

112TH CONGRESS
1ST SESSION

H. R. 1122

To provide for merit-based investment in the freight transportation system of the United States to ensure economic growth, increase vitality and competitiveness in national and global markets, address goods mobility and accessibility issues, reduce air pollution and other environmental impacts of freight transportation, better public health conditions, enhance energy security, and improve the condition and connectivity of the freight transportation system, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 2011

Ms. RICHARDSON introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on Ways and Means and Rules, 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 provide for merit-based investment in the freight transportation system of the United States to ensure economic growth, increase vitality and competitiveness in national and global markets, address goods mobility and accessibility issues, reduce air pollution and other environmental impacts of freight transportation, better public health conditions, enhance energy security, and improve the condition and connectivity of the freight transportation system, 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,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
 5 “Freight is the Future Of Commerce in the United States
 6 Act of 2011” or the “Freight FOCUS Act of 2011”.

7 (b) **TABLE OF CONTENTS.**—

- Sec. 1. Short title; table of contents.
- Sec. 2. Office of Freight Planning and Development.
- Sec. 3. Freight Advisory Committee.
- Sec. 4. Freight corridors of national significance program.
- Sec. 5. Funding.
- Sec. 6. Definitions.

8 **SEC. 2. OFFICE OF FREIGHT PLANNING AND DEVELOP-**
 9 **MENT.**

10 (a) **ESTABLISHMENT.**—Not later than 180 days after
 11 the date of enactment of this Act, the Secretary shall es-
 12 tablish in the Office of the Secretary an Office of Freight
 13 Planning and Development (in this section referred to as
 14 the “Office”).

15 (b) **ASSISTANT SECRETARY.**—The Office shall be
 16 headed by an Assistant Secretary for Freight Planning
 17 and Development who shall be appointed by the Secretary.

18 (c) **DUTIES.**—The Assistant Secretary shall—

19 (1) advise the Secretary on freight issues;

20 (2) carry out the freight corridors of national
 21 significance program under section 4;

1 (3) facilitate communication among public and
2 private stakeholders with respect to freight issues;

3 (4) provide recommendations to the Secretary
4 on Federal, State, and local public and private fund-
5 ing sources for projects with respect to freight; and

6 (5) develop the national freight plan under sub-
7 section (d).

8 (d) NATIONAL FREIGHT PLAN.—Not later than 3
9 years after the date of enactment of this Act, and every
10 3 years thereafter, the Assistant Secretary shall submit
11 to Congress and publish on the Web site of the Depart-
12 ment of Transportation a national freight plan, which
13 shall include—

14 (1) projections relating to freight for the 20-
15 year period beginning on the date on which the plan
16 is submitted to Congress and recommendations for
17 supporting freight movement during that period;

18 (2) a list of the freight corridors designated as
19 freight corridors of national significance under sec-
20 tion 4(b);

21 (3) the most recent freight corridor snapshot
22 report published under section 4(e);

23 (4) an analysis of emerging and long-term
24 trends in—

1 (A) economic and trade policies related to
2 freight movement; and

3 (B) public health and environmental condi-
4 tions related to freight movement; and

5 (5) an assessment of challenges related to
6 freight movement and recommendations for address-
7 ing those challenges.

8 **SEC. 3. FREIGHT ADVISORY COMMITTEE.**

9 (a) ESTABLISHMENT.—Not later than one year after
10 the date of enactment of this Act, the Secretary shall es-
11 tablish a Freight Advisory Committee (in this section re-
12 ferred to as the “Committee”).

13 (b) MEMBERSHIP.—The Committee shall be com-
14 posed of 20 individuals who represent public and private
15 stakeholders with respect to freight, including representa-
16 tives of—

17 (1) each mode of freight transportation;

18 (2) ports;

19 (3) shippers of freight;

20 (4) metropolitan planning organizations (as
21 that term is defined in section 134(b) of title 23,
22 United States Code) serving areas in which a freight
23 corridor is located;

24 (5) State transportation agencies;

25 (6) environmental protection organizations;

- 1 (7) public health advocates;
- 2 (8) labor;
- 3 (9) third-party logistics providers; and
- 4 (10) others determined appropriate by the Sec-
- 5 retary.

6 (c) CHAIRPERSON.—The Assistant Secretary for
7 Freight Planning and Development (appointed under sec-
8 tion 2(b)) shall be the chairperson of the Committee.

9 (d) MEETINGS.—The Committee shall meet at the
10 call of the chairperson at least twice each year.

11 (e) DUTIES.—The Committee shall—

12 (1) advise the Assistant Secretary on issues,
13 projects, and funding needs with respect to freight,
14 including the determination of freight priorities;

15 (2) advise the Assistant Secretary on the devel-
16 opment of measures to predict growth in freight
17 movement and develop such measures when nec-
18 essary;

19 (3) facilitate the sharing of information relating
20 to freight between public and private entities;

21 (4) assist the Assistant Secretary with the de-
22 velopment of the national freight plan under section
23 2(d); and

1 (5) assist the Assistant Secretary with the de-
2 velopment of freight corridor snapshot reports under
3 section 4(e).

4 **SEC. 4. FREIGHT CORRIDORS OF NATIONAL SIGNIFICANCE**
5 **PROGRAM.**

6 (a) ESTABLISHMENT.—Not later than one year after
7 the date of enactment of this Act, the Assistant Secretary
8 for Freight Planning and Development (appointed under
9 section 2(b)) shall establish a freight corridors of national
10 significance program (in this section referred to as the
11 “Program”) in accordance with this section.

12 (b) DESIGNATION OF FREIGHT CORRIDORS OF NA-
13 TIONAL SIGNIFICANCE.—

14 (1) IN GENERAL.—Not later than 2 years after
15 the date of enactment of this Act, and every 3 years
16 thereafter, the Assistant Secretary shall designate
17 the multimodal freight corridors in the United
18 States that the Assistant Secretary has determined,
19 in accordance with this subsection, are freight cor-
20 ridors of national significance based on the impor-
21 tance of the corridors to freight movement.

22 (2) PUBLICATION.—The Assistant Secretary
23 shall publish on the Web site of the Department of
24 Transportation a document that specifies the cor-

1 corridors designated under paragraph (1) and con-
2 tains—

3 (A) a map of the corridors;

4 (B) a detailed description of the standards
5 used to designate the corridors;

6 (C) statistics supporting the designation of
7 each corridor; and

8 (D) a description of the role of each cor-
9 ridor in supporting the economy and freight
10 transportation system of the United States.

11 (3) RULEMAKING TO DETERMINE DESIGNATION
12 STANDARDS.—

13 (A) IN GENERAL.—Before the first des-
14 igation of freight corridors as freight corridors
15 of national significance under paragraph (1),
16 the Assistant Secretary, in consultation with
17 the Freight Advisory Committee (established
18 under section 3(a)), shall conduct a rulemaking
19 proceeding to establish publicly available, objec-
20 tive, and quantifiable standards for designations
21 under paragraph (1).

22 (B) PUBLIC PARTICIPATION.—In con-
23 ducting the rulemaking proceeding under sub-
24 paragraph (A), the Assistant Secretary shall

1 provide notice and an opportunity for public
2 comment.

3 (C) CRITERIA.—The standards established
4 under subparagraph (A) shall ensure that, in
5 designating a freight corridor as a freight cor-
6 ridor of national significance, the following cri-
7 teria are accurately measured and considered
8 (with the criteria listed in descending order of
9 importance):

10 (i) The volume of freight moved along
11 the corridor.

12 (ii) The value of freight moved along
13 the corridor.

14 (iii) The benefits that may be gen-
15 erated by transportation improvements
16 carried out along the corridor, including
17 the creation or sustaining of jobs, expan-
18 sion of business opportunities, or increas-
19 ing of the gross domestic product.

20 (iv) The potential for growth in
21 freight movement along the corridor.

22 (v) The economic, environmental, and
23 other costs associated with traffic conges-
24 tion and travel delay along the corridor.

1 (D) ABILITY TO AMEND.—The Assistant
2 Secretary may amend the standards established
3 under subparagraph (A) as the Assistant Sec-
4 retary determines necessary.

5 (4) DATA COLLECTION.—

6 (A) IN GENERAL.—The Assistant Sec-
7 retary, in consultation with the Freight Advi-
8 sory Committee, shall collect and review all
9 data relating to freight necessary to designate
10 freight corridors of national significance under
11 paragraph (1) and shall consider, in consulta-
12 tion with the heads of relevant Federal depart-
13 ments and agencies, methods for improving the
14 sources of the data to reduce deficiencies in the
15 data and assist projections of transportation de-
16 mand.

17 (B) COOPERATION OF FEDERAL DEPART-
18 MENTS AND AGENCIES.—In carrying out sub-
19 paragraph (A), the Assistant Secretary may re-
20 quest from any Federal department or agency
21 the data determined necessary by the Assistant
22 Secretary to designate freight corridors as
23 freight corridors of national significance under
24 paragraph (1). The head of a Federal depart-
25 ment or agency shall provide to the Assistant

1 Secretary data requested under this subpara-
2 graph.

3 (C) PROJECTIONS.—The Assistant Sec-
4 retary, in consultation with the Freight Advi-
5 sory Committee and the Administrator of the
6 Environmental Protection Agency, shall analyze
7 short- and long-term trends in the movement of
8 freight domestically and internationally to assist
9 the designation of freight corridors of national
10 significance under paragraph (1), including by
11 analyzing economic and trade policies and pub-
12 lic health and environmental conditions related
13 to freight movement.

14 (c) FREIGHT CORRIDOR COALITIONS.—

15 (1) IN GENERAL.—With respect to each freight
16 corridor of national significance designated under
17 subsection (b), the Assistant Secretary may des-
18 ignate one entity to serve as a freight corridor coali-
19 tion that represents the freight corridor for purposes
20 of this section.

21 (2) COALITION COMPOSITION.—To be eligible
22 for designation as a freight corridor coalition under
23 paragraph (1), an entity shall be composed of indi-
24 viduals representing each of the following:

1 (A) The State transportation agency of
2 each State in which a portion of the corridor is
3 located.

4 (B) The metropolitan planning organiza-
5 tion (as that term is defined under section
6 134(b) of title 23, United States Code) for each
7 area in which a portion of the corridor is lo-
8 cated.

9 (C) Modes of freight transportation that
10 operate along the corridor.

11 (D) Ports along the corridor.

12 (E) Environmental protection organiza-
13 tions.

14 (F) Public health advocates.

15 (G) Labor.

16 (H) Private stakeholders, including ship-
17 pers, carriers, and freight-related associations.

18 (3) APPLICATION PROCESS.—

19 (A) IN GENERAL.—The Assistant Sec-
20 retary shall establish a process for entities to
21 apply for designation as a freight corridor coali-
22 tion under paragraph (1).

23 (B) APPLICATION.—The application of an
24 entity for designation as a freight corridor coa-

1 lition under paragraph (1) shall include at least
2 the following:

3 (i) A description of the composition of
4 the entity and how that composition meets
5 requirements under paragraph (2).

6 (ii) A description of the proposed
7 functions and authorities of the entity, in-
8 cluding with respect to the performance of
9 analysis, consensus building, and planning.

10 (iii) Information demonstrating that
11 the entity has, or will develop, the legal, fi-
12 nancial, technical, and political capacity
13 and support from relevant organizations
14 necessary to carry out the functions of a
15 freight corridor coalition under this sub-
16 section.

17 (iv) A description of the proposed
18 budget for the entity, including—

19 (I) a staffing plan;

20 (II) a spending plan; and

21 (III) a plan for acquiring funding
22 from sources other than grants under
23 paragraph (4).

24 (4) GRANTS FOR ADMINISTRATIVE EX-
25 PENSES.—

1 (A) IN GENERAL.—The Assistant Sec-
2 retary is authorized to make grants to a freight
3 corridor coalition designated under paragraph
4 (1) to assist the coalition with administrative
5 expenses.

6 (B) GRANT AMOUNTS.—The amount of
7 each grant made under this paragraph shall be
8 at least \$150,000.

9 (5) FREIGHT CORRIDOR PLAN.—

10 (A) IN GENERAL.—Not later than one year
11 after the date on which an entity is designated
12 as a freight corridor coalition under paragraph
13 (1), and annually thereafter, the freight cor-
14 ridor coalition shall submit to the Assistant
15 Secretary a freight corridor plan that in-
16 cludes—

17 (i) a prioritized list of projects that
18 are eligible for grant assistance under sub-
19 section (d) and that the coalition has de-
20 termined will improve the freight move-
21 ment performance of the freight corridor of
22 national significance represented by the co-
23 alition;

24 (ii) an estimate of the cost of each
25 project specified in the list under clause (i)

1 and the aggregate cost of all listed
2 projects;

3 (iii) a specification of a State sponsor
4 willing to carry out each project specified
5 in the list under clause (i) and the support
6 that each member of the coalition shall
7 provide the State sponsor with respect to
8 the project;

9 (iv) a funding plan, including a speci-
10 fication of funding sources, for each
11 project specified in the list under clause
12 (i);

13 (v) a description of how projects spec-
14 ified in the list under clause (i) support
15 connectivity at State borders;

16 (vi) a detailed description of the cor-
17 ridor, including a description of—

18 (I) the modes of transportation
19 that operate along the corridor;

20 (II) the transportation facilities
21 along the corridor;

22 (III) the interaction of passenger
23 and freight movement along the cor-
24 ridor;

1 (IV) the performance of the cor-
2 ridor and projections of future cor-
3 ridor performance, including with re-
4 spect to the speed and reliability of
5 travel along the corridor;

6 (V) any environmental or public
7 health issues related to freight move-
8 ment along the corridor; and

9 (VI) any economic costs related
10 to congestion and travel delay along
11 the corridor; and

12 (vii) any additional information the
13 Assistant Secretary determines appro-
14 priate.

15 (B) PROJECT PRIORITIZATION.—In deter-
16 mining the priority of a project specified in a
17 freight corridor plan under subparagraph (A), a
18 freight corridor coalition shall consider the fol-
19 lowing:

20 (i) The schedule for completing the
21 project and the appropriate sequencing of
22 projects.

23 (ii) Whether the project will improve a
24 component of a freight corridor determined

1 to be performing poorly in a freight cor-
2 ridor snapshot report under subsection (e).

3 (iii) The improvement in freight move-
4 ment that will result from the project and
5 the impact of failing to carry out the
6 project.

7 (iv) Whether the project will address a
8 bridge in need of repair.

9 (v) The amount of non-Federal fund-
10 ing available for the project, including
11 funding from public-private partnerships.

12 (vi) The benefits of the project unre-
13 lated to freight movement and whether
14 there is funding available from nonfreight
15 sources commensurate with those benefits.

16 (vii) Whether innovative technologies
17 are incorporated into the project.

18 (viii) The extent to which the project
19 will reduce air, water, or noise pollution,
20 including through improved energy con-
21 servation or efficiency.

22 (ix) The congestion reduction benefits
23 of the project.

1 (x) The improvement in the condition
2 of freight movement infrastructure that
3 will result from the project.

4 (xi) The public health and safety ben-
5 efits of the project, including with respect
6 to accident and injury reduction with a
7 goal of reducing by 10 percent the number
8 of fatalities related to freight transpor-
9 tation by the year 2015.

10 (xii) Whether the project involves the
11 replacement or repair of an existing sur-
12 face transportation facility—

13 (I) the replacement or repair of
14 which will result in economic and mo-
15 bility benefits for the United States;
16 and

17 (II) that, if not replaced or re-
18 paired, will likely deteriorate substan-
19 tially and negatively impact the econ-
20 omy and transportation system of the
21 United States.

22 (xiii) Whether the project will not be
23 completed without Federal support.

1 (xiv) The regional and national eco-
2 nomic development benefits of the project,
3 including with respect to trade facilitation.

4 (xv) Whether the project will be car-
5 ried out on a publicly owned site.

6 (xvi) Whether the project most effi-
7 ciently utilizes public funding.

8 (d) GRANTS.—

9 (1) IN GENERAL.—In carrying out the Pro-
10 gram, the Assistant Secretary is authorized to make
11 a grant to any State to assist any project—

12 (A) specified in paragraph (2); and

13 (B) for the improvement of freight move-
14 ment.

15 (2) ELIGIBLE PROJECTS.—The projects eligible
16 for grant assistance under paragraph (1) are the fol-
17 lowing:

18 (A) A project for the development or im-
19 provement of a port.

20 (B) A project for the development or im-
21 provement of a multimodal terminal facility.

22 (C) A project for the development or im-
23 provement of a land port of entry.

24 (D) A project to improve freight rail per-
25 formance, including through capacity expansion.

1 (E) A project for the development or im-
2 provement of a road or bridge, including a road
3 or bridge that—

4 (i) is essential to supporting local,
5 interregional, interstate, or international
6 freight movement;

7 (ii) improves access to freight facili-
8 ties, including ports, terminals, and dis-
9 tribution centers;

10 (iii) improves freight transportation to
11 or from an international gateway, includ-
12 ing ports, airports, and border crossings;
13 or

14 (iv) improves access for, and the
15 emergency capabilities of, military per-
16 sonnel and equipment.

17 (F) A project for the development or im-
18 provement of an intelligent transportation sys-
19 tem for freight that reduces congestion and im-
20 proves safety.

21 (G) A project for the development or im-
22 provement of a facility that provides long-term
23 truck parking.

1 (H) A project for the development of
2 freight movement capacity where that capacity
3 is needed.

4 (I) A project for the development of a
5 roadway-rail grade separation.

6 (J) A dredging project or a project to de-
7 velop or improve a lock or dam, if the project
8 is being carried out in coordination with the
9 Corps of Engineers.

10 (K) A project to benefit the environment,
11 including through the reduction of emissions de-
12 termined by the Assistant Secretary, in con-
13 sultation with the Administrator of the Envi-
14 ronmental Protection Agency, to be harmful to
15 the environment.

16 (L) A project to improve safety or security
17 with respect to freight movement.

18 (M) A project that will improve public
19 health.

20 (N) Any other project the Assistant Sec-
21 retary determines appropriate.

22 (O) Planning, preparation, or design activi-
23 ties with respect to any project described in this
24 paragraph.

25 (3) APPLICATION PROCESS.—

1 (A) IN GENERAL.—The Assistant Sec-
2 retary shall establish a process for States to
3 submit an application for a grant under para-
4 graph (1).

5 (B) RESPONSES.—Without regard to
6 whether a grant is made under paragraph (1)
7 with respect to an application, the Assistant
8 Secretary shall provide a written response to
9 each application submitted under subparagraph
10 (A) and the response shall include a written de-
11 termination by the Assistant Secretary that the
12 project for which the application was submitted
13 is—

14 (i) highly recommended to be carried
15 out;

16 (ii) recommended to be carried out; or

17 (iii) not recommended to be carried
18 out.

19 (4) PRIORITIES AND CONSIDERATION.—In mak-
20 ing grants under paragraph (1), the Assistant Sec-
21 retary shall—

22 (A) give priority to projects listed in a
23 freight corridor plan submitted under sub-
24 section (c)(5)(A) and according to the
25 prioritization of projects in that plan; and

1 (B) give consideration to the criteria speci-
2 fied in subsection (c)(5)(B).

3 (5) FEDERAL SHARE.—The Federal share of
4 the cost of a project assisted with a grant under
5 paragraph (1) shall not exceed 80 percent.

6 (6) PROJECTS THAT BENEFIT THE ENVIRON-
7 MENT.—The Assistant Secretary shall use not less
8 than 7 percent of the amounts made available for
9 grants under paragraph (1) each fiscal year for
10 grants to assist projects with the primary purpose of
11 benefitting the environment, including projects that
12 reduce emissions determined by the Assistant Sec-
13 retary, in consultation with the Administrator of the
14 Environmental Protection Agency, to be harmful to
15 the environment.

16 (7) PROJECTS THAT BENEFIT FREIGHT SECUR-
17 ITY.—The Assistant Secretary shall use not less
18 than 1 percent of the amounts made available for
19 grants under paragraph (1) each fiscal year for
20 grants to assist projects with the primary purpose of
21 improving freight security, including cargo inspec-
22 tion projects and education and training projects re-
23 lated to security.

24 (8) PROJECT COSTS.—In carrying out this sub-
25 section, the Assistant Secretary shall establish

1 standards for estimating project costs and shall
2 evaluate the cost estimation, contracting, and cost
3 reduction practices of States that receive grants
4 under paragraph (1).

5 (9) PROJECT MANAGEMENT AND FINANCIAL
6 PLANS.—

7 (A) MAJOR PROJECTS.—A recipient of a
8 grant under paragraph (1) for a project with an
9 estimated total cost of at least \$500,000,000,
10 or for any other project the Assistant Secretary
11 determines appropriate, shall submit to the As-
12 sistant Secretary, with respect to the project—

13 (i) a project management plan; and

14 (ii) an annual financial plan.

15 (B) OTHER PROJECTS.—A recipient of a
16 grant under paragraph (1) for a project with an
17 estimated total cost of at least \$100,000,000,
18 but less than \$500,000,000, shall prepare an
19 annual financial plan with respect to the project
20 and shall make that plan available for review at
21 the request of the Assistant Secretary.

22 (C) PROJECT MANAGEMENT PLAN.—For
23 purposes of this paragraph, a project manage-
24 ment plan shall document, with respect to a
25 project—

1 (i) the procedures in effect to provide
2 timely information to project decision-
3 makers to allow the decisionmakers to ef-
4 fectively manage the scope, costs, sched-
5 ules, quality, and Federal requirements
6 with respect to the project; and

7 (ii) the role of non-Federal interests
8 in the delivery of the project.

9 (D) FINANCIAL PLAN.—For purposes of
10 this paragraph, a financial plan shall, with re-
11 spect to a project, provide detailed estimates of
12 the costs of completing the project, including
13 potential increases to those costs.

14 (10) MAINTENANCE OF EFFORT.—

15 (A) IN GENERAL.—As a condition of re-
16 ceiving a grant under paragraph (1), the Gov-
17 ernor of the State receiving the grant shall sub-
18 mit to the Assistant Secretary a certification
19 that the State will maintain its effort with re-
20 spect to the funding of freight projects.

21 (B) STATEMENT OF INTENDED FUND-
22 ING.—As part of the certification under sub-
23 paragraph (A), the Governor shall submit a
24 statement to the Assistant Secretary identifying
25 the amount that the State plans to expend from

1 non-Federal sources for freight projects during
2 the 6-year period beginning on the date of the
3 submission of the certification.

4 (C) FAILURE TO MEET INTENDED FUND-
5 ING.—If the Assistant Secretary determines
6 that a State failed to expend the amount for
7 freight projects identified in the statement
8 under subparagraph (B), the Assistant Sec-
9 retary may prohibit the State from receiving a
10 grant under paragraph (1) during a period—

11 (i) not to exceed 3 years; and

12 (ii) beginning on the date on which
13 that determination is made.

14 (11) PREVAILING RATE OF WAGE.—

15 (A) IN GENERAL.—The Secretary shall
16 take such action as may be necessary to ensure
17 that all laborers and mechanics employed by
18 contractors or subcontractors on construction
19 work performed on projects assisted with a
20 grant under paragraph (1) shall be paid wages
21 at rates not less than those prevailing on the
22 same type of work on similar construction in
23 the immediate locality as determined by the
24 Secretary of Labor in accordance with sections

1 3141, 3146, and 3147 of title 40, United States
2 Code.

3 (B) CONSULTATION.—In carrying out the
4 duties of subparagraph (A), the Secretary of
5 Labor shall consult with the relevant agency of
6 the State in which a project assisted with a
7 grant under paragraph (1) is to be performed.
8 After giving due regard to the information thus
9 obtained, the Secretary of Labor shall make a
10 predetermination of the minimum wages to be
11 paid laborers and mechanics in accordance with
12 the provisions of subparagraph (A) which shall
13 be set out in each project advertisement for
14 bids and in each bid proposal form and shall be
15 made a part of the contract covering the
16 project.

17 (C) EXCEPTIONS.—The provisions of this
18 paragraph shall not be applicable to employ-
19 ment pursuant to apprenticeship and skill train-
20 ing programs which have been certified by the
21 Secretary as promoting equal employment op-
22 portunity in connection with a construction pro-
23 gram.

24 (12) FUNDING BY MODE.—

1 (A) DETERMINATION.—In making grants
2 under paragraph (1) each fiscal year, the As-
3 sistant Secretary shall determine if any portion
4 of the amounts made available for the grants
5 was generated for deposit in the Goods Move-
6 ment Trust Fund (established under section
7 5(a)) by a single mode of transportation.

8 (B) PORTIONS GENERATED BY A SINGLE
9 MODE OF TRANSPORTATION.—If the Assistant
10 Secretary determines under subparagraph (A)
11 that any portion of the amounts made available
12 for a fiscal year for grants under paragraph (1)
13 was generated by a single mode of transpor-
14 tation, the Assistant Secretary shall ensure that
15 at least 92.5 percent of that portion is used for
16 grants to assist projects that benefit that mode.

17 (C) PORTION NOT GENERATED BY A SIN-
18 GLE MODE OF TRANSPORTATION.—If the As-
19 sistant Secretary determines under subpara-
20 graph (A) that any portion of the amounts
21 made available for a fiscal year for grants
22 under paragraph (1) was generated by a single
23 mode of transportation, the Assistant Secretary
24 shall ensure that 50 percent of the portion of
25 those amounts that was not generated by a sin-

1 gle mode of transportation is used solely for
 2 grants to assist projects that benefit the modes
 3 of transportation to which subparagraph (B)
 4 applied that fiscal year according to the
 5 amounts generated by each of those modes.

6 (e) **FREIGHT CORRIDOR SNAPSHOT REPORT.**—Not
 7 later than 3 years after the date of enactment of this Act,
 8 and annually thereafter, the Assistant Secretary shall pub-
 9 lish on the Web site of the Department of Transportation
 10 a detailed analysis of the performance of each freight cor-
 11 ridor designated as a freight corridor of national signifi-
 12 cance under subsection (b) and any other freight corridor
 13 determined appropriate for inclusion by the Assistant Sec-
 14 retary, including an analysis of congestion, safety, envi-
 15 ronmental, public health, infrastructure condition, and ac-
 16 cessibility issues with respect to the freight corridor.

17 **SEC. 5. FUNDING.**

18 (a) **GOODS MOVEMENT TRUST FUND.**—

19 (1) **ESTABLISHMENT.**—

20 (A) **IN GENERAL.**—Subchapter A of chap-
 21 ter 98 of the Internal Revenue Code of 1986 is
 22 amended by adding at the end the following:

23 **“SEC. 9512. GOODS MOVEMENT TRUST FUND.**

24 “(a) **CREATION OF TRUST FUND.**—There is estab-
 25 lished in the Treasury of the United States a trust fund

1 to be known as the ‘Goods Movement Trust Fund’, con-
2 sisting of such amounts as may be appropriated or cred-
3 ited to such Trust Fund as provided in this section or sec-
4 tion 9602(b).

5 “(b) TRANSFERS TO TRUST FUND.—There are here-
6 by appropriated to the Goods Movement Trust Fund
7 amounts equivalent to so much of the taxes received in
8 the Treasury under section 4081 as are determined at the
9 rate specified in section 4081(a)(5).

10 “(c) APPROPRIATION OF ADDITIONAL SUMS.—In ad-
11 dition to amounts appropriated under subsection (b), there
12 is hereby authorized to be appropriated to the Goods
13 Movement Trust Fund to make the expenditures referred
14 to in subsection (d) \$3,000,000,000 for each of fiscal
15 years 2011 through 2016.

16 “(d) EXPENDITURES.—

17 “(1) IN GENERAL.—Amounts in the Goods
18 Movement Trust Fund shall be available, as pro-
19 vided in appropriations Acts, only for purposes of
20 making expenditures to carry out the Freight
21 FOCUS Act of 2011.

22 “(2) TRANSFERS FROM TRUST FUND FOR CER-
23 TAIN REPAYMENTS AND CREDITS.—The Secretary
24 shall pay from time to time from the Goods Move-
25 ment Trust Fund into the general fund of the

1 Treasury amounts equivalent to amounts paid under
2 section 6433 or credits allowed under section
3 34(a)(4).”.

4 (B) CONFORMING AMENDMENT.—Para-
5 graph (1) of section 9503(b) of such Code is
6 amended by adding at the end the following:
7 “There shall not be taken into account under
8 subparagraph (D) so much of the taxes imposed
9 by section 4081 as are determined at the rate
10 specified in section 4081(a)(5).”.

11 (C) CLERICAL AMENDMENT.—The table of
12 sections for subchapter A of chapter 98 of such
13 Code is amended by adding at the end the fol-
14 lowing:

“Sec. 9512. Goods Movement Trust Fund.”.

15 (2) INCREASE IN DIESEL TAX FOR TRANSPOR-
16 TATION OF GOODS BY HIGHWAY.—

17 (A) IN GENERAL.—Subsection (a) of sec-
18 tion 4081 of the Internal Revenue Code of 1986
19 is amended by adding at the end the following:

20 “(5) DIESEL FUEL USED FOR TRANSPORTATION
21 OF GOODS BY HIGHWAY.—

22 “(A) IN GENERAL.—In the case of diesel
23 fuel, the rate in effect under paragraph
24 (2)(A)(iii) shall be increased by 12 cents.

25 “(B) INFLATION ADJUSTMENT.—

1 “(i) IN GENERAL.—In the case of any
2 diesel fuel removed, entered, or sold during
3 any calendar year beginning after 2011,
4 the 12 cent amount under subparagraph
5 (A) shall be increased by an amount equal
6 to—

7 “(I) such amount, multiplied by
8 “(II) the costs of living adjust-
9 ment determined under section 1(f)(3)
10 for the calendar year, determined by
11 substituting ‘calendar year 2010’ for
12 ‘calendar year 1992’ in subparagraph
13 (B) thereof.

14 “(ii) ROUNDING.—Any increase under
15 clause (i) shall be rounded to the nearest
16 multiple of one-tenth of 1 cent.”.

17 (B) EFFECTIVE DATE.—The amendment
18 made by this paragraph shall apply to fuel re-
19 moved, entered, or sold after September 30,
20 2011.

21 (3) DIESEL FUEL NOT USED FOR MOVEMENT
22 OF GOODS BY HIGHWAY.—

23 (A) IN GENERAL.—Subchapter B of chap-
24 ter 65 of the Internal Revenue Code of 1986 is
25 amended by adding at the end the following:

1 **“SEC. 6433. DIESEL FUEL NOT USED FOR MOVEMENT OF**
2 **GOODS BY HIGHWAY.**

3 “(a) IN GENERAL.—In the case of diesel fuel on the
4 sale of which tax was imposed by section 4081 and which
5 is used for any purpose other than in the trade or business
6 of moving goods by highway, the Secretary shall pay (with-
7 out interest) to the ultimate purchaser of such fuel an
8 amount equal to the product of the number of gallons of
9 such fuel so used multiplied by the rate specified in section
10 4081(a)(5).

11 “(b) FILING OF CLAIMS.—Claims filed under sub-
12 section (a) shall be filed at such time and in such form
13 and manner as the Secretary of the Treasury shall by reg-
14 ulation prescribe.

15 “(c) APPLICABLE LAWS.—

16 “(1) IN GENERAL.—All provisions of law, in-
17 cluding penalties, applicable in respect of the taxes
18 imposed by section 4081 shall, insofar as applicable
19 and not inconsistent with this section, apply in re-
20 spect of the payments provided for in this section to
21 the same extent as if such payments constituted re-
22 funds of overpayments of the tax so imposed.

23 “(2) EXAMINATION OF BOOKS AND WIT-
24 NESSES.—For the purpose of ascertaining the cor-
25 rectness of any claim made under this section, or the
26 correctness of any payment made in respect of any

1 such claim, the Secretary shall have the authority
2 granted by paragraphs (1), (2), and (3) of section
3 7602(a) (relating to examination of books and wit-
4 nesses) as if the claimant were the person liable for
5 tax.

6 “(d) INCOME TAX CREDIT IN LIEU OF PAYMENT.—

7 “(1) PERSONS NOT SUBJECT TO INCOME
8 TAX.—Payment shall be made under this section
9 only to—

10 “(A) the United States or an agency or in-
11 strumentality thereof, a State, a political sub-
12 division of a State, or any agency or instrumen-
13 tality of one or more States or political subdivi-
14 sions, or

15 “(B) an organization exempt from tax
16 under section 501(a) (other than an organiza-
17 tion required to make a return of the tax im-
18 posed under subtitle A for its taxable year).

19 “(2) ALLOWANCE OF CREDIT AGAINST INCOME
20 TAX.—For allowance of credit against the income
21 tax imposed by subtitle A for diesel fuel used for any
22 purpose other than in the trade or business of mov-
23 ing goods by highway, see section 34.”.

24 (B) ALLOWANCE OF CREDIT AGAINST IN-
25 COME TAX.—

1 (i) IN GENERAL.—Subsection (a) of
2 section 34 of the Internal Revenue Code of
3 1986 is amended by striking “and” at the
4 end of paragraph (2), by striking the pe-
5 riod at the end of paragraph (3) and in-
6 serting “, and”, and by adding at the end
7 the following:

8 “(4) under section 6433 (determined without
9 regard to section 6433(d)).”.

10 (ii) CONFORMING AMENDMENT.—Sub-
11 section (b) of section 34 of such Code is
12 amended—

13 (I) by striking “6421 or 6427”
14 and inserting “6421, 6427, or 6433”,
15 and

16 (II) by striking “6421(i) or
17 6427(k)” and inserting “6421(i),
18 6427, or 6433”.

19 (C) CLERICAL AMENDMENT.—The table of
20 sections for subchapter B of chapter 65 of such
21 Code is amended by adding at the end the fol-
22 lowing:

“Sec. 6433. Diesel fuel not used for movement of goods by highway.”.

23 (D) EFFECTIVE DATE.—The amendments
24 made by this paragraph shall apply to fuel sold
25 after September 30, 2011.

1 (b) AUTHORIZATIONS OF APPROPRIATIONS.—

2 (1) IN GENERAL.—There is authorized to be
3 appropriated from the Goods Movement Trust Fund
4 (established under subsection (a)) to carry out this
5 Act for a fiscal year the level of receipts plus inter-
6 est (as that term is defined in subsection (d)) with
7 respect to the Goods Movement Trust Fund for that
8 fiscal year.

9 (2) ALLOCATION OF AMOUNTS.—Of the
10 amounts made available to carry out this Act for a
11 fiscal year—

12 (A) \$5,000,000 shall be available to carry
13 out section 2 for that fiscal year;

14 (B) \$3,000,000 shall be available to carry
15 out section 3 for the first full fiscal year begin-
16 ning after the date of enactment of this Act
17 and \$1,000,000 for each fiscal year thereafter;

18 (C) \$5,000,000 shall be available to carry
19 out section 4, except for the making of grants
20 under subsections (c)(4) and (d) of that section,
21 for that fiscal year;

22 (D) \$2,000,000 shall be available to make
23 grants under section 4(c)(4) for that fiscal year;
24 and

1 (E) the remainder shall be available to
2 make grants under section 4(d) for that fiscal
3 year.

4 (c) CONTRACT AUTHORITY.—

5 (1) DATE AVAILABLE FOR OBLIGATION.—Au-
6 thorizations from the Goods Movement Trust Fund
7 to carry out this Act shall be available for obligation
8 on October 1 of the fiscal year for which they are
9 authorized.

10 (2) GRANTS AS CONTRACTUAL OBLIGATIONS.—

11 A grant made under subsection (c)(4) or (d) of sec-
12 tion 4 that is approved by the Assistant Secretary
13 is a contractual obligation of the Government to pay
14 the Federal share of the cost of the project.

15 (d) GOODS MOVEMENT TRUST FUND GUARANTEE.—

16 (1) IN GENERAL.—The total budget resources
17 made available from the Goods Movement Trust
18 Fund each fiscal year to carry out this Act shall be
19 equal to the level of receipts plus interest with re-
20 spect to the Goods Movement Trust Fund for that
21 fiscal year. Such amounts may be used only to carry
22 out this Act.

23 (2) GUARANTEE.—No funds may be appro-
24 priated to carry out this Act unless the amount de-
25 scribed in paragraph (1) has been provided.

1 (3) ENFORCEMENT OF GUARANTEES.—It shall
2 not be in order in the House of Representatives or
3 the Senate to consider any bill, joint resolution,
4 amendment, motion, or conference report that would
5 cause total budget resources in a fiscal year to carry
6 out this Act for such fiscal year to be less than the
7 amount required by paragraph (1) for such fiscal
8 year.

9 (4) DEFINITIONS.—In this subsection, the fol-
10 lowing definitions apply:

11 (A) TOTAL BUDGET RESOURCES.—The
12 term “total budget resources” means the total
13 amount made available by appropriations Acts
14 from the Goods Movement Trust Fund for a
15 fiscal year to carry out this Act.

16 (B) LEVEL OF RECEIPTS PLUS INTER-
17 EST.—The term “level of receipts plus interest”
18 means the level of funding appropriated or
19 credited to the Goods Movement Trust Fund
20 under section 9512 of the Internal Revenue
21 Code of 1986 for a fiscal year as estimated in
22 the budget of the United States Government for
23 that fiscal year submitted by the President pur-
24 suant to section 1105 of title 31, United States
25 Code. The President shall ensure that an esti-

1 mate of such funding is included in each such
2 budget.

3 **SEC. 6. DEFINITIONS.**

4 In this Act, the following definitions apply:

5 (1) **FREIGHT.**—The term “freight” means
6 goods transported for a fee by a water, land, or air
7 transportation mode.

8 (2) **FREIGHT CORRIDOR.**—The term “freight
9 corridor” means a designated route along which
10 freight is moved, including water, land, and air
11 routes.

12 (3) **SECRETARY.**—The term “Secretary” means
13 the Secretary of Transportation.

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