

112TH CONGRESS
1ST SESSION

H. R. 3049

To restore growth, spur job creation, build momentum toward economic recovery for border communities and the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 23, 2011

Mr. GRIJALVA introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committees on Ways and Means, Transportation and Infrastructure, Small Business, Oversight and Government Reform, Foreign Affairs, and Agriculture, 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 restore growth, spur job creation, build momentum toward economic recovery for border communities and 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Border Infrastructure
5 and Jobs Act of 2011”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) The United States and Mexico share a bor-
2 der of nearly 2,000 miles, a cultural heritage, and
3 a desire to grow both economies through cooperation
4 and hard work.

5 (2) Border commerce is vital to the United
6 States economy. Mexico is the United States third-
7 largest trading partner, behind only Canada and
8 China. In 2010, trade between the United States
9 and Mexico reached \$367,000,000,000, amounting
10 to more than \$1,000,000,000 per day.

11 (3) Mexico is the second-largest export market
12 for United States businesses and approximately 22
13 States depend on Mexico as their number one or two
14 trading partner.

15 (4) The growth of international trade has out-
16 paced United States land ports of entry's workload
17 capacity, resulting in congestion and delays. This in-
18 creased congestion hurts businesses that rely on safe
19 and efficient cross-border traffic.

20 **SEC. 3. UNITED STATES-MEXICO ECONOMIC PARTNERSHIP**
21 **COMMISSION.**

22 (a) ESTABLISHMENT OF COMMISSION.—

23 (1) IN GENERAL.—There is established an inde-
24 pendent commission to be known as the United

1 States-Mexico Economic Partnership Commission
2 (referred to in this section as the “Commission”).

3 (2) PURPOSES.—The purposes of the Commis-
4 sion are to—

5 (A) study the overall economic strategies,
6 programs, and policies of Federal departments
7 and agencies along the United States-Mexico
8 border, including the Department of Homeland
9 Security, the Department of Commerce, and
10 other relevant departments and agencies;

11 (B) strengthen relations and collaboration
12 between communities along the United States-
13 Mexico border and the Department of Home-
14 land Security, the Department of Commerce,
15 and other Federal departments and agencies
16 that carry out such strategies, programs, and
17 policies; and

18 (C) make recommendations to the Presi-
19 dent and Congress with respect to such strate-
20 gies, programs, and policies.

21 (3) MEMBERSHIP.—

22 (A) VOTING MEMBERS.—The Commission
23 shall be composed of 16 voting members. The
24 Governors of the States of Arizona, California,

1 New Mexico, and Texas shall each appoint four
2 such members, of whom—

3 (i) one shall be a local elected official
4 from each such State's border region;

5 (ii) one shall be an individual from
6 academia or a community leader of each
7 such State; and

8 (iii) two shall be from each such
9 State's border region business community.

10 (B) NONVOTING MEMBERS.—The Commis-
11 sion shall be composed of two nonvoting mem-
12 bers, of whom—

13 (i) one shall be appointed by the Sec-
14 retary of Homeland Security; and

15 (ii) one shall be appointed by the Sec-
16 retary of Commerce.

17 (4) QUALIFICATIONS.—

18 (A) IN GENERAL.—Members of the Com-
19 mission shall be—

20 (i) individuals with expertise in migra-
21 tion, border enforcement and protection,
22 civil and human rights, community rela-
23 tions, cross-border trade and commerce, or
24 other pertinent qualifications or experience;
25 and

1 (ii) representative of a broad cross
2 section of perspectives from the region
3 along the international border between the
4 United States and Mexico.

5 (B) POLITICAL AFFILIATION.—Not more
6 than two members of the Commission appointed
7 by each Governor in accordance with paragraph
8 (3)(A) may be members of the same political
9 party.

10 (C) NONGOVERNMENTAL APPOINTEES.—
11 An individual appointed as a voting member to
12 the Commission may not be an officer or em-
13 ployee of the Federal Government.

14 (5) DEADLINE FOR APPOINTMENT.—All mem-
15 bers of the Commission shall be appointed not later
16 than six months after the date of the enactment of
17 this Act. If any member of the Commission de-
18 scribed in paragraph (3)(A) is not appointed by such
19 date, the Commission shall carry out its duties
20 under this section without participation of such
21 member.

22 (6) TERM OF SERVICE.—The term of office for
23 members shall be for the life of the Commission.

24 (7) VACANCIES.—Any vacancy in the Commis-
25 sion shall not affect its powers, but shall be filled in

1 the same manner in which the original appointment
2 was made.

3 (8) MEETINGS.—

4 (A) INITIAL MEETING.—The Commission
5 shall meet and begin the operations of the Com-
6 mission as soon as practical.

7 (B) SUBSEQUENT MEETINGS.—After its
8 initial meeting, the Commission shall meet upon
9 the call of the chairman or a majority of its
10 members.

11 (C) OUTREACH.—The Commission shall
12 formulate and implement an effective outreach
13 strategy to border communities along the
14 United States-Mexico border.

15 (9) QUORUM.—Nine members of the Commis-
16 sion shall constitute a quorum.

17 (10) CHAIR AND VICE CHAIR.—The voting
18 members of the Commission shall elect a Chairman
19 and Vice Chairman from among its voting members.
20 The term of office shall be for the life of the Com-
21 mission.

22 (11) STRUCTURE.—The Commission shall have
23 a Federal, regional, and local review structure, and
24 shall be divided into two subcommittees, one such
25 subcommittee focused on border technology, equip-

1 ment, and infrastructure, and one such sub-
2 committee focused on cross-border trade policies and
3 programs.

4 (b) DUTIES.—The Commission shall review and ex-
5 amine cross-border trade policies, strategies, and pro-
6 grams with Mexico, including—

7 (1) the effect of operations, technology, and in-
8 frastructure along such border on the—

9 (A) environment;

10 (B) cross-border traffic and commerce;

11 (C) privacy rights and other civil liberties;

12 and

13 (D) the quality of life of border commu-
14 nities;

15 (2) the extent of the negative economic impact,
16 if any, on the United States due to staffing needs
17 at land ports of entry along the such border;

18 (3) whether border policies and practices ensure
19 that the free flow of legitimate travel and commerce
20 is not diminished by efforts, activities, and programs
21 aimed at securing the international land ports of
22 entry along the United States-Mexico border; and

23 (4) any other matters regarding cross-border
24 trade policies, strategies, and programs the Commis-
25 sion determines appropriate.

1 (c) POWERS OF COMMISSION.—

2 (1) IN GENERAL.—

3 (A) HEARINGS AND EVIDENCE.—The
4 Commission or, on the authority of the Com-
5 mission, any subcommittee or member thereof,
6 may, for the purpose of carrying out this Act—

7 (i) hold such hearings and sit and act
8 at such times and places, take such testi-
9 mony, receive such evidence, administer
10 such oaths; and

11 (ii) subject to subparagraph (B), re-
12 quire, by subpoena or otherwise, the at-
13 tendance and testimony of such witnesses
14 and the production of such books, records,
15 correspondence, memoranda, papers, and
16 documents as the Commission or such des-
17 ignated subcommittee or designated mem-
18 ber may determine advisable.

19 (B) SUBPOENAS.—

20 (i) ISSUANCE.—A subpoena may be
21 issued under this subsection only—

22 (I) by the agreement of the
23 chairman and the vice chairman; or

24 (II) by the affirmative vote of six
25 members of the Commission.

1 (ii) SIGNATURE.—Subject to clause
2 (i), subpoenas issued under this subsection
3 may be issued under the signature of the
4 chairman or any member designated by a
5 majority of the Commission, and may be
6 served by any person designated by the
7 chairman or by a member designated by a
8 majority of the Commission.

9 (iii) ENFORCEMENT.—In the case of
10 contumacy or failure to obey a subpoena
11 issued under this paragraph, the United
12 States district court for the judicial district
13 in which the subpoenaed person resides, is
14 served, or may be found, or where the sub-
15 poena is returnable, may issue an order re-
16 quiring such person to appear at any des-
17 ignated place to testify or to produce docu-
18 mentary or other evidence. Any failure to
19 obey the order of such court may be pun-
20 ished by such court as a contempt of such
21 court.

22 (2) CONTRACTING.—The Commission may, to
23 such extent and in such amounts as are provided in
24 appropriation Acts, enter into contracts to enable

1 the Commission to discharge its duties under this
2 Act.

3 (3) INFORMATION FROM FEDERAL AGENCIES.—

4 (A) IN GENERAL.—The Commission is au-
5 thorized to secure directly from any executive
6 department, bureau, agency, board, commission,
7 office, independent establishment, or instrumen-
8 tality of the Government, information, sugges-
9 tions, estimates, and statistics for the purposes
10 of carrying out this Act. Each such department,
11 bureau, agency, board, commission, office, inde-
12 pendent establishment, or instrumentality shall,
13 to the extent authorized by law, furnish such
14 information, suggestions, estimates, and statis-
15 tics directly to the Commission, upon request
16 made by the chairman, the chairman of any
17 subcommittee created by a majority of the
18 Commission, or any member designated by a
19 majority of the Commission.

20 (B) RECEIPT, HANDLING, STORAGE, AND
21 DISSEMINATION.—Information, suggestions, es-
22 timates, and statistics referred to in subpara-
23 graph (A) shall only be received, handled,
24 stored, and disseminated by members of the
25 Commission and its staff in accordance with all

1 applicable statutes, regulations, and Executive
2 orders.

3 (4) ASSISTANCE FROM FEDERAL AGENCIES.—

4 (A) GENERAL SERVICES ADMINISTRA-
5 TION.—The Administrator of General Services
6 shall provide to the Commission on a reimburs-
7 able basis administrative support and other
8 services for the performance of the Commis-
9 sion's functions.

10 (B) OTHER DEPARTMENTS AND AGEN-
11 CIES.—In addition to the assistance prescribed
12 in subparagraph (A), the heads of Federal de-
13 partments and agencies may provide to the
14 Commission such services, funds, facilities,
15 staff, and other support services as they may
16 determine advisable and as may be authorized
17 by law.

18 (5) POSTAL SERVICES.—The Commission may
19 use the United States mails in the same manner and
20 under the same conditions as Federal departments
21 and agencies of the United States.

22 (d) COMPENSATION.—

23 (1) IN GENERAL.—Members of the Commission
24 shall serve without pay.

1 (2) REIMBURSEMENT OF EXPENSES.—All mem-
2 bers of the Commission shall be reimbursed for rea-
3 sonable travel expenses and subsistence, and other
4 reasonable and necessary expenses incurred by such
5 members in the performance of their duties.

6 (e) TRAINING.—The Commission shall establish a
7 process and criteria by which Commission members re-
8 ceive orientation and training on cross-border trade poli-
9 cies, strategies, and programs with respect to Mexico.

10 (f) REPORT.—Not later than two years after the date
11 of the first meeting called pursuant to subsection
12 (a)(8)(A), the Commission shall submit to the President,
13 the Secretary of Homeland Security, the Secretary of
14 Commerce, and Congress a report that contains—

15 (1) findings with respect to the duties of the
16 Commission;

17 (2) recommendations regarding cross-border
18 trade policies, strategies, and programs with respect
19 to Mexico;

20 (3) suggestions for the implementation of such
21 recommendations; and

22 (4) a recommendation as to whether the Com-
23 mission should continue to exist after the date of
24 termination described in subsection (i), and if so, a

1 description of the purposes and duties recommended
2 to be carried out by the Commission after such date.

3 (g) **RESPONSE TO REPORT.**—Not later than 180 days
4 after the receipt of the report required under subsection
5 (f), the Secretary of Homeland Security and the Secretary
6 of Commerce shall jointly issue a response describing how
7 the Department of Homeland Security and the Depart-
8 ment of Commerce will implement the recommendations
9 contained in such report.

10 (h) **AUTHORIZATION OF APPROPRIATIONS.**—There
11 are authorized to be appropriated such sums as may be
12 necessary to carry out this section.

13 (i) **SUNSET.**—Unless the Commission is re-authorized
14 by Congress, the Commission shall terminate on the date
15 that is 60 days after the date the Commission submits
16 the report described in subsection (f).

17 **SEC. 4. PORT SECURITY AND TRADE FACILITATION**
18 **GRANTS.**

19 (a) **GRANT PROGRAM.**—The Secretary of Commerce,
20 in consultation with the Secretary of Homeland Security,
21 shall establish a program under which grants may be pro-
22 vided to develop and expand trusted shipper programs for
23 small- and medium-sized businesses for the purpose of fa-
24 cilitating border commerce.

1 (b) APPLICATIONS AND CONDITIONS.—In carrying
2 out the grant program described in subsection (a), the
3 Secretary of Commerce—

4 (1) shall establish a notification and application
5 procedure; and

6 (2) may establish such conditions, and require
7 such assurances, as may be appropriate to ensure
8 the efficiency and integrity of the grant program.

9 (c) SUNSET.—The grant program described in sub-
10 section (a) shall terminate on the date that is five years
11 after the date of the enactment of this Act.

12 (d) LIMITATION.—The sum for all fiscal years of the
13 amounts awarded as grants under this section may not
14 exceed \$10,000,000.

15 **SEC. 5. IMPROVING PORTS OF ENTRY ON THE SOUTHWEST**
16 **BORDER FOR BORDER SECURITY AND OTHER**
17 **PURPOSES.**

18 (a) IN GENERAL.—There are authorized to be appro-
19 priated to the Administrator of the General Services Ad-
20 ministration—

21 (1) \$200,000,000 for fiscal 2013 solely for
22 planning, management, design, alteration, and con-
23 struction of United States Customs and Border Pro-
24 tection owned land border ports of entry along the

1 international border between the United States and
2 Mexico; and

3 (2) \$100,000,000 for fiscal year 2013 solely for
4 the installation of renewable energy retrofits at land
5 border ports of entry along the international border
6 between the United States and Mexico.

7 (b) ALLOCATION OF AUTHORIZED FUNDS.—Of the
8 amounts authorized to be appropriated pursuant to sub-
9 section (a)(1)—

10 (1) not more than 40 percent may be set aside
11 for the San Luis I land port of entry; and

12 (2) not more than 60 percent may be set aside
13 for the Douglas land port of entry.

14 **SEC. 6. IMPROVING WASTE WATER TREATMENT INFRA-**
15 **STRUCTURE.**

16 There are authorized to be appropriated to the Inter-
17 national Boundary and Water Commission \$50,000,000
18 for fiscal 2013 solely for planning, management, design,
19 alteration, and construction of the International Outfall
20 Interceptor (IOI) and the Nogales Wash Channel.

21 **SEC. 7. IMPROVING CROSS-BORDER TRANSPORTATION.**

22 (a) IN GENERAL.—There are authorized to be appro-
23 priated to the Federal Highway Administration
24 \$100,000,000 for fiscal 2013 for—

1 (1) improvements to existing transportation and
2 supporting infrastructure along the United States-
3 Mexico border;

4 (2) construction of highways and related safety
5 and enforcement facilities related to international
6 trade with Mexico; and

7 (3) international coordination of transportation
8 planning, programming, and border operations with
9 Mexico.

10 (b) ALLOCATION OF AUTHORIZED FUNDS.—Of
11 amounts authorized to be appropriated pursuant to sub-
12 section (a), not more than 30 percent may be set aside
13 for projects 50 miles from the United States-Mexico bor-
14 der.

15 **SEC. 8. INCREASE IN NUMBER OF CUSTOMS AND BORDER**
16 **PROTECTION OFFICERS ON THE SOUTHWEST**
17 **BORDER OF THE UNITED STATES.**

18 (a) CUSTOMS AND BORDER PROTECTION OFFI-
19 CERS.—During fiscal year 2013, the Secretary of Home-
20 land Security shall increase by not fewer than 500 the
21 total number of full-time, active-duty Customs and Border
22 Protection officers within United States Customs and Bor-
23 der Protection for posting at United States ports of entry
24 along the southern border above the number of such offi-

1 cers for which funds were made available during fiscal
2 year 2012.

3 (b) AGRICULTURE SPECIALISTS.—During fiscal year
4 2013, the Secretary of Homeland Security shall increase
5 by not fewer than 30 the number of full-time Customs and
6 Border Protection agriculture specialists for United States
7 ports of entry along the southern border above the number
8 of such agriculture specialists for which funds were made
9 available during fiscal year 2012.

10 (c) BORDER SECURITY SUPPORT PERSONNEL.—
11 During fiscal year 2013, the Secretary of Homeland Secu-
12 rity shall increase by not fewer than 10 the number of
13 full-time border security support personnel for United
14 States ports of entry along the southern border above the
15 number of such support personnel for which funds were
16 made available during fiscal year 2012.

17 (d) PRIORITY.—In making personnel additions de-
18 scribed in subsections (a), (b), and (c), the Commissioner
19 of Customs and Border Protection shall give priority to
20 the Tucson Sector.

21 **SEC. 9. SOUTHWEST BORDER STRATEGY FOR SECURITY**
22 **AND PROSPERITY.**

23 (a) REQUIREMENT FOR STRATEGY.—The Secretary
24 of Homeland Security, in consultation with the heads of
25 other appropriate Federal departments and agencies, shall

1 develop and annually update a Southwest Border Strategy
2 for Security and Prosperity that describes actions to be
3 carried out to facilitate trade and maintain operational
4 control over all land ports of entry into the United States
5 along the southern border.

6 (b) CONTENT.—The Southwest Border Strategy for
7 Security and Prosperity described in subsection (a) shall
8 include the following:

9 (1) An assessment of staffing needs for all land
10 ports of entry into the United States along the
11 southern border.

12 (2) An assessment of infrastructure needs for
13 all land ports of entry into the United States along
14 the southern border.

15 (3) An assessment of the traffic patterns of
16 commercial and passenger vehicles entering and
17 exiting the United States at land ports of entry
18 along the southern border.

19 (4) An assessment of the negative economic im-
20 pact, if any, on the United States due to wait times
21 at land ports of entry along the southern border.

22 (5) A description of ways to ensure that the
23 free flow of legitimate travel and commerce is not di-
24 minished by efforts, activities, or programs aimed at

1 securing the international land ports of entry along
2 the United States-Mexico border.

3 (6) A schedule for the implementation of the se-
4 curity measures described in such Strategy, includ-
5 ing realistic deadlines for addressing staffing and in-
6 frastructure needs identified in paragraphs (1) and
7 (2), an estimate of the resources needed to carry out
8 such measures, and a description of how such re-
9 sources should be allocated.

10 (c) CONSULTATION.—In developing the Southwest
11 Border Strategy for Security and Prosperity under this
12 section, the Secretary of Homeland Security shall also
13 consult with representatives of—

14 (1) State, local, and tribal authorities from Ari-
15 zona, California, New Mexico, and Texas; and

16 (2) appropriate private sector entities, non-
17 governmental organizations, and affected commu-
18 nities that have expertise in areas related to border
19 management and international trade across southern
20 ports of entry.

21 (d) SUBMISSION TO CONGRESS.—

22 (1) STRATEGY.—Not later than one year after
23 the date of the enactment of this Act and annually
24 thereafter, the Secretary of Homeland Security shall

1 submit to Congress the Southwest Border Strategy
2 for Security and Prosperity.

3 (2) UPDATES.—In addition to the timeline for
4 submissions of the Southwest Border Strategy for
5 Security and Prosperity described in paragraph (1),
6 the Secretary of Homeland Security shall submit to
7 Congress any change of such Strategy that the Sec-
8 retary determines is necessary, not later than 30
9 days after such determination.

10 **SEC. 10. BORDER TECHNOLOGY AND INNOVATION.**

11 There are authorized to be appropriated to the De-
12 partment of Homeland Security \$200,000,000 for fiscal
13 year 2013 solely for integrated fixed towers, remote video
14 cameras, hand-held devices, mobile systems, and other
15 technologies in Arizona.

16 **SEC. 11. BORDER SMALL BUSINESS REVITALIZATION**
17 **GRANTS.**

18 (a) GRANT PROGRAM.—The Administrator of the
19 Small Business Administration shall establish a program
20 under which grants may be provided to develop and revi-
21 talize small businesses located along the United States-
22 Mexico border.

23 (b) APPLICATIONS AND CONDITIONS.—In conducting
24 the grant program described in subsection (a), the Admin-
25 istrator—

1 (1) shall establish a notification and application
2 procedure; and

3 (2) may establish such conditions, and require
4 such assurances, as may be appropriate to ensure
5 the efficiency and integrity of such grant program.

6 (c) SUNSET.—The grant program described in sub-
7 section (a) shall terminate on the date that is five years
8 after the date of the enactment of this Act.

9 (d) LIMITATION.—

10 (1) IN GENERAL.—The sum for all fiscal years
11 of the amounts awarded as grants under this section
12 may not exceed \$100,000,000.

13 (2) REQUIREMENT.—To be eligible for a grant
14 under this section, a small business shall be located
15 within 10 miles of the United States-Mexico border.

16 **SEC. 12. FEDERAL CONTRACTING REQUIREMENTS.**

17 (a) IN GENERAL.—

18 (1) LOCAL SUBCONTRACTOR.—Except as pro-
19 vided in paragraphs (2) and (3), the head of an Ex-
20 ecutive agency may not award a contract unless 30
21 percent of the labor for the performance of the con-
22 tract (or any subcontract (at any tier) under the
23 contract) is performed by a local subcontractor.

24 (2) STATE SUBCONTRACTOR.—Notwithstanding
25 paragraph (1) and except as provided in paragraph

1 (3), if the head of an Executive agency determines
2 that the requirement of paragraph (1) is not prac-
3 ticable, such head may award a contract if 30 per-
4 cent of the labor for the performance of the contract
5 (or any subcontract (at any tier) under the contract)
6 is performed by a State subcontractor.

7 (3) WAIVER OF REQUIREMENT.—Notwith-
8 standing paragraphs (1) and (2), if the head of an
9 Executive agency determines that the requirements
10 of paragraphs (1) and (2) are not practicable, such
11 head may award a contract without meeting such re-
12 quirements.

13 (b) DEFINITIONS.—In this section:

14 (1) EXECUTIVE AGENCY.—The term “Executive
15 agency” has the meaning given that term in section
16 133 of title 41, United States Code.

17 (2) LOCAL SUBCONTRACTOR.—The term “local
18 subcontractor” means, with respect to a contract, a
19 subcontractor who has a principal place of business
20 or regularly conducts operations in the area in which
21 work is to be performed under the contract by the
22 subcontractor.

23 (3) STATE.—The term “State” means each of
24 the several States, the District of Columbia, each

1 territory or possession of the United States, and
2 each federally recognized Indian tribe.

3 (4) STATE SUBCONTRACTOR.—The term “State
4 subcontractor” means, with respect to a contract, a
5 subcontractor who has a principal place of business
6 or regularly conducts operations in the State in
7 which work is to be performed under the contract by
8 the subcontractor.

9 (c) APPLICABILITY.—The requirements under this
10 section shall apply to agreements entered into on or after
11 the date of the enactment of this Act.

○