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## Memo on Senate Infrastructure Legislation:

- **Sec 11101 – Authorization of Federal-Aid Highways**
  - Tribal Transportation program funding by year:
    - \$578,460,000 FY '22
    - \$589,960,000 FY '23
    - \$602,460,000 FY '24
    - \$612,960,000 FY '25
    - \$627,960,000 FY '26
  - \$55m for each FY '22-'26 for Nationally Significant Federal Lands and Tribal Projects
  - Additional National Significant Federal Lands and Tribal Projects Program \$300m for each FY '22 to '26.
  - Tribal Transportation Facility Bridget Set Aside:
    - \$16m FY '22
    - \$18m FY '23
    - \$20m FY '24
    - \$22m FY '25
    - \$24m FY 26
- **Sec 11123 - Wildlife crossings pilot program**
  - Establishes grant for pilot program, Indian tribes and Native Corporations eligible
- **Sec 11127 – National Significant Federal Lands and Tribal Projects Program**
  - 50% of funding to be used for eligible projects on tribal transportation facilities.
- **Sec 11128 – Tribal High Priority Projects Program**
  - \$9m set-aside for program each FY '22 through '26 with total authorization of \$30m per year.
- **Sec 11132 – Rural Surface Transportation Grant Program**
  - Tribal government/consortium eligible.
- **Sec 11305 – Alternative Contracting Methods**
  - Outlines alternative methods for tribal governments.
- **Sec 11401 – Grants for Charging and Fueling Infrastructure**
  - Indian tribes eligible
  - Includes consultation with Indian tribes that could be affected by new infrastructure.
  - Priority to low- and moderate-income neighborhoods and rural areas.
  - Max grants of \$15,000,000.
- **Sec 11405 – Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation Program**
  - Indian tribes eligible, federal share of Tribal Projects may be up to 100%
  - Also eligible for “At-risk Coastal Infrastructure Grants”
  - Tribal set-aside of 2% per FY
- **Sec 11406 – Healthy Streets Program**
  - Tribal governments eligible
  - Grant program for low-income communities: “deploy cool pavements and porous pavements; and to expand tree cover”.
  - Goals: “to mitigate urban heat islands; and improve air quality”

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- **Sec 11509 – Reconnecting Communities Pilot Program**
    - Tribal governments considered eligible entities
  - **Sec 11522 – Invasive Plant Elimination Program**
    - Tribal governments considered eligible entities
  - **Sec 11526 – Working Group on Covered Resources**
    - Creates working group to include Indian tribes/leadership to analyze covered transportation projects funded with Federal dollars.
  - **Sec 11528 – Pollinator-Friendly Practices on Roadsides and Highway Rights-of-Way**
    - Tribal governments eligible for new grant program, up to \$2,000,000 for each FY '22 through '26
  - **Sec 11529 – Active Transportation Infrastructure Investment Program**
    - Section for Assistance to Tribes, including report to Secretary. \$200,000,000 for each FY '22 through '26.
  - **Sec 13009 – Transportation Resilience and Adaptation Centers**
    - Tribal governments considered eligible entities

#### TITLE IV – Indian Affairs:

- **Sec 14002 – Environmental Reviews for Certain Tribal Transportation Facilities**
  - Creates 45-day review of applications standard for tribal transportation safety projects.
- **Sec 14003 – Programmatic Agreements for Tribal Categorical Exclusions**
  - Secretary to enter into programmatic agreements with tribes that establish administrative procedures for carrying out environmental reviews.
- **Sec 14004 – Use of Certain Tribal Transportation Funds**
  - Adds uses to funding under 23 USC 202 – Tribal Transportation Program
- **Sec 14005 – BIA Road Maintenance Program**
  - Sets funding levels of BIA road maintenance program at: \$50,000,000 for FY '22, \$52m for FY '23, \$54m for FY '24, \$56m for FY '25, and \$58m for FY '26.
- **Sec 14006 – Study of Road Maintenance on Indian Land**
  - With tribal consultation and input to carry out study on:
    - Long-term viability and useful life of existing roads on Indian land
    - Any steps necessary to achieve goal of addressing the deferred maintenance backlog
    - Programmatic reforms and performance enhancements necessary
    - Recommendations on how to implement efforts to coordinate with State, counties, municipalities, and other local government units to maintain roads.
    - Report within 2 years.
- **Sec 14008 – Tribal Transportation Safety Needs**
  - To develop “best practices” for “the compiling, analysis, and sharing of motor vehicle crash data for crashes occurring on Indian” reservations/communities.
- **Sec 14009 – Office of Tribal Government Affairs**
  - Establishes: ‘ESTABLISHMENT.— an Office of Tribal Government Affairs, under the Assistant Secretary for Tribal Government Affairs—
    - “(A) to oversee the tribal self-governance program under section 207 of title 23;

- “(B) to plan, coordinate, and implement policies and programs serving Indian Tribes 25 and Tribal organizations;
  - “(C) to coordinate Tribal transportation programs and activities in all offices and administrations of the Department; and
  - “(D) to be a participant in any negotiated 5 rulemakings relating to, or having an impact on, projects, programs, or funding associated with the Tribal transportation program under 8 section 202 of title 23.”.
- **Sec 21202 – Local and Regional Project Assistance**
    - Tribal governments/consortiums eligible
  - **Sec 21203 – National Culvert Removal, Replacement, and Restoration Grant Program**
    - Tribal government eligible with technical assistance to be made available.
    - \$800,000,000 appropriated for each FY '22 through '26.
  - **Sec 21205 – Rural and Tribal Infrastructure Advancement**
    - Establishes pilot program under newly named “Build America Bureau”. Aimed at providing assistance and information on infrastructure activities.
    - Funding of \$1,600,000 for FY '22, \$1,800,000 for '23, \$2m for '24, \$2,200,000 for '25, and \$2,400,000 for '26.
    - No more than 20% in any single state.
  - **Sec 22303 – Consolidated rail infrastructure and safety improvements**
    - Amends code to include federally recognized Indian Tribes.
  - **Sec 22305 – Restoration and enhancement grants (rail)**
    - Amends code to include federally recognized Indian Tribes.
  - **Sec 22305 – Railroad crossing elimination program**
    - Amends code to include federally recognized Indian Tribes.
  - **Sec 25010 – Rural opportunities to use transportation for economic success (ROUTES) initiative**
    - Improve projects from rural areas and Indian tribes, provide technical assistance, collect information and evaluate transportation challenges faced by rural communities and Indian tribes.
    - Establishes “ROUTES” council and office with tribal input.
  - **Sec 26001 – Hazardous Materials**
    - Tribal authorities/entities are eligible receive credits to expenses for hazardous materials training/fund.
  - **Sec 30006 – Formula Grants for Rural Areas**
    - For Public Transportation on Indian Reservations – 20% distribution on competitive bases, 80% by formula grants.
  - **Sec 40101 – Preventing Outages and Enhancing the Resilience of the Electric Grid**
    - Establishes program for States and Indian Tribes to apply for grants to prevent “disruptive events”/power outages.
    - Includes small utilities set-asides, as well as 50% set-aside for States and Tribes.
    - Appropriated \$5b for each FY '22 to '26.
    - Partial funding based on previous 10 years of “disruptive events”
    - Set-aside for small utilities (4,000,000 megawatt hours or less per year)
    - States and Tribes to match 15% of each grant
  - **Sec 40103 – Electric Grid Reliability and Resilience Research, Development, and Demonstration**



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- Tribes are eligible entities
  - **Sec 40105 – Siting of Interstate Electric Transmission Facilities**
    - Adds Indian tribes to Federal Power Act, Sec 216(a)
  - **Sec 40108 – State Energy Security Plans**
    - Adds “coordination with Indian Tribes” to state energy security planning.
  - **Sec 40109 – State Energy Program**
    - Adds Indian Tribes and local governments to mandatory support transmission and distribution planning.
  - **Sec 40125 – Enhanced Grid Security**
    - Indian tribes to be consulted for cybersecurity for energy sector.
  - **Sec 40207 – Battery Processing and Manufacturing**
    - Partnership with tribes to be a determining factor for priority consideration.
  - **Sec 40209 – Advanced energy Manufacturing and Recycling Grant Program**
    - Native American owned businesses are eligible under “Minority-owned” subsection.
  - **Sec 40314 – Additional Clean Hydrogen Programs**
    - **Sec 815 – Clean Hydrogen Manufacturing and Recycling**
      - Priority given in awarding grants that operate in partnership with tribal energy development organizations, Indian Tribes, Tribal organization, or Native Hawaiian community-based organizations
  - **Sec 40334 – Pumped Storage Hydropower Wind and Solar Integration...**
    - Tribe and Tribal organizations considered eligible entities, including being able to store electricity on Tribal land.
    - \$2m per year for each FY '22 to '26.
  - **Sec 40336 – Limitations of Issuance of Certain Leases of Power Privilege**
    - Deals with projects for Confederated Tribes of the Colville Reservation and Spokane Tribe of Indians of the Spokane Reservation.
  - **Sec 40401 – Department of Energy Loan Programs**
    - Authorizes partnerships with Tribal entities and Alaska Native corporations.
  - **Sec 40601 – Orphaned Well Site Plugging, Remediation, and Restoration**
    - Includes consultation with Dept of Energy for program.
    - Tribal Orphaned Well site plugging program - \$150m
    - \$4.675b for all grants in program with another \$30m in research activities.
  - **Sec 40701 – Abandoned Mine Reclamation Fund Authorization**
    - \$11,293m for FY '22, with tribes as eligible grant recipients
  - **Sec 40704 – Abandoned Hardrock Mine Reclamation**
    - Grants available for Tribes that have jurisdiction over abandoned hardrock mine land.
    - \$3b funding with 50% for States and Tribes
  - **Sec 40803 – Wildfire Risk Reduction**
    - \$200,000,000 shall be made available for contracting or employing crews of laborers to modify and remove flammable vegetation on Federal land and for using materials from treatments, to the extent practicable, to produce biochar and other innovative wood products, including through the use of existing locally based organizations that engage young adults, Native youth, and veterans in service projects, such as youth and conservation corps
    - \$100,000 each by Sec of Agriculture and Interior
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- **Sec 40804 – Ecosystem Restoration**
    - Funding through Interior and Agriculture for land restoration, including Indian and Federal land.
    - \$200m to be available to states and Tribes under Section 2(b) of Tribal Forest Protection Act of 2004.
  - **Sec 40905 – Competitive Grant program for large-scale water recycling and reuse program**
    - Available to tribes with water or power delivery authority
  - **Sec 50106 – Operational Sustainability of Small Public Water Systems**
    - Available to tribes that own/operate public water systems
  - **Sec 50111 – Indian Reservation Drinking Water Program**
    - Funded at \$20m for FY '21 and \$50m for each FY '22 through '26.
    - Expands America's Water Infrastructure Act of 2018, setting requirements for program.
  - **Sec 50212 – Grants to Alaska to Improve Sanitation in Rural and Native Villages**
    - \$40,000,000 for each FY 2022-2024, \$50,000,000 for FY '25, and \$60,000,000 for FY '26.
    - Increases Safe Drinking Water Act federal share from 50% to 75%.
  - **Sec 60201 – Tribal connectivity technical amendments**
    - Amends Consolidated Appropriations Act of 2021, Division N
  - **Sec 60304 – State Digital Equity Capacity Grant Program**
    - Indian Tribes and Alaska Native entities are considered eligible entities if state is receiving grant.
    - No less than 5% of awarded grants will go to Indian Tribes, Alaska Native entities, and Native Hawaiian organizations.
    - \$240,000,000 for FY '22, \$300,000,000 for FY '23 through '26.
  - **Sec 60305 – Digital Equity Competitive Grant Program**
    - Indian Tribes, Alaska Native entities, and Native Hawaiian organizations are considered eligible entities for receiving grant.
    - Grants to increase internet access and the adaptation of broadband among covered populations to be served by applicant.
    - No less than 5% of awarded grants will go to Indian Tribes, Alaska Native entities, and Native Hawaiian organizations.
    - \$250,000,000 for each of first five fiscal years
  - **Sec 60401 – Enabling Middle Mile Broadband Infrastructure**
    - Native entities eligible, includes building on Trust Land. Sets out tribally underserved/unserved areas.
    - Creates “middle mile” (broadband infrastructure that does not connect directly to an end-user location) grant.
    - SPECIAL RULES FOR TRIBAL GOVERNMENTS.—
      - (1) WAIVERS; ALTERNATIVE REQUIREMENTS.— 14 The Assistant Secretary, in consultation with Tribal governments and Native entities, may waive, or specify alternative requirements for, any provision of subsections (c) through (f) if the Assistant Secretary finds that the waiver or alternative requirement is necessary— (A) for the effective delivery and administration of middle mile grants to Tribal governments; or (B) the construction, improvement, or acquisition of middle mile infrastructure on trust land
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- **Sec 70402 – Consumer Recycling Education and Outreach Grant Program: Federal Procurement**
    - Creates 20% (of \$15,000,000 for year FY '22 through '26) for low-income communities, rural communities, and Native American identified communities.
  - **Sec 70612 – State and Local Cybersecurity Grant Program**
    - Establishes grant program to address cybersecurity risks and threats to information systems owned or operated by State, local, or Tribal governments.
    - Tribal governments are eligible entities for grant, including special rules for application.
    - 3% set-aside for Tribal Governments
    - Creates Tribal Cybersecurity Needs report.
    - \$200,000,000 for FY '22, \$400,000,000 for FY '23, \$300,000,000 for FY '24, and \$100,000,000 for FY '25.
  - **Sec 70801 – Federal Permitting Improvement**
    - Changes Federal Infrastructure Permitting Improvement Steering Council to Federal Permitting Improvement Steering Council.
    - Adds to 42 U.S.C. 4370m (“covered projects”) those sponsored by an Indian Tribe, Alaska Native Corporations, and/or Native Hawaiian organizations OR located on land owned or under the jurisdiction of the entity that sponsors the activity.
    - Adds “engaging with Native American stakeholders to ensure that project sponsors and agencies identify potential natural, archeological, and cultural resources and locations of historic and religious significance in the area of a covered project”
    - Adds confidentiality for information related to Native American natural, cultural, or historical resources submitted in a notice by a project sponsor.
  - **Sec 71101 – Clean School Bus Program**
    - Tribally controlled schools are eligible if they purchase school buses.
  - **National Ocean and Atmospheric Administration**
    - 15% set-aside for Tribes and Tribal partners of \$400m for Sec 117 of Magnuson-Stevens Fishery Conservation and Management Reauthorization Act.
    - \$56m for Regional Ocean Partnerships to coordinate the interstate and intertribal management of coastal and ocean resources.
  - **Cybersecurity grants**
    - \$1b in grants for state, local, tribal, and territorial governments.
  - **Bureau of Indian Affairs – Operation of Indian Programs**
    - Additional \$216m for “Operation of Indian Programs” to remain available until expended for tribal climate resilience, adaptation, and community relocation planning, design, and implementation. \$43.2m per year from FY 22 to FY 26.
    - \$130,000,000 shall be for community relocation, and \$86,000,000 shall be for tribal climate resilience and adaptation projects
  - **State And Tribal Assistance Grants**
    - Additional \$55,426,000,000 made available clean and drinking water, underground injection control grants, brownfields activities, pollution prevention, Save Our Seas, and Clean School Bus provisions.
  - **Tribal Forestry Protection Act**
    - \$8m per year between FY '22 and '26 for Tribal Forestry Protection Act.
  - **Indian Health Service**
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- Additional amount for Indian Health Facilities: \$3,5b between FY '22 and FY '26.
- **Broadband Connectivity Fund**
  - For an additional amount for “Broadband Connectivity Fund”, \$2,000,000,000, to remain available until expended, for grants for the Tribal Broadband Connectivity Program, as authorized under section 905(c) of division N of the Consolidated Appropriations Act, 2021 (Public Law 116–260), as amended by section 60201 of division F this Act

## **Bonding-related topics:**

- **Title I – Sec 11101 Appropriations Authorization**
  - Under annual listing of disadvantaged business enterprises: Includes analysis of bonding capacity for certifications of small business concerns (defined as gross receipts of less than \$26,290,000 over previous 3 fiscal years). (page 40 of draft)
  - Secretary may pay eligible project costs, which include any interest earned and payable on bonds. (page 161 of draft)
- **Sec 11529 – Active Transportation Infrastructure Investment Program**
  - Total project cost to include expenses related to the issuance of bonds/notes (page 489 of draft).
- **Sec 21106 – Multi-State Freight Corridor Planning**
  - Allows for multi-state freight compact to issue bonds (page 605)
- **Sec 40304 – Carbon Dioxide Transportation Infrastructure Finance and Innovation**
  - To include bonds as part of Project Obligation. (page 1503)
  - Waivers requirements for a public agency borrower that is financing ongoing capital programs and has outstanding senior bonds under a preexisting indenture under certain circumstances. (page 1519)
  - Excess revenue to be spent on bond resolution and other scheduled debt service requirements. (page 1523)
- **Sec 40541 – Grants for Energy Efficiency Improvements and Renewable Energy Improvements at Public School Facilities**
  - Includes debt raising (such as issuing bonds and bond ratings of partnering local educational agencies) as part of the competitive criteria for awarding grants. (pages 1725 & 1726)
- **Sec 71101 – Clean School Bus Program**
  - Prioritizes applications that propose to complement award assistance through additional funding sources, such as issuance of school bonds, other grants, and/or public-private partnerships. (page 2392)
- **TITLE IV – BOND PROVISIONS**
- **Sec 80401 – Private Activity Bonds for Qualified Broadband Projects**
  - Changes partial exception volume cap, adding “75% of any exempt facility bond issue as part of an issue described relating to qualified broadband projects. (page 2412)
- **Sec 80402 – Carbon Dioxide Capture Facilities**
  - Outlines bonding for CO2 capture facilities (pages 2418 and 2420)
- **Sec 80403 – Increase in National Limitation Amount for Qualified Highway or Surface Freight Transportation Facilities**



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- Amendment made by this new increase shall apply to bonds issued after date of enactment. (page 2422)