

INTERTRIBAL TRANSPORTATION ASSOCIATION (ITA)

To:

Senate Committee on Indian Affairs
Tribal Transportation Bill



July 16, 2019

Delivered via Email.



**INTERTRIBAL
TRANSPORTATION
ASSOCIATION**

258 Whitebear Road
PO Box 1252
Harlem, MT 59526
Phone: 406-353-2447
Fax: 406-353-2445
Email: President.ITA1@gmail.com

Executive Committee

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Fort Belknap Indian Community

Vice President

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Ketchikan Indian Community,

Executive Director

vacant

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Sara Yockey (Alt)
Organized Village of Kascaan

Navajo Region

Garret Silversmith (Primary)
vacant (Alt),

Pacific Region

Andrew Orosco Jr., (Primary)
San Pasqual Band of Indians.
Erica M. Pinto, Chairwoman
Jamul Indian Village (Alt),

****Delivered via Email****

July 16, 2019

Senate Committee on Indian Affairs
628 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Tribal Transportation Issues:

Senate Committee on Indian Affairs:

Thank you for this opportunity to submit these written comments and draft legislation.

On behalf of the Intertribal Transportation Association (ITA) and member tribes we formally submit the following.

We look forward to working with you and your staff to continue improving the quality of transportation infrastructure for the benefit of our Tribal members and our surrounding communities.

If there are any questions regarding this, please call me at 406-353-2447, or email at President.ITA1@gmail.com, questions can also be direct to Mr. Gerry Hope, Co-Chair, ITA Legislative Committee at gerry.hope@sitkatriben-sn.gov or Mr. Carl Slater, Co-Chair, ITA Legislative Committee, Thank you.

Sincerely,

C. John Healy Sr., President,
Intertribal Transportation Association.

Attachments:

Cc: Senator Jon Tester (D-MT).
Brandon Ashley, Deputy Staff Director, Office of Senator John Hoeven (R-ND).
Anthony Sedillo, Senate Committee on Indian Affairs.
Brian Clifford, Senate Committee Environment & Public Works.
Kenneth Martin, Senate Committee on Environment & Public Works.
Tara Katuk Mac Lean Sweeney, Assistant Secretary of Indian Affairs,
U.S. Department of the Interior, Bureau of Indian Affairs.
Erin Kenley, Director, Office of Tribal Transportation, USDOT, Federal Lands Highway,
Federal Highway Administration.
Darryl LaCounte, Director, U.S. Department of the Interior, Bureau of Indian Affairs.
LeRoy Gishi, Chief, Division of Transportation, U.S. Department of the Interior, Bureau
of Indian Affairs.
Tyler D. Scribner, Policy Analyst, National Congress of American Indians (NCAI).
Intertribal Transportation Association (ITA) Executive Committee Members.

TITLE: Resolution of support for re-authorization of the FAST act and for increased funding of 1 billion dollars for the Tribal Transportation Program

WHEREAS, the Intertribal Transportation Association is recognized body of tribal interests for transportation and infrastructure

WHEREAS, the Intertribal Transportation Association membership is the representative body of participating tribes;

WHEREAS, the Intertribal Transportation Committee recognizes that transportation infrastructure, including building and maintaining roads and bridges, is vital to the health, safety and welfare of all Indian reservations and Alaska Native Villages, and

WHEREAS, ITA recognizes that a majority of the transportation infrastructure are inadequate and unsafe for its members and residents, and

WHEREAS, according to the Center for Disease Control (CDC), motor vehicle crashes are the leading cause of death of Indian children, Native American infants are eight times more likely to die in a vehicle-related crash than non-Native infants, and motor vehicle crashes are the leading cause of unintentional injury for Native American adults; and

WHEREAS, the National Highway Traffic Safety Administration (NHTSA) has reported that 3 out of 4 deaths in motor vehicle crashes on reservations, the individuals were not wearing seat belts; and

WHEREAS, federal appropriations for the Tribal Transportation Program (TTP), Tribal Transit Program, BIA Indian Highway Safety Program, TTP Safety Grant program, and BIA Road Maintenance Program are wholly inadequate to address documented unmet tribal transportation infrastructure and highway safety needs; and

WHEREAS, these unmet needs perpetuate transportation barriers for American Indians and Alaska Natives, undermine the efforts by Tribal governments to address continuing disparities between the general population and Native communities as concerns access to higher education, public safety, health services and economic opportunity, and limit the ability of Tribal governments, as "*public authorities*," to meaningfully collaborate with federal, State and other local governments regarding Tribal transportation infrastructure and safety needs; and

WHEREAS, many of the FAST Act's discretionary and competitive grant programs, such as the TIGER grant program and Nationally Significant Freight and Highway Projects program (INFRA), do not have Tribal set-asides to ensure that Indian tribes can favorably compete, and contain burdensome local match and other application requirements, such as cost-benefit analysis studies, that severely limit the benefits of such federal programs to Indian Country; and

WHEREAS, the Congress has long recognized that roads promote economic development and help Indian tribes provide vital governmental services, which are essential for healthy, vibrant and stable tribal communities; and


WHEREAS, the Intertribal Transportation Association, a coalition of Indian tribes and tribal advocates, in anticipation of the Administration and Congress introducing a multi-year infrastructure plan for the Nation that expands federal transportation programs serving Tribes, reduced burdensome regulations, improves BIA recordkeeping relating to rights-of-way, provides innovative financing tools for Tribes, and requests increased federal appropriations for tribal infrastructure, transit and safety needs in the sum of 1,000,000,000 as justified by the backlog of BIA maintenance and new projects;

WHEREAS, to address the disparities in infrastructure, equipment, and resources that exist between Indian tribes and States and local governments, Indian tribes, as *public authorities*, must advocate before Congress and the Administration for direct federal investments in the transportation programs and funds required to meet the needs of their Tribal citizens consistent with the federal government's trust responsibilities to all the Indian Nations and peoples; and

WHEREAS, _Intertribal Transportation Association, having seen the need and lack of funding as a critical impediment to begin to address the great unmet transportation infrastructure, transit and highway safety needs of Tribes.

NOW THEREFORE BE IT RESOLVED, that the Intertribal Transportation Authority does hereby declare its support for increased funding to the Tribal Transportation Program and to advocate to Congress and the Administration for its inclusion in a national infrastructure measure to remedy the ongoing unmet transportation, transit and highway safety needs of Indian Country;

ATTEST:



C. John Healy Sr., President,
Intertribal Transportation Association



Carl Slater, Secretary
Intertribal Transportation Association

CERTIFICATION:

We, the undersigned, as the Chair and the Secretary of the Intertribal Transportation Association , do hereby certify that the foregoing Resolution was duly presented and approved, at a convened General Membership Meeting of the Intertribal Transportation Association, which was held on the 12th of December, 2018 in Las Vegas, NV with a full quorum present.

DATE: January 16, 2019



Carl Slater, Secretary
Intertribal Transportation Association

INTERTRIBAL TRANSPORTATION ASSOCIATION (ITA)

116TH CONGRESS
1ST SESSION

S. _____

To enhance tribal transportation infrastructure and tribal transit.

IN THE SENATE OF THE UNITED STATES

June 26, 2019

Mr. _____ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To enhance tribal transportation infrastructure and tribal transit.

1 Be it enacted by the Senate and House of Representatives of
2 the United States of America in Congress assembled,

3 **SECTION 1. SHORT TITLE.**

4 SHORT TITLE. —This Act may be cited as the “Tribal Transportation
5 Infrastructure and Tribal Transit Investment Act of 2020”.

6 TABLE OF CONTENTS. —The table of contents of this Act is as
7 follows:

8 Sec. 1. Short title; table of contents.

9

10 **TITLE I – TRIBAL TRANSPORTATION INFRASTRUCTURE**
11 **AND TRIBAL TRANSIT PROGRAMS**

12 **SUBTITLE A**

1
2 **TITLE I – TRIBAL TRANSPORTATION INFRASTRUCTURE**
3 **INVESTMENTS**

4 **SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

5 (a) IN GENERAL—The following sums are authorized to be appropriated
6 out of the Highway Trust Fund (other than the Mass Transit Account):

7 (1) TRIBAL TRANSPORTATION PROGRAM. — For the
8 tribal transportation program under section 202 of title 23, United States
9 Code—

- 10 (i) \$555,000,000 for fiscal year 2021;
11 (ii) \$605,000,000 for fiscal year 2022;
12 (iii) \$655,000,000 for fiscal year 2023;
13 (iv) \$705, 000,000 for fiscal year 2024; and
14 (v) \$755,000,000 for fiscal year 2025.

15 (2) TRIBAL TRANSPORTATION FACILITY BRIDGES PROGRAM—
16 For the tribal transportation facility bridges program under section 202
17 of title 23, United States Code, as further amended herein—

- 18 (i) \$75,000,000 for fiscal years 2021 through 2025;

19 Provided, however, that for purposes of section 201 of title 23, funds made
20 available under the tribal transportation facility bridges program shall be
21 considered part of the tribal transportation program.

22 (3) NATIONALLY SIGNIFICANT FEDERAL LANDS AND TRIBAL
23 PROJECTS PROGRAM— For the nationally significant federal lands
24 and tribal projects program under section 1123 of the FAST Act, Pub.
25 L. 114-94, as further amended herein—

- 26 (i) \$100,000,000 for fiscal years 2021 through 2025.

27 (4) TRIBAL HIGH PRIORITY PROJECTS PROGRAM— For the tribal
28 high priority projects program established under section 105 of this
29 Act—

- 30 (i) \$45,000,000 for fiscal year 2021;

- 1 (ii) \$50,000,000 for fiscal year 2022;
- 2 (iii) \$55,000,000 for fiscal year 2023;
- 3 (iv) \$60,000,000 for fiscal year 2024; and
- 4 (v) \$65,000,000 for fiscal year 2025.

5 (5) NATIONAL TRIBAL ASSET MANAGEMENT PROGRAM— For
6 the national tribal asset management program established under
7 section 106 of this Act—

- 8 (6) \$85,000,000 for fiscal year 2021;
- 9 (7) \$95,000,000 for fiscal year 2022;
- 10 (8) \$105,000,000 for fiscal year 2023;
- 11 (9) \$115,000,000 for fiscal year 2024; and
- 12 (10) \$125,000,000 for fiscal year 2025.

13 (b) TRIBAL TRANSIT PROGRAM— The following sums are authorized
14 to be appropriated out of the Highway Trust Fund from the Mass
15 Transit Account:

16 (1) For the tribal transit program under section 5311(c)(1)(A) of title
17 49, United States Code—

- 18 (i) \$30,000,000 for fiscal year 2021;
- 19 (ii) \$35,000,000 for fiscal year 2022;
- 20 (iii) \$40,000,000 for fiscal year 2023;
- 21 (iv) \$45,000,000 for fiscal year 2024; and
- 22 (v) \$50,000,000 for fiscal year 2025;

23 (2) For the tribal transit program under section 5311(c)(1)(B) of title
24 49, United States Code—

- 25 (i) \$55,000,000 for fiscal year 2021;
- 26 (ii) \$60,000,000 for fiscal year 2022;
- 27 (iii) \$65,000,000 for fiscal year 2023;
- 28 (iv) \$70,000,000 for fiscal year 2024; and
- 29 (v) \$75,000,000 for fiscal year 2025.

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1 **SEC. 102. NATIONAL TRIBAL INFRASTRUCTURE**
2 **INVESTMENTS.**

3 (a) **IN GENERAL**— In addition to funds made available from any other
4 source to carry out transportation and mass transit programs for Indian Tribes,
5 and to make national investments in tribal transportation infrastructure, the
6 following sum are appropriated:

7 (1) **TRIBAL TRANSPORTATION Program**— To supplement the
8 Tribal Transportation Program under section 202 of title 23, United States
9 Code, there are appropriated out of the Highway Trust Fund (other than the
10 Mass Transit Account), \$555,000,000 for fiscal year 2021, \$605,000,000 for
11 fiscal year 2022, \$655,000,000 for fiscal year 2023, \$705,000,000 for fiscal
12 year 2024, and \$755,000,000 for fiscal year 2025, for eligible projects listed
13 on a Tribal Transportation Improvement Program approved by the Federal
14 Highway Administration, for investments in transportation infrastructure at
15 American Indian reservations and at Alaska Native Tribes, to remain available
16 for a period of 3 fiscal years following the fiscal year for which the amounts
17 are appropriated: Provided further, That 18 months following the enactment of
18 this Act, to ensure the prompt use of the amount provided for investments at
19 American Indian reservations and Alaska Native Tribes, the Secretary of
20 Transportation and the Secretary of Interior shall have the authority to
21 redistribute unobligated funds within the respective program for which the
22 funds were appropriated: Provided further, That up to 3 percent of the funding
23 provided herein may be used by the Secretary and the Secretary of the
24 Interior, as appropriate, for program management and oversight and project-
25 related administrative expenses: Provided further, That funds made available
26 under this heading shall be administered as if apportioned under chapter 2 of
27 title 23, United States Code: Provided further, That the Federal share payable
28 on account of any project or activity carried out with funds made available
29 under this heading under chapter 2 of title 23, United States Code, shall be
30 100 percent of the total cost thereof: Provided further, That funding provided

1 under this heading shall be in addition to any and all funds provided for fiscal
2 years 2021 through 2025: Provided further, That that amount made available
3 under this heading shall not be subject to any limitation on obligations for the
4 Tribal Transportation Program set forth in any Act.

5 (2) TRIBAL TRANSPORTATION FACILITY BRIDGES
6 PROGRAM— To supplement funds made available from any other source to
7 carry out the Tribal Transportation Facility Bridges Program under section
8 202(d) of title 23, United States Code, there are appropriated \$75,000,000 for
9 each fiscal years 2021 through 2025, out of the Highway Trust Fund (other
10 than the Mass Transit Account), to remain available for a period of 3 fiscal
11 years following the fiscal year for which the amounts are appropriated, for
12 eligible projects for the tribal transportation facility bridges program under
13 section 202(d) of title 23, United States Code, to carry out any planning,
14 design, engineering, preconstruction, construction and inspection of new or
15 replacement tribal transportation facility bridges, to replace, rehabilitate,
16 seismically retrofit, paint, apply calcium magnesium acetate, sodium
17 acetate/formate, or other environmentally acceptable, minimally corrosive
18 anti-icing and de-icing composition; or to implement any countermeasure for
19 deficient tribal transportation facility bridges, including multiple-pipe
20 culverts; Provided further, That the Federal share payable on account of any
21 project or activity carried out with funds made available under this heading
22 shall be, at the option of the recipient, up to 100 percent of the total cost
23 thereof: Provided further, That that amount made available under this heading
24 shall not be subject to any limitation on obligations for the tribal
25 transportation facility bridge program set forth in any Act; Provided further,
26 that except as otherwise provided herein, the funds provided under this
27 heading shall be distributed in accordance with section 202(d) of title 23:
28 Provided further, That funding provided under this heading shall be in
29 addition to any and all funds provided for fiscal years 2021 through 2025 in
30 any other Act for Tribal Transportation Facility Bridges and shall not affect

1 the distribution of funds provided for the Tribal Transportation Facility Bridge
2 program in any other Act.

3 (3) NATIONALLY SIGNIFICANT FEDERAL LANDS AND
4 TRIBAL PROJECTS PROGRAM— To supplement funds made available
5 from any other sources for the nationally significant federal lands and tribal
6 projects program, there are appropriated out of the Highway Trust Fund (other
7 than the Mass Transit Account) \$100,000,000 for fiscal years 2021 through
8 2025.

9 (4) TRIBAL HIGH PRIORITY PROJECTS PROGRAM— To
10 supplement funds made available from any other sources for the tribal high
11 priority projects program, there are appropriated out of the Highway Trust
12 Fund (other than the Mass Transit Account):

- 13 (i) \$45,000,000 for fiscal year 2021;
- 14 (ii) \$50,000,000 for fiscal year 2022;
- 15 (iii) \$55,000,000 for fiscal year 2023;
- 16 (iv) \$60,000,000 for fiscal year 2024; and
- 17 (v) \$65,000,000 for fiscal year 2025.

18 (5) NATIONAL TRIBAL ASSET MANAGEMENT PROGRAM— To
19 supplement funds made available from any other sources for the
20 national tribal asset management program, there are appropriated out
21 of the Highway Trust Fund (other than the Mass Transit Account):

- 22 (i) \$85,000,000 for fiscal year 2021;
- 23 (ii) \$95,000,000 for fiscal year 2022;
- 24 (iii) \$105,000,000 for fiscal year 2023;
- 25 (iv) \$115,000,000 for fiscal year 2024; and
- 26 (v) \$125,000,000 for fiscal year 2025.

27 (6) TRIBAL TRANSIT PROGRAM— (a) To supplement funds made
28 available from any other sources for the tribal transit program under
29 section 5311(c)(1)(A) of title 49, United States Code, there are
30 appropriated out of the Highway Trust Fund (Mass Transit Account):

- 1 (vi) \$30,000,000 for fiscal year 2021;
 2 (vii) \$35,000,000 for fiscal year 2022;
 3 (viii) \$40,000,000 for fiscal year 2023;
 4 (ix) \$45,000,000 for fiscal year 2024; and
 5 (x) \$50,000,000 for fiscal year 2025; and

6 (b) For the tribal transit program under section 5311(c)(1)(B) of title
 7 49, United States Code—

- 8 (vi) \$55,000,000 for fiscal year 2021;
 9 (vii) \$60,000,000 for fiscal year 2022;
 10 (viii) \$65,000,000 for fiscal year 2023;
 11 (ix) \$70,000,000 for fiscal year 2024; and
 12 (x) \$75,000,000 for fiscal year 2025.

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14 **SEC. 103. TRIBAL TRANSIT PROGRAM AMENDMENTS.**

15 Section 5311(c)(1) of title 49, United States Code, is amended—
 16 in subsection (A) by striking the period at the end of the sentence, inserting a
 17 semi-colon, and adding the following: “; provided that before distributing
 18 funds on a competitive basis under this subsection, the Secretary shall ensure
 19 that an American Indian/Alaska Native Tribe that received a public
 20 transportation grant under section 3013(c) of Pub. L. 109-59 during fiscal
 21 years 2006 through 2012, receives not less than the highest amount awarded
 22 to the Indian tribe for equipment purchases, maintenance, operating or any
 23 other transit-related costs received under section 3013(c) of Pub. L. 109-59 if,
 24 by operation of the formula allocation in section (j) herein, the American
 25 Indian/Alaska Native Tribe’s formula grant award falls below an award
 26 previously made to the Indian tribe under section 3013(c) of Pub. L. 109-59.”.

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SEC. 104. NATIONALLY SIGNIFICANT FEDERAL LANDS AND TRIBAL PROJECTS PROGRAM AMENDMENTS.

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(a)(1) Section 1123 of the Fixing America’s Surface Transportation Act, Pub. L. 114-94, 129 Stat. 1370, 23 U.S.C. § 201 note, is amended as follows—

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in subparagraph (c)(3) of the section by striking the period at the end and inserting the following: “; except that for a Tribal transportation project, listed on the National Tribal Transportation Facility Inventory, a project shall be eligible under this section if it has an estimated cost, based on the results of preliminary engineering, equal to or exceeding \$3,000,000, with priority consideration given to projects with an estimated cost equal to or exceeding \$5,000,000; and notwithstanding subparagraph (c)(2) or (d)(2) herein, a Tribal transportation project may include costs for advance planning development elements, including but not limited to, planning, design, engineering and environmental requirements under the National Environmental Policy Act of 1969. Such sums shall remain available for a period of three fiscal years following the fiscal year for which the amounts are appropriated.”; and

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SEC. 105. TRIBAL HIGH PRIORITY PROJECTS PROGRAM.

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(a) Section 202 of title 23 United States Code is amended to add a new paragraph (g) to read:

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“(g) TRIBAL HIGH PRIORITY PROJECTS PROGRAM. —

25

“(1) There is established a high priority projects program to permit any American Indian/Alaska Native Tribe to finance a high priority project.

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“(a) DEFINITIONS. —In this section:

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“(1) LIST.—The term ‘list’ means the funding priority list developed under subsection (c)(5).

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1 “(2) PROGRAM.—The term ‘program’ means the Tribal High Priority Projects
2 program established under subsection (b)(1).

3 “(3) PROJECT.—The term ‘project’ means a project provided funds under the
4 program.

5 “(b) PROGRAM.—

6 “(1) IN GENERAL.—The Secretary of Transportation shall use amounts made
7 available under this section to carry out a Tribal High Priority Projects program
8 under which funds shall be provided to eligible applicants in accordance with this
9 section.

10 “(2) ELIGIBLE APPLICANTS.—Applicants eligible for program funds under
11 this section include—

12 “(A) an Indian tribe whose annual allocation of funding under section 202 of title
13 23, United States Code, is insufficient to complete the highest priority project of
14 the American Indian/Alaska Native Tribe;

15 “(B) a governmental subdivision of an Indian tribe—

16 “(i) that is authorized to administer the funding of the American Indian/Alaska
17 Native Tribe under section 202 of title 23, United States Code; and

18 “(ii) for which the annual allocation under that section is insufficient to complete
19 the highest priority project of the Indian tribe; or

20 “(C) any Indian tribe that has an emergency or disaster with respect to a
21 transportation facility included on the national inventory of tribal transportation
22 facilities under section 202(b)(1) of title 23, United States Code.

23 “(c) PROJECT APPLICATIONS; FUNDING.—

24 “(1) IN GENERAL.—To apply for funds under this section, an eligible applicant
25 shall submit to the Department of Transportation or the Department of Interior an
26 application that includes—

27 “(A) project scope of work, including deliverables, budget, and timeline;

28 “(B) the amount of funds requested;

29 “(C) project information addressing—

30 “(i) the ranking criteria identified in paragraph (3); or

- 1 “(ii) the nature of the emergency or disaster;
- 2 “(D) documentation that the project meets the definition of a tribal transportation
3 facility and is included in the national inventory of tribal transportation facilities
4 under section 202(b)(1) of title 23, United States Code;
- 5 “(E) documentation of official tribal action requesting the project;
- 6 “(F) documentation from the Indian tribe providing authority for the Secretary or
7 the Secretary of the Interior to place the project on a transportation improvement
8 program if the project is selected and approved.
- 9 “(2) LIMITATION ON APPLICATIONS.—An applicant for funds under the
10 program may only have 1 application for assistance under this section pending at
11 any 1 time, including any emergency or disaster application.
- 12 “(3) APPLICATION RANKING.—
- 13 “(A) IN GENERAL.—The Secretary and the Secretary of the Interior shall
14 determine the eligibility of, and fund, program applications, subject to the
15 availability of funds.
- 16 “(B) RANKING CRITERIA.—The project ranking criteria for applications under
17 this section shall include—
- 18 “(i) by a tribe whose annual allocation is insufficient to complete its highest
19 priority project;
- 20 “(ii) by a government subdivision of a tribe that is authorized to administer the
21 tribe’s TTP Program funding and whose annual allocation is insufficient to
22 complete its highest priority project;
- 23 “(iii) eligible applicants may have only one TPPHPP application pending at any
24 time;
- 25 “(iv) TPPHPP funds cannot be used for transportation planning, research or
26 routine maintenance activities.
- 27 “(4) FUNDING PRIORITY LIST.—
- 28 “(A) IN GENERAL.—The Secretary and the Secretary of the Interior shall jointly
29 produce a funding priority list that ranks the projects approved for funding under
30 the program.

1 “(B) LIMITATION.—The number of projects on the list shall be limited by the
2 amount of funding made available.

3 “(5) TIMELINE.—The Secretary and the Secretary of the Interior shall—

4 “(A) require applications for funding no sooner than 60 days after funding is
5 made available pursuant to subsection (a);

6 “(B) notify all applicants and Regions in writing of acceptance of applications;

7 “(C) rank all accepted applications, develop the funding priority list, and return
8 unaccepted applications to the applicant with an explanation of deficiencies;

9 “(D) notify all accepted applicants of the projects included on the funding priority
10 list no later than 180 days after the application deadline has passed pursuant to
11 subparagraph (A); and

12 “(E) distribute funds to successful applicants.

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14 **SEC. 106. NATIONAL TRIBAL ASSET MANAGEMENT PROGRAM.**

15 (a) IN GENERAL. —Section 201(c)(5) of Title 23, United States Code, is
16 amended to add a new subparagraph (A) to read as follows:

17 “(A) NATIONAL TRIBAL ASSET MANAGEMENT PROGRAM.

18 “(1) ESTABLISHMENT. —The Secretary in cooperation with the
19 Secretary of the Interior shall establish and implement a national tribal asset
20 management program under this section.

21 “(2) PURPOSES.—The purpose of the national tribal asset management
22 program shall be-

23 “(a) to provide support for the condition and performance of tribal
24 transportation facilities and systems;

25 “(b) to ensure that investment of federal and tribal funds in
26 transportation facility construction are directed to support progress toward

1 the achievement of performance targets consistent with 23 U.S.C. § 119
2 National highway performance program and established in an asset
3 management plan of a Tribe for the tribal transportation system.

4 “(3) ELIGIBLE FACILITIES.—Except as provided in subsection
5 (4), to be eligible for funding apportioned under this section, a facility shall
6 be located on the national tribal transportation facility inventory as defined
7 in § 202(b)(1) and must have been previously constructed with or eligible
8 for construction using federal or tribal transportation funds.

9 “(4) ELIGIBLE PROJECTS. —Funds apportioned to a Tribe to
10 carry out the tribal transportation asset management program may be
11 obligated only for a project on an eligible facility that is—

12 “(1)(A) a project or part of a program of projects supporting
13 progress toward the achievement of national tribal transportation
14 performance goals for improving infrastructure condition, safety,
15 mobility, or freight movement on a tribal transportation facility
16 listed on the national tribal transportation facility inventory; and

17 “(B) consistent with the tribe’s long-range transportation plan; and

18 “(2) for 1 or more of the following purposes:

19 “(A) Resurfacing (including sealing, application of dust
20 palliatives, replacement of original surface materials and subsurface materials
21 such as culverts), restoration, preservation or operational improvements of
22 segments of the tribe’s transportation system.

23 “(B) Preservation, and protection (including scour countermeasures, seismic
24 retrofits, impact protection measures, security countermeasures, and protection

1 against extreme events) of bridges on the National Bridge Inventory and part of
2 a tribe's national tribal transportation facility inventory.

3 "(C) Training of personnel to assure correct implementation of preservation
4 measures.

5 "(5) APPLICABLE LAWS AND REGULATIONS.—Notwithstanding
6 any other law or regulation, a tribal government shall not be subject to the
7 laws, regulations or other requirements applicable to state transportation
8 departments under the Federal-Aid Highway System, except to the extent
9 such laws and regulations are expressly made applicable to contracts,
10 compacts or government-to-government agreements entered into pursuant
11 to the Indian Self-Determination and Education Assistance Act (25 U.S.C.
12 450 et seq.), the Tribal Transportation Self-Governance Program, or
13 contracts and agreements pursuant to sections 202(a)(2)(B) and 202(b)(6)
14 and (7), as amended. Unless expressly agreed to by the participating Indian
15 tribe, the participating Indian tribe shall not be subject to any agency
16 circular, policy, manual, guidance, or rule adopted by the Department of
17 Transportation, except 25 C.F.R. Part 170, or regulations promulgated
18 under section 207(n) of title 23, United States Code.