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(Original Signature of Member)

113TH CONGRESS
1ST SESSION

H. R.

To establish the National Freight Mobility Infrastructure Improvement Program to improve freight mobility in the United States, to establish the National Freight Mobility Infrastructure Fund, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. SMITH of Washington introduced the following bill; which was referred to the Committee on _____

A BILL

To establish the National Freight Mobility Infrastructure Improvement Program to improve freight mobility in the United States, 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 2013”.

1 **SEC. 2. NATIONAL FREIGHT MOBILITY INFRASTRUCTURE**
2 **IMPROVEMENT PROGRAM.**

3 (a) **ESTABLISHMENT.**—The Secretary of Transpor-
4 tation shall establish a National Freight Mobility Infra-
5 structure Improvement Program under which the Sec-
6 retary is authorized to make grants, on a competitive
7 basis, to States and designated entities for eligible costs
8 associated with projects to improve efficiency and capacity
9 with respect to freight mobility in the United States.

10 (b) **GRANT APPLICATIONS.**—

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

16 (2) **SOLICITATION.**—The Secretary shall con-
17 duct a national solicitation for applications under
18 the program.

19 (c) **GRANT CRITERIA.**—

20 (1) **ESTABLISHMENT.**—The Secretary, in ac-
21 cordance with this subsection, shall establish criteria
22 for selecting among applications submitted for
23 grants under the program.

24 (2) **REQUIREMENTS.**—A project is eligible for a
25 grant under the program only if the Secretary deter-
26 mines that the project—

1 (A) is of national or regional significance,
2 including projects to assist—

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

6 (ii) the construction of railroad by-
7 passes and spurs;

8 (iii) the construction of railroad side
9 tracks;

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

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

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

1 (vii) the construction and improve-
2 ment of rail and highway bridges that
3 carry a substantial amount of freight;

4 (viii) the construction of highway
5 ramps built to carry a substantial amount
6 of freight; and

7 (ix) the construction of highway lanes,
8 including lanes that segregate freight and
9 passenger vehicular traffic;

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) complements and supports the objec-
22 tives of applicable freight plans developed by
23 States under section 1118 of MAP-21 (23
24 U.S.C. 167 note);

1 (C) facilitates freight throughput of higher
2 volume and values;

3 (D) uses operational efficiencies, including
4 intelligent transportation systems, that enhance
5 the efficiency or effectiveness (or both) of the
6 project;

7 (E) helps maintain or protect the environ-
8 ment; and

9 (F) improves or enhances segments of the
10 primary freight network designated under sec-
11 tion 167(d) of title 23, United States Code.

12 (d) NOTICE TO CONGRESS.—Not less than 90 days
13 before making a grant under the program, the Secretary
14 shall submit to Congress written notice of the grant.

15 (e) FUNDING.—The Secretary shall carry out the
16 program using amounts made available to the Secretary
17 from the National Freight Mobility Infrastructure Fund
18 established under section 9512 of the Internal Revenue
19 Code of 1986.

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

24 (g) FULL FUNDING GRANT AGREEMENTS.—The Sec-
25 retary may enter into a grant under the program that pro-

1 vides funding for a project in more than one fiscal year.

2 An agreement for such a grant shall—

3 (1) establish the maximum amount of Federal
4 financial assistance for the project;

5 (2) establish the time period for Federal finan-
6 cial assistance for the project;

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

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

14 (h) NON-FEDERAL FINANCIAL COMMITMENTS.—

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

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

23 (A) existing financial commitments;

24 (B) the degree to which financing sources
25 are dedicated to the purposes proposed;

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

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

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

12 (j) OTHER TERMS AND CONDITIONS.—The Secretary
13 shall ensure that all grants made under the program are
14 subject to terms, conditions, and requirements that the
15 Secretary decides are necessary or appropriate for pur-
16 poses of this section, including requirements for the dis-
17 position of net increases in the value of real property re-
18 sulting from the project assisted under the program.

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

23 (l) ANNUAL REPORT.—Not later than 1 year after
24 the date of enactment of this Act, and annually thereafter,
25 the Secretary shall submit to the Committee on Transpor-

1 tation and Infrastructure of the House of Representatives
2 and the Committee on Commerce, Science, and Transpor-
3 tation of the Senate a report on the activities of the Sec-
4 retary under the program.

5 (m) REGULATIONS.—Not later than 180 days after
6 the date of enactment of this Act, the Secretary shall issue
7 regulations to carry out this section.

8 (n) DEFINITIONS.—In this section, the following defi-
9 nitions apply:

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

12 (A) an entity designated by the chief exec-
13 utive officer of a State (or the chief executive
14 officer’s designee) as eligible to apply for and
15 receive funding under the program;

16 (B) a regional authority responsible under
17 the laws of a State for a project eligible for
18 funding under the program; and

19 (C) a public port.

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

22 (A) development phase activities, including
23 planning, feasibility analysis, revenue fore-
24 casting, environmental review, preliminary engi-

1 neering and design work, and other
2 preconstruction activities; and

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

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

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

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

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

20 **“Subchapter D—Transportation By Freight**
21 **And Highway**

“Sec. 4286. Imposition of tax.

22 **“SEC. 4286. IMPOSITION OF TAX.**

23 “(a) IN GENERAL.—There is hereby imposed upon
24 taxable ground transportation of property within the

1 United States a tax equal to 1 percent of the amount paid
2 for such transportation.

3 “(b) BY WHOM PAID.—

4 “(1) IN GENERAL.—Except as provided by
5 paragraph (2), the tax imposed by subsection (a)
6 shall be paid—

7 “(A) by the person making the payment
8 subject to tax, or

9 “(B) in the case of transportation by a re-
10 lated person, by the person for whom such
11 transportation is made.

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

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

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

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

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

8 “(d) DEFINITIONS.—For purposes of this sub-
9 chapter—

10 “(1) TAXABLE GROUND TRANSPORTATION.—

11 “(A) IN GENERAL.—The term ‘taxable
12 ground transportation’ means transportation of
13 property by—

14 “(i) freight rail, or

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

19 “(B) PASSENGER BAGGAGE EXCLUDED.—

20 For purposes of subparagraph (A), the term
21 ‘property’ does not include baggage accom-
22 panying a passenger traveling on an established
23 line.

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

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

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

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

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

19 “(f) EXEMPTION FOR UNITED STATES AND POSSES-
20 SIONS AND STATE AND LOCAL GOVERNMENTS.—The tax
21 imposed by subsection (a) shall not apply to the transpor-
22 tation of property purchased for the exclusive use of the
23 United States, or any State or political subdivision there-
24 of.”.

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

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

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

13 **SEC. 4. NATIONAL FREIGHT MOBILITY INFRASTRUCTURE**
14 **FUND.**

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

18 **“SEC. 9512. NATIONAL FREIGHT MOBILITY INFRASTRUC-**
19 **TURE FUND.**

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

1 priated or credited to such Fund as provided in this sec-
2 tion or section 9602(b).

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

6 “(c) EXPENDITURES FROM FUND.—Amounts in the
7 Fund shall be made available to the Secretary of Trans-
8 portation for each of the fiscal years 2014 to 2039, with-
9 out further appropriation, for making expenditures to
10 meet the obligations of the United States to carry out sec-
11 tion 2 of the Freight Infrastructure Reinvestment Act of
12 2013, not more than 4 percent of which for any fiscal year
13 may be used for administrative expenses.”.