

Attachment A
Summary of 23 U.S.C. §207 (§1121(a) of Pub. L. 114-94 (FAST Act))
Tribal Transportation Self-Governance Program Statutory Provisions

(to assist in determining the appropriate Negotiated Rulemaking Subcommittee/Workgroup for the topic)

Number	23 U.S.C. §207 Subsection	Description	Assigned to Workgroup/Subcomm.
	§ 1121(a)	Tribal Transportation Self-Governance Program	
1.	207(a)	Establishment	
2.	207(b)	Eligibility	
3.	207(b)(1)	In General	
4.	207(b)(2)	Criteria for determining financial stability and financial management capability	
5.	207(b)(3)	Criteria for determining transportation program management capability	
6.	207(c)	Compacts	
7.	207(c)(1)	Compact required	
8.	207(c)(2)	Contents	
9.	207(c)(3)	Amendments	
10.	207(d)	Annual Funding Agreements	
11.	207(d)(1)	Funding Agreement required	
12.	207(d)(2)	Contents	
13.	207(d)(2)(A)(i)	Formula funding and discretionary grants	
14.	207(d)(2)(A)(ii)	Transfer of State funds	
15.	207(d)(2)(A)(ii)(I)	Inclusion of transferred funds in funding agreement	
16.	207(d)(2)(A)(ii)(II)	Method for transfers	
17.	207(d)(2)(A)(ii)(III)	Responsibility for transferred funds	
18.	207(d)(2)(B)	Administration of tribal shares	
19.	207(d)(2)(C)	Flexible and innovative financing	
20.	207(d)(2)(C)(i)	In general	
21.	207(d)(2)(C)(ii)	Terms and conditions	
22.	207(d)(2)(C)(ii)(I)	Authority to issue regulations	
23.	207(d)(2)(C)(ii)(II)	Terms and conditions in absence of regulations	
24.	207(d)(3)	[Funding Agreement] Terms	
25.	207(d)(4)	Subsequent funding agreements	
26.	207(d)(4)(A)	Applicability of existing agreement	
27.	207(d)(4)(B)	Effective date of subsequent agreement	
28.	207(d)(5)	Consent of Indian Tribe required	
29.	207(e)	General provisions	
30.	207(e)(1)	Redesign and consolidation	
31.	207(e)(1)(A)	In general	

Number	23 U.S.C. §207 Subsection	Description	Assigned to Workgroup/Subcomm.
32.	207(e)(1)(B)	Exception	
33.	207(e)(2)	Retrocession	
34.	207(e)(2)(A)	In general	
35.	207(e)(2)(A)(i)	Authority of Indian tribes	
36.	207(e)(2)(A)(ii)	Reassumption of remaining funds	
37.	207(e)(2)(A)(iii)	Correction of programs	
38.	207(e)(2)(B)	Effective date	
39.	207(f)	Provisions relating to Secretary	
40.	207(f)(1)	Decisionmaker	
41.	207(f)(2)	Termination of compact or funding agreement	
42.	207(f)(2)(A)	Authority to terminate	
43.	207(f)(2)(A)(i)	Provision to be included in compact or funding Agreement	
44.	207(f)(2)(A)(ii)	Transfers of funds	
45.	207(f)(2)(B)	Findings resulting in termination	
46.	207(f)(2)(B)(i)	Imminent jeopardy to a trust asset, natural resources, or public health and safety	
47.	207(f)(2)(B)(ii)	Gross mismanagement with respect to funds or programs	
48.	207(f)(2)(C)	Prohibition [against termination of compact]	
49.	207(f)(2)(D)	Exception [to termination of compact]	
50.	207(f)(2)(D)(i)	In general	
51.	207(f)(2)(D)(i)(I)	Finding of imminent substantial and irreparable jeopardy to a trust asset, natural resource, or public health and safety;	
52.	207(f)(2)(D)(i)(II)	Jeopardy arises out of a failure to carry out the compact or funding agreement	
53.	207(f)(2)(D)(ii)	Hearings	
54.	207(f)(2)(E)	Burden of proof	
55.	207(g)	Cost principles	
56.	207(h)	Transfer of funds	
57.	207(i)	Construction programs	
58.	207(i)(1)	Standards	
59.	207(i)(2)	Monitoring	
60.	207(j)	Facilitation	
61.	207(j)(1)	Secretarial interpretation	
62.	207(j)(2)	Regulation waiver	
63.	207(j)(2)(A)	In general	
64.	207(j)(2)(B)	Approvals and denials	
65.	207(j)(2)(B)(i)	In general	
66.	207(j)(2)(B)(ii)	Review	
67.	207(j)(2)(B)(iii)	Deemed approval	
68.	207(j)(2)(B)(iv)	Denials	

Number	23 U.S.C. §207 Subsection	Description	Assigned to Workgroup/Subcomm.
69.	207(j)(2)(B)(v)	Finality of decisions	
70.	207(k)	Disclaimers	
71.	207(k)(1)	Existing authority	
72.	207(k)(2)	Limitation on statutory construction	
73.	207(l)	Applicability of Indian Self-Determination and Education Assistance Act	
74.	207(l)(1)	25 U.S.C. § 458aaa-5 General Provisions	
75.	“ “	25 U.S.C. § 458aaa-5(a) – Applicability	
76.	“ “	25 U.S.C. § 458aaa-5(b) – Conflicts of interests	
77.	“ “	25 U.S.C. § 458aaa-5(d) – Records	
78.	“ “	25 U.S.C. § 458aaa-5(g) – Withdrawal	
79.	“ “	25 U.S.C. § 458aaa-5(h) – Nonduplication	
80.	207(l)(2)	25 U.S.C. § 458aaa-6 Provisions relating to the Secretary	
81.	“ “	25 U.S.C. § 458aaa-6(b) – Final offer	
82.	“ “	25 U.S.C. § 458aaa-6(c) – Rejection of final offers	
83.	“ “	25 U.S.C. § 458aaa-6(c)(1) – In general	
84.	“ “	25 U.S.C. § 458aaa-6(c)(2) – Effect of exercising certain option	
85.	“ “	25 U.S.C. § 458aaa-6(d) – Burden of proof	
86.	“ “	25 U.S.C. § 458aaa-6(e) – Good faith	
87.	“ “	25 U.S.C. § 458aaa-6(g) – Trust responsibility	
88.	207(l)(3)	25 U.S.C. § 458aaa-7 Transfer of funds	
89.	“ “	25 U.S.C. § 458aaa-7(a) – In general	
90.	“ “	25 U.S.C. § 458aaa-7(b) – Multiyear funding	
91.	“ “	25 U.S.C. § 458aaa-7(d) - Prohibitions	
92.	“ “	25 U.S.C. § 458aaa-7(d)(1) – In general	
93.	“ “	25 U.S.C. § 458aaa-7(d)(2) – Exception	
94.	“ “	25 U.S.C. § 458aaa-7(e) – Other resources [including federal personnel and resources, etc]	
95.	“ “	25 U.S.C. § 458aaa-7(g) – Prompt Payment Act	
96.	“ “	25 U.S.C. § 458aaa-7(h) – Interest or other income on transfers	
97.	“ “	25 U.S.C. § 458aaa-7(i) – Carryover of funds	
98.	“ “	25 U.S.C. § 458aaa-7(k) – Limitation of costs	
99.	207(l)(4)	25 U.S.C. § 458aaa-9 Federal procurement laws and regulations	
100.	207(l)(5)	25 U.S.C. § 458aaa-10 Civil actions	
101.	“ “	25 U.S.C. § 458aaa-10(a) – Contract defined	
102.	“ “	25 U.S.C. § 458aaa-10(b) – Applicability of certain laws	
103.	“ “	25 U.S.C. § 458aaa-10(c) – References	
104.	207(l)(6)	25 U.S.C. § 458aaa-11 Facilitation	
105.	“ “	25 U.S.C. § 458aaa-11(a) – Secretarial interpretation	
106.	“ “	25 U.S.C. § 458aaa-11(b) – Regulation waiver	

Number	23 U.S.C. §207 Subsection	Description	Assigned to Workgroup/Subcomm.
107.	“ “	25 U.S.C. § 458aaa-11(c) – Access to Federal property (substituting in (c)(1) “transportation facilities and other facilities” for “school buildings, hospitals, and other facilities”)	
108.	“ “	25 U.S.C. § 458aaa-11(d) – Matching or cost-participation requirement	
109.	“ “	25 U.S.C. § 458aaa-11(e) – State facilitation	
110.	“ “	25 U.S.C. § 458aaa-11(f) – Rules of construction	
111.	207(d)(7)	25 U.S.C. § 458aaa-14 Disclaimers	
112.	“ “	25 U.S.C. § 458aaa-14(a) – No funding reduction	
113.	“ “	25 U.S.C. § 458aaa-14(b) – Federal trust and treaty responsibilities	
114.	207(d)(8)	25 U.S.C. § 458aaa-15 Application of other sections of this subchapter [title I provisions, etc.]	
115.	“ “	25 U.S.C. § 458aaa-15(a) – Mandatory application	
116.	“ “	(i) 25 U.S.C. §450c(b) – Access to books, documents, papers, and records for audit and examination by Comptroller General, etc.	
117.	“ “	(ii) 25 U.S.C. § 450d – Criminal activities involving grants, contracts, etc.; penalties	
118.	“ “	(iii) 25 U.S.C. § 450e – Wage and labor standards	
119.	“ “	(iv) 25 U.S.C. § 450e(a) – Similar construction in locality	
120.	“ “	(v) 25 U.S.C. § 450e(b) – Preference requirements for wages and grants	
121.	“ “	(vi) 25 U.S.C. § 450e(c) – Self-determination contracts	
122.	“ “	(vii) 25 U.S.C. § 450f(c) – Liability insurance; waiver of defense	
123.	“ “	(viii) 25 U.S.C. § 450f(d) – Tribal organizations and Indian contractors deemed part of [PHS]	
124.	“ “	(ix) 25 U.S.C. § 450i – Retention of Federal employee coverage, rights and benefits by employees of tribal organizations	
125.	“ “	(x) 25 U.S.C. § 450j(k) – Access to Federal sources of supply	
126.	“ “	(xi) 25 U.S.C. § 450j(l) – Lease of facility used for administration and delivery of services	
127.	“ “	(xii) 25 U.S.C. § 450j-1(a) – Amount of funds provided	
128.	“ “	(xiii) 25 U.S.C. § 450j-1(b) – Reductions and increases in amount of funds provided	
129.	“ “	(xiv) 25 U.S.C. § 450j-1(c) – Annual reports	
130.	“ “	(xv) 25 U.S.C. § 450j-1(d) – Treatment of shortfalls in indirect cost recoveries	
131.	“ “	(xvi) 25 U.S.C. § 450j-1(e) – Liability for indebtedness incurred before fiscal year 1992	
132.	“ “	(xvii) 25 U.S.C. § 450j-1(f) – Limitation on remedies relating to cost disallowances	
133.	“ “	(xviii) 25 U.S.C. § 450j-1(g) – Addition to contract of full amount contractor entitled; adjustment	
134.	“ “	(xix) 25 U.S.C. § 450j-1(h) – Indirect costs for contracts for construction programs	
135.	“ “	(xx) 25 U.S.C. § 450j-1(i) – [IHS] and [BIA] budget consultations	

Number	23 U.S.C. §207 Subsection	Description	Assigned to Workgroup/Subcomm.
136.	“ “	(xxi) 25 U.S.C. § 450j-1(j) – Use of funds for matching or cost participation requirements	
137.	“ “	(xxii) 25 U.S.C. § 450j-1(k) – Allowable uses of funds without approval of Secretary	
138.	“ “	(xxiii) 25 U.S.C. § 450n – Sovereign immunity and trusteeship rights unaffected	
139.	“ “	(xxiv) § 314 of Pub. L. 101-512 [FTCA coverage]	
140.	“ “	25 U.S.C. § 458aaa-15(b) – Discretionary application (at the request of a tribe, any other provision of title I [of the ISDEAA], to the extent such provision is not in conflict with this part, shall be made a part of a funding agreement or compact)	
141.	207(j)(9)	25 U.S.C. § 458aaa-17 Appeals	
142.	207(m)	Definitions (following definitions apply except as otherwise expressly provided)	
143.	207(m)(1)(A)	Compact	
144.	207(m)(1)(B)	Department	
145.	207(m)(1)(C)	Eligible Indian Tribe	
146.	207(m)(1)(D)	Funding agreement	
147.	207(m)(1)(E)	Indian tribe	
148.	207(m)(1)(F)	Program	
149.	207(m)(1)(G)	Secretary	
150.	207(m)(1)(H)	Transportation programs	
151.	207(m)(2)	Applicability of other definitions (definitions in sections 4 and 505 of [ISDEAA] (25 U.S.C. §§ 450b and 458aaa) apply, except as otherwise expressly provided in this section [207m])	
152.	“ “	450b(a) – construction programs	
153.	“ “	450b(b) – contract funding base	
154.	“ “	450b(c) – direct program costs	
155.	“ “	450b(d) – Indian	
156.	“ “	450b(e) – Indian tribe	
157.	“ “	450b(f) – indirect costs	
158.	“ “	450b(g) – indirect cost rate	
159.	“ “	450b(h) – mature contract	
160.	“ “	450b(i) – Secretary	
161.	“ “	450b(j) – self-determination contract	
162.	“ “	450b(k) – State education agency	
163.	“ “	450b(l) – tribal organization	
164.	“ “	450b(m) – construction contract	
165.	“ “	458aaa(a)(1) – Construction project	
166.	“ “	458aaa(a)(2) – Construction project agreement	
167.	“ “	458aaa(a)(3) – Gross mismanagement	

Number	23 U.S.C. §207 Subsection	Description	Assigned to Workgroup/Subcomm.
168.	“ “	458aaa(a)(4) – Inherent federal functions	
169.	“ “	458aaa(a)(5) – Inter-tribal consortium	
170.	“ “	458aaa(a)(6) – Secretary	
171.	“ “	458aaa(a)(7) – Self-governance	
172.	“ “	458aaa(a)(8) – Tribal share	
173.	“ “	458aaa(b) – Indian tribe (<i>as a consortium or as a tribal organization</i>)	
174.	207(n)	Regulations	
175.	207(n)(1)	In general	
176.	207(n)(1)(A)	Promulgation	
177.	207(n)(1)(B)	Publication of proposed regulations	
178.	207(n)(1)(C)	Expiration of authority	
179.	207(n)(1)(D)	Extension of deadlines	
180.	207(n)(2)	Committee	
181.	207(n)(2)(A)	In general	
182.	207(n)(2)(B)	Requirements	
183.	207(n)(2)(C)	Adoption of procedures	
184.	207(n)(3)	Effect (<i>lack of promulgated regulations shall not limit the effect of this section [207]</i>)	
185.	207(n)(4)	Effect of circulars, policies, manuals, guidance, and rules	
	§ 1121(b)	Clerical Amendment (<i>analysis for chapter 2 of title 23, United States Code, is amended to insert after section 206 the following: “207. Tribal transportation self-governance program.”</i> .)	