

107TH CONGRESS
1ST SESSION

S. 344

To amend the Transportation Equity Act for the 21st Century to make certain amendments with respect to Indian tribes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2001

Mr. CAMPBELL (for himself, Mr. JOHNSON, Mr. BAUCUS, Mr. MCCAIN, and Mr. INOUE) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To amend the Transportation Equity Act for the 21st Century to make certain amendments with respect to Indian tribes.

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 “Indian Tribal Surface
5 Transportation Act of 2001”.

6 **SEC. 2. AMENDMENTS RELATING TO INDIAN TRIBES.**

7 (a) OBLIGATION LIMITATION.—Section 1102(c)(1) of
8 the Transportation Equity Act for the 21st Century (23
9 U.S.C. 104 note) is amended—

1 (1) by striking “Code, and” and inserting
2 “Code,”; and

3 (2) by inserting before the semicolon the fol-
4 lowing: “, and for each of fiscal years 2002 and
5 2003, amounts authorized for Indian reservation
6 roads under section 204 of title 23, United States
7 Code”.

8 (b) PILOT PROGRAM.—Section 202(d)(3) of title 23,
9 United States Code, is amended by adding at the end the
10 following:

11 “(C) FEDERAL LANDS HIGHWAY PROGRAM
12 DEMONSTRATION PROJECT.—

13 “(i) IN GENERAL.—The Secretary
14 shall establish a demonstration project
15 under which all funds made available
16 under this title for Indian reservation
17 roads and for highway bridges located on
18 Indian reservation roads as provided for in
19 subparagraph (A), shall be made available,
20 upon request of the Indian tribal govern-
21 ment involved, to the Indian tribal govern-
22 ment for contracts and agreements for the
23 planning, research, engineering, and con-
24 struction described in such subparagraph

1 in accordance with the Indian Self-Deter-
 2 mination and Education Assistance Act.

3 “(ii) EXCLUSION OF AGENCY PARTICI-
 4 PATION.—In accordance with subpara-
 5 graph (B), all funds for Indian reservation
 6 roads and for highway bridges located on
 7 Indian reservation roads to which clause
 8 (i) applies, shall be paid without regard to
 9 the organizational level at which the Fed-
 10 eral lands highway program has previously
 11 carried out the programs, functions, serv-
 12 ices, or activities involved.

13 “(iii) SELECTION OF PARTICIPATING
 14 TRIBES.—

15 “(I) PARTICIPANTS.—

16 “(aa) IN GENERAL.—The
 17 Secretary shall select 12 geo-
 18 graphically diverse Indian tribes
 19 in each fiscal year from the ap-
 20 plicant pool described in sub-
 21 clause (II) to participate in the
 22 demonstration project carried out
 23 under clause (i).

24 “(bb) CONSORTIA.—Two or
 25 more Indian tribes that are oth-

1 erwise eligible to participate in a
2 program or activity to which this
3 title applies may form a consor-
4 tium to be considered as a single
5 tribe for purposes of becoming
6 part of the applicant pool under
7 subclause (II).

8 “(cc) FUNDING.—An Indian
9 tribe participating in the pilot
10 program under this subpara-
11 graph shall receive funding in an
12 amount equivalent to the funding
13 that such tribe would otherwise
14 receive pursuant to the funding
15 formula established under section
16 1115(b) of the Transportation
17 Equity Act for the 21st Century,
18 plus an additional percentage of
19 such amount, such additional
20 percentage to be equivalent to the
21 percentage of funds withheld dur-
22 ing the fiscal year involved for
23 the road program management
24 costs of the Bureau of Indian Af-

1 fairs under section 202(f)(1) of
2 title 23, United States Code.

3 “(II) APPLICANT POOL.—The ap-
4 plicant pool described in this sub-
5 clause shall consist of each Indian
6 tribe (or consortium) that—

7 “(aa) has successfully com-
8 pleted the planning phase de-
9 scribed in subclause (III);

10 “(bb) has requested partici-
11 pation in the demonstration
12 project under this subparagraph
13 through the adoption of a resolu-
14 tion or other official action by
15 the tribal governing body; and

16 “(cc) has, during the 3-fiscal
17 year period immediately pre-
18 ceding the fiscal year for which
19 participation under this subpara-
20 graph is being requested, dem-
21 onstrated financial stability and
22 financial management capability
23 through a showing of no material
24 audit exceptions by the Indian
25 tribe during such period.

“(III) CRITERIA FOR DETER-

MINING FINANCIAL STABILITY AND FI-

NANCIAL MANAGEMENT CAPACITY.—

For purposes of this subparagraph,

evidence that, during the 3-year pe-

riod referred to in subclause (II)(cc),

an Indian tribe had no uncorrected

significant and material audit excep-

tions in the required annual audit of

the Indian tribe’s self-determination

contracts or self-governance funding

agreements with any Federal agency

shall be conclusive evidence of the re-

quired stability and capability.

“(IV) PLANNING PHASE.—An In-

dian tribe (or consortium) requesting

participation in the project under this

subparagraph shall complete a plan-

ning phase that shall include legal and

budgetary research and internal tribal

government and organization prepara-

tion. The tribe (or consortium) shall

be eligible to receive a grant under

this subclause to plan and negotiate

participation in such project.”.

1 (c) ADMINISTRATION.—Section 202 of title 23,
2 United States Code, is amended by adding at the end
3 thereof the following:

4 “(f) INDIAN RESERVATION ROADS, ADMINISTRA-
5 TION.—

6 “(1) IN GENERAL.—Notwithstanding any other
7 provision of law, not to exceed 6 percent of the con-
8 tract authority amounts made available from the
9 Highway Trust Fund to the Bureau of Indian Af-
10 fairs shall be used to pay the administrative ex-
11 penses of the Bureau for the Indian reservation
12 roads program and the administrative expenses re-
13 lated to individual projects that are associated with
14 such program. Such administrative funds shall be
15 made available to an Indian tribal government, upon
16 the request of the government, to be used for the as-
17 sociated administrative functions assumed by the In-
18 dian tribe under contracts and agreements entered
19 into pursuant to the Indian Self-Determination and
20 Education Assistance Act.

21 “(2) HEALTH AND SAFETY ASSURANCES.—Not-
22 withstanding any other provision of law, an Indian
23 tribe or tribal organization may commence road and
24 bridge construction under the Transportation Equity
25 Act for the 21st Century (25 U.S.C. 104) that is

1 funded through a contract or agreement under the
 2 Indian Self-Determination and Education Assistance
 3 Act so long as the Indian tribe or tribal organization
 4 has—

5 “(A) provided assurances in the contract
 6 or agreement that the construction will meet or
 7 exceed proper health and safety standards;

8 “(B) obtained the advance review of the
 9 plans and specifications from a licensed profes-
 10 sional who has certified that the plans and
 11 specifications meet or exceed the proper health
 12 and safety standards; and

13 “(C) provided a copy of the certification
 14 under subparagraph (B) to the Bureau of In-
 15 dian Affairs.

16 “(g) INDIAN RESERVATION ROADS PROGRAM, SAFE-
 17 TY INCENTIVE GRANTS.—

18 “(1) SEAT BELT SAFETY INCENTIVE GRANT
 19 ELIGIBILITY.—Notwithstanding any other provision
 20 of law, an Indian tribe that is eligible to participate
 21 in the Indian reservation roads program under sub-
 22 section (d) shall be deemed to be a State for pur-
 23 poses of being eligible for safety incentive allocations
 24 under section 157 to assist Indian communities in

1 developing innovative programs to promote increased
2 seat belt use rates.

3 “(2) INTOXICATED DRIVER SAFETY INCENTIVE
4 GRANT ELIGIBILITY.—Notwithstanding any other
5 provision of law, an Indian tribe that is eligible to
6 participate in the Indian reservation roads program
7 under subsection (d) shall be deemed to be a State
8 for purposes of being eligible for safety incentive
9 grant funding under section 163 to assist Indian
10 communities in the prevention of the operation of
11 motor vehicles by intoxicated persons.

12 “(3) GRANT FUNDING PROCEDURES AND ELIGI-
13 BILITY CRITERIA.—The Secretary, in consultation
14 with Indian tribal governments, may develop funding
15 procedures and eligibility criteria applicable to In-
16 dian tribes with respect to allocations or grants de-
17 scribed in paragraphs (1) and (2). The Secretary
18 shall ensure that any such procedures or criteria are
19 published annually in the Federal Register.”.

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