AMENDMENT TO RULES COMMITTEE

PRINT 117–8

OFFERED BY MR. JOHNSON OF SOUTH DAKOTA

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

SEC. 1640. TRIBAL TRANSPORTATION PROGRAM.

(a) In General.—Section 202 of title 23, United States Code, is amended—

(1) in subsection (a)(9)(A), by striking “construction and improvement” and inserting “construction, improvement, and highway safety”;

(2) in subsection (b)—

(A) in paragraph (1)—

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

“(D) ADDITIONAL FACILITIES.—

“(i) IN GENERAL.—Not later than 270 days after the date of enactment of the Tribal Transportation Equity and Transparency Improvement Act of 2021, and not less frequently than every 3 years thereafter, the Secretary of the Interior shall publish in the Federal Register a no-
tice requesting proposals from Indian
tribes to include additional transportation
facilities that are eligible for funding under
the tribal transportation program in the
inventory described in subparagraph (A), if
those proposed additional facilities are in-
cluded in the inventory in a uniform and
consistent manner nationally.

“(ii) Rule of Construction.—

Nothing in this subparagraph—

“(I) prohibits the Secretary of
the Interior from including in the in-
ventory under subparagraph (A) addi-
tional transportation facilities more
frequently than required under clause
(i), including, as necessary, in re-
spose to a proposal from an eligible
Indian tribe submitted during a pe-
period not described in the notice under
clause (i); or

“(II) requires Indian tribes to
submit proposals to the Secretary of
the Interior in response to the notice
required under clause (i).”; and
(ii) by adding at the end the following:

“(F) PUBLIC AVAILABILITY.—The Secretary of the Interior shall ensure that all non-confidential information within the inventory described in subparagraph (A) is made available—

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

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

(B) in paragraph (3)(B), in the matter preceding clause (i), by striking “fiscal year 2012” and inserting “the most recent fiscal year for which data is available”;
that follows through “selected by” in sub-
paragraph (A), and inserting “shall be se-
lected by”; and

(B) by adding at the end the following:

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

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

(b) INSPECTOR GENERAL REVIEW.—

(1) IN GENERAL.—Not later than 180 days
after the date of enactment of this Act, the Inspec-
tor General of the Department of Transportation
and the Inspector General of the Department of the
Interior shall jointly begin an audit of the tribal
transportation program under section 202 of title
23, United States Code (referred to in this section
as the “program”).
(2) Review.—The audit under paragraph (1) shall include—

(A) a review of the data collection and management processes used by the Secretary of the Interior in maintaining the national inventory of tribal transportation facilities under section 202(b)(1) of title 23, United States Code; and

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

(i) funding under the program is distributed in a timely manner that is consistent with statutory and regulatory requirements; and

(ii) the current procedures and practices used by the Secretary of the Interior to allocate funding for tribal transportation facilities (as defined in section 101(a) of title 23, United States Code) under the program are transparent and consistently applied.

(3) Report.—Not later than 1 year after the date of enactment of this Act, the Inspector General of the Department of Transportation and the Inspector General of the Department of the Interior
shall jointly submit a report describing the results of
the audit under paragraph (1) to—

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

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

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

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

(c) COMPTROLLER GENERAL REVIEW.—

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

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

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

(B) whether, for purposes of allocating
funding under section 202 of title 23, United
States Code, the allocation methodology under subpart D of part 1000 of title 24, Code of Federal Regulations (as in effect on the date of enactment of this Act), provides an accurate and reliable estimate of tribal population;

(C) potential alternatives to the methodology described in subparagraph (B) for purposes of allocating funding under section 202 of title 23, United States Code;

(D) how the Secretary of the Interior ensures that—

(i) the program is consistently administered; and

(ii) program decisions are transparently and consistently made; and

(E) the potential effects of having the program administered solely by the Secretary of the Interior or the Secretary of Transportation.

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

(A) the Committee on Environment and Public Works of the Senate;
(B) the Committee on Indian Affairs of the Senate;

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

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

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

SEC. 1641. TRANSPORTATION FACILITY ELIGIBILITY.

(a) DEFINITIONS.—In this section:

(1) INVENTORY.—The term “inventory” means the national inventory of tribal transportation facilities under section 202(b) of title 23, United States Code.

(2) PROPOSED ROAD.—The term “proposed road” means a proposed road or facility (as defined in section 170.5 of title 25, Code of Federal Regu-
(as in effect on the date of enactment of this Act)) that is a road, including a primary access route (as defined in that section).

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

(b) DEADLINE.—Not later than 180 days after the date of enactment of this Act, and not less frequently than every 3 years thereafter, the Secretary and the Secretary of Transportation shall require each Indian tribe that intends to include a proposed road in the inventory to complete and submit for approval the documentation and other information required under section 170.443(a) of title 25, Code of Federal Regulations (as in effect on November 6, 2019), for the proposed road.

(c) REPORT.—

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

(2) REQUIREMENTS.—Each report under paragraph (1) shall include, for each Indian reservation, Alaska Native village, or other recognized Indian
community (including former Indian reservations in
the State of Oklahoma)—

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

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

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

SEC. 1642. TRIBAL HIGHWAY SAFETY PARTNERSHIPS.

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

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

(2) in subsection (h)(2)—

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

“(A) IN GENERAL.—Notwithstanding”;

and

(B) by adding at the end the following:
“(B) COOPERATION.—In accordance with section 202(a)(9)(A), an Indian tribe may use amounts described in subparagraph (A) in cooperation with States, counties, and other local subdivisions for highway safety purposes.”.

SEC. 1643. NATIONALLY SIGNIFICANT FEDERAL LANDS AND TRIBAL PROJECTS PROGRAM.

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

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

and

(2) in subsection (g)(1)—

(A) by striking “shall be up to” and inserting the following: “shall be—

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

“(B) for a project not described in subparagraph (A), up to”.

SEC. 1644. TRIBAL TRANSPORTATION ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—Subject to the availability of appropriations, not later than 180 days after the date of enactment of this Act, the Secretary of the Interior (re-
ferred to in this section as the “Secretary”) shall establish
within the Bureau of Indian Affairs a committee, to be
known as the “Tribal Transportation Advisory Com-
mittee” (referred to in this section as the “Committee”),
which shall replace the Tribal Transportation Program
Coordinating Committee established under sections
170.135 through 170.137 of title 25, Code of Federal
Regulations (as in effect on the date of enactment of this
Act).

(b) Membership.—

(1) In general.—The Committee shall be
composed of—

(A) the Secretary (or a designee);

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

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

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

(C) State and local representatives;

(D) not fewer than 1 representative of the
Bureau of Indian Affairs;
(E) not fewer than 1 representative of the Department of Transportation; and

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

(2) APPOINTMENT.—The Secretary shall appoint each member of the Committee.

(3) CHAIRPERSON.—The Secretary (or a designee) shall serve as chairperson of the Committee.

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

(d) VACANCIES.—Any vacancy occurring in the membership of the Committee—

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

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

(e) DUTIES.—

(1) IN GENERAL.—The Committee shall—

(A) regularly provide advice to the Secretary on and, subject to the discretion of the Committee, study issues relating to tribal transportation, including—
(i) the tribal transportation program under section 202 of title 23, United States Code, including—

(I) the funding formula used to determine tribal shares under the tribal transportation program; and

(II) the national tribal transportation facility inventory established under subsection (b)(1) of that section;

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

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

(iv) transportation safety within tribal reservations, including—

(I) traffic safety; and

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

(v) the availability of transportation funding in the event of a natural disaster; and
(vi) any other policies or procedures related to tribal transportation, as determined by the Committee; and

(B) carry out the duties of the Tribal Transportation Program Coordinating Committee established under sections 170.135 through 170.137 of title 25, Code of Federal Regulations (as in effect on the date of enactment of this Act).

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

(3) SUBCOMMITTEES.—The Committee may establish any subcommittees necessary to carry out the duties of the Committee.

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

(g) FEDERAL ADVISORY COMMITTEE ACT.—Except as otherwise provided in this section, the Federal Advisory
Committee Act (5 U.S.C. App.) shall apply to the Committee and each subcommittee of the Committee.

(h) DETAIL OF FEDERAL EMPLOYEES.—

(1) IN GENERAL.—On request of the Committee, the Secretary may detail, with or without reimbursement, any of the personnel of the Department of the Interior or, in consultation with the Secretary of Transportation, the Department of Transportation, to the Committee to assist the Committee in carrying out the duties of the Committee.

(2) CIVIL SERVICE STATUS.—Any detail of a Federal employee under paragraph (1) shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee being detailed.

(i) PAYMENT AND EXPENSES.—

(1) COMPENSATION.—Members of the Committee shall serve without pay.

(2) TRAVEL EXPENSES.—Each member of the Committee shall receive, for a meeting called by the Secretary, travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.
(j) TERMINATION.—The Committee, including subcommittees of the Committee, shall terminate on the date that is 10 years after the date of enactment of this Act.