

108TH CONGRESS  
1ST SESSION

# H. R. 1617

To establish and provide for funding for a National Rail Infrastructure Program.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 3, 2003

Mr. LIPINSKI (for himself, Mr. NADLER, Mr. BLUMENAUER, Mr. FILNER, Ms. NORTON, Ms. CORRINE BROWN of Florida, Ms. MILLENDER-MCDONALD, Mr. COSTELLO, Mr. DEFAZIO, Mr. GUTIERREZ, Mr. DAVIS of Illinois, Ms. SCHAKOWSKY, Mr. MANZULLO, Mr. EMANUEL, Mr. FARR, Mr. KUCINICH, Ms. CARSON of Indiana, Mr. RUSH, Mr. JACKSON of Illinois, Mr. HOLDEN, Mr. SANDERS, Mr. FRANK of Massachusetts, Ms. BERKLEY, Mr. EVANS, Mr. BAIRD, and Mr. CUMMINGS) 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 and provide for funding for a National Rail Infrastructure Program.

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 “National Rail Infra-  
5       structure Program Act”.

# 1           **TITLE I—NATIONAL RAIL**

# 2           **INFRASTRUCTURE PROGRAM**

## 3   **SEC. 101. ESTABLISHMENT.**

4       The Secretary of Transportation shall establish a Na-  
5   tional Rail Infrastructure Program to provide grants for  
6   projects that address railroad infrastructure and systems  
7   deficiencies in order to provide substantial public benefits  
8   such as mitigating highway traffic congestion, reducing  
9   transportation emissions, reducing energy used in trans-  
10   portation, or improving the overall efficiency of railroad  
11   operations.

## 12   **SEC. 102. ELIGIBLE PROJECTS.**

13       (a) IN GENERAL.—Projects eligible for funding under  
14   this title shall include projects to maintain and increase  
15   track and intermodal yard capacity, to acquire rights-of-  
16   way for future expansion, to separate railroad and road  
17   crossings and make other railroad and road interface im-  
18   provements, to separate rail-to-rail crossings, to integrate  
19   railroad systems, and to construct, repair, and rehabilitate  
20   track and related supporting structures.

21       (b) NONELIGIBLE PURPOSES.—Funding shall not be  
22   provided under this title for operating expenses, acquisi-  
23   tion of rolling stock, payment of debt, or construction or  
24   repair of maintenance facilities, passenger facilities at sta-  
25   tions, or other ancillary railroad business structures.

1 **SEC. 103. INCLUSION IN STATE PLANS.**

2       A project shall not be funded under this title unless  
3 it is included in—

4           (1) a long-range transportation plan prepared  
5 under section 134(g) of title 23, United States Code;

6           (2) a State plan developed under section 135 of  
7 title 23, United States Code; or

8           (3) a transportation improvement program  
9 under section 5304 of title 49, United States Code.

10 **SEC. 104. COST SHARING.**

11       At least 20 percent of the costs of a project for which  
12 funding is provided under this title shall be provided by  
13 State, local, and other non-Federal public sources.

14 **SEC. 105. ALLOCATION OF FUNDS.**

15       (a) **FORMULA AMOUNTS.**—

16           (1) **PERCENTAGE.**—The Secretary of Transpor-  
17 tation shall provide 80 percent of the amount avail-  
18 able for grants under this title for each fiscal year  
19 to States according to the formula described in para-  
20 graph (2), in grants for eligible projects in the  
21 States.

22           (2) **FORMULA.**—Amounts described in para-  
23 graph (1) shall be distributed among the States ac-  
24 cording to a formula designed by the Secretary of  
25 Transportation to weigh equally for each State—

26                   (A) the number of rail miles in the State;

3 (C) the number of rail cars unloaded in the  
4 State; and

5 (D) the number of railroad and public road  
6 grade crossings in the State.

7 (b) SECRETARY'S DISCRETIONARY AMOUNTS.—The  
8 Secretary of Transportation shall use 20 percent of the  
9 amount available for grants under this title for each fiscal  
10 year to directly make grants for eligible projects of na-  
11 tional significance, with emphasis on projects with the  
12 greatest public benefit.

## 13 SEC. 106. LABOR STANDARDS.

14        The Secretary of Transportation shall ensure that la-  
15    borers and mechanics employed by contractors and sub-  
16    contractors in construction work on projects funded under  
17    this title will be paid wages not less than those prevailing  
18    on similar construction in the locality, as determined by  
19    the Secretary of Labor under the Act of March 3, 1931  
20    (known as the Davis-Bacon Act) (40 U.S.C. 276a–276a–  
21    5).

## 22 SEC. 107. DISADVANTAGED BUSINESS ENTERPRISES.

23 (a) GENERAL RULE.—Except to the extent that the  
24 Secretary of Transportation determines otherwise, not less  
25 than 10 percent of the amounts made available under this

1 Act shall be expended with small business concerns owned  
2 and controlled by socially and economically disadvantaged  
3 individuals.

4 (b) DEFINITIONS.—The terms used in this section  
5 have the meaning given those terms in section 1101(b)(2)  
6 of the Transportation Equity Act For the 21st Century  
7 (23 U.S.C. 101 note).

8 **SEC. 108. DEFINITIONS.**

9 For purposes of this title—

10 (1) the term “rail miles” means route miles,  
11 not track miles; and

12 (2) the term “railroad” means freight, intercity  
13 passenger, and commuter rail transportation oper-  
14 ated as part of the general system of rail transpor-  
15 tation.

16 **TITLE II—FUNDING**

17 **SEC. 201. EXCISE TAX ON SALE OF CERTAIN TRAIN EQUIP-  
18 MENT.**

19 (a) IN GENERAL.—Chapter 32 of the Internal Rev-  
20 enue Code of 1986 (relating to manufacturers excise  
21 taxes) is amended by inserting after subchapter D the fol-  
22 lowing new subchapter:

23 **“Subchapter E—Railroad Locomotives and  
24 Rolling Stock**

“Sec. 4191. Imposition of tax.

1     **“SEC. 4191. IMPOSITION OF TAX.**

2         “(a) IN GENERAL.—There is hereby imposed on the  
3     sale of any specified railroad equipment by the manufac-  
4     turer, producer, or importer a tax equal to 5 percent of  
5     the price for which so sold.

6         “(b) SPECIFIED RAILROAD EQUIPMENT.—For pur-  
7     poses of this section, the term ‘specified railroad equip-  
8     ment’ means—

9             “(1) any railroad locomotive, and

10             “(2) any other railroad rolling stock.

11         “(c) SEPARATE PURCHASE OF PARTS AND ACES-  
12     SORIES.—Under regulations prescribed by the Secretary—

13             “(1) IN GENERAL.—If—

14                 “(A) the owner, lessee, or operator of any  
15     specified railroad equipment installs (or causes  
16     to be installed) any part or accessory on such  
17     equipment, and

18                 “(B) such installation is not later than the  
19     date 6 months after the date such equipment  
20     was first placed in service,

21     then there is hereby imposed on such installation a  
22     tax equal to 5 percent of the price of such part or  
23     accessory and its installation.

24         “(2) EXCEPTION.—Paragraph (1) shall not  
25     apply if the part or accessory installed is a replace-  
26     ment part or accessory.

1           “(3) INSTALLERS SECONDARILY LIABLE FOR  
2           TAX.—The owners of the trade or business installing  
3           the parts or accessories shall be secondarily liable  
4           for the tax imposed by paragraph (1).”

5           (b) CLERICAL AMENDMENT.—The table of sub-  
6           chapters for chapter 32 of such Code is amended by in-  
7           serting after the item relating to subchapter D the fol-  
8           lowing new item:

“Subchapter E. Railroad locomotives and rolling stock.”

9           (c) EFFECTIVE DATE.—The amendments made by  
10           this section shall take effect on October 1, 2003.

11           **SEC. 202. TAX ON RAIL TRANSPORTATION OF PERSONS OR  
12           PROPERTY.**

13           (a) IN GENERAL.—Chapter 33 of the Internal Rev-  
14           enue Code of 1986 is amended by inserting before sub-  
15           chapter B the following new subchapter:

16           **“Subchapter A—Transportation by Rail**

“Sec. 4241. Transportation of persons.

“Sec. 4242. Transportation of property.

“Sec. 4243. Definitions and special rules.

17           **“SEC. 4241. TRANSPORTATION OF PERSONS.**

18           “(a) IN GENERAL.—There is hereby imposed on the  
19           amount paid for taxable rail transportation of any person  
20           a tax equal to—

1           “(1) 5 percent of the amount so paid in the  
2        case of taxable rail transportation by commuter rail,  
3        and

4           “(2) 10 percent of the amount so paid in any  
5        other case.

6        (b) BY WHOM PAID.—The tax imposed by this sec-  
7        tion shall be paid by the person making the payment sub-  
8        ject to the tax.

9        **“SEC. 4242. TRANSPORTATION OF PROPERTY.**

10        “(a) IN GENERAL.—there is hereby imposed upon the  
11      amount paid within or without the United States for the  
12      taxable rail transportation of property a tax equal to 1  
13      percent of the amount so paid for such transportation.

14      The tax imposed by this subsection shall apply only to  
15      amounts paid to a person engaged in the business of  
16      transporting property by rail for hire.

17        “(b) BY WHOM PAID.—

18        “(1) IN GENERAL.—Except as provided by  
19        paragraph (2), the tax imposed by subsection (a)  
20        shall be paid by the person making the payment sub-  
21        ject to tax.

22        “(2) PAYMENTS MADE OUTSIDE THE UNITED  
23        STATES.—If a payment subject to tax under sub-  
24        section (a) is made outside the United States and

1 the person making such payment does not pay such  
2 tax, such tax—

3 “(A) shall be paid by the person to whom  
4 the property is delivered in the United States  
5 by the person furnishing the last segment of the  
6 taxable transportation in respect of which such  
7 tax is imposed, and

8 “(B) shall be collected by the person fur-  
9 nishing the last segment of such taxable trans-  
10 portation.

11 **“SEC. 4243. DEFINITIONS AND SPECIAL RULES.**

12 “(a) TAXABLE RAIL TRANSPORTATION.—For pur-  
13 poses of this subchapter, the term ‘taxable rail transpor-  
14 tation’ means transportation by rail within the United  
15 States, other than by mass transit.

16 “(b) TRANSPORTATION.—For purposes of this sub-  
17 chapter, the term ‘transportation’ includes layover or wait-  
18 ing time and movement of the train in deadhead service.

19 “(c) SPECIAL RULES.—

20 “(1) PAYMENTS MADE OUTSIDE THE UNITED  
21 STATES FOR PREPAID ORDERS.—If the payment  
22 upon which tax is imposed by section 4241 is made  
23 outside the United States for a prepaid order, ex-  
24 change order, or similar order, the person furnishing

1 the initial transportation pursuant to such order  
2 shall collect the amount of the tax.

3       “(2) TAX DEDUCTED UPON REFUNDS.—Every  
4 person who refunds any amount with respect to a  
5 ticket or order which was purchased without pay-  
6 ment of the tax imposed by section 4241 shall de-  
7 duct from the amount refundable, to the extent  
8 available, any tax due under such section as a result  
9 of the use of a portion of the transportation pur-  
10 chased in connection with such ticket or order, and  
11 shall report to the Secretary the amount of any such  
12 tax remaining uncollected.

13       “(3) PAYMENT OF TAX.—Where any tax im-  
14 posed by section 4241 is not paid at the time pay-  
15 ment for transportation is made, then, under regula-  
16 tions prescribed by the Secretary, to the extent that  
17 such tax is not collected under any other provision  
18 of this subchapter, such tax shall be paid by the car-  
19 rier providing the initial segment of such transpor-  
20 tation in the United States.”

21       (b) CLERICAL AMENDMENT.—The table of sub-  
22 chapters for chapter 33 of such Code is amended by in-  
23 serting before the item relating to subchapter B the fol-  
24 lowing new item:

“Subchapter A. Transportation by rail.”

1       (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall take effect on October 1, 2003.

3 **SEC. 203. NATIONAL RAIL INFRASTRUCTURE PROGRAM**

4                   **TRUST FUND.**

5       (a) IN GENERAL.—Subchapter A of chapter 98 of the  
6 Internal Revenue Code of 1986 (relating to trust fund  
7 code) is amended by adding at the end the following new  
8 section:

9 **“SEC. 9511. NATIONAL RAIL INFRASTRUCTURE PROGRAM**

10                   **TRUST FUND.**

11       “(a) CREATION OF TRUST FUND.—There is estab-  
12 lished in the Treasury of the United States a trust fund  
13 to be known as the ‘National Rail Infrastructure Program  
14 Trust Fund’, consisting of such amounts as may be appro-  
15 priated or credited to such Trust Fund as provided in this  
16 section or section 9602(b).

17       “(b) TRANSFERS TO TRUST FUND.—There are here-  
18 by appropriated to the National Rail Infrastructure Pro-  
19 gram Trust Fund amounts equivalent to—

20                   “(1) the taxes received in the Treasury under  
21 section 4191 (relating to taxes on railroad loco-  
22 motives and rolling stock),

23                   “(2) 10 percent of all customs duties received  
24 in the Treasury after September 30, 2003,

1           “(3) the taxes received in the Treasury under  
2        section 4041 or 4081 to the extent attributable to  
3        fuel used in a train, and

4           “(4) 10 percent of all royalties received by the  
5        United States attributable to the removal of oil or  
6        gas from Federal lands.

7        “(c) EXPENDITURES.—Amounts in the National Rail  
8        Infrastructure Program Trust Fund shall be available, as  
9        provided in appropriation Acts, only for purposes of mak-  
10      ing expenditures to carry out title I of the National Rail  
11      Infrastructure Program Act.”

12       (b) CLERICAL AMENDMENT.—The table of sections  
13      for such subchapter is amended by adding at the end the  
14      following new item:

“Sec. 9511. National Rail Infrastructure Program Trust Fund.”

