

114TH CONGRESS
1ST SESSION

H. R. 3398

To improve the condition and performance of the national multimodal freight network, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 2015

Mr. REICHERT (for himself, Mr. KILMER, and Ms. HERRERA BEUTLER) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To improve the condition and performance of the national multimodal freight network, 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 “National Multimodal
5 Freight Policy and Investment Act”.

6 **SEC. 2. NATIONAL MULTIMODAL FREIGHT POLICY.**

7 (a) ESTABLISHMENT.—Subtitle III of title 49,
8 United States Code, is amended by inserting after chapter
9 53 the following:

1 **“CHAPTER 54—FREIGHT**

2 **“§ 5401. Definitions**

3 “In this chapter:

4 “(1) FREIGHT TRANSPORTATION MODES.—The
5 term ‘freight transportation modes’ means any mode
6 of transportation that moves freight, including air-
7 ports, highways, ports and waterways, rail, and pipe-
8 line.

9 “(2) NATIONAL MULTIMODAL FREIGHT NET-
10 WORK.—The term ‘national multimodal freight net-
11 work’ means the network established under section
12 5403.

13 “(3) NATIONAL MULTIMODAL FREIGHT STRA-
14 TEGIC PLAN.—The term ‘national multimodal
15 freight strategic plan’ means the strategic plan de-
16 veloped under section 5404.

17 “(4) SECRETARY.—The term ‘Secretary’ means
18 the Secretary of Transportation.

19 “(5) STATE.—The term ‘State’ means a State
20 of the United States, the District of Columbia, Puer-
21 to Rico, the Northern Mariana Islands, Guam,
22 American Samoa, and the Virgin Islands.

23 **“§ 5402. National multimodal freight policy**

24 “(a) POLICY.—It is the policy of the United States
25 to support investment in the condition and performance

1 of the national multimodal freight network to ensure the
2 United States maximizes its competitiveness in the global
3 economy and achieves each goal described in subsection
4 (b).

5 “(b) GOALS.—The goals of the national multimodal
6 freight policy are to enhance the economic competitiveness
7 of the United States and improve quality of life—

8 “(1) by increasing the overall productivity and
9 connectivity of the national freight system;

10 “(2) by improving the safety, security, and re-
11 siliency of freight transportation;

12 “(3) by reducing the congestion of freight
13 transportation;

14 “(4) by improving the reliability of freight
15 transportation; and

16 “(5) by reducing, eliminating, or reversing ad-
17 verse environmental and local community impacts of
18 freight projects and freight movement in the United
19 States.

20 “(c) STRATEGY.—The strategies that the United
21 States may use to achieve the goals set forth in subsection
22 (b) include—

23 “(1) dedicated funding to maintain and improve
24 freight infrastructure facilities and operations;

1 “(2) appropriate safety, environmental, energy
2 and other transportation policies;

3 “(3) advanced technology and innovation;

4 “(4) workforce development; and

5 “(5) use of performance management.

6 “(d) DEFINITION OF ECONOMIC COMPETITIVE-
7 NESS.—In this section, the term ‘economic competitive-
8 ness’ means the ability of the economy to more efficiently
9 move freight and people, produce goods, and deliver serv-
10 ices, including—

11 “(1) reductions in the travel time of freight and
12 people;

13 “(2) reductions in the congestion caused by the
14 movement of freight and people;

15 “(3) improvements to travel time reliability; and

16 “(4) reductions in freight transportation costs
17 due to congestion and insufficient infrastructure.

18 “**§ 5403. National multimodal freight network**

19 “(a) ESTABLISHMENT.—The Secretary shall estab-
20 lish a national multimodal freight network in accordance
21 with this section—

22 “(1) to inform public and private planning;

23 “(2) to assist in the prioritization of Federal in-
24 vestment;

1 “(3) to direct the use of Federal resources
2 under section 5404;

3 “(4) to assess and support Federal investments
4 to achieve the national multimodal freight policy
5 goals described in section 5402(b); and

6 “(5) to help States define and prioritize local
7 community impacts of freight movement.

8 “(b) NETWORK COMPONENTS.—The national
9 multimodal freight network shall consist of all connectors,
10 corridors, and facilities in all freight transportation modes
11 that are the most critical to the current and future move-
12 ment of freight to achieve the national multimodal freight
13 policy goals described in section 5402(b).

14 “(c) DESIGNATION OF THE NATIONAL MULTIMODAL
15 FREIGHT NETWORK.—

16 “(1) INITIAL DESIGNATION.—Not later than 3
17 years after the date of enactment of the National
18 Multimodal Freight Policy and Investment Act, the
19 Secretary shall designate a national multimodal
20 freight network—

21 “(A) using measurable data, including
22 measurable data provided by States, to assess
23 the significance of freight movement, including
24 consideration of points of origin, destination,

1 and linking components of domestic and inter-
2 national supply chains;

3 “(B) improving network and intermodal
4 connectivity; and

5 “(C) reflecting input from stakeholders, in-
6 cluding multimodal freight system users, trans-
7 port providers, metropolitan planning organiza-
8 tions, local governments, seaports, airports,
9 railroads, and States, through a public process
10 to identify critical freight facilities and cor-
11 ridors that are vital to achieve the national
12 multimodal freight policy goals described in sec-
13 tion 5402(b).

14 “(2) REDESIGNATION.—Beginning 5 years
15 after the date of the initial designation of the na-
16 tional multimodal freight network under paragraph
17 (1), and every 5 years thereafter, using the designa-
18 tion factors described in paragraph (3), the Sec-
19 retary shall redesignate the national multimodal
20 freight network.

21 “(3) FACTORS.—In designating or redesign-
22 ating the national multimodal freight network, the
23 Secretary shall consider—

1 “(A) origins and destinations of freight
2 movement within, to, and from the United
3 States;

4 “(B) volume of freight, including value and
5 tonnage;

6 “(C) population centers;

7 “(D) border crossings, airports, and sea-
8 ports;

9 “(E) economic factors;

10 “(F) freight chokepoints and other impedi-
11 ments contributing to significant measurable
12 congestion, delay in freight movement, or ineffi-
13 cient modal connections;

14 “(G) facilities of future freight importance
15 based on input from stakeholders and analysis
16 of projections for future growth and changes to
17 the national freight system;

18 “(H) impacts on all freight transportation
19 modes and modes that share significant freight
20 infrastructure;

21 “(I) elements and transportation corridors
22 identified by a multi-State coalition, State,
23 State advisory committee, or metropolitan plan-
24 ning organization using national or local data

1 as having critical freight importance to the re-
2 gion; and

3 “(J) intermodal connectors, major distribu-
4 tion centers, inland intermodal facilities, and
5 first- and last-mile facilities.

6 **“§ 5404. National multimodal freight strategic plan**

7 “(a) INITIAL DEVELOPMENT.—Not later than 3
8 years after the date of enactment of the National
9 Multimodal Freight Policy and Investment Act, the Sec-
10 retary, in consultation with State departments of trans-
11 portation, metropolitan planning organizations, local gov-
12 ernments, and other appropriate public and private freight
13 transportation stakeholders, shall develop, maintain, and
14 post on the Department of Transportation public website
15 a national multimodal freight strategic plan.

16 “(b) REQUIREMENTS.—The initial and each revised
17 national multimodal freight strategic plan shall include—

18 “(1) an assessment of the current condition and
19 performance of the national multimodal freight net-
20 work, and the ability of the network to meet the pol-
21 icy and goals described in section 5402;

22 “(2) an assessment of statutory, regulatory,
23 technological, institutional, financial, and other bar-
24 riers to improved freight transportation perform-

1 ance, including opportunities for overcoming the bar-
2 riers;

3 “(3) an analysis of emerging and long-term pro-
4 jected trends in economic and national trade policies,
5 public health, workforce availability, and environ-
6 mental conditions that will impact the performance,
7 needs, safety, and uses of the national transpor-
8 tation system to move freight;

9 “(4) an identification of freight chokepoints on
10 the national multimodal freight network that create
11 significant freight congestion problems, based on a
12 quantitative methodology developed by the Secretary
13 and using the analysis under paragraph (3);

14 “(5) an identification of major international
15 and domestic trade gateways and corridors that con-
16 nect major population centers and ports of entry;

17 “(6) a projection of current and forecasted traf-
18 fic and freight volumes on the gateways and cor-
19 ridors identified under paragraph (5);

20 “(7) an identification of major agricultural and
21 energy rural production areas and other major in-
22 land freight generators;

23 “(8) an identification of the gateways and cor-
24 ridors that connect the major inland freight genera-
25 tors identified in paragraph (7) to ports of entry;

1 “(9) the best practices for improving the oper-
2 ational and safety performance of the national
3 multimodal freight network;

4 “(10) the best practices to reduce, minimize,
5 and mitigate the environmental and other impacts of
6 freight movement on communities;

7 “(11) a process for addressing multistate
8 projects and encouraging jurisdictions to collaborate;

9 “(12) strategies to improve freight intermodal
10 connectivity, including bulk transloading facilities;

11 “(13) the development of more consistent and
12 accurate data to measure freight movement domesti-
13 cally and internationally; and

14 “(14) the identification of federally designated
15 strategic defense ports and nearby freight
16 chokepoints that create significant congestion which
17 could hamper the flow of military equipment and
18 personnel to those ports.

19 “(c) UPDATES.—

20 “(1) IN GENERAL.—Not later than 5 years
21 after the date the initial national multimodal freight
22 strategic plan under subsection (a) is complete, and
23 every 10 years thereafter, the Secretary shall update
24 and repost on the Department of Transportation

1 public website a revised national multimodal freight
2 strategic plan.

3 “(2) MAJOR INTERNATIONAL AND DOMESTIC
4 TRADE GATEWAYS AND CORRIDORS.—The identifica-
5 tion of major international and domestic trade gate-
6 ways and corridors that connect major population
7 centers and ports of entry under subsection (b)(5)
8 shall be updated, as appropriate, in each revised na-
9 tional multimodal freight strategic plan.

10 **“§ 5405. National multimodal freight advisory com-
11 mittee**

12 “(a) ESTABLISHMENT.—The Secretary shall estab-
13 lish a national multimodal freight advisory committee in
14 the Department of Transportation consisting of a bal-
15 anced cross-section of public and private freight stake-
16 holders representative of all freight transportation modes,
17 including—

18 “(1) airports, highways, ports and waterways,
19 rail, and pipeline;

20 “(2) shippers;

21 “(3) carriers;

22 “(4) freight-related associations;

23 “(5) the freight industry workforce;

24 “(6) State departments of transportation;

25 “(7) local governments;

1 “(8) metropolitan planning organizations;

2 “(9) regional or local transportation authorities,
3 such as port authorities;

4 “(10) freight safety organizations; and

5 “(11) university research centers.

6 “(b) PURPOSE.—The purpose of the committee is to
7 help promote a safe, economically efficient, and environ-
8 mentally sustainable national freight system.

9 “(c) DUTIES.—The committee, in consultation with
10 State departments of transportation and metropolitan
11 planning organizations, shall provide advice and rec-
12 ommendations to the Secretary on matters related to
13 freight transportation in the United States, including—

14 “(1) the implementation of freight transpor-
15 tation requirements;

16 “(2) the establishment of a national multimodal
17 freight network under section 5403;

18 “(3) the development of the national
19 multimodal freight strategic plan under section
20 5404;

21 “(4) the development of measures of conditions
22 and performance in freight transportation;

23 “(5) the development of freight transportation
24 investment, data, and planning tools; and

25 “(6) recommendations for Federal legislation.

1 “(d) QUALIFICATIONS.—Each member of the com-
2 mittee shall have qualifications sufficient to represent the
3 interests of the member’s specific stakeholder group, such
4 as—

5 “(1) general business and financial experience;

6 “(2) experience or qualifications in the areas of
7 freight transportation and logistics;

8 “(3) experience in transportation planning,
9 safety, technology, or workforce issues;

10 “(4) experience representing employees of the
11 freight industry;

12 “(5) experience representing State or local gov-
13 ernments or metropolitan planning organizations in
14 transportation-related issues; or

15 “(6) experience in trade economics relating to
16 freight flows.

17 “(e) SUPPORT STAFF, INFORMATION, AND SERV-
18 ICES.—The Secretary shall provide support staff for the
19 committee. On request of the committee, the Secretary
20 shall provide information, administrative services, and
21 supplies that the Secretary considers necessary for the
22 committee to carry out its duties.

23 “(f) NONAPPLICATION OF FACA.—Section 14 of the
24 Federal Advisory Committee Act (5 App. U.S.C.) does not
25 apply to the committee.

1 **“§ 5406. State freight plans**

2 “(a) IN GENERAL.—Each State that receives a grant
3 under this chapter shall develop a freight plan that pro-
4 vides a comprehensive plan for the immediate and long-
5 range planning activities and investments of the State
6 with respect to freight.

7 “(b) CONTENTS.—Each State freight plan shall in-
8 clude—

9 “(1) an identification of significant freight sys-
10 tem trends, needs, and issues with respect to the
11 State and each neighboring State with which high
12 levels of trade occurs or logistical dependence exists;

13 “(2) a description of the freight policies, strate-
14 gies, and performance measures that will guide the
15 freight-related transportation investment decisions of
16 the State to achieve a reasonable balance in freight
17 transportation modes;

18 “(3) a description of how the plan will improve
19 the ability of the State to meet the goals of the na-
20 tional multimodal freight policy described in section
21 5402(b) and any relevant State multimodal freight
22 policy;

23 “(4) evidence that the State will consider inno-
24 vative technologies and operational strategies, in-
25 cluding intelligent transportation systems, that im-
26 prove the safety and efficiency of freight movement

1 and provide multimodal transportation systems inte-
2 gration for information sharing;

3 “(5) in the case of routes on public infrastruc-
4 ture on which heavy vehicles travel (including min-
5 ing, agricultural, energy cargo or equipment, and
6 timber vehicles) or other conditions exist that are
7 projected to substantially deteriorate the condition of
8 those routes, a description of improvements that
9 may be required to reduce or impede the deteriora-
10 tion, including the use of alternate freight transpor-
11 tation modes;

12 “(6) an inventory of facilities and corridors
13 with freight mobility or accessibility issues, such
14 freight chokepoints, within the State, and a descrip-
15 tion of the strategies the State will employ to ad-
16 dress those freight mobility or accessibility issues;

17 “(7) consideration of any significant congestion
18 or delay caused by freight movements and any strat-
19 egies to mitigate that congestion or delay; and

20 “(8) a priority freight investment plan that in-
21 cludes a list of priority projects, a methodology to
22 prioritize future projects, and an explanation of how
23 those investments achieve the goals of the national
24 multimodal freight policy described in section

1 5402(b) and any relevant State multimodal freight
2 policy.

3 “(c) RELATIONSHIP TO STATEWIDE STRATEGIC
4 LONG-RANGE TRANSPORTATION PLAN.—

5 “(1) IN GENERAL.—A State may develop its
6 State freight plan with, and incorporate the plan
7 into, its statewide strategic long-range transpor-
8 tation plan. The State freight plan may be separate
9 from the long-range transportation plan, but shall be
10 consistent with the long-range transportation plan.
11 The State freight plan shall be consistent with the
12 State rail plan under section 22702 for that State.

13 “(2) FISCAL CONSTRAINTS.—The priority
14 freight investment plan of a State freight plan under
15 subsection (b)(8) shall include a project, or an iden-
16 tified phase of a project, only if funding for comple-
17 tion of the project can reasonably be anticipated to
18 be available for the project within the time period
19 identified in the priority freight investment plan.

20 “(3) PLANNING PERIOD.—Each State freight
21 plan shall address a 10-year forecast period.

22 “(4) UPDATES.—

23 “(A) IN GENERAL.—A State shall update
24 its State freight plan as frequently as the State

1 determines necessary, but not less frequently
2 than once every 10 years.

3 “(B) PRIORITY FREIGHT INVESTMENT
4 PLAN.—A State shall update its priority freight
5 investment plan as frequently as the State de-
6 termines necessary, but at least once every 5
7 years.

8 “(d) CONSULTATION.—Each State shall consult with
9 applicable Federal, State, and local agencies relevant to
10 land use and programming processes when developing a
11 State freight plan under this section, including the State’s
12 freight advisory committee under section 5407.

13 **“§ 5407. State freight advisory committees**

14 “(a) ESTABLISHMENT.—As a condition of, and prior
15 to, receiving a grant under this chapter, a State shall es-
16 tablish and maintain a freight advisory committee con-
17 sisting of a balanced cross-section of public and private
18 freight stakeholders representative of all freight transpor-
19 tation modes, including—

20 “(1) as applicable, airports, highways, ports
21 and waterways, rail, and pipeline;

22 “(2) shippers;

23 “(3) carriers;

24 “(4) freight-related associations;

25 “(5) the freight industry workforce;

1 “(6) the State department of transportation;

2 “(7) local governments;

3 “(8) metropolitan planning organizations;

4 “(9) local transportation authorities, such as
5 port authorities;

6 “(10) freight safety organizations; and

7 “(11) university research centers.

8 “(b) QUALIFICATIONS.—Each member of the advi-
9 sory committee shall have qualifications sufficient to rep-
10 resent the interests of the member’s specific stakeholder
11 group, such as—

12 “(1) general business and financial experience;

13 “(2) experience or qualifications in the areas of
14 freight transportation and logistics;

15 “(3) experience in transportation planning,
16 safety, or workforce issues;

17 “(4) experience representing employees of the
18 freight industry;

19 “(5) experience representing State or local gov-
20 ernments, or metropolitan planning organizations in
21 transportation-related issues; or

22 “(6) experience in trade economics relating to
23 freight flows.

24 “(c) DUTIES.—A freight advisory committee of a
25 State described in subsection (a) shall—

1 “(1) advise the State on freight-related prior-
2 ities, issues, projects, and funding needs;

3 “(2) serve as a forum for discussion for State
4 transportation decisions affecting freight movement;

5 “(3) communicate and coordinate regional pri-
6 orities with other freight-related organizations;

7 “(4) promote the sharing of information be-
8 tween the private and public sectors on freight
9 issues; and

10 “(5) participate in the development of the State
11 freight plan under section 5406, including advising
12 on the development of a priority freight investment
13 plan under subsection (b)(8) of that section.

14 **“§ 5408. Conditions and performance reports**

15 “(a) IN GENERAL.—Not later than 3 years after the
16 date of enactment of the National Multimodal Freight
17 Policy and Investment Act, and biennially thereafter, the
18 Secretary shall prepare and submit to Congress a report
19 that describes the conditions and performance of the na-
20 tional multimodal freight network.

21 “(b) CONTENTS.—The report shall contain, at a min-
22 imum, the following—

23 “(1) an assessment of the ability, including the
24 current performance, of the national multimodal
25 freight network to make significant progress toward

1 and achieve the policy and goals described in section
2 5402; and

3 “(2) a description of impediments to improving
4 the conditions and performance of the national
5 multimodal freight network.

6 **“§ 5409. Transportation investment data and plan-**
7 **ning tools**

8 “(a) IN GENERAL.—Not later than 1 year after the
9 date of enactment of National Multimodal Freight Policy
10 and Investment Act, the Secretary shall begin to develop
11 new tools, and improve existing tools, to support an out-
12 come-oriented, performance-based approach by Federal,
13 State, local, and private decisionmakers when evaluating
14 proposed freight-related and other transportation projects,
15 including—

16 “(1) methodologies for systematic analysis of
17 benefits and costs on a national, regional, and local
18 basis;

19 “(2) tools for ensuring that the evaluation of
20 freight-related and other transportation projects
21 would consider safety, economic competitiveness, en-
22 vironmental sustainability, innovation, and system
23 condition in the project selection process;

24 “(3) improved methods for data collection and
25 trend analysis;

1 “(4) freight forecasting models; and

2 “(5) other tools to assist in effective freight
3 transportation planning.

4 “(b) FREIGHT DATA.—In support of the tools de-
5 scribed in subsection (a), and to support a broad range
6 of evaluation methods to assist Federal, State, local, and
7 private decisionmakers in making transportation invest-
8 ment decisions, the Secretary shall—

9 “(1) direct the collection of appropriate freight
10 data and supply chain data, including more con-
11 sistent and accurate data to measure the condition
12 and performance of the national multimodal freight
13 network; and

14 “(2) consider any improvements to existing
15 freight data collection, including the Commodity
16 Flow Survey and Freight Analysis Framework, that
17 could reduce identified freight data deficiencies and
18 improve forecasts of freight transportation demand,
19 both domestic and international.

20 “(c) CONSULTATION.—The Secretary shall consult
21 with Federal, State, and other public and private freight
22 transportation stakeholders to develop, improve, and im-
23 plement the tools described in subsection (a) and collect
24 the freight data and supply chain data described in sub-
25 section (b).

1 “(d) MULTIMODAL FREIGHT PERFORMANCE MEAS-
2 URES.—The Secretary shall establish freight performance
3 measures to develop a framework for assessing the de-
4 mand, efficiency, condition, safety, and investment in the
5 national multimodal freight network.

6 **“§ 5410. Freight investment grant program**

7 “(a) DEFINITIONS.—In this section:

8 “(1) ELIGIBLE APPLICANT.—The term ‘eligible
9 applicant’ means—

10 “(A) a State;

11 “(B) a political subdivision of a State;

12 “(C) a metropolitan planning organization;

13 “(D) a regional or local transportation au-
14 thority, including a port authority;

15 “(E) a tribal government or a consortium
16 of tribal governments; or

17 “(F) 2 or more of the entities described in
18 subparagraphs (A) through (E).

19 “(2) ELIGIBLE PROJECT.—The term ‘eligible
20 project’ means a capital investment in a project, or
21 a project phase with independent utility, for—

22 “(A) a transportation infrastructure facil-
23 ity; or

1 “(B) an intelligent transportation system
2 project primarily for freight benefit that re-
3 duces congestion or improves safety.

4 “(3) FACILITY.—The term ‘facility’ includes—

5 “(A) a road facility;

6 “(B) a rail facility;

7 “(C) a marine highway facility;

8 “(D) a maritime, land border, or inland
9 port facility;

10 “(E) a freight intermodal facility, includ-
11 ing an intermodal facility serving a seaport, an
12 intermodal or cargo access facility serving an
13 airport, an intermodal facility serving a port on
14 the inland waterways, a bulk intermodal/
15 transload facility, or a road/rail intermodal fa-
16 cility; or

17 “(F) a facility related to an international
18 border crossing.

19 “(4) MARINE HIGHWAY.—The term ‘marine
20 highway’ means all of the marine transportation
21 routes designated by the Secretary that—

22 “(A) serve as extensions of the surface
23 transportation system; and

24 “(B) promote short sea transportation.

1 “(5) TRANSPORTATION INFRASTRUCTURE FA-
2 CILITY.—The term ‘transportation infrastructure fa-
3 cility’ means a facility that is significantly used for
4 the movement of freight.

5 “(b) ESTABLISHMENT.—The Secretary shall estab-
6 lish and implement a freight investment grant program
7 in accordance with the policy, goals, and strategies de-
8 scribed in section 5402.

9 “(c) APPLICATIONS.—

10 “(1) IN GENERAL.—An eligible applicant shall
11 submit to the Secretary an application in such form
12 and in accordance with such requirements as the
13 Secretary shall establish.

14 “(2) GROUPS OF ENTITIES.—A group described
15 in subsection (a)(1)(F) shall submit an application
16 through a lead applicant that qualifies under sub-
17 paragraph (A), (B), (C), (D) or (E) of subsection
18 (a)(1). Public-private partnerships are eligible if the
19 lead applicant qualifies under subparagraph (A),
20 (B), (C), (D), or (E) of subsection (a)(1).

21 “(d) CRITERIA FOR SELECTION.—The Secretary
22 shall select eligible projects for funding based on the fol-
23 lowing criteria:

24 “(1) The eligible project will help achieve the
25 goals and strategies described in section 5402.

1 “(2) Funding committed by State and local
2 governments and other public and private partners,
3 along with the Federal funding requested, will be
4 sufficient to complete the capital investment.

5 “(3) The extent to which the eligible project
6 leverages Federal funds by securing commitments of
7 State, local, tribal, or private funds in addition to
8 the Federal funding requested under this section.

9 “(4) The likely benefits of the eligible project
10 relative to its costs.

11 “(5) The extent to which the eligible project
12 demonstrates the use of innovative technology, strat-
13 egies, and practices or involves collaboration among
14 States or political subdivisions.

15 “(6) The likely effect of the eligible project to
16 support the movement of freight internationally or
17 to efficiently move freight and people interstate or
18 intrastate.

19 “(7) The eligible project’s support of freight op-
20 erations in a nationally significant place, as deter-
21 mined by the Secretary.

22 “(8) The consistency of the eligible project with
23 the national multimodal freight strategic plan devel-
24 oped under section 5404.

1 “(9) Inclusion of the eligible project in a State
2 freight plan under section 5406 or, if the State
3 freight plan is not complete, a regional transpor-
4 tation plan.

5 “(10) The extent to which the eligible project
6 will reduce the adverse impacts of freight transpor-
7 tation on a local community.

8 “(11) The ability of the eligible project to in-
9 crease throughput and reduce congestion at freight
10 chokepoints.

11 “(e) FEDERAL SHARE.—The Federal share for a
12 project funded under this section shall not exceed—

13 “(1) 80 percent of the total capital cost of the
14 eligible project; or

15 “(2) \$50,000,000.

16 “(f) GRANT ANALYSIS.—A grant agreement under
17 this section between the Federal Government and a grant-
18 ee shall specify that the grantee will collect data and re-
19 port to the Secretary, at such times as the Secretary speci-
20 fies, on—

21 “(1) the actual cost of constructing the eligible
22 project;

23 “(2) the time required to complete and imple-
24 ment the eligible project;

1 “(3) the level of usage of the transportation in-
2 frastructure facility built or improved by the eligible
3 project;

4 “(4) the benefits of the eligible project, meas-
5 ured in a way that is consistent with the benefits
6 that were estimated in the application under sub-
7 section (c); and

8 “(5) any costs resulting from the eligible
9 project in addition to the projected costs estimated
10 in the application under subsection (c).

11 “(g) TERMS AND CONDITIONS.—The Secretary may
12 require such additional terms and conditions of a grant
13 under this section as the Secretary considers necessary.

14 “(h) ADMINISTRATION.—For the purpose of admin-
15 istering a grant under this section, funds authorized for
16 this section may be transferred within the Department of
17 Transportation and administered in accordance with this
18 title or title 23, as applicable, and any other laws applica-
19 ble to the eligible project.

20 “(i) ADMINISTRATIVE AND OVERSIGHT COSTS.—

21 “(1) IN GENERAL.—The Secretary may retain
22 up to one-half of 1 percent of the amounts author-
23 ized for each fiscal year under this section for—

24 “(A) administration of the freight invest-
25 ment grant program; and

1 “(B) oversight of eligible projects funded
2 under this section.

3 “(2) ADMINISTRATION EXPENSES.—In order to
4 carry out the administration and oversight of grants
5 under this section, the Secretary may transfer por-
6 tions of the funds retained under this subsection
7 to—

8 “(A) the Administrator of the Federal
9 Highway Administration;

10 “(B) the Administrator of the Federal
11 Railroad Administration;

12 “(C) the Administrator of the Federal
13 Aviation Administration;

14 “(D) the Administrator of the Federal
15 Maritime Administration;

16 “(E) the Assistant Secretary for Research
17 and Technology; and

18 “(F) the Assistant Secretary of Freight
19 Planning, Permitting, and Development.

20 “(j) AUTHORIZATION OF APPROPRIATIONS.—

21 “(1) IN GENERAL.—There are authorized to be
22 appropriated to carry out this section—

23 “(A) \$2,000,000,000 for fiscal year 2016;

24 “(B) \$2,000,000,000 for fiscal year 2017;

25 “(C) \$2,000,000,000 for fiscal year 2018;

1 “(D) \$2,000,000,000 for fiscal year 2019;

2 “(E) \$2,000,000,000 for fiscal year 2020;

3 and

4 “(F) \$2,000,000,000 for fiscal year 2021.

5 “(2) ADMINISTRATION OF FUNDS.—The funds
6 appropriated for this program shall be available for
7 obligation until expended.”.

8 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
9 The table of contents for subtitle III of title 49, United
10 States Code, is amended by adding after the item relating
11 to section 5340 the following:

“CHAPTER 54. FREIGHT.

“5401. Definitions.

“5402. National multimodal freight policy.

“5403. National multimodal freight network.

“5404. National multimodal freight strategic plan.

“5405. National multimodal freight advisory committee.

“5406. State freight plans.

“5407. State freight advisory committees.

“5408. Conditions and performance reports.

“5409. Transportation investment date and planning tools.

“5410. Freight investment grant program.”.

12 **SEC. 3. OFFICE OF FREIGHT PLANNING, PERMITTING, AND**
13 **DEVELOPMENT.**

14 (a) IN GENERAL.—Section 102 of title 49, United
15 States Code, is amended—

16 (1) by redesignating subsection (h) as sub-
17 section (i); and

18 (2) by inserting after subsection (g) the fol-
19 lowing:

1 “(h) OFFICE OF FREIGHT PLANNING, PERMITTING,
2 AND DEVELOPMENT.—

3 “(1) ESTABLISHMENT.—There is established,
4 in the Office of the Secretary, an Office of Freight
5 Planning, Permitting, and Development (referred to
6 in this subsection as the ‘Office’).

7 “(2) RESPONSIBILITIES.—The Office shall—

8 “(A) coordinate the investment of Federal
9 funding to improve the efficiency of the national
10 multimodal freight network (as defined in sec-
11 tion 5401) to move freight in accordance with
12 the policy, goals, and strategies described in
13 section 5402;

14 “(B) for projects that involve multiple
15 Federal agencies, designate a lead Federal
16 agency or a modal administrator within the De-
17 partment of Transportation—

18 “(i) to serve as the primary point of
19 contact; and

20 “(ii) to actively monitor and identify
21 the progress of the permitting process;

22 “(C) establish a process to give priority
23 consideration to the freight projects receiving
24 freight investment grants under section 5410
25 when—

1 “(i) coordinating and facilitating the
2 permit review process; and

3 “(ii) advancing project delivery objec-
4 tives if there is duplication of processes;

5 “(D) facilitate communication among gov-
6 ernment, public, and private freight transpor-
7 tation stakeholders;

8 “(E) support the Secretary in the develop-
9 ment of the national multimodal freight stra-
10 tegic plan (as defined in section 5401);

11 “(F) provide guidance or best practices on
12 the development of the State freight plans
13 under section 5406; and

14 “(G) carry out other duties, as prescribed
15 by the Secretary.

16 “(3) ORGANIZATION.—The Office shall—

17 “(A) be headed by the Assistant Secretary
18 of Freight Planning, Permitting, and Develop-
19 ment;

20 “(B) be structured out of existing re-
21 sources and funding within the Department of
22 Transportation, to the extent feasible; and

23 “(C) serve to consolidate freight staffing
24 from all modal administrations to improve col-
25 laboration between freight transportation modes

1 (as defined in section 5401), especially in per-
2 mitting oversight, and otherwise support the ef-
3 ficiency of the national multimodal freight net-
4 work.”.

5 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

6 (1) ASSISTANT SECRETARIES.—Section
7 102(e)(1) of title 49, United States Code, is amend-
8 ed—

9 (A) in the matter preceding subparagraph
10 (A), by striking “5” and inserting “6”;

11 (B) in subparagraph (C), by striking “;
12 and” and inserting a semicolon;

13 (C) by redesignating subparagraph (D) as
14 subparagraph (E); and

15 (D) by inserting after subparagraph (C)
16 the following:

17 “(D) an Assistant Secretary of Freight
18 Planning, Permitting, and Development, who
19 shall be appointed by the Secretary, with the
20 approval of the President; and”.

21 (2) EXECUTIVE SCHEDULE PAY RATES.—Sec-
22 tion 5316 of title 5, United States Code, is amended
23 by inserting “Assistant Secretary of Freight Plan-
24 ning, Permitting, and Development, Department of

1 Transportation.” after “Assistant Secretary for Ad-
2 ministration, Department of Transportation.”.

3 **SEC. 4. CAPITAL GRANTS FOR SHORTLINE FREIGHT RAIL-**
4 **ROAD STATE OF GOOD REPAIR.**

5 (a) DEFINITIONS.—In this section:

6 (1) CAPITAL PROJECT.—The term “capital
7 project” means acquiring, constructing, improving,
8 or inspecting shortline or regional railroad infra-
9 structure, such as equipment, track and track struc-
10 tures, or a facility, including—

11 (A) bringing that infrastructure to a state
12 of good repair;

13 (B) bond costs and other costs relating to
14 the issuance of bonds or other debt financing
15 instruments;

16 (C) evaluating and assessing project imple-
17 mentation and outcomes;

18 (D) expenses incidental to the activities de-
19 scribed in subparagraph (C), including design-
20 ing, engineering, location surveying, mapping,
21 and environmental studies;

22 (E) installing, restoring, and rehabilitating
23 track;

24 (F) preserving and acquiring rights-of-way;

25 (G) relocation assistance, including—

- 1 (i) acquiring replacement housing
2 sites, and acquiring, constructing, relo-
3 cating, and rehabilitating replacement
4 housing; and
- 5 (ii) the lateral relocation of any por-
6 tion of a rail line;
- 7 (H) eliminating obstacles and relocating
8 utilities;
- 9 (I) payments for the maintenance responsi-
10 bility of rail trackage rights agreements;
- 11 (J) mitigating adverse impacts on safety,
12 motor vehicle traffic flow, quality of life, envi-
13 ronment, or economic development;
- 14 (K) highway-rail grade crossing improve-
15 ments, including the safety of and elimination
16 of hazards at a highway-rail grade crossing;
- 17 (L) communication and signalization im-
18 provements;
- 19 (M) subsidy and administrative costs of
20 projects eligible for Federal credit assistance
21 under the Railroad Revitalization and Regu-
22 latory Reform Act of 1976 (45 U.S.C. 801 et
23 seq.) for a capital project to improve shortline
24 or regional railroad infrastructure;

1 (N) improving or replacing locomotives op-
2 erated by a shortline or regional railroad;

3 (O) on-dock or near-dock projects at sea-
4 ports;

5 (P) resolving critical freight chokepoints
6 and addressing capacity constraints; and

7 (Q) such other construction, improvement
8 or inspection-related activities as determined
9 appropriate by the Secretary.

10 (2) ELIGIBLE RECIPIENT.—The term “eligible
11 recipient” means—

12 (A) a State;

13 (B) a political subdivision of a State;

14 (C) a metropolitan planning organization;

15 (D) a regional or local transportation au-
16 thority, including a port authority;

17 (E) a tribal government or a consortium of
18 tribal governments;

19 (F) a public entity responsible for pro-
20 viding rail freight transportation service;

21 (G) solely for the purpose of constructing
22 a rail connection between a plant or facility and
23 a rail carrier, a limited option freight shipper
24 that owns or operates a plant or facility;

1 (H) 2 or more of the entities described in
2 subparagraphs (A) through (G); and

3 (I) if the capital project is a public-private
4 partnership with 1 or more of the entities de-
5 scribed in subparagraphs (A) through (H), a
6 shortline or regional railroad or a holding com-
7 pany of a shortline or regional railroad.

8 (3) RAILROAD CARRIER.—The term “railroad
9 carrier” has the meaning given the term in section
10 20102 of title 49, United States Code.

11 (4) SECRETARY.—The term “Secretary” means
12 the Secretary of Transportation.

13 (5) SHORTLINE OR REGIONAL RAILROAD.—The
14 term “shortline or regional railroad” means a rail-
15 road carrier that has annual carrier operating reve-
16 nues that meet the threshold amount for Class II
17 carriers or Class III carriers, as determined by the
18 Surface Transportation Board under section
19 1201.1–1 of title 49, Code of Federal Regulations,
20 on which not less than 80 percent of the volume of
21 rail traffic is freight traffic.

22 (6) STATE OF GOOD REPAIR.—The term “state
23 of good repair” means a condition in which the ex-
24 isting physical assets, both individually and as a sys-
25 tem, are functioning as designed within their useful

1 lives and are sustained through regular maintenance
2 and replacement programs.

3 (b) GRANTS AUTHORIZED.—

4 (1) IN GENERAL.—The Secretary shall establish
5 a competitive grant program to provide financial as-
6 sistance to eligible recipients for capital projects
7 that—

8 (A) help accomplish the goals of a State
9 rail plan under section 22702 of title 49,
10 United States Code, or, if a State freight plan
11 under section 5406 of that title is complete, the
12 goals of the State freight plan; and

13 (B) either—

14 (i) improve shortline or regional rail-
15 road infrastructure by improving the effi-
16 cient and safe movement of freight; or

17 (ii) mitigate the adverse impacts of
18 shortline or regional railroad infrastructure
19 or operations on a local community.

20 (2) ELIGIBILITY AND CONSIDERATIONS FOR AP-
21 PROVAL.—In determining whether to award a grant
22 to an eligible recipient under this section, the Sec-
23 retary shall consider the following, listed by priority:

24 (A) The extent to which a capital project—

- 1 (i) will contribute to the efficient
2 movement of freight, including multimodal
3 freight;
- 4 (ii) will benefit the efficient movement
5 of freight at or accessing a port, or agri-
6 cultural or manufacturing cluster;
- 7 (iii) will contribute to increasing the
8 economic competitiveness and state of good
9 repair of a shortline or regional railroad;
- 10 (iv) will alleviate the impacts of a
11 shortline or regional railroad's operations
12 on local communities, including impacts on
13 safety, motor vehicle traffic flow, commu-
14 nity quality of life, environment, or eco-
15 nomic development;
- 16 (v) will enhance safety;
- 17 (vi) is not capable of being fully fund-
18 ed without Federal grant funding;
- 19 (vii) complies with the limitation re-
20 lating to the allocation of grant funds set
21 forth in subsection (c);
- 22 (viii) will contribute to the equitable
23 treatment of the various regions of the
24 United States;

1 (ix) includes equitable participation
2 from other beneficiaries in the project's fi-
3 nancing, including the extent to which the
4 project will leverage financial contributions
5 or commitments from private entities in-
6 volved with the project in proportion to the
7 expected benefits that accrue to such enti-
8 ties from the project;

9 (x) is compatible with local land use,
10 economic development, and transportation
11 plans and objectives; and

12 (xi) will increase the reliability and re-
13 siliance of the Nation's multimodal freight
14 system.

15 (B) The past performance of the eligible
16 recipient and other beneficiaries of the capital
17 project in developing and delivering 1 or more
18 capital projects.

19 (C) Such other factors as the Secretary
20 considers relevant.

21 (c) ALLOCATION LIMITATION.—Not less than 50 per-
22 cent of all grant funds awarded under this section out of
23 funds appropriated for a fiscal year shall be provided to
24 publicly owned shortline railroads.

25 (d) PROJECT COST SHARING.—

1 (1) BASIS.—The Secretary shall estimate the
2 total cost of each eligible project based on—

3 (A) engineering studies;

4 (B) studies of economic feasibility;

5 (C) environmental analyses; and

6 (D) information on the expected use of the
7 shortline or regional railroad infrastructure,
8 such as equipment, track, track structure, or
9 facility.

10 (2) FEDERAL SHARE.—A Federal grant for an
11 eligible project under this section may not exceed—

12 (A) 90 percent of the total capital cost of
13 the eligible project; or

14 (B) \$6,000,000.

15 (3) NON-FEDERAL SHARE.—

16 (A) IN GENERAL.—An eligible recipient
17 shall pay, or arrange for the payment from non-
18 Federal sources, including financing, not less
19 than 10 percent of the shared costs of an eligi-
20 ble project that is funded in part by a grant
21 awarded under this section.

22 (B) FORMS OF CONTRIBUTIONS.—The
23 shared costs under subparagraph (A) may be
24 paid in cash or in-kind contributions.

25 (C) IN-KIND CONTRIBUTIONS.—

1 (i) IN GENERAL.—The non-Federal
2 in-kind contributions under subparagraph
3 (B) may consist of—

4 (I) real property;

5 (II) tangible personal property;

6 (III) services of employees of the
7 eligible recipient or non-Federal
8 source; and

9 (IV) payments made by an eligi-
10 ble recipient or other non-Federal
11 source for costs incurred for the eligi-
12 ble project before the filing of an ap-
13 plication for a grant under this sec-
14 tion, and any in-kind contributions
15 that were made for the project before
16 the filing of the application, to the ex-
17 tent that such costs were incurred or
18 in-kind contributions were made to
19 comply with a legal requirement nec-
20 essary to carry out the eligible project.

21 (ii) CALCULATIONS.—The value of an
22 in-kind contribution under clause (i)(III)
23 shall be calculated—

24 (I) by including the costs in-
25 curred by the eligible recipient or

1 other non-Federal source for the pay
2 and benefits of an employee described
3 in clause (i)(III); and

4 (II) by excluding any overhead or
5 general administrative costs.

6 (e) REPORTING REQUIREMENT.—As part of the
7 grant application process, each eligible recipient shall sub-
8 mit a description of the anticipated public and private ben-
9 efits (as those terms are defined in section 22701 of title
10 49, United States Code) associated with the eligible
11 project.

12 (f) AGREEMENTS TO COMBINE AMOUNTS.—Two or
13 more eligible recipients may agree to combine any part
14 of the amounts provided through grants for an eligible
15 project under this section if—

16 (1) the eligible project will benefit each eligible
17 recipient entering into the agreement; and

18 (2) the agreement does not violate any Federal
19 law or any law of any State in which an eligible re-
20 cipient is located.

21 (g) STATE COOPERATION.—The Secretary shall en-
22 courage each shortline or regional railroad applicant for
23 a grant under this section to utilize the expertise and as-
24 sistance of 1 or more State transportation agencies in ap-
25 plying for and administering the grant. The Secretary

1 shall encourage each applicable State transportation agen-
2 cy to provide its expertise and assistance to the shortline
3 or regional railroad.

4 (h) RULEMAKING.—Not later than July 1, 2016, the
5 Secretary shall issue final regulations for implementing
6 the grant program authorized under this section.

7 (i) AUTHORIZATION OF APPROPRIATIONS.—There is
8 authorized to be appropriated to the Secretary to carry
9 out this section \$50,000,000 for each of fiscal years 2016
10 through 2021.

11 **SEC. 5. CAPITAL GRANTS FOR GRADE SEPARATION**
12 **PROJECTS.**

13 (a) DEFINITIONS.—In this section:

14 (1) ELIGIBLE APPLICANT.—The term “eligible
15 applicant” means—

16 (A) a State;

17 (B) a political subdivision of a State;

18 (C) a metropolitan planning organization;

19 (D) a regional or local transportation au-
20 thority, including a port authority;

21 (E) a tribal government or a consortium of
22 tribal governments; or

23 (F) 2 or more of the entities described in
24 subparagraphs (A) through (E).

1 (2) HIGHWAY-RAIL VERTICAL GRADE SEPARA-
2 TION PROJECT.—The term “highway-rail vertical
3 grade separation project” means a project that sepa-
4 rates the grade of a road-rail crossing to eliminate
5 the conflict between those freight transportation
6 modes.

7 (3) HOST RAILROAD.—The term “host rail-
8 road” means—

9 (A) a Class I railroad, Class II railroad, or
10 Class III railroad (as defined in section 20102
11 of title 49, United States Code); and

12 (B) the public or private owner of rail in-
13 frastructure over which a Class I railroad, Class
14 II railroad, or Class III railroad operates.

15 (4) SECRETARY.—The term “Secretary” means
16 the Secretary of Transportation.

17 (b) GRANTS AUTHORIZED.—The Secretary shall es-
18 tablish a competitive capital grant program to provide fi-
19 nancial assistance to eligible applicants for highway-rail
20 vertical grade separation projects intended to reduce high-
21 way and rail congestion and improve safety.

22 (c) ELIGIBLE PROJECTS.—An eligible applicant may
23 apply for a grant under this section for the purpose of—

24 (1) constructing a highway-rail vertical grade
25 separation project; or

1 (2) planning, preparing, or designing a project
2 described in paragraph (1).

3 (d) PROJECT SELECTION CRITERIA.—In determining
4 whether to award a grant to an eligible applicant under
5 this section, the Secretary shall consider the following fac-
6 tors, listed by priority:

7 (1) Whether the highway-rail vertical grade sep-
8 aration project will cost-effectively reduce national,
9 regional, or local truck and rail freight network
10 delays.

11 (2) The extent to which the highway-rail
12 vertical grade separation project includes equitable
13 financial participation from other beneficiaries of the
14 project, including the extent to which the project will
15 leverage financial contributions or commitments
16 from private entities involved with the project in pro-
17 portion with or greater to the proportion of the ex-
18 pected benefits that accrue to such entities from the
19 project.

20 (3) The truck freight and train volumes at the
21 crossing.

22 (4) The traffic delays caused by trains traveling
23 through the crossing.

24 (5) The history at the crossing of incidents with
25 fatal or severe injuries.

1 (6) The safety hazards, including sightlines,
2 along the crossing approaches.

3 (7) The angle of the tracks to the roadway.

4 (8) The highway-rail vertical grade separation
5 project readiness.

6 (9) The benefit to railroad operations as a re-
7 sult of the project.

8 (10) Such other factors as the Secretary con-
9 siders relevant.

10 (e) REPORTING REQUIREMENT.—As part of the
11 grant application process, each eligible applicant shall sub-
12 mit a description of the anticipated public and private ben-
13 efits associated with the highway-rail vertical grade sepa-
14 ration project. The eligible applicant shall describe the an-
15 ticipated public and private benefits in consultation with
16 the host railroad involved in the project.

17 (f) PROJECT COST SHARING.—

18 (1) BASIS.—The Secretary shall estimate the
19 total cost of each highway-rail vertical grade separa-
20 tion project based on—

21 (A) engineering studies;

22 (B) studies of economic feasibility; and

23 (C) information on the expected use of
24 equipment or facilities.

1 (2) FEDERAL SHARE.—A Federal grant for a
2 highway-rail vertical grade separation project under
3 this section may not exceed—

4 (A) 60 percent of the total capital cost of
5 the highway-rail vertical grade separation
6 project; or

7 (B) \$15,000,000.

8 (3) NON-FEDERAL SHARE.—

9 (A) IN GENERAL.—The eligible applicant
10 shall pay, or arrange for the payment from non-
11 Federal sources, including financing, not less
12 than 40 percent of the shared costs of a high-
13 way-rail vertical grade separation project that is
14 funded in part by a grant awarded under this
15 section.

16 (B) FORMS OF CONTRIBUTIONS.—The
17 costs required under subparagraph (A) may be
18 paid in cash or in-kind contributions.

19 (C) IN-KIND CONTRIBUTIONS.—

20 (i) IN GENERAL.—The non-Federal
21 in-kind contributions under subparagraph

22 (B) may consist of—

23 (I) real property;

24 (II) tangible personal property;

1 (III) services of employees of the
2 eligible applicant or other non-Federal
3 source; and

4 (IV) payments made by the eligi-
5 ble applicant or other non-Federal
6 source for costs incurred for the high-
7 way-rail vertical grade separation
8 project before the filing of an applica-
9 tion for a grant for the project under
10 this section, and any in-kind contribu-
11 tions that were made for the project
12 before the filing of the application, to
13 the extent that such costs were in-
14 curred or in-kind contributions were
15 made to comply with a legal require-
16 ment necessary to carry out the
17 project.

18 (ii) CONTRIBUTIONS.—The value of
19 an in-kind contribution under clause
20 (i)(III) shall be calculated—

21 (I) by including the costs in-
22 curred by the eligible applicant or
23 other non-Federal source for the pay
24 and benefits of an employee described
25 in clause (i)(III); and

1 (II) by excluding any overhead or
2 general administrative costs.

3 (g) GRANT CONDITIONS.—The Secretary shall re-
4 quire as a condition of making any grant under this sec-
5 tion that a written agreement exist between an eligible ap-
6 plicant and a host railroad concerning construction, main-
7 tenance, railroad contribution, and such other factors as
8 the Secretary considers relevant.

9 (h) RULEMAKING.—Not later than July 1, 2016, the
10 Secretary shall issue final regulations for implementing
11 the grant program authorized under this section.

12 (i) GUIDANCE.—The Secretary may update existing
13 or issue new guidance to assist an eligible applicant in de-
14 termining whether a highway-rail crossing should be grade
15 separated, including by identifying relevant criteria that
16 should be considered and evaluating the benefits and costs
17 of grade separations compared to other safety approaches
18 within a risk analysis framework.

19 (j) AUTHORIZATION OF APPROPRIATIONS.—There is
20 authorized to be appropriated to the Secretary to carry
21 out this section \$150,000,000 for each of fiscal years 2016
22 through 2021.

○