To enhance tribal road safety, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 24, 2019

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

A BILL

To enhance tribal road safety, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. DEFINITION OF SECRETARY.

In this Act, the term “Secretary” means the Sec-
retary of the Interior.

SEC. 2. APPLICATION OF CATEGORICAL EXCLUSIONS TO
CERTAIN TRIBAL TRANSPORTATION FACILI-
TIES.

(a) Definition of Tribal Transportation Safety Project.—

(1) In general.—In this section, the term “tribal transportation safety project” means a
project described in paragraph (2) that is eligible for
funding under section 202 of title 23, United States
Code, and that—

(A) corrects or improves a hazardous road
location or feature; or

(B) addresses a highway safety problem.

(2) PROJECTS DESCRIBED.—A project de-
scribed in this paragraph is a project for one or
more of the following:

(A) An intersection safety improvement.

(B) Pavement and shoulder widening (in-
cluding the addition of a passing lane to remedy
an unsafe condition).

(C) Installation of rumble strips or another
warning device, if the rumble strips or other
warning devices do not adversely affect the
safety or mobility of bicyclists and pedestrians,
including persons with disabilities.

(D) Installation of a skid-resistant surface
at an intersection or other location with a high
frequency of crashes.

(E) An improvement for pedestrian or bi-
cyclist safety or the safety of persons with dis-
abilities.
(F) Construction and improvement of a railway-highway grade crossing safety feature, including the installation of protective devices.

(G) The conduct of a model traffic enforcement activity at a railway-highway crossing.

(H) Construction of a traffic calming feature.

(I) Elimination of a roadside hazard.

(J) Installation, replacement, and other improvements of highway signage and pavement markings or a project to maintain minimum levels of retroreflectivity that addresses a highway safety problem consistent with a State strategic highway safety plan.

(K) Installation of a priority control system for emergency vehicles at signalized intersections.

(L) Installation of a traffic control or other warning device at a location with high crash potential.

(M) Transportation safety planning.

(N) Collection, analysis, and improvement of safety data.

(O) Planning integrated interoperable emergency communications equipment, oper-
national activities, or traffic enforcement activities (including police assistance) relating to work zone safety.

(P) Installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of road users and workers), and crash attenuators.

(Q) The addition or retrofitting of structures or other measures to eliminate or reduce crashes involving vehicles and wildlife.

(R) Installation of yellow-green signs and signals at pedestrian and bicycle crossings and in school zones.

(S) Construction and operational improvements on a high risk rural road (as defined in section 148(a) of title 23, United States Code).

(T) Geometric improvements to a road for the purposes of safety improvement.

(U) A road safety audit.

(V) Roadway safety infrastructure improvements consistent with the recommendations included in the publication of the Federal Highway Administration entitled “Handbook for Designing Roadways for the Aging Popu-
lation” (FHWA–SA–14–015), dated June 2014 (or a revised or updated publication).

(W) Truck parking facilities eligible for funding under section 1401 of MAP–21 (23 U.S.C. 137 note; Public Law 112–141).

(X) Systemic safety improvements.

(Y) Installation of vehicle-to-infrastructure communication equipment.

(Z) Pedestrian hybrid beacons.

(AA) Roadway improvements that provide separation between pedestrians and motor vehicles, including medians and pedestrian crossing islands.

(BB) A physical infrastructure safety project not described in subparagraphs (A) through (AA).

(b) NEW CATEGORICAL EXCLUSIONS.—

(1) REVIEW OF EXISTING CATEGORICAL EXCLUSIONS.—The Secretary shall review the categorical exclusions under section 771.117 of title 23, Code of Federal Regulations (or successor regulations), to determine which, if any, are applicable for use by the Secretary in review of projects eligible for assistance under section 202 of title 23, United States Code.
(2) Review of tribal transportation safety projects.—The Secretary shall identify tribal transportation safety projects that meet the requirements for categorical exclusions under sections 1507.3 and 1508.4 of title 40, Code of Federal Regulations.

(3) Proposal.—The Secretary shall issue a proposed rule, in accordance with sections 1507.3 and 1508.4 of title 40, Code of Federal Regulations, to propose any categorical exclusions identified under paragraphs (1) and (2).

(4) Deadline.—Not later than 180 days after the date of enactment of this Act, and after considering any comments on the proposed rule issued under paragraph (3), the Secretary shall promulgate a final rule for the categorical exclusions, in accordance with sections 1507.3 and 1508.4 of title 40, Code of Federal Regulations.

(5) Technical assistance.—The Secretary of Transportation shall provide technical assistance to the Secretary in carrying out this subsection.

(c) Reviews of tribal transportation safety projects.—

(1) In general.—The Secretary or the head of another Federal agency responsible for a decision re-
lated to a tribal transportation safety project shall complete any approval or decision for the review of the tribal transportation safety project required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other applicable Federal law on an expeditious basis using the shortest existing applicable process.

(2) REVIEW OF APPLICATIONS.—Not later than 45 days after the date of receipt of a complete application by an Indian tribe for approval of a tribal transportation safety project, the Secretary shall—

(A) take final action on the application; or

(B) provide the Indian tribe a schedule for completion of the review described in paragraph (1), including the identification of any other Federal agency that has jurisdiction with respect to the project.

(3) DECISIONS UNDER OTHER FEDERAL LAWS.—In any case in which a decision under any other Federal law relating to a tribal transportation safety project (including the issuance or denial of a permit or license) is required, not later than 45 days after the Secretary has made all decisions of the lead agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with re-
spect to the project, the head of the Federal agency
responsible for the decision shall—

(A) make the applicable decision; or

(B) provide the Indian tribe a schedule for
making the decision.

(4) EXTENSIONS.—The Secretary or the head
of an applicable Federal agency may extend the pe-
riod under paragraph (2) or (3), as applicable, by an
additional 30 days by providing the Indian tribe no-
tice of the extension, including a statement of the
need for the extension.

(5) NOTIFICATION AND EXPLANATION.—In any
case in which a required action is not completed by
the deadline under paragraph (2), (3), or (4), as ap-
plicable, the Secretary or the head of a Federal
agency, as applicable, shall—

(A) notify the Committee on Indian Affairs
of the Senate and the Committee on Natural
Resources of the House of Representatives of
the failure to comply with the deadline; and

(B) provide to the Committees described in
subparagraph (A) a detailed explanation of the
reasons for the failure to comply with the dead-
line.
SEC. 3. PROGRAMMATIC AGREEMENTS FOR CATEGORICAL EXCLUSIONS.

(a) In General.—The Secretary shall enter into programmatic agreements with Indian tribes that establish efficient administrative procedures for carrying out environmental reviews for projects eligible for assistance under section 202 of title 23, United States Code.

(b) Inclusions.—A programmatic agreement under subsection (a)—

(1) may include an agreement that allows an Indian tribe to determine, on behalf of the Secretary, whether a project is categorically excluded from the preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(2) shall—

(A) require that the Indian tribe maintain adequate capacity in terms of personnel and other resources to carry out applicable agency responsibilities pursuant to section 1507.2 of title 40, Code of Federal Regulations (or successor regulations);

(B) set forth the responsibilities of the Indian tribe for making categorical exclusion determinations, documenting the determinations,
and achieving acceptable quality control and
quality assurance;

(C) allow—

(i) the Secretary to monitor compli-
ance of the Indian tribe with the terms of
the agreement; and

(ii) the Indian tribe to execute any
needed corrective action;

(D) contain stipulations for amendments,
termination, and public availability of the agree-
ment once the agreement has been executed;

and

(E) have a term of not more than 5 years,
with an option for renewal based on a review by
the Secretary of the performance of the Indian
tribe.