

111TH CONGRESS
2^D SESSION

H. R. 6291

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

SEPTEMBER 29, 2010

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 2010” or the “Freight FOCUS Act of 2010”.

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 funding sources for projects with respect to
5 freight; and

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

8 (d) NATIONAL FREIGHT PLAN.—Not later than 2
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 180 days 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 15 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; and
- 3 (9) others determined appropriate by the Sec-
- 4 retary.

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

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

10 (e) DUTIES.—The Committee shall—

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

14 (2) develop measures to predict growth in
15 freight movement;

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

18 (4) assist the Assistant Secretary with the de-
19 velopment of the national freight plan under section
20 2(d); and

21 (5) assist the Assistant Secretary with the de-
22 velopment of freight corridor snapshot reports under
23 section 4(e).

1 **SEC. 4. FREIGHT CORRIDORS OF NATIONAL SIGNIFICANCE**
2 **PROGRAM.**

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

9 (b) DESIGNATION OF FREIGHT CORRIDORS OF NA-
10 TIONAL SIGNIFICANCE.—

11 (1) IN GENERAL.—Not later than one year
12 after the date of enactment of this Act, and every
13 3 years thereafter, the Assistant Secretary shall des-
14 ignate the multimodal freight corridors in the
15 United States that the Assistant Secretary has de-
16 termined, in accordance with this subsection, are
17 freight corridors of national significance based on
18 the importance of the corridors to freight movement.

19 (2) PUBLICATION.—The Assistant Secretary
20 shall publish on the Web site of the Department of
21 Transportation a document that specifies the cor-
22 ridors designated under paragraph (1) and con-
23 tains—

24 (A) a map of the corridors;

25 (B) a detailed description of the standards
26 used to designate the corridors;

1 (C) statistics supporting the designation of
2 each corridor; and

3 (D) a description of the role of each cor-
4 ridor in supporting the economy and freight
5 transportation system of the United States.

6 (3) PUBLIC PARTICIPATION.—The Secretary
7 shall make designations under paragraph (1) after
8 providing notice and an opportunity for public com-
9 ment.

10 (4) RULEMAKING TO DETERMINE DESIGNATION
11 STANDARDS.—

12 (A) IN GENERAL.—The Assistant Sec-
13 retary, in consultation with the Freight Advi-
14 sory Committee (established under section
15 3(a)), shall conduct a rulemaking proceeding to
16 establish publicly available, objective, and quan-
17 tifiable standards for designating freight cor-
18 ridors as freight corridors of national signifi-
19 cance under paragraph (1).

20 (B) CRITERIA.—The standards established
21 under subparagraph (A) shall ensure that, in
22 designating a freight corridor as a freight cor-
23 ridor of national significance, the following cri-
24 teria are accurately measured and considered

1 (with the criteria listed in descending order of
2 importance):

3 (i) The volume of freight moved along
4 the corridor.

5 (ii) The value of freight moved along
6 the corridor.

7 (iii) The benefits that may be gen-
8 erated by transportation improvements
9 carried out along the corridor, including
10 the creation or sustaining of jobs, expan-
11 sion of business opportunities, or increas-
12 ing of the gross domestic product.

13 (iv) The potential for growth in
14 freight movement along the corridor.

15 (v) The economic, environmental, and
16 other costs associated with traffic conges-
17 tion and travel delay along the corridor.

18 (5) DATA COLLECTION.—

19 (A) IN GENERAL.—The Assistant Sec-
20 retary, in consultation with the Freight Advi-
21 sory Committee, shall collect and review all
22 data relating to freight necessary to designate
23 freight corridors of national significance under
24 paragraph (1) and shall consider, in consulta-
25 tion with the heads of relevant Federal agen-

1 cies, methods for improving the sources of the
2 data to reduce deficiencies in the data and as-
3 sist projections of transportation demand.

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

15 (c) FREIGHT CORRIDOR COALITIONS.—

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

22 (2) COALITION COMPOSITION.—To be eligible
23 for designation as a freight corridor coalition under
24 paragraph (1), an entity shall be composed of indi-
25 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) Each mode of freight transportation
10 that operates along the corridor.

11 (D) Each port 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.—The Assistant Secretary is authorized to

1 make grants to a freight corridor coalition des-
2 ignated under paragraph (1) to assist the coalition
3 with administrative expenses.

4 (5) FREIGHT CORRIDOR PLAN.—

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

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

19 (ii) an estimate of the cost of each
20 project specified in the list under clause (i)
21 and the aggregate cost of all listed
22 projects;

23 (iii) a specification of a State sponsor
24 willing to carry out each project specified
25 in the list under clause (i) and the support

1 that each member of the coalition shall
2 provide the State sponsor with respect to
3 the project;

4 (iv) a funding plan, including a speci-
5 fication of funding sources, for each
6 project specified in the list under clause
7 (i);

8 (v) a description of how projects spec-
9 ified in the list under clause (i) support
10 connectivity at State borders;

11 (vi) a detailed description of the cor-
12 ridor, including a description of—

13 (I) the modes of transportation
14 that operate along the corridor;

15 (II) the transportation facilities
16 along the corridor;

17 (III) the interaction of passenger
18 and freight movement along the cor-
19 ridor;

20 (IV) the performance of the cor-
21 ridor and projections of future cor-
22 ridor performance, including with re-
23 spect to the speed and reliability of
24 travel along the corridor;

1 (V) any environmental or public
2 health issues related to freight move-
3 ment along the corridor; and

4 (VI) any economic costs related
5 to congestion and travel delay along
6 the corridor; and

7 (vii) any additional information the
8 Assistant Secretary determines appro-
9 priate.

10 (B) PROJECT PRIORITIZATION.—In deter-
11 mining the priority of a project specified in a
12 freight corridor plan under subparagraph (A), a
13 freight corridor coalition shall consider the fol-
14 lowing:

15 (i) The schedule for completing the
16 project and the appropriate sequencing of
17 projects.

18 (ii) Whether the project will improve a
19 component of a freight corridor determined
20 to be performing poorly in a freight cor-
21 ridor snapshot report under subsection (e).

22 (iii) The improvement in freight move-
23 ment that will result from the project and
24 the impact of failing to carry out the
25 project.

1 (iv) Whether the project will address a
2 bridge in need of repair.

3 (v) The amount of non-Federal fund-
4 ing available for the project, including
5 funding from public-private partnerships.

6 (vi) The benefits of the project unre-
7 lated to freight movement and whether
8 there is funding available from nonfreight
9 sources commensurate with those benefits.

10 (vii) Whether innovative technologies
11 are incorporated into the project.

12 (viii) The extent to which the project
13 will reduce air, water, or noise pollution,
14 including through improved energy con-
15 servation or efficiency.

16 (ix) The congestion reduction benefits
17 of the project.

18 (x) The improvement in the condition
19 of freight movement infrastructure that
20 will result from the project.

21 (xi) The public health and safety ben-
22 efits of the project, including with respect
23 to accident and injury reduction with a
24 goal of reducing by 10 percent the number

1 of fatalities related to freight transpor-
2 tation by the year 2015.

3 (xii) Whether the project involves the
4 replacement or repair of an existing sur-
5 face transportation facility—

6 (I) the replacement or repair of
7 which will result in economic and mo-
8 bility benefits for the United States;
9 and

10 (II) that, if not replaced or re-
11 paired, will likely deteriorate substan-
12 tially and negatively impact the econ-
13 omy and transportation system of the
14 United States.

15 (xiii) Whether the project will not be
16 completed without Federal support.

17 (xiv) The regional and national eco-
18 nomic development benefits of the project,
19 including with respect to trade facilitation.

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

22 (d) GRANTS.—

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

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

2 (B) for the improvement of freight move-
3 ment.

4 (2) ELIGIBLE PROJECTS.—The projects eligible
5 for grant assistance under paragraph (1) are the fol-
6 lowing:

7 (A) A project for the development or im-
8 provement of a port.

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

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

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

15 (E) A project for the development or im-
16 provement of a road or bridge, including a road
17 or bridge that—

18 (i) is essential to supporting local,
19 interregional, interstate, or international
20 freight movement;

21 (ii) improves access to freight facili-
22 ties, including ports, terminals, and dis-
23 tribution centers;

24 (iii) improves freight transportation to
25 or from an international gateway, includ-

1 ing ports, airports, and border crossings;
2 or

3 (iv) improves access for, and the
4 emergency capabilities of, military per-
5 sonnel and equipment.

6 (F) A project for the development or im-
7 provement of an intelligent transportation sys-
8 tem for freight that reduces congestion and im-
9 proves safety.

10 (G) A project for the development or im-
11 provement of a facility that provides long-term
12 truck parking.

13 (H) A project for the development of
14 freight movement capacity where that capacity
15 is needed.

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

18 (J) A dredging project or a project to de-
19 velop or improve a lock or dam.

20 (K) A project to benefit the environment,
21 including through the reduction of emissions de-
22 termined by the Assistant Secretary, in con-
23 sultation with the Administrator of the Envi-
24 ronmental Protection Agency, to be harmful to
25 the environment.

1 (L) A project to improve safety or security
2 with respect to freight movement.

3 (M) A project that will improve public
4 health.

5 (N) Any other project the Assistant Sec-
6 retary determines appropriate.

7 (O) Planning, preparation, or design activi-
8 ties with respect to any project described in this
9 paragraph.

10 (3) APPLICATION PROCESS.—

11 (A) IN GENERAL.—The Assistant Sec-
12 retary shall establish a process for States to
13 submit an application for a grant under para-
14 graph (1).

15 (B) RESPONSES.—Without regard to
16 whether a grant is made under paragraph (1)
17 with respect to an application, the Assistant
18 Secretary shall provide a written response to
19 each application submitted under subparagraph
20 (A) and the response shall include a written de-
21 termination by the Assistant Secretary that the
22 project for which the application was submitted
23 is—

24 (i) highly recommended to be carried
25 out;

- 1 (ii) recommended to be carried out; or
2 (iii) not recommended to be carried
3 out.

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

7 (A) give priority to projects listed in a
8 freight corridor plan submitted under sub-
9 section (c)(5)(A) and according to the
10 prioritization of projects in that plan; and

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

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

16 (6) PROJECTS THAT BENEFIT THE ENVIRON-
17 MENT.—The Assistant Secretary shall use not less
18 than 7 percent of the amounts made available for
19 grants under paragraph (1) each fiscal year for
20 grants to assist projects that benefit the environ-
21 ment, including through reducing emissions deter-
22 mined by the Assistant Secretary, in consultation
23 with the Administrator of the Environmental Protec-
24 tion Agency, to be harmful to the environment.

1 (7) PROJECTS THAT BENEFIT FREIGHT SECUR-
2 RITY.—The Assistant Secretary shall use not less
3 than 1 percent of the amounts made available for
4 grants under paragraph (1) each fiscal year for
5 grants to assist projects that improve freight secu-
6 rity, including cargo inspection projects and edu-
7 cation and training projects related to security.

8 (8) PROJECT COSTS.—In carrying out this sub-
9 section, the Assistant Secretary shall develop stand-
10 ards for estimating project costs and shall evaluate
11 the cost estimation, contracting, and cost reduction
12 practices of States that receive grants under para-
13 graph (1).

14 (9) PROJECT MANAGEMENT AND FINANCIAL
15 PLANS.—

16 (A) MAJOR PROJECTS.—A recipient of a
17 grant under paragraph (1) for a project with an
18 estimated total cost of at least \$500,000,000,
19 or for any other project the Assistant Secretary
20 determines appropriate, shall submit to the As-
21 sistant Secretary, with respect to the project—

- 22 (i) a project management plan; and
23 (ii) an annual financial plan.

24 (B) OTHER PROJECTS.—A recipient of a
25 grant under paragraph (1) for a project with an

1 estimated total cost of at least \$100,000,000,
2 but less than \$500,000,000, shall prepare an
3 annual financial plan with respect to the project
4 and shall make that plan available for review at
5 the request of the Assistant Secretary.

6 (C) PROJECT MANAGEMENT PLAN.—For
7 purposes of this paragraph, a project manage-
8 ment plan shall document, with respect to a
9 project—

10 (i) the procedures in effect to provide
11 timely information to project decision-
12 makers to allow the decisionmakers to ef-
13 fectively manage the scope, costs, sched-
14 ules, quality, and Federal requirements
15 with respect to the project; and

16 (ii) the role of non-Federal interests
17 in the delivery of the project.

18 (D) FINANCIAL PLAN.—For purposes of
19 this paragraph, a financial plan shall, with re-
20 spect to a project, provide detailed estimates of
21 the costs of completing the project, including
22 potential increases to those costs.

23 (10) MAINTENANCE OF EFFORT.—

24 (A) IN GENERAL.—As a condition of re-
25 ceiving a grant under paragraph (1), the Gov-

1 ernor of the State receiving the grant shall sub-
2 mit to the Assistant Secretary a certification
3 that the State will maintain its effort with re-
4 spect to the funding of freight projects.

5 (B) STATEMENT OF INTENDED FUND-
6 ING.—As part of the certification under sub-
7 paragraph (A), the Governor shall submit a
8 statement to the Assistant Secretary identifying
9 the amount that the State plans to expend from
10 non-Federal sources for freight projects during
11 the 6-year period beginning on the date of the
12 submission of the certification.

13 (C) FAILURE TO MEET INTENDED FUND-
14 ING.—If the Assistant Secretary determines
15 that a State failed to expend the amount for
16 freight projects identified in the statement
17 under subparagraph (B), the Assistant Sec-
18 retary may prohibit the State from receiving a
19 grant under paragraph (1) during a period—

20 (i) not to exceed 3 years; and

21 (ii) beginning on the date on which
22 that determination is made.

23 (11) PREVAILING RATE OF WAGE.—

24 (A) IN GENERAL.—The Secretary shall
25 take such action as may be necessary to ensure

1 that all laborers and mechanics employed by
2 contractors or subcontractors on construction
3 work performed on projects assisted with a
4 grant under paragraph (1) shall be paid wages
5 at rates not less than those prevailing on the
6 same type of work on similar construction in
7 the immediate locality as determined by the
8 Secretary of Labor in accordance with sections
9 3141, 3146, and 3147 of title 40, United States
10 Code.

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

1 (C) EXCEPTIONS.—The provisions of this
2 paragraph shall not be applicable to employ-
3 ment pursuant to apprenticeship and skill train-
4 ing programs which have been certified by the
5 Secretary as promoting equal employment op-
6 portunity in connection with a construction pro-
7 gram.

8 (12) FUNDING BY MODE.—

9 (A) DETERMINATION.—In making grants
10 under paragraph (1) each fiscal year, the As-
11 sistant Secretary shall determine if any portion
12 of the amounts made available for the grants
13 was generated for deposit in the Goods Move-
14 ment Trust Fund (established under section
15 5(a)) by a single mode of transportation.

16 (B) PORTIONS GENERATED BY A SINGLE
17 MODE OF TRANSPORTATION.—If the Assistant
18 Secretary determines under subparagraph (A)
19 that any portion of the amounts made available
20 for a fiscal year for grants under paragraph (1)
21 was generated by a single mode of transpor-
22 tation, the Assistant Secretary shall ensure that
23 at least 92.5 percent of that portion is used for
24 grants to assist projects that benefit that mode.

1 (C) PORTION NOT GENERATED BY A SIN-
2 GLE MODE OF TRANSPORTATION.—If the As-
3 sistant Secretary determines under subpara-
4 graph (A) that any portion of the amounts
5 made available for a fiscal year for grants
6 under paragraph (1) was generated by a single
7 mode of transportation, the Assistant Secretary
8 shall ensure that 50 percent of the portion of
9 those amounts that was not generated by a sin-
10 gle mode of transportation is used solely for
11 grants to assist projects that benefit the modes
12 of transportation to which subparagraph (B)
13 applied that fiscal year according to the
14 amounts generated by each of those modes.

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

1 **SEC. 5. FUNDING.**

2 (a) GOODS MOVEMENT TRUST FUND.—

3 (1) ESTABLISHMENT.—

4 (A) IN GENERAL.—Subchapter A of chap-
5 ter 98 of the Internal Revenue Code of 1986 is
6 amended by adding at the end the following:

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

8 “(a) CREATION OF TRUST FUND.—There is estab-
9 lished in the Treasury of the United States a trust fund
10 to be known as the ‘Goods Movement Trust Fund’, con-
11 sisting of such amounts as may be appropriated or cred-
12 ited to such Trust Fund as provided in this section or sec-
13 tion 9602(b).

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

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

25 “(d) EXPENDITURES.—

1 “(1) IN GENERAL.—Amounts in the Goods
2 Movement Trust Fund shall be available, as pro-
3 vided in appropriations Acts, only for purposes of
4 making expenditures to carry out the Freight
5 FOCUS Act of 2010.

6 “(2) TRANSFERS FROM TRUST FUND FOR CER-
7 TAIN REPAYMENTS AND CREDITS.—The Secretary
8 shall pay from time to time from the Goods Move-
9 ment Trust Fund into the general fund of the
10 Treasury amounts equivalent to amounts paid under
11 section 6433 or credits allowed under section
12 34(a)(4).”.

13 (B) CONFORMING AMENDMENT.—Para-
14 graph (1) of section 9503(b) of such Code is
15 amended by adding at the end the following:
16 “There shall not be taken into account under
17 subparagraph (D) so much of the taxes imposed
18 by section 4081 as are determined at the rate
19 specified in section 4081(a)(5).”.

20 (C) CLERICAL AMENDMENT.—The table of
21 sections for subchapter A of chapter 98 of such
22 Code is amended by adding at the end the fol-
23 lowing:

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

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

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

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

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

9 “(B) INFLATION ADJUSTMENT.—

10 “(i) IN GENERAL.—In the case of any
11 diesel fuel removed, entered, or sold during
12 any calendar year beginning after 2011,
13 the 12 cent amount under subparagraph
14 (A) shall be increased by an amount equal
15 to—

16 “(I) such amount, multiplied by
17 “(II) the costs of living adjust-
18 ment determined under section 1(f)(3)
19 for the calendar year, determined by
20 substituting ‘calendar year 2010’ for
21 ‘calendar year 1992’ in subparagraph
22 (B) thereof.

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

1 (B) EFFECTIVE DATE.—The amendment
2 made by this paragraph shall apply to fuel re-
3 moved, entered, or sold after September 30,
4 2011.

5 (3) DIESEL FUEL NOT USED FOR MOVEMENT
6 OF GOODS BY HIGHWAY.—

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

10 **“SEC. 6433. DIESEL FUEL NOT USED FOR MOVEMENT OF**
11 **GOODS BY HIGHWAY.**

12 “(a) IN GENERAL.—In the case of diesel fuel on the
13 sale of which tax was imposed by section 4081 and which
14 is used for any purpose other than in the trade or business
15 of moving goods by highway, the Secretary shall pay (with-
16 out interest) to the ultimate purchaser of such fuel an
17 amount equal to the product of the number of gallons of
18 such fuel so used multiplied by the rate specified in section
19 4081(a)(5).

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

24 “(c) APPLICABLE LAWS.—

1 “(1) IN GENERAL.—All provisions of law, in-
2 cluding penalties, applicable in respect of the taxes
3 imposed by section 4081 shall, insofar as applicable
4 and not inconsistent with this section, apply in re-
5 spect of the payments provided for in this section to
6 the same extent as if such payments constituted re-
7 funds of overpayments of the tax so imposed.

8 “(2) EXAMINATION OF BOOKS AND WIT-
9 NESSES.—For the purpose of ascertaining the cor-
10 rectness of any claim made under this section, or the
11 correctness of any payment made in respect of any
12 such claim, the Secretary shall have the authority
13 granted by paragraphs (1), (2), and (3) of section
14 7602(a) (relating to examination of books and wit-
15 nesses) as if the claimant were the person liable for
16 tax.

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

18 “(1) PERSONS NOT SUBJECT TO INCOME
19 TAX.—Payment shall be made under this section
20 only to—

21 “(A) the United States or an agency or in-
22 strumentality thereof, a State, a political sub-
23 division of a State, or any agency or instrumen-
24 tality of one or more States or political subdivi-
25 sions, or

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

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

10 (B) ALLOWANCE OF CREDIT AGAINST IN-
11 COME TAX.—

12 (i) IN GENERAL.—Subsection (a) of
13 section 34 of the Internal Revenue Code of
14 1986 is amended by striking “and” at the
15 end of paragraph (2), by striking the pe-
16 riod at the end of paragraph (3) and in-
17 serting “, and”, and by adding at the end
18 the following:

19 “(4) under section 6433 (determined without
20 regard to section 6433(d)).”.

21 (ii) CONFORMING AMENDMENT.—Sub-
22 section (b) of section 34 of such Code is
23 amended—

1 (I) by striking “6421 or 6427”
2 and inserting “6421, 6427, or 6433”,
3 and

4 (II) by striking “6421(i) or
5 6427(k)” and inserting “6421(i),
6 6427, or 6433”.

7 (C) CLERICAL AMENDMENT.—The table of
8 sections for subchapter B of chapter 65 of such
9 Code is amended by adding at the end the fol-
10 lowing:

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

11 (D) EFFECTIVE DATE.—The amendments
12 made by this paragraph shall apply to fuel sold
13 after September 30, 2011.

14 (b) AUTHORIZATIONS OF APPROPRIATIONS.—

15 (1) IN GENERAL.—There is authorized to be
16 appropriated from the Goods Movement Trust Fund
17 (established under subsection (a)) to carry out this
18 Act for a fiscal year the level of receipts plus inter-
19 est (as that term is defined in subsection (d)) with
20 respect to the Goods Movement Trust Fund for that
21 fiscal year.

22 (2) ALLOCATION OF AMOUNTS.—Of the
23 amounts made available to carry out this Act for a
24 fiscal year—

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

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

7 (C) \$5,000,000 shall be available to carry
8 out section 4, except for the making of grants
9 under subsections (c)(4) and (d) of that section,
10 for that fiscal year;

11 (D) \$1,000,000 shall be available to make
12 grants under section 4(c)(4) for that fiscal year;
13 and

14 (E) the remainder shall be available to
15 make grants under section 4(d) for that fiscal
16 year.

17 (c) CONTRACT AUTHORITY.—

18 (1) DATE AVAILABLE FOR OBLIGATION.—Au-
19 thorizations from the Goods Movement Trust Fund
20 to carry out this Act shall be available for obligation
21 on October 1 of the fiscal year for which they are
22 authorized.

23 (2) GRANTS AS CONTRACTUAL OBLIGATIONS.—
24 A grant made under subsection (c)(4) or (d) of sec-
25 tion 4 that is approved by the Assistant Secretary

1 is a contractual obligation of the Government to pay
2 the Federal share of the cost of the project.

3 (d) GOODS MOVEMENT TRUST FUND GUARANTEE.—

4 (1) IN GENERAL.—The total budget resources
5 made available from the Goods Movement Trust
6 Fund each fiscal year to carry out this Act shall be
7 equal to the level of receipts plus interest with re-
8 spect to the Goods Movement Trust Fund for that
9 fiscal year. Such amounts may be used only to carry
10 out this Act.

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

14 (3) ENFORCEMENT OF GUARANTEES.—It shall
15 not be in order in the House of Representatives or
16 the Senate to consider any bill, joint resolution,
17 amendment, motion, or conference report that would
18 cause total budget resources in a fiscal year to carry
19 out this Act for such fiscal year to be less than the
20 amount required by paragraph (1) for such fiscal
21 year.

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

24 (A) TOTAL BUDGET RESOURCES.—The
25 term “total budget resources” means the total

1 amount made available by appropriations Acts
2 from the Goods Movement Trust Fund for a
3 fiscal year to carry out this Act.

4 (B) LEVEL OF RECEIPTS PLUS INTER-
5 EST.—The term “level of receipts plus interest”
6 means the level of funding appropriated or
7 credited to the Goods Movement Trust Fund
8 under section 9512 of the Internal Revenue
9 Code of 1986 for a fiscal year as estimated in
10 the budget of the United States Government for
11 that fiscal year submitted by the President pur-
12 suant to section 1105 of title 31, United States
13 Code. The President shall ensure that an esti-
14 mate of such funding is included in each such
15 budget.

16 **SEC. 6. DEFINITIONS.**

17 In this Act, the following definitions apply:

18 (1) FREIGHT.—The term “freight” means
19 goods transported for a fee by a water, land, or air
20 transportation mode.

21 (2) FREIGHT CORRIDOR.—The term “freight
22 corridor” means a designated route along which
23 freight is moved, including water, land, and air
24 routes.

1 (3) SECRETARY.—The term “Secretary” means
2 the Secretary of Transportation.

○