

116TH CONGRESS
1ST SESSION

H. R. 2723

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

MAY 14, 2019

Mr. LOWENTHAL (for himself, Mr. BLUMENAUER, Mr. CÁRDENAS, Mr. CARTWRIGHT, Mr. CISNEROS, Ms. KELLY of Illinois, Mr. MEADOWS, Ms. MOORE, Mrs. NAPOLITANO, Mr. POCAN, Mr. ROUDA, Mr. TAKANO, and Ms. HILL of California) 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 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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “National Multimodal
3 and Sustainable Freight Infrastructure Act”.

4 **SEC. 2. FREIGHT FUNDING PROGRAMS.**

5 (a) IN GENERAL.—Chapter 701 of title 49, United
6 States Code, is amended by adding at the end the fol-
7 lowing:

8 **“§ 70104. Multimodal Freight Funding Formula Pro-**
9 **gram**

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

15 “(b) FORMULA APPORTIONMENT.—Of funds made
16 available to the Secretary for a fiscal year to carry out
17 the Multimodal Freight Funding Formula Program under
18 this section, the Secretary shall calculate the amount
19 available to be apportioned to a State based on the fol-
20 lowing:

21 “(1) 6.25 percent in the ratio that—

22 “(A) the number of ports in each State;
23 bears to

24 “(B) the number of ports in all States.

25 “(2) 6.25 percent in the ratio that—

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

4 “(B) the number of such rail track-miles in
5 all States.

6 “(3) 6.25 percent in the ratio that—

7 “(A) the number of cargo-handling air-
8 ports in each State; bears to

9 “(B) the number of such airports in all
10 States.

11 “(4) 6.25 percent in the ratio that—

12 “(A) the number of Interstate system
13 miles in each State; bears to

14 “(B) the number of Interstate system
15 miles in all States.

16 “(5) 37.5 percent in the ratio that—

17 “(A) the tonnage of rail, waterborne, high-
18 way, and airport freight moved in each State;
19 bears to

20 “(B) the tonnage of such freight moved in
21 all States.

22 “(6) 37.5 percent in the ratio that—

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

1 “(B) the value of such freight moved in all
2 States.

3 “(c) TIER I ELIGIBILITY.—The Secretary shall pro-
4 vide to a State in a fiscal year 40 percent of the amount
5 of the funds available to the State under subsection (b)
6 for that fiscal year if the State—

7 “(1) has an established freight advisory com-
8 mittee in accordance with section 70201;

9 “(2) developed any analyses or plans required
10 for the completion of a State freight plan in accord-
11 ance with section 70202;

12 “(3) has an approved State freight plan;

13 “(4) has conducted a statewide analysis of
14 freight needs and bottlenecks on all modes of trans-
15 portation, including intermodal and last mile needs;

16 “(5) demonstrates use of the statewide analysis
17 of freight needs in prioritizing projects in the State
18 freight plan;

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

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

1 “(A) greenhouse gas emissions;

2 “(B) local air pollution, including ozone
3 and ozone precursors, nitrogen oxides, sulfur di-
4 oxide, particulate matter, carbon monoxide, and
5 lead;

6 “(C) water runoff and other adverse water
7 impacts; and

8 “(D) wildlife habitat loss.

9 “(d) TIER II ELIGIBILITY.—The Secretary shall pro-
10 vide to a State in a fiscal year 60 percent of the amount
11 of the funds available to the State under subsection (b)
12 for that fiscal year if the State—

13 “(1) has met the eligibility criteria of subsection
14 (c);

15 “(2) has conducted, in cooperation with at least
16 one other State, a multistate analysis of freight
17 needs and bottlenecks on all modes of transpor-
18 tation, including intermodal and last mile needs
19 along a multistate freight corridor; and

20 “(3) has developed, in cooperation with at least
21 one other State or a relevant entity in Canada or
22 Mexico, a regional freight investment plan that fo-
23 cuses on the end-to-end investment needs of critical
24 multistate freight corridors based on the multistate
25 analysis of freight needs and bottlenecks on all

1 modes of transportation, including intermodal and
2 last mile needs.

3 “(e) REDISTRIBUTION OF FUNDS.—The Secretary
4 shall make available under the National Freight Infra-
5 structure Competitive Grant Program under section
6 70105 any funds that—

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

11 “(2) the Secretary provided to a State under
12 subsection (c) or subsection (d) but remain unobli-
13 gated in that State at the end of the third fiscal
14 year following the fiscal year in which they were pro-
15 vided to the State.

16 “(f) ELIGIBLE USES.—A State may use funds pro-
17 vided under this section only for—

18 “(1) the development of corridor freight plans
19 or regional freight plans; or

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

1 “(A) maintain or improve the efficiency
2 and reliability of freight supply chains;

3 “(B) demonstrate public freight benefits;

4 “(C) improve modal components of a mul-
5 timodal corridor that is critical to a State or re-
6 gion;

7 “(D) address freight needs to facilitate a
8 regionally or nationally significant economic de-
9 velopment issue;

10 “(E) in accordance with the State freight
11 plan, decrease—

12 “(i) greenhouse gas emissions;

13 “(ii) local air pollution, including
14 ozone and ozone precursors, nitrogen ox-
15 ides, sulfur dioxide, particulate matter,
16 carbon monoxide, and lead;

17 “(iii) water runoff and other adverse
18 water impacts; and

19 “(iv) wildlife habitat loss;

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

22 “(G) relieve freight or non-freight access,
23 congestion, or safety issues; or

24 “(H) address first and last mile connec-
25 tors.

1 “(g) EPA REPORT.—A State that receives funds
2 under this section shall collect data and, beginning 1 year
3 from the date of the completion of each project or project
4 phase that receives such funds, and annually thereafter
5 for 15 years, report to the Secretary and the Adminis-
6 trator of Environmental Protection Agency on progress
7 made toward greenhouse gas emission reductions and local
8 air pollution reductions in accordance with the State
9 freight plan. All relevant data and reporting shall be col-
10 lected and reported in accordance with guidance developed
11 by the Administrator in consultation with the Secretary.

12 “(h) FEDERAL SHARE.—

13 “(1) IN GENERAL.—The Federal share of the
14 cost of a project carried out by a State using funds
15 provided under this section may not be more than
16 80 percent.

17 “(2) ADDITIONAL FEDERAL SHARE.—The Fed-
18 eral share of the cost of a project carried out by a
19 State using funds provided under this section may
20 be increased by 5 percent if the such 5 percent is
21 used for the mitigation of diesel emissions from con-
22 struction activities associated with the project. The
23 Administrator of Environmental Protection Agency,
24 in consultation with the Secretary, shall develop
25 guidance for eligible equipment and activities con-

1 sistent with existing State, local, and nonprofit clean
2 construction guidelines.

3 “(i) RESERVATION OF FUNDS FOR TERRITORIES.—

4 Before making a calculation under subsection (b), the Sec-
5 retary shall withhold funds for distribution to each terri-
6 tory in an amount based on the freight infrastructure need
7 of the territories, as determined by the Secretary. Such
8 funds shall not otherwise be made available for distribu-
9 tion under this section.

10 “(j) AUTHORIZATION OF APPROPRIATIONS.—There

11 is authorized to be appropriated from the Freight Trust
12 Fund to carry out this section an amount equal to 50 per-
13 cent of the receipts of the Freight Trust Fund for each
14 fiscal year beginning in fiscal year 2020.

15 “(k) ADMINISTRATION AND OVERSIGHT COSTS.—

16 The Secretary may retain up to one-half of 1 percent of
17 the amounts available to carry out this section for each
18 fiscal year for the cost of administration and oversight of
19 projects funded under this section.

20 “(l) AVAILABILITY OF FUNDS.—Amounts authorized
21 under subsection (j) shall be—

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

24 “(2) available until expended.

1 “(m) APPLICATION OF RATE REQUIREMENTS.—The
2 Secretary shall take such action as may be necessary to
3 apply the requirements described under section 113 of title
4 23, as applicable, to any project receiving funds under this
5 section.

6 “(n) DEFINITIONS.—In this section:

7 “(1) STATE.—The term ‘State’ means each of
8 the 50 States, the District of Columbia, and Puerto
9 Rico.

10 “(2) STATE FREIGHT PLAN.—The term ‘State
11 freight plan’ means the State freight plan described
12 under section 70202.

13 “(3) TERRITORY.—The term ‘territory’ has the
14 meaning given such term in section 165(c)(1) of title
15 23.

16 **“§ 70105. National Freight Infrastructure Competitive**
17 **Grant Program**

18 “(a) ESTABLISHMENT.—The Secretary of Transpor-
19 tation shall establish a National Freight Infrastructure
20 Competitive Grant Program under which the Secretary
21 shall make grants, on a competitive basis, to designated
22 entities for eligible projects to improve the efficiency and
23 reliability of freight movement in the United States.

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

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

3 “(2) reduce the cost of freight transportation;

4 “(3) improve the safety of freight transpor-
5 tation;

6 “(4) relieve bottlenecks in the freight transpor-
7 tation system;

8 “(5) improve the state of good repair of the
9 freight transportation system;

10 “(6) contribute to the environmental goals de-
11 scribed in the State freight plan; and

12 “(7) reduce the adverse impacts of freight
13 transportation on communities traversed by freight.

14 “(c) GRANT APPLICATIONS.—To be eligible to receive
15 a grant under the Program a designated entity shall sub-
16 mit to the Secretary an application at such time, in such
17 form, and containing such information as the Secretary
18 may require.

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

22 “(1) that is—

23 “(A) a capital investment project for a
24 transportation infrastructure facility signifi-
25 cantly used for the movement of freight; or

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

4 “(i) a road, rail, or landside air or
5 water facility;

6 “(ii) an intermodal facility such as a
7 seaport or port on the inland waterway
8 system, an airport, or a highway and rail
9 intermodal facility;

10 “(iii) a facility related to an inter-
11 national border crossing;

12 “(iv) is for an operational improve-
13 ment or equipment of a facility described
14 in this paragraph; or

15 “(v) railway-roadway grade separa-
16 tions and related improvements;

17 “(2) will help to achieve the goals set out in
18 subsection (b);

19 “(3) has non-Federal source or sources of com-
20 mitted financing, along with any Federal funds, suf-
21 ficient to complete the project;

22 “(4) has independent utility;

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

24 “(6) includes the development of project plans
25 and analysis.

1 “(e) GRANT CRITERIA.—The Secretary shall select
2 eligible projects for funding based on the following cri-
3 teria:

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

6 “(2) The likely benefits of the project relative
7 to its costs.

8 “(3) The extent to which the project dem-
9 onstrates the use of innovative technology, strate-
10 gies, and practices.

11 “(4) The extent to which the project uses
12 onroad construction vehicles and nonroad construc-
13 tion equipment that meet the emission standards of
14 the Environmental Protection Agency.

15 “(5) The extent to which the project dem-
16 onstrates effective reductions (in accordance with
17 the State freight plan) in—

18 “(A) greenhouse gas emissions;

19 “(B) local air pollution, including ozone
20 and ozone precursors, nitrogen oxides, sulfur di-
21 oxide, particulate matter, carbon monoxide, and
22 lead;

23 “(C) water runoff and other adverse water
24 impacts; and

25 “(D) wildlife habitat loss.

1 “(6) The likely effect of the project on increas-
2 ing United States exports.

3 “(7) The consistency of the project with the na-
4 tional freight strategic plan described under section
5 70102.

6 “(8) The extent to which the project leverages
7 Federal funds by matching State, territorial, local,
8 tribal, or private funds to the Federal funding re-
9 quested under the Program.

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

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

18 “(g) RETROSPECTIVE ANALYSIS.—A grant agree-
19 ment made under the Program shall require that the re-
20 cipient collect data and report to the Secretary, at an ap-
21 propriate time as determined by the Secretary, on—

22 “(1) the actual cost of constructing the project;

23 “(2) the time required to complete the project
24 and put it into service;

1 “(3) the level of usage of the facility built or
2 improved by the project;

3 “(4) the benefits of the project, measured in a
4 way that is consistent with the benefits that were es-
5 timated in the application for funding that was sub-
6 mitted to the Secretary; and

7 “(5) any costs resulting from the project in ad-
8 dition to the costs of constructing the project.

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

20 “(i) PERIOD OF AVAILABILITY.—In entering into
21 agreements under this section, the Secretary shall ensure
22 that any funds made available for a project that are not
23 obligated or expended before the last day of the third fiscal
24 year following the fiscal year in which the funds are made

1 available are transferred back to the Secretary for making
2 grants under the Program.

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

9 “(1) withdraw the grant from the designated
10 entity; and

11 “(2) apply the funding to another grant under
12 this section.

13 “(k) FEDERAL SHARE.—

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

18 “(2) ADDITIONAL FEDERAL SHARE.—The Fed-
19 eral share of the cost of a project carried out by a
20 State using funds provided under this section may
21 be increased by 5 percent if the such 5 percent is
22 used for the mitigation of diesel emissions from con-
23 struction activities associated with the project. The
24 Administrator of Environmental Protection Agency,
25 in consultation with the Secretary, shall develop

1 guidance for eligible equipment and activities con-
2 sistent with existing State, local, and nonprofit clean
3 construction guidelines.

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

9 “(m) AUTHORIZATION AND AVAILABILITY OF
10 FUNDS.—

11 “(1) AUTHORIZATION.—There is authorized to
12 be appropriated from the Freight Trust Fund to
13 carry out this section an amount equal to 50 percent
14 of the receipts of the Freight Trust Fund for each
15 fiscal year beginning in fiscal year 2020.

16 “(2) AVAILABILITY.—Amounts authorized
17 under paragraph (1) shall be—

18 “(A) available for obligation on October 1
19 of the fiscal year for which they are authorized;
20 and

21 “(B) available for obligation until ex-
22 pended.

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

1 23, as applicable, to any project receiving funds under this
2 section.

3 “(o) DEFINITIONS.—In this section:

4 “(1) DESIGNATED ENTITY.—The term ‘des-
5 ignated entity’ means—

6 “(A) a State;

7 “(B) a unit of local government;

8 “(C) a metropolitan planning organization;

9 “(D) a public transportation authority (in-
10 cluding a port authority);

11 “(E) a tribal government; or

12 “(F) or a consortium of the entities de-
13 scribed in this paragraph.

14 “(2) STATE.—The term ‘State’ means any of
15 the 50 States, the District of Columbia, Puerto Rico,
16 American Samoa, the Commonwealth of the North-
17 ern Mariana Islands, Guam, and the United States
18 Virgin Islands.

19 “(3) STATE FREIGHT PLAN.—The term ‘State
20 freight plan’ means the State freight plan described
21 under section 70202.”.

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

“70104. Multimodal Freight Funding Formula Program.

“70105. National Freight Infrastructure Competitive Grant Program.”.

1 **SEC. 3. NATIONAL AND STATE FREIGHT PLANS.**

2 (a) NATIONAL FREIGHT STRATEGIC PLAN.—Section
3 70102(b) of title 49, United States Code, is amended—

4 (1) in paragraph (10) by striking “and” at the
5 end;

6 (2) in paragraph (11) by striking the period at
7 the end and inserting “; and”; and

8 (3) by adding at the end the following:

9 “(12) best practices to reduce greenhouse gas
10 emissions, local air pollution, water runoff, and wild-
11 life habitat loss.”.

12 (b) STATE FREIGHT ADVISORY COMMITTEES.—Sec-
13 tion 70201 of title 49, United States Code, is amended—

14 (1) in subsection (a) by striking “representa-
15 tives of ports, freight railroads,” and all that follows
16 through “local governments” and inserting the fol-
17 lowing: “representatives of—

18 “(1) ports;

19 “(2) freight railroads;

20 “(3) shippers;

21 “(4) carriers;

22 “(5) freight-related associations;

23 “(6) third-party logistics providers;

24 “(7) the freight industry workforce;

25 “(8) the transportation department of the
26 State;

1 “(9) metropolitan planning organizations;

2 “(10) local governments;

3 “(11) the environmental protection department
4 of the State, if applicable; and

5 “(12) the air resources board of the State, if
6 applicable”;

7 (2) by redesignating subsection (b) as sub-
8 section (c);

9 (3) by inserting after subsection (a) the fol-
10 lowing:

11 “(b) QUALIFICATIONS.—Each member of a freight
12 advisory committee established under subsection (a) shall
13 be widely recognized to have qualifications sufficient to
14 represent the interests of such member’s stakeholder
15 group, including, as applicable—

16 “(1) a general business and financial experi-
17 ence;

18 “(2) experience or qualifications in the areas of
19 freight transportation and logistics;

20 “(3) experience in transportation planning;

21 “(4) experience representing employees of the
22 freight industry; or

23 “(5) experience representing a State, local gov-
24 ernment, or metropolitan planning organization.”;

25 and

1 (4) in subsection (b)—

2 (A) in paragraph (5) by inserting “, in-
3 cluding advising on the development of the
4 freight investment plan” after “70202”; and

5 (B) by adding at the end the following:

6 “(6) approve the State freight plan under sec-
7 tion 70202, including the freight investment plan.”.

8 (c) STATE FREIGHT PLANS.—Section 70202 of title
9 49, United States Code, is amended—

10 (1) in subsection (b)—

11 (A) in paragraph (9)—

12 (i) by inserting “and section 70104”
13 after “section 167 of title 23”; and

14 (ii) by striking “and” at the end;

15 (2) by redesignating paragraph (10) as para-
16 graph (12);

17 (3) by inserting after paragraph (9) the fol-
18 lowing:

19 “(10) strategies and goals to decrease—

20 “(A) greenhouse gas emissions;

21 “(B) local air pollution, including ozone
22 and ozone precursors, nitrogen oxides, sulfur di-
23 oxide, particulate matter, carbon monoxide, and
24 lead;

1 “(C) water runoff and other adverse water
2 impacts; and

3 “(D) wildlife habitat loss;

4 “(11) strategies and goals to decrease the ad-
5 verse impact of freight transportation on commu-
6 nities traversed by freight railroads; and”;

7 (4) by redesignating subsection (e) as sub-
8 section (f); and

9 (5) by inserting after subsection (d) the fol-
10 lowing:

11 “(e) CERTIFICATION.—The Secretary shall approve a
12 freight plan if such plan meets the requirements of this
13 section and is consistent with the National freight stra-
14 tegic plan described in section 70102. The Secretary, in
15 consultation with the Administrator of the Environmental
16 Protection Agency shall certify any environmental goal or
17 strategy provisions of the plan.”.

18 **SEC. 4. FREIGHT TRUST FUND.**

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

22 **“SEC. 9512. FREIGHT TRUST FUND.**

23 “(a) CREATION OF TRUST FUND.—There is estab-
24 lished in the Treasury of the United States a trust fund
25 to be known as the ‘Freight Trust Fund’ (hereinafter in

1 this section referred to as the ‘Fund’) consisting of such
 2 amounts as may be appropriated or credited to such Fund
 3 as provided in this section 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, as provided by appropria-
 9 tion Acts, for making expenditures to meet obligations au-
 10 thorized to be paid out of the Fund under section 2 of
 11 the National Multimodal and Sustainable Freight Infra-
 12 structure Act.”.

13 (b) CLERICAL AMENDMENT.—The table of sections
 14 for subchapter A of chapter 98 of the Internal Revenue
 15 Code of 1986 is amended by adding at the end the fol-
 16 lowing new item:

“Sec. 9512. Freight Trust Fund.”.

17 **SEC. 5. FREIGHT MOBILITY INFRASTRUCTURE TAX.**

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

21 **“Subchapter D—Ground Transportation**
 22 **Freight Tax**

“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.—The tax imposed by sub-
8 section (a) shall be paid—

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

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

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

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

24 “(d) DEFINITIONS AND SPECIAL RULE.—For pur-
25 poses of this subchapter—

1 “(1) TAXABLE GROUND TRANSPORTATION.—
2 The term ‘taxable ground transportation’ means
3 transportation of property by—

4 “(A) freight rail, or

5 “(B) truck trailer and semitrailer chassis
6 and bodies, suitable for use with a trailer or
7 semitrailer which has a gross vehicle weight of
8 26,000 pounds or more.

9 For purposes of subparagraph (B), the terms ‘truck
10 trailer’ and ‘semitrailer’ have the same meanings as
11 such terms have in section 4051.

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

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

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

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

1 “(3) TRANSPORTATION OUTSIDE THE UNITED
2 STATES.—In the case an amount paid for transpor-
3 tation any portion of which is outside the United
4 States, the portion of such amount paid which is al-
5 locable to transportation within the United States
6 shall be determined under regulations prescribed by
7 the Secretary. Such regulations shall include rules to
8 include transportation outside the United States the
9 primary purpose of which is to avoid the tax im-
10 posed by this section.

11 “(e) EXEMPTION FOR UNITED STATES AND POSSES-
12 SIONS AND STATE AND LOCAL GOVERNMENTS.—The tax
13 imposed by subsection (a) shall not apply to amounts paid
14 for transportation of property purchased for the exclusive
15 use of the United States, or any State or political subdivi-
16 sion thereof.”.

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

21 (c) CLERICAL AMENDMENT.—The table of sub-
22 chapters for chapter 33 of the Internal Revenue Code of
23 1986 is amended by inserting after the item relating to
24 subchapter C the following new item:

“SUBCHAPTER D. GROUND TRANSPORTATION FREIGHT TAX”.

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

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

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