and Education As-  
16 sistance Act (25 U.S.C. 450b).

17 “(B) INCLUSIONS.—The terms ‘Indian  
18 tribe’ and ‘tribal government’ include—

19 “(i) a tribal organization (as defined  
20 in section 4 of the Indian Self-Determina-  
21 tion and Education Assistance Act (25  
22 U.S.C. 450b)); and

23 “(ii) a tribal consortium.

24 “(41) TRIBAL CONSORTIUM.—The term ‘tribal  
25 consortium’ means an organization composed of 2 or

1 more tribal governments for the purpose of entering  
2 into a contract or other agreement with the Sec-  
3 retary or the Secretary of the Interior under—

4 “(A) section 202(d); or

5 “(B) the Indian Self-Determination and  
6 Education Assistance Act (25 U.S.C. 450 et  
7 seq.).”.

8 (b) EMERGENCY RELIEF.—Section 125(e) of title 23,  
9 United States Code, is amended—

10 (1) by striking “(e) The Secretary” and insert-  
11 ing the following:

12 “(e) FOREST, PARK, PUBLIC LANDS, AND INDIAN  
13 RESERVATION ROADS.—

14 “(1) IN GENERAL.—The Secretary”; and

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

16 “(2) APPLICATIONS BY TRIBAL GOVERN-  
17 MENTS.—

18 “(A) IN GENERAL.—Notwithstanding any  
19 other provision of law (including any threshold  
20 level established for determining eligibility for  
21 assistance under this section), a tribal govern-  
22 ment may submit to the Secretary an applica-  
23 tion for emergency relief funding for the repair  
24 or reconstruction of a public transportation fa-

1           cility that is owned or maintained by the tribal  
2           government or the Bureau of Indian Affairs.

3           “(B) ACTION BY SECRETARY.—The Sec-  
4           retary shall—

5                   “(i) process each application from a  
6                   tribal government under subparagraph (A)  
7                   in the same manner as an application from  
8                   a Federal agency; and

9                   “(ii) develop criteria for the provision  
10                  of emergency relief funding under this  
11                  paragraph, including appropriate eligibility  
12                  thresholds under this subsection pursuant  
13                  to regulations promulgated in accordance  
14                  with section 202(d)(9).”.

15          (c) METROPOLITAN TRANSPORTATION PLANNING.—  
16          Section 134(f)(3)(C)(ii)(II) of title 23, United States  
17          Code, is amended—

18                  (1) by inserting “subsections (a) through (c)  
19                  of” before “section 202” each place it appears; and

20                  (2) by inserting “the public lands highways,  
21                  park roads and parkways, and refuge roads pro-  
22                  grams under” before “section 204”.

23          (d) NONDISCRIMINATION.—Section 140 of title 23,  
24          United States Code, is amended by striking subsection (d)  
25          and inserting the following:

1       “(d) INDIAN PREFERENCE.—Notwithstanding any  
2 provision of State law (including regulations), in accord-  
3 ance with section 703(i) of the Civil Rights Act of 1964  
4 (42 U.S.C. 2000e–2(i)), with respect to any project car-  
5 ried out on or near the boundaries of an Indian reserva-  
6 tion or Indian community, a State shall require, to the  
7 maximum extent practicable—

8               “(1) the provision of preference and opportuni-  
9 ties for training and employment to Indians and  
10 Alaska Natives; and

11              “(2) preference in the provision of subcontracts  
12 and subgrants to—

13                      “(A) Indian and Alaska Native organiza-  
14 tions; and

15                      “(B) economic enterprises (as defined in  
16 section 3 of the Indian Financing Act of 1974  
17 (25 U.S.C. 1452)).”.

18       (e) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—  
19 Section 148(f) of title 23, United States Code, is amend-  
20 ed—

21              (1) in paragraph (1), by striking “2005” and  
22 inserting “2009”; and

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

24                      “(3) HIGH-RISK RURAL TRIBAL ROADS.—

1           “(A) IN GENERAL.—Of the amounts made  
2 available under paragraph (1), the Secretary  
3 shall set aside 2 percent for each fiscal year for  
4 the purpose of providing grants to tribal gov-  
5 ernments for any purpose eligible under this  
6 section, in accordance with such terms and con-  
7 ditions as the Secretary may establish pursuant  
8 to section 202(d)(9).

9           “(B) FEDERAL SHARE.—The Federal  
10 share of the cost of a project under this para-  
11 graph shall be 100 percent.

12           “(C) REQUIREMENTS.—The Secretary  
13 shall provide grants to tribal governments  
14 under this section in accordance with the In-  
15 dian Self-Determination and Education Assist-  
16 ance Act (25 U.S.C. 450 et seq.) and section  
17 202(d)(5).”.

18           (f) ALLOCATIONS.—Section 202 of title 23, United  
19 States Code, is amended—

20           (1) in subsection (b)(1)—

21           (A) in subparagraph (A), by inserting “, or  
22 on application by any Indian tribe” before the  
23 period at the end; and

1 (B) in subparagraph (B), by inserting “,  
2 or by an Indian tribe with jurisdiction over land  
3 in a State,” after “by a State”; and

4 (2) in subsection (d)—

5 (A) in paragraph (2)—

6 (i) by striking subparagraph (A) and  
7 inserting the following:

8 “(A) ALLOCATION OF FUNDS.—

9 “(i) DEFINITIONS.—In this subpara-  
10 graph:

11 “(I) INDIAN TRIBE.—The term  
12 ‘Indian tribe’ has the meaning given  
13 the term in section 102 of the Feder-  
14 ally Recognized Indian Tribe List Act  
15 of 1994 (25 U.S.C. 479a)).

16 “(II) IRR PROGRAM ALLOCA-  
17 TION.—

18 “(aa) IN GENERAL.—The  
19 term ‘IRR program allocation’,  
20 with respect to an Indian tribe,  
21 means an amount equal to the  
22 sum of—

23 “(AA) the relative need  
24 distribution formula share of  
25 the Indian tribe;

1                   “(BB) the population  
2                   adjustment factor of the In-  
3                   dian tribe; and

4                   “(CC) the share of the  
5                   Indian tribe of 2-percent  
6                   planning funds.

7                   “(bb) EXCLUSIONS.—The  
8                   term ‘IRR program allocation’  
9                   does not include any high-priority  
10                  project funds, public lands discre-  
11                  tionary funds, or any additional  
12                  transportation funds that an In-  
13                  dian tribe may receive.

14                  “(ii) REQUIREMENT.—All funds au-  
15                  thorized to be appropriated for Indian res-  
16                  ervation roads shall be allocated among In-  
17                  dian tribes for fiscal year 2000 and each  
18                  subsequent fiscal year in accordance with a  
19                  formula established by the Secretary of the  
20                  Interior under a negotiated rulemaking  
21                  procedure under subchapter III of chapter  
22                  5 of title 5.

23                  “(iii) IRR PROGRAM ALLOCATION RE-  
24                  QUIREMENT.—Notwithstanding clause (ii),  
25                  the Secretary shall allocate funds in a

1 manner than ensures that the total IRR  
2 program allocation of each Indian tribe is  
3 equal to not less than \$50,000, as adjusted  
4 annually for inflation beginning on October  
5 1, 2010, using the Producer Price Index.

6 “(iv) EFFECT OF SUBPARAGRAPH.—  
7 Nothing in this subparagraph requires the  
8 Secretary to withhold funds from an In-  
9 dian tribe that receives an IRR program  
10 allocation to make funds available to In-  
11 dian tribes that have voluntarily agreed to  
12 forego receipt of a minimum IRR program  
13 allocation.”; and

14 (ii) in subparagraph (G), by adding at  
15 the end the following:

16 “(vi) INDIAN RESERVATION ROADS  
17 PROGRAM INVENTORY.—

18 “(I) IN GENERAL.—Not later  
19 than 2 years after the date of enact-  
20 ment of this clause, the Secretary, in  
21 cooperation with the Secretary of the  
22 Interior, shall ensure that the Indian  
23 reservation roads program inventory  
24 accurately reflects the existence and  
25 condition of all transportation facili-

1 ties eligible for inclusion in the inven-  
2 tory under clause (ii), to a 95-percent  
3 degree of accuracy.

4 “(II) AUTHORIZATION OF APPRO-  
5 PRIATIONS.—There is authorized to  
6 be appropriated from the Highway  
7 Trust Fund (other than the Mass  
8 Transit Account) to carry out this  
9 clause \$10,000,000 for fiscal year  
10 2010.”;

11 (B) in paragraph (3), by adding at the end  
12 the following:

13 “(C) FLEXIBLE FINANCING.—

14 “(i) IN GENERAL.—A tribal govern-  
15 ment that has entered into a self-deter-  
16 mination contract or a self-governance  
17 compact with the Secretary or the Sec-  
18 retary of the Interior pursuant to the In-  
19 dian Self-Determination and Education  
20 Assistance Act (25 U.S.C. 450 et seq.), or  
21 that has entered into an agreement with  
22 the Secretary of Transportation under  
23 paragraph (5), may—

24 “(I) carry out advanced construc-  
25 tion of any project eligible for assist-

1                   ance under this title or chapter 53 of  
2                   title 49;

3                   “(II) use any debt financing in-  
4                   strument under section 122 or other  
5                   applicable law for any project eligible  
6                   for assistance under this title or chap-  
7                   ter 53 of title 49; and

8                   “(III) use funds made available  
9                   to the tribal government under this  
10                  title or chapter 53 of title 49 for—

11                  “(aa) interest payments  
12                  under an eligible debt financing  
13                  instrument;

14                  “(bb) the retirement of prin-  
15                  cipal of an eligible debt financing  
16                  instrument;

17                  “(cc) the cost of the  
18                  issuance of an eligible debt fi-  
19                  nancing instrument;

20                  “(dd) the cost of insurance  
21                  for an eligible debt financing in-  
22                  strument; and

23                  “(ee) any other cost inci-  
24                  dental to the sale of an eligible

1 debt financing instrument (as de-  
2 termined by the Secretary).

3 “(ii) INCLUSION OF PROVISIONS IN  
4 AGREEMENTS.—

5 “(I) IN GENERAL.—On receipt of  
6 a request from any tribal government  
7 described in clause (i), the Secretary  
8 or the Secretary of the Interior, as  
9 appropriate, shall include in the appli-  
10 cable contract, compact, or agreement  
11 provisions that facilitate advanced  
12 construction or the use of flexible fi-  
13 nancing methods under clause (i) and  
14 other applicable law for any project el-  
15 igible for assistance under this title or  
16 chapter 53 of title 49.

17 “(II) INCLUSIONS.—The provi-  
18 sions described in subclause (I) may  
19 include provisions that—

20 “(aa) authorize the elec-  
21 tronic transfer of funds made  
22 available to the tribal government  
23 under this title or chapter 53 of  
24 title 49 directly from the Sec-  
25 retary or the Secretary of the In-

1                   terior to a trustee or other depos-  
2                   itory designated by the tribal  
3                   government; or

4                   “*(bb)* authorize the Sec-  
5                   retary or the Secretary of the In-  
6                   terior to maintain any project so  
7                   funded on the transportation im-  
8                   provement program approved by  
9                   the Secretary.”;

10                   (C) in paragraph (4)—

11                   (i) by striking the paragraph designa-  
12                   tion and heading and inserting the fol-  
13                   lowing:

14                   “(4) INDIAN RESERVATION ROAD BRIDGE PRO-  
15                   GRAM.—”; and

16                   (ii) in subparagraph (B), by striking  
17                   clause (i) and inserting the following:

18                   “(i) AUTHORIZATION OF APPROPRIA-  
19                   TIONS.—

20                   “(I) IN GENERAL.—Funds au-  
21                   thorized to be appropriated for the In-  
22                   dian reservation road bridge program  
23                   shall be available to Indian tribes to  
24                   carry out planning, design, engineer-

1 ing, preconstruction, construction, and  
2 inspection of projects—

3 “(aa) to construct new In-  
4 dian reservation road bridges; or

5 “(bb) to replace, rehabili-  
6 tate, seismically retrofit, paint,  
7 apply calcium magnesium ace-  
8 tate, sodium acetate/formate, or  
9 other environmentally acceptable,  
10 minimally corrosive anti-icing  
11 and de-icing compositions, or in-  
12 stall scour countermeasures for  
13 deficient Indian reservation road  
14 bridges, including multiple-pipe  
15 culverts.

16 “(II) PLANNING, SURVEY, DE-  
17 SIGN, ENGINEERING, AND  
18 PRECONSTRUCTION FUNDS.—

19 “(aa) IN GENERAL.—Not  
20 more than 20 percent of funds  
21 authorized to be appropriated for  
22 the Indian reservation road  
23 bridge program shall be available  
24 for planning, survey, design, en-  
25 gineering, and preconstruction.

1                   “(bb) LIMITATION.—Not-  
2                   withstanding any other provision  
3                   of law, not more than 20 percent  
4                   of the estimated construction cost  
5                   of a project eligible for funding  
6                   under this paragraph shall be  
7                   available for planning, survey, de-  
8                   sign,            engineering,           and  
9                   preconstruction for the project.”;

10                   (D) in paragraph (5)(A), by striking “this  
11                   chapter” and inserting “this title or chapter 53  
12                   of title 49”; and

13                   (E) by adding at the end the following:

14                   “(6) TRIBAL TRANSPORTATION SAFETY PRO-  
15                   GRAM.—

16                   “(A) DEFINITION OF TRIBAL TRANSPOR-  
17                   TATION SAFETY IMPROVEMENT PROJECT.—

18                   “(i) IN GENERAL.—In this paragraph,  
19                   the term ‘tribal transportation safety im-  
20                   provement project’ means a project that—

21                   “(I) corrects or improves a haz-  
22                   ardous road location or feature; or

23                   “(II) addresses a safety problem  
24                   on a tribal transportation facility that  
25                   is included in the national tribal

1 transportation facility inventory under  
2 paragraph (2)(G).

3 “(ii) INCLUSIONS.—The term ‘tribal  
4 transportation safety improvement project’  
5 includes any project for 1 or more of the  
6 following:

7 “(I) An intersection safety im-  
8 provement.

9 “(II) Pavement and shoulder  
10 widening (including addition of a  
11 passing lane to remedy an unsafe con-  
12 dition).

13 “(III) Installation of rumble  
14 strips or another warning device, if  
15 the rumble strips or other warning de-  
16 vice does not adversely affect the safe-  
17 ty or mobility of bicyclists, pedes-  
18 trians, and the disabled.

19 “(IV) Installation of a skid-re-  
20 sistant surface at an intersection or  
21 other location with a high frequency  
22 of accidents.

23 “(V) An improvement for pedes-  
24 trian or bicyclist safety or safety of  
25 the disabled.

1                   “(VI) Construction of any project  
2                   for the elimination of hazards at a  
3                   railway-highway crossing that is eligi-  
4                   ble for funding under section 130, in-  
5                   cluding the separation or protection of  
6                   grades at railway-highway crossings.

7                   “(VII) Construction of a railway-  
8                   highway crossing safety feature, in-  
9                   cluding installation of protective de-  
10                  vices.

11                  “(VIII) The conduct of a model  
12                  traffic enforcement activity at a rail-  
13                  way-highway crossing.

14                  “(IX) Construction of a traffic-  
15                  calming feature.

16                  “(X) Elimination of a roadside  
17                  obstacle.

18                  “(XI) Improvement of highway  
19                  signage and pavement markings.

20                  “(XII) Installation of a priority  
21                  control system for emergency vehicles  
22                  at signalized intersections.

23                  “(XIII) Installation of a traffic  
24                  control or other warning device at a  
25                  location with high accident potential.

1                   “(XIV) Safety-conscious plan-  
2                   ning.

3                   “(XV) Improvement in the collec-  
4                   tion and analysis of crash data.

5                   “(XVI) Planning integrated  
6                   interoperable emergency communica-  
7                   tions equipment, operational activities,  
8                   or traffic enforcement activities (in-  
9                   cluding police assistance) relating to  
10                  workzone safety.

11                  “(XVII) Installation of guard-  
12                  rails, barriers (including barriers be-  
13                  tween construction work zones and  
14                  traffic lanes for the safety of motor-  
15                  ists and workers), and crash attenu-  
16                  ators.

17                  “(XVIII) The addition or retro-  
18                  fitting of structures or other measures  
19                  to eliminate or reduce accidents in-  
20                  volving vehicles and wildlife.

21                  “(XIX) Installation and mainte-  
22                  nance of signs (including fluorescent,  
23                  yellow-green signs) at pedestrian-bicy-  
24                  cle crossings and in school zones.

1                   “(XX) Construction and oper-  
2                   ational improvements on high-risk  
3                   rural roads that appear on the na-  
4                   tional tribal transportation facility in-  
5                   ventory.

6                   “(XXI) Development and oper-  
7                   ation of safety management systems.

8                   “(XXII) Highway safety edu-  
9                   cation programs.

10                  “(XXIII) Safety projects and ac-  
11                  tivities authorized under chapter 4.

12                  “(B) ESTABLISHMENT.—The Secretary  
13                  shall establish and implement a tribal transpor-  
14                  tation safety program in accordance with this  
15                  section.

16                  “(C) PURPOSE.—The purpose of the tribal  
17                  transportation safety program shall be to  
18                  achieve a significant reduction in traffic fatali-  
19                  ties and serious injuries on Indian reservation  
20                  roads and bridges.

21                  “(D) GRANTS.—

22                  “(i) IN GENERAL.—The Secretary  
23                  shall use amounts made available to carry  
24                  out this section to provide grants to tribal

1 governments to carry out tribal transpor-  
2 tation safety improvement projects.

3 “(ii) REGULATIONS.—

4 “(I) IN GENERAL.—The Sec-  
5 retary shall develop requirements for  
6 the provision of grants under this  
7 paragraph by regulation, pursuant to  
8 paragraph (9).

9 “(II) FAILURE TO PROMUL-  
10 GATE.—A failure by the Secretary to  
11 promulgate regulations under sub-  
12 clause (I) shall not limit the effect of  
13 this paragraph.

14 “(iii) REQUIREMENT.—The Secretary  
15 shall provide grants under this subsection  
16 in accordance with the Indian Self-Deter-  
17 mination and Education Assistance Act  
18 (25 U.S.C. 450 et seq.) and paragraph (5).

19 “(E) FEDERAL SHARE.—The Federal  
20 share of the cost of a tribal transportation safe-  
21 ty improvement project carried out under this  
22 paragraph shall be 100 percent.

23 “(7) RIGHTS-OF-WAY AND CORRIDOR MANAGE-  
24 MENT POLICIES.—

25 “(A) APPLICABLE REGULATIONS.—

1           “(i) IN GENERAL.—Notwithstanding  
2           any other provision of law (including regu-  
3           lations), a tribal government shall not be  
4           subject to the requirements of part 169 of  
5           title 25, Code of Federal Regulations (or  
6           successor regulations), with respect to the  
7           procurement of rights-of-way by the tribal  
8           government or the granting of rights-of-  
9           way by the tribal government for projects  
10          eligible for assistance under this title or  
11          chapter 53 of title 49, if—

12                   “(I) the tribal government has  
13                   entered into a contract, compact, or  
14                   agreement pursuant to the Indian  
15                   Self-Determination and Education As-  
16                   sistance Act (25 U.S.C. 450 et seq.)  
17                   or paragraph (5); and

18                   “(II) the tribal government has  
19                   assumed responsibility under the con-  
20                   tract, compact, or agreement for 1 or  
21                   more functions relating to the pro-  
22                   curement and granting of rights-of-  
23                   way.

24           “(ii) CRITERIA.—In accordance with  
25          the negotiated rulemaking procedure under

1 paragraph (9), the Secretary of the Inte-  
2 rior shall negotiate and promulgate regula-  
3 tions establishing the criteria according to  
4 which a tribal government may—

5 “(I) carry out the maximum per-  
6 missible functions associated with the  
7 procurement or granting of rights-of-  
8 way for projects eligible for assistance  
9 under this title or chapter 53 of title  
10 49 that the tribal government is per-  
11 forming pursuant to a contract, com-  
12 pact, or agreement under the Indian  
13 Self-Determination and Education As-  
14 sistance Act (25 U.S.C. 450 et seq.)  
15 or paragraph (5); and

16 “(II) develop corridor manage-  
17 ment policies.

18 “(B) RIGHTS-OF-WAY FOR EXISTING  
19 ROUTES.—

20 “(i) IN GENERAL.—Not later than  
21 120 days after the date of receipt of a re-  
22 quest from a tribal government, the Sec-  
23 retary of the Interior shall provide to the  
24 tribal government documentation of each  
25 enforceable right-of-way for each route

1 that, as of the date of enactment of this  
2 paragraph—

3 “(I) is eligible for inclusion in the  
4 national tribal transportation facility  
5 inventory under paragraph (2)(G);  
6 and

7 “(II) is owned by the Bureau of  
8 Indian Affairs or the tribal govern-  
9 ment.

10 “(ii) FAILURE TO LOCATE DOCU-  
11 MENTATION.—If the Secretary of the Inte-  
12 rior is unable to locate documentation of  
13 an enforceable right-of-way under clause  
14 (i), the Secretary of the Interior shall ac-  
15 quire, by purchase or otherwise, a right-of-  
16 way sufficient to support the use of the  
17 route, as of the date of enactment of this  
18 paragraph.

19 “(iii) LIMITATION.—In acquiring a  
20 right-of-way under clause (ii), the Sec-  
21 retary of the Interior shall not require a  
22 tribal government to use tribal funds or  
23 funds made available to the tribal govern-  
24 ment under this title or chapter 53 of title  
25 49.

1 “(C) RIGHT-OF-WAY RECORDS.—

2 “(i) IN GENERAL.—Not later than 3  
3 years after the date of enactment of this  
4 paragraph, the Secretary of the Interior  
5 shall complete a comprehensive national  
6 update of right-of-way records for all  
7 routes that are—

8 “(I) eligible for inclusion in the  
9 national tribal transportation facility  
10 inventory; and

11 “(II) owned by the Bureau of In-  
12 dian Affairs or a tribal government.

13 “(ii) REQUIREMENTS.—In completing  
14 the update of records under clause (i), the  
15 Secretary shall—

16 “(I) computerize and organize all  
17 right-of-way records; and

18 “(II) establish a system for en-  
19 suring that documentation of a right-  
20 of-way for a new route owned by the  
21 Bureau of Indian Affairs or a tribal  
22 government is promptly added to the  
23 right-of-way records database.

24 “(iii) AVAILABILITY.—The Secretary  
25 shall make each updated record under this

1           subparagraph available to the tribal gov-  
2           ernment on the inventory of which the ap-  
3           plicable route appears in any commonly  
4           used mapping format requested by the  
5           tribal government.

6           “(D) AUTHORIZATION OF APPROPRIA-  
7           TIONS.—There is authorized to be appropriated  
8           from the Highway Trust Fund (other than the  
9           Mass Transit Account) to carry out this para-  
10          graph \$10,000,000 for each of fiscal years  
11          2010 through 2015.

12          “(8) COMPLIANCE WITH ENVIRONMENTAL  
13          LAW.—A tribal government that has entered into a  
14          contract, compact, or agreement pursuant to the In-  
15          dian Self-Determination and Education Assistance  
16          Act (25 U.S.C. 450 et seq.) or paragraph (5) to  
17          carry out a project under this subsection may elect  
18          to assume all Federal responsibilities under the Na-  
19          tional Environmental Policy Act of 1969 (42 U.S.C.  
20          4321 et seq.), the National Historic Preservation  
21          Act (16 U.S.C. 470 et seq.), and any related provi-  
22          sions of law that would apply if the Secretary were  
23          to carry out the applicable construction project, by  
24          adopting a resolution that—

25          “(A) designates a certifying officer—

1 “(i) to represent the Indian tribe; and

2 “(ii) to assume the status of a respon-  
3 sible Federal official under those laws; and

4 “(B) accepts the jurisdiction of the United  
5 States courts for the purpose of enforcement of  
6 the responsibilities of a Federal official under  
7 those laws.

8 “(9) REGULATIONS.—

9 “(A) IN GENERAL.—Notwithstanding sec-  
10 tions 563(a) and 565(a) of title 5, the Secretary  
11 and the Secretary of the Interior shall jointly  
12 promulgate regulations to implement para-  
13 graphs (6) and (7) and sections 125(e),  
14 148(f)(3), and 413, in accordance with a nego-  
15 tiated rulemaking procedure under subchapter  
16 III of chapter 5 of title 5.

17 “(B) DEADLINE AND EFFECTIVE DATE.—  
18 Final regulations under subparagraph (A)  
19 shall—

20 “(i) be promulgated by not later than  
21 January 1, 2011; and

22 “(ii) take effect on February 1, 2011.

23 “(C) NEGOTIATED RULEMAKING COM-  
24 MITTEE.—In establishing a negotiated rule-  
25 making committee to carry out this paragraph,

1 the Secretary and the Secretary of the Interior  
2 shall—

3 “(i) apply the procedures described in  
4 subchapter III of chapter 5 of title 5 in a  
5 manner that reflects the unique govern-  
6 ment-to-government relationship between  
7 tribal governments and the United States;  
8 and

9 “(ii) ensure that membership of the  
10 committee—

11 “(I) includes only representatives  
12 of the Federal Government and of  
13 geographically diverse small, medium,  
14 and large Indian tribes; and

15 “(II) ensures representation from  
16 each of the 12 regions served by the  
17 Bureau of Indian Affairs.”.

18 (g) FEDERAL LANDS HIGHWAYS PROGRAM.—Section  
19 204 of title 23, United States Code, is amended—

20 (1) in subsection (b)(6), by striking “may re-  
21 serve funds from” and inserting “shall reserve not  
22 less than \$2,100,000 of the”; and

23 (2) in subsection (c)—

24 (A) by striking “(c) Before” and inserting  
25 the following:

1 “(c) INDIAN RESERVATION ROADS.—

2 “(1) IN GENERAL.—Before”;

3 (B) by striking the second sentence and in-  
4 serting the following:

5 “(2) AMOUNT.—Notwithstanding any other  
6 provision of this title, of the amounts allocated for  
7 Indian reservation roads from the Highway Trust  
8 Fund, the Secretary shall use for the purpose of  
9 maintenance (but not including road sealing, which  
10 shall not be subject to any limitation) not more than  
11 the greater of—

12 “(A) an amount equal to 25 percent of the  
13 funds allocated to an Indian tribe; and

14 “(B) \$500,000.”;

15 (C) in the third sentence, by striking “The  
16 Bureau” and inserting the following:

17 “(3) RESPONSIBILITY OF BUREAU OF INDIAN  
18 AFFAIRS.—The Bureau”; and

19 (D) in the fourth sentence, by striking  
20 “The Secretary” and inserting the following:

21 “(4) TREATMENT OF FUNDS.—The Secretary”.

22 (h) TRIBAL SAFETY PROGRAM.—Chapter 4 of title  
23 23, United States Code, is amended by adding at the end  
24 the following:

1 **“§ 413. Tribal safety program**

2 “(a) ESTABLISHMENT.—The Secretary shall estab-  
3 lish and carry out a national highway traffic safety admin-  
4 istration tribal safety program in accordance with this sec-  
5 tion.

6 “(b) PURPOSE.—The purpose of the national high-  
7 way traffic safety administration tribal safety program  
8 shall be to address driver, passenger, and pedestrian be-  
9 havioral issues that contribute to death and injury on trib-  
10 al transportation systems.

11 “(c) GRANTS.—

12 “(1) IN GENERAL.—The Secretary shall use  
13 amounts made available to carry out this section to  
14 provide grants to tribal governments to carry out eli-  
15 gible projects and activities.

16 “(2) REGULATIONS.—

17 “(A) IN GENERAL.—The Secretary shall  
18 develop requirements for the provision of grants  
19 under this section by regulation, pursuant to  
20 section 202(d)(9).

21 “(B) FAILURE TO PROMULGATE.—A fail-  
22 ure by the Secretary to promulgate regulations  
23 under subparagraph (A) shall not limit the ef-  
24 fect of this section.

25 “(3) REQUIREMENTS.—The Secretary shall  
26 provide grants under this subsection in accordance

1 with the Indian Self-Determination and Education  
2 Assistance Act (25 U.S.C. 450 et seq.) and section  
3 202(d)(5).

4 “(d) ELIGIBLE PROJECTS AND ACTIVITIES.—A tribal  
5 government may use a grant under this section for any  
6 project or activity that is—

7 “(1) eligible for assistance under—

8 “(A) this chapter; or

9 “(B) section 1404, 1411, 1906, 2009,  
10 2010, or 2011 of the SAFETEA-LU (119  
11 Stat. 1144); or

12 “(2) carried out—

13 “(A) to reduce injuries and deaths result-  
14 ing from motor vehicles being driven in excess  
15 of posted speed limits;

16 “(B) to encourage the proper use of occu-  
17 pant protection devices (including the use of  
18 safety belts and child restraint systems) by oc-  
19 cupants of motor vehicles;

20 “(C) to reduce deaths and injuries result-  
21 ing from persons driving motor vehicles while  
22 impaired by alcohol or a controlled substance;

23 “(D) to prevent accidents and reduce  
24 deaths and injuries resulting from accidents in-  
25 volving motor vehicles and motorcycles;

1           “(E) to reduce injuries and deaths result-  
2           ing from accidents involving school buses;

3           “(F) to reduce accidents resulting from  
4           unsafe driving behavior (including aggressive or  
5           fatigued driving and distracted driving arising  
6           from the use of electronic devices in vehicles);

7           “(G) to improve law enforcement services  
8           in motor vehicle accident prevention, traffic su-  
9           pervision, and post-accident procedures;

10           “(H) to improve the collection, compila-  
11           tion, analysis, and management of traffic safety  
12           data; or

13           “(I) to develop and implement a tribal  
14           transportation safety planning process, except  
15           that the requirements of section 148 shall not  
16           apply to the tribal transportation planning  
17           process.

18           “(e) RECEIPT OF OTHER FUNDS.—The fact that a  
19           project or activity receives or has received funding or sup-  
20           port from a source other than the Highway Trust Fund,  
21           or from an agency other than the Department of Trans-  
22           portation, shall not render the project or activity ineligible  
23           for funding under this section, if the project or activity  
24           would otherwise be eligible for funding under this section.

1       “(f) FEDERAL SHARE.—The Federal share of the  
2 cost of a project or activity carried out under this section  
3 shall be 100 percent.

4       “(g) AUTHORIZATION OF APPROPRIATIONS.—There  
5 is authorized to be appropriated from the Highway Trust  
6 Fund (other than the Mass Transit Account) to carry out  
7 this section \$50,000,000 for each of fiscal years 2010  
8 through 2015.”.

9       (i) LOCAL TECHNICAL ASSISTANCE PROGRAM.—Sec-  
10 tion 504(b) of title 23, United States Code, is amended—

11           (1) in paragraph (2)(D)(ii), by striking “local  
12 technical assistance program centers” and inserting  
13 “for each of the 12 regions served by the Bureau of  
14 Indian Affairs, a local technical assistance program  
15 center”; and

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

17           “(4) SELECTION AND SUPERVISION OF TRIBAL  
18 TECHNICAL ASSISTANCE PROGRAM CENTERS.—

19                   “(A) SELECTION COMMITTEES.—

20                           “(i) IN GENERAL.—The Secretary  
21 shall establish, for each of the 12 regions  
22 served by a technical assistance program  
23 center established under paragraph  
24 (2)(D)(ii), a joint Federal and tribal selec-  
25 tion committee, which shall be composed of

1 a number of tribal representatives propor-  
2 tionate to the number of Indian tribes  
3 within the region to be served by the cen-  
4 ter.

5 “(ii) DUTY.—The selection committee  
6 for a region described in clause (i) shall se-  
7 lect the grant, cooperative agreement, or  
8 contract recipient for that region.

9 “(B) AUTHORITY.—The Office of Cor-  
10 porate and Professional Development of the  
11 Federal Highway Administration shall have sole  
12 authority to oversee the tribal technical assist-  
13 ance program centers established under para-  
14 graph (2)(D)(ii).

15 “(C) VIEWS OF TRIBAL LEADERS.—The  
16 Secretary shall annually solicit comments from  
17 tribal leaders and tribal transportation officials  
18 regarding the adequacy of the services provided  
19 by the tribal technical assistance program cen-  
20 ter under this paragraph serving each region.”.

21 (j) TRIBAL INFRASTRUCTURE BANK.—Chapter 6 of  
22 title 23, United States Code, is amended by adding at the  
23 end the following:

1 **“§ 611. Tribal infrastructure bank**

2 “(a) DEFINITIONS.—In this section, the terms ‘cap-  
3 italization’, ‘guarantee’, ‘initial assistance’, ‘leverage’,  
4 ‘loan’, and ‘other forms of credit assistance’ have the  
5 meanings given the terms in section 610.

6 “(b) ESTABLISHMENT.—The Secretary shall estab-  
7 lish a tribal infrastructure bank for the purpose of pro-  
8 viding loans and other forms of credit assistance to tribal  
9 governments carrying out or proposing to carry out  
10 projects eligible for assistance under this section.

11 “(c) FUNDING.—

12 “(1) SEPARATE ACCOUNTS.—

13 “(A) IN GENERAL.—The tribal infrastruc-  
14 ture bank established under this section shall  
15 maintain—

16 “(i) a separate highway account for  
17 Federal funds contributed to the bank  
18 under paragraph (2)(A); and

19 “(ii) a separate transit account for  
20 Federal funds contributed to the bank  
21 under paragraph (2)(B).

22 “(B) PROHIBITION.—No Federal funds  
23 contributed or credited to an account of the  
24 tribal infrastructure bank under this section  
25 may be commingled with Federal funds contrib-

1           uted or credited to any other account of the  
2           bank.

3           “(2) FUNDING.—There are authorized to be ap-  
4           propriated for each of fiscal years 2010 through  
5           2015—

6                   “(A) to the highway account of the tribal  
7           infrastructure bank, out of the Highway Trust  
8           Fund (other than the Mass Transit Account),  
9           \$8,500,000; and

10                   “(B) to the transit account of the tribal in-  
11           frastructure bank, out of the Mass Transit Ac-  
12           count, \$1,500,000.

13           “(3) CAPITAL GRANTS.—

14                   “(A) HIGHWAY ACCOUNT.—For purposes  
15           of this section, Federal funds deposited in the  
16           highway account of the tribal infrastructure  
17           bank under paragraph (2)(A) shall be consid-  
18           ered to be a capitalization grant to the highway  
19           account.

20                   “(B) TRANSIT ACCOUNT.—For purposes  
21           of this section, Federal funds deposited in the  
22           transit account of the tribal infrastructure bank  
23           under paragraph (2)(B) shall be considered to  
24           be a capitalization grant to the transit account.

25           “(d) FORMS OF ASSISTANCE.—

1           “(1) IN GENERAL.—The tribal infrastructure  
2 bank may provide loans or other forms of credit as-  
3 sistance to a tribal government in an amount equal  
4 to all or any portion of the cost of carrying out a  
5 project eligible for assistance under this section.

6           “(2) TREATMENT.—The amount of a loan or  
7 other form of credit assistance provided for a project  
8 under this subsection may be subordinated to any  
9 other debt financing for the project.

10           “(3) INITIAL ASSISTANCE.—Initial assistance  
11 provided with respect to a project from Federal  
12 funds deposited in the bank under this section may  
13 not be made in the form of a grant.

14           “(e) ELIGIBLE PROJECTS.—Subject to subsection  
15 (d), amounts in the tribal infrastructure bank may be used  
16 only to provide assistance for—

17           “(1) projects eligible for assistance under this  
18 title or chapter 53 of title 49; and

19           “(2) any other projects relating to surface  
20 transportation that the Secretary determines to be  
21 appropriate.

22           “(f) ADMINISTRATION.—The tribal infrastructure  
23 bank shall be administered by a federally chartered cor-  
24 poration, which shall—

1           “(1) ensure that the bank maintains, on a con-  
2           tinuing basis, an investment grade rating on the  
3           debt of the bank, or has a sufficient level of bond  
4           or debt financing instrument insurance, to maintain  
5           the viability of the bank;

6           “(2) ensure that investment income derived  
7           from funds deposited to an account of the bank  
8           are—

9                   “(A) credited to the account;

10                   “(B) available for use in providing loans  
11                   and other forms of credit assistance to projects  
12                   eligible for assistance from the account; and

13                   “(C) invested in Treasury securities, bank  
14                   deposits, or such other financing instruments as  
15                   the Secretary may approve to earn interest to  
16                   enhance the leveraging of projects assisted by  
17                   the bank;

18           “(3) ensure that any loan from the bank will  
19           bear interest at or below market interest rates, as  
20           determined by the corporation, to make feasible the  
21           project that is the subject of the loan;

22           “(4) ensure that repayment of any loan from  
23           the bank will commence not later than the later of—

24                   “(A) the date that is 5 years after the date  
25                   of completion of the project; and

1           “(B) in the case of a highway project, the  
2           date on which the project facility has opened to  
3           traffic;

4           “(5) establish a maximum term for the repay-  
5           ment of loans in a manner that ensures that the  
6           bank can be self-sustaining;

7           “(6) ensure that the term for repaying any loan  
8           will not exceed 20 years, beginning on the date on  
9           which the first payment on the loan is made; and

10          “(7) not later than September 30 of each fiscal  
11          year, require the bank to submit to the Secretary—

12                 “(A) a report describing the status of the  
13                 bank; and

14                 “(B) such other reports as the Secretary  
15                 may require, by regulation.

16          “(g) APPLICABILITY OF FEDERAL LAW.—

17                 “(1) IN GENERAL.—The requirements of sec-  
18                 tion 202(d) that are applicable to amounts made  
19                 available to tribal governments under that section  
20                 and projects assisted with those funds shall apply  
21                 to—

22                 “(A) funds authorized to be contributed to  
23                 the tribal infrastructure bank under this sec-  
24                 tion; and

1           “(B) projects assisted by the bank through  
2           the use of the funds, except to the extent that  
3           the Secretary determines that any requirement  
4           of that section is not consistent with the objec-  
5           tives of this section.

6           “(2) REPAYMENTS.—

7           “(A) IN GENERAL.—The requirements of  
8           this title and title 49 shall apply to repayments  
9           from non-Federal sources to the bank from  
10          projects assisted by the bank.

11          “(B) TREATMENT.—A repayment de-  
12          scribed in subparagraph (A) shall be considered  
13          to be Federal funds.

14          “(h) UNITED STATES NOT OBLIGATED.—

15          “(1) IN GENERAL.—The deposit of Federal  
16          funds into the bank established under this section  
17          shall not be considered to be a commitment, guar-  
18          antee, or obligation on the part of the United States  
19          to any third party, nor shall any third party have  
20          any right against the United States for payment  
21          solely by virtue of the contribution.

22          “(2) REQUIREMENT.—Any security or debt-fi-  
23          nancing instrument issued by the bank shall ex-  
24          pressly state that the security or instrument does

1 not constitute a commitment, guarantee, or obliga-  
2 tion of the United States.”.

3 **SEC. 4. TRANSPORTATION AMENDMENTS.**

4 (a) METROPOLITAN TRANSPORTATION PLANNING.—  
5 Section 5303(f)(3)(C)(ii)(II) of title 49, United States  
6 Code, is amended—

7 (1) by inserting “subsections (a) through (c)  
8 of” before “section 202” each place it appears; and

9 (2) by inserting “the public lands highways,  
10 park roads and parkways, and refuge roads pro-  
11 grams under” before “section 204”.

12 (b) FORMULA GRANTS FOR OTHER THAN URBAN-  
13 IZED AREAS.—Section 5311 of title 49, United States  
14 Code, is amended—

15 (1) in subsection (b)(3)(B)—

16 (A) by striking “In carrying out” and in-  
17 serting the following:

18 “(i) IN GENERAL.—Subject to clause

19 (ii), in carrying out”; and

20 (B) by adding at the end the following:

21 “(ii) GRANTS TO TRIBAL GOVERN-  
22 MENTS AND INDIAN TECHNICAL CEN-  
23 TERS.—Of the funds made available to  
24 carry out this subparagraph, the Secretary  
25 shall use not less than \$1,000,000 for each

1 fiscal year to provide grants to, and enter  
2 into contracts with, tribal governments and  
3 Indian technical centers operating under  
4 section 503(b) of title 23 for transpor-  
5 tation research, technical assistance, train-  
6 ing, and support services relating to the  
7 provision of transit services in tribal com-  
8 munities.”; and

9 (2) in subsection (c), by striking paragraph (1)  
10 and inserting the following:

11 “(1) PUBLIC TRANSPORTATION ON INDIAN RES-  
12 ERVATIONS.—

13 “(A) IN GENERAL.—Notwithstanding any  
14 other provision of law, subject to subparagraph  
15 (B), of the amounts made available for each fis-  
16 cal year pursuant to subsections (a)(1)(C)(v)  
17 and (b)(2)(G) of section 5338, the following  
18 amounts shall be apportioned for grants to In-  
19 dian tribes for any purpose eligible under this  
20 section, in accordance with such terms and con-  
21 ditions as are established by the Secretary:

22 “(i) \$35,000,000 for fiscal year 2010.

23 “(ii) \$45,000,000 for fiscal year 2011.

24 “(iii) \$55,000,000 for fiscal year  
25 2012.

1                   “(iv) \$65,000,000 for fiscal year  
2                   2013.

3                   “(v) \$75,000,000 for fiscal year 2014.

4                   “(vi) \$85,000,000 for fiscal year  
5                   2015.

6                   “(B) INCLUSION.—For purposes of sub-  
7                   paragraph (A), an eligible purpose under this  
8                   section shall include the provision of a planning  
9                   grant in an amount not to exceed \$50,000 per  
10                  eligible Indian tribe pursuant to—

11                  “(i) the Indian Self-Determination  
12                  and Education Assistance Act (25 U.S.C.  
13                  450 et seq.) (including title VII of that  
14                  Act); or

15                  “(ii) section 202(d)(5) of title 23.”.

16 **SEC. 5. INDIAN SELF-DETERMINATION AND EDUCATION AS-**  
17 **SISTANCE ACT AMENDMENTS.**

18                  (a) DEFINITION OF SECRETARY.—Section 4 of the  
19 Indian Self-Determination and Education Assistance Act  
20 (25 U.S.C. 450b) is amended by striking subsection (i)  
21 and inserting the following:

22                  “(i) except as otherwise provided, ‘Secretary’ means,  
23 as applicable—

24                  “(1) the Secretary of the Interior;

1           “(2) the Secretary of Health and Human Serv-  
2           ices; or

3           “(3) the Secretary of Transportation;”.

4           (b) **TRIBAL TRANSPORTATION SELF-GOVERNANCE**  
5 **PROGRAM.**—The Indian Self-Determination and Edu-  
6 cation Assistance Act is amended—

7           (1) by inserting after title VI (25 U.S.C. 450f  
8           note) the following:

9           **“TITLE VII—TRIBAL TRANSPOR-**  
10           **TATION SELF-GOVERNANCE**  
11           **PROGRAM**

12           **“SEC. 701. TRIBAL TRANSPORTATION SELF-GOVERNANCE**  
13           **PROGRAM.**

14           “(a) **ESTABLISHMENT.**—Notwithstanding any other  
15 provision of law, the Secretary of Transportation (referred  
16 to in this section as the ‘Secretary’) shall establish and  
17 carry out a program, to be known as the ‘Tribal Transpor-  
18 tation Self-Governance Program’.

19           “(b) **FUNDING AGREEMENTS.**—In carrying out the  
20 program under this section, the Secretary shall offer to  
21 enter into a funding agreement with any Indian tribe that  
22 elects to participate in a tribal transportation program (in-  
23 cluding a tribal transit program) under this section in ac-  
24 cordance with title 23 and chapter 53 of title 49, United  
25 States Code.

1 “(c) REGULATIONS.—

2 “(1) IN GENERAL.—Not later than 90 days  
3 after the date of enactment of this section, the Sec-  
4 retary shall initiate procedures under subchapter III  
5 of chapter 5 of title 5, United States Code, to nego-  
6 tiate and promulgate such regulations as are nec-  
7 essary to carry out this section.

8 “(2) COMMITTEE MEMBERSHIP.—A negotiated  
9 rulemaking committee established pursuant to sec-  
10 tion 565 of title 5, United States Code, to carry out  
11 this subsection shall have as members only rep-  
12 resentatives of the Federal Government and Indian  
13 tribal governments, of whom a majority shall be rep-  
14 resentatives of Indian tribes subject to self-govern-  
15 ance agreements under this Act.

16 “(3) REQUIREMENT.—The Secretary shall mod-  
17 ify the negotiated rulemaking procedures as the Sec-  
18 retary determines to be necessary to take into con-  
19 sideration—

20 “(A) the unique context of Indian tribal  
21 self-governance; and

22 “(B) the government-to-government rela-  
23 tionship between the United States and the In-  
24 dian tribes.

1           “(4) EFFECT OF FAILURE TO PROMULGATE.—

2           A failure by the Secretary to promulgate regulations  
3           in accordance with this subsection shall not limit the  
4           effect of this section.

5           “(d) EFFECT ON TITLE 23.—

6           “(1) IN GENERAL.—Notwithstanding any other  
7           provision of law, on receipt of notification of an elec-  
8           tion by an applicable Indian tribal government, the  
9           Secretary shall—

10                   “(A) maintain any currently applicable  
11                   program or funding agreement under the In-  
12                   dian reservation roads program of the Federal  
13                   Highway Administration; or

14                   “(B) offer to enter into a new agreement  
15                   with the tribal government pursuant to section  
16                   202(d)(5) of title 23, United States Code.

17           “(2) NO EFFECT ON AUTHORITY.—Nothing in  
18           this section or the program established by this sec-  
19           tion affects the authority of the Secretary under sec-  
20           tion 202(d)(5) of title 23, United States Code.”; and

21           (2) in the second title V (25 U.S.C. 450bbb et  
22           seq.)—

23                   (A) by redesignating sections 501 through  
24                   503 as sections 801 through 803, respectively;

1                   (B) in section 802(a)(2) (as redesignated  
2                   by subparagraph (A)), by striking “section  
3                   501” and inserting “section 801”;

4                   (C) in section 803(2) (as redesignated by  
5                   subparagraph (A)), by striking “section 501”  
6                   and inserting “section 801”; and

7                   (D) by redesignating the title as title VIII  
8                   as moving the title so as to appear at the end  
9                   of the Act.