

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 1/2 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.

○