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SENATE

{ REPORT
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TRIBAL INFRASTRUCTURE AND ROADS ENHANCEMENT AND SAFETY ACT (TIRES ACT)

FEBRUARY 29, 2016.—Ordered to be printed

Mr. BARRASSO, from the Committee on Indian Affairs,
submitted the following

R E P O R T

[To accompany S. 1776]

The Committee on Indian Affairs, to which was referred the bill (S. 1776) to enhance tribal road safety, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

PURPOSE

The purpose of S. 1776 is intended to expedite and streamline various safety road projects, give Indian tribes better access to crash data, and seek ways to improve safety on public roads throughout Indian Country.

BACKGROUND

Improving safety on roads in Indian and Alaska Native communities through the TIRES Act would significantly improve the quality of life for these communities. Motor vehicle crashes are the leading cause of death of Indian children according to the Centers for Disease Control and Prevention (CDC). Native American infants, under the age of one, *are eight times more likely to die in a vehicle-related crash than non-Native infants*. Motor vehicle crashes are also the leading cause of unintentional injury for Native adults.

From 2004–2010, the CDC reported the following five states with the highest motor vehicle-related death rates for Native Americans:

- Wyoming (72 deaths per 100,000 population)
- South Dakota (59 deaths per 100,000 population)
- Montana and North Dakota (56 deaths per 100,000 population)

- Arizona (45 deaths per 100,000 population)

The CDC estimated that the national rate was 10.7 deaths per 100,000 population, during the same time frame.

Between 1975 and 2002, the number of fatal motor vehicle crashes on Indian reservations and in Alaska Native villages increased more than 50 percent. Meanwhile, fatal motor vehicle crashes for the rest of the United States declined 2 percent according to the Department of Transportation (DOT).

In a 2004 National Highway Traffic Safety Administration (NHTSA) study, it was reported that of those individuals who died in motor vehicle crashes on reservations, 76 percent of them were not wearing a seat belt. In 2011, the NHTSA reported 569 motor vehicle crash fatalities and 181 non-Native motor vehicle crash fatalities on reservation lands.

In 2012, the NHTSA estimated 42 percent of motor vehicle crashes on Indian lands were alcohol related. The national average during that year was 31 percent.

Bureau of Indian Affairs. On April 22, 2015, Director Michael Black of the Bureau of Indian Affairs (BIA) testified before the Senate Indian Affairs Committee at an oversight hearing on seeking pathways to safer roads in Indian Country. In his testimony, he stated that “[a]pproximately 20,300 miles (70 percent) of the BIA system roads are not paved and are, thus, considered ‘inadequate’ from the perspective of the level of service index used to address roads and bridges in the BIA road system.” He also testified that “certain programs have decreased shares under MAP-21.” One of those programs losing funding was the Tribal Transportation Program Bridge Program as a result of its consolidation into the Tribal Transportation Program.

LEGISLATIVE HISTORY

On July 15, 2015, Senator Barrasso introduced S. 1776, along with Senator Crapo. The bill was referred to the Senate Committee on Indian Affairs. The Committee did not hold a legislative hearing on the bill. But on April 22, 2015, the Committee held an oversight hearing entitled, “Tribal Transportation: Pathways to Safer Roads in Indian Country” on the issue. On July 22, 2015, the Committee met at a duly called business meeting to consider the bill. By voice vote, the Committee then ordered the bill, as amended, to be reported favorably, to the Senate.

AMENDMENT

Only one amendment was offered to S. 1776 to be considered at the business meeting on July 22, 2015. Chairman Barrasso offered an amendment, in the nature of a substitute, which would clarify roads eligible for categorical exclusion and include certain roads serving Alaska Native villages (at the request of Senator Murkowski). The amendment was agreed to by voice vote.

SECTION-BY-SECTION ANALYSIS OF BILL AS ORDERED REPORTED

Section 1: Short title

The Tribal Infrastructure and Roads Enhancement and Safety Act or “TIRES Act.”

Section 2: Definitions

This section defines the term Indian Reservation to mean what it is defined as in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452).

This section defines the term Secretary to mean the Secretary of the Interior.

Section 3: Application of categorical exclusions to certain tribal transportation facilities

This section states that certain highway projects, including projects administered by the BIA, located on an Indian reservation, are categorically excluded from the requirements of environmental assessments and environmental impact statements under the National Environmental Policy Act (NEPA).

Section 4: Streamlining for tribal public safety projects within existing operational rights-of-way

This section allows for expedited treatment for permits and approvals that might be required by agencies such as the U.S. Army Corps of Engineers, Fish and Wildlife, etc., if a tribal public safety project, as defined by this Act, is in the operational right of way and is a categorical exclusion project. Such treatment is only granted if a tribal department of transportation (or an official representing the Indian tribe), the State, or Bureau of Indian Affairs, certifies to the Secretary of Transportation that there is a safety benefit to the public.

A federal agency (Corps of Engineers, Fish and Wildlife, etc.) would have to make a determination no later than 45 days from the date of receipt, with a potential extension of 30 days, on an application by an Indian tribe for a permit, approval, or jurisdictional determination. If no decision is made by the Secretary in that time, the permit or approval is granted. An agency has the ability to deny any such permit within the 75 day period.

Section 5: Bureau of Indian Affairs reduction in administrative fee

This section reduces the administrative fee charged by the BIA from 6 percent to 5 percent.

Section 6: Option of assuming NEPA approval authority

This section allows for an Indian tribe to assume authority over and responsibility for NEPA for projects on reservations. Eligible Indian tribes are defined by this section. Such Indian tribes would be required to designate an official to represent the Indian tribe and assume the status of a responsible Federal official. Indian tribes that apply for this authority would have to accept the jurisdiction of the Federal court.

Section 7: Tribal Government transportation safety data report

This section requires a report to Congress, no later than one year after the date of enactment, by the Secretary of the Interior, in consultation with the Secretary of Transportation, the Attorney General, and the Secretary of Health and Human Services on improving the collection and sharing of motor vehicle crash data on Indian reservations and seeking data an Indian tribe can use to recover damages to tribal property caused by motorists.

This section requires that the Secretary provide Indian tribes with options and best practices for the transition to paperless transportation safety data reporting systems that improve the collection of crash reports, archive and share crash records, and use data exclusively to address traffic safety issues on Indian reservations.

Section 8: Bureau of Indian Affairs road safety study

This section requires a road safety study to be conducted by the Secretary of the Interior, acting through the Assistant Secretary for Indian Affairs, in consultation with the Secretary of Transportation, the Attorney General, and the States. The study would identify and evaluate options for improving safety on public roads on Indian reservations. The study would be submitted to the Senate Committee on Indian Affairs and the House Natural Resources Committee.

Section 9: Tribal transportation funding

This section restores the Transportation Facility Bridge Program as a separate program from the Tribal Transportation Program, as it had been in previous federal law. Under this section, the Tribal Transportation Program is adjusted for inflation through FY 2021. The Tribal Transportation Facility Bridge Program would also receive modest increases in funding through FY 2021.

COST AND BUDGETARY CONSIDERATIONS

The following cost estimate, as provided by the Congressional Budget Office, February 16, 2016, was prepared for S. 1776:

FEBRUARY 16, 2016.

Hon. JOHN BARRASSO,
Chairman, Committee on Indian Affairs
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sarah Puro.

Sincerely,

KEITH HALL.

Enclosure.

Summary: Based on information presented to CBO, CBO assumes that most spending for tribal highways programs funded from the Highway Trust Fund will continue to be controlled by obligation limitations set in appropriations acts. CBO estimates that the bill would authorize an increase in obligation limitations equal to the increase in budget authority over the 2016–2021 period. Under that assumption CBO estimates that implementing the bill would cost \$150 million over the 2016–2026 period.

CBO estimates that enacting the legislation would not increase net direct spending or on budget deficits in any of the four consecutive 10-year periods beginning in 2027.

S. 1776, contains no intergovernmental or private-sector mandates as defined in Unfunded Mandates Reform Act (UMRA).

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 1776.

REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 1776 will have a minimal impact on regulatory or paperwork requirements.

CHANGES IN EXISTING LAW (CORDON RULE)

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee finds that the enactment of S. 1776 will not make any changes in existing law.

