

114TH CONGRESS
2D SESSION

H. R. 6193

To establish the National Freight Mobility Infrastructure Fund, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 2016

Mr. SMITH of Washington introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish the National Freight Mobility Infrastructure Fund, 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 “Freight Infrastructure
5 Reinvestment Act of 2016”.

6 **SEC. 2. NATIONAL FREIGHT MOBILITY INFRASTRUCTURE**
7 **IMPROVEMENT PROGRAM.**

8 (a) ESTABLISHMENT.—The Secretary of Transpor-
9 tation shall establish a National Freight Mobility Infra-

1 structure Improvement Program under which the Sec-
2 retary is authorized to make grants, on a competitive
3 basis, to States and designated entities for eligible costs
4 associated with projects to improve efficiency and capacity
5 with respect to freight mobility in the United States.

6 (b) GRANT APPLICATIONS.—

7 (1) IN GENERAL.—To be eligible to receive a
8 grant under the program a State or designated enti-
9 ty shall submit to the Secretary an application at
10 such time, in such form, and containing such infor-
11 mation as the Secretary may require.

12 (2) SOLICITATION.—The Secretary shall con-
13 duct a national solicitation for applications under
14 the program.

15 (c) GRANT CRITERIA.—

16 (1) ESTABLISHMENT.—The Secretary, in ac-
17 cordance with this subsection, shall establish criteria
18 for selecting among applications submitted for
19 grants under the program.

20 (2) REQUIREMENTS.—A project is eligible for a
21 grant under the program only if the Secretary deter-
22 mines that the project—

23 (A) is of national or regional significance,
24 including projects to assist—

1 (i) the construction of grade separa-
2 tions at railroad, highway, and railroad-
3 highway junctions;

4 (ii) the construction of railroad by-
5 passes and spurs;

6 (iii) the construction of railroad side
7 tracks;

8 (iv) the expansion of rail and highway
9 tunnels to accommodate wider, taller, and
10 additional volumes of vehicular and rail
11 freight and container stacks;

12 (v) the addition of railroad track and
13 intermodal facilities at international gate-
14 ways, land, air, and sea ports, points of
15 congestion, and logistic centers;

16 (vi) highway and road construction
17 (including reinforcement for heavy weight
18 vehicles and heavy traffic volume) at inter-
19 national gateways, land, air, and sea ports,
20 points of congestion, and logistic centers to
21 better accommodate and speed the flow of
22 freight traffic;

23 (vii) the construction and improve-
24 ment of rail and highway bridges that
25 carry a substantial amount of freight;

1 (viii) the construction of highway
2 ramps built to carry a substantial amount
3 of freight;

4 (ix) the construction of highway lanes,
5 including lanes that segregate freight and
6 passenger vehicular traffic; and

7 (x) the construction and improvement
8 of marine terminal facilities used for
9 freight;

10 (B) will improve freight mobility, capacity,
11 and efficiency in the United States;

12 (C) is cost effective;

13 (D) is based on the results of preliminary
14 engineering;

15 (E) is justified based on the extent to
16 which the project—

17 (i) will enhance State, regional, or na-
18 tional economic development, performance,
19 and efficiency as measured by—

20 (I) the creation of new businesses
21 and jobs and the retention of existing
22 businesses and jobs;

23 (II) State and local tax receipts;
24 and

1 (III) improved safety, as meas-
2 ured by reductions in accidents, inju-
3 ries, and fatalities; and

4 (ii) will maximize economic opportuni-
5 ties for communities; and

6 (F) is supported by an acceptable degree
7 of non-Federal financial commitments, includ-
8 ing that—

9 (i) the project provides for the avail-
10 ability of contingency amounts that, as de-
11 termined by the Secretary, are reasonable
12 to cover unanticipated cost increases; and

13 (ii) each proposed non-Federal source
14 of financing is stable, reliable, and avail-
15 able within the project timetable.

16 (3) CONSIDERATIONS.—In selecting a project
17 for a grant under the program, the Secretary shall
18 consider the extent to which the project—

19 (A) meets the requirements specified in
20 paragraph (2);

21 (B) facilitates freight throughput of higher
22 volume and values;

23 (C) uses operational efficiencies, including
24 intelligent transportation systems, that enhance

1 the efficiency or effectiveness (or both) of the
2 project;

3 (D) helps maintain or protect the environ-
4 ment; and

5 (E) improves or enhances segments of the
6 primary freight network designated under sec-
7 tion 167(d) of title 23, United States Code.

8 (d) CONGRESSIONAL NOTIFICATION AND DIS-
9 APPROVAL.—

10 (1) NOTIFICATION.—

11 (A) IN GENERAL.—At least 60 days before
12 making a grant for a project under the pro-
13 gram, the Secretary shall notify, in writing, the
14 Committee on Transportation and Infrastruc-
15 ture of the House of Representatives and the
16 Committee on Environment and Public Works
17 and the Committee on Commerce, Science, and
18 Transportation of the Senate of the proposed
19 grant.

20 (B) CONTENTS.—The notification shall in-
21 clude an evaluation and justification for each
22 successful project that includes—

23 (i) a detailed explanation of how the
24 project satisfied grant criteria and consid-
25 erations;

1 (ii) the amount of the proposed grant
2 award; and

3 (iii) an executive summary of the
4 project application submitted for funding.

5 (2) DISAPPROVAL.—The Secretary may not
6 make a grant or any other obligation or commitment
7 to fund a project under the program if a joint reso-
8 lution is enacted disapproving funding for the
9 project before the last day of the 60-day period de-
10 scribed in paragraph (1)(A).

11 (e) REPORTS.—

12 (1) ANNUAL REPORT.—The Secretary shall
13 make available on the Internet Web site of the De-
14 partment of Transportation at the end of each fiscal
15 year an annual report that lists each project for
16 which a grant has been provided under the program
17 during that fiscal year.

18 (2) COMPTROLLER GENERAL.—

19 (A) ASSESSMENT.—The Comptroller Gen-
20 eral of the United States shall conduct an as-
21 sessment of the administrative establishment,
22 solicitation, selection, and justification process
23 with respect to the funding of grants under the
24 program.

1 (B) REPORT.—Not later than 1 year after
2 the initial awarding of grants under the pro-
3 gram, the Comptroller General shall submit to
4 the Committee on Transportation and Infra-
5 structure of the House of Representatives and
6 the Committee on Environment and Public
7 Works and the Committee on Commerce,
8 Science, and Transportation of the Senate a re-
9 port that describes—

10 (i) the adequacy and fairness of the
11 process by which each project was selected,
12 if applicable; and

13 (ii) the justification and criteria used
14 for the selection of each project, if applica-
15 ble.

16 (f) FUNDING.—The Secretary shall carry out the pro-
17 gram using amounts made available to the Secretary from
18 the National Freight Mobility Infrastructure Fund estab-
19 lished under section 9512 of the Internal Revenue Code
20 of 1986.

21 (g) LIMITATION ON GRANT DISTRIBUTION.—Not
22 more than 10 percent of the amounts available during a
23 fiscal year for grants under the program may be used for
24 projects located in a single State.

1 (h) FULL FUNDING GRANT AGREEMENTS.—The
2 Secretary may enter into a grant under the program that
3 provides funding for a project in more than 1 fiscal year.

4 An agreement for such a grant shall—

5 (1) establish the maximum amount of Federal
6 financial assistance for the project;

7 (2) establish the time period for Federal finan-
8 cial assistance for the project;

9 (3) provide grant funds for the fiscal year in
10 which the grant is made; and

11 (4) include a commitment, that is not an obli-
12 gation of the Federal Government and that is con-
13 tingent on the availability of funds, for grant
14 amounts to be provided in fiscal years following the
15 fiscal year in which the grant is made.

16 (i) NON-FEDERAL FINANCIAL COMMITMENTS.—

17 (1) FEDERAL SHARE.—The Federal share of
18 the cost of a project for which a grant is made
19 under the program, as estimated by the Secretary,
20 shall be not more than 80 percent.

21 (2) CONSIDERATIONS.—In assessing the sta-
22 bility, reliability, and availability of proposed sources
23 of non-Federal financing for purposes of subsection
24 (c)(2)(F)(ii), the Secretary shall consider—

25 (A) existing financial commitments;

1 (B) the degree to which financing sources
2 are dedicated to the purposes proposed;

3 (C) any debt obligation that exists or is
4 proposed by the grant recipient for the pro-
5 posed project; and

6 (D) the extent to which the project has a
7 non-Federal financial commitment that exceeds
8 the required non-Federal share of the cost of
9 the project.

10 (j) HIGHWAY CONSTRUCTION.—A grant made to as-
11 sist the construction of a highway under the program shall
12 be subject to the requirements relating to such construc-
13 tion under title 23, United States Code.

14 (k) OTHER TERMS AND CONDITIONS.—The Sec-
15 retary shall ensure that all grants made under the pro-
16 gram are subject to terms, conditions, and requirements
17 that the Secretary decides are necessary or appropriate
18 for purposes of this section, including requirements for the
19 disposition of net increases in the value of real property
20 resulting from the project assisted under the program.

21 (l) ADMINISTRATIVE COSTS.—In carrying out the
22 program, the Secretary shall seek to minimize administra-
23 tive costs, including overhead, enforcement, and auditing
24 costs related to the program.

1 (m) ANNUAL REPORT.—Not later than 1 year after
2 the date of enactment of this Act, and annually thereafter,
3 the Secretary shall submit to the Committee on Transpor-
4 tation and Infrastructure of the House of Representatives
5 and the Committee on Commerce, Science, and Transpor-
6 tation of the Senate a report on the activities of the Sec-
7 retary under the program.

8 (n) REGULATIONS.—Not later than 180 days after
9 the date of enactment of this Act, the Secretary shall issue
10 regulations to carry out this section.

11 (o) DEFINITIONS.—In this section, the following defi-
12 nitions apply:

13 (1) DESIGNATED ENTITY.—The term “des-
14 ignated entity” means—

15 (A) an entity designated by the chief execu-
16 tive officer of a State (or the chief executive
17 officer’s designee) as eligible to apply for and
18 receive funding under the program;

19 (B) a regional authority responsible under
20 the laws of a State for a project eligible for
21 funding under the program; and

22 (C) a public port.

23 (2) ELIGIBLE COSTS.—The term “eligible
24 costs” means the costs of a project with respect to—

1 (A) development phase activities, including
2 planning, feasibility analysis, revenue fore-
3 casting, environmental review, preliminary engi-
4 neering and design work, and other
5 preconstruction activities; and

6 (B) construction, reconstruction, rehabili-
7 tation, acquisition of real property (including
8 land related to a project and improvements to
9 land), environmental mitigation, construction
10 contingencies, acquisition of equipment, and
11 operational improvements.

12 (3) PROGRAM.—The term “program” means
13 the National Freight Mobility Infrastructure Im-
14 provement Program established under subsection
15 (a).

16 (4) STATE.—The term “State” has the mean-
17 ing given such term in section 101(a) of title 23,
18 United States Code.

19 **SEC. 3. FREIGHT MOBILITY INFRASTRUCTURE TAX.**

20 (a) IMPOSITION OF TAX.—Chapter 33 of the Internal
21 Revenue Code of 1986 is amended by adding after sub-
22 chapter C the following new subchapter:

23 **“Subchapter D—Transportation By Freight**
24 **And Highway**

“Sec. 4286. Imposition of tax.

1 **“SEC. 4286. IMPOSITION OF TAX.**

2 “(a) IN GENERAL.—There is hereby imposed upon
3 taxable ground transportation of property within the
4 United States a tax equal to 1 percent of the amount paid
5 for such transportation.

6 “(b) BY WHOM PAID.—

7 “(1) IN GENERAL.—Except as provided by
8 paragraph (2), the tax imposed by subsection (a)
9 shall be paid—

10 “(A) by the person making the payment
11 subject to tax, or

12 “(B) in the case of transportation by a re-
13 lated person, by the person for whom such
14 transportation is made.

15 “(2) PAYMENTS MADE OUTSIDE THE UNITED
16 STATES.—If a payment subject to tax under sub-
17 section (a) is made outside the United States and
18 the person making such payment does not pay such
19 tax, such tax—

20 “(A) shall be paid by the person to whom
21 the property is delivered in the United States
22 after the final segment of transportation in the
23 United States, and

24 “(B) shall be collected by the person fur-
25 nishing the last segment of such transportation.

1 “(3) DETERMINATIONS OF AMOUNTS PAID IN
2 CERTAIN CASES.—For purposes of this section, rules
3 similar to the rules of section 4271(c) shall apply.

4 “(c) TRANSPORTATION BY RELATED PERSONS.—In
5 the case of transportation of property by the taxpayer or
6 a person related to the taxpayer, the fair market value
7 of such transportation shall be the amount which would
8 be paid for transporting such property if such property
9 were transported by an unrelated person, determined on
10 an arms’ length basis.

11 “(d) DEFINITIONS.—For purposes of this sub-
12 chapter—

13 “(1) TAXABLE GROUND TRANSPORTATION.—

14 “(A) IN GENERAL.—The term ‘taxable
15 ground transportation’ means transportation of
16 property by—

17 “(i) freight rail, or

18 “(ii) commercial motor vehicle (as de-
19 fined in section 31101(1) of title 49,
20 United States Code) for a distance of more
21 than 50 miles.

22 “(B) PASSENGER BAGGAGE EXCLUDED.—

23 For purposes of subparagraph (A), the term
24 ‘property’ does not include baggage accom-

1 panying a passenger traveling on an established
2 line.

3 “(2) RELATED PERSON.—A person (hereinafter
4 in this paragraph referred to as the ‘related person’)
5 is related to any person if—

6 “(A) the related person bears a relation-
7 ship to such person specified in section 267(b)
8 or 707(b)(1), or

9 “(B) the related person and such person
10 are engaged in trades or businesses under com-
11 mon control (within the meaning of subsections
12 (a) and (b) of section 52).

13 For purposes of the preceding sentence, in applying
14 section 267(b) and 707(b)(1), ‘10 percent’ shall be
15 substituted for ‘50 percent’.

16 “(e) TRANSFER OF AMOUNTS EQUIVALENT TO TAX
17 TO NATIONAL FREIGHT MOBILITY INFRASTRUCTURE
18 FUND.—There are hereby appropriated to the National
19 Freight Mobility Infrastructure Fund amounts equivalent
20 to the taxes received in the Treasury under subsection (a).

21 “(f) EXEMPTION FOR UNITED STATES AND POSSES-
22 SIONS AND STATE AND LOCAL GOVERNMENTS.—The tax
23 imposed by subsection (a) shall not apply to the transpor-
24 tation of property purchased for the exclusive use of the

1 United States, or any State or political subdivision there-
2 of.”.

3 (b) CREDITS OR REFUNDS TO PERSONS WHO COL-
4 LECTED CERTAIN TAXES.—Section 6415 of such Code is
5 amended by striking “or 4271” each place it appears and
6 inserting “4271, or 4286”.

7 (c) REGULATIONS.—Not later than 180 days after
8 the date of the enactment of this Act, the Secretary of
9 the Treasury shall issue regulations to carry out the
10 amendments made by this section.

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to transportation beginning on or
13 after the last day of the 180-day period beginning on the
14 date of the issuance of regulations under subsection (c).

15 **SEC. 4. NATIONAL FREIGHT MOBILITY INFRASTRUCTURE**
16 **FUND.**

17 Subchapter A of chapter 98 of the Internal Revenue
18 Code of 1986 is amended by adding at the end the fol-
19 lowing new section:

20 **“SEC. 9512. NATIONAL FREIGHT MOBILITY INFRASTRUC-**
21 **TURE FUND.**

22 “(a) CREATION OF TRUST FUND.—There is estab-
23 lished in the Treasury of the United States a trust fund
24 to be known as the ‘National Freight Mobility Infrastruc-
25 ture Fund’ (hereinafter in this section referred to as the

1 ‘Fund’) consisting of such amounts as may be appro-
2 priated or credited to such Fund as provided in this sec-
3 tion or section 9602(b).

4 “(b) TRANSFERS TO THE FUND.—There are hereby
5 appropriated to the Fund amounts equivalent to taxes re-
6 ceived in the Treasury under section 4286.

7 “(c) EXPENDITURES FROM FUND.—Amounts in the
8 Fund shall be made available to the Secretary of Trans-
9 portation for each of the fiscal years 2017 to 2042, with-
10 out further appropriation, for making expenditures to
11 meet the obligations of the United States to carry out sec-
12 tion 2 of the Freight Infrastructure Reinvestment Act of
13 2016, not more than 4 percent of which for any fiscal year
14 may be used for administrative expenses.”.

○