To amend the Water Resources Development Act of 1986 to ensure that annual expenditures from the Harbor Maintenance Trust Fund to pay for operation and maintenance costs are allocated equitably among eligible harbor projects, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 13, 2011

Mr. Bishop of New York (for himself and Mr. Landry) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend the Water Resources Development Act of 1986 to ensure that annual expenditures from the Harbor Maintenance Trust Fund to pay for operation and maintenance costs are allocated equitably among eligible harbor projects, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Harbor Fairness Act of 2011”. 
SEC. 2. ASSESSMENT OF DREDGING NEEDS.

Section 210 of the Water Resources Development Act of 1986 (33 U.S.C. 2238) is amended by adding at the end the following:

“(c) ASSESSMENT OF OPERATION AND MAINTENANCE NEEDS.—

“(1) IN GENERAL.—Not later than 90 days after the date of enactment of this subsection, and biennially thereafter, the Secretary shall assess the total operation and maintenance needs of the harbors referred to in subsection (a)(2), including harbors used—

“(A) for commercial navigation;

“(B) for commercial fishing;

“(C) for subsistence, including harbors utilized by Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) for subsistence and ceremonial purposes;

“(D) as harbors of refuge;

“(E) for transportation of persons;

“(F) in relation to domestic energy production, including harbors related to the fabrication, servicing, or supply of domestic offshore energy production facilities;
“(G) by the Secretary of the department in which the Coast Guard is operating;

“(H) for recreation purposes; and

“(I) for any other authorized purpose.

“(2) REPORT TO CONGRESS.—In conjunction with the transmittal by the President of the budget of the United States for fiscal year 2013, and biennially thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that, with respect to commercial navigation projects for the harbors referred to in subsection (a)(2)—

“(A) identifies the operation and maintenance costs associated with the projects, including those costs required to achieve and maintain the authorized length, width, and depth for the projects, on a project-by-project basis;

“(B) identifies the amount of funding requested in the President’s budget for the operation and maintenance costs associated with the projects, on a project-by-project basis;
“(C) identifies the unmet operation and maintenance needs associated with the projects, on a project-by-project basis; and

“(D) identifies the harbors for which the President will allocate funding over next 5 fiscal years for operation and maintenance activities, on a project-by-project basis, including the amounts to be allocated for such purposes.”.

SEC. 3. ALLOCATION AND EXPENDITURES FOR LOCAL HARBOR PROJECTS.

Section 210 of the Water Resources Development Act of 1986 (33 U.S.C. 2238) is further amended by adding at the end the following:

“(d) EXPENDITURES FOR OPERATION AND MAINTENANCE OF HARBOR PROJECTS.—

“(1) IN GENERAL.—To the maximum extent practicable, the Secretary shall make expenditures to pay for operation and maintenance costs of the harbors referred to in subsection (a)(2), including expenditures of funds appropriated from the Harbor Maintenance Trust Fund, based on an equitable allocation of funds among all such harbors, regardless of the size or tonnage throughput of the harbor.
“(2) CRITERIA.—In determining the equitable allocation of funds under paragraph (1), the Secretary—

“(A) shall utilize the information obtained in the assessment conducted under subsection (c);

“(B) shall consider the national and regional significance of harbor operation and maintenance; and

“(C) shall not make such allocation based solely on the tonnage transiting through a harbor.

“(3) MINIMUM ALLOCATION FOR MODERATE AND LOW USE WATERWAYS.—Notwithstanding the requirements of paragraph (1), in making expenditures described in paragraph (1) for each of fiscal years 2013 and 2014, the Secretary shall allocate not less than 40 percent of the total amount of the expenditures to pay for operation and maintenance costs of moderate and low use harbors, as identified by the Secretary.

“(4) EMERGENCY EXPENDITURES.—Nothing in this subsection shall prohibit the Secretary from making an expenditure to pay for the operation and maintenance costs of a specific harbor, including the
transfer of funding from the operation and maintenance of a separate project, if—

“(A) the Secretary determines that such action is necessary to address the navigation needs of a harbor where safe navigation has been severely restricted due to an unforeseen event; and

“(B) the Secretary provides advance notice and information on the need for such a determination to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Environment and Public Works and the Committee on Appropriations of the Senate.”.