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-
IFICANCE PROGRAM.

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

5 (b) PURPOSES.—The purposes of the projects of na-
6 tional and regional significance program shall be to—
7
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
(2) maximize the benefits of Federal investment in such projects by encouraging States to supplement Federal grant assistance with other funding sources and methods of finance.

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

(1) $500,000,000; or

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

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

(d) PROJECT TYPE.—

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

(A) that is eligible for Federal assistance under title 23, United States Code;
(B) for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible;

(C) for a public freight rail facility or a private freight rail facility providing public benefit for highway users;

(D) for an intermodal freight transfer facility;

(E) for a means of access to a facility described in subparagraph (C) or (D);

(F) for a service improvement for a facility described in subparagraph (C) or (D) (including a capital investment for an intelligent transportation system); or

(G) that comprises a series of projects described in subparagraphs (C) through (F) with the common objective of improving the flow of goods.

(2) PORT PROJECTS.—A project located within the boundaries of a port terminal may only be eligible for assistance under this section if the project is for such surface transportation infrastructure modifications as are necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port.
(e) Project Funding.—

(1) Funding sources.—The non-Federal share of the cost of an eligible project may be funded through a combination of private and public sector funds, including investment of public funds in private sector facility improvements.

(2) Need for Federal support.—To be eligible for assistance under this section, the Secretary must determine, based on information provided by the applicant, that the project cannot be readily and efficiently carried out without Federal support and participation.

(3) Non-Federal financial commitment.—

(A) In general.—To be eligible for assistance under this section—

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

(ii) the applicant for such assistance shall demonstrate to the satisfaction of the Secretary one or more stable and dependable financing sources to construct, maintain, and operate the infrastructure facility for which the project is to be carried out.
(B) EVALUATION OF PROJECT.—For purposes of subparagraph (A), the Secretary shall require that—

(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases; and

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

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

(i) existing financial commitments;

(ii) the degree to which financing sources are dedicated to the purposes proposed;

(iii) any debt obligation that exists or is proposed by the recipient for the proposed project; and

(iv) the extent to which the project has a non-Federal financial commitment
that exceeds the required non-Federal share of the cost of the project.

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

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

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

(g) APPLICATIONS.—

(1) IN GENERAL.—Each State seeking a grant under this section for a project shall submit to the Secretary an application in such form and in accordance with such requirements as the Secretary shall establish.

(2) APPLICATION FOR MULTISTATE PROJECT.— In the case of a project to be located in more than one State, the application for the project may be submitted by—
(A) all of such States, with one State acting as the lead for the project; or

(B) a multistate transportation authority.

(3) **Collaboration in Developing Applications.**—The Secretary shall encourage States, in developing applications to submit under this section, to collaborate with other public and private entities with an interest in the project for which the State is seeking Federal assistance, including regional and local governments, shippers, carriers, and freight-related associations, as appropriate.

(h) **Competitive Grant Selection and Criteria for Grants.**—

(1) **In General.**—The Secretary shall—

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

(B) conduct a national solicitation for applications; and

(C) award grants on a competitive basis.

(2) **Selection Criteria.**—In selecting a project under this section, the Secretary shall consider the extent to which the project—

(A) is located within, or will otherwise beneficially impact, a corridor or region that expe-
riences high volumes of passenger or freight traffic and related traffic congestion, taking into account—

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

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

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

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

(C) is projected to generate national and regional economic benefits, including creating or sustaining jobs, expanding business opportunities, and impacting the gross domestic product;

(D) will facilitate regional mobility, accessibility, and economic growth and development
in areas underserved by existing highway infra-
structure;

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

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

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

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

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

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

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

(iii) nongrant assistance, including a
loan or other credit assistance or direct
user charges.
(3) PROJECT EVALUATION AND RATING.—The Secretary shall evaluate and rate, based on the selection criteria described in paragraph (2), each project for which an application is submitted under this section. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria described in paragraph (2).

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

(j) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEM WORK AGREEMENTS.—

(1) LETTER OF INTENT.—

(A) IN GENERAL.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.

(B) TREATMENT.—The issuance of a letter of intent under subparagraph (A) is deemed not
to be an obligation under sections 1108(e),
1108(d), 1501, and 1502(a) of title 31, United
States Code, or an administrative commitment.

(C) Obligation or commitment.—An
obligation or administrative commitment for a
project under this section may be made only
when contract authority is allocated to the
project.

(2) Full funding grant agreements.—

(A) In general.—A project financed
under this section shall be carried out through
a full funding grant agreement entered into by
the Secretary and the applicant for the project.
The Secretary shall enter into a full funding
grant agreement under this subsection based on
the evaluations and ratings required under sub-
section (h)(3).

(B) Terms.—If the Secretary makes a full
funding grant agreement with an applicant, the
agreement shall—

(i) establish the terms of participation
by the United States Government in a
project under this section;
(ii) establish the maximum amount of
Government financial assistance for the
project;

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

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

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

(C) SPECIAL FINANCIAL RULES.—

(i) IN GENERAL.—A full funding
grant agreement under this paragraph ob-
ligates an amount of available budget au-
thority specified in law and may include a
commitment, contingent on amounts to be
specified in law in advance for commit-
ments under this paragraph, to obligate an
additional amount from future available
budget authority specified in law.

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

(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing
costs of efficiently carrying out a part of
the project within a reasonable time shall
be eligible project costs under a full fund-
ing grant agreement; except that eligible
costs may not be more than the cost of the
most favorable financing terms reasonably
available for the project at the time of bor-
rowing. The applicant shall certify, in a
way satisfactory to the Secretary, that the
applicant has shown reasonable diligence in
seeking the most favorable financing
terms.

(D) BEFORE AND AFTER STUDY.—

(i) IN GENERAL.—A full funding
grant agreement under this paragraph
shall require the applicant to conduct a study that—

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

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

(III) provides a rationale for any instance in which the project did not meet one or more performance outcomes.

(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—

(I) SUBMISSION OF PLAN.—Applicants seeking a full funding grant agreement under this paragraph shall submit a complete plan for the collection and analysis of information to identify the impacts of the project in relation to program objectives and the project’s performance outcomes. Preparation of the plan shall be an eligible project cost under the full funding grant agreement.
(II) CONTENTS OF PLAN.—The plan submitted under subclause (I) shall provide for—

(aa) the collection of data on the current performance of the portion of the surface transportation network that is likely to be impacted by the project;

(bb) documentation of the predicted impacts of the project in relation to program purposes and the project’s performance outcomes;

(cc) collection of data on the relevant portion of the surface transportation network 2 years after the date of substantial completion of the project, including information analogous to that described in item (aa); and

(dd) analysis of the consistency of predicted project outcomes with the after data.

(E) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible for a full funding
grant agreement under this paragraph, the re-
recipient shall have collected data on the current
system, according to the plan required, before
the beginning of construction of the proposed
project. Collection of this data shall be an eligi-
ble project cost under the full funding grant
agreement.

(3) EARLY SYSTEM WORK AGREEMENTS.—

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

(B) CONTENTS.—

(i) IN GENERAL.—A work agreement
under this subsection obligates an amount
of available budget authority specified in
law and shall provide for reimbursement of
preliminary costs of carrying out the
project, including land acquisition, timely
procurement of system elements for which
specifications are decided, and other activi-
ties the Secretary decides are appropriate to make efficient, long-term project management easier.

(ii) Period Covered.—A work agreement under this paragraph shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization.

(iii) Interest and Other Financing Costs.—Interest and other financing costs of efficiently carrying out the work agreement within a reasonable time shall be eligible project costs under the agreement; except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

(iv) Failure to Carry Out Project.—If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall
repay all Government payments made
under the work agreement plus reasonable
interest and penalty charges the Secretary
establishes in the agreement.

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

(5) NOTIFICATION.—At least 10 days before
issuing a letter under paragraph (1) and at least 21
days before entering into a full funding grant agree-
ment under paragraph (2), the Secretary shall notify in writing the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

(k) GRANT REQUIREMENTS.—

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

(2) OTHER TERMS AND CONDITIONS.—In addition to the requirements under paragraph (1), the Secretary shall require that all grants under this section be subject to any other terms, conditions, and requirements that the Secretary decides are necessary or appropriate for purposes of this section.

(l) GOVERNMENT’S SHARE OF PROJECT COST.—

(1) IN GENERAL.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the cost of a project receiv-
ing assistance under this section. A grant for the
project is for 80 percent of the project cost, unless
the grant recipient requests a lower grant percent-
age.

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

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

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

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

(n) TRANSFER OF FUNDS TO THE GENERAL SERV-
ICES ADMINISTRATION.—
(1) STATE FUNDS.—At the request of a border State, funds provided to a State under this section may be transferred to the General Services Administration for the purpose of funding a project of national and regional significance under this section if—

(A) the Secretary determines, after consultation with the transportation department of the border State, that the General Services Administration should carry out the project; and

(B) the General Services Administration agrees to accept the transfer of, and to administer, those funds in accordance with this section.

(2) NON-FEDERAL SHARE.—

(A) IN GENERAL.—A border State that makes a request under paragraph (1) shall provide directly to the General Services Administration the non-Federal share of the cost of the eligible project.

(B) NO AUGMENTATION OF APPROPRIATIONS.— Funds provided by a border State under subparagraph (A)—

(i) shall not be considered to be an augmentation of the appropriations made
available to the General Services Administration; and

(ii) shall be—

(I) administered, subject to paragraph (1)(B), in accordance with the procedures of the General Services Administration; but

(II) available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(3) OBLIGATION AUTHORITY.—Obligation authority shall be transferred to the General Services Administration for a project in the same manner and amount as the funds provided for the project under paragraph (1).

(o) REVIEW AND REPORTS.—

(1) ANNUAL REPORT ON PROJECTS.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate a report on projects that the Secretary has funded, or pro-
poses to fund, under this section. The annual report
under this paragraph shall include—

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

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

(2) BEFORE AND AFTER STUDY REPORTS.—
Not later than the first Monday of August of each
year, the Secretary shall submit to the committees
referred to in paragraph (1) a report containing a
summary of the results of the studies conducted
under subsection (j)(2)(D) that were completed dur-
ing the preceding year.

(p) FUNDING.—

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

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

(B) three-quarters of one percent of the
amount authorized to be appropriated under
each of paragraphs (1) through (4) of section 1101(b) of this Act.

(2) TRANSFER OF OBLIGATION AUTHORITY.—

Obligation authority for funds set aside under paragraph (1) shall be transferred for purposes of carrying out this section.

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

(r) DEFINITIONS.—In this section, the following definitions apply:

(1) BORDER STATE.—The term "border State" means any State that has an international land border with Canada or Mexico.

(2) ELIGIBLE PROJECT COSTS.—The term "eligible project costs" means the costs of—

(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, engineering and design work, and other preconstruction activities;
(B) construction, reconstruction, rehabilitation, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, acquisition of equipment, and operational improvements; and

(C) the collection and analysis of data related to the projected and actual impacts of the project.

(3) **Eligible Project.**—The term “eligible project” means a project that is eligible for assistance under subsections (c), (d), (e), and (f).

(4) **Metropolitan Planning Area.**—The term “metropolitan planning area” has the meaning such term has in section 5202 of title 49, United States Code.

(5) **Multistate Transportation Authority.**—The term “multistate transportation authority” means any public transportation authority established through an interstate compact between 2 or more States.

(6) **Program Purposes.**—The term “program purposes” means the purposes set forth in subsection (b).
(7) PROJECT OF NATIONAL AND REGIONAL SIGNIFICANCE.—The term "project of national and regional significance" means a project funded under this section.