

.....  
(Original Signature of Member)

114TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To amend title 23, United States Code, to direct the Secretary of Transportation to carry out a tribal transportation self-governance program, and for other purposes.

\_\_\_\_\_  
IN THE HOUSE OF REPRESENTATIVES

Mr. DEFAZIO (for himself and Mr. YOUNG of Alaska) introduced the following bill; which was referred to the Committee on

\_\_\_\_\_  
**A BILL**

To amend title 23, United States Code, to direct the Secretary of Transportation to carry out a tribal transportation self-governance program, 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 Transportation  
5 Self-Governance Act of 2015”.

1 **SEC. 2. TRIBAL TRANSPORTATION SELF-GOVERNANCE**  
2 **PROGRAM.**

3 (a) IN GENERAL.—Chapter 2 of title 23, United  
4 States Code, is amended by inserting after section 206 the  
5 following:

6 **“§ 207. Tribal transportation self-governance pro-**  
7 **gram**

8 “(a) ESTABLISHMENT.—Subject to the requirements  
9 of this section, the Secretary shall establish and carry out  
10 a program to be known as the tribal transportation self-  
11 governance program. The Secretary may delegate respon-  
12 sibilities for administration of the program as the Sec-  
13 retary determines appropriate.

14 “(b) ELIGIBILITY.—

15 “(1) IN GENERAL.—An Indian tribe shall be eli-  
16 gible to participate in the program if the Indian  
17 tribe—

18 “(A) requests participation in the program  
19 by resolution or other official action by the gov-  
20 erning body of the Indian tribe; and

21 “(B) demonstrates, for the preceding 3 fis-  
22 cal years, financial stability and financial man-  
23 agement capability.

24 “(2) CRITERIA FOR DETERMINING FINANCIAL  
25 STABILITY AND FINANCIAL MANAGEMENT CAPAC-  
26 ITY.—For the purposes of paragraph (1)(B), evi-

1        dence that, during the preceding 3 fiscal years, an  
2        Indian tribe had no uncorrected significant and ma-  
3        terial audit exceptions in the required annual audit  
4        of the Indian tribe’s self-determination contracts or  
5        self-governance funding agreements with any Fed-  
6        eral agency shall be conclusive evidence of the re-  
7        quired stability and capability.

8        “(c) COMPACTS.—

9            “(1) COMPACT REQUIRED.—Upon the request  
10        of an eligible Indian tribe, and subject to the re-  
11        quirements of this section, the Secretary shall nego-  
12        tiate and enter into a written compact with the In-  
13        dian tribe for the purpose of providing for the par-  
14        ticipation of the Indian tribe in the program.

15            “(2) CONTENTS.—A compact entered into  
16        under paragraph (1) shall set forth the general  
17        terms of the government-to-government relationship  
18        between the Indian tribe and the United States  
19        under the program and other terms that will con-  
20        tinue to apply in future fiscal years.

21            “(3) AMENDMENTS.—A compact entered into  
22        with an Indian tribe under paragraph (1) may be  
23        amended only by mutual agreement of the Indian  
24        tribe and the Secretary.

25        “(d) ANNUAL FUNDING AGREEMENTS.—

1           “(1) FUNDING AGREEMENT REQUIRED.—After  
2           entering into a compact with an Indian tribe under  
3           subsection (c), the Secretary shall negotiate and  
4           enter into a written annual funding agreement with  
5           the Indian tribe.

6           “(2) CONTENTS.—

7           “(A) IN GENERAL.—

8                   “(i) DISCRETIONARY AND COMPETITIVE GRANTS.—A funding agreement entered into with an Indian tribe shall authorize the Indian tribe, as determined by the Indian tribe, to plan, conduct, consolidate, administer, and receive full tribal share funding and funding to tribes from discretionary and competitive grants administered by the Department for all programs, services, functions, and activities (or portions thereof) that are made available to Indian tribes to carry out tribal transportation programs and programs, services, functions, and activities (or portions thereof) administered by the Secretary that are otherwise available to Indian tribes.

25                   “(ii) TRANSFERS OF STATE FUNDS.—

1                   “(I) INCLUSION OF TRANS-  
2                   FERRED FUNDS IN FUNDING AGREE-  
3                   MENT.—A funding agreement entered  
4                   into with an Indian tribe shall include  
5                   Federal-aid funds apportioned to a  
6                   State under chapter 1 if the State  
7                   elects to provide a portion of such  
8                   funds to the Indian tribe for a project  
9                   eligible under section 202(a).

10                   “(II) METHOD FOR TRANS-  
11                   FERS.—If a State elects to provide  
12                   funds described in subclause (I) to an  
13                   Indian tribe, the State shall transfer  
14                   the funds back to the Secretary and  
15                   the Secretary shall transfer the funds  
16                   to the Indian tribe in accordance with  
17                   this section.

18                   “(III) RESPONSIBILITY FOR  
19                   TRANSFERRED FUNDS.—Notwith-  
20                   standing any other provision of law, if  
21                   a State provides funds described in  
22                   subclause (I) to an Indian tribe—

23                   “(aa) the State shall not be  
24                   responsible for constructing or  
25                   maintaining a project carried out

1 using the funds or for admin-  
2 istering or supervising the project  
3 or funds during the applicable  
4 statute of limitations period re-  
5 lated to the construction of the  
6 project; and

7 “(bb) the Indian tribe shall  
8 be responsible for constructing  
9 and maintaining a project carried  
10 out using the funds and for ad-  
11 ministering and supervising the  
12 project and funds in accordance  
13 with this section during the ap-  
14 plicable statute of limitations pe-  
15 riod related to the construction of  
16 the project.

17 “(B) ADMINISTRATION OF TRIBAL  
18 SHARES.—The tribal shares referred to in sub-  
19 paragraph (A) shall be provided without regard  
20 to the agency or office of the Department with-  
21 in which the program, service, function, or ac-  
22 tivity (or portion thereof) is performed.

23 “(C) FLEXIBLE AND INNOVATIVE FINANC-  
24 ING.—

1                   “(i) IN GENERAL.—A funding agree-  
2                   ment entered into with an Indian tribe  
3                   under paragraph (1) shall include provi-  
4                   sions pertaining to flexible and innovative  
5                   financing if agreed upon by the parties.

6                   “(ii) TERMS AND CONDITIONS.—

7                                 “(I) AUTHORITY TO ISSUE REGU-  
8                                 LATIONS.—The Secretary may issue  
9                                 regulations to establish the terms and  
10                                conditions relating to the flexible and  
11                                innovative financing provisions re-  
12                                ferred to in clause (i).

13                               “(II) TERMS AND CONDITIONS IN  
14                                ABSENCE OF REGULATIONS.—If the  
15                                Secretary does not issue regulations  
16                                under subclause (I), the terms and  
17                                conditions relating to the flexible and  
18                                innovative financing provisions re-  
19                                ferred to in clause (i) shall be con-  
20                                sistent with—

21   “(aa) agreements entered  
22   into by the Department under—

23   “(AA)                    section  
24   202(d)(5), as in effect be-  
25   fore the date of enactment

1 of MAP-21 (Public Law  
2 112-141); and  
3 “(BB) section  
4 202(b)(7); or  
5 “(bb) regulations of the De-  
6 partment of the Interior relating  
7 to flexible financing contained in  
8 part 170 of title 25, Code of  
9 Federal Regulations, as in effect  
10 on the date of enactment of the  
11 Tribal Transportation Self-Gov-  
12 ernance Act of 2015.

13 “(3) DISCRETIONARY AND COMPETITIVE  
14 GRANTS.—Notwithstanding any other provision of  
15 law, an Indian tribe shall be eligible to directly apply  
16 for and receive the discretionary and competitive  
17 grants made available under transportation pro-  
18 grams that States or political subdivisions of States  
19 are eligible to apply for and receive.

20 “(4) TERMS.—A funding agreement shall set  
21 forth—

22 “(A) terms that generally identify the pro-  
23 grams, services, functions, and activities (or  
24 portions thereof) to be performed or adminis-  
25 tered by the Indian tribe; and



1 “(B) for items identified in subparagraph

2 (A)—

3 “(i) the general budget category as-  
4 signed;

5 “(ii) the funds to be provided, includ-  
6 ing those funds to be provided on a recur-  
7 ring basis;

8 “(iii) the time and method of transfer  
9 of the funds;

10 “(iv) the responsibilities of the Sec-  
11 retary and the Indian tribe; and

12 “(v) any other provision agreed to by  
13 the Indian tribe and the Secretary.

14 “(5) SUBSEQUENT FUNDING AGREEMENTS.—

15 “(A) APPLICABILITY OF EXISTING AGREE-  
16 MENT.—Absent notification from an Indian  
17 tribe that the Indian tribe is withdrawing from  
18 or retroceding the operation of one or more pro-  
19 grams, services, functions, or activities (or por-  
20 tions thereof) identified in a funding agreement,  
21 or unless otherwise agreed to by the parties,  
22 each funding agreement shall remain in full  
23 force and effect until a subsequent funding  
24 agreement is executed.

1           “(B) EFFECTIVE DATE OF SUBSEQUENT  
2           AGREEMENT.—The terms of the subsequent  
3           funding agreement shall be retroactive to the  
4           end of the term of the preceding funding agree-  
5           ment.

6           “(6) CONSENT OF INDIAN TRIBE REQUIRED.—  
7           The Secretary shall not revise, amend, or require ad-  
8           ditional terms in a new or subsequent funding agree-  
9           ment without the consent of the Indian tribe that is  
10          subject to the agreement unless such terms are re-  
11          quired by Federal law.

12          “(e) GENERAL PROVISIONS.—

13                 “(1) REDESIGN AND CONSOLIDATION.—

14                         “(A) IN GENERAL.—An Indian tribe, in  
15                         any manner that the Indian tribe considers to  
16                         be in the best interest of the Indian community  
17                         being served, may—

18                                 “(i) redesign or consolidate programs,  
19                                 services, functions, and activities (or por-  
20                                 tions thereof) included in a funding agree-  
21                                 ment; and

22                                 “(ii) reallocate or redirect funds for  
23                                 such programs, services, functions, and ac-  
24                                 tivities (or portions thereof), if the funds  
25                                 are—

1                   “(I) expended on projects identi-  
2                   fied in a transportation improvement  
3                   program approved by the Secretary;  
4                   and

5                   “(II) used in accordance with ap-  
6                   propriations Acts and other applicable  
7                   statutory limitations.

8                   “(B) EXCEPTION.—Notwithstanding sub-  
9                   paragraph (A), if, pursuant to subsection (d),  
10                  an Indian tribe receives a discretionary or com-  
11                  petitive grant from the Secretary or receives  
12                  State apportioned funds, the Indian tribe shall  
13                  use the funds for the purpose for which the  
14                  funds were originally authorized.

15                  “(2) RETROCESSION.—

16                         “(A) IN GENERAL.—

17                                 “(i) AUTHORITY OF INDIAN TRIBES.—  
18                                 An Indian tribe may retrocede (fully or  
19                                 partially) to the Secretary programs, serv-  
20                                 ices, functions, or activities (or portions  
21                                 thereof) included in a compact or funding  
22                                 agreement.

23                                 “(ii) REASSUMPTION OF REMAINING  
24                                 FUNDS.—Following a retrocession de-  
25                                 scribed in clause (i), the Secretary may—

1                   “(I) reassume the remaining  
2 funding associated with the retroceded  
3 programs, functions, services, and ac-  
4 tivities (or portions thereof) included  
5 in the applicable compact or funding  
6 agreement;

7                   “(II) out of such remaining  
8 funds, transfer funds associated with  
9 Department of Interior programs,  
10 services, functions, or activities (or  
11 portions thereof) to the Secretary of  
12 the Interior to carry out transpor-  
13 tation services provided by the Sec-  
14 retary of the Interior; and

15                   “(III) distribute funds not trans-  
16 ferred under subclause (II) in accord-  
17 ance with applicable law.

18                   “(iii) CORRECTION OF PROGRAMS.—If  
19 the Secretary makes a finding under sub-  
20 section (f)(2)(B) and no funds are avail-  
21 able under subsection (f)(2)(A)(ii), the  
22 Secretary shall not be required to provide  
23 additional funds to complete or correct any  
24 programs, functions, services, or activities  
25 (or portions thereof).

1           “(B) EFFECTIVE DATE.—Unless the In-  
2           dian tribe rescinds a request for retrocession,  
3           the retrocession shall become effective within  
4           the timeframe specified by the parties in the  
5           compact or funding agreement. In the absence  
6           of such a specification, the retrocession shall  
7           become effective on—

8                       “(i) the earlier of—

9                               “(I) 1 year after the date of sub-  
10                              mission of the request; or

11                             “(II) the date on which the fund-  
12                             ing agreement expires; or

13                           “(ii) such date as may be mutually  
14                           agreed upon by the parties and, with re-  
15                           spect to Department of the Interior pro-  
16                           grams, functions, services, and activities  
17                           (or portions thereof), the Secretary of the  
18                           Interior.

19           “(f) PROVISIONS RELATING TO THE SECRETARY.—

20                       “(1) DECISIONMAKER.—A decision that con-  
21                       stitutes a final agency action and relates to an ap-  
22                       peal of the rejection of a final offer by the Depart-  
23                       ment shall be made either—

24                           “(A) by an official of the Department who  
25                           holds a position at a higher organizational level

1 within the Department than the level of the de-  
2 partmental agency in which the decision that is  
3 the subject of the appeal was made; or

4 “(B) by an administrative judge.

5 “(2) TERMINATION OF COMPACT OR FUNDING  
6 AGREEMENT.—

7 “(A) AUTHORITY TO TERMINATE.—

8 “(i) PROVISION TO BE INCLUDED IN  
9 COMPACT OR FUNDING AGREEMENT.—A  
10 compact or funding agreement shall in-  
11 clude a provision authorizing the Sec-  
12 retary, if the Secretary makes a finding de-  
13 scribed in subparagraph (B), to—

14 “(I) terminate the compact or  
15 funding agreement (or a portion  
16 thereof); and

17 “(II) reassume the remaining  
18 funding associated with the reassumed  
19 programs, functions, services, and ac-  
20 tivities included in the compact or  
21 funding agreement.

22 “(ii) TRANSFERS OF FUNDS.—Out of  
23 any funds reassumed under clause (i)(II),  
24 the Secretary may transfer the funds asso-  
25 ciated with Department of the Interior

1 programs, functions, services, and activi-  
2 ties (or portions thereof) to the Secretary  
3 of the Interior to provide continued trans-  
4 portation services in accordance with appli-  
5 cable law.

6 “(B) FINDINGS RESULTING IN TERMI-  
7 NATION.—The finding referred to in subpara-  
8 graph (A) is a specific finding of—

9 “(i) imminent jeopardy to a trust  
10 asset, natural resources, or public health  
11 and safety that is caused by an act or  
12 omission of the Indian tribe and that  
13 arises out of a failure to carry out the  
14 compact or funding agreement, as deter-  
15 mined by the Secretary; or

16 “(ii) gross mismanagement with re-  
17 spect to funds or programs transferred to  
18 the Indian tribe under the compact or  
19 funding agreement, as determined by the  
20 Secretary in consultation with the Inspec-  
21 tor General of the Department, as appro-  
22 priate.

23 “(C) PROHIBITION.—The Secretary shall  
24 not terminate a compact or funding agreement  
25 (or portion thereof) unless—

1           “(i) the Secretary has first provided  
2 written notice and a hearing on the record  
3 to the Indian tribe that is subject to the  
4 compact or funding agreement; and

5           “(ii) the Indian tribe has not taken  
6 corrective action to remedy the mis-  
7 management of funds or programs or the  
8 imminent jeopardy to a trust asset, natural  
9 resource, or public health and safety.

10       “(D) EXCEPTION.—

11           “(i) IN GENERAL.—Notwithstanding  
12 subparagraph (C), the Secretary, upon  
13 written notification to an Indian tribe that  
14 is subject to a compact or funding agree-  
15 ment, may immediately terminate the com-  
16 pact or funding agreement (or portion  
17 thereof) if—

18           “(I) the Secretary makes a find-  
19 ing of imminent substantial and irrep-  
20 arable jeopardy to a trust asset, nat-  
21 ural resource, or public health and  
22 safety; and

23           “(II) the jeopardy arises out of a  
24 failure to carry out the compact or  
25 funding agreement.



1                   “(ii) HEARINGS.—If the Secretary  
2                   terminates a compact or funding agree-  
3                   ment (or portion thereof) under clause (i),  
4                   the Secretary shall provide the Indian tribe  
5                   subject to the compact or agreement with  
6                   a hearing on the record not later than 10  
7                   days after the date of such termination.

8                   “(E) BURDEN OF PROOF.—In any hearing  
9                   or appeal involving a decision to terminate a  
10                  compact or funding agreement (or portion  
11                  thereof) under this paragraph, the Secretary  
12                  shall have the burden of proof in demonstrating  
13                  by clear and convincing evidence the validity of  
14                  the grounds for the termination.

15                  “(g) COST PRINCIPLES.—In administering funds re-  
16                  ceived under this section, an Indian tribe shall apply cost  
17                  principles under the applicable Office of Management and  
18                  Budget circular, except as modified by section 450j–1 of  
19                  title 25, other provisions of law, or by any exemptions to  
20                  applicable Office of Management and Budget circulars  
21                  subsequently granted by the Office of Management and  
22                  Budget. No other audit or accounting standards shall be  
23                  required by the Secretary. Any claim by the Federal Gov-  
24                  ernment against the Indian tribe relating to funds received  
25                  under a funding agreement based on any audit conducted

1 pursuant to this subsection shall be subject to the provi-  
2 sions of section 450j-1(f) of title 25.

3 “(h) TRANSFER OF FUNDS.—The Secretary shall  
4 provide funds to an Indian tribe under a funding agree-  
5 ment in an amount equal to—

6 “(1) the sum of the funding that the Indian  
7 tribe would otherwise receive for the program, func-  
8 tion, service, or activity in accordance with a funding  
9 formula or other allocation method established under  
10 this title or chapter 53 of title 49; and

11 “(2) such additional amounts as the Secretary  
12 determines equal the amounts that would have been  
13 withheld for the costs of the Bureau of Indian Af-  
14 fairs for administration of the program or project.

15 “(i) CONSTRUCTION PROGRAMS.—

16 “(1) STANDARDS.—Construction projects car-  
17 ried out under programs administered by an Indian  
18 tribe with funds transferred to the Indian tribe pur-  
19 suant to a funding agreement entered into under  
20 this section shall be constructed pursuant to the con-  
21 struction program standards set forth in applicable  
22 regulations or as specifically approved by the Sec-  
23 retary (or the Secretary’s designee).

1           “(2) MONITORING.—Construction programs  
2 shall be monitored by the Secretary in accordance  
3 with applicable regulations.

4           “(j) FACILITATION.—

5           “(1) SECRETARIAL INTERPRETATION.—Except  
6 as otherwise provided by law, the Secretary shall in-  
7 terpret all Federal laws, Executive orders, and regu-  
8 lations in a manner that will facilitate—

9           “(A) the inclusion of programs, services,  
10 functions, and activities (or portions thereof)  
11 and funds associated therewith, in compacts  
12 and funding agreements; and

13           “(B) the implementation of the compacts  
14 and funding agreements.

15           “(2) REGULATION WAIVER.—

16           “(A) IN GENERAL.—An Indian tribe may  
17 submit to the Secretary a written request to  
18 waive application of a regulation promulgated  
19 under this section with respect to a compact or  
20 funding agreement. The request shall identify  
21 the regulation sought to be waived and the  
22 basis for the request.

23           “(B) APPROVALS AND DENIALS.—

24           “(i) IN GENERAL.—Not later than 90  
25 days after the date of receipt of a written

1 request under subparagraph (A), the Sec-  
2 retary shall approve or deny the request in  
3 writing.

4 “(ii) DENIALS.—The Secretary may  
5 deny a request under clause (i) only if the  
6 Secretary finds that the identified lan-  
7 guage in the regulation may not be waived  
8 because the waiver is prohibited by Federal  
9 law.

10 “(iii) DEEMED APPROVAL.—If the  
11 Secretary does not approve or deny a re-  
12 quest submitted under subparagraph (A)  
13 on or before the last day of the 90-day pe-  
14 riod referred to in clause (i), the request  
15 shall be deemed approved.

16 “(iv) FINALITY OF DECISIONS.—A de-  
17 cision by the Secretary under this subpara-  
18 graph shall be final for the Department.

19 “(k) DISCLAIMERS.—

20 “(1) EXISTING AUTHORITY.—Notwithstanding  
21 any other provision of law, upon the election of an  
22 Indian tribe, the Secretary shall—

23 “(A) maintain current Federal Highway  
24 Administration Indian reservation roads pro-  
25 gram and funding agreements; or

1                   “(B) enter into new agreements under the  
2                   authority of section 202(b)(7).

3                   “(2) LIMITATION ON STATUTORY CONSTRUC-  
4                   TION.—Nothing in this section may be construed to  
5                   impair or diminish the authority of the Secretary  
6                   under section 202(b)(7).

7                   “(1) APPLICABILITY OF INDIAN SELF-DETERMINA-  
8                   TION AND EDUCATION ASSISTANCE ACT.—Except to the  
9                   extent in conflict with this section (as determined by the  
10                  Secretary), the following provisions of the Indian Self-De-  
11                  termination and Education Assistance Act shall apply to  
12                  compact and funding agreements (except that any ref-  
13                  erence to the Secretary of the Interior or the Secretary  
14                  of Health and Human Services in such provisions shall  
15                  treated as a reference to the Secretary of Transportation):

16                  “(1) Subsections (a), (b), (d), (g), and (h) of  
17                  section 506 of such Act (25 U.S.C. 458aaa–5), re-  
18                  lating to general provisions.

19                  “(2) Subsections (b) through (e) and (g) of sec-  
20                  tion 507 of such Act (25 U.S.C.458aaa–6), relating  
21                  to provisions relating to the Secretary of Health and  
22                  Human Services.

23                  “(3) Subsections (a), (b), (d), (e), (g), (h), (i),  
24                  and (k) of section 508 of such Act (25 U.S.C.  
25                  458aaa–7), relating to transfer of funds.

1           “(4) Section 510 of such Act (25 U.S.C.  
2           458aaa–9), relating to Federal procurement laws  
3           and regulations.

4           “(5) Section 511 of such Act (25 U.S.C.  
5           458aaa–10), relating to civil actions.

6           “(6) Subsections (a)(1), (a)(2), and (c) through  
7           (f) of section 512 of such Act (25 U.S.C. 458aaa–  
8           11), relating to facilitation, except that subsection  
9           (c)(1) of that section shall be applied by substituting  
10          ‘transportation facilities and other facilities’ for  
11          ‘school buildings, hospitals, and other facilities’.

12          “(7) Subsections (a) and (b) of section 515 of  
13          such Act (25 U.S.C. 458aaa–14), relating to dis-  
14          claimers.

15          “(8) Subsections (a) and (b) of section 516 of  
16          such Act (25 U.S.C. 458aaa–15), relating to appli-  
17          cation of title I provisions.

18          “(9) Section 518 of such Act (25 U.S.C.  
19          458aaa-17), relating to appeals.

20          “(m) DEFINITIONS.—

21                 “(1) IN GENERAL.—In this section, the fol-  
22          lowing definitions apply (except as otherwise ex-  
23          pressly provided):

1           “(A) COMPACT.—The term ‘compact’  
2 means a compact between the Secretary and an  
3 Indian tribe entered into under subsection (c).

4           “(B) DEPARTMENT.—The term ‘Depart-  
5 ment’ means the Department of Transpor-  
6 tation.

7           “(C) ELIGIBLE INDIAN TRIBE.—The term  
8 ‘eligible Indian tribe’ means an Indian tribe  
9 that is eligible to participate in the program, as  
10 determined under subsection (b).

11           “(D) FUNDING AGREEMENT.—The term  
12 ‘funding agreement’ means a funding agree-  
13 ment between the Secretary and an Indian tribe  
14 entered into under subsection (d).

15           “(E) INDIAN TRIBE.—The term ‘Indian  
16 tribe’ means any Indian or Alaska Native tribe,  
17 band, nation, pueblo, village, or community that  
18 the Secretary of the Interior acknowledges to  
19 exist as an Indian tribe under the Federally  
20 Recognized Indian Tribe List Act of 1994 (25  
21 U.S.C. 479a). In any case in which an Indian  
22 tribe has authorized another Indian tribe, an  
23 inter-tribal consortium, or a tribal organization  
24 to plan for or carry out programs, services,  
25 functions, or activities (or portions thereof) on

1           its behalf under this part, the authorized Indian  
2           tribe, inter-tribal consortium, or tribal organiza-  
3           tion shall have the rights and responsibilities of  
4           the authorizing Indian tribe (except as other-  
5           wise provided in the authorizing resolution or in  
6           this title). In such event, the term ‘Indian tribe’  
7           as used in this part shall include such other au-  
8           thorized Indian tribe, inter-tribal consortium, or  
9           tribal organization.

10           “(F) PROGRAM.—The term ‘program’  
11           means the tribal transportation self-governance  
12           program established under this section.

13           “(G) SECRETARY.—The term ‘Secretary’  
14           means the Secretary of Transportation.

15           “(H) TRANSPORTATION PROGRAMS.—The  
16           term ‘transportation programs’ means all pro-  
17           grams administered or financed by the Depart-  
18           ment under this title and chapter 53 of title 49.

19           “(2) APPLICABILITY OF OTHER DEFINITIONS.—  
20           In this section, the definitions set forth in sections  
21           4 and 505 of the Indian Self-Determination and  
22           Education Assistance Act (25 U.S.C. 450b; 458aaa)  
23           apply, except as otherwise expressly provided in this  
24           section.

25           “(n) REGULATIONS.—



1 “(1) IN GENERAL.—

2 “(A) PROMULGATION.—Not later than 90  
3 days after the date of enactment of the Tribal  
4 Transportation Self-Governance Act of 2015,  
5 the Secretary shall initiate procedures under  
6 subchapter III of chapter 5 of title 5 to nego-  
7 tiate and promulgate such regulations as are  
8 necessary to carry out this section.

9 “(B) PUBLICATION OF PROPOSED REGULA-  
10 TIONS.—Proposed regulations to implement this  
11 section shall be published in the Federal Reg-  
12 ister by the Secretary not later than 21 months  
13 after such date of enactment.

14 “(C) EXPIRATION OF AUTHORITY.—The  
15 authority to promulgate regulations under para-  
16 graph (1) shall expire 30 months after such  
17 date of enactment.

18 “(D) EXTENSION OF DEADLINES.—A  
19 deadline set forth in paragraph (1)(B) or (1)(C)  
20 may be extended up to 180 days if the nego-  
21 tiated rulemaking committee referred to in  
22 paragraph (2) concludes that the committee  
23 cannot meet the deadline and the Secretary so  
24 notifies the appropriate committees of Con-  
25 gress.

1           “(2) COMMITTEE.—

2                   “(A) IN GENERAL.—A negotiated rule-  
3           making committee established pursuant to sec-  
4           tion 565 of title 5 to carry out this subsection  
5           shall have as its members only Federal and  
6           tribal government representatives, a majority of  
7           whom shall be nominated by and be representa-  
8           tives of Indian tribes with funding agreements  
9           under this title.

10                   “(B) REQUIREMENTS.—The committee  
11           shall confer with, and accommodate participa-  
12           tion by, representatives of Indian tribes, inter-  
13           tribal consortia, tribal organizations, and indi-  
14           vidual tribal members.

15                   “(C) ADAPTATION OF PROCEDURES.—The  
16           Secretary shall adapt the negotiated rulemaking  
17           procedures to the unique context of self-govern-  
18           ance and the government-to-government rela-  
19           tionship between the United States and Indian  
20           tribes.

21                   “(3) EFFECT.—The lack of promulgated regu-  
22           lations shall not limit the effect of this section.

23                   “(4) EFFECT OF CIRCULARS, POLICIES, MANU-  
24           ALS, GUIDANCE, AND RULES.—Unless expressly  
25           agreed to by the participating Indian tribe in the

1 compact or funding agreement, the participating In-  
2 dian tribe shall not be subject to any agency cir-  
3 cular, policy, manual, guidance, or rule adopted by  
4 the Department of Transportation, except regula-  
5 tions promulgated under this section.”.

6 (b) CLERICAL AMENDMENT.—The analysis for such  
7 chapter is amended by inserting after the item relating  
8 to section 206 the following:

“207. Tribal transportation self-governance program.”.