

**AMENDMENT**

**OFFERED BY MR. JOHNSON OF SOUTH DAKOTA**

At the end of title I of division B of the bill, add the following:

1 **SEC. \_\_\_\_ . TRIBAL TRANSPORTATION PROGRAM.**

2 (a) IN GENERAL.—Section 202 of title 23, United  
3 States Code, is amended—

4 (1) in subsection (a)(9)(A), by striking “con-  
5 struction and improvement” and inserting “con-  
6 struction, improvement, and highway safety”;

7 (2) in subsection (b)—

8 (A) in paragraph (1)—

9 (i) by striking subparagraph (D) and  
10 inserting the following:

11 “(D) ADDITIONAL FACILITIES.—

12 “(i) IN GENERAL.—Not later than  
13 270 days after the date of enactment of  
14 the Tribal Transportation Equity and  
15 Transparency Improvement Act of 2021,  
16 and not less frequently than every 3 years  
17 thereafter, the Secretary of the Interior  
18 shall publish in the Federal Register a no-  
19 tice requesting proposals from Indian

1 tribes to include additional transportation  
2 facilities that are eligible for funding under  
3 the tribal transportation program in the  
4 inventory described in subparagraph (A), if  
5 those proposed additional facilities are in-  
6 cluded in the inventory in a uniform and  
7 consistent manner nationally.

8 “(ii) RULE OF CONSTRUCTION.—  
9 Nothing in this subparagraph—

10 “(I) prohibits the Secretary of  
11 the Interior from including in the in-  
12 ventory under subparagraph (A) addi-  
13 tional transportation facilities more  
14 frequently than required under clause  
15 (i), including, as necessary, in re-  
16 sponse to a proposal from an eligible  
17 Indian tribe submitted during a pe-  
18 riod not described in the notice under  
19 clause (i); or

20 “(II) requires Indian tribes to  
21 submit proposals to the Secretary of  
22 the Interior in response to the notice  
23 required under clause (i).”; and

24 (ii) by adding at the end the fol-  
25 lowing:

1           “(F) PUBLIC AVAILABILITY.—The Sec-  
2           retary of the Interior shall ensure that all non-  
3           confidential information within the inventory  
4           described in subparagraph (A) is made avail-  
5           able—

6                   “(i) in a user-friendly manner on the  
7                   public website of the Department of the  
8                   Interior; and

9                   “(ii) in a manner capable of being  
10                  searched and downloaded by users of the  
11                  public website of the Department of the  
12                  Interior.”; and

13                  (B) in paragraph (3)(B), in the matter  
14                  preceding clause (i), by striking “fiscal year  
15                  2012” and inserting “the most recent fiscal  
16                  year for which data is available”;

17                  (3) in subsection (c)—

18                   (A) in paragraph (3)—

19                           (i) in subparagraph (A), by striking “;  
20                           and” at the end and inserting a period;

21                           (ii) by striking subparagraph (B); and

22                           (iii) in the matter preceding subpara-  
23                           graph (A), by striking “shall be—” and all  
24                           that follows through “selected by” in sub-

1 paragraph (A), and inserting “shall be se-  
2 lected by”; and

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

4 “(4) **NATIONALLY SIGNIFICANT FEDERAL**  
5 **LANDS AND TRIBAL PROJECTS PROGRAM.**—Notwith-  
6 standing any other provision of this section, amounts  
7 made available to Indian tribes under subsection  
8 (b)(3) may be used for planning and design activi-  
9 ties related to applications for grants under the na-  
10 tionally significant Federal lands and tribal projects  
11 program under section 1123 of the FAST Act (23  
12 U.S.C. 201 note; Public Law 114–94).”; and

13 (4) in subsection (e)(2), by striking “as appro-  
14 priate,” and inserting “subject to subsection  
15 (a)(9),”.

16 (b) **INSPECTOR GENERAL REVIEW.**—

17 (1) **IN GENERAL.**—Not later than 180 days  
18 after the date of enactment of this Act, the Inspec-  
19 tor General of the Department of Transportation  
20 and the Inspector General of the Department of the  
21 Interior shall jointly begin an audit of the tribal  
22 transportation program under section 202 of title  
23 23, United States Code (referred to in this section  
24 as the “program”).

1           (2) REVIEW.—The audit under paragraph (1)  
2 shall include—

3           (A) a review of the data collection and  
4 management processes used by the Secretary of  
5 the Interior in maintaining the national inven-  
6 tory of tribal transportation facilities under sec-  
7 tion 202(b)(1) of title 23, United States Code;  
8 and

9           (B) a review of the administration of the  
10 program, including whether—

11           (i) funding under the program is dis-  
12 tributed in a timely manner that is con-  
13 sistent with statutory and regulatory re-  
14 quirements; and

15           (ii) the current procedures and prac-  
16 tices used by the Secretary of the Interior  
17 to allocate funding for tribal transportation  
18 facilities (as defined in section 101(a) of  
19 title 23, United States Code) under the  
20 program are transparent and consistently  
21 applied.

22           (3) REPORT.—Not later than 1 year after the  
23 date of enactment of this Act, the Inspector General  
24 of the Department of Transportation and the In-  
25 spector General of the Department of the Interior

1 shall jointly submit a report describing the results of  
2 the audit under paragraph (1) to—

3 (A) the Committee on Environment and  
4 Public Works of the Senate;

5 (B) the Committee on Indian Affairs of the  
6 Senate;

7 (C) the Committee on Transportation and  
8 Infrastructure of the House of Representatives;  
9 and

10 (D) the Committee on Natural Resources  
11 of the House of Representatives.

12 (c) COMPTROLLER GENERAL REVIEW.—

13 (1) IN GENERAL.—The Comptroller General of  
14 the United States (referred to in this subsection as  
15 the “Comptroller General”) shall initiate an audit of  
16 the program.

17 (2) REVIEW.—The audit under paragraph (1)  
18 shall include an examination of—

19 (A) the funding formula of the program  
20 under section 202(b)(3) of title 23, United  
21 States Code, including key decisions made over  
22 time that have affected the methods used to de-  
23 termine tribal shares of program funds;

24 (B) whether, for purposes of allocating  
25 funding under section 202 of title 23, United

1 States Code, the allocation methodology under  
2 subpart D of part 1000 of title 24, Code of  
3 Federal Regulations (as in effect on the date of  
4 enactment of this Act), provides an accurate  
5 and reliable estimate of tribal population;

6 (C) potential alternatives to the method-  
7 ology described in subparagraph (B) for pur-  
8 poses of allocating funding under section 202 of  
9 title 23, United States Code;

10 (D) how the Secretary of the Interior en-  
11 sures that—

12 (i) the program is consistently admin-  
13 istered; and

14 (ii) program decisions are trans-  
15 parently and consistently made; and

16 (E) the potential effects of having the pro-  
17 gram administered solely by the Secretary of  
18 the Interior or the Secretary of Transportation.

19 (3) REPORT.—Not later than 540 days after  
20 the date of enactment of this Act, the Comptroller  
21 General shall submit a report describing the results  
22 of the audit under paragraph (1) to—

23 (A) the Committee on Environment and  
24 Public Works of the Senate;

1 (B) the Committee on Indian Affairs of the  
2 Senate;

3 (C) the Committee on Transportation and  
4 Infrastructure of the House of Representatives;  
5 and

6 (D) the Committee on Natural Resources  
7 of the House of Representatives.

8 (d) OBLIGATION LIMITATIONS.—Notwithstanding  
9 section 1102(a) of the FAST Act (23 U.S.C. 104 note;  
10 Public Law 114–94) or any other provision of law pro-  
11 viding a limitation on obligations for Federal-aid highway  
12 and highway safety construction programs for a fiscal  
13 year, amounts made available to carry out the tribal trans-  
14 portation program under section 202 of title 23, United  
15 States Code, for a fiscal year shall not be subject to the  
16 obligation limitation for that fiscal year.

17 **SEC. \_\_\_\_ . TRANSPORTATION FACILITY ELIGIBILITY.**

18 (a) DEFINITIONS.—In this section:

19 (1) INVENTORY.—The term “inventory” means  
20 the national inventory of tribal transportation facili-  
21 ties under section 202(b) of title 23, United States  
22 Code.

23 (2) PROPOSED ROAD.—The term “proposed  
24 road” means a proposed road or facility (as defined  
25 in section 170.5 of title 25, Code of Federal Regula-



1 tions (as in effect on the date of enactment of this  
2 Act)) that is a road, including a primary access  
3 route (as defined in that section).

4 (3) SECRETARY.—The term “Secretary” means  
5 the Secretary of the Interior.

6 (b) DEADLINE.—Not later than 180 days after the  
7 date of enactment of this Act, and not less frequently than  
8 every 3 years thereafter, the Secretary and the Secretary  
9 of Transportation shall require each Indian tribe that in-  
10 tends to include a proposed road in the inventory to com-  
11 plete and submit for approval the documentation and  
12 other information required under section 170.443(a) of  
13 title 25, Code of Federal Regulations (as in effect on No-  
14 vember 6, 2019), for the proposed road.

15 (c) REPORT.—

16 (1) IN GENERAL.—Not later than 180 days  
17 after each deadline described in subsection (b), the  
18 Secretary shall submit to the Committee on Indian  
19 Affairs of the Senate and the Committee on Natural  
20 Resources of the House of Representatives a report  
21 describing the proposed roads approved to be in-  
22 cluded in the inventory.

23 (2) REQUIREMENTS.—Each report under para-  
24 graph (1) shall include, for each Indian reservation,  
25 Alaska Native village, or other recognized Indian

1 community (including former Indian reservations in  
2 the State of Oklahoma)—

3 (A) the mileage of proposed roads included  
4 in the inventory before the deadline described in  
5 subsection (b);

6 (B) the mileage of proposed roads ap-  
7 proved to be included in the inventory on the  
8 basis of the documentation and other informa-  
9 tion submitted under subsection (b); and

10 (C) an estimate, based on the documenta-  
11 tion and other information submitted under  
12 subsection (b), of the construction and mainte-  
13 nance costs of the proposed roads described in  
14 subparagraph (B).

15 **SEC. \_\_\_\_ . TRIBAL HIGHWAY SAFETY PARTNERSHIPS.**

16 Section 402 of title 23, United States Code, is  
17 amended—

18 (1) in subsection (b)(1)(C), by striking “by”  
19 and inserting “by, or on behalf of,”; and

20 (2) in subsection (h)(2)—

21 (A) by striking “Notwithstanding” and in-  
22 serting the following:

23 “(A) IN GENERAL.—Notwithstanding”;

24 and

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

1           “(B) COOPERATION.—In accordance with  
2           section 202(a)(9)(A), an Indian tribe may use  
3           amounts described in subparagraph (A) in co-  
4           operation with States, counties, and other local  
5           subdivisions for highway safety purposes.”.

6 **SEC. \_\_\_\_ . NATIONALLY SIGNIFICANT FEDERAL LANDS AND**  
7           **TRIBAL PROJECTS PROGRAM.**

8           Section 1123 of the FAST Act (23 U.S.C. 201 note;  
9           Public Law 114–94) is amended—

10           (1) in subsection (c)(3), by inserting “for a  
11           project that is to be carried out by an eligible entity  
12           that is not an Indian tribe,” before “having an”;  
13           and

14           (2) in subsection (g)(1)—

15           (A) by striking “shall be up to” and insert-  
16           ing the following: “shall be—

17           “(A) for a project carried out by an Indian  
18           tribe, up to 100 percent; and

19           “(B) for a project not described in sub-  
20           paragraph (A), up to”.

21 **SEC. \_\_\_\_ . TRIBAL TRANSPORTATION ADVISORY COM-**  
22           **MITTEE.**

23           (a) ESTABLISHMENT.—Subject to the availability of  
24           appropriations, not later than 180 days after the date of  
25           enactment of this Act, the Secretary of the Interior (re-

1 referred to in this section as the “Secretary”) shall establish  
2 within the Bureau of Indian Affairs a committee, to be  
3 known as the “Tribal Transportation Advisory Com-  
4 mittee” (referred to in this section as the “Committee”),  
5 which shall replace the Tribal Transportation Program  
6 Coordinating Committee established under sections  
7 170.135 through 170.137 of title 25, Code of Federal  
8 Regulations (as in effect on the date of enactment of this  
9 Act).

10 (b) MEMBERSHIP.—

11 (1) IN GENERAL.—The Committee shall be  
12 composed of—

13 (A) the Secretary (or a designee);

14 (B) representatives of a diverse group of  
15 Indian tribes, including—

16 (i) not fewer than 1 tribal representa-  
17 tive from each region of the Bureau of In-  
18 dian Affairs; and

19 (ii) not more than 3 tribal representa-  
20 tives from any 1 region of the Bureau of  
21 Indian Affairs;

22 (C) State and local representatives;

23 (D) not fewer than 1 representative of the  
24 Bureau of Indian Affairs;

1 (E) not fewer than 1 representative of the  
2 Department of Transportation; and

3 (F) other members, as determined to be  
4 appropriate by the Secretary in consultation  
5 with the Committee.

6 (2) APPOINTMENT.—The Secretary shall ap-  
7 point each member of the Committee.

8 (3) CHAIRPERSON.—The Secretary (or a des-  
9 ignee) shall serve as chairperson of the Committee.

10 (c) TERMS.—Except for the Secretary, each member  
11 of the Committee shall serve for a term of 3 years.

12 (d) VACANCIES.—Any vacancy occurring in the mem-  
13 bership of the Committee—

14 (1) shall be filled in the same manner as the  
15 original appointment was made; and

16 (2) shall not affect the power of the remaining  
17 members to carry out the duties of the Committee.

18 (e) DUTIES.—

19 (1) IN GENERAL.—The Committee shall—

20 (A) regularly provide advice to the Sec-  
21 retary on and, subject to the discretion of the  
22 Committee, study issues relating to tribal trans-  
23 portation, including—

1 (i) the tribal transportation program  
2 under section 202 of title 23, United  
3 States Code, including—

4 (I) the funding formula used to  
5 determine tribal shares under the trib-  
6 al transportation program; and

7 (II) the national tribal transpor-  
8 tation facility inventory established  
9 under subsection (b)(1) of that sec-  
10 tion;

11 (ii) the road maintenance program  
12 managed by the Bureau of Indian Affairs;

13 (iii) grants awarded to Indian tribes  
14 for public transportation using amounts  
15 made available under section 5311(e)(1) of  
16 title 49, United States Code;

17 (iv) transportation safety within tribal  
18 reservations, including—

19 (I) traffic safety; and

20 (II) safety partnerships with  
21 Federal, State, and local authorities;

22 (v) the availability of transportation  
23 funding in the event of a natural disaster;  
24 and

1 (vi) any other policies or procedures  
2 related to tribal transportation, as deter-  
3 mined by the Committee; and

4 (B) carry out the duties of the Tribal  
5 Transportation Program Coordinating Com-  
6 mittee established under sections 170.135  
7 through 170.137 of title 25, Code of Federal  
8 Regulations (as in effect on the date of enact-  
9 ment of this Act).

10 (2) BEST PRACTICES AND RECOMMENDA-  
11 TIONS.—The Committee may, on a periodic basis,  
12 develop and present to the Secretary best practices  
13 and recommendations regarding the issues described  
14 in clauses (i) through (vi) of paragraph (1)(A).

15 (3) SUBCOMMITTEES.—The Committee may es-  
16 tablish any subcommittees necessary to carry out the  
17 duties of the Committee.

18 (f) REPORT TO CONGRESS.—Not later than 180 days  
19 after receiving any recommendations from the Committee  
20 under subsection (e)(2), the Secretary shall submit to the  
21 relevant committees of Congress a report describing those  
22 recommendations.

23 (g) FEDERAL ADVISORY COMMITTEE ACT.—Except  
24 as otherwise provided in this section, the Federal Advisory

1 Committee Act (5 U.S.C. App.) shall apply to the Com-  
2 mittee and each subcommittee of the Committee.

3 (h) DETAIL OF FEDERAL EMPLOYEES.—

4 (1) IN GENERAL.—On request of the Com-  
5 mittee, the Secretary may detail, with or without re-  
6 imbursement, any of the personnel of the Depart-  
7 ment of the Interior or, in consultation with the Sec-  
8 retary of Transportation, the Department of Trans-  
9 portation, to the Committee to assist the Committee  
10 in carrying out the duties of the Committee.

11 (2) CIVIL SERVICE STATUS.—Any detail of a  
12 Federal employee under paragraph (1) shall not in-  
13 terrupt or otherwise affect the civil service status or  
14 privileges of the Federal employee being detailed.

15 (i) PAYMENT AND EXPENSES.—

16 (1) COMPENSATION.—Members of the Com-  
17 mittee shall serve without pay.

18 (2) TRAVEL EXPENSES.—Each member of the  
19 Committee shall receive, for a meeting called by the  
20 Secretary, travel expenses, including per diem in lieu  
21 of subsistence, in accordance with sections 5702 and  
22 5703 of title 5, United States Code.



1           (j) TERMINATION.—The Committee, including sub-  
2 committees of the Committee, shall terminate on the date  
3 that is 10 years after the date of enactment of this Act.

