

# Calendar No. 378

114<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 1776

[Report No. 114–217]

To enhance tribal road safety, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JULY 15, 2015

Mr. BARRASSO (for himself and Mr. CRAPO) introduced the following bill;  
which was read twice and referred to the Committee on Indian Affairs

FEBRUARY 29, 2016

Reported by Mr. BARRASSO, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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## A BILL

To enhance tribal road safety, 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 Infrastructure~~  
5 and Roads Enhancement and Safety Act” or “~~TIRES~~  
6 Act”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) INDIAN RESERVATION.—The term “Indian  
4 reservation” has the meaning given the term “res-  
5 ervation” in section 3 of the Indian Financing Act  
6 of 1974 (25 U.S.C. 1452).

7 (2) SECRETARY.—The term “Secretary” means  
8 the Secretary of the Interior.

9 **SEC. 3. APPLICATION OF CATEGORICAL EXCLUSIONS TO**  
10 **CERTAIN TRIBAL TRANSPORTATION FACILI-**  
11 **TIES.**

12 (a) IN GENERAL.—

13 (1) CATEGORICAL EXCLUSIONS.—Effective on  
14 the date of enactment of this Act, a highway project,  
15 including projects administered by the Bureau of In-  
16 dian Affairs, located on a road on an Indian reserva-  
17 tion and eligible for assistance under section 202 of  
18 title 23, United States Code, is deemed to be an ac-  
19 tion categorically excluded from the requirements re-  
20 lating to environmental assessments or environ-  
21 mental impact statements under section 1508.4 of  
22 title 40, Code of Federal Regulations (as in effect on  
23 the date of enactment of this Act), if the project—

24 (A) qualifies for categorical exclusion  
25 under—

1 (i) MAP-21 (Public Law 112-141;  
2 126 Stat. 405) or an amendment made by  
3 that Act; or

4 (ii) section 771.117 of title 23, Code  
5 of Federal Regulations (or successor regu-  
6 lations); or

7 (B) would meet those requirements if the  
8 project sponsor were a State agency.

9 ~~(2) MAP-21 CATEGORICAL EXCLUSIONS TO~~  
10 ~~CERTAIN TRIBAL TRANSPORTATION FACILITIES.—~~  
11 ~~Section 1317 of MAP-21 (23 U.S.C. 109 note; 126~~  
12 ~~Stat. 550) is amended—~~

13 (A) in paragraph (1)(B), by striking “;  
14 and” and inserting a period;

15 (B) beginning in the matter preceding  
16 paragraph (1), by striking “Not later than”  
17 and all that follows through “(1) designate”  
18 and inserting the following:

19 “(a) IN GENERAL.—

20 “(1) DESIGNATION OF CATEGORICAL EXCLU-  
21 SIONS.—Subject to paragraph (2), not later than  
22 180 days after the date of enactment of this Act, the  
23 Secretary shall designate”;

24 (C) in paragraph (2)—

1 (i) by striking “paragraph (1)” and  
 2 inserting “subsection (a)”; and

3 (ii) by striking “(2) not later than”  
 4 and inserting the following:

5 “(b) REGULATIONS.—The Secretary shall, not later  
 6 than”; and

7 (D) in subsection (a) (as designated by  
 8 subparagraph (B)), by adding at the end the  
 9 following:

10 “(2) APPLICATION OF CATEGORICAL EXCLU-  
 11 SIONS TO CERTAIN TRIBAL TRANSPORTATION FA-  
 12 CILITIES.—With respect to a project described in  
 13 paragraph (1) that is located on a road on an Indian  
 14 reservation, for the first full fiscal year after the  
 15 date of enactment of the TIRES Act, and each fiscal  
 16 year thereafter, the amount referred to in paragraph  
 17 (1)(A) shall be adjusted to reflect changes for the  
 18 12-month period ending the preceding November 30  
 19 in the Consumer Price Index for All Urban Con-  
 20 sumers published by the Bureau of Labor Statistics  
 21 of the Department of Labor.”.

22 (b) ADMINISTRATION.—The Secretary may issue  
 23 guidance or rules for the administration of this section.

24 (c) EFFECTIVE DATE.—

1           (1) **IN GENERAL.**—The categorical exclusions  
2 described in subsection (a), and the amendments  
3 made by subsection (a), take effect on the date of  
4 enactment of this Act.

5           (2) **FAILURE OF SECRETARY TO ACT.**—The fail-  
6 ure of the Secretary to promulgate any final regula-  
7 tions or guidance shall not affect the qualification  
8 for the categorical exclusions described in subsection  
9 (a).

10 **SEC. 4. STREAMLINING FOR TRIBAL PUBLIC SAFETY**  
11                           **PROJECTS WITHIN EXISTING OPERATIONAL**  
12                           **RIGHTS-OF-WAY.**

13           Section 1316 of MAP-21 (23 U.S.C. 109 note; 126  
14 Stat. 549) is amended—

15           (1) in subsection (b)—

16                   (A) by striking “(b) **DEFINITION OF AN**  
17                   **OPERATIONAL RIGHT-OF-WAY.**—In this section,  
18                   the” and inserting the following:

19           “(b) **DEFINITIONS.**—In this section:

20                   “(1) **OPERATIONAL RIGHT-OF-WAY.**—

21                           “(A) **IN GENERAL.**—The”; and

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

23                           “(B) **INCLUSION.**—For purposes of sub-  
24                   paragraph (A), if a real property interest on an  
25                   Indian reservation has not been formally des-

1           ignated an operational right-of-way, an Indian  
 2           tribe may determine the scope and boundaries  
 3           of that real property interest as an operational  
 4           right-of-way, subject to the approval of the Bu-  
 5           reau of Indian Affairs and the Secretary.

6           ~~“(2) TRIBAL PUBLIC SAFETY PROJECT.—~~

7           ~~“(A) IN GENERAL.—The term ‘tribal pub-  
 8           lic safety project’ means a project subject to  
 9           this section that—~~

10                   ~~“(i) corrects or improves a hazardous  
 11                   road location or feature; or~~

12                   ~~“(ii) addresses a highway safety prob-  
 13                   lem.~~

14           ~~“(B) INCLUSIONS.—The term ‘tribal public  
 15           safety project’ includes a project for 1 or more  
 16           of the following:~~

17                   ~~“(i) An intersection safety improve-  
 18                   ment.~~

19                   ~~“(ii) Pavement and shoulder widening,  
 20                   including addition of a passing lane to  
 21                   remedy an unsafe condition.~~

22                   ~~“(iii) Installation of a rumble strip or  
 23                   other warning device, if the rumble strip or  
 24                   other warning device does not adversely af-~~

1           fect the safety or mobility of bicyclists, pe-  
2           destrians, or the disabled.

3           “~~(iv)~~ Installation of a skid-resistant  
4           surface at an intersection or other location  
5           with a high frequency of accidents.

6           “~~(v)~~ An improvement for pedestrian  
7           or bicyclist safety or safety of the disabled.

8           “~~(vi)~~ Construction of any project for  
9           the elimination of hazards at a railway-  
10          highway crossing that is eligible for fund-  
11          ing under section 130 of title 23, United  
12          States Code, including the separation or  
13          protection of grades at railway-highway  
14          crossings.

15          “~~(vii)~~ Construction of a railway-high-  
16          way crossing safety feature, including in-  
17          stallation of protective devices.

18          “~~(viii)~~ The conduct of a model traffic  
19          enforcement activity at a railway-highway  
20          crossing.

21          “~~(ix)~~ Construction of a traffic calming  
22          feature.

23          “~~(x)~~ Elimination of a roadside obsta-  
24          cle.

1           “(xi) Improvement of highway signage  
2           and pavement markings.

3           “(xii) Installation of a priority control  
4           system for emergency vehicles at signalized  
5           intersections.

6           “(xiii) Installation of a traffic control  
7           or other warning device at a location with  
8           high accident potential.

9           “(xiv) Safety-conscious planning.

10          “(xv) Improvements in the collection  
11          and analysis of crash data.

12          “(xvi) Planning integrated interoper-  
13          able emergency communications equip-  
14          ment, operational activities, or traffic en-  
15          forcement activities, including police assist-  
16          ance, relating to workzone safety.

17          “(xvii) Installation of guardrails, bar-  
18          riers, including barriers between construc-  
19          tion work zones and traffic lanes for the  
20          safety of motorists and workers, and crash  
21          attenuators.

22          “(xviii) The addition or retrofitting of  
23          structures or other measures to eliminate  
24          or reduce accidents involving vehicles and  
25          wildlife.

1           ~~“(xix) Installation and maintenance of~~  
 2           ~~signs, including fluorescent, yellow-green~~  
 3           ~~signs, at pedestrian-bicycle crossings and~~  
 4           ~~in school zones.~~

5           ~~“(xx) Construction and yellow-green~~  
 6           ~~signs at pedestrian-bicycle crossings and in~~  
 7           ~~school zones.~~

8           ~~“(xxi) Construction and operational~~  
 9           ~~improvements on high risk rural roads.~~

10           ~~“(xxii) Any other project that the Sec-~~  
 11           ~~retary determines qualifies.”;~~

12           ~~(2) by redesignating subsections (a) and (b) as~~  
 13           ~~subsections (b) and (a), respectively;~~

14           ~~(3) in subsection (b) (as so redesignated), in~~  
 15           ~~the subsection heading, by striking “IN GENERAL”~~  
 16           ~~and inserting “DESIGNATION”;~~ and

17           ~~(4) by adding at the end the following:~~

18           ~~“(e) PROJECTS WITHIN EXISTING OPERATIONAL~~  
 19           ~~RIGHTS-OF-WAY.—~~

20           ~~“(1) APPLICABILITY.—This subsection applies~~  
 21           ~~to a project within an existing operational right-of-~~  
 22           ~~way on an Indian reservation (as defined in section~~  
 23           ~~3 of the Indian Financing Act of 1974 (25 U.S.C.~~  
 24           ~~1452)) that is—~~

1           “(A) for a maintenance or preservation ac-  
 2           tivity, whether or not federally funded, within  
 3           the existing operational right-of-way, including  
 4           for roadside ditches; or

5           “(B) a project that—

6           “(i) is a tribal public safety project or  
 7           a project that the tribal department of  
 8           transportation or the equivalent (or in the  
 9           case of an Indian tribe without a tribal de-  
 10          partment of transportation or an official  
 11          representing the Indian tribe) certifies to  
 12          the Secretary as providing a safety benefit  
 13          to the public; and

14          “(ii) is an action that—

15          “(I) is categorically excluded  
 16          under section 771.117 of title 23,  
 17          Code of Federal Regulations (or suc-  
 18          cessor regulations); or

19          “(II) would be categorically ex-  
 20          cluded under section 771.117 of title  
 21          23, Code of Federal Regulations (or  
 22          successor regulations), if the applicant  
 23          were a State agency.

24          “(2) FINAL ACTION.—Except as provided in  
 25          paragraph (3), a Federal agency shall take final ac-

1 tion on an application by an Indian tribe for a per-  
2 mit, approval, or jurisdictional determination for a  
3 project described in paragraph (1) not later than 45  
4 days after the date of receipt of the application.

5 “(3) EXTENSIONS.—A Federal agency may ex-  
6 tend the period to take final action on an application  
7 by an Indian tribe under paragraph (2) by an addi-  
8 tional 30 days by providing to the Secretary and the  
9 Indian tribe notice of the extension, including a  
10 statement of the need for the extension.

11 “(4) CONSTRUCTIVE APPROVAL.—If a Federal  
12 agency does not take final action on an application  
13 by an Indian tribe under paragraphs (2) and (3)—

14 “(A) the permit or approval for the project  
15 described in paragraph (1) shall be considered  
16 approved; and

17 “(B) the Indian tribe shall notify the Sec-  
18 retary of approval under this paragraph.

19 “(5) REPORT.—Not later than 4 years after the  
20 date of enactment of the ‘TIRES Act’, the Secretary  
21 shall submit to Congress a report that describes the  
22 operation of this subsection, including any rec-  
23 ommendations.”.

1 **SEC. 5. BUREAU OF INDIAN AFFAIRS REDUCTION IN AD-**  
 2 **MINISTRATIVE FEE.**

3 Section 202(a)(6) of title 23, United States Code, is  
 4 amended by striking “6 percent” and inserting “5 percent  
 5 for each fiscal year”.

6 **SEC. 6. OPTION OF ASSUMING NEPA APPROVAL AUTHOR-**  
 7 **ITY.**

8 (a) **DEFINITION OF SECRETARY.**—In this section, the  
 9 term “Secretary” means the Secretary of the Interior or  
 10 the Secretary of Transportation, as applicable.

11 (b) **ASSUMPTION OF FEDERAL RESPONSIBILITIES.**—  
 12 An Indian tribe participating in tribal self-governance or  
 13 a contract or agreement under subsection (a)(2) or (b)(7)  
 14 of section 202 of title 23, United States Code, and ear-  
 15 rying out construction projects on the Indian reservation  
 16 over which the Indian tribe has jurisdiction, may elect to  
 17 assume all Federal responsibilities under the National En-  
 18 vironmental Policy Act of 1969 (42 U.S.C. 4321 et seq.),  
 19 division A of subtitle III of title 54, United States Code,  
 20 and other applicable Federal law that would apply if the  
 21 Secretary were to undertake a construction project if the  
 22 Indian tribe—

23 (1) designates an officer—

24 (A) to represent the Indian tribe; and

25 (B) to assume the status of a responsible  
 26 Federal official under those laws; and

1           (2) accepts the jurisdiction of the Federal court  
2           for the purpose of enforcement of the responsibilities  
3           of the responsible Federal official under those laws.

4 **SEC. 7. TRIBAL GOVERNMENT TRANSPORTATION SAFETY**  
5           **DATA REPORT.**

6           (a) FINDINGS.—Congress finds that—

7           (1) in many States, the Native American popu-  
8           lation is disproportionately represented in fatalities  
9           and crash statistics;

10          (2) improved crash reporting by tribal law en-  
11          forcement agencies would facilitate safety planning  
12          and would enable Indian tribes to apply more suc-  
13          cessfully for State and Federal funds for safety im-  
14          provements;

15          (3) the causes of underreporting of crashes on  
16          Indian reservations include—

17                 (A) tribal law enforcement capacity, in-  
18                 cluding—

19                         (i) staffing shortages and turnover;

20                         and

21                         (ii) lack of equipment, software, and  
22                         training; and

23                 (B) lack of standardization in crash re-  
24                 porting forms and protocols; and

1           (4) without more accurate reporting of crashes  
2           on Indian reservations, it is difficult or impossible to  
3           fully understand the nature of the problem and de-  
4           velop appropriate countermeasures, which may in-  
5           clude effective transportation safety planning and  
6           programs aimed at—

7                   (A) DUI prevention;

8                   (B) pedestrian safety;

9                   (C) roadway safety improvements;

10                  (D) seat belt usage; and

11                  (E) proper use of child restraints.

12           (b) REPORT TO CONGRESS.—

13                   (1) IN GENERAL.—Not later than 1 year after  
14           the date of enactment of this Act, the Secretary,  
15           after consultation with the Secretary of Transpor-  
16           tation, the Secretary of Health and Human Services,  
17           the Attorney General, and Indian tribes, shall sub-  
18           mit to the Committee on Indian Affairs of the Sen-  
19           ate and the Committee on Natural Resources of the  
20           House of Representatives a report describing the  
21           quality of transportation safety data collected by  
22           States and counties for transportation safety sys-  
23           tems and the relevance of that data to improving the  
24           collection and sharing of data on crashes on Indian  
25           reservations.

1           (2) PURPOSES.—The purposes of the report de-  
2       scribed in paragraph (1) are—

3           (A) to improve the collection and sharing  
4       of data on crashes on Indian reservations; and

5           (B) to develop data that Indian tribes can  
6       use to recover damages to tribal property  
7       caused by motorists.

8           (3) PAPERLESS DATA REPORTING.—In pre-  
9       paring the report under paragraph (1), the Sec-  
10      retary shall provide Indian tribes with options and  
11      best practices for transition to a paperless transpor-  
12      tation safety data reporting system that—

13          (A) improves the collection of crash re-  
14      ports;

15          (B) stores, archives, queries, and shares  
16      crash records; and

17          (C) uses data exclusively—

18              (i) to address traffic safety issues on  
19      Indian reservations; and

20              (ii) to identify and improve problem  
21      areas on public roads on Indian reserva-  
22      tions.

23           (4) ADDITIONAL BUDGETARY RESOURCES.—  
24      The Secretary shall include in the report under  
25      paragraph (1) the identification of Federal transpor-

1           tation funds provided to Indian tribes by agencies in  
2           addition to the Department of the Interior.

3 **SEC. 8. BUREAU OF INDIAN AFFAIRS ROAD SAFETY STUDY.**

4           Not later than 2 years after the date of enactment  
5 of this Act, the Secretary, acting through the Assistant  
6 Secretary for Indian Affairs, in consultation with the Sec-  
7 retary of Transportation, the Attorney General, and  
8 States, shall—

9           (1) complete a study that identifies and evalu-  
10          ates options for improving safety on public roads on  
11          Indian reservations; and

12          (2) submit to the Committee on Indian Affairs  
13 of the Senate and the Committee on Natural Re-  
14 sources of the House of Representatives a report de-  
15 scribing the results of the study.

16 **SEC. 9. TRIBAL TRANSPORTATION FUNDING.**

17          (a) IN GENERAL.—Section 1101(a)(3) of MAP-21  
18 (Public Law 112-141, 126 Stat. 414) is amended—

19          (1) by striking subparagraph (A) and inserting  
20          the following:

21                 “(A) TRIBAL TRANSPORTATION PRO-  
22                 GRAM.—For the tribal transportation program  
23                 under section 202 of title 23, United States  
24                 Code (other than subsection (d) of that sec-  
25                 tion), there is authorized to be appropriated—

1           “(i) \$468,180,000 for fiscal year  
2           2016;

3           “(ii) \$477,540,000 for fiscal year  
4           2017;

5           “(iii) \$487,090,000 for fiscal year  
6           2018;

7           “(iv) \$496,830,000 for fiscal year  
8           2019;

9           “(v) \$506,770,000 for fiscal year  
10          2020; and

11          “(vi) \$516,905,400 for fiscal year  
12          2021.”; and

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

14                 “(D) TRIBAL TRANSPORTATION FACILITY  
15                 BRIDGE PROGRAM.—For the tribal transpor-  
16                 tation facility bridge program under section  
17                 202(d) of title 23, United States Code, there is  
18                 authorized to be appropriated—

19                         “(i) \$16,000,000 for fiscal year 2016;

20                         “(ii) \$18,000,000 for fiscal year 2017;

21                         “(iii) \$20,000,000 for fiscal year  
22                         2018;

23                         “(iv) \$22,000,000 for fiscal year  
24                         2019;

1                   “(v) \$24,000,000 for fiscal year 2020;  
 2                   and  
 3                   “(vi) \$26,000,000 for fiscal year  
 4                   2021.”.

5           (b) TRIBAL TRANSPORTATION FACILITY BRIDGE  
 6 PROGRAM.—Section 202(d) of title 23, United States  
 7 Code, is amended by striking paragraph (2) and inserting  
 8 the following:

9                   “(2) TRIBAL TRANSPORTATION FACILITY  
 10 BRIDGE PROGRAM.—The Secretary shall use funds  
 11 made available to carry out this subsection—

12                   “(A) to carry out any planning, design, en-  
 13 gineering, preconstruction, construction, and in-  
 14 spection of new or replacement tribal transpor-  
 15 tation facility bridges;

16                   “(B) to replace, rehabilitate, seismically  
 17 retrofit, paint, apply calcium magnesium ace-  
 18 tate, sodium acetate/formate, or other environ-  
 19 mentally acceptable, minimally corrosive anti-  
 20 icing and deicing composition; or

21                   “(C) to implement any countermeasure for  
 22 deficient tribal transportation facility bridges,  
 23 including multiple-pipe culverts.”.

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Tribal Infrastructure*  
3 *and Roads Enhancement and Safety Act” or “TIRES Act”.*

4 **SEC. 2. DEFINITIONS.**

5 *In this Act:*

6 (1) *INDIAN RESERVATION.*—*The term “Indian*  
7 *reservation” has the meaning given the term “reserva-*  
8 *tion” in section 3 of the Indian Financing Act of*  
9 *1974 (25 U.S.C. 1452).*

10 (2) *SECRETARY.*—*The term “Secretary” means*  
11 *the Secretary of the Interior.*

12 **SEC. 3. APPLICATION OF CATEGORICAL EXCLUSIONS TO**  
13 **CERTAIN TRIBAL TRANSPORTATION FACILI-**  
14 **TIES.**

15 (a) *CATEGORICAL EXCLUSIONS.*—

16 (1) *IN GENERAL.*—*Effective on the date of enact-*  
17 *ment of this Act, a highway project, including*  
18 *projects administered by the Bureau of Indian Af-*  
19 *airs, located on a road eligible for assistance under*  
20 *section 202 of title 23, United States Code, is deemed*  
21 *to be an action categorically excluded from the re-*  
22 *quirements relating to environmental assessments or*  
23 *environmental impact statements under section*  
24 *1508.4 of title 40, Code of Federal Regulations (as in*  
25 *effect on the date of enactment of this Act), if the*  
26 *project—*

1           (A) *qualifies for categorical exclusion*  
2           *under—*

3                   (i) *MAP–21 (Public Law 112–141; 126*  
4                   *Stat. 405) or an amendment made by that*  
5                   *Act; or*

6                   (ii) *section 771.117 of title 23, Code of*  
7                   *Federal Regulations (or successor regula-*  
8                   *tions); or*

9           (B) *would meet those requirements if the*  
10           *project sponsor were a State agency.*

11           (2) *MAP–21 CATEGORICAL EXCLUSIONS TO CER-*  
12           *TAIN TRIBAL TRANSPORTATION FACILITIES.—Section*  
13           *1317 of MAP–21 (23 U.S.C. 109 note; 126 Stat. 550)*  
14           *is amended—*

15                   (A) *in paragraph (1)(B), by striking “;*  
16                   *and” and inserting a period;*

17                   (B) *beginning in the matter preceding*  
18                   *paragraph (1), by striking “Not later than” and*  
19                   *all that follows through “(1) designate” and in-*  
20                   *serting the following:*

21           “(a) *DESIGNATION OF CATEGORICAL EXCLUSIONS.—*

22                   “(1) *IN GENERAL.—Subject to paragraph (2),*  
23                   *not later than 180 days after the date of enactment*  
24                   *of this Act, the Secretary shall designate”;*

25                   (C) *in paragraph (2)—*

1                   (i) by striking “paragraph (1)” and  
 2                   inserting “subsection (a)”; and

3                   (ii) by striking “(2) not later than”  
 4                   and inserting the following:

5           “(b) *REGULATIONS.*—*The Secretary shall, not later*  
 6 *than*”; and

7                   (D) in subsection (a) (as designated by sub-  
 8                   paragraph (B)), by adding at the end the fol-  
 9                   lowing:

10           “(2) *APPLICATION OF CATEGORICAL EXCLUSIONS*  
 11 *TO CERTAIN TRIBAL TRANSPORTATION FACILITIES.*—

12 *With respect to a project described in paragraph (1)*  
 13 *that is located on a road eligible for assistance under*  
 14 *section 202 of title 23, United States Code, for the*  
 15 *first full fiscal year after the date of enactment of the*  
 16 *TIRES Act, and each fiscal year thereafter, the*  
 17 *amount referred to in paragraph (1)(A) shall be ad-*  
 18 *justed to reflect changes for the 12-month period end-*  
 19 *ing the preceding November 30 in the Consumer Price*  
 20 *Index for All Urban Consumers published by the Bu-*  
 21 *reau of Labor Statistics of the Department of Labor.”.*

22           (b) *ADMINISTRATION.*—*The Secretary may issue guid-*  
 23 *ance or rules for the administration of this section.*

24           (c) *EFFECTIVE DATE.*—

1           (1) *IN GENERAL.*—*The categorical exclusions de-*  
 2           *scribed in subsection (a), and the amendments made*  
 3           *by subsection (a), take effect on the date of enactment*  
 4           *of this Act.*

5           (2) *FAILURE OF SECRETARY TO ACT.*—*The fail-*  
 6           *ure of the Secretary to promulgate any final regula-*  
 7           *tions or guidance shall not affect the qualification for*  
 8           *the categorical exclusions described in subsection (a).*

9   **SEC. 4. STREAMLINING FOR TRIBAL PUBLIC SAFETY**  
 10                   **PROJECTS WITHIN EXISTING OPERATIONAL**  
 11                   **RIGHTS-OF-WAY.**

12           Section 1316 of MAP-21 (23 U.S.C. 109 note; 126  
 13   Stat. 549) is amended—

14           (1) *in subsection (b)*—

15           (A) *by striking “(b) DEFINITION OF AN*  
 16           *OPERATIONAL RIGHT-OF-WAY.—In this section,*  
 17           *the” and inserting the following:*

18           “(b) *DEFINITIONS.*—*In this section:*

19           “(1) *OPERATIONAL RIGHT-OF-WAY.*—

20           “(A) *IN GENERAL.*—*The”;* *and*

21           (B) *by adding at the end the following:*

22           “(B) *INCLUSION.*—*For purposes of subpara-*  
 23           *graph (A), if a real property interest on an In-*  
 24           *dian reservation has not been formally des-*  
 25           *ignated an operational right-of-way, an Indian*

1           *tribe may determine the scope and boundaries of*  
2           *that real property interest as an operational*  
3           *right-of-way, subject to the approval of the Bu-*  
4           *reau of Indian Affairs and the Secretary.*

5           “(2) *TRIBAL PUBLIC SAFETY PROJECT.*—

6                   “(A) *IN GENERAL.*—*The term ‘tribal public*  
7           *safety project’ means a project subject to this sec-*  
8           *tion that—*

9                           “(i) *corrects or improves a hazardous*  
10                           *road location or feature; or*

11                           “(ii) *addresses a highway safety prob-*  
12                           *lem.*

13                   “(B) *INCLUSIONS.*—*The term ‘tribal public*  
14           *safety project’ includes a project for 1 or more of*  
15           *the following:*

16                           “(i) *An intersection safety improve-*  
17                           *ment.*

18                           “(ii) *Pavement and shoulder widening,*  
19           *including addition of a passing lane to*  
20           *remedy an unsafe condition.*

21                           “(iii) *Installation of a rumble strip or*  
22           *other warning device, if the rumble strip or*  
23           *other warning device does not adversely af-*  
24           *fect the safety or mobility of bicyclists, pe-*  
25           *destrians, or the disabled.*

1           “(iv) *Installation of a skid-resistant*  
2 *surface at an intersection or other location*  
3 *with a high frequency of accidents.*

4           “(v) *An improvement for pedestrian or*  
5 *bicyclist safety or safety of the disabled.*

6           “(vi) *Construction of any project for*  
7 *the elimination of hazards at a railway-*  
8 *highway crossing that is eligible for funding*  
9 *under section 130 of title 23, United States*  
10 *Code, including the separation or protection*  
11 *of grades at railway-highway crossings.*

12           “(vii) *Construction of a railway-high-*  
13 *way crossing safety feature, including in-*  
14 *stallation of protective devices.*

15           “(viii) *The conduct of a model traffic*  
16 *enforcement activity at a railway-highway*  
17 *crossing.*

18           “(ix) *Construction of a traffic calming*  
19 *feature.*

20           “(x) *Elimination of a roadside obsta-*  
21 *cle.*

22           “(xi) *Improvement of highway signage*  
23 *and pavement markings.*

1                   “(xii) Installation of a priority control  
2 system for emergency vehicles at signalized  
3 intersections.

4                   “(xiii) Installation of a traffic control  
5 or other warning device at a location with  
6 high accident potential.

7                   “(xiv) Safety-conscious planning.

8                   “(xv) Improvements in the collection  
9 and analysis of crash data.

10                  “(xvi) Planning integrated interoper-  
11 able emergency communications equipment,  
12 operational activities, or traffic enforcement  
13 activities, including police assistance, relat-  
14 ing to workzone safety.

15                  “(xvii) Installation of guardrails, bar-  
16 riers, including barriers between construc-  
17 tion work zones and traffic lanes for the  
18 safety of motorists and workers, and crash  
19 attenuators.

20                  “(xviii) The addition or retrofitting of  
21 structures or other measures to eliminate or  
22 reduce accidents involving vehicles and  
23 wildlife.

24                  “(xix) Installation and maintenance of  
25 signs, including fluorescent, yellow-green

1                   *signs, at pedestrian-bicycle crossings and in*  
 2                   *school zones.*

3                   “*(xx) Construction and yellow-green*  
 4                   *signs at pedestrian-bicycle crossings and in*  
 5                   *school zones.*”

6                   “*(xxi) Construction and operational*  
 7                   *improvements on high-risk rural roads.*”

8                   “*(xxii) Any other project that the Sec-*  
 9                   *retary determines qualifies.*”;

10                  (2) *by redesignating subsections (a) and (b) as*  
 11                  *subsections (b) and (a), respectively, and moving the*  
 12                  *subsections so as to appear in alphabetical order;*

13                  (3) *in subsection (b) (as so redesignated), in the*  
 14                  *subsection heading, by striking “IN GENERAL” and*  
 15                  *inserting “DESIGNATION”; and*

16                  (4) *by adding at the end the following:*

17                  “*(c) PROJECTS WITHIN EXISTING OPERATIONAL*  
 18                  *RIGHTS-OF-WAY.—*”

19                  “*(1) APPLICABILITY.—This subsection applies to*  
 20                  *a project within an existing operational right-of-way*  
 21                  *on an Indian reservation (as defined in section 3 of*  
 22                  *the Indian Financing Act of 1974 (25 U.S.C. 1452))*  
 23                  *that is—*

24                  “*(A) for a maintenance or preservation ac-*  
 25                  *tivity, whether or not federally funded, within*

1           *the existing operational right-of-way, including*  
2           *for roadside ditches; or*

3           “(B) a project that—

4                   “(i) is a tribal public safety project or  
5                   a project that the tribal department of  
6                   transportation or the equivalent (or in the  
7                   case of an Indian tribe without a tribal de-  
8                   partment of transportation or equivalent,  
9                   an official representing the Indian tribe)  
10                  certifies to the Secretary as providing a  
11                  safety benefit to the public; and

12                  “(ii) is an action that—

13                          “(I) is categorically excluded  
14                          under section 771.117 of title 23, Code  
15                          of Federal Regulations (or successor  
16                          regulations); or

17                          “(II) would be categorically ex-  
18                          cluded under section 771.117 of title  
19                          23, Code of Federal Regulations (or  
20                          successor regulations), if the applicant  
21                          were a State agency.

22                  “(2) FINAL ACTION.—Except as provided in  
23                  paragraph (3), a Federal agency shall take final ac-  
24                  tion on an application by an Indian tribe for a per-  
25                  mit, approval, or jurisdictional determination for a

1       *project described in paragraph (1) not later than 45*  
2       *days after the date of receipt of the application.*

3               “(3) *EXTENSIONS.*—*A Federal agency may ex-*  
4       *tend the period to take final action on an application*  
5       *by an Indian tribe under paragraph (2) by an addi-*  
6       *tional 30 days by providing to the Secretary and the*  
7       *Indian tribe notice of the extension, including a state-*  
8       *ment of the need for the extension.*

9               “(4) *CONSTRUCTIVE APPROVAL.*—*If a Federal*  
10       *agency does not take final action on an application*  
11       *by an Indian tribe under paragraphs (2) and (3)—*

12                       “(A) *the permit or approval for the project*  
13       *described in paragraph (1) shall be considered*  
14       *approved; and*

15                       “(B) *the Indian tribe shall notify the Sec-*  
16       *retary of approval under this paragraph.*

17               “(5) *REPORT.*—*Not later than 4 years after the*  
18       *date of enactment of the ‘TIRES Act’, the Secretary*  
19       *shall submit to Congress a report that describes the*  
20       *operation of this subsection, including any rec-*  
21       *ommendations.”.*

1 **SEC. 5. BUREAU OF INDIAN AFFAIRS REDUCTION IN ADMIN-**  
 2 **ISTRATIVE FEE.**

3 *Section 202(a)(6) of title 23, United States Code, is*  
 4 *amended by striking “6 percent” and inserting “5 percent*  
 5 *for each fiscal year”.*

6 **SEC. 6. OPTION OF ASSUMING NEPA APPROVAL AUTHOR-**  
 7 **ITY.**

8 *(a) DEFINITION OF SECRETARY.—In this section, the*  
 9 *term “Secretary” means the Secretary of the Interior or the*  
 10 *Secretary of Transportation, as applicable.*

11 *(b) ASSUMPTION OF FEDERAL RESPONSIBILITIES.—*  
 12 *An Indian tribe participating in tribal self-governance or*  
 13 *a contract or agreement under subsection (a)(2) or (b)(7)*  
 14 *of section 202 of title 23, United States Code, and carrying*  
 15 *out construction projects on the Indian reservation over*  
 16 *which the Indian tribe has jurisdiction, may elect to assume*  
 17 *all Federal responsibilities under the National Environ-*  
 18 *mental Policy Act of 1969 (42 U.S.C. 4321 et seq.), division*  
 19 *A of subtitle III of title 54, United States Code, and other*  
 20 *applicable Federal law that would apply if the Secretary*  
 21 *were to undertake a construction project if the Indian*  
 22 *tribe—*

23 *(1) designates an officer—*

24 *(A) to represent the Indian tribe; and*

25 *(B) to assume the status of a responsible*  
 26 *Federal official under those laws; and*

1           (2) *accepts the jurisdiction of the Federal court*  
2           *for the purpose of enforcement of the responsibilities*  
3           *of the responsible Federal official under those laws.*

4 **SEC. 7. TRIBAL GOVERNMENT TRANSPORTATION SAFETY**  
5           **DATA REPORT.**

6           (a) *FINDINGS.—Congress finds that—*

7                 (1) *in many States, the Native American popu-*  
8                 *lation is disproportionately represented in fatalities*  
9                 *and crash statistics;*

10                (2) *improved crash reporting by tribal law en-*  
11                *forcement agencies would facilitate safety planning*  
12                *and would enable Indian tribes to apply more suc-*  
13                *cessfully for State and Federal funds for safety im-*  
14                *provements;*

15                (3) *the causes of underreporting of crashes on In-*  
16                *dian reservations include—*

17                         (A) *tribal law enforcement capacity, includ-*  
18                         *ing—*

19                                 (i) *staffing shortages and turnover;*

20                                 *and*

21                                 (ii) *lack of equipment, software, and*  
22                                 *training; and*

23                                 (B) *lack of standardization in crash report-*  
24                                 *ing forms and protocols; and*

1           (4) *without more accurate reporting of crashes*  
2 *on Indian reservations and rural roads located in or*  
3 *around Alaska Native villages and within the bound-*  
4 *aries of Regional Corporations (within the meaning*  
5 *of the Alaska Native Claims Settlement Act (43*  
6 *U.S.C. 1601 et seq.)), it is difficult or impossible to*  
7 *fully understand the nature of the problem and de-*  
8 *velop appropriate countermeasures, which may in-*  
9 *clude effective transportation safety planning and*  
10 *programs aimed at—*

11                   (A) *DUI prevention;*

12                   (B) *pedestrian safety;*

13                   (C) *roadway safety improvements;*

14                   (D) *seat belt usage; and*

15                   (E) *proper use of child restraints.*

16           (b) *REPORT TO CONGRESS.—*

17                   (1) *IN GENERAL.—Not later than 1 year after*  
18 *the date of enactment of this Act, the Secretary, after*  
19 *consultation with the Secretary of Transportation, the*  
20 *Secretary of Health and Human Services, the Attor-*  
21 *ney General, and Indian tribes, shall submit to the*  
22 *Committee on Indian Affairs of the Senate and the*  
23 *Committee on Natural Resources of the House of Rep-*  
24 *resentatives a report describing the quality of trans-*  
25 *portation safety data collected by States and counties*

1       *for transportation safety systems and the relevance of*  
2       *that data to improving the collection and sharing of*  
3       *data on crashes on or near—*

4               *(A) Indian reservations; or*

5               *(B) rural roads located in or around Alaska*  
6       *Native villages and within the boundaries of Re-*  
7       *gional Corporations (within the meaning of the*  
8       *Alaska Native Claims Settlement Act (43 U.S.C.*  
9       *1601 et seq.)).*

10       *(2) PURPOSES.—The purposes of the report de-*  
11       *scribed in paragraph (1) are—*

12               *(A) to improve the collection and sharing of*  
13       *data on crashes on or near Indian reservations;*  
14       *and*

15               *(B) to develop data that Indian tribes can*  
16       *use to recover damages to tribal property caused*  
17       *by motorists.*

18       *(3) PAPERLESS DATA REPORTING.—In preparing*  
19       *the report under paragraph (1), the Secretary shall*  
20       *provide Indian tribes with options and best practices*  
21       *for transition to a paperless transportation safety*  
22       *data reporting system that—*

23               *(A) improves the collection of crash reports;*

24               *(B) stores, archives, queries, and shares*  
25       *crash records; and*

- 1                   (C) *uses data exclusively—*
- 2                    (i) *to address traffic safety issues on—*
- 3                      (I) *Indian reservations; and*
- 4                      (II) *rural roads located in or*
- 5                      *around Alaska Native villages and*
- 6                      *within the boundaries of Regional Cor-*
- 7                      *porations (within the meaning of the*
- 8                      *Alaska Native Claims Settlement Act*
- 9                      *(43 U.S.C. 1601 et seq.)); and*
- 10                   (ii) *to identify and improve problem*
- 11                    *areas on—*
- 12                      (I) *public roads on Indian res-*
- 13                      *ervations; and*
- 14                      (II) *rural roads located in or*
- 15                      *around Alaska Native villages and*
- 16                      *within the boundaries of Regional Cor-*
- 17                      *porations (within the meaning of the*
- 18                      *Alaska Native Claims Settlement Act*
- 19                      *(43 U.S.C. 1601 et seq.)).*
- 20                   (4) *ADDITIONAL BUDGETARY RESOURCES.—The*
- 21                    *Secretary shall include in the report under paragraph*
- 22                    (1) *the identification of Federal transportation funds*
- 23                    *provided to Indian tribes by agencies in addition to*
- 24                    *the Department of the Interior.*

1 **SEC. 8. BUREAU OF INDIAN AFFAIRS ROAD SAFETY STUDY.**

2 *Not later than 2 years after the date of enactment of*  
 3 *this Act, the Secretary, acting through the Assistant Sec-*  
 4 *retary for Indian Affairs, in consultation with the Sec-*  
 5 *retary of Transportation, the Attorney General, and States,*  
 6 *shall—*

7 *(1) complete a study that identifies and evalu-*  
 8 *ates options for improving safety on—*

9 *(A) public roads on or near Indian reserva-*  
 10 *tions; and*

11 *(B) rural roads located in or around Alaska*  
 12 *Native villages and within the boundaries of Re-*  
 13 *gional Corporations (within the meaning of the*  
 14 *Alaska Native Claims Settlement Act (43 U.S.C.*  
 15 *1601 et seq.)); and*

16 *(2) submit to the Committee on Indian Affairs*  
 17 *of the Senate and the Committee on Natural Re-*  
 18 *sources of the House of Representatives a report de-*  
 19 *scribing the results of the study.*

20 **SEC. 9. TRIBAL TRANSPORTATION FUNDING.**

21 *(a) IN GENERAL.—Section 1101(a)(3) of MAP-21*  
 22 *(Public Law 112-141; 126 Stat. 414) is amended—*

23 *(1) by striking subparagraph (A) and inserting*  
 24 *the following:*

25 *“(A) TRIBAL TRANSPORTATION PROGRAM.—*

26 *For the tribal transportation program under sec-*

1            *tion 202 of title 23, United States Code (other*  
 2            *than subsection (d) of that section), there are au-*  
 3            *thorized to be appropriated—*

4                    *“(i) \$468,180,000 for fiscal year 2016;*

5                    *“(ii) \$477,540,000 for fiscal year 2017;*

6                    *“(iii) \$487,090,000 for fiscal year*  
 7                    *2018;*

8                    *“(iv) \$496,830,000 for fiscal year 2019;*

9                    *“(v) \$506,770,000 for fiscal year 2020;*

10                  *and*

11                    *“(vi) \$516,905,400 for fiscal year*  
 12                    *2021.”; and*

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

14                    *“(D) TRIBAL TRANSPORTATION FACILITY*  
 15                    *BRIDGE PROGRAM.—For the tribal transpor-*  
 16                    *tation facility bridge program under section*  
 17                    *202(d) of title 23, United States Code, there are*  
 18                    *authorized to be appropriated—*

19                    *“(i) \$16,000,000 for fiscal year 2016;*

20                    *“(ii) \$18,000,000 for fiscal year 2017;*

21                    *“(iii) \$20,000,000 for fiscal year 2018;*

22                    *“(iv) \$22,000,000 for fiscal year 2019;*

23                    *“(v) \$24,000,000 for fiscal year 2020;*

24                  *and*

1                   “(vi) \$26,000,000 for fiscal year  
2                   2021.”.

3                   (3) *TRIBAL TRANSPORTATION FACILITY BRIDGE*  
4                   *PROGRAM.—Section 202(d) of title 23, United States*  
5                   *Code, is amended by striking paragraph (2) and in-*  
6                   *serting the following:*

7                   “(2) *TRIBAL TRANSPORTATION FACILITY BRIDGE*  
8                   *PROGRAM.—The Secretary shall use funds made*  
9                   *available to carry out this subsection—*

10                   “(A) *to carry out any planning, design, en-*  
11                   *gineering, preconstruction, construction, and in-*  
12                   *spection of new or replacement tribal transpor-*  
13                   *tation facility bridges;*

14                   “(B) *to replace, rehabilitate, seismically ret-*  
15                   *rofit, paint, apply calcium magnesium acetate,*  
16                   *sodium acetate/formate, or other environmentally*  
17                   *acceptable, minimally corrosive anti-icing and*  
18                   *deicing composition; or*

19                   “(C) *to implement any countermeasure for*  
20                   *deficient tribal transportation facility bridges,*  
21                   *including multiple-pipe culverts.”.*



Calendar No. 378

114<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 1776**

[Report No. 114-217]

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**A BILL**

To enhance tribal road safety, and for other purposes.

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FEBRUARY 29, 2016

Reported with an amendment