

115TH CONGRESS  
1ST SESSION

# H. R. 3769

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

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 13, 2017

Mr. SMITH of Washington (for himself, Mr. ELLISON, and Mr. SIRES) 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

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## 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 2017”.

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,  
23 including freight intermodal connectors, to  
24 better accommodate and speed the flow of  
25 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;

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

10 (x) the construction and improvement  
11 of marine terminal facilities used for  
12 freight;

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

15 (C) is cost effective;

16 (D) is based on the results of preliminary  
17 engineering;

18 (E) is justified based on the extent to  
19 which the project—

20 (i) will enhance State, regional, or na-  
21 tional economic development, performance,  
22 and efficiency as measured by—

23 (I) the creation of new businesses  
24 and jobs and the retention of existing  
25 businesses and jobs;

1 (II) State and local tax receipts;

2 and

3 (III) improved safety, as meas-

4 ured by reductions in accidents, inju-

5 ries, and fatalities; and

6 (ii) will maximize economic opportuni-

7 ties for communities; and

8 (F) is supported by an acceptable degree

9 of non-Federal financial commitments, includ-

10 ing that—

11 (i) the project provides for the avail-

12 ability of contingency amounts that, as de-

13 termined by the Secretary, are reasonable

14 to cover unanticipated cost increases; and

15 (ii) each proposed non-Federal source

16 of financing is stable, reliable, and avail-

17 able within the project timetable.

18 (3) CONSIDERATIONS.—In selecting a project

19 for a grant under the program, the Secretary shall

20 consider the extent to which the project—

21 (A) meets the requirements specified in

22 paragraph (2);

23 (B) facilitates freight throughput of higher

24 volume and values;

1           (C) uses operational efficiencies, including  
2 intelligent transportation systems, that enhance  
3 the efficiency or effectiveness (or both) of the  
4 project;

5           (D) helps maintain or protect the environ-  
6 ment; and

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

10       (d) CONGRESSIONAL NOTIFICATION AND DIS-  
11 APPROVAL.—

12           (1) NOTIFICATION.—

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

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

1 (i) a detailed explanation of how the  
2 project satisfied grant criteria and consid-  
3 erations;

4 (ii) the amount of the proposed grant  
5 award; and

6 (iii) an executive summary of the  
7 project application submitted for funding.

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

14 (e) REPORTS.—

15 (1) ANNUAL REPORT.—The Secretary shall  
16 make available on the internet website of the De-  
17 partment of Transportation at the end of each fiscal  
18 year an annual report that lists each project for  
19 which a grant has been provided under the program  
20 during that fiscal year.

21 (2) COMPTROLLER GENERAL.—

22 (A) ASSESSMENT.—The Comptroller Gen-  
23 eral of the United States shall conduct an as-  
24 sessment of the administrative establishment,  
25 solicitation, selection, and justification process

1 with respect to the funding of grants under the  
2 program.

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

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

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

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

23 (g) LIMITATION ON GRANT DISTRIBUTION.—Not  
24 more than 10 percent of the amounts available during a



1 fiscal year for grants under the program may be used for  
2 projects located in a single State.

3 (h) FULL FUNDING GRANT AGREEMENTS.—The  
4 Secretary may enter into a grant under the program that  
5 provides funding for a project in more than 1 fiscal year.  
6 An agreement for such a grant shall—

7 (1) establish the maximum amount of Federal  
8 financial assistance for the project;

9 (2) establish the time period for Federal finan-  
10 cial assistance for the project;

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

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

18 (i) NON-FEDERAL FINANCIAL COMMITMENTS.—

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

23 (2) CONSIDERATIONS.—In assessing the sta-  
24 bility, reliability, and availability of proposed sources

1 of non-Federal financing for purposes of subsection  
2 (c)(2)(F)(ii), the Secretary shall consider—

3 (A) existing financial commitments;

4 (B) the degree to which financing sources  
5 are dedicated to the purposes proposed;

6 (C) any debt obligation that exists or is  
7 proposed by the grant recipient for the pro-  
8 posed project; and

9 (D) the extent to which the project has a  
10 non-Federal financial commitment that exceeds  
11 the required non-Federal share of the cost of  
12 the project.

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

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

24 (l) ADMINISTRATIVE COSTS.—In carrying out the  
25 program, the Secretary shall seek to minimize administra-

1 tive costs, including overhead, enforcement, and auditing  
2 costs related to the program.

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

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

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

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

17 (A) A State or a group of States.

18 (B) A metropolitan planning organization  
19 that serves an urbanized area (as defined by  
20 the Bureau of the Census) with a population of  
21 more than 200,000 individuals.

22 (C) A unit of local government or a group  
23 of local governments.

24 (D) A political subdivision of a State or  
25 local government.

1 (E) A special purpose district or public au-  
2 thority with a transportation function, including  
3 a port authority.

4 (F) A Tribal government or a consortium  
5 of Tribal governments.

6 (G) A multistate or multijurisdictional  
7 group of entities described in this paragraph.

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

10 (A) development phase activities, including  
11 planning, feasibility analysis, revenue fore-  
12 casting, environmental review, preliminary engi-  
13 neering and design work, and other precon-  
14 struction activities; and

15 (B) construction, reconstruction, rehabili-  
16 tation, acquisition of real property (including  
17 land related to a project and improvements to  
18 land), environmental mitigation, construction  
19 contingencies, acquisition of equipment, and  
20 operational improvements.

21 (3) PROGRAM.—The term “program” means  
22 the National Freight Mobility Infrastructure Im-  
23 provement Program established under subsection  
24 (a).

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

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

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

8   **“Subchapter D—Transportation By Freight**  
9   **And Highway**

“Sec. 4286. Imposition of tax.

10 **“SEC. 4286. IMPOSITION OF TAX.**

11           “(a) IN GENERAL.—There is hereby imposed upon  
12 taxable ground transportation of property within the  
13 United States a tax equal to 1 percent of the amount paid  
14 for such transportation.

15           “(b) BY WHOM PAID.—

16                   “(1) IN GENERAL.—Except as provided by  
17 paragraph (2), the tax imposed by subsection (a)  
18 shall be paid—

19                           “(A) by the person making the payment  
20                           subject to tax, or

21                           “(B) in the case of transportation by a re-  
22                           lated person, by the person for whom such  
23                           transportation is made.

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

6           “(A) shall be paid by the person to whom  
7 the property is delivered in the United States  
8 after the final segment of transportation in the  
9 United States, and

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

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

15           “(c) TRANSPORTATION BY RELATED PERSONS.—In  
16 the case of transportation of property by the taxpayer or  
17 a person related to the taxpayer, the fair market value  
18 of such transportation shall be the amount which would  
19 be paid for transporting such property if such property  
20 were transported by an unrelated person, determined on  
21 an arms’ length basis.

22           “(d) DEFINITIONS.—For purposes of this sub-  
23 chapter—

24           “(1) TAXABLE GROUND TRANSPORTATION.—

1           “(A) IN GENERAL.—The term ‘taxable  
2 ground transportation’ means transportation of  
3 property by—

4                   “(i) freight rail, or

5                   “(ii) commercial motor vehicle (as de-  
6 fined in section 31101(1) of title 49,  
7 United States Code) for a distance of more  
8 than 50 miles.

9           “(B) PASSENGER BAGGAGE EXCLUDED.—  
10 For purposes of subparagraph (A), the term  
11 ‘property’ does not include baggage accom-  
12 panying a passenger traveling on an established  
13 line.

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

17                   “(A) the related person bears a relation-  
18 ship to such person specified in section 267(b)  
19 or 707(b)(1), or

20                   “(B) the related person and such person  
21 are engaged in trades or businesses under com-  
22 mon control (within the meaning of subsections  
23 (a) and (b) of section 52).

1 For purposes of the preceding sentence, in applying  
2 sections 267(b) and 707(b)(1), ‘10 percent’ shall be  
3 substituted for ‘50 percent’.

4 “(e) EXEMPTION FOR UNITED STATES AND POSSES-  
5 SIONS AND STATE AND LOCAL GOVERNMENTS.—The tax  
6 imposed by subsection (a) shall not apply to the transpor-  
7 tation of property purchased for the exclusive use of the  
8 United States, or any State or political subdivision there-  
9 of.”.

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

14 (c) REGULATIONS.—Not later than 180 days after  
15 the date of the enactment of this Act, the Secretary of  
16 the Treasury shall issue regulations to carry out the  
17 amendments made by this section.

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



1 **SEC. 4. NATIONAL FREIGHT MOBILITY INFRASTRUCTURE**  
2 **FUND.**

3 Subchapter A of chapter 98 of the Internal Revenue  
4 Code of 1986 is amended by adding at the end the fol-  
5 lowing new section:

6 **“SEC. 9512. NATIONAL FREIGHT MOBILITY INFRASTRUC-**  
7 **TURE FUND.**

8 “(a) **CREATION OF TRUST FUND.**—There is estab-  
9 lished in the Treasury of the United States a trust fund  
10 to be known as the ‘National Freight Mobility Infrastruc-  
11 ture Fund’ (hereinafter in this section referred to as the  
12 ‘Fund’) consisting of such amounts as may be appro-  
13 priated or credited to such Fund as provided in this sec-  
14 tion or section 9602(b).

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

18 “(c) **EXPENDITURES FROM FUND.**—Amounts in the  
19 Fund shall be made available to the Secretary of Trans-  
20 portation for each of the fiscal years 2017 to 2042, with-  
21 out further appropriation, for making expenditures to  
22 meet the obligations of the United States to carry out sec-  
23 tion 2 of the Freight Infrastructure Reinvestment Act of  
24 2017, not more than 4 percent of which for any fiscal year  
25 may be used for administrative expenses.”.

○