

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.

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 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 “Indian Transportation
5 Project Modifications 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 serting “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 “(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.”;

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

16 “(iii) CAUSE OF ACTION.—

17 “(I) IN GENERAL.—A failure by
18 the Secretary of the Interior to dis-
19 tribute funds in accordance with
20 clause (i) shall be considered to be
21 grounds for a cause of action against
22 the United States.

23 “(II) JURISDICTION.—Any
24 United States district court shall have
25 original jurisdiction, concurrent with

1 the United States Court of Federal
2 Claims, over any civil action against
3 the United States under this clause.

4 “(III) INTEREST.—Notwith-
5 standing any other provision of law, in
6 any judgment of a court rendered
7 against the United States for failure
8 to distribute funds made available
9 under this subparagraph to an eligible
10 Indian tribe, during the 30-day period
11 beginning on the date on which the
12 funds are made available to the Sec-
13 retary of the Interior, interest shall be
14 allowed at the rate of interest estab-
15 lished by the Secretary of the Treas-
16 ury and published in the Federal Reg-
17 ister on the date on which the right of
18 the Indian tribe to interest under this
19 subclause accrues.

20 “(IV) SOURCE OF FUNDS.—A
21 judgment for funds awarded under a
22 civil action under this clause, includ-
23 ing any funds awarded by any admin-
24 istrative entity—

1 “(aa) shall be payable from
2 amounts appropriated pursuant
3 to section 1304 of title 31; and

4 “(bb) shall not be payable
5 from funds authorized to be ap-
6 propriated for the Indian reserva-
7 tion roads program.”; and

8 (iii) in subparagraph (G), by adding
9 at the end the following:

10 “(vi) INDIAN RESERVATION ROADS
11 PROGRAM INVENTORY.—

12 “(I) IN GENERAL.—Not later
13 than 2 years after the date of enact-
14 ment of this clause, the Secretary, in
15 cooperation with the Secretary of the
16 Interior, shall ensure that the Indian
17 reservation roads program inventory
18 accurately reflects the existence and
19 condition of all transportation facili-
20 ties eligible for inclusion in the inven-
21 tory under clause (ii), to a 95-percent
22 degree of accuracy.

23 “(II) AUTHORIZATION OF APPRO-
24 PRIATIONS.—There is authorized to
25 be appropriated from the Highway

1 Trust Fund (other than the Mass
2 Transit Account) to carry out this
3 clause \$10,000,000 for fiscal year
4 2010.”;

5 (B) in paragraph (3), by adding at the end
6 the following:

7 “(C) FLEXIBLE FINANCING.—

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

18 “(I) carry out advanced construc-
19 tion of any project eligible for assist-
20 ance under this title or chapter 53 of
21 title 49;

22 “(II) use any debt financing in-
23 strument under section 122 or other
24 applicable law for any project eligible

1 for assistance under this title or chap-
2 ter 53 of title 49; and

3 “(III) use funds made available
4 to the tribal government under this
5 title or chapter 53 of title 49 for—

6 “(aa) interest payments
7 under an eligible debt financing
8 instrument;

9 “(bb) the retirement of prin-
10 cipal of an eligible debt financing
11 instrument;

12 “(cc) the cost of the
13 issuance of an eligible debt fi-
14 nancing instrument;

15 “(dd) the cost of insurance
16 for an eligible debt financing in-
17 strument; and

18 “(ee) any other cost inci-
19 dental to the sale of an eligible
20 debt financing instrument (as de-
21 termined by the Secretary).

22 “(ii) INCLUSION OF PROVISIONS IN
23 AGREEMENTS.—

24 “(I) IN GENERAL.—On receipt of
25 a request from any tribal government

1 described in clause (i), the Secretary
2 or the Secretary of the Interior, as
3 appropriate, shall include in the appli-
4 cable contract, compact, or agreement
5 provisions that facilitate advanced
6 construction or the use of flexible fi-
7 nancing methods under clause (i) and
8 other applicable law for any project el-
9 igible for assistance under this title or
10 chapter 53 of title 49.

11 “(II) INCLUSIONS.—The provi-
12 sions described in subclause (I) may
13 include provisions that—

14 “(aa) authorize the elec-
15 tronic transfer of funds made
16 available to the tribal government
17 under this title or chapter 53 of
18 title 49 directly from the Sec-
19 retary or the Secretary of the In-
20 terior to a trustee or other depos-
21 itory designated by the tribal
22 government; or

23 “(bb) authorize the Sec-
24 retary or the Secretary of the In-
25 terior to maintain any project so

1 funded on the transportation im-
2 provement program approved by
3 the Secretary.”;

4 (C) in paragraph (4)—

5 (i) by striking the paragraph designa-
6 tion and heading and inserting the fol-
7 lowing:

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

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

12 “(i) AUTHORIZATION OF APPROPRIA-
13 TIONS.—

14 “(I) IN GENERAL.—Funds au-
15 thorized to be appropriated for the In-
16 dian reservation road bridge program
17 shall be available to Indian tribes to
18 carry out planning, design, engineer-
19 ing, preconstruction, construction, and
20 inspection of projects—

21 “(aa) to construct new In-
22 dian reservation road bridges; or

23 “(bb) to replace, rehabili-
24 tate, seismically retrofit, paint,
25 apply calcium magnesium ace-

1 tate, sodium acetate/formate, or
2 other environmentally acceptable,
3 minimally corrosive anti-icing
4 and de-icing compositions, or in-
5 stall scour countermeasures for
6 deficient Indian reservation road
7 bridges, including multiple-pipe
8 culverts.

9 “(II) PLANNING, SURVEY, DE-
10 SIGN, ENGINEERING, AND
11 PRECONSTRUCTION FUNDS.—

12 “(aa) IN GENERAL.—Not
13 more than 20 percent of funds
14 authorized to be appropriated for
15 the Indian reservation road
16 bridge program shall be available
17 for planning, survey, design, en-
18 gineering, and preconstruction.

19 “(bb) LIMITATION.—Not-
20 withstanding any other provision
21 of law, not more than 20 percent
22 of the estimated construction cost
23 of a project eligible for funding
24 under this paragraph shall be
25 available for planning, survey, de-

1 sign, engineering, and
2 preconstruction for the project.”;

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

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

7 “(6) TRIBAL TRANSPORTATION SAFETY PRO-
8 GRAM.—

9 “(A) DEFINITION OF TRIBAL TRANSPOR-
10 TATION SAFETY IMPROVEMENT PROJECT.—

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

14 “(I) corrects or improves a haz-
15 ardous road location or feature; or

16 “(II) addresses a safety problem
17 on a tribal transportation facility that
18 is included in the national tribal
19 transportation facility inventory under
20 paragraph (2)(G).

21 “(ii) INCLUSIONS.—The term ‘tribal
22 transportation safety improvement project’
23 includes any project for 1 or more of the
24 following:

1 “(I) An intersection safety im-
2 provement.

3 “(II) Pavement and shoulder
4 widening (including addition of a
5 passing lane to remedy an unsafe con-
6 dition).

7 “(III) Installation of rumble
8 strips or another warning device, if
9 the rumble strips or other warning de-
10 vice does not adversely affect the safe-
11 ty or mobility of bicyclists, pedes-
12 trians, and the disabled.

13 “(IV) Installation of a skid-re-
14 sistant surface at an intersection or
15 other location with a high frequency
16 of accidents.

17 “(V) An improvement for pedes-
18 trian or bicyclist safety or safety of
19 the disabled.

20 “(VI) Construction of any project
21 for the elimination of hazards at a
22 railway-highway crossing that is eligi-
23 ble for funding under section 130, in-
24 cluding the separation or protection of
25 grades at railway-highway crossings.

1 “(VII) Construction of a railway-
2 highway crossing safety feature, in-
3 cluding installation of protective de-
4 vices.

5 “(VIII) The conduct of a model
6 traffic enforcement activity at a rail-
7 way-highway crossing.

8 “(IX) Construction of a traffic-
9 calming feature.

10 “(X) Elimination of a roadside
11 obstacle.

12 “(XI) Improvement of highway
13 signage and pavement markings.

14 “(XII) Installation of a priority
15 control system for emergency vehicles
16 at signalized intersections.

17 “(XIII) Installation of a traffic
18 control or other warning device at a
19 location with high accident potential.

20 “(XIV) Safety-conscious plan-
21 ning.

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

24 “(XVI) Planning integrated
25 interoperable emergency communica-

1 tions equipment, operational activities,
2 or traffic enforcement activities (in-
3 cluding police assistance) relating to
4 workzone safety.

5 “(XVII) Installation of guard-
6 rails, barriers (including barriers be-
7 tween construction work zones and
8 traffic lanes for the safety of motor-
9 ists and workers), and crash attenu-
10 ators.

11 “(XVIII) The addition or retro-
12 fitting of structures or other measures
13 to eliminate or reduce accidents in-
14 volving vehicles and wildlife.

15 “(XIX) Installation and mainte-
16 nance of signs (including fluorescent,
17 yellow-green signs) at pedestrian-bicy-
18 cle crossings and in school zones.

19 “(XX) Construction and oper-
20 ational improvements on high-risk
21 rural roads that appear on the na-
22 tional tribal transportation facility in-
23 ventory.

24 “(XXI) Development and oper-
25 ation of safety management systems.

1 “(XXII) Highway safety edu-
2 cation programs.

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

5 “(B) ESTABLISHMENT.—The Secretary
6 shall establish and implement a tribal transpor-
7 tation safety program in accordance with this
8 section.

9 “(C) PURPOSE.—The purpose of the tribal
10 transportation safety program shall be to
11 achieve a significant reduction in traffic fatali-
12 ties and serious injuries on Indian reservation
13 roads and bridges.

14 “(D) GRANTS.—

15 “(i) IN GENERAL.—The Secretary
16 shall use amounts made available to carry
17 out this section to provide grants to tribal
18 governments to carry out tribal transpor-
19 tation safety improvement projects.

20 “(ii) REGULATIONS.—

21 “(I) IN GENERAL.—The Sec-
22 retary shall develop requirements for
23 the provision of grants under this
24 paragraph by regulation, pursuant to
25 paragraph (9).

1 way by the tribal government for projects
2 eligible for assistance under this title or
3 chapter 53 of title 49, if—

4 “(I) the tribal government has
5 entered into a contract, compact, or
6 agreement pursuant to the Indian
7 Self-Determination and Education As-
8 sistance Act (25 U.S.C. 450 et seq.)
9 or paragraph (5); and

10 “(II) the tribal government has
11 assumed responsibility under the con-
12 tract, compact, or agreement for 1 or
13 more functions relating to the pro-
14 curement and granting of rights-of-
15 way.

16 “(ii) CRITERIA.—In accordance with
17 the negotiated rulemaking procedure under
18 paragraph (9), the Secretary of the Inte-
19 rior shall negotiate and promulgate regula-
20 tions establishing the criteria according to
21 which a tribal government may—

22 “(I) carry out the maximum per-
23 missible functions associated with the
24 procurement or granting of rights-of-
25 way for projects eligible for assistance

1 under this title or chapter 53 of title
2 49 that the tribal government is per-
3 forming pursuant to a contract, com-
4 pact, or agreement under the Indian
5 Self-Determination and Education As-
6 sistance Act (25 U.S.C. 450 et seq.)
7 or paragraph (5); and

8 “(II) develop corridor manage-
9 ment policies.

10 “(B) RIGHTS-OF-WAY FOR EXISTING
11 ROUTES.—

12 “(i) IN GENERAL.—Not later than
13 120 days after the date of receipt of a re-
14 quest from a tribal government, the Sec-
15 retary of the Interior shall provide to the
16 tribal government documentation of each
17 enforceable right-of-way for each route
18 that, as of the date of enactment of this
19 paragraph—

20 “(I) is eligible for inclusion in the
21 national tribal transportation facility
22 inventory under paragraph (2)(G);
23 and

1 “(II) is owned by the Bureau of
2 Indian Affairs or the tribal govern-
3 ment.

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

13 “(iii) LIMITATION.—In acquiring a
14 right-of-way under clause (ii), the Sec-
15 retary of the Interior shall not require a
16 tribal government to use tribal funds or
17 funds made available to the tribal govern-
18 ment under this title or chapter 53 of title
19 49.

20 “(C) RIGHT-OF-WAY RECORDS.—

21 “(i) IN GENERAL.—Not later than 3
22 years after the date of enactment of this
23 paragraph, the Secretary of the Interior
24 shall complete a comprehensive national

1 update of right-of-way records for all
2 routes that are—

3 “(I) eligible for inclusion in the
4 national tribal transportation facility
5 inventory; and

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

8 “(ii) REQUIREMENTS.—In completing
9 the update of records under clause (i), the
10 Secretary shall—

11 “(I) computerize and organize all
12 right-of-way records; and

13 “(II) establish a system for en-
14 suring that documentation of a right-
15 of-way for a new route owned by the
16 Bureau of Indian Affairs or a tribal
17 government is promptly added to the
18 right-of-way records database.

19 “(iii) AVAILABILITY.—The Secretary
20 shall make each updated record under this
21 subparagraph available to the tribal gov-
22 ernment on the inventory of which the ap-
23 plicable route appears in any commonly
24 used mapping format requested by the
25 tribal government.

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

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

20 “(A) designates a certifying officer—

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

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

24 “(B) accepts the jurisdiction of the United
25 States courts for the purpose of enforcement of

1 the responsibilities of a Federal official under
2 those laws.

3 “(9) REGULATIONS.—

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

12 “(B) DEADLINE AND EFFECTIVE DATE.—
13 Final regulations under subparagraph (A)
14 shall—

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

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

18 “(C) NEGOTIATED RULEMAKING COM-
19 MITTEE.—In establishing a negotiated rule-
20 making committee to carry out this paragraph,
21 the Secretary and the Secretary of the Interior
22 shall—

23 “(i) apply the procedures described in
24 subchapter III of chapter 5 of title 5 in a
25 manner that reflects the unique govern-

1 ment-to-government relationship between
2 tribal governments and the United States;
3 and

4 “(ii) ensure that membership of the
5 committee—

6 “(I) includes only representatives
7 of the Federal Government and of
8 geographically diverse small, medium,
9 and large Indian tribes; and

10 “(II) ensures representation from
11 each of the 12 regions served by the
12 Bureau of Indian Affairs.”.

13 (g) FEDERAL LANDS HIGHWAYS PROGRAM.—Section
14 204 of title 23, United States Code, is amended—

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

18 (2) in subsection (c)—

19 (A) by striking “(c) Before” and inserting
20 the following:

21 “(c) INDIAN RESERVATION ROADS.—

22 “(1) IN GENERAL.—Before”;

23 (B) by striking the second sentence and in-
24 serting the following:

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

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

10 “(B) \$500,000.”;

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

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

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

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

18 (h) TRIBAL SAFETY PROGRAM.—Chapter 4 of title
19 23, United States Code, is amended by adding at the end
20 the following:

21 **“§ 413. Tribal safety program**

22 “(a) ESTABLISHMENT.—The Secretary shall estab-
23 lish and carry out a national highway traffic safety admin-
24 istration tribal safety program in accordance with this sec-
25 tion.

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

6 “(c) GRANTS.—

7 “(1) IN GENERAL.—The Secretary shall use
8 amounts made available to carry out this section to
9 provide grants to tribal governments to carry out eli-
10 gible projects and activities.

11 “(2) REGULATIONS.—

12 “(A) IN GENERAL.—The Secretary shall
13 develop requirements for the provision of grants
14 under this section by regulation, pursuant to
15 section 202(d)(9).

16 “(B) FAILURE TO PROMULGATE.—A fail-
17 ure by the Secretary to promulgate regulations
18 under subparagraph (A) shall not limit the ef-
19 fect of this section.

20 “(3) REQUIREMENTS.—The Secretary shall
21 provide grants under this subsection in accordance
22 with the Indian Self-Determination and Education
23 Assistance Act (25 U.S.C. 450 et seq.) and section
24 202(d)(5).

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

4 “(1) eligible for assistance under—

5 “(A) this chapter; or

6 “(B) section 1404, 1411, 1906, 2009,
7 2010, or 2011 of the SAFETEA-LU (119
8 Stat. 1144); or

9 “(2) carried out—

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

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

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

20 “(D) to prevent accidents and reduce
21 deaths and injuries resulting from accidents in-
22 volving motor vehicles and motorcycles;

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

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

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

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

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

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

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

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

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

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

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

14 “(4) SELECTION AND SUPERVISION OF TRIBAL
15 TECHNICAL ASSISTANCE PROGRAM CENTERS.—

16 “(A) SELECTION COMMITTEES.—

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

1 within the region to be served by the cen-
2 ter.

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

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

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

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

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

23 “(a) DEFINITIONS.—In this section, the terms ‘cap-
24 italization’, ‘guarantee’, ‘initial assistance’, ‘leverage’,

1 ‘loan’, and ‘other forms of credit assistance’ have the
2 meanings given the terms in section 610.

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

8 “(c) FUNDING.—

9 “(1) SEPARATE ACCOUNTS.—

10 “(A) IN GENERAL.—The tribal infrastruc-
11 ture bank established under this section shall
12 maintain—

13 “(i) a separate highway account for
14 Federal funds contributed to the bank
15 under paragraph (2)(A); and

16 “(ii) a separate transit account for
17 Federal funds contributed to the bank
18 under paragraph (2)(B).

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

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

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

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

11 “(3) CAPITAL GRANTS.—

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

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

23 “(d) FORMS OF ASSISTANCE.—

24 “(1) IN GENERAL.—The tribal infrastructure
25 bank may provide loans or other forms of credit as-

1 sistance to a tribal government in an amount equal
2 to all or any portion of the cost of carrying out a
3 project eligible for assistance under this section.

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

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

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

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

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

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

23 “(1) ensure that the bank maintains, on a con-
24 tinuing basis, an investment grade rating on the
25 debt of the bank, or has a sufficient level of bond

1 or debt financing instrument insurance, to maintain
2 the viability of the bank;

3 “(2) ensure that investment income derived
4 from funds deposited to an account of the bank
5 are—

6 “(A) credited to the account;

7 “(B) available for use in providing loans
8 and other forms of credit assistance to projects
9 eligible for assistance from the account; and

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

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

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

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

23 “(B) in the case of a highway project, the
24 date on which the project facility has opened to
25 traffic;

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

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

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

9 “(A) a report describing the status of the
10 bank; and

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

13 “(g) APPLICABILITY OF FEDERAL LAW.—

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

19 “(A) funds authorized to be contributed to
20 the tribal infrastructure bank under this sec-
21 tion; and

22 “(B) projects assisted by the bank through
23 the use of the funds, except to the extent that
24 the Secretary determines that any requirement

1 of that section is not consistent with the objec-
2 tives of this section.

3 “(2) REPAYMENTS.—

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

8 “(B) TREATMENT.—A repayment de-
9 scribed in subparagraph (A) shall be considered
10 to be Federal funds.

11 “(h) UNITED STATES NOT OBLIGATED.—

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

19 “(2) REQUIREMENT.—Any security or debt-fi-
20 nancing instrument issued by the bank shall ex-
21 pressly state that the security or instrument does
22 not constitute a commitment, guarantee, or obliga-
23 tion of the United States.”.

1 **SEC. 4. TRANSPORTATION AMENDMENTS.**

2 (a) **METROPOLITAN TRANSPORTATION PLANNING.**—

3 Section 5303(f)(3)(C)(ii)(II) of title 49, United States
4 Code, is amended—

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

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

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

13 (1) in subsection (b)(3)(B)—

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

16 “(i) **IN GENERAL.**—Subject to clause
17 (ii), in carrying out”; and

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

19 “(ii) **GRANTS TO TRIBAL GOVERN-**
20 **MENTS AND INDIAN TECHNICAL CEN-**
21 **TERS.**—Of the funds made available to
22 carry out this subparagraph, the Secretary
23 shall use not less than \$1,000,000 for each
24 fiscal year to provide grants to, and enter
25 into contracts with, tribal governments and
26 Indian technical centers operating under

1 section 503(b) of title 23 for transpor-
2 tation research, technical assistance, train-
3 ing, and support services relating to the
4 provision of transit services in tribal com-
5 munities.”; and

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

8 “(1) PUBLIC TRANSPORTATION ON INDIAN RES-
9 ERVATIONS.—

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

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

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

21 “(iii) \$55,000,000 for fiscal year
22 2012.

23 “(iv) \$65,000,000 for fiscal year
24 2013.

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

1 (b) TRIBAL TRANSPORTATION SELF-GOVERNANCE
2 PROGRAM.—The Indian Self-Determination and Edu-
3 cation Assistance Act is amended—

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

6 **“TITLE VII—TRIBAL TRANSPORTATION SELF-GOVERNANCE**
7 **PROGRAM**

8 **“SEC. 701. TRIBAL TRANSPORTATION SELF-GOVERNANCE**
9 **PROGRAM.**

10
11 “(a) ESTABLISHMENT.—Notwithstanding any other
12 provision of law, the Secretary of Transportation (referred
13 to in this section as the ‘Secretary’) shall establish and
14 carry out a program, to be known as the ‘Tribal Transpor-
15 tation Self-Governance Program’.

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

23 “(c) REGULATIONS.—

24 “(1) IN GENERAL.—Not later than 90 days
25 after the date of enactment of this section, the Sec-

1 retary shall initiate procedures under subchapter III
2 of chapter 5 of title 5, United States Code, to nego-
3 tiate and promulgate such regulations as are nec-
4 essary to carry out this section.

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

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

17 “(A) the unique context of Indian tribal
18 self-governance; and

19 “(B) the government-to-government rela-
20 tionship between the United States and the In-
21 dian tribes.

22 “(4) EFFECT OF FAILURE TO PROMULGATE.—
23 A failure by the Secretary to promulgate regulations
24 in accordance with this subsection shall not limit the
25 effect of this section.

1 “(d) EFFECT ON TITLE 23.—

2 “(1) IN GENERAL.—Notwithstanding any other
3 provision of law, on receipt of notification of an elec-
4 tion by an applicable Indian tribal government, the
5 Secretary shall—

6 “(A) maintain any currently applicable
7 program or funding agreement under the In-
8 dian reservation roads program of the Federal
9 Highway Administration; or

10 “(B) offer to enter into a new agreement
11 with the tribal government pursuant to section
12 202(d)(5) of title 23, United States Code.

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

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

19 (A) by redesignating sections 501 through
20 503 as sections 801 through 803, respectively;

21 (B) in section 802(a)(2) (as redesignated
22 by subparagraph (A)), by striking “section
23 501” and inserting “section 801”;

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

4 (D) by redesignating the title as title VIII
5 as moving the title so as to appear at the end
6 of the Act.