

108TH CONGRESS
1ST SESSION

H. R. 3398

To amend title 23, United States Code, to establish a goods movement program to improve the productivity, security, and safety of freight transportation gateways.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 29, 2003

Ms. MILLENDER-MCDONALD introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend title 23, United States Code, to establish a goods movement program to improve the productivity, security, and safety of freight transportation gateways.

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 “Goods Movement Act
5 of 2003”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Growth in international trade has become
9 increasingly important to the welfare of the domestic

1 economy and economic security, as demonstrated by
2 the fact that between 1970 and 1999 the share of
3 the United States gross domestic product accounted
4 for by trade in goods and services grew from 10.7
5 percent to 26.9 percent.

6 (2) Increased growth in international trade
7 places a disproportionate demand on our surface
8 transportation infrastructure concentrated in our
9 major international gateways, metropolitan and
10 urban centers, and trade corridors, resulting in a
11 high concentration of freight traffic relative to total
12 vehicle movement and growing congestion which is
13 adversely affecting regional mobility, safety, security,
14 and environmental quality in affected communities
15 and the reliability and sustainability of our national
16 transportation system and the global connectivity
17 underpinning our national economy.

18 (3) In the decades coinciding with completion of
19 the national defense highway and rail systems, the
20 population of the United States has grown by 40
21 percent since 1970, the number of registered vehi-
22 cles has increased by 100 percent, and in con-
23 centrated areas trade-generated truck traffic has
24 grown at double-digit compounded rates while road
25 capacity has increased by only 6 percent.

1 (4) Continued explosive growth in international
2 trade puts increasing pressure on public and private
3 infrastructure, particularly at global gateways, to in-
4 crease throughput velocity, and fuels national and
5 regional demand for additional surface transpor-
6 tation infrastructure at the Federal, State, and local
7 levels, and will require collaborative initiatives
8 among system users to maximize the use of existing
9 capacity, adopt best industry practices, and plan and
10 finance system improvements driven by goods move-
11 ment demand.

12 (5) Comprehending the nature, and systemati-
13 cally calculating and measuring the dimensions, of
14 this trade-generated demand is critically important
15 to planning and meeting the associated infrastruc-
16 ture needs and institutional changes necessary to en-
17 sure that safe, secure, and efficient movement of our
18 Nation's goods to the ultimate consignees and des-
19 tinations across the Nation.

20 (6) International gateway and intermodal trade
21 corridor freight infrastructure movement, research,
22 project planning, investment, and financing must be
23 a priority in this Act.

24 (7) Critical intermodal freight projects with na-
25 tional and regional economic significance, but with

1 associated local impacts, are often difficult to shep-
2 herd, achieve consensus support, and fund through
3 the current metropolitan planning process.

4 (8) The importance of safe, secure, and effi-
5 cient goods movement to the health and welfare of
6 the national economy should recognized by the es-
7 tablishment of a goods movement program.

8 **SEC. 3. GOODS MOVEMENT PROGRAM.**

9 (a) IN GENERAL.—Subchapter 1 of chapter 1 of title
10 23, United States Code, is amended by adding at the end
11 the following:

12 **“§ 165. Goods movement program**

13 “(a) ESTABLISHMENT AND PURPOSES.—

14 “(1) ESTABLISHMENT.—The Secretary shall es-
15 tablish a goods movement program to improve the
16 productivity, security, and safety of freight transpor-
17 tation gateways, while mitigating congestion and
18 community impacts in the area of such gateways.

19 “(2) PURPOSES.—The purposes of the goods
20 movement program shall be—

21 “(A) to facilitate and support multimodal
22 freight transportation initiatives at the State,
23 regional, and local levels in order to improve
24 freight transportation gateways and mitigate
25 congestion in the area of such gateways;

1 “(B) to provide capital funding to address
2 infrastructure and freight operational needs at
3 freight transportation corridors and gateways;

4 “(C) to encourage adoption of new financ-
5 ing strategies to leverage State, local, and pri-
6 vate investment in freight transportation gate-
7 ways; and

8 “(D) to support military mobilization and
9 readiness.

10 “(b) ELIGIBLE PROJECTS.—

11 “(1) IN GENERAL.—Intermodal freight trans-
12 portation projects that provide community and high-
13 way benefits by addressing economic, congestion, se-
14 curity, safety, and environmental issues associated
15 with freight transportation corridors and gateways
16 shall be eligible for funding under this section.

17 “(2) TYPES OF PROJECTS.—Projects eligible for
18 funding under paragraph (1) shall be limited to the
19 following:

20 “(A) Projects to facilitate access to inter-
21 modal freight transfer facilities.

22 “(B) Projects on—

23 “(i) National Highway System routes
24 connecting to intermodal freight terminals
25 identified according to criteria set forth in

1 the report to Congress entitled ‘Pulling To-
2 gether: The National Highway System and
3 its Connections to Major Intermodal Ter-
4 minals’, dated May 24, 1996, and any
5 modifications to these connections con-
6 sistent with subparagraph (D); and

7 “(ii) the Strategic Highway Network
8 (commonly known as ‘STRAHNET’), in-
9 cluding connectors to strategic military de-
10 ployment ports.

11 “(C) Projects on high priority corridors
12 identified in section 1105(e) of the Intermodal
13 Surface Transportation Act of 1991 (105 Stat.
14 2032).

15 “(D) Projects to separate railroad and
16 road crossings and make other railroad and
17 road interface improvements.

18 “(c) SELECTION CRITERIA.—In selecting projects
19 under the goods movement program, the Secretary shall
20 give priority to a project that exhibits the following cri-
21 teria:

22 “(1) Enhances national, regional, and local
23 economies by allowing for economic development and
24 growth, as measured by—

1 “(A) impact on the Nation’s gross domes-
2 tic product;

3 “(B) increases in new businesses and jobs;

4 “(C) State and local tax receipts;

5 “(D) changes in prices and manufacturing
6 efficiencies; and

7 “(E) improved safety as measured by re-
8 ductions in accidents, injuries, and fatalities.

9 “(2) Seeks to maximize economic opportunities
10 for communities, including increasing local hiring.

11 “(3) Considers factors such as improved mobil-
12 ity, congestion relief, energy consumption, air pollu-
13 tion, and noise pollution.

14 “(4) Demonstrates availability of local resources
15 to augment the transportation infrastructure.

16 “(5) Leverages incremental funding as meas-
17 ured by non-Federal, public and private investment
18 projects, and uses innovative financing and local
19 funding and financing by attracting local public and
20 private investment.

21 “(6) Integrates and deploys intelligent trans-
22 portation technologies.

23 “(7) Encourages and facilitates regional part-
24 nerships to develop high priority corridors identified

1 in section 1105(c) of the Intermodal Surface Trans-
2 portation Efficiency Act of 1991.

3 “(8) Encourages or facilitates major multistate
4 or regional mobility and economic growth and devel-
5 opment in areas underserved by existing highway in-
6 frastructure.

7 “(9) Reduces commercial and other travel time
8 through a major national gateway or affected port of
9 entry expected as a result of the proposed project in-
10 cluding the level of traffic delays at at-grade high-
11 way crossings of major rail lines in trade corridors.

12 “(d) GRANTS.—

13 “(1) GENERAL AUTHORITY.—

14 “(A) GRANTS.—The Secretary may make
15 grants under the goods movement program to
16 assist State and local governmental authorities
17 in financing—

18 “(i) capital projects, including prop-
19 erty and improvements;

20 “(ii) the capital costs of coordinating
21 projects under the program with other
22 transportation modes;

23 “(iii) the introduction of new tech-
24 nology, through innovative and improved
25 products, into projects under the program;

1 “(iv) capital projects to modernize ex-
2 isting corridors and gateways; and

3 “(v) the development of corridors to
4 support and expand the safe, secure, and
5 efficient movement of goods, including pro-
6 tecting rights of way through acquisition,
7 construction of dedicated truck and high
8 occupancy vehicle lanes and other non-
9 vehicular capital improvements that the
10 Secretary may decide would result in miti-
11 gating congestion in such corridors.

12 “(B) TERMS AND CONDITIONS.—The Sec-
13 retary shall require that all grants under the
14 goods movement program be subject to all
15 terms, conditions, requirements, and provisions
16 the Secretary decides are necessary or appro-
17 priate for the purposes of this section, including
18 requirements for the disposition of net increases
19 in the value of real property resulting from the
20 project assisted under the program.

21 “(2) PROJECT AS PART OF APPROVED PROGRAM
22 OF PROJECTS.—Except as provided in paragraph
23 (3), the Secretary may approve a grant for a project
24 under the goods movement program only after find-
25 ing that the project is part of the approved program

1 of projects required under sections 134 and 135 and
2 that an applicant—

3 “(A) has or will have the legal, financial,
4 and technical capacity to carry out the project,
5 satisfactory continuing control over the use of
6 equipment or facilities (excluding equipment
7 and facilities owned by railroads), and the capa-
8 bility to maintain the equipment or facilities;
9 and

10 “(B) will maintain the equipment or facili-
11 ties.

12 “(3) CRITERIA FOR GRANTS.—

13 “(A) IN GENERAL.—The Secretary may
14 approve a grant under this section for a project
15 under the goods movement program only if the
16 Secretary determines that the proposed project
17 is—

18 “(i) based on the results of an alter-
19 natives analysis and preliminary engineer-
20 ing;

21 “(ii) justified based on a comprehen-
22 sive review of its mobility improvements,
23 environmental benefits, cost effectiveness,
24 and operating efficiencies; and

1 “(iii) supported by an acceptable de-
2 gree of local financial commitment, includ-
3 ing evidence of stable and dependable fi-
4 nancing sources to construct, maintain,
5 and operate the system or extension.

6 “(B) CORRIDOR DEVELOPMENT AND MAN-
7 AGEMENT PLANS.—The Secretary shall not re-
8 quire an applicant for a grant under this sec-
9 tion for a project to undertake activities to
10 demonstrate that the project complies with the
11 requirements of subparagraph (A) to the extent
12 that the Secretary can make a determination
13 under subparagraph (A) based on a corridor de-
14 velopment and management plan developed
15 under section 1118(d) of the Transportation
16 Equity Act for the 21st Century (112 Stat.
17 162) and any other studies and materials devel-
18 oped for the project under that section.

19 “(C) ALTERNATIVES ANALYSIS AND PRE-
20 LIMINARY ENGINEERING.—In evaluating a
21 project under subparagraph (A)(i), the Sec-
22 retary shall analyze and consider the results of
23 the alternatives analysis and preliminary engi-
24 neering for the project.

1 “(D) PROJECT JUSTIFICATION.—In evalu-
2 ating a project, the Secretary shall give priority
3 consideration to a project that exhibits the cri-
4 teria established in subsection (c).

5 “(E) LOCAL FINANCIAL COMMITMENT.—

6 “(i) EVALUATION OF PROJECT.—In
7 evaluating a project under subparagraph
8 (A)(iii), the Secretary shall require that—

9 “(I) the proposed project plan
10 provides for the availability of contin-
11 gency amounts that the Secretary de-
12 termines to be reasonable to cover un-
13 anticipated cost increases; and

14 “(II) each proposed local source
15 of capital and operating financing is
16 stable, reliable, and available within
17 the proposed project timetable.

18 “(ii) CONSIDERATIONS.—In assessing
19 the stability, reliability, and availability of
20 proposed sources of local financing under
21 clause (i), the Secretary shall consider—

22 “(I) existing grant commitments;

23 “(II) the degree to which financ-
24 ing sources are dedicated to the pur-
25 poses proposed;

1 “(III) any debt obligation that
2 exists or is proposed by the recipient
3 for the proposed project; and

4 “(IV) the extent to which the
5 project has a local financial commit-
6 ment that exceeds the required non-
7 Federal share of the cost of the
8 project.

9 “(F) REGULATIONS.—Not later than 120
10 days after the date of enactment of this section,
11 the Secretary shall issue regulations on the
12 manner in which the Secretary will evaluate and
13 rate the projects based on the results of alter-
14 natives analysis, project justification, and the
15 degree of local financial commitment, as re-
16 quired under this paragraph.

17 “(G) PROJECT EVALUATION AND RAT-
18 ING.—A proposed project may advance from al-
19 ternatives analysis to preliminary engineering,
20 and may advance from preliminary engineering
21 to final design and construction, only if the Sec-
22 retary finds that the project meets the require-
23 ments of this subsection and there is a reason-
24 able likelihood that the project will continue to
25 meet such requirements. In making such find-

1 ings, the Secretary shall evaluate and rate the
2 project as ‘highly recommended’, ‘rec-
3 ommended’, or ‘not recommended’, based on the
4 results of alternatives analysis, the project jus-
5 tification criteria, and the degree of local finan-
6 cial commitment, as required under this para-
7 graph. In rating the projects, the Secretary
8 shall provide, in addition to the overall project
9 rating, individual ratings for each of the criteria
10 established under the regulations issued under
11 subparagraph (F).

12 “(H) FULL FUNDING GRANT AGREE-
13 MENT.—A project financed under this sub-
14 section shall be carried out through a full fund-
15 ing grant agreement. The Secretary shall enter
16 into a full funding grant agreement based on
17 the evaluations and ratings required under this
18 subsection. The Secretary shall not enter into a
19 full funding grant agreement for a project un-
20 less that project is authorized for final design
21 and construction.

22 “(4) FULL FUNDING GRANT AGREEMENTS AND
23 EARLY SYSTEMS WORK AGREEMENTS.—

24 “(A) FULL FUNDING GRANT AGREE-
25 MENTS.—

1 “(i) IN GENERAL.—The Secretary
2 may make a full funding grant agreement
3 with an applicant. The agreement shall—

4 “(I) establish the terms of par-
5 ticipation by the United States Gov-
6 ernment in a project under this sub-
7 section;

8 (II) establish the maximum
9 amount of Government financial as-
10 sistance for the project;

11 (III) cover the period of time for
12 completing the project, including a pe-
13 riod extending beyond the period of
14 an authorization; and

15 (IV) make timely and efficient
16 management of the project easier ac-
17 cording to the law of the United
18 States.

19 “(ii) OBLIGATION OF AMOUNTS.—An
20 agreement under this subparagraph obli-
21 gates an amount of available budget au-
22 thority specified in law and may include a
23 commitment, contingent on amounts to be
24 specified in law in advance for commit-
25 ments under this subparagraph, to obligate

1 an additional amount from future available
2 budget authority specified in law. The
3 agreement shall state that the contingent
4 commitment is not an obligation of the
5 Government. Interest and other financing
6 costs of efficiently carrying out a part of
7 the project within a reasonable time are a
8 cost of carrying out the project under a
9 full funding grant agreement, except that
10 eligible costs may not be more than the
11 cost of the most favorable financing terms
12 reasonably available for the project at the
13 time of borrowing. The applicant shall cer-
14 tify, in a way satisfactory to the Secretary,
15 that the applicant has shown reasonable
16 diligence in seeking the most favorable fi-
17 nancing terms. The amount stipulated in
18 an agreement under this subparagraph for
19 a project shall be sufficient to complete at
20 least an operable segment.

21 “(B) EARLY SYSTEMS WORK AGREE-
22 MENTS.—

23 “(i) IN GENERAL.—The Secretary
24 may make an early systems work agree-
25 ment with an applicant if a record of deci-

1 sion under the National Environmental
2 Policy Act of 1969 (42 U.S.C. 4321 et
3 seq.) has been issued on the project and
4 the Secretary finds there is reason to be-
5 lieve—

6 “(I) a full funding grant agree-
7 ment for the project will be made; and

8 “(II) the terms of the work
9 agreement will promote ultimate com-
10 pletion of the project more rapidly
11 and at less cost.

12 “(ii) OBLIGATION OF AMOUNTS.—A
13 work agreement under this subparagraph
14 obligates an amount of available budget
15 authority specified in law and shall provide
16 for reimbursement of preliminary costs of
17 carrying out the project, including land ac-
18 quisition, timely procurement of system
19 elements for which specifications are de-
20 cided, and other activities the Secretary
21 decides are appropriate to make efficient,
22 long-term project management easier. A
23 work agreement shall cover the period of
24 time the Secretary considers appropriate.
25 The period may extend beyond the period

1 of current authorization. Interest and
2 other financing costs of efficiently carrying
3 out the work agreement within a reason-
4 able time are a cost of carrying out the
5 agreement, except that eligible costs may
6 not be more than the cost of the most fa-
7 vorable financing terms reasonably avail-
8 able for the project at the time of bor-
9 rowing. The applicant shall certify, in a
10 way satisfactory to the Secretary, that the
11 applicant has shown reasonable diligence in
12 seeking the most favorable financing
13 terms. If an applicant does not carry out
14 the project for reasons within the control
15 of the applicant, the applicant shall repay
16 all Government payments made under the
17 work agreement plus reasonable interest
18 and penalty charges the Secretary estab-
19 lishes in the agreement.

20 “(C) TOTAL OF FUTURE OBLIGATIONS.—

21 The total estimated amount of future obliga-
22 tions of the Government and contingent com-
23 mitments to incur obligations covered by all
24 outstanding letters of intent, full funding grant
25 agreements, and early systems work agreements

1 may be not more than the greater of the
2 amount authorized to carry out this section,
3 less an amount the Secretary reasonably esti-
4 mates is necessary for grants under this sub-
5 section not covered by a letter. The total
6 amount covered by new letters and contingent
7 commitments included in full funding grant
8 agreements and early systems work agreements
9 may be not more than a limitation specified in
10 law.

11 “(5) GOVERNMENT’S SHARE OF NET PROJECT
12 COST.—Based on engineering studies, studies of eco-
13 nomic feasibility, and information on the expected
14 use of equipment or facilities, the Secretary shall es-
15 timate the net project cost. A grant for the project
16 is for 80 percent of the net project cost, unless the
17 grant recipient requests a lower grant percentage.
18 The remainder shall be provided in cash from a
19 source other than amounts of the Government.
20 Amounts that make up the remainder must be from
21 an undistributed cash surplus, a replacement or de-
22 preciation cash fund or reserve, or new capital. A
23 refund or reduction of the remainder may be made
24 only if a refund of a proportional amount of the
25 grant of the Government is made at the same time.

1 “(6) FINANCIAL PLAN.—A recipient of Federal
2 financial assistance for a project under this section
3 with an estimated total cost of \$100,000,000 or
4 more shall submit to the Secretary an annual finan-
5 cial plan for the project. The plan shall be based on
6 detailed annual estimates of the cost to complete the
7 remaining elements of the project and on reasonable
8 assumptions, as determined by the Secretary, of fu-
9 ture increases in the cost to complete the project.

10 “(7) FISCAL CAPACITY CONSIDERATIONS.—If
11 the Secretary gives priority consideration to financ-
12 ing projects that include more than the non-Govern-
13 ment share required under paragraph (5), the Sec-
14 retary shall give equal consideration to differences in
15 the fiscal capacity of State and local governments.

16 “(8) UNDERTAKING PROJECTS IN ADVANCE.—
17 The Secretary may pay the Government’s share of
18 the net project costs to a State or local govern-
19 mental authority that carries out any part of a
20 project described in this subsection without the aid
21 of amounts of the Government and according to all
22 applicable procedures and requirements if—

23 “(A) the State or local governmental au-
24 thority applies for the payment;

1 “(B) the Secretary approves the payment;
2 and

3 “(C) before carrying out the part of the
4 project, the Secretary approves the plans and
5 specifications for the part in the same way as
6 other projects under the goods movement pro-
7 gram.

8 “(9) REPORTS.—Not later than the first Mon-
9 day in February of each year, the Secretary shall
10 submit to the Congress a report that includes a pro-
11 posal on the allocation of amounts to be made avail-
12 able to finance grants for capital projects under the
13 goods movement program for those amounts.

14 “(e) SPECIFIC DESIGNATIONS.—

15 “(1) IN GENERAL.—Notwithstanding any other
16 provision of this section, Congress deems the fol-
17 lowing to be projects of national economic signifi-
18 cance: [To Be Supplied].

19 “(2) REPORTS.—Not later than October 1,
20 2005, and October 1, 2007, project recipients under
21 this section shall submit to the Secretary and the
22 Congress a report enumerating the national eco-
23 nomic significance of the project.

24 “(f) AUTHORIZATION OF APPROPRIATIONS.—

1 “(1) IN GENERAL.—There is authorized to be
2 appropriated out of the Highway Trust Fund (other
3 than the Mass Transit Account) to carry out this
4 section \$3,000,000,000 for each of fiscal years 2004
5 through 2009. Of such amount, \$1,500,000,000 per
6 fiscal year shall be available only for carrying out
7 projects designated under subsection (e).

8 “(2) ALLOCATION OF AMOUNTS.—Not to exceed
9 8 percent of the amounts made available to carry
10 out this section in a fiscal year may be used for
11 planning, design, preliminary engineering, and
12 projects with a total cost of less than \$25,000,000.

13 “(g) CONTRACT AUTHORITY.—Sums authorized to be
14 appropriated to carry out this section shall be available
15 for obligation in the same manner as funds apportioned
16 under section 104(b)(1), except that such amounts shall
17 not be counted toward a State’s allocation under section
18 105 and shall not be subject to any obligation limitation.”.

19 (b) CONFORMING AMENDMENT.—The analysis for
20 subchapter I of chapter I of such title is amended by add-
21 ing at the end the following:

 “165. Goods movement program.”.

22 (c) REPEAL.—Section 1118 of the Transportation
23 Equity Act for the 21st Century (23 U.S.C. 101 note; 112
24 Stat. 161) is repealed.

○