

105TH CONGRESS
1ST SESSION

S. 437

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

IN THE SENATE OF THE UNITED STATES

MARCH 13, 1997

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

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 21,000 miles, or 42 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 of Indian self-determination and self-govern-
 4 ance by providing the assistance, to the maximum
 5 extent practicable, directly to Indian tribal govern-
 6 ments.

7 **SEC. 3. INDIAN RESERVATION ROADS.**

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

11 (1) by striking “1992 and” and inserting
 12 “1992,”; and

13 (2) by inserting before the period at the end the
 14 following: “, \$250,000,000 for fiscal year 1998,
 15 \$275,000,000 for fiscal year 1999, and
 16 \$300,000,000 for each of fiscal years 2000 through
 17 2002”.

18 (b) MASS TRANSPORTATION SERVICES.—Section
 19 1032(d) of the Intermodal Surface Transportation Effi-
 20 ciency Act of 1991 (23 U.S.C. 202 note; 105 Stat. 1975)
 21 is amended by inserting before the period at the end the
 22 following: “and not more than 3 percent of the funds allo-
 23 cated for Indian reservation roads for a fiscal year may
 24 be used for providing mass transportation services to In-
 25 dian tribes”.

1 (c) MAINTENANCE.—Section 204(b) of title 23,
 2 United States Code, is amended in the second sentence
 3 by inserting before the period at the end the following:
 4 “and, in the case of Indian reservation roads, maintenance
 5 thereof”.

6 **SEC. 4. APPORTIONMENT ADJUSTMENTS.**

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

10 (1) by striking “1997” each place it appears
 11 and inserting “2002”; and

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

16 **SEC. 5. SCENIC BYWAYS PROGRAM.**

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

20 (1) in subsection (b)—

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

23 (B) by striking “term is” and inserting
 24 “terms are”; and

1 (C) by inserting “or Indian tribe” after
 2 “State”;

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

5 (3) in subsection (d)—

6 (A) in the first sentence—

7 (i) by striking “There” and inserting
 8 the following:

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

11 (ii) by striking “1995, 1996, and
 12 1997” and inserting “1995 through
 13 2002”; and

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

15 “(2) INDIAN TRIBES.—Not less than 1 percent
 16 of the funds made available to the Secretary for a
 17 fiscal year under paragraph (1) shall be used by the
 18 Secretary to make competitive grants to Indian
 19 tribes for the planning, design, and development of
 20 Indian tribe scenic byway programs.”.

21 **SEC. 6. DEFINITIONS.**

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

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

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

8 **SEC. 7. CERTIFICATION ACCEPTANCE.**

9 Section 117(a) of title 23, United States Code, is
 10 amended—

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

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

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

16 **SEC. 8. TRANSPORTATION ENHANCEMENT ACTIVITIES.**

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

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

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

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

24 “(B) INDIAN TRIBES.—Not less than 1
 25 percent of the funds made available to a State

1 for a fiscal year under subparagraph (A) shall
2 be transferred to, and used by, the Secretary
3 to make competitive grants to Indian tribes for
4 transportation enhancement activities.”.

5 **SEC. 9. INDIAN RESERVATION BRIDGES.**

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

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

21 **SEC. 10. INDIAN TECHNICAL CENTERS.**

22 Section 326(c) of title 23, United States Code, is
23 amended in the second sentence—

24 (1) by striking “\$6,000,000 per fiscal year for
25 each of the fiscal years 1992, 1993, 1994, 1995,

1 1996, and 1997” and inserting “\$10,800,000 for
2 each of fiscal years 1992 through 2002”; and

3 (2) by inserting before the period at the end the
4 following: “and including at least \$1,000,000 per
5 fiscal year for each of the Indian technical centers
6 established under subsection (b)”.

7 **SEC. 11. HIGHWAY SAFETY PROGRAMS.**

8 Section 402(i) of title 23, United States Code, is
9 amended—

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

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

15 **SEC. 12. MASS TRANSIT SET-ASIDE.**

16 Section 5338(h) of title 49, United States Code, is
17 amended—

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

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

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

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

1 “(A) under an allocation formula, which
2 shall be established by the Secretary of Trans-
3 portation through negotiations with Indian
4 tribes; and

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

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