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115TH CONGRESS
1ST SESSION

H. R. 3001

To amend title 49, United States Code, to establish a Multimodal Freight Funding Formula Program and a National Freight Infrastructure Competitive Grant Program to improve the efficiency and reliability of freight movement in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 2017

Mr. LOWENTHAL (for himself, Ms. BARRAGÁN, Mr. BLUMENAUER, Mr. CARTWRIGHT, Ms. JUDY CHU of California, Ms. KELLY of Illinois, Mr. MEADOWS, Ms. MOORE, Mrs. NAPOLITANO, Mr. POCAN, Mr. ROHRABACHER, and Mr. TAKANO) 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 amend title 49, United States Code, to establish a Multimodal Freight Funding Formula Program and a National Freight Infrastructure Competitive Grant Program to improve the efficiency and reliability of freight movement in the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Multimodal and Sustainable Freight Infrastructure Act".

SEC. 2. FREIGHT FUNDING PROGRAMS.

(a) IN GENERAL.—Chapter 701 of title 49, United States Code, is amended by adding at the end the following:

"§ 70104. Multimodal Freight Funding Formula Program

"(a) IN GENERAL.—The Secretary of Transportation shall establish a Multimodal Freight Funding Formula Program under which the Secretary shall distribute funds to States to improve the efficiency and reliability of freight movement in the United States.

"(b) FORMULA APPORTIONMENT.—Of funds made available to the Secretary for a fiscal year to carry out the Multimodal Freight Funding Formula Program under this section, the Secretary shall calculate the amount available to be apportioned to a State based on the following:

"(1) 6.25 percent in the ratio that—

"(A) the number of ports in each State; bears to

"(B) the number of ports in all States.

"(2) 6.25 percent in the ratio that—

"(A) the number of rail track-miles used for the movement of freight in each State; bears to

"(B) the number of such rail track-miles in all States.

"(3) 6.25 percent in the ratio that—

"(A) the number of cargo-handling airports in each State; bears to

"(B) the number of such airports in all States.

"(4) 6.25 percent in the ratio that—

"(A) the number of Interstate system miles in each State; bears to

"(B) the number of Interstate system miles in all States.

"(5) 37.5 percent in the ratio that—

"(A) the tonnage of rail, waterborne, highway, and airport freight moved in each State; bears to

"(B) the tonnage of such freight moved in all States.

"(6) 37.5 percent in the ratio that—

"(A) the value of rail, waterborne, highway and airport freight moved in each State; bears to

"(B) the value of such freight moved in all States.

"(c) TIER I ELIGIBILITY.—The Secretary shall provide to a State in a fiscal year 40 percent of the amount of the funds available to the State under subsection (b) for that fiscal year if the State—

"(1) has an established freight advisory committee in accordance with section 70201;

"(2) developed any analyses or plans required for the completion of a State freight plan in accordance with section 70202;

"(3) has an approved State freight plan;

"(4) has conducted a statewide analysis of freight needs and bottlenecks on all modes of transportation, including intermodal and last mile needs;

"(5) demonstrates use of the statewide analysis of freight needs in prioritizing projects in the State freight plan;

"(6) demonstrates that the State will use the funding that it is provided under this paragraph for the highest priority projects identified in the freight investment plan described under section 70202; and

"(7) demonstrates that the program of projects will use the strategies and contribute to the goals described in the State freight plan to decrease—

"(A) greenhouse gas emissions;

"(B) local air pollution, including ozone and ozone precursors, nitrogen oxides, sulfur dioxide, particulate matter, carbon monoxide, and lead;

"(C) water runoff and other adverse water impacts; and

"(D) wildlife habitat loss.

"(d) TIER II ELIGIBILITY.—The Secretary shall provide to a State in a fiscal year 60 percent of the amount of the funds available to the State under subsection (b) for that fiscal year if the State—

"(1) has met the eligibility criteria of subsection (c);

"(2) has conducted, in cooperation with at least 1 other State, a multistate analysis of freight needs and bottlenecks on all modes of transportation, including intermodal and last mile needs along a multistate freight corridor; and

"(3) has developed, in cooperation with at least one other State or a relevant entity in Canada or Mexico, a regional freight investment plan that focuses on the end-to-end investment needs of critical multistate freight corridors based on the multistate analysis of freight needs and bottlenecks on all modes of transportation, including intermodal and last mile needs.

"(e) REDISTRIBUTION OF FUNDS.—The Secretary shall make available under the National Freight Infrastructure Competitive Grant Program under section 70105 any funds that—

"(1) the Secretary calculated under subsection (b) as available to a State for a fiscal year but did not provide to that State for that fiscal year under subsection (c) or subsection (d); or

"(2) the Secretary provided to a State under subsection (c) or subsection (d) but remain unobligated in that State at the end of the third fiscal year following the fiscal year in which they were provided to the State.

"(f) ELIGIBLE USES.—A State may use funds provided under this section only for—

"(1) the development of corridor freight plans or regional freight plans; or

"(2) one or more phases of capital projects, equipment, or operational improvements on roads, rails, landside infrastructure on ports and airports, and intermodal connectors included in a State freight plan for projects that—

"(A) maintain or improve the efficiency and reliability of freight supply chains;

"(B) demonstrate public freight benefits;

"(C) improve modal components of a multimodal corridor that is critical to a State or region;

"(D) address freight needs to facilitate a regionally or nationally significant economic development issue;

"(E) in accordance with the State freight plan, decrease—

"(i) greenhouse gas emissions;

"(ii) local air pollution, including ozone and ozone precursors, nitrogen oxides, sulfur dioxide, particulate matter, carbon monoxide, and lead;

"(iii) water runoff and other adverse water impacts; and

"(iv) wildlife habitat loss;

"(F) are multimodal, multi-jurisdictional, or corridor-based and address freight needs;

"(G) relieve freight or non-freight access, congestion, or safety issues; or

"(H) address first and last mile connectors.

"(g) EPA REPORT.—A State that receives funds under this section shall collect data and, beginning 1 year from the date of the completion of each project or project phase that receives such funds, and annually thereafter for 15 years, report to the Secretary and the Administrator of Environmental Protection Agency on progress made toward greenhouse gas emission reductions and local air pollution reductions in accordance with the State freight plan. All relevant data and reporting shall be collected and reported in accordance with guidance developed by the Administrator in consultation with the Secretary.

"(h) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of the cost of a project carried out by a State using funds provided under this section may not be more than 80 percent.

"(2) ADDITIONAL FEDERAL SHARE.—The Federal share of the cost of a project carried out by a State using funds provided under this section may be increased by 5 percent if the such 5 percent is used for the mitigation of diesel emissions from construction activities associated with the project. The Administrator of Environmental Protection Agency, in consultation with the Secretary, shall develop guidance for eligible equipment and activities consistent with existing State, local, and nonprofit clean construction guidelines.

"(i) RESERVATION OF FUNDS FOR TERRITORIES.—Before making a calculation under subsection (b), the Secretary shall withhold funds for distribution to each territory in an amount based on the freight infrastructure need of the territories, as determined by the Secretary. Such funds shall not otherwise be made available for distribution under this section.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Freight Trust Fund to carry out this section an amount equal to 50 percent of the receipts of the Freight Trust Fund for each fiscal year beginning in fiscal year 2018.

"(k) ADMINISTRATION AND OVERSIGHT COSTS.—The Secretary may retain up to one-half of 1 percent of the amounts available to carry out this section for each fiscal year for the cost of administration and oversight of projects funded under this section.

"(l) AVAILABILITY OF FUNDS.—Amounts authorized under subsection (j) shall be—

"(1) available for obligation on October 1 of the fiscal year for which they are authorized; and

"(2) available until expended.

"(m) APPLICATION OF RATE REQUIREMENTS.—The Secretary shall take such action as may be necessary to apply the requirements described under section 113 of title 23, as applicable, to any project receiving funds under this section.

"(n) DEFINITIONS.—In this section:

"(1) STATE.—The term 'State' means each of the 50 States, the District of Columbia, and Puerto Rico.

"(2) STATE FREIGHT PLAN.—The term 'State freight plan' means the State freight plan described under section 70202.

"(3) TERRITORY.—The term 'territory' has the meaning given such term in section 165(c)(1) of title 23.

"§ 70105. National Freight Infrastructure Competitive Grant Program

"(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a National Freight Infrastructure Competitive Grant Program under which the Secretary shall make grants, on a competitive basis, to designated entities for eligible projects to improve the efficiency and reliability of freight movement in the United States.

"(b) PROJECT GOALS.—In carrying out the Program, the Secretary shall prioritize projects that—

"(1) improve the efficiency and reliability of freight transportation;

"(2) reduce the cost of freight transportation;

"(3) improve the safety of freight transportation;

"(4) relieve bottlenecks in the freight transportation system;

"(5) improve the state of good repair of the freight transportation system;

"(6) contribute to the environmental goals described in the State freight plan; and

"(7) reduce the adverse impacts of freight transportation on communities traversed by freight.

"(c) GRANT APPLICATIONS.—To be eligible to receive a grant under the Program a designated entity shall submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may require.

"(d) ELIGIBLE PROJECT.—A project is eligible for a grant under the Program only if the Secretary determines that the project—

"(1) that is—

"(A) a capital investment project for a transportation infrastructure facility significantly used for the movement of freight; or

"(B) infrastructure necessary to mitigate the adverse impact of freight transportation on communities traversed by freight, including—

"(i) a road, rail, or landside air or water facility;

"(ii) an intermodal facility such as a seaport or port on the inland waterway system, an airport, or a highway and rail intermodal facility;

"(iii) a facility related to an international border crossing;

"(iv) is for an operational improvement or equipment of a facility described in this paragraph; or

"(v) railway-roadway grade separations and related improvements;

"(2) will help to achieve the goals set out in subsection (b);

"(3) has non-Federal source or sources of committed financing, along with any Federal funds, sufficient to complete the project;

"(4) has independent utility;

"(5) is included in the State freight plan; and

"(6) includes the development of project plans and analysis.

"(e) GRANT CRITERIA.—The Secretary shall select eligible projects for funding based on the following criteria:

"(1) The extent to which the project is likely to advance the goals described in subsection (b).

"(2) The likely benefits of the project relative to its costs.

"(3) The extent to which the project demonstrates the use of innovative technology, strategies, and practices.

"(4) The extent to which the project uses onroad construction vehicles and nonroad construction equipment that meet the emission standards of the Environmental Protection Agency.

"(5) The extent to which the project demonstrates effective reductions (in accordance with the State freight plan) in—

"(A) greenhouse gas emissions;

"(B) local air pollution, including ozone and ozone precursors, nitrogen oxides, sulfur dioxide, particulate matter, carbon monoxide, and lead;

"(C) water runoff and other adverse water impacts; and

"(D) wildlife habitat loss.

"(6) The likely effect of the project on increasing United States exports.

"(7) The consistency of the project with the national freight strategic plan described under section 70102.

"(8) The extent to which the project leverages Federal funds by matching State, territorial, local, tribal, or private funds to the Federal funding requested under the Program.

"(9) The extent to which funds for the project are not available from other Federal sources.

"(f) SPECIAL RULE.—A minimum of 5 percent of funds made available under the Program for a fiscal year shall be provided to zero-emission freight demonstration projects, as defined by the Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency.

"(g) RETROSPECTIVE ANALYSIS.—A grant agreement made under the Program shall require that the recipient collect data and report to the Secretary, at an appropriate time as determined by the Secretary, on—

"(1) the actual cost of constructing the project;

"(2) the time required to complete the project and put it into service;

"(3) the level of usage of the facility built or improved by the project;

"(4) the benefits of the project, measured in a way that is consistent with the benefits that were estimated in the application for funding that was submitted to the Secretary; and

"(5) any costs resulting from the project in addition to the costs of constructing the project.

"(h) EPA REPORT.—A grant agreement made under the Program shall require that the recipient collect data and, beginning 1 year from the date of the completion of the project and annually thereafter for 15 years, report to the Secretary and the Administrator of Environmental Protection Agency on progress made toward greenhouse gas emission reductions and local air pollution reductions in accordance with the State freight plan. All relevant data and reporting shall be collected and reported in accordance with guidance developed by the Administrator in consultation with the Secretary.

"(i) PERIOD OF AVAILABILITY.—In entering into agreements under this section, the Secretary shall ensure that any funds made available for a project that are not obligated or expended before the last day of the third fiscal year following the fiscal year in which the funds are made available are transferred back to the Secretary for making grants under the Program.

"(j) REDISTRIBUTION OF FUNDS.—If a designated entity that received a grant under this section has made no obligation of funding with respect to such grant by the end of the third fiscal year following the fiscal year in which the Secretary awarded the grant, the Secretary shall—

"(1) withdraw the grant from the designated entity; and

"(2) apply the funding to another grant under this section.

"(k) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of the cost of a project for which a grant is made under the Program, as estimated by the Secretary, shall be not more than 80 percent.

"(2) ADDITIONAL FEDERAL SHARE.—The Federal share of the cost of a project carried out by a State using funds provided under this section may be increased by 5 percent if the such 5 percent is used for the mitigation of diesel emissions from construction activities associated with the project. The Administrator of Environmental Protection Agency, in consultation with the Secretary, shall develop guidance for eligible equipment and activities consistent with existing State, local, and nonprofit clean construction guidelines.

"(l) ADMINISTRATION AND OVERSIGHT COSTS.—The Secretary may retain up to one-half of 1 percent of the amounts made available to carry out this section for each fiscal year for the cost of administration and oversight of projects funded under the Program.

"(m) AUTHORIZATION AND AVAILABILITY OF FUNDS.—

"(1) AUTHORIZATION.—There is authorized to be appropriated from the Freight Trust Fund to carry out this section an amount equal to 50 percent of the receipts of the Freight Trust Fund for each fiscal year beginning in fiscal year 2018.

"(2) AVAILABILITY.—Amounts authorized under paragraph (1) shall be—

"(A) available for obligation on October 1 of the fiscal year for which they are authorized; and

"(B) available for obligation until expended.

"(n) APPLICATION OF RATE REQUIREMENTS.—The Secretary shall take such action as may be necessary to apply the requirements described under section 113 of title

23, as applicable, to any project receiving funds under this section.

"(o) DEFINITIONS.—In this section:

"(1) DESIGNATED ENTITY.—The term 'designated entity' means—

"(A) a State;

"(B) a unit of local government;

"(C) a metropolitan planning organization;

"(D) a public transportation authority (including a port authority);

"(E) a tribal government; or

"(F) or a consortium of the entities described in this paragraph.

"(2) STATE.—The term 'State' means any of the 50 States, the District of Columbia, Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the United States Virgin Islands.

"(3) STATE FREIGHT PLAN.—The term 'State freight plan' means the State freight plan described under section 70202.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 701 of title 49, United States Code, is amended by adding at the end the following:

SEC. 3. NATIONAL AND STATE FREIGHT PLANS.

(a) NATIONAL FREIGHT STRATEGIC PLAN.—Section 70102(b) of title 49, United States Code, is amended—

(1) in paragraph (10) by striking "and" at the end;

(2) in paragraph (11) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(12) best practices to reduce greenhouse gas emissions, local air pollution, water runoff, and wildlife habitat loss.".

(b) STATE FREIGHT ADVISORY COMMITTEES.—Section 70201 of title 49, United States Code, is amended—

(1) in subsection (a) by striking "representatives of ports, freight railroads," and all that follows through "local governments" and inserting the following: "representatives of—

"(1) ports;

"(2) freight railroads;

"(3) shippers;

"(4) carriers;

"(5) freight-related associations;

"(6) third-party logistics providers;

"(7) the freight industry workforce;

"(8) the transportation department of the State;

"(9) metropolitan planning organizations;

"(10) local governments;

"(11) the environmental protection department of the State, if applicable; and

"(12) the air resources board of the State, if applicable";

(2) by redesignating subsection (b) as subsection (c);

(3) by inserting after subsection (a) the following:

"(b) QUALIFICATIONS.—Each member of a freight advisory committee established under subsection (a) shall be widely recognized to have qualifications sufficient to represent the interests of such member's stakeholder group, including, as applicable—

"(1) a general business and financial experience;

"(2) experience or qualifications in the areas of freight transportation and logistics;

"(3) experience in transportation planning;

"(4) experience representing employees of the freight industry; or

"(5) experience representing a State, local government, or metropolitan planning organization.";

(4) in subsection (b)—

(A) in paragraph (5) by inserting ", including advising on the development of the freight investment plan" after "70202"; and

(B) by adding at the end the following:

"(6) approve the State freight plan under section 70202, including the freight investment plan.".

(c) STATE FREIGHT PLANS.—Section 70202 of title 49, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (9)—

(i) by inserting "and section 70104" after "section 167 of title 23"; and

(ii) by striking "and" at the end;

(2) by redesignating paragraph (10) as paragraph (12); and

(3) by inserting after paragraph (9) the following:

"(10) strategies and goals to decrease—

"(A) greenhouse gas emissions;

"(B) local air pollution, including ozone and ozone precursors, nitrogen oxides, sulfur dioxide, particulate matter, carbon monoxide, and lead;

"(C) water runoff and other adverse water impacts; and

''(D) wildlife habitat loss;

''(11) strategies and goals to decrease the adverse impact of freight transportation on communities traversed by freight railroads; and'';

(4) by redesignating subsection (e) as subsection (f); and

(5) by inserting after subsection (d) the following:

''(e) CERTIFICATION.—The Secretary shall approve a freight plan if such plan meets the requirements of this section and is consistent with the National freight strategic plan described in section 70102. The Secretary, in consultation with the Administrator of the Environmental Protection Agency shall certify any environmental goal or strategy provisions of the plan.''.

SEC. 4. FREIGHT TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 9512. FREIGHT TRUST FUND.

''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Freight Trust Fund' (hereinafter in this section referred to as the 'Fund') consisting of such amounts as may be appropriated or credited to such Fund as provided in this section or section 9602(b).

''(b) TRANSFERS TO THE FUND.—There are hereby appropriated to the Fund amounts equivalent to taxes received in the Treasury under section 4286.

''(c) EXPENDITURES FROM FUND.—Amounts in the Fund shall be made available, as provided by appropriation Acts, for making expenditures to meet obligations authorized to be paid out of the Fund under section 2 of the National Multimodal and Sustainable Freight Infrastructure Act.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 9512. Freight Trust Fund.''.

SEC. 5. FREIGHT MOBILITY INFRASTRUCTURE TAX.

(a) IMPOSITION OF TAX.—Chapter 33 of the Internal Revenue Code of 1986 is amended by inserting after subchapter C the following new subchapter:

''Subchapter D—Ground Transportation Freight Tax

''Sec. 4286. Imposition of tax.

''SEC. 4286. IMPOSITION OF TAX.

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

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

"(b) BY WHOM PAID.—

"(1) IN GENERAL.—The tax imposed by subsection (a) shall be paid—

"(A) by the person making the payment subject to tax, or

"(B) in the case of transportation by a related person, by the person for whom such transportation is made.

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

"(c) TRANSPORTATION BY RELATED PERSONS.—In the case of transportation of property by the shipper or a person related to the shipper, the fair market value of such transportation shall be the amount which would be paid for transporting such property if such property were transported by an unrelated person, determined on an arms' length basis.

"(d) DEFINITIONS AND SPECIAL RULE.—For purposes of this subchapter—

"(1) TAXABLE GROUND TRANSPORTATION.—The term 'taxable ground transportation' means transportation of property by—

"(A) freight rail, or

"(B) truck trailer and semitrailer chassis and bodies, suitable for use with a trailer or semitrailer which has a gross vehicle weight of 26,000 pounds or more.

For purposes of subparagraph (B), the terms 'truck trailer' and 'semitrailer' have the same meanings as such terms have in section 4051.

"(2) RELATED PERSON.—A person (hereinafter in this paragraph referred to as the 'related person') is related to any person if—

"(A) the related person bears a relationship to such person specified in section 267(b) or 707(b)(1), or

"(B) the related person and such person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of the preceding sentence, in applying sections 267(b) and 707(b)(1), '10 percent' shall be substituted for '50 percent' each place it appears.

"(3) TRANSPORTATION OUTSIDE THE UNITED STATES.—In the case an amount paid for transportation any portion of which is outside the United States, the portion of such amount paid which is allocable to transportation within the United States shall be determined under regulations prescribed by the Secretary. Such regulations shall include rules to include transportation outside the United States the primary purpose of which is to avoid the tax imposed by this section.

"(e) EXEMPTION FOR UNITED STATES AND POSSESSIONS AND STATE AND LOCAL GOVERNMENTS.—The tax imposed by subsection (a) shall not apply to amounts paid for transportation of property purchased for the exclusive use of the United States, or any State or political subdivision thereof.".

(b) CREDITS OR REFUNDS TO PERSONS WHO COLLECTED CERTAIN TAXES.—Section 6415 of such Code is amended by striking "or 4271" each place it appears and inserting "4271, or 4286".

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 33 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to subchapter C the following new item:

"SUBCHAPTER D. GROUND TRANSPORTATION FREIGHT TAX".

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

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

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