

114TH CONGRESS
1ST SESSION

S. 1776

To enhance tribal road safety, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 15, 2015

Mr. BARRASSO (for himself and Mr. CRAPO) introduced the following bill;
which was read twice and referred to the Committee on Indian Affairs

A BILL

To enhance tribal road safety, 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 Infrastructure
5 and Roads Enhancement and Safety Act” or “TIRES
6 Act”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

9 (1) INDIAN RESERVATION.—The term “Indian
10 reservation” has the meaning given the term “res-
11 ervation” in section 3 of the Indian Financing Act
12 of 1974 (25 U.S.C. 1452).

1 (2) SECRETARY.—The term “Secretary” means
2 the Secretary of the Interior.

3 **SEC. 3. APPLICATION OF CATEGORICAL EXCLUSIONS TO**
4 **CERTAIN TRIBAL TRANSPORTATION FACILI-**
5 **TIES.**

6 (a) IN GENERAL.—

7 (1) CATEGORICAL EXCLUSIONS.—Effective on
8 the date of enactment of this Act, a highway project,
9 including projects administered by the Bureau of In-
10 dian Affairs, located on a road on an Indian reserva-
11 tion and eligible for assistance under section 202 of
12 title 23, United States Code, is deemed to be an ac-
13 tion categorically excluded from the requirements re-
14 lating to environmental assessments or environ-
15 mental impact statements under section 1508.4 of
16 title 40, Code of Federal Regulations (as in effect on
17 the date of enactment of this Act), if the project—

18 (A) qualifies for categorical exclusion
19 under—

20 (i) MAP-21 (Public Law 112-141;
21 126 Stat. 405) or an amendment made by
22 that Act; or

23 (ii) section 771.117 of title 23, Code
24 of Federal Regulations (or successor regu-
25 lations); or

1 (B) would meet those requirements if the
2 project sponsor were a State agency.

3 (2) MAP-21 CATEGORICAL EXCLUSIONS TO
4 CERTAIN TRIBAL TRANSPORTATION FACILITIES.—
5 Section 1317 of MAP-21 (23 U.S.C. 109 note; 126
6 Stat. 550) is amended—

7 (A) in paragraph (1)(B), by striking “;
8 and” and inserting a period;

9 (B) beginning in the matter preceding
10 paragraph (1), by striking “Not later than”
11 and all that follows through “(1) designate”
12 and inserting the following:

13 “(a) IN GENERAL.—

14 “(1) DESIGNATION OF CATEGORICAL EXCLU-
15 SIONS.—Subject to paragraph (2), not later than
16 180 days after the date of enactment of this Act, the
17 Secretary shall designate”;

18 (C) in paragraph (2)—

19 (i) by striking “paragraph (1)” and
20 inserting “subsection (a)”; and

21 (ii) by striking “(2) not later than”
22 and inserting the following:

23 “(b) REGULATIONS.—The Secretary shall, not later
24 than”; and

1 (D) in subsection (a) (as designated by
2 subparagraph (B)), by adding at the end the
3 following:

4 “(2) APPLICATION OF CATEGORICAL EXCLU-
5 SIONS TO CERTAIN TRIBAL TRANSPORTATION FA-
6 CILITIES.—With respect to a project described in
7 paragraph (1) that is located on a road on an Indian
8 reservation, for the first full fiscal year after the
9 date of enactment of the TIRES Act, and each fiscal
10 year thereafter, the amount referred to in paragraph
11 (1)(A) shall be adjusted to reflect changes for the
12 12-month period ending the preceding November 30
13 in the Consumer Price Index for All Urban Con-
14 sumers published by the Bureau of Labor Statistics
15 of the Department of Labor.”.

16 (b) ADMINISTRATION.—The Secretary may issue
17 guidance or rules for the administration of this section.

18 (c) EFFECTIVE DATE.—

19 (1) IN GENERAL.—The categorical exclusions
20 described in subsection (a), and the amendments
21 made by subsection (a), take effect on the date of
22 enactment of this Act.

23 (2) FAILURE OF SECRETARY TO ACT.—The fail-
24 ure of the Secretary to promulgate any final regula-
25 tions or guidance shall not affect the qualification

1 for the categorical exclusions described in subsection
2 (a).

3 **SEC. 4. STREAMLINING FOR TRIBAL PUBLIC SAFETY**
4 **PROJECTS WITHIN EXISTING OPERATIONAL**
5 **RIGHTS-OF-WAY.**

6 Section 1316 of MAP-21 (23 U.S.C. 109 note; 126
7 Stat. 549) is amended—

8 (1) in subsection (b)—

9 (A) by striking “(b) DEFINITION OF AN
10 OPERATIONAL RIGHT-OF-WAY.—In this section,
11 the” and inserting the following:

12 “(b) DEFINITIONS.—In this section:

13 “(1) OPERATIONAL RIGHT-OF-WAY.—

14 “(A) IN GENERAL.—The”; and

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

16 “(B) INCLUSION.—For purposes of sub-
17 paragraph (A), if a real property interest on an
18 Indian reservation has not been formally des-
19 ignated an operational right-of-way, an Indian
20 tribe may determine the scope and boundaries
21 of that real property interest as an operational
22 right-of-way, subject to the approval of the Bu-
23 reau of Indian Affairs and the Secretary.

24 “(2) TRIBAL PUBLIC SAFETY PROJECT.—

1 “(A) IN GENERAL.—The term ‘tribal pub-
2 lic safety project’ means a project subject to
3 this section that—

4 “(i) corrects or improves a hazardous
5 road location or feature; or

6 “(ii) addresses a highway safety prob-
7 lem.

8 “(B) INCLUSIONS.—The term ‘tribal public
9 safety project’ includes a project for 1 or more
10 of the following:

11 “(i) An intersection safety improve-
12 ment.

13 “(ii) Pavement and shoulder widening,
14 including addition of a passing lane to
15 remedy an unsafe condition.

16 “(iii) Installation of a rumble strip or
17 other warning device, if the rumble strip or
18 other warning device does not adversely af-
19 fect the safety or mobility of bicyclists, pe-
20 destrians, or the disabled.

21 “(iv) Installation of a skid-resistant
22 surface at an intersection or other location
23 with a high frequency of accidents.

24 “(v) An improvement for pedestrian
25 or bicyclist safety or safety of the disabled.

1 “(vi) Construction of any project for
2 the elimination of hazards at a railway-
3 highway crossing that is eligible for fund-
4 ing under section 130 of title 23, United
5 States Code, including the separation or
6 protection of grades at railway-highway
7 crossings.

8 “(vii) Construction of a railway-high-
9 way crossing safety feature, including in-
10 stallation of protective devices.

11 “(viii) The conduct of a model traffic
12 enforcement activity at a railway-highway
13 crossing.

14 “(ix) Construction of a traffic calming
15 feature.

16 “(x) Elimination of a roadside obsta-
17 cle.

18 “(xi) Improvement of highway signage
19 and pavement markings.

20 “(xii) Installation of a priority control
21 system for emergency vehicles at signalized
22 intersections.

23 “(xiii) Installation of a traffic control
24 or other warning device at a location with
25 high accident potential.

1 “(xiv) Safety-conscious planning.

2 “(xv) Improvements in the collection
3 and analysis of crash data.

4 “(xvi) Planning integrated interoper-
5 able emergency communications equip-
6 ment, operational activities, or traffic en-
7 forcement activities, including police assist-
8 ance, relating to workzone safety.

9 “(xvii) Installation of guardrails, bar-
10 riers, including barriers between construc-
11 tion work zones and traffic lanes for the
12 safety of motorists and workers, and crash
13 attenuators.

14 “(xviii) The addition or retrofitting of
15 structures or other measures to eliminate
16 or reduce accidents involving vehicles and
17 wildlife.

18 “(xix) Installation and maintenance of
19 signs, including fluorescent, yellow-green
20 signs, at pedestrian-bicycle crossings and
21 in school zones.

22 “(xx) Construction and yellow-green
23 signs at pedestrian-bicycle crossings and in
24 school zones.

1 “(xxi) Construction and operational
2 improvements on high risk rural roads.

3 “(xxii) Any other project that the Sec-
4 retary determines qualifies.”;

5 (2) by redesignating subsections (a) and (b) as
6 subsection (b) and (a), respectively;

7 (3) in subsection (b) (as so redesignated), in
8 the subsection heading, by striking “IN GENERAL”
9 and inserting “DESIGNATION”; and

10 (4) by adding at the end the following:

11 “(c) PROJECTS WITHIN EXISTING OPERATIONAL
12 RIGHTS-OF-WAY.—

13 “(1) APPLICABILITY.—This subsection applies
14 to a project within an existing operational right-of-
15 way on an Indian reservation (as defined in section
16 3 of the Indian Financing Act of 1974 (25 U.S.C.
17 1452)) that is—

18 “(A) for a maintenance or preservation ac-
19 tivity, whether or not federally funded, within
20 the existing operational right-of-way, including
21 for roadside ditches; or

22 “(B) a project that—

23 “(i) is a tribal public safety project or
24 a project that the tribal department of
25 transportation or the equivalent (or in the

1 case of an Indian tribe without a tribal de-
2 partment of transportation or an official
3 representing the Indian tribe) certifies to
4 the Secretary as providing a safety benefit
5 to the public; and

6 “(ii) is an action that—

7 “(I) is categorically excluded
8 under section 771.117 of title 23,
9 Code of Federal Regulations (or suc-
10 cessor regulations); or

11 “(II) would be categorically ex-
12 cluded under section 771.117 of title
13 23, Code of Federal Regulations (or
14 successor regulations), if the applicant
15 were a State agency.

16 “(2) FINAL ACTION.—Except as provided in
17 paragraph (3), a Federal agency shall take final ac-
18 tion on an application by an Indian tribe for a per-
19 mit, approval, or jurisdictional determination for a
20 project described in paragraph (1) not later than 45
21 days after the date of receipt of the application.

22 “(3) EXTENSIONS.—A Federal agency may ex-
23 tend the period to take final action on an application
24 by an Indian tribe under paragraph (2) by an addi-
25 tional 30 days by providing to the Secretary and the

1 Indian tribe notice of the extension, including a
2 statement of the need for the extension.

3 “(4) CONSTRUCTIVE APPROVAL.—If a Federal
4 agency does not take final action on an application
5 by an Indian tribe under paragraphs (2) and (3)—

6 “(A) the permit or approval for the project
7 described in paragraph (1) shall be considered
8 approved; and

9 “(B) the Indian tribe shall notify the Sec-
10 retary of approval under this paragraph.

11 “(5) REPORT.—Not later than 4 years after the
12 date of enactment of the ‘TIRES Act’, the Secretary
13 shall submit to Congress a report that describes the
14 operation of this subsection, including any rec-
15 ommendations.”.

16 **SEC. 5. BUREAU OF INDIAN AFFAIRS REDUCTION IN AD-**
17 **MINISTRATIVE FEE.**

18 Section 202(a)(6) of title 23, United States Code, is
19 amended by striking “6 percent” and inserting “5 percent
20 for each fiscal year”.

21 **SEC. 6. OPTION OF ASSUMING NEPA APPROVAL AUTHOR-**
22 **ITY.**

23 (a) DEFINITION OF SECRETARY.—In this section, the
24 term “Secretary” means the Secretary of the Interior or
25 the Secretary of Transportation, as applicable.

1 (b) ASSUMPTION OF FEDERAL RESPONSIBILITIES.—
 2 An Indian tribe participating in tribal self-governance or
 3 a contract or agreement under subsection (a)(2) or (b)(7)
 4 of section 202 of title 23, United States Code, and car-
 5 rying out construction projects on the Indian reservation
 6 over which the Indian tribe has jurisdiction, may elect to
 7 assume all Federal responsibilities under the National En-
 8 vironmental Policy Act of 1969 (42 U.S.C. 4321 et seq.),
 9 division A of subtitle III of title 54, United States Code,
 10 and other applicable Federal law that would apply if the
 11 Secretary were to undertake a construction project if the
 12 Indian tribe—

13 (1) designates an officer—

14 (A) to represent the Indian tribe; and

15 (B) to assume the status of a responsible
 16 Federal official under those laws; and

17 (2) accepts the jurisdiction of the Federal court
 18 for the purpose of enforcement of the responsibilities
 19 of the responsible Federal official under those laws.

20 **SEC. 7. TRIBAL GOVERNMENT TRANSPORTATION SAFETY**
 21 **DATA REPORT.**

22 (a) FINDINGS.—Congress finds that—

23 (1) in many States, the Native American popu-
 24 lation is disproportionately represented in fatalities
 25 and crash statistics;

1 (2) improved crash reporting by tribal law en-
2 forcement agencies would facilitate safety planning
3 and would enable Indian tribes to apply more suc-
4 cessfully for State and Federal funds for safety im-
5 provements;

6 (3) the causes of underreporting of crashes on
7 Indian reservations include—

8 (A) tribal law enforcement capacity, in-
9 cluding—

10 (i) staffing shortages and turnover;

11 and

12 (ii) lack of equipment, software, and
13 training; and

14 (B) lack of standardization in crash re-
15 porting forms and protocols; and

16 (4) without more accurate reporting of crashes
17 on Indian reservations, it is difficult or impossible to
18 fully understand the nature of the problem and de-
19 velop appropriate countermeasures, which may in-
20 clude effective transportation safety planning and
21 programs aimed at—

22 (A) DUI prevention;

23 (B) pedestrian safety;

24 (C) roadway safety improvements;

25 (D) seat belt usage; and

1 (E) proper use of child restraints.

2 (b) REPORT TO CONGRESS.—

3 (1) IN GENERAL.—Not later than 1 year after
4 the date of enactment of this Act, the Secretary,
5 after consultation with the Secretary of Transpor-
6 tation, the Secretary of Health and Human Services,
7 the Attorney General, and Indian tribes, shall sub-
8 mit to the Committee on Indian Affairs of the Sen-
9 ate and the Committee on Natural Resources of the
10 House of Representatives a report describing the
11 quality of transportation safety data collected by
12 States and counties for transportation safety sys-
13 tems and the relevance of that data to improving the
14 collection and sharing of data on crashes on Indian
15 reservations.

16 (2) PURPOSES.—The purposes of the report de-
17 scribed in paragraph (1) are—

18 (A) to improve the collection and sharing
19 of data on crashes on Indian reservations; and

20 (B) to develop data that Indian tribes can
21 use to recover damages to tribal property
22 caused by motorists.

23 (3) PAPERLESS DATA REPORTING.—In pre-
24 paring the report under paragraph (1), the Sec-
25 retary shall provide Indian tribes with options and

1 best practices for transition to a paperless transpor-
2 tation safety data reporting system that—

3 (A) improves the collection of crash re-
4 ports;

5 (B) stores, archives, queries, and shares
6 crash records; and

7 (C) uses data exclusively—

8 (i) to address traffic safety issues on
9 Indian reservations; and

10 (ii) to identify and improve problem
11 areas on public roads on Indian reserva-
12 tions.

13 (4) **ADDITIONAL BUDGETARY RESOURCES.—**

14 The Secretary shall include in the report under
15 paragraph (1) the identification of Federal transpor-
16 tation funds provided to Indian tribes by agencies in
17 addition to the Department of the Interior.

18 **SEC. 8. BUREAU OF INDIAN AFFAIRS ROAD SAFETY STUDY.**

19 Not later than 2 years after the date of enactment
20 of this Act, the Secretary, acting through the Assistant
21 Secretary for Indian Affairs, in consultation with the Sec-
22 retary of Transportation, the Attorney General, and
23 States, shall—

1 (1) complete a study that identifies and evalu-
 2 ates options for improving safety on public roads on
 3 Indian reservations; and

4 (2) submit to the Committee on Indian Affairs
 5 of the Senate and the Committee on Natural Re-
 6 sources of the House of Representatives a report de-
 7 scribing the results of the study.

8 **SEC. 9. TRIBAL TRANSPORTATION FUNDING.**

9 (a) IN GENERAL.—Section 1101(a)(3) of MAP-21
 10 (Public Law 112–141, 126 Stat. 414) is amended—

11 (1) by striking subparagraph (A) and inserting
 12 the following:

13 “(A) TRIBAL TRANSPORTATION PRO-
 14 GRAM.—For the tribal transportation program
 15 under section 202 of title 23, United States
 16 Code (other than subsection (d) of that sec-
 17 tion), there is authorized to be appropriated—

18 “(i) \$468,180,000 for fiscal year
 19 2016;

20 “(ii) \$477,540,000 for fiscal year
 21 2017;

22 “(iii) \$487,090,000 for fiscal year
 23 2018;

24 “(iv) \$496,830,000 for fiscal year
 25 2019;

1 “(v) \$506,770,000 for fiscal year
2 2020; and

3 “(vi) \$516,905,400 for fiscal year
4 2021.”; and

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

6 “(D) TRIBAL TRANSPORTATION FACILITY
7 BRIDGE PROGRAM.—For the tribal transpor-
8 tation facility bridge program under section
9 202(d) of title 23, United States Code, there is
10 authorized to be appropriated—

11 “(i) \$16,000,000 for fiscal year 2016;

12 “(ii) \$18,000,000 for fiscal year 2017;

13 “(iii) \$20,000,000 for fiscal year
14 2018;

15 “(iv) \$22,000,000 for fiscal year
16 2019;

17 “(v) \$24,000,000 for fiscal year 2020;

18 and

19 “(vi) \$26,000,000 for fiscal year
20 2021.”.

21 (b) TRIBAL TRANSPORTATION FACILITY BRIDGE
22 PROGRAM.—Section 202(d) of title 23, United States
23 Code, is amended by striking paragraph (2) and inserting
24 the following:

1 “(2) TRIBAL TRANSPORTATION FACILITY
2 BRIDGE PROGRAM.—The Secretary shall use funds
3 made available to carry out this subsection—

4 “(A) to carry out any planning, design, en-
5 gineering, preconstruction, construction, and in-
6 spection of new or replacement tribal transpor-
7 tation facility bridges;

8 “(B) to replace, rehabilitate, seismically
9 retrofit, paint, apply calcium magnesium ace-
10 tate, sodium acetate/formate, or other environ-
11 mentally acceptable, minimally corrosive anti-
12 icing and deicing composition; or

13 “(C) to implement any countermeasure for
14 deficient tribal transportation facility bridges,
15 including multiple-pipe culverts.”.

○