

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.**

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

To enhance tribal road safety, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended  
to be proposed by \_\_\_\_\_

Viz:

1 Strike all after the enacting clause and insert the fol-  
2 lowing:

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”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

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

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

3 **SEC. 3. APPLICATION OF CATEGORICAL EXCLUSIONS TO**  
4                                   **CERTAIN TRIBAL TRANSPORTATION FACILI-**  
5                                   **TIES.**

6           (a) CATEGORICAL EXCLUSIONS.—

7           (1) IN GENERAL.—Effective on the date of en-  
8           actment of this Act, a highway project, including  
9           projects administered by the Bureau of Indian Af-  
10          fairs, located on a road eligible for assistance under  
11          section 202 of title 23, United States Code, is  
12          deemed to be an action categorically excluded from  
13          the requirements relating to environmental assess-  
14          ments or environmental impact statements under  
15          section 1508.4 of title 40, Code of Federal Regula-  
16          tions (as in effect on the date of enactment of this  
17          Act), if the project—

18                           (A) qualifies for categorical exclusion  
19                           under—

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

23                                   (ii) section 771.117 of title 23, Code  
24                                   of Federal Regulations (or successor regu-  
25                                   lations); or

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

3 (2) MAP–21 CATEGORICAL EXCLUSIONS TO  
4 CERTAIN TRIBAL TRANSPORTATION FACILITIES.—  
5 Section 1317 of MAP–21 (23 U.S.C. 109 note; 126  
6 Stat. 550) is amended—

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

9 (B) beginning in the matter preceding  
10 paragraph (1), by striking “Not later than”  
11 and all that follows through “(1) designate”  
12 and inserting the following:

13 “(a) DESIGNATION OF CATEGORICAL EXCLUSIONS.—

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

17 (C) in paragraph (2)—

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

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

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

1 (D) in subsection (a) (as designated by  
2 subparagraph (B)), by adding at the end the  
3 following:

4 “(2) APPLICATION OF CATEGORICAL EXCLU-  
5 SIONS TO CERTAIN TRIBAL TRANSPORTATION FA-  
6 CILITIES.—With respect to a project described in  
7 paragraph (1) that is located on a road eligible for  
8 assistance under section 202 of title 23, United  
9 States Code, for the first full fiscal year after the  
10 date of enactment of the TIRES Act, and each fiscal  
11 year thereafter, the amount referred to in paragraph  
12 (1)(A) shall be adjusted to reflect changes for the  
13 12-month period ending the preceding November 30  
14 in the Consumer Price Index for All Urban Con-  
15 sumers published by the Bureau of Labor Statistics  
16 of the Department of Labor.”.

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

19 (c) EFFECTIVE DATE.—

20 (1) IN GENERAL.—The categorical exclusions  
21 described in subsection (a), and the amendments  
22 made by subsection (a), take effect on the date of  
23 enactment of this Act.

24 (2) FAILURE OF SECRETARY TO ACT.—The fail-  
25 ure of the Secretary to promulgate any final regula-

1 tions or guidance shall not affect the qualification  
2 for the categorical exclusions described in subsection  
3 (a).

4 **SEC. 4. STREAMLINING FOR TRIBAL PUBLIC SAFETY**  
5 **PROJECTS WITHIN EXISTING OPERATIONAL**  
6 **RIGHTS-OF-WAY.**

7 Section 1316 of MAP–21 (23 U.S.C. 109 note; 126  
8 Stat. 549) is amended—

9 (1) in subsection (b)—

10 (A) by striking “(b) DEFINITION OF AN  
11 OPERATIONAL RIGHT-OF-WAY.—In this section,  
12 the” and inserting the following:

13 “(b) DEFINITIONS.—In this section:

14 “(1) OPERATIONAL RIGHT-OF-WAY.—

15 “(A) IN GENERAL.—The”; and

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

17 “(B) INCLUSION.—For purposes of sub-  
18 paragraph (A), if a real property interest on an  
19 Indian reservation has not been formally des-  
20 ignated an operational right-of-way, an Indian  
21 tribe may determine the scope and boundaries  
22 of that real property interest as an operational  
23 right-of-way, subject to the approval of the Bu-  
24 reau of Indian Affairs and the Secretary.

25 “(2) TRIBAL PUBLIC SAFETY PROJECT.—

1           “(A) IN GENERAL.—The term ‘tribal pub-  
2           lic safety project’ means a project subject to  
3           this section that—

4                   “(i) corrects or improves a hazardous  
5                   road location or feature; or

6                   “(ii) addresses a highway safety prob-  
7                   lem.

8           “(B) INCLUSIONS.—The term ‘tribal public  
9           safety project’ includes a project for 1 or more  
10          of the following:

11                   “(i) An intersection safety improve-  
12                   ment.

13                   “(ii) Pavement and shoulder widening,  
14                   including addition of a passing lane to  
15                   remedy an unsafe condition.

16                   “(iii) Installation of a rumble strip or  
17                   other warning device, if the rumble strip or  
18                   other warning device does not adversely af-  
19                   fect the safety or mobility of bicyclists, pe-  
20                   destrians, or the disabled.

21                   “(iv) Installation of a skid-resistant  
22                   surface at an intersection or other location  
23                   with a high frequency of accidents.

24                   “(v) An improvement for pedestrian  
25                   or bicyclist safety or safety of the disabled.

1           “(vi) Construction of any project for  
2           the elimination of hazards at a railway-  
3           highway crossing that is eligible for fund-  
4           ing under section 130 of title 23, United  
5           States Code, including the separation or  
6           protection of grades at railway-highway  
7           crossings.

8           “(vii) Construction of a railway-high-  
9           way crossing safety feature, including in-  
10          stallation of protective devices.

11          “(viii) The conduct of a model traffic  
12          enforcement activity at a railway-highway  
13          crossing.

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

16          “(x) Elimination of a roadside obsta-  
17          cle.

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

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

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

1                   “(xiv) Safety-conscious planning.

2                   “(xv) Improvements in the collection  
3 and analysis of crash data.

4                   “(xvi) Planning integrated interoper-  
5 able emergency communications equip-  
6 ment, operational activities, or traffic en-  
7 forcement activities, including police assist-  
8 ance, relating to workzone safety.

9                   “(xvii) Installation of guardrails, bar-  
10 riers, including barriers between construc-  
11 tion work zones and traffic lanes for the  
12 safety of motorists and workers, and crash  
13 attenuators.

14                   “(xviii) The addition or retrofitting of  
15 structures or other measures to eliminate  
16 or reduce accidents involving vehicles and  
17 wildlife.

18                   “(xix) Installation and maintenance of  
19 signs, including fluorescent, yellow-green  
20 signs, at pedestrian-bicycle crossings and  
21 in school zones.

22                   “(xx) Construction and yellow-green  
23 signs at pedestrian-bicycle crossings and in  
24 school zones.



1                   “(xxi) Construction and operational  
2                   improvements on high-risk rural roads.

3                   “(xxii) Any other project that the Sec-  
4                   retary determines qualifies.”;

5                   (2) by redesignating subsections (a) and (b) as  
6                   subsection (b) and (a), respectively, and moving the  
7                   subsection so as to appear in alphabetical order;

8                   (3) in subsection (b) (as so redesignated), in  
9                   the subsection heading, by striking “IN GENERAL”  
10                  and inserting “DESIGNATION”; and

11                  (4) by adding at the end the following:

12                  “(c) PROJECTS WITHIN EXISTING OPERATIONAL  
13                  RIGHTS-OF-WAY.—

14                  “(1) APPLICABILITY.—This subsection applies  
15                  to a project within an existing operational right-of-  
16                  way on an Indian reservation (as defined in section  
17                  3 of the Indian Financing Act of 1974 (25 U.S.C.  
18                  1452)) that is—

19                  “(A) for a maintenance or preservation ac-  
20                  tivity, whether or not federally funded, within  
21                  the existing operational right-of-way, including  
22                  for roadside ditches; or

23                  “(B) a project that—

24                  “(i) is a tribal public safety project or  
25                  a project that the tribal department of

1 transportation or the equivalent (or in the  
2 case of an Indian tribe without a tribal de-  
3 partment of transportation or equivalent,  
4 an official representing the Indian tribe)  
5 certifies to the Secretary as providing a  
6 safety benefit to the public; and

7 “(ii) is an action that—

8 “(I) is categorically excluded  
9 under section 771.117 of title 23,  
10 Code of Federal Regulations (or suc-  
11 cessor regulations); or

12 “(II) would be categorically ex-  
13 cluded under section 771.117 of title  
14 23, Code of Federal Regulations (or  
15 successor regulations), if the applicant  
16 were a State agency.

17 “(2) FINAL ACTION.—Except as provided in  
18 paragraph (3), a Federal agency shall take final ac-  
19 tion on an application by an Indian tribe for a per-  
20 mit, approval, or jurisdictional determination for a  
21 project described in paragraph (1) not later than 45  
22 days after the date of receipt of the application.

23 “(3) EXTENSIONS.—A Federal agency may ex-  
24 tend the period to take final action on an application  
25 by an Indian tribe under paragraph (2) by an addi-

1 tional 30 days by providing to the Secretary and the  
2 Indian tribe notice of the extension, including a  
3 statement of the need for the extension.

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

7 “(A) the permit or approval for the project  
8 described in paragraph (1) shall be considered  
9 approved; and

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

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

17 **SEC. 5. BUREAU OF INDIAN AFFAIRS REDUCTION IN AD-**  
18 **MINISTRATIVE FEE.**

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

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

3 (a) DEFINITION OF SECRETARY.—In this section, the  
4 term “Secretary” means the Secretary of the Interior or  
5 the Secretary of Transportation, as applicable.

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

18 (1) designates an officer—

19 (A) to represent the Indian tribe; and

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

22 (2) accepts the jurisdiction of the Federal court  
23 for the purpose of enforcement of the responsibilities  
24 of the responsible Federal official under those laws.

1 **SEC. 7. TRIBAL GOVERNMENT TRANSPORTATION SAFETY**

2 **DATA REPORT.**

3 (a) FINDINGS.—Congress finds that—

4 (1) in many States, the Native American popu-  
5 lation is disproportionately represented in fatalities  
6 and crash statistics;

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

12 (3) the causes of underreporting of crashes on  
13 Indian reservations include—

14 (A) tribal law enforcement capacity, in-  
15 cluding—

16 (i) staffing shortages and turnover;  
17 and

18 (ii) lack of equipment, software, and  
19 training; and

20 (B) lack of standardization in crash re-  
21 porting forms and protocols; and

22 (4) without more accurate reporting of crashes  
23 on Indian reservations and rural roads located in or  
24 around Alaska Native villages and within the bound-  
25 aries of Regional Corporations (within the meaning  
26 of the Alaska Native Claims Settlement Act (43

1 U.S.C. 1601 et seq.)), it is difficult or impossible to  
2 fully understand the nature of the problem and de-  
3 velop appropriate countermeasures, which may in-  
4 clude effective transportation safety planning and  
5 programs aimed at—

6 (A) DUI prevention;

7 (B) pedestrian safety;

8 (C) roadway safety improvements;

9 (D) seat belt usage; and

10 (E) proper use of child restraints.

11 (b) REPORT TO CONGRESS.—

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

25 (A) Indian reservations; or

1 (B) rural roads located in or around Alas-  
2 ka Native villages and within the boundaries of  
3 Regional Corporations (within the meaning of  
4 the Alaska Native Claims Settlement Act (43  
5 U.S.C. 1601 et seq.)).

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

8 (A) to improve the collection and sharing  
9 of data on crashes on or near Indian reserva-  
10 tions; and

11 (B) to develop data that Indian tribes can  
12 use to recover damages to tribal property  
13 caused by motorists.

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

19 (A) improves the collection of crash re-  
20 ports;

21 (B) stores, archives, queries, and shares  
22 crash records; and

23 (C) uses data exclusively—

24 (i) to address traffic safety issues  
25 on—

1 (I) Indian reservations; and  
2 (II) rural roads located in or  
3 around Alaska Native villages and  
4 within the boundaries of Regional  
5 Corporations (within the meaning of  
6 the Alaska Native Claims Settlement  
7 Act (43 U.S.C. 1601 et seq.)); and  
8 (ii) to identify and improve problem  
9 areas on—

10 (I) public roads on Indian res-  
11 ervations; and

12 (II) rural roads located in or  
13 around Alaska Native villages and  
14 within the boundaries of Regional  
15 Corporations (within the meaning of  
16 the Alaska Native Claims Settlement  
17 Act (43 U.S.C. 1601 et seq.)).

18 (4) ADDITIONAL BUDGETARY RESOURCES.—  
19 The Secretary shall include in the report under  
20 paragraph (1) the identification of Federal transpor-  
21 tation funds provided to Indian tribes by agencies in  
22 addition to the Department of the Interior.

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

24 Not later than 2 years after the date of enactment  
25 of this Act, the Secretary, acting through the Assistant



1 Secretary for Indian Affairs, in consultation with the Sec-  
2 retary of Transportation, the Attorney General, and  
3 States, shall—

4 (1) complete a study that identifies and evalu-  
5 ates options for improving safety on—

6 (A) public roads on or near Indian reserva-  
7 tions; and

8 (B) rural roads located in or around Alas-  
9 ka Native villages and within the boundaries of  
10 Regional Corporations (within the meaning of  
11 the Alaska Native Claims Settlement Act (43  
12 U.S.C. 1601 et seq.)); and

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

17 **SEC. 9. TRIBAL TRANSPORTATION FUNDING.**

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

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

22 “(A) TRIBAL TRANSPORTATION PRO-  
23 GRAM.—For the tribal transportation program  
24 under section 202 of title 23, United States

1 Code (other than subsection (d) of that sec-  
2 tion), there are authorized to be appropriated—

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

5 “(ii) \$477,540,000 for fiscal year  
6 2017;

7 “(iii) \$487,090,000 for fiscal year  
8 2018;

9 “(iv) \$496,830,000 for fiscal year  
10 2019;

11 “(v) \$506,770,000 for fiscal year  
12 2020; and

13 “(vi) \$516,905,400 for fiscal year  
14 2021.”; and

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

16 “(D) TRIBAL TRANSPORTATION FACILITY  
17 BRIDGE PROGRAM.—For the tribal transpor-  
18 tation facility bridge program under section  
19 202(d) of title 23, United States Code, there  
20 are authorized to be appropriated—

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

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

23 “(iii) \$20,000,000 for fiscal year  
24 2018;

