

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—118th Cong., 2d Sess.

S. 4679

To amend title XLI of the FAST Act to improve the Federal permitting process, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. PETERS

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Permitting Council Im-
5 provement Act of 2024”.

6 **SEC. 2. FEDERAL PERMITTING IMPROVEMENT.**

7 (a) DEFINITIONS.—Section 41001(6)(A)(iv) of the
8 FAST Act (42 U.S.C. 4370m(6)(A)(iv)) is amended, in
9 the matter preceding subclause (I), by striking “in the
10 opinion of the Council” and inserting “in the opinion of
11 the Executive Director, in consultation with the Council”.

1 (b) FEDERAL PERMITTING IMPROVEMENT STEERING
2 COUNCIL.—

3 (1) IN GENERAL.—Section 41002 of the FAST
4 Act (42 U.S.C. 4370m–1) is amended—

5 (A) in subsection (b)(1)(A), by inserting “,
6 by and with the advice and consent of the Sen-
7 ate” after “President”; and

8 (B) in subsection (c)—

9 (i) in paragraph (1)—

10 (I) by striking subparagraph (C);

11 and

12 (II) by redesignating subpara-
13 graphs (D) and (E) as subparagraphs
14 (C) and (D), respectively; and

15 (ii) in paragraph (2)(B), in the matter
16 preceding clause (i), by striking “covered
17 projects” and inserting “covered projects
18 and other projects in sectors described in
19 subparagraph (A) of section 41001(6), ex-
20 cluding projects described in subparagraph
21 (B) of that section”.

22 (2) CONFORMING AMENDMENTS.—

23 (A) Section 41002(c)(2)(A)(i) of the FAST
24 Act (42 U.S.C. 4370m–1(c)(2)(A)(i)) is amend-

1 ed by striking “and the performance schedules
2 under paragraph (1)(C)”.

3 (B) Section 41003(c)(2)(B) of the FAST
4 Act (42 U.S.C. 4370m-2(c)(2)(B)) is amended,
5 in the matter preceding clause (i), by striking
6 “follow” and all that follows through “relevant
7 factors,” and inserting “take into account rel-
8 evant factors,”.

9 (c) PERMITTING PROCESS IMPROVEMENT.—Section
10 41003 of the FAST Act (42 U.S.C. 4370m-2) is amend-
11 ed—

12 (1) in subsection (a)(1)(C)—

13 (A) by redesignating clauses (ii) through
14 (v) as clauses (iii) through (vi), respectively;
15 and

16 (B) by inserting after clause (i) the fol-
17 lowing:

18 “(ii) a statement of the total invest-
19 ment required to plan, design, and con-
20 struct the proposed project;”; and

21 (2) in subsection (c)(2)—

22 (A) in subparagraph (C)—

23 (i) by striking clause (i) and inserting
24 the following:

1 graph (A), the Executive Director
2 may—

3 “(aa) require that the ap-
4 propriate agency propose a new
5 permitting timetable, or modifica-
6 tions to a previously adopted per-
7 mitting timetable, to resolve the
8 dispute; and

9 “(bb) recommend that the
10 affected agencies adopt that new
11 or modified permitting timetable.

12 “(II) REVIEW AND RESPONSE.—
13 Each affected agency shall have 10
14 business days to review and respond
15 to the new or modified permitting
16 timetable proposed under subclause
17 (I)(aa) and if the agency determines
18 that the agency is unable to adopt
19 that new or modified timetable, that
20 agency shall submit to the Executive
21 Director, in writing, an explanation
22 describing the reasons why the new or
23 modified timetable is not feasible.

24 “(III) REPORTS.—Not less fre-
25 quently than once per quarter, the

1 Executive Director shall submit to the
2 Committee on Homeland Security and
3 Governmental Affairs of the Senate
4 and the Committee on Oversight and
5 Accountability of the House of Rep-
6 resentatives a report on the number of
7 permitting timetables that were modi-
8 fied under this clause during the pe-
9 riod covered by the report.”; and
10 (iv) in clause (iv) (as so redesignated),
11 in the mattering preceding subclause (I),
12 by striking “clause (ii)” and inserting
13 “clause (iii)”;
14 (B) in subparagraph (D)—
15 (i) in clause (i)—
16 (I) in subclause (II), by inserting
17 “or alternative completion date” after
18 “completion date”; and
19 (II) in subclause (IV)—
20 (aa) by striking “final” each
21 place it appears;
22 (bb) by inserting “or alter-
23 native completion date that is the
24 final action” before “under a per-
25 mitting timetable”; and

1 (cc) by inserting “or alter-
2 native completion date estab-
3 lished under clause (v)” before “,
4 the facilitating or lead agency”;

5 (ii) in clause (ii)—

6 (I) by inserting “or alternative
7 completion date established under
8 clause (v), as applicable,” after “A
9 completion date”; and

10 (II) by inserting “or alternative
11 completion date, as applicable” after
12 “the completion date”; and

13 (iii) by adding at the end the fol-
14 lowing:

15 “(v) ALTERNATIVE COMPLETION
16 DATE.—

17 “(I) IN GENERAL.—If a Federal
18 agency has missed or will miss an in-
19 termediate or final completion date
20 originally established under subpara-
21 graph (A) for agency action on a cov-
22 ered project and fails to comply with
23 the process for modification of a per-
24 mitting timetable under clause (i), not
25 later than 15 days after that inter-

1 mediate or final completion date, the
2 agency, in consultation with the facili-
3 tating or lead agency, as applicable,
4 any relevant cooperating and partici-
5 pating agencies, and the project spon-
6 sor, shall submit to the Executive Di-
7 rector an alternative completion date
8 for publication on the Dashboard.

9 “(II) TREATMENT.—An alter-
10 native completion date submitted
11 under subclause (I) shall be subject to
12 the same requirements for modifica-
13 tion as other intermediate and final
14 completion dates in the permitting
15 timetable originally established under
16 subparagraph (A).”;

17 (C) in subparagraph (F)—

18 (i) in the subparagraph heading, by
19 striking “CONFORMING TO” and inserting
20 “COMPLIANCE WITH”;

21 (ii) in clause (i), by striking “conform
22 to” and inserting “comply with”; and

23 (iii) by striking clause (ii) and insert-
24 ing the following:

25 “(ii) FAILURE TO COMPLY.—

1 “(I) IN GENERAL.—If a Federal
2 agency fails to comply with an inter-
3 mediate or final completion date for
4 the agency action on a covered
5 project, not later than 10 business
6 days after the date on which the in-
7 termediate or final completion date
8 has been or will be missed, the agency
9 shall submit to the Executive Director
10 for publication on the Dashboard an
11 explanation of—

12 “(aa) the specific reasons
13 for failing to comply with the
14 completion date; and

15 “(bb) actions the agency will
16 carry out to avoid additional
17 delays, including actions to com-
18 ply with the alternative comple-
19 tion date established under sub-
20 paragraph (D)(v).

21 “(II) STATUS REPORT.—If a
22 Federal agency fails to comply with
23 requirements to establish a permitting
24 timetable or the requirement to estab-
25 lish an alternative completion date

1 under subparagraph (D)(v), each
2 month until the month in which the
3 Federal agency has established the
4 permitting timetable or alternative
5 completion date under that subpara-
6 graph, the Federal agency shall sub-
7 mit to the Executive Director for
8 posting on the Dashboard a status re-
9 port describing agency activity related
10 to the project and actions to support
11 the establishment of a permitting
12 timetable or alternative completion
13 date under that subparagraph.”;

14 (D) by redesignating subparagraph (G) as
15 subparagraph (H); and

16 (E) by inserting after subparagraph (F)
17 the following:

18 “(G) POSTING AND REPORTING AGENCY
19 NONCOMPLIANCE WITH PERMITTING TIME-
20 TABLE MODIFICATION AND NONCOMPLIANCE
21 PROCEDURES.—

22 “(i) IN GENERAL.—Agency non-
23 compliance with the permitting timetable
24 modification procedures under subpara-
25 graph (D) or the compliance requirements

1 under subparagraph (F) constitutes non-
2 compliance with this title.

3 “(ii) INDICATION OF NONCOMPLI-
4 ANCE.—The Executive Director shall post
5 on the Dashboard, consistent with the re-
6 quirements of subsection (b)(4)(B), all in-
7 stances of agency noncompliance with per-
8 mitting timetables described under sub-
9 paragraphs (D) and (F).

10 “(iii) QUARTERLY REPORT.—

11 “(I) IN GENERAL.—The Execu-
12 tive Director shall include in the quar-
13 terly agency performance report sub-
14 mitted to Congress pursuant to sec-
15 tion 41008(a)(2) all new and ongoing
16 instances of agency noncompliance
17 with subparagraphs (D) and (F).

18 “(II) INCLUSION OF PROJECT
19 SPONSOR COMMENTS.—The Executive
20 Director shall offer the cooperating
21 agencies and project sponsor of a cov-
22 ered project that is in noncompliance
23 with subparagraph (D) or (F) the op-
24 portunity to provide for inclusion in
25 the quarterly agency performance re-

1 port submitted to Congress pursuant
2 to section 41008(a)(2) the views of
3 the cooperating agencies and project
4 sponsor with respect to—

5 “(aa) the cause of delay and
6 agency noncompliance; and

7 “(bb) ways to avoid those
8 delays and noncompliance in the
9 future.”.

10 (d) REPORTS.—

11 (1) REPORTS TO CONGRESS.—

12 (A) IN GENERAL.—Section 41008 of the
13 FAST Act (42 U.S.C. 4370m-7) is amended—

14 (i) by striking the section designation
15 and heading and all that follows through
16 “Not later than” in subsection (a)(1)(A)
17 and inserting the following:

18 **“SEC. 41008. REPORTS TO CONGRESS.**

19 **“(a) EXECUTIVE DIRECTOR ANNUAL REPORT.—**

20 **“(1) IN GENERAL.—Not later than”;**

21 (ii) by striking subsection (b); and

22 (iii) in subsection (a)—

23 (I) by redesignating paragraphs
24 (2) and (3) as subsections (b) and (c),

1 respectively, and indenting appro-
2 priately; and

3 (II) in paragraph (1) (as so
4 amended)—

5 (aa) by striking “Infrastruc-
6 ture Investment and Jobs Act”
7 and inserting “Permitting Coun-
8 cil Improvement Act of 2024”;

9 (bb) by striking “fiscal
10 year.” and inserting the fol-
11 lowing: “fiscal year, which shall
12 include—

13 “(i) a summary of permitting time-
14 table trends for sectors described in section
15 41001(6)(A), including—

16 “(I) a description of contributing
17 factors that affect project timelines;
18 and

19 “(II) recommendations on what
20 the duration of project timelines
21 should be;

22 “(ii)(I) descriptions of activities car-
23 ried out by the Council in furtherance of
24 its role as a Federal center for permitting
25 excellence; and

1 “(II) an analysis of how those activi-
2 ties have affected Federal permitting proc-
3 esses and authorizations;

4 “(iii) a description of each transfer
5 made under section 41009(c)(3)(A), in-
6 cluding the amount of funds transferred
7 and to whom the funds were transferred;
8 and

9 “(iv) any other information the Exec-
10 utive Director determines relevant to re-
11 port on implementation of this title.”;

12 (cc) by redesignating sub-
13 paragraph (B) as paragraph (2)
14 and indenting appropriately; and

15 (dd) in paragraph (2) (as so
16 redesignated), by striking “sub-
17 paragraph (A)” and inserting
18 “paragraph (1)”.

19 (B) CLERICAL AMENDMENT.—The table of
20 contents contained in section 1(b) of the FAST
21 Act (Public Law 114–94; 129 Stat. 1319) is
22 amended by striking the item relating to section
23 41008 and inserting the following:

“Sec. 41008. Reports to Congress.”.

24 (2) ONE-TIME REPORTS.—

1 (A) REPORT ON PERMITTING WORK-
2 FORCE.—Not later than 18 months after the
3 date of enactment of this Act, the Executive Di-
4 rector of the Federal Permitting Improvement
5 Steering Council, in consultation with the Di-
6 rector of the Office of Personnel Management
7 and the Director of the Office of Management
8 and Budget, shall submit to Congress a report
9 that—

10 (i) assesses current and projected
11 needs in human capital at Federal agencies
12 responsible for issuing permits; and

13 (ii) makes recommendations for how
14 to improve the Federal permitting work-
15 force.

16 (B) REPORT ON DASHBOARD.—Not later
17 than 18 months after the date of enactment of
18 this Act, the Executive Director of the Federal
19 Permitting Improvement Steering Council, in
20 coordination with the Secretary of Transpor-
21 tation and Administrator of General Services,
22 shall submit to Congress a report that assesses,
23 and makes recommendations on how to im-
24 prove—

1 (i) the usability of the Permitting
2 Dashboard required under section
3 41003(b) of the FAST Act (42 U.S.C.
4 4370m-2(b)); and

5 (ii) the quality and usefulness of in-
6 formation on the Dashboard.

7 (C) INCLUSION IN ANNUAL REPORTS.—
8 The reports required under subparagraphs (A)
9 and (B) may be included in an annual report
10 required to be submitted to Congress pursuant
11 to subsection (a)(1) of section 41008 of the
12 FAST Act (42 U.S.C. 4370m-7) (as amended
13 by paragraph (1)(A)).

14 (3) REPEAL OF GAO REPORT.—

15 (A) IN GENERAL.—Section 41011 of the
16 FAST Act (42 U.S.C. 4370m-10) is repealed.

17 (B) CLERICAL AMENDMENT.—The table of
18 contents contained in section 1(b) of the FAST
19 Act (Public Law 114-94; 129 Stat. 1319) is
20 amended by striking the item relating to section
21 41011.

22 (e) FUNDING FOR GOVERNANCE, OVERSIGHT, AND
23 PROCESSING OF ENVIRONMENTAL REVIEWS AND PER-
24 MITS.—Section 41009 of the FAST Act (42 U.S.C.
25 4370m-8) is amended—

1 (1) in subsection (a), by striking “projects to
2 reimburse the United States for reasonable costs in-
3 curred in conducting environmental reviews and au-
4 thorizations for covered projects.” and inserting
5 “projects.”;

6 (2) by striking subsections (b) and (c) and in-
7 serting the following:

8 “(b) FEE STRUCTURE.—The fee structure estab-
9 lished under subsection (a) shall—

10 “(1) enable the Executive Director to assess ap-
11 propriate fees for each covered project based on rel-
12 evant factors, including—

13 “(A) the total investment required for the
14 covered project stated by the project sponsor in
15 the notice of the initiation of a proposed cov-
16 ered project pursuant to section 41003(a)(1);

17 “(B) the anticipated complexity of the en-
18 vironmental review and authorization process
19 for the covered project; and

20 “(C) the resources available to each par-
21 ticipating agency to conduct environmental re-
22 views and issue authorizations for the covered
23 project;

1 “(2) be developed in consultation with affected
2 project proponents, industries, and other stake-
3 holders;

4 “(3) not exceed 1 percent of the total invest-
5 ment required for the covered project stated by the
6 project sponsor in the notice of the initiation of a
7 proposed covered project pursuant to section
8 41003(a)(1);

9 “(4) exclude parties for which the fee would im-
10 pose an undue financial burden or is otherwise de-
11 termined to be inappropriate; and

12 “(5) support the timely completion of environ-
13 mental reviews and authorizations for covered
14 projects, including through the authority of the Ex-
15 ecutive Director to rescind amounts transferred from
16 the Fund to a lead agency, cooperating agency, or
17 participating agency that is not meeting timelines
18 for the completion of environmental reviews and au-
19 thorizations for a covered project.”;

20 (3) by redesignating subsections (d) through (f)
21 as subsections (c) through (e), respectively;

22 (4) in subsection (c) (as so redesignated)—

23 (A) in paragraph (2), by inserting “making
24 investments to improve Federal environmental
25 reviews and authorizations and supporting in-

1 frastructure permitting processes,” after “agen-
2 cy project managers,”; and

3 (B) by striking paragraph (3) and insert-
4 ing the following:

5 “(3) TRANSFER.—

6 “(A) IN GENERAL.—For the purpose of
7 carrying out this title, and subject to subpara-
8 graph (B), the Executive Director, in coordina-
9 tion with the Director of the Office of Manage-
10 ment and Budget, may transfer amounts in the
11 Fund to other Federal agencies, State and local
12 governments, territorial governments, Indian
13 Tribes (as defined in section 4 of the Indian
14 Self-Determination and Education Assistance
15 Act (25 U.S.C. 5304)), Alaska Native Corpora-
16 tions, and Native Hawaiian organizations (as
17 defined in section 6207 of the Elementary and
18 Secondary Education Act of 1965 (20 U.S.C.
19 7517)) (including the Department of Hawaiian
20 Home Lands and the Office of Hawaiian Af-
21 fairs) to facilitate timely and efficient environ-
22 mental reviews and authorizations, including for
23 activities to facilitate meaningful governmental
24 and public engagement, for covered projects
25 and other projects in sectors described in sec-

1 tion 41001(6)(A), and for activities described in
2 paragraph (2), which may include direct reim-
3 bursement agreements with agency CERPOs,
4 reimbursable agreements, and approval and
5 consultation processes and staff for covered
6 projects and other projects in sectors described
7 in section 41001(6)(A).

8 “(B) APPROVAL OF CERTAIN TRANS-
9 FERS.—Any transfer made under subparagraph
10 (A) in an amount of more than \$2,000,000
11 shall be approved by the Office of Management
12 and Budget.

13 “(4) AUTHORIZATION OF APPROPRIATIONS.—

14 “(A) IN GENERAL.—In addition to
15 amounts deposited in the Fund under para-
16 graph (1), and subject to subparagraph (B),
17 there is authorized to be appropriated for de-
18 posit in the Fund \$9,002,000 for each of fiscal
19 years 2025 through 2031.

20 “(B) ADJUSTMENTS FOR INFLATION.—
21 The amount authorized to be appropriated for
22 each of fiscal years 2026 through 2031 under
23 subparagraph (A) shall be adjusted for infla-
24 tion.”; and

1 (5) in subsection (d) (as so redesignated), by
2 striking “subsection (d)” and inserting “subsection
3 (e)”.

4 (f) TECHNICAL AMENDMENT.—The table of contents
5 contained in section 1(b) of the FAST Act (Public Law
6 114–94; 129 Stat. 1319) is amended by striking the item
7 relating to section 41013.