

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 “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 “(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 ible 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 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.