

116TH CONGRESS
1ST SESSION

S. 1211

To provide for improvements to Tribal transportation facilities and Tribal transportation safety, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 11, 2019

Mr. HOEVEN (for himself, Mr. CRAMER, and Ms. MCSALLY) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To provide for improvements to Tribal transportation facilities and Tribal transportation 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 “Addressing Under-
5 developed and Tribally Operated Streets Act”.

6 **SEC. 2. DEFINITION OF SECRETARY.**

7 In this Act, the term “Secretary” means the Sec-
8 retary of the Interior.

1 **SEC. 3. APPLICATION OF CATEGORICAL EXCLUSIONS TO**
 2 **CERTAIN TRIBAL TRANSPORTATION FACILI-**
 3 **TIES.**

4 (a) DEFINITION OF TRIBAL TRANSPORTATION SAFE-
 5 TY PROJECT.—

6 (1) IN GENERAL.—In this section, the term
 7 “tribal transportation safety project” means a
 8 project described in paragraph (2) that is eligible for
 9 funding under section 202 of title 23, United States
 10 Code, and that—

11 (A) corrects or improves a hazardous road
 12 location or feature; or

13 (B) addresses a highway safety problem.

14 (2) PROJECTS DESCRIBED.—A project de-
 15 scribed in this paragraph is a project for 1 or more
 16 of the following:

17 (A) An intersection safety improvement.

18 (B) Pavement and shoulder widening (in-
 19 cluding the addition of a passing lane to remedy
 20 an unsafe condition).

21 (C) Installation of rumble strips or another
 22 warning device, if the rumble strips or other
 23 warning devices do not adversely affect the
 24 safety or mobility of bicyclists and pedestrians,
 25 including persons with disabilities.

1 (D) Installation of a skid-resistant surface
2 at an intersection or other location with a high
3 frequency of crashes.

4 (E) An improvement for pedestrian or bi-
5 cyclist safety or the safety of persons with dis-
6 abilities.

7 (F) Construction and improvement of a
8 railway-highway grade crossing safety feature,
9 including the installation of protective devices.

10 (G) The conduct of a model traffic enforce-
11 ment activity at a railway-highway crossing.

12 (H) Construction of a traffic calming fea-
13 ture.

14 (I) Elimination of a roadside hazard.

15 (J) Installation, replacement, and other
16 improvements of highway signage and pavement
17 markings or a project to maintain minimum
18 levels of retroreflectivity that addresses a high-
19 way safety problem consistent with a State
20 strategic highway safety plan.

21 (K) Installation of a priority control sys-
22 tem for emergency vehicles at signalized inter-
23 sections.

1 (L) Installation of a traffic control or other
2 warning device at a location with high crash po-
3 tential.

4 (M) Transportation safety planning.

5 (N) Collection, analysis, and improvement
6 of safety data.

7 (O) Planning integrated interoperable
8 emergency communications equipment, oper-
9 ational activities, or traffic enforcement activi-
10 ties (including police assistance) relating to
11 work zone safety.

12 (P) Installation of guardrails, barriers (in-
13 cluding barriers between construction work
14 zones and traffic lanes for the safety of road
15 users and workers), and crash attenuators.

16 (Q) The addition or retrofitting of struc-
17 tures or other measures to eliminate or reduce
18 crashes involving vehicles and wildlife.

19 (R) Installation of yellow-green signs and
20 signals at pedestrian and bicycle crossings and
21 in school zones.

22 (S) Construction and operational improve-
23 ments on a high risk rural road (as defined in
24 section 148(a) of title 23, United States Code).

1 (T) Geometric improvements to a road for
 2 the purposes of safety improvement.

3 (U) A road safety audit.

4 (V) Roadway safety infrastructure im-
 5 provements consistent with the recommenda-
 6 tions included in the publication of the Federal
 7 Highway Administration entitled “Handbook
 8 for Designing Roadways for the Aging Popu-
 9 lation” (FHWA–SA–14–015), dated June 2014
 10 (or a revised or updated publication).

11 (W) Truck parking facilities eligible for
 12 funding under section 1401 of MAP–21 (23
 13 U.S.C. 137 note; Public Law 112–141).

14 (X) Systemic safety improvements.

15 (Y) Installation of vehicle-to-infrastructure
 16 communication equipment.

17 (Z) Pedestrian hybrid beacons.

18 (AA) Roadway improvements that provide
 19 separation between pedestrians and motor vehi-
 20 cles, including medians and pedestrian crossing
 21 islands.

22 (BB) A physical infrastructure safety
 23 project not described in subparagraphs (A)
 24 through (AA).

25 (b) NEW CATEGORICAL EXCLUSIONS.—

1 (1) REVIEW OF EXISTING TRIBAL CATEGORICAL
2 EXCLUSIONS.—The Secretary shall review the cat-
3 egorical exclusions under section 771.117 of title 23,
4 Code of Federal Regulations (or successor regula-
5 tions), to determine which, if any, are applicable for
6 use by the Secretary in review of projects eligible for
7 assistance under section 202 of title 23, United
8 States Code.

9 (2) REVIEW OF TRIBAL TRANSPORTATION
10 SAFETY PROJECTS.—The Secretary shall identify
11 types of tribal transportation safety projects that
12 meet the requirements for categorical exclusions
13 under sections 1507.3 and 1508.4 of title 40, Code
14 of Federal Regulations.

15 (3) PROPOSAL.—The Secretary shall issue a
16 proposed rule, in accordance with sections 1507.3
17 and 1508.4 of title 40, Code of Federal Regulations,
18 to propose any categorical exclusions identified
19 under paragraphs (1) and (2).

20 (4) DEADLINE.—Not later than 180 days after
21 the date of enactment of this Act, and after consid-
22 ering any comments on the proposed rule issued
23 under paragraph (3), the Secretary shall promulgate
24 a final rule for the categorical exclusions, in accord-

1 ance with sections 1507.3 and 1508.4 of title 40,
2 Code of Federal Regulations.

3 (5) TECHNICAL ASSISTANCE.—The Secretary of
4 Transportation shall provide technical assistance to
5 the Secretary in carrying out this subsection.

6 (c) REVIEWS OF TRIBAL TRANSPORTATION SAFETY
7 PROJECTS.—

8 (1) IN GENERAL.—The Secretary or the head of
9 another Federal agency responsible for a decision re-
10 lated to a tribal transportation safety project shall
11 complete any approval or decision for the review of
12 the tribal transportation safety project required
13 under the National Environmental Policy Act of
14 1969 (42 U.S.C. 4321 et seq.) or any other applica-
15 ble Federal law on an expeditious basis using the
16 shortest existing applicable process.

17 (2) REVIEW OF APPLICATIONS.—Not later than
18 45 days after the date of receipt of a complete appli-
19 cation by an Indian tribe for approval of a tribal
20 transportation safety project, the Secretary shall—

21 (A) take final action on the application; or

22 (B) provide the Indian tribe a schedule for
23 completion of the review described in paragraph
24 (1), including the identification of any other

1 Federal agency that has jurisdiction with re-
2 spect to the project.

3 (3) DECISIONS UNDER OTHER FEDERAL
4 LAWS.—In any case in which a decision under any
5 other Federal law relating to a tribal transportation
6 safety project (including the issuance or denial of a
7 permit or license) is required, not later than 45 days
8 after the Secretary has made all decisions of the
9 lead agency under the National Environmental Pol-
10 icy Act of 1969 (42 U.S.C. 4321 et seq.) with re-
11 spect to the project, the head of the Federal agency
12 responsible for the decision shall—

13 (A) make the applicable decision; or

14 (B) provide the Indian tribe a schedule for
15 making the decision.

16 (4) EXTENSIONS.—The Secretary or the head
17 of an applicable Federal agency may extend the pe-
18 riod under paragraph (2) or (3), as applicable, by an
19 additional 30 days by providing the Indian tribe no-
20 tice of the extension, including a statement of the
21 need for the extension.

22 (5) NOTIFICATION AND EXPLANATION.—In any
23 case in which a required action is not completed by
24 the deadline under paragraph (2), (3), or (4), as ap-

1 applicable, the Secretary or the head of a Federal
2 agency, as applicable, shall—

3 (A) notify the Committee on Indian Affairs
4 and the Committee on Environment and Public
5 Works of the Senate and the Committee on
6 Natural Resources of the House of Representa-
7 tives of the failure to comply with the deadline;
8 and

9 (B) provide to the Committees described in
10 subparagraph (A) a detailed explanation of the
11 reasons for the failure to comply with the dead-
12 line.

13 **SEC. 4. PROGRAMMATIC AGREEMENTS FOR TRIBAL CAT-**
14 **EGORICAL EXCLUSIONS.**

15 (a) IN GENERAL.—The Secretary shall enter into
16 programmatic agreements with Indian tribes that estab-
17 lish efficient administrative procedures for carrying out
18 environmental reviews for projects eligible for assistance
19 under section 202 of title 23, United States Code.

20 (b) INCLUSIONS.—A programmatic agreement under
21 subsection (a)—

22 (1) may include an agreement that allows an
23 Indian tribe to determine, on behalf of the Sec-
24 retary, whether a project is categorically excluded
25 from the preparation of an environmental assess-

1 ment or environmental impact statement under the
2 National Environmental Policy Act of 1969 (42
3 U.S.C. 4321 et seq.); and

4 (2) shall—

5 (A) require that the Indian tribe maintain
6 adequate capability in terms of personnel and
7 other resources to carry out applicable agency
8 responsibilities pursuant to section 1507.2 of
9 title 40, Code of Federal Regulations (or suc-
10 cessor regulations);

11 (B) set forth the responsibilities of the In-
12 dian tribe for making categorical exclusion de-
13 terminations, documenting the determinations,
14 and achieving acceptable quality control and
15 quality assurance;

16 (C) allow—

17 (i) the Secretary to monitor compli-
18 ance of the Indian tribe with the terms of
19 the agreement; and

20 (ii) the Indian tribe to execute any
21 needed corrective action;

22 (D) contain stipulations for amendments,
23 termination, and public availability of the agree-
24 ment once the agreement has been executed;
25 and

1 (E) have a term of not more than 5 years,
 2 with an option for renewal based on a review by
 3 the Secretary of the performance of the Indian
 4 tribe.

5 **SEC. 5. USE OF CERTAIN TRIBAL TRANSPORTATION FUNDS.**

6 Section 202(d) of title 23, United States Code, is
 7 amended—

8 (1) by striking paragraph (2) and inserting the
 9 following:

10 “(2) USE OF FUNDS.—Funds made available to
 11 carry out this subsection shall be used—

12 “(A) to carry out any planning, design, en-
 13 gineering, preconstruction, construction, and in-
 14 spection of new or replacement tribal transpor-
 15 tation facility bridges;

16 “(B) to replace, rehabilitate, seismically
 17 retrofit, paint, apply calcium magnesium ace-
 18 tate, sodium acetate/formate, or other environ-
 19 mentally acceptable, minimally corrosive anti-
 20 icing and deicing composition; or

21 “(C) to implement any countermeasure for
 22 deficient tribal transportation facility bridges,
 23 including multiple-pipe culverts.”; and

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

25 “(5) FUNDING.—

“(A) IN GENERAL.—In addition to any other funds made available to carry out this section, there are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection—

“(i) \$16,000,000 for fiscal year 2021;

“(ii) \$18,000,000 for fiscal year 2022;

“(iii) \$20,000,000 for fiscal year 2023;

“(iv) \$22,000,000 for fiscal year 2024; and

“(v) \$24,000,000 for fiscal year 2025.

“(B) TREATMENT.—For purposes of section 201, funds made available under subparagraph (A) shall be considered to be part of the tribal transportation program.”.

SEC. 6. BUREAU OF INDIAN AFFAIRS ROAD MAINTENANCE PROGRAM.

There are authorized to be appropriated to the Director of the Bureau of Indian Affairs to carry out the road maintenance program of the Bureau—

(1) \$46,000,000 for fiscal year 2021;

(2) \$48,000,000 for fiscal year 2022;

(3) \$50,000,000 for fiscal year 2023;

1 (4) \$52,000,000 for fiscal year 2024; and

2 (5) \$54,000,000 for fiscal year 2025.

3 **SEC. 7. STUDY OF ROAD MAINTENANCE ON INDIAN LAND.**

4 (a) DEFINITIONS.—In this section:

5 (1) INDIAN LAND.—The term “Indian land”
6 has the meaning given the term “Indian lands” in
7 section 3 of the Native American Business Develop-
8 ment, Trade Promotion, and Tourism Act of 2000
9 (25 U.S.C. 4302).

10 (2) INDIAN TRIBE.—The term “Indian tribe”
11 has the meaning given the term in section 4 of the
12 Indian Self-Determination and Education Assistance
13 Act (25 U.S.C. 5304).

14 (3) ROAD.—The term “road” means a road
15 managed in whole or in part by the Bureau of In-
16 dian Affairs.

17 (4) SECRETARY.—The term “Secretary” means
18 the Secretary, acting through the Assistant Sec-
19 retary for Indian Affairs.

20 (b) STUDY.—Not later than 2 years after the date
21 of enactment of this Act, the Secretary, in consultation
22 with the Secretary of Transportation, shall carry out a
23 study to evaluate—

24 (1) the long-term viability and useful life of ex-
25 isting roads on Indian land;

1 (2) any steps necessary to achieve the goal of
2 addressing the deferred maintenance backlog of ex-
3 isting roads on Indian land;

4 (3) programmatic reforms and performance en-
5 hancements necessary to achieve the goal of restruc-
6 turing and streamlining road maintenance programs
7 on existing or future roads located on Indian land;
8 and

9 (4) recommendations on how to implement ef-
10 forts to coordinate with States, counties, municipali-
11 ties, and other units of local government to maintain
12 roads on Indian land.

13 (c) TRIBAL CONSULTATION AND INPUT.—Before be-
14 ginning the study under subsection (b), the Secretary
15 shall—

16 (1) consult with any Indian tribes that have ju-
17 risdiction over roads eligible for funding under the
18 road maintenance program of the Bureau of Indian
19 Affairs; and

20 (2) solicit and consider the input, comments,
21 and recommendations of the Indian tribes described
22 in paragraph (1).

23 (d) REPORT.—On completion of the study under sub-
24 section (b), the Secretary, in consultation with the Sec-
25 retary of Transportation, shall submit to the Committees

1 on Indian Affairs and Environment and Public Works of
2 the Senate and the Committees on Natural Resources and
3 Transportation and Infrastructure of the House of Rep-
4 resentatives a report on the results and findings of the
5 study.

6 (e) STATUS REPORT.—Not later than 2 years after
7 the date of enactment of this Act, and not less frequently
8 than every 2 years thereafter, the Secretary, in consulta-
9 tion with the Secretary of Transportation, shall submit to
10 the Committees on Indian Affairs and Environment and
11 Public Works of the Senate and the Committees on Nat-
12 ural Resources and Transportation and Infrastructure of
13 the House of Representatives a report that includes a de-
14 scription of—

15 (1) the progress made toward addressing the
16 deferred maintenance needs of the roads on Indian
17 land, including a list of projects funded during the
18 fiscal period covered by the report;

19 (2) the outstanding needs of the roads that
20 have been provided funding to address the deferred
21 maintenance needs;

22 (3) the remaining needs of any of the projects
23 referred to in paragraph (1);

24 (4) how the goals described in subsection (b)
25 have been met, including—

1 (A) an identification and assessment of
 2 any deficiencies or shortfalls in meeting the
 3 goals; and

4 (B) a plan to address the deficiencies or
 5 shortfalls in meeting the goals; and

6 (5) any other issues or recommendations pro-
 7 vided by an Indian tribe under the consultation and
 8 input process under subsection (c) that the Sec-
 9 retary determines to be appropriate.

10 **SEC. 8. MAINTENANCE OF CERTAIN INDIAN RESERVATION**
 11 **ROADS.**

12 The Commissioner of U.S. Customs and Border Pro-
 13 tection may transfer funds to the Director of the Bureau
 14 of Indian Affairs to maintain or repair roads under the
 15 jurisdiction of the Director, subject to the condition that
 16 the Commissioner and the Director shall mutually agree
 17 that the primary user of the subject road is U.S. Customs
 18 and Border Protection.

19 **SEC. 9. TRIBAL TRANSPORTATION SAFETY NEEDS.**

20 (a) DEFINITIONS.—In this section:

21 (1) ALASKA NATIVE.—The term “Alaska Na-
 22 tive” has the meaning given the term “Native” in
 23 section 3 of the Alaska Native Claims Settlement
 24 Act (43 U.S.C. 1602).

1 (2) ALASKA NATIVE VILLAGE.—The term
 2 “Alaska Native village” has the meaning given the
 3 term “Native village” in section 3 of the Alaska Na-
 4 tive Claims Settlement Act (43 U.S.C. 1602).

5 (3) INDIAN TRIBE.—The term “Indian tribe”
 6 has the meaning given the term in section 4 of the
 7 Indian Self-Determination and Education Assistance
 8 Act (25 U.S.C. 5304).

9 (b) BEST PRACTICES, STANDARDIZED CRASH RE-
 10 PORT FORM.—

11 (1) IN GENERAL.—Not later than 1 year after
 12 the date of enactment of this Act, the Secretary of
 13 Transportation, in consultation with the Secretary,
 14 Indian tribes, Alaska Native villages, and State de-
 15 partments of transportation shall develop—

16 (A) best practices for the compiling, anal-
 17 ysis, and sharing of motor vehicle crash data
 18 for crashes occurring on Indian reservations
 19 and in Alaska Native communities; and

20 (B) a standardized form for use by Indian
 21 tribes and Alaska Native communities to carry
 22 out those best practices.

23 (2) PURPOSE.—The purpose of the best prac-
 24 tices and standardized form developed under para-
 25 graph (1) shall be to improve the quality and quan-

1 tity of crash data available to and used by the Fed-
2 eral Highway Administration, State departments of
3 transportation, Indian tribes, and Alaska Native vil-
4 lages.

5 (3) REPORT.—On completion of the develop-
6 ment of the best practices and standardized form
7 under paragraph (1), the Secretary of Transpor-
8 tation shall submit to the Committee on Indian Af-
9 fairs of the Senate and the Committee on Natural
10 Resources of the House of Representatives a report
11 describing the best practices and standardized form.

12 (c) USE OF IMARS.—The Director of the Bureau of
13 Indian Affairs shall require all law enforcement offices of
14 the Bureau, for the purpose of reporting motor vehicle
15 crash data for crashes occurring on Indian reservations
16 and in Alaska Native communities—

17 (1) to use the crash report form of the applica-
18 ble State; and

19 (2) to upload the information on that form to
20 the Incident Management Analysis and Reporting
21 System (IMARS) of the Department of the Interior.

22 (d) TRIBAL TRANSPORTATION PROGRAM SAFETY
23 FUNDING.—Section 202(e)(1) of title 23, United States

- 1 Code, is amended by striking “2 percent” and inserting
- 2 “4 percent”.

