

**AMENDMENT TO THE RULES COMMITTEE PRINT
OF H.R. 7**

OFFERED BY MR. NADLER OF NEW YORK

Page 167, after line 8, insert the following (and con-
form the table of contents accordingly):

1 SEC. 1407. PROJECTS OF NATIONAL AND REGIONAL SIG-
2 NIFICANCE PROGRAM.

3 (a) ESTABLISHMENT.—The Secretary shall establish
4 a program to provide grants to States for projects of na-
5 tional and regional significance.

6 (b) PURPOSES.—The purposes of the projects of na-
7 tional and regional significance program shall be to—

8 (1) provide Federal assistance to critical high-
9 cost transportation infrastructure facilities that—

10 (A) generate national and regional eco-
11 nomic and mobility benefits, including improv-
12 ing economic productivity by facilitating inter-
13 national trade, relieving congestion, and im-
14 proving transportation safety by facilitating
15 freight movement; and

16 (B) can not easily be addressed or funded
17 through State apportionments of Federal sur-
18 face transportation funds; and

*Mr. Schmidt of Ohio
Mr. Bismarck of Oregon
Mr. Davis of Kentucky
Mr. Lipinski of Illinois
Ms. McInnis of Washington
Mr. Smith of Washington
Mr. Chabot of Ohio*

1 (2) maximize the benefits of Federal investment
2 in such projects by encouraging States to supple-
3 ment Federal grant assistance with other funding
4 sources and methods of finance.

5 (c) PROJECT COST.—To be eligible for assistance
6 under this section, a project shall have eligible project
7 costs that are reasonably anticipated to equal or exceed
8 the lesser of—

9 (1) \$500,000,000; or

10 (2)(A) in the case of a project located in a sin-
11 gle State, 75 percent of the amount apportioned
12 under chapter 1 of title 23, United States Code, to
13 the State for the most recent fiscal year; or

14 (B) in the case of a project located in more
15 than one State, 75 percent of the greatest amount
16 apportioned under such chapter to any one of such
17 States for the most recent fiscal year.

18 (d) PROJECT TYPE.—

19 (1) IN GENERAL.—To be eligible for assistance
20 under this section, a project shall be a capital
21 project—

22 (A) that is eligible for Federal assistance
23 under title 23, United States Code;

1 (B) for an international bridge or tunnel
2 for which an international entity authorized
3 under Federal or State law is responsible;

4 (C) for a public freight rail facility or a
5 private freight rail facility providing public ben-
6 efit for highway users;

7 (D) for an intermodal freight transfer fa-
8 cility;

9 (E) for a means of access to a facility de-
10 scribed in subparagraph (C) or (D);

11 (F) for a service improvement for a facility
12 described in subparagraph (C) or (D) (including
13 a capital investment for an intelligent transpor-
14 tation system); or

15 (G) that comprises a series of projects de-
16 scribed in subparagraphs (C) through (F) with
17 the common objective of improving the flow of
18 goods.

19 (2) PORT PROJECTS.—A project located within
20 the boundaries of a port terminal may only be eligi-
21 ble for assistance under this section if the project is
22 for such surface transportation infrastructure modi-
23 fications as are necessary to facilitate direct inter-
24 modal interchange, transfer, and access into and out
25 of the port.

1 (e) PROJECT FUNDING.—

2 (1) FUNDING SOURCES.—The non-Federal
3 share of the cost of an eligible project may be fund-
4 ed through a combination of private and public sec-
5 tor funds, including investment of public funds in
6 private sector facility improvements.

7 (2) NEED FOR FEDERAL SUPPORT.—To be eli-
8 gible for assistance under this section, the Secretary
9 must determine, based on information provided by
10 the applicant, that the project cannot be readily and
11 efficiently carried out without Federal support and
12 participation.

13 (3) NON-FEDERAL FINANCIAL COMMITMENT.—

14 (A) IN GENERAL.—To be eligible for as-
15 sistance under this section—

16 (i) a project must be supported by an
17 acceptable degree of non-Federal financial
18 commitments; and

19 (ii) the applicant for such assistance
20 shall demonstrate to the satisfaction of the
21 Secretary one or more stable and depend-
22 able financing sources to construct, main-
23 tain, and operate the infrastructure facility
24 for which the project is to be carried out.

1 (B) EVALUATION OF PROJECT.—For pur-
2 poses of subparagraph (A), the Secretary shall
3 require that—

4 (i) the proposed project plan provides
5 for the availability of contingency amounts
6 that the Secretary determines to be reason-
7 able to cover unanticipated cost increases;
8 and

9 (ii) each proposed non-Federal source
10 of capital and operating financing is stable,
11 reliable, and available within the proposed
12 project timetable.

13 (C) CONSIDERATIONS.—In assessing the
14 stability, reliability, and availability of proposed
15 sources of non-Federal financing under this
16 paragraph, the Secretary shall consider—

17 (i) existing financial commitments;

18 (ii) the degree to which financing
19 sources are dedicated to the purposes pro-
20 posed;

21 (iii) any debt obligation that exists or
22 is proposed by the recipient for the pro-
23 posed project; and

24 (iv) the extent to which the project
25 has a non-Federal financial commitment

1 that exceeds the required non-Federal
2 share of the cost of the project.

3 (f) CONSISTENCY WITH PLANS.—To be eligible for
4 assistance under this section, a project shall be consistent
5 with—

6 (1) for each State in which all or a portion of
7 the project is located, the long-range statewide
8 transportation plan and statewide transportation im-
9 provement program required by section 5204 of title
10 49, United States Code, and the State freight plan
11 under section 1403 of this Act; and

12 (2) for each metropolitan planning area in
13 which all or a portion of the project is located, the
14 transportation plan and transportation improvement
15 program required by section 5203 of such title.

16 (g) APPLICATIONS.—

17 (1) IN GENERAL.—Each State seeking a grant
18 under this section for a project shall submit to the
19 Secretary an application in such form and in accord-
20 ance with such requirements as the Secretary shall
21 establish.

22 (2) APPLICATION FOR MULTISTATE PROJECT.—
23 In the case of a project to be located in more than
24 one State, the application for the project may be
25 submitted by—

1 (A) all of such States, with one State act-
2 ing as the lead for the project; or

3 (B) a multistate transportation authority.

4 (3) COLLABORATION IN DEVELOPING APPLICA-
5 TIONS.—The Secretary shall encourage States, in
6 developing applications to submit under this section,
7 to collaborate with other public and private entities
8 with an interest in the project for which the State
9 is seeking Federal assistance, including regional and
10 local governments, shippers, carriers, and freight-re-
11 lated associations, as appropriate.

12 (h) COMPETITIVE GRANT SELECTION AND CRITERIA
13 FOR GRANTS.—

14 (1) IN GENERAL.—The Secretary shall—

15 (A) establish criteria for selecting among
16 projects that meet the eligibility requirements
17 specified in subsections (c), (d), (e), and (f);

18 (B) conduct a national solicitation for ap-
19 plications; and

20 (C) award grants on a competitive basis.

21 (2) SELECTION CRITERIA.—In selecting a
22 project under this section, the Secretary shall con-
23 sider the extent to which the project—

24 (A) is located within, or will otherwise ben-
25 efit, a corridor or region that expe-

1 riences high volumes of passenger or freight
2 traffic and related traffic congestion, taking
3 into account—

4 (i) the current and projected future
5 volumes of passenger and freight travel
6 within the corridor or region;

7 (ii) the extent to which freight traffic
8 in the corridor has increased since the date
9 of enactment of the North American Free
10 Trade Agreement Implementation Act (16
11 U.S.C. 4401 et seq.); and

12 (iii) the economic, environmental, and
13 other costs arising from congestion in the
14 corridor or region;

15 (B) is projected to reduce congestion and
16 increase the speed, reliability, and accessibility
17 of freight movement, including impacts in the
18 State, region, and Nation;

19 (C) is projected to generate national and
20 regional economic benefits, including creating or
21 sustaining jobs, expanding business opportuni-
22 ties, and impacting the gross domestic product;

23 (D) will facilitate regional mobility, acces-
24 sibility, and economic growth and development

1 in areas underserved by existing highway infra-
2 structure;

3 (E) is projected to improve transportation
4 safety, including reducing transportation acci-
5 dents, injuries, and fatalities;

6 (F) is projected to otherwise enhance the
7 national transportation system;

8 (G) uses new technologies, including intel-
9 ligent transportation systems, that enhance the
10 efficiency of the project;

11 (H) helps maintain or protect the environ-
12 ment;

13 (I) will be supported by, in addition to
14 Federal grant assistance under this section,
15 other sources of funding and methods of fi-
16 nance, including—

17 (i) any other source of Federal trans-
18 portation funding;

19 (ii) a contribution from a State, re-
20 gional, or local governmental entity or a
21 private organization; and

22 (iii) nongrant assistance, including a
23 loan or other credit assistance or direct
24 user charges.

1 (3) PROJECT EVALUATION AND RATING.—The
2 Secretary shall evaluate and rate, based on the selec-
3 tion criteria described in paragraph (2), each project
4 for which an application is submitted under this sec-
5 tion. In rating the projects, the Secretary shall pro-
6 vide, in addition to the overall project rating, indi-
7 vidual ratings for each of the criteria described in
8 paragraph (2).

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

12 (j) LETTERS OF INTENT, FULL FUNDING GRANT
13 AGREEMENTS, AND EARLY SYSTEM WORK AGREE-
14 MENTS.—

15 (1) LETTER OF INTENT.—

16 (A) IN GENERAL.—The Secretary may
17 issue a letter of intent to an applicant announc-
18 ing an intention to obligate, for a project under
19 this section, an amount from future available
20 budget authority specified in law that is not
21 more than the amount stipulated as the finan-
22 cial participation of the Secretary in the
23 project.

24 (B) TREATMENT.—The issuance of a letter
25 of intent under subparagraph (A) is deemed not

1 to be an obligation under sections 1108(c),
2 1108(d), 1501, and 1502(a) of title 31, United
3 States Code, or an administrative commitment.

4 (C) OBLIGATION OR COMMITMENT.—An
5 obligation or administrative commitment for a
6 project under this section may be made only
7 when contract authority is allocated to the
8 project.

9 (2) FULL FUNDING GRANT AGREEMENTS.—

10 (A) IN GENERAL.—A project financed
11 under this section shall be carried out through
12 a full funding grant agreement entered into by
13 the Secretary and the applicant for the project.
14 The Secretary shall enter into a full funding
15 grant agreement under this subsection based on
16 the evaluations and ratings required under sub-
17 section (h)(3).

18 (B) TERMS.—If the Secretary makes a full
19 funding grant agreement with an applicant, the
20 agreement shall—

21 (i) establish the terms of participation
22 by the United States Government in a
23 project under this section;

1 (ii) establish the maximum amount of
2 Government financial assistance for the
3 project;

4 (iii) cover the period of time for com-
5 pleting the project, including, if necessary,
6 a period extending beyond the period of an
7 authorization;

8 (iv) make timely and efficient man-
9 agement of the project easier according to
10 the laws of the United States; and

11 (v) identify quantifiable performance
12 outcomes that the project must achieve by
13 not later than 2 years subsequent to the
14 date of substantial completion of the
15 project, including outcomes related to the
16 program objectives and any budgetary or
17 project development milestones or objec-
18 tives that the Secretary may specify.

19 (C) SPECIAL FINANCIAL RULES.—

20 (i) IN GENERAL.—A full funding
21 grant agreement under this paragraph ob-
22 ligates an amount of available budget au-
23 thority specified in law and may include a
24 commitment, contingent on amounts to be
25 specified in law in advance for commit-

1 ments under this paragraph, to obligate an
2 additional amount from future available
3 budget authority specified in law.

4 (ii) STATEMENT OF CONTINGENT
5 COMMITMENT.—The agreement shall state
6 that the contingent commitment is not an
7 obligation of the Government.

8 (iii) INTEREST AND OTHER FINANC-
9 ING COSTS.—Interest and other financing
10 costs of efficiently carrying out a part of
11 the project within a reasonable time shall
12 be eligible project costs under a full fund-
13 ing grant agreement; except that eligible
14 costs may not be more than the cost of the
15 most favorable financing terms reasonably
16 available for the project at the time of bor-
17 rowing. The applicant shall certify, in a
18 way satisfactory to the Secretary, that the
19 applicant has shown reasonable diligence in
20 seeking the most favorable financing
21 terms.

22 (D) BEFORE AND AFTER STUDY.—

23 (i) IN GENERAL.—A full funding
24 grant agreement under this paragraph

1 shall require the applicant to conduct a
2 study that—

3 (I) describes and analyzes the
4 impact of the project in relation to the
5 program purposes;

6 (II) evaluates the degree to which
7 the project has met its performance
8 outcomes; and

9 (III) provides a rationale for any
10 instance in which the project did not
11 meet one or more performance out-
12 comes.

13 (ii) INFORMATION COLLECTION AND
14 ANALYSIS PLAN.—

15 (I) SUBMISSION OF PLAN.—Ap-
16 plicants seeking a full funding grant
17 agreement under this paragraph shall
18 submit a complete plan for the collec-
19 tion and analysis of information to
20 identify the impacts of the project in
21 relation to program objectives and the
22 project's performance outcomes. Prep-
23 aration of the plan shall be an eligible
24 project cost under the full funding
25 grant agreement.

1 (II) CONTENTS OF PLAN.—The
2 plan submitted under subclause (I)
3 shall provide for—

4 (aa) the collection of data on
5 the current performance of the
6 portion of the surface transpor-
7 tation network that is likely to be
8 impacted by the project;

9 (bb) documentation of the
10 predicted impacts of the project
11 in relation to program purposes
12 and the project's performance
13 outcomes;

14 (cc) collection of data on the
15 relevant portion of the surface
16 transportation network 2 years
17 after the date of substantial com-
18 pletion of the project, including
19 information analogous to that de-
20 scribed in item (aa); and

21 (dd) analysis of the consist-
22 ency of predicted project out-
23 comes with the after data.

24 (E) COLLECTION OF DATA ON CURRENT
25 SYSTEM.—To be eligible for a full funding

1 grant agreement under this paragraph, the re-
2 cipient shall have collected data on the current
3 system, according to the plan required, before
4 the beginning of construction of the proposed
5 project. Collection of this data shall be an eligi-
6 ble project cost under the full funding grant
7 agreement.

8 (3) EARLY SYSTEM WORK AGREEMENTS.—

9 (A) CONDITIONS.—The Secretary may
10 make an early systems work agreement with an
11 applicant if a record of decision under the Na-
12 tional Environmental Policy Act of 1969 (42
13 U.S.C. 4321 et seq.) has been issued on the
14 project and the Secretary finds there is reason
15 to believe a full funding grant agreement for
16 the project will be made.

17 (B) CONTENTS.—

18 (i) IN GENERAL.—A work agreement
19 under this subsection obligates an amount
20 of available budget authority specified in
21 law and shall provide for reimbursement of
22 preliminary costs of carrying out the
23 project, including land acquisition, timely
24 procurement of system elements for which
25 specifications are decided, and other activi-

1 ties the Secretary decides are appropriate
2 to make efficient, long-term project man-
3 agement easier.

4 (ii) PERIOD COVERED.—A work
5 agreement under this paragraph shall
6 cover the period of time the Secretary con-
7 siders appropriate. The period may extend
8 beyond the period of current authorization.

9 (iii) INTEREST AND OTHER FINANC-
10 ING COSTS.—Interest and other financing
11 costs of efficiently carrying out the work
12 agreement within a reasonable time shall
13 be eligible project costs under the agree-
14 ment; except that eligible costs may not be
15 more than the cost of the most favorable
16 financing terms reasonably available for
17 the project at the time of borrowing. The
18 applicant shall certify, in a way satisfac-
19 tory to the Secretary, that the applicant
20 has shown reasonable diligence in seeking
21 the most favorable financing terms.

22 (iv) FAILURE TO CARRY OUT
23 PROJECT.—If an applicant does not carry
24 out the project for reasons within the con-
25 trol of the applicant, the applicant shall

1 repay all Government payments made
2 under the work agreement plus reasonable
3 interest and penalty charges the Secretary
4 establishes in the agreement.

5 (4) LIMITATION ON AMOUNTS.—The total esti-
6 mated amount of future obligations of the Govern-
7 ment and contingent commitments to incur obliga-
8 tions covered by all outstanding letters of intent, full
9 funding grant agreements, and early system work
10 agreements under this subsection for projects of na-
11 tional and regional significance may be not more
12 than the greater of the amount authorized to carry
13 out this section for such projects or an amount
14 equivalent to the last 3 fiscal years of funding au-
15 thorized to carry out this section, less an amount the
16 Secretary reasonably estimates is necessary for
17 grants under this section for such projects that are
18 not covered by a letter or agreement. The total
19 amount covered by new letters and contingent com-
20 mitments included in full funding grant agreements
21 and early systems work agreements for such projects
22 may be not more than a limitation specified in law.

23 (5) NOTIFICATION.—At least 10 days before
24 issuing a letter under paragraph (1) and at least 21
25 days before entering into a full funding grant agree-

1 ment under paragraph (2), the Secretary shall notify
2 in writing the Committee on Transportation and In-
3 frastructure of the House of Representatives and the
4 Committee on Environment and Public Works and
5 the Committee on Commerce, Science, and Trans-
6 portation of the Senate of the proposed letter or
7 agreement. The Secretary shall include with the no-
8 tification a copy of the proposed letter or agreement
9 as well as the evaluations and ratings for the
10 project.

11 (k) GRANT REQUIREMENTS.—

12 (1) IN GENERAL.—A grant for a project under
13 this section shall be subject to the requirements of
14 title 23, United States Code.

15 (2) OTHER TERMS AND CONDITIONS.—In addi-
16 tion to the requirements under paragraph (1), the
17 Secretary shall require that all grants under this
18 section be subject to any other terms, conditions,
19 and requirements that the Secretary decides are nec-
20 essary or appropriate for purposes of this section.

21 (l) GOVERNMENT'S SHARE OF PROJECT COST.—

22 (1) IN GENERAL.—Based on engineering stud-
23 ies, studies of economic feasibility, and information
24 on the expected use of equipment or facilities, the
25 Secretary shall estimate the cost of a project receiv-

1 ing assistance under this section. A grant for the
2 project is for 80 percent of the project cost, unless
3 the grant recipient requests a lower grant percent-
4 age.

5 (2) REMAINDER OF NET PROJECT COST.—If
6 the Secretary determines that the originally defined
7 project is completed at a cost that is significantly
8 below the original estimate, the Secretary shall—

9 (A) refund to the Government the propor-
10 tion of the remainder equal to the proportional
11 share of the original project cost funded by
12 Federal assistance under this section; and

13 (B) authorize the project sponsor to use
14 any additional remainder for any activity eligi-
15 ble to receive Federal assistance under this title
16 or chapter 53 of title 49, United States Code.

17 (m) FISCAL CAPACITY CONSIDERATIONS.—If the
18 Secretary gives priority consideration to financing projects
19 that include more than the non-Government share re-
20 quired under subsection (l) the Secretary shall give equal
21 consideration to differences in the fiscal capacity of State
22 and local governments.

23 (n) TRANSFER OF FUNDS TO THE GENERAL SERV-
24 ICES ADMINISTRATION.—

1 (1) STATE FUNDS.—At the request of a border
2 State, funds provided to a State under this section
3 may be transferred to the General Services Adminis-
4 tration for the purpose of funding a project of na-
5 tional and regional significance under this section
6 if—

7 (A) the Secretary determines, after con-
8 sultation with the transportation department of
9 the border State, that the General Services Ad-
10 ministration should carry out the project; and

11 (B) the General Services Administration
12 agrees to accept the transfer of, and to admin-
13 ister, those funds in accordance with this sec-
14 tion.

15 (2) NON-FEDERAL SHARE.—

16 (A) IN GENERAL.—A border State that
17 makes a request under paragraph (1) shall pro-
18 vide directly to the General Services Adminis-
19 tration the non-Federal share of the cost of the
20 eligible project.

21 (B) NO AUGMENTATION OF APPROPRIA-
22 TIONS.—Funds provided by a border State
23 under subparagraph (A)—

24 (i) shall not be considered to be an
25 augmentation of the appropriations made

1 available to the General Services Adminis-
2 tration; and

3 (ii) shall be—

4 (I) administered, subject to para-
5 graph (1)(B), in accordance with the
6 procedures of the General Services
7 Administration; but

8 (II) available for obligation in the
9 same manner as if the funds were ap-
10 portioned under chapter 1 of title 23,
11 United States Code.

12 (3) OBLIGATION AUTHORITY.—Obligation au-
13 thority shall be transferred to the General Services
14 Administration for a project in the same manner
15 and amount as the funds provided for the project
16 under paragraph (1).

17 (o) REVIEW AND REPORTS.—

18 (1) ANNUAL REPORT ON PROJECTS.—Not later
19 than the first Monday in February of each year, the
20 Secretary shall submit to the Committee on Trans-
21 portation and Infrastructure of the House of Rep-
22 resentatives and the Committee on Environment and
23 Public Works and the Committee on Commerce,
24 Science, and Transportation of the Senate a report
25 on projects that the Secretary has funded, or pro-

1 poses to fund, under this section. The annual report
2 under this paragraph shall include—

3 (A) project evaluations and ratings, as re-
4 quired under subsection (h); and

5 (B) such recommendations as the Sec-
6 retary may have for improvements to the pro-
7 gram authorized by this section.

8 (2) BEFORE AND AFTER STUDY REPORTS.—

9 Not later than the first Monday of August of each
10 year, the Secretary shall submit to the committees
11 referred to in paragraph (1) a report containing a
12 summary of the results of the studies conducted
13 under subsection (j)(2)(D) that were completed dur-
14 ing the preceding year.

15 (p) FUNDING.—

16 (1) IN GENERAL.—To carry out this section, for
17 each of fiscal years 2013 through 2016, the Sec-
18 retary shall set aside—

19 (A) three-quarters of one percent of the
20 amount authorized to be appropriated under
21 each of paragraphs (1) through (7) of section
22 1101(a) of this Act; and

23 (B) three-quarters of one percent of the
24 amount authorized to be appropriated under

1 each of paragraphs (1) through (4) of section
2 1101(b) of this Act.

3 (2) TRANSFER OF OBLIGATION AUTHORITY.—
4 Obligation authority for funds set aside under para-
5 graph (1) shall be transferred for purposes of car-
6 rying out this section.

7 (q) APPLICABILITY OF CHAPTER 1.—Funds made
8 available to carry out this section shall be available for
9 obligation and administered in the same manner as if such
10 funds were apportioned under chapter 1 of title 23, United
11 States Code, except that such funds shall remain available
12 until expended.

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

15 (1) BORDER STATE.—The term “border State”
16 means any State that has an international land bor-
17 der with Canada or Mexico.

18 (2) ELIGIBLE PROJECT COSTS.—The term “eli-
19 gible project costs” means the costs of—

20 (A) development phase activities, including
21 planning, feasibility analysis, revenue fore-
22 casting, environmental review, engineering and
23 design work, and other preconstruction activi-
24 ties;

1 (B) construction, reconstruction, rehabili-
2 tation, and acquisition of real property (includ-
3 ing land related to the project and improve-
4 ments to land), environmental mitigation, con-
5 struction contingencies, acquisition of equip-
6 ment, and operational improvements; and

7 (C) the collection and analysis of data re-
8 lated to the projected and actual impacts of the
9 project.

10 (3) ELIGIBLE PROJECT.—The term “eligible
11 project” means a project that is eligible for assist-
12 ance under subsections (c), (d), (e), and (f).

13 (4) METROPOLITAN PLANNING AREA.—The
14 term “metropolitan planning area” has the meaning
15 such term has in section 5202 of title 49, United
16 States Code.

17 (5) MULTISTATE TRANSPORTATION AUTHOR-
18 ITY.—The term “multistate transportation author-
19 ity” means any public transportation authority es-
20 tablished through an interstate compact between 2
21 or more States.

22 (6) PROGRAM PURPOSES.—The term “program
23 purposes” means the purposes set forth in sub-
24 section (b).

1 (7) PROJECT OF NATIONAL AND REGIONAL SIG-
2 NIFICANCE.—The term “project of national and re-
3 gional significance” means a project funded under
4 this section.

