

116TH CONGRESS
1ST SESSION

S. 207

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.

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. DEFINITION OF SECRETARY.**

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

6 **SEC. 2. APPLICATION OF CATEGORICAL EXCLUSIONS TO**
7 **CERTAIN TRIBAL TRANSPORTATION FACILI-**
8 **TIES.**

9 (a) DEFINITION OF TRIBAL TRANSPORTATION SAFE-
10 TY PROJECT.—

11 (1) IN GENERAL.—In this section, the term
12 “tribal transportation safety project” means a

1 project described in paragraph (2) that is eligible for
2 funding under section 202 of title 23, United States
3 Code, and that—

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

6 (B) addresses a highway safety problem.

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

10 (A) An intersection safety improvement.

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

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

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

22 (E) An improvement for pedestrian or bi-
23 cyclist safety or the safety of persons with dis-
24 abilities.

1 (F) Construction and improvement of a
2 railway-highway grade crossing safety feature,
3 including the installation of protective devices.

4 (G) The conduct of a model traffic enforce-
5 ment activity at a railway-highway crossing.

6 (H) Construction of a traffic calming fea-
7 ture.

8 (I) Elimination of a roadside hazard.

9 (J) Installation, replacement, and other
10 improvements of highway signage and pavement
11 markings or a project to maintain minimum
12 levels of retroreflectivity that addresses a high-
13 way safety problem consistent with a State
14 strategic highway safety plan.

15 (K) Installation of a priority control sys-
16 tem for emergency vehicles at signalized inter-
17 sections.

18 (L) Installation of a traffic control or other
19 warning device at a location with high crash po-
20 tential.

21 (M) Transportation safety planning.

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

24 (O) Planning integrated interoperable
25 emergency communications equipment, oper-

1 ational activities, or traffic enforcement activi-
2 ties (including police assistance) relating to
3 work zone safety.

4 (P) Installation of guardrails, barriers (in-
5 cluding barriers between construction work
6 zones and traffic lanes for the safety of road
7 users and workers), and crash attenuators.

8 (Q) The addition or retrofitting of struc-
9 tures or other measures to eliminate or reduce
10 crashes involving vehicles and wildlife.

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

14 (S) Construction and operational improve-
15 ments on a high risk rural road (as defined in
16 section 148(a) of title 23, United States Code).

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

19 (U) A road safety audit.

20 (V) Roadway safety infrastructure im-
21 provements consistent with the recommenda-
22 tions included in the publication of the Federal
23 Highway Administration entitled “Handbook
24 for Designing Roadways for the Aging Popu-

1 lation” (FHWA–SA–14–015), dated June 2014
2 (or a revised or updated publication).

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

6 (X) Systemic safety improvements.

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

9 (Z) Pedestrian hybrid beacons.

10 (AA) Roadway improvements that provide
11 separation between pedestrians and motor vehi-
12 cles, including medians and pedestrian crossing
13 islands.

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

17 (b) NEW CATEGORICAL EXCLUSIONS.—

18 (1) REVIEW OF EXISTING CATEGORICAL EXCLU-
19 SIONS.—The Secretary shall review the categorical
20 exclusions under section 771.117 of title 23, Code of
21 Federal Regulations (or successor regulations), to
22 determine which, if any, are applicable for use by
23 the Secretary in review of projects eligible for assist-
24 ance under section 202 of title 23, United States
25 Code.

1 (2) REVIEW OF TRIBAL TRANSPORTATION
2 SAFETY PROJECTS.—The Secretary shall identify
3 tribal transportation safety projects that meet the
4 requirements for categorical exclusions under sec-
5 tions 1507.3 and 1508.4 of title 40, Code of Federal
6 Regulations.

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

12 (4) DEADLINE.—Not later than 180 days after
13 the date of enactment of this Act, and after consid-
14 ering any comments on the proposed rule issued
15 under paragraph (3), the Secretary shall promulgate
16 a final rule for the categorical exclusions, in accord-
17 ance with sections 1507.3 and 1508.4 of title 40,
18 Code of Federal Regulations.

19 (5) TECHNICAL ASSISTANCE.—The Secretary of
20 Transportation shall provide technical assistance to
21 the Secretary in carrying out this subsection.

22 (c) REVIEWS OF TRIBAL TRANSPORTATION SAFETY
23 PROJECTS.—

24 (1) IN GENERAL.—The Secretary or the head of
25 another Federal agency responsible for a decision re-

1 lated to a tribal transportation safety project shall
2 complete any approval or decision for the review of
3 the tribal transportation safety project required
4 under the National Environmental Policy Act of
5 1969 (42 U.S.C. 4321 et seq.) or any other applica-
6 ble Federal law on an expeditious basis using the
7 shortest existing applicable process.

8 (2) REVIEW OF APPLICATIONS.—Not later than
9 45 days after the date of receipt of a complete appli-
10 cation by an Indian tribe for approval of a tribal
11 transportation safety project, the Secretary shall—

12 (A) take final action on the application; or

13 (B) provide the Indian tribe a schedule for
14 completion of the review described in paragraph
15 (1), including the identification of any other
16 Federal agency that has jurisdiction with re-
17 spect to the project.

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

1 spect to the project, the head of the Federal agency
2 responsible for the decision shall—

3 (A) make the applicable decision; or

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

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

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

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

21 (B) provide to the Committees described in
22 subparagraph (A) a detailed explanation of the
23 reasons for the failure to comply with the dead-
24 line.

1 **SEC. 3. PROGRAMMATIC AGREEMENTS FOR CATEGORICAL**
2 **EXCLUSIONS.**

3 (a) IN GENERAL.—The Secretary shall enter into
4 programmatic agreements with Indian tribes that estab-
5 lish efficient administrative procedures for carrying out
6 environmental reviews for projects eligible for assistance
7 under section 202 of title 23, United States Code.

8 (b) INCLUSIONS.—A programmatic agreement under
9 subsection (a)—

10 (1) may include an agreement that allows an
11 Indian tribe to determine, on behalf of the Sec-
12 retary, whether a project is categorically excluded
13 from the preparation of an environmental assess-
14 ment or environmental impact statement under the
15 National Environmental Policy Act of 1969 (42
16 U.S.C. 4321 et seq.); and

17 (2) shall—

18 (A) require that the Indian tribe maintain
19 adequate capacity in terms of personnel and
20 other resources to carry out applicable agency
21 responsibilities pursuant to section 1507.2 of
22 title 40, Code of Federal Regulations (or suc-
23 cessor regulations);

24 (B) set forth the responsibilities of the In-
25 dian tribe for making categorical exclusion de-
26 terminations, documenting the determinations,

1 and achieving acceptable quality control and
2 quality assurance;

3 (C) allow—

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

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

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

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

○