

105TH CONGRESS
1ST SESSION

H. R. 2665

To improve Indian reservation roads and related transportation services, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 9, 1997

Mr. PASTOR (for himself, Mr. KILDEE, Mr. MARTINEZ, Mr. TOWNS, Mr. FROST, Mrs. MINK of Hawaii, Mr. HAYWORTH, Ms. ROYBAL-ALLARD, and Mr. KENNEDY of Rhode Island) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To improve Indian reservation roads and related
transportation services, 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 “American Indian
5 Transportation Improvement Act of 1997”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the Federal Government has a responsibility
9 to promote the general welfare of the United States

1 by supporting interstate, national, and international
2 commerce through the use of Federal resources to
3 assist States, Indian tribes, and local governments in
4 the development and maintenance of physical infra-
5 structure, including roads, highways, byways,
6 bridges, and other transportation-related structures;

7 (2) there exists a unique legal and political rela-
8 tionship between the United States and tribal gov-
9 ernments and a unique Federal responsibility to
10 American Indians and Alaska Natives;

11 (3) under law and practice, the United States
12 has undertaken a trust responsibility to protect and
13 preserve Indian tribes, Indians, and tribal assets and
14 resources;

15 (4) this Federal responsibility includes working
16 with tribal governments and their members to im-
17 prove the condition of the physical infrastructure
18 used by tribes for their economic well-being;

19 (5) the demonstrated need for improvements to
20 physical infrastructure on Indian land is acute, and
21 the Federal Government should assist in making the
22 improvements and in developing tribal and private
23 mechanisms to achieve the goals of economic self-
24 sufficiency and political self-determination;

1 (6)(A) Indian tribes of the United States are
2 served by over 50,000 miles of roads nationwide;

3 (B) the road system of the Bureau of Indian
4 Affairs constitutes about 25,000 miles, or 50 per-
5 cent, of roads serving Indian tribes;

6 (C) State and county roads make up the largest
7 percentage, about 49 percent, of roads serving In-
8 dian tribes; and

9 (D) tribal roads account for approximately 5
10 percent, and private and Federal roads (other than
11 Bureau of Indian Affairs roads) make up the small
12 balance of approximately 4 percent, of roads serving
13 Indian tribes;

14 (7)(A) the Indian reservation roads program es-
15 tablished under the Intermodal Surface Transpor-
16 tation Efficiency Act of 1991 (Public Law 102–240)
17 is targeted at the Bureau of Indian Affairs road sys-
18 tem that constitutes less than ½ of the total mileage
19 of roads on Indian reservations in the United States;

20 (B) only 11 percent of the Bureau of Indian Af-
21 fairs roads are rated as being in good condition; and

22 (C) of the unpaved Bureau of Indian Affairs
23 roads, 90 percent are known to be in poor condition
24 and none of the unpaved roads are rated as being
25 in good condition;

1 (8)(A) annual funding of the Indian reservation
2 roads program, through the Highway Trust Fund,
3 as authorized by the Intermodal Surface Transpor-
4 tation Efficiency Act of 1991, has become the major
5 source of funding for new road construction on In-
6 dian land in the United States;

7 (B) the Bureau of Indian Affairs road construc-
8 tion budget has virtually vanished; and

9 (C) the Bureau of Indian Affairs continues to
10 provide minimal funding of about \$25,000,000 per
11 fiscal year for road maintenance of its road system;

12 (9)(A) in the late 1950's, Bureau of Indian Af-
13 fairs road construction and maintenance funding
14 reached a high of \$10,000,000 per fiscal year for the
15 first time in history;

16 (B) by 1979, Bureau of Indian Affairs road
17 budgets for construction and maintenance reached
18 their peak of almost \$80,000,000 per fiscal year,
19 and then declined rapidly;

20 (C) in the Surface Transportation Assistance
21 Act of 1982 (Public Law 97-424), the funding levels
22 for the Indian reservation roads program stabilized
23 at about \$100,000,000 through the Highway Trust
24 Fund for each of fiscal years 1984 through 1986;

1 (D) the Surface Transportation and Uniform
2 Relocation Assistance Act of 1987 (Public Law 100–
3 17) reduced the annual Highway Trust Fund au-
4 thorization to \$80,000,000 for each of fiscal years
5 1987 through 1991; and

6 (E) in almost every fiscal year since fiscal year
7 1992, the Indian reservation roads program has
8 been funded at \$191,000,000 per fiscal year;

9 (10)(A) Indian reservation roads are needed to
10 support economic development activities, education,
11 health, and virtually every aspect of reservation life;
12 and

13 (B) some of the most scenic highways in the
14 United States are on Indian reservations;

15 (11)(A) at current and historic levels of fund-
16 ing, Indian road conditions continue to fall behind
17 national standards; and

18 (B) to help alleviate some of the poor transpor-
19 tation conditions on Indian reservations in the Unit-
20 ed States, there is a need to increase the level of
21 funding, from the Highway Trust Fund, for the In-
22 dian reservation roads program to \$300,000,000 per
23 fiscal year, from the current level of \$191,000,000
24 per fiscal year; and

1 (12) Federal assistance described in this section
2 should be provided in a manner that recognizes the
3 rights created under Federal laws and policies on In-
4 dian self-determination and self-governance in ac-
5 cordance with the Indian Self-Determination and
6 Education Assistance Act (25 U.S.C. 450 et seq.)
7 and, to the maximum extent practicable, should be
8 provided directly to Indian tribal governments.

9 **SEC. 3. INDIAN RESERVATION ROADS.**

10 (a) IN GENERAL.—Section 1003(a)(6)(A) of the
11 Intermodal Surface Transportation Efficiency Act of 1991
12 (Public Law 102–240; 105 Stat. 1919) is amended—

13 (1) by striking “1992 and” and inserting
14 “1992,”; and

15 (2) by inserting before the period at the end the
16 following: “, \$250,000,000 for fiscal year 1998,
17 \$275,000,000 for fiscal year 1999, and
18 \$300,000,000 for each of fiscal years 2000 through
19 2003”.

20 (b) MASS TRANSPORTATION SERVICES.—Section
21 1032(d) of the Intermodal Surface Transportation Effi-
22 ciency Act of 1991 (23 U.S.C. 202 note; 105 Stat. 1975)
23 is amended by inserting before the period at the end the
24 following: “and not more than 3 percent of the funds allo-
25 cated for Indian reservation roads in each fiscal year may

1 be transferred by the tribal government to mass transpor-
2 tation services”.

3 (c) MAINTENANCE.—

4 (1) IN GENERAL.—Section 204(b) of title 23,
5 United States Code, is amended in the second sen-
6 tence by striking the period at the end and inserting
7 the following: “and, in the case of Indian reservation
8 roads, maintenance thereof”.

9 (2) LIMITATION ON STATUTORY CONSTRUC-
10 TION.—The amendment made by paragraph (1) may
11 not be construed to affect the responsibilities of the
12 Secretary of the Interior under section 204(c) of
13 title 23, United States Code.

14 **SEC. 4. APPORTIONMENT ADJUSTMENTS.**

15 Section 1015 of the Intermodal Surface Transpor-
16 tation Efficiency Act of 1991 (23 U.S.C. 104 note; 105
17 Stat. 1943) is amended—

18 (1) by striking “1997” each place it appears
19 and inserting “2003”; and

20 (2) in subsection (a)(1), by inserting after
21 “Federal lands highways program” the following:
22 “(other than funds for a public land highway con-
23 structed on an Indian reservation)”.

1 **SEC. 5. SCENIC BYWAYS PROGRAM.**

2 Section 1047 of the Intermodal Surface Transpor-
3 tation Efficiency Act of 1991 (23 U.S.C. 101 note; 105
4 Stat. 1996) is amended—

5 (1) in subsection (b)—

6 (A) by inserting “and Indian tribes” after
7 “the States” each place it appears;

8 (B) by striking “term is” and inserting
9 “terms are”; and

10 (C) by inserting “or Indian tribe” after
11 “State”;

12 (2) in subsection (c), by inserting “or Indian
13 tribe” after “State”; and

14 (3) in subsection (d)—

15 (A) in the first sentence—

16 (i) by striking “There” and inserting
17 the following:

18 “(1) IN GENERAL.—Subject to paragraph (2),
19 there”; and

20 (ii) by striking “1995, 1996, and
21 1997” and inserting “1995 through
22 2003”; and

23 (B) by adding at the end the following:

24 “(2) INDIAN TRIBES.—Not less than 1 percent
25 of the funds made available to the Secretary for a
26 fiscal year under paragraph (1) shall be used by the

1 Secretary to make competitive grants to Indian
2 tribes for the planning, design, and development of
3 Indian tribe scenic byway programs.”.

4 **SEC. 6. DEFINITIONS.**

5 Section 101(a) of title 23, United States Code, is
6 amended by inserting after the undesignated paragraph
7 defining “Indian reservation roads” the following:

8 “The term ‘Indian tribal transportation department’
9 means the department, commission, board, or member of
10 an Indian tribe that is charged by its laws with the respon-
11 sibility for highway construction.

12 “The term ‘Indian tribe’ has the meaning given the
13 term in section 4 of the Indian Self-Determination and
14 Education Assistance Act (25 U.S.C. 450b).”.

15 **SEC. 7. CERTIFICATION ACCEPTANCE.**

16 Section 117(a) of title 23, United States Code, is
17 amended—

18 (1) by inserting “or Indian tribe” after “any
19 State” each place it appears;

20 (2) by inserting “or Indian tribal transportation
21 department” after “State highway department”; and

22 (3) by inserting “or tribal” after “with State”.

23 **SEC. 8. TRANSPORTATION ENHANCEMENT ACTIVITIES.**

24 Section 133(d)(2) of title 23, United States Code, is
25 amended—

1 (1) by striking “10 percent” and inserting the
2 following:

3 “(A) IN GENERAL.—Subject to subpara-
4 graph (B), 10 percent”; and

5 (2) by adding at the end the following:

6 “(B) INDIAN TRIBES.—Not less than 1
7 percent of the funds made available to a State
8 for a fiscal year under subparagraph (A) shall
9 be transferred to, and used by, the Secretary to
10 make competitive grants to Indian tribes for
11 transportation enhancement activities.”.

12 **SEC. 9. INDIAN RESERVATION BRIDGES.**

13 Section 144(g) of title 23, United States Code, is
14 amended by striking paragraph (4) and inserting the fol-
15 lowing:

16 “(4) INDIAN RESERVATION BRIDGES.—Notwith-
17 standing subsection (e), an amount equal to 1 per-
18 cent of the highway bridge replacement and rehabili-
19 tation program funds available to be apportioned to
20 States under this section shall be allocated to the
21 Secretary for projects to replace, rehabilitate, paint,
22 or apply calcium magnesium acetate to highway
23 bridges that are part of the Indian reservation road
24 system, with priority given to bridges with the high-
25 est level of deficiency (as determined in accordance

1 with the National Bridge Inspection Standards of
2 the Bureau of Indian Affairs).”.

3 **SEC. 10. HIGHWAY SAFETY PROGRAMS.**

4 Section 402(i) of title 23, United States Code, is
5 amended—

6 (1) by striking “and ‘political subdivision of a
7 State’ includes” and inserting “and”; and

8 (2) in the first proviso, by striking “to the Sec-
9 retary of the Interior” and inserting “for Indian
10 tribes”.

11 **SEC. 11. MASS TRANSIT SET-ASIDE.**

12 Section 5338(h) of title 49, United States Code, is
13 amended—

14 (1) in paragraph (2), by striking “and” at the
15 end;

16 (2) in paragraph (3), by striking the period at
17 the end and inserting “and”; and

18 (3) by adding at the end the following:

19 “(4) not less than 1.0 percent is available for
20 transportation services to Indian tribes—

21 “(A) under an allocation formula, which
22 shall be established by the Secretary of Trans-
23 portation through negotiations with Indian
24 tribes; and

1 “(B) with respect to any fiscal year com-
2 mencing before the formula is established under
3 subparagraph (A), under an allocation formula
4 established by the Administrator of the Federal
5 Transit Administration of the Department of
6 Transportation.”.

7 **SEC. 12. INTERTRIBAL TRANSPORTATION ASSOCIATION.**

8 (a) SET-ASIDE.—Out of amounts made available to
9 the Secretary of Transportation out of the Highway Trust
10 Fund, the Secretary shall set aside \$500,000 per fiscal
11 year for fiscal years 1998 through 2003 to support the
12 development and administration of an Intertribal Trans-
13 portation Association.

14 (b) USE OF FUNDS.—Funds set aside under this sec-
15 tion shall be used to support government-to-government
16 dialog between Indian tribes, the Department of Trans-
17 portation, the Department of the Interior, other Federal
18 agencies, and State and local transportation agencies.

19 (c) LIMITATION ON STATUTORY CONSTRUCTION.—
20 This section may not be construed to diminish the Federal
21 Government’s trust responsibility or government-to-gov-
22 ernment obligations with each federally recognized Indian
23 tribe.

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