H. R. 168

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

JANUARY 4, 2005

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
4 SECTION 1. SHORT TITLE.
5 This Act may be cited as the “Goods Movement Act
6 of 2005”.
7
8 SEC. 2. FINDINGS.
9 Congress finds the following:
10 (1) Growth in international trade has become
11 increasingly important to the welfare of the domestic
economy and economic security, as demonstrated by
the fact that between 1970 and 1999 the share of
the United States gross domestic product accounted
for by trade in goods and services grew from 10.7
percent to 26.9 percent.

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

(3) In the decades coinciding with completion of
the national defense highway and rail systems, the
population of the United States has grown by 40
percent since 1970, the number of registered vehi-
cles has increased by 100 percent, and in con-
centrated areas trade-generated truck traffic has
grown at double-digit compounded rates while road
capacity has increased by only 6 percent.
(4) Continued explosive growth in international trade puts increasing pressure on public and private infrastructure, particularly at global gateways, to increase throughput velocity, and fuels national and regional demand for additional surface transportation infrastructure at the Federal, State, and local levels, and will require collaborative initiatives among system users to maximize the use of existing capacity, adopt best industry practices, and plan and finance system improvements driven by goods movement demand.

(5) Comprehending the nature, and systematically calculating and measuring the dimensions, of this trade-generated demand is critically important to planning and meeting the associated infrastructure needs and institutional changes necessary to ensure that safe, secure, and efficient movement of our Nation’s goods to the ultimate consignees and destinations across the Nation.

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

(7) Critical intermodal freight projects with national and regional economic significance, but with
associated local impacts, are often difficult to shepherd, achieve consensus support, and fund through the current metropolitan planning process.

(8) The importance of safe, secure, and efficient goods movement to the health and welfare of the national economy should be recognized by the establishment of a goods movement program.

SEC. 3. GOODS MOVEMENT PROGRAM.

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

"§ 165. Goods movement program

“(a) ESTABLISHMENT AND PURPOSES.—

“(1) ESTABLISHMENT.—The Secretary shall establish a goods movement program to improve the productivity, security, and safety of freight transportation gateways, while mitigating congestion and community impacts in the area of such gateways.

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

“(A) to facilitate and support multimodal freight transportation initiatives at the State, regional, and local levels in order to improve freight transportation gateways and mitigate congestion in the area of such gateways;
“(B) to provide capital funding to address infrastructure and freight operational needs at freight transportation corridors and gateways;

“(C) to encourage adoption of new financing strategies to leverage State, local, and private investment in freight transportation gateways; and

“(D) to support military mobilization and readiness.

“(b) Eligible Projects.—

“(1) In general.—Intermodal freight transportation projects that provide community and highway benefits by addressing economic, congestion, security, safety, and environmental issues associated with freight transportation corridors and gateways shall be eligible for funding under this section.

“(2) Types of Projects.—Projects eligible for funding under paragraph (1) shall be limited to the following:

“(A) Projects to facilitate access to intermodal freight transfer facilities.

“(B) Projects on—

“(i) National Highway System routes connecting to intermodal freight terminals identified according to criteria set forth in
the report to Congress entitled ‘Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals’, dated May 24, 1996, and any modifications to these connections consistent with subparagraph (D); and

“(ii) the Strategic Highway Network (commonly known as ‘STRAHNET’), including connectors to strategic military deployment ports.

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

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

“(c) SELECTION CRITERIA.—In selecting projects under the goods movement program, the Secretary shall give priority to a project that exhibits the following criteria:

“(1) Enhances national, regional, and local economies by allowing for economic development and growth, as measured by—
“(A) impact on the Nation’s gross domestic product;

“(B) increases in new businesses and jobs;

“(C) State and local tax receipts;

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

“(E) improved safety as measured by reductions in accidents, injuries, and fatalities.

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

“(3) Considers factors such as improved mobility, congestion relief, energy consumption, air pollution, and noise pollution.

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

“(5) Leverages incremental funding as measured by non-Federal, public and private investment projects, and uses innovative financing and local funding and financing by attracting local public and private investment.

“(6) Integrates and deploys intelligent transportation technologies.

“(7) Encourages and facilitates regional partnerships to develop high priority corridors identified
in section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991.

“(8) Encourages or facilitates major multistate or regional mobility and economic growth and development in areas underserved by existing highway infrastructure.

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

“(d) GRANTS.—

“(1) GENERAL AUTHORITY.—

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

“(i) capital projects, including property and improvements;

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

“(iii) the introduction of new technology, through innovative and improved products, into projects under the program;
“(iv) capital projects to modernize existing corridors and gateways; and

“(v) the development of corridors to support and expand the safe, secure, and efficient movement of goods, including protecting rights of way through acquisition, construction of dedicated truck and high occupancy vehicle lanes and other non-vehicular capital improvements that the Secretary may decide would result in mitigating congestion in such corridors.

“(B) TERMS AND CONDITIONS.—The Secretary shall require that all grants under the goods movement program be subject to all terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in the value of real property resulting from the project assisted under the program.

“(2) PROJECT AS PART OF APPROVED PROGRAM OF PROJECTS.—Except as provided in paragraph (3), the Secretary may approve a grant for a project under the goods movement program only after finding that the project is part of the approved program
of projects required under sections 134 and 135 and that an applicant—

“(A) has or will have the legal, financial, and technical capacity to carry out the project, satisfactory continuing control over the use of equipment or facilities (excluding equipment and facilities owned by railroads), and the capability to maintain the equipment or facilities; and

“(B) will maintain the equipment or facilities.

“(3) CRITERIA FOR GRANTS.—

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

“(i) based on the results of an alternatives analysis and preliminary engineering; and

“(ii) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, and operating efficiencies; and
“(iii) supported by an acceptable degree of local financial commitment, including evidence of stable and dependable financing sources to construct, maintain, and operate the system or extension.

“(B) CORRIDOR DEVELOPMENT AND MANAGEMENT PLANS.—The Secretary shall not require an applicant for a grant under this section for a project to undertake activities to demonstrate that the project complies with the requirements of subparagraph (A) to the extent that the Secretary can make a determination under subparagraph (A) based on a corridor development and management plan developed under section 1118(d) of the Transportation Equity Act for the 21st Century (112 Stat. 162) and any other studies and materials developed for the project under that section.

“(C) ALTERNATIVES ANALYSIS AND PRELIMINARY ENGINEERING.—In evaluating a project under subparagraph (A)(i), the Secretary shall analyze and consider the results of the alternatives analysis and preliminary engineering for the project.
“(D) PROJECT JUSTIFICATION.—In evaluating a project, the Secretary shall give priority consideration to a project that exhibits the criteria established in subsection (c).

“(E) LOCAL FINANCIAL COMMITMENT.—

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

“(I) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases; and

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

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

“(I) existing grant commitments;

“(II) the degree to which financing sources are dedicated to the purposes proposed;
“(III) any debt obligation that exists or is proposed by the recipient for the proposed project; and

“(IV) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project.

“(F) REGULATIONS.—Not later than 120 days after the date of enactment of this section, the Secretary shall issue regulations on the manner in which the Secretary will evaluate and rate the projects based on the results of alternatives analysis, project justification, and the degree of local financial commitment, as required under this paragraph.

“(G) PROJECT EVALUATION AND RATING.—A proposed project may advance from alternatives analysis to preliminary engineering, and may advance from preliminary engineering to final design and construction, only if the Secretary finds that the project meets the requirements of this subsection and there is a reasonable likelihood that the project will continue to meet such requirements. In making such find-
ings, the Secretary shall evaluate and rate the project as ‘highly recommended’, ‘recom-
mended’, or ‘not recommended’, based on the results of alternatives analysis, the project justi-
fication criteria, and the degree of local financial commitment, as required under this para-
graph. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established under the regulations issued under subparagraph (F).

“(H) FULL FUNDING GRANT AGREEMENT.—A project financed under this sub-
section shall be carried out through a full funding grant agreement. The Secretary shall enter into a full funding grant agreement based on the evaluations and ratings required under this subsection. The Secretary shall not enter into a full funding grant agreement for a project un-
less that project is authorized for final design and construction.

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

“(A) FULL FUNDING GRANT AGREEME
“(i) IN GENERAL.—The Secretary may make a full funding grant agreement with an applicant. The agreement shall—

“(I) establish the terms of participation by the United States Government in a project under this subsection;

“(II) establish the maximum amount of Government financial assistance for the project;

“(III) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and

“(IV) make timely and efficient management of the project easier according to the law of the United States.

“(ii) OBLIGATION OF AMOUNTS.—An agreement under this subparagraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this subparagraph, to obligate
an additional amount from future available budget authority specified in law. The agreement shall state that the contingent commitment is not an obligation of the Government. Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms. The amount stipulated in an agreement under this subparagraph for a project shall be sufficient to complete at least an operable segment.

“(B) EARLY SYSTEMS WORK AGREEMENTS.—

“(i) IN GENERAL.—The Secretary may make an early systems work agreement with an applicant if a record of deci-
sion under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—

“(I) a full funding grant agreement for the project will be made; and

“(II) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

“(ii) OBLIGATION OF AMOUNTS.—A work agreement under this subparagraph obligates an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier. A work agreement shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period
of current authorization. Interest and
other financing costs of efficiently carrying
out the work agreement within a reason-
able time are a cost of carrying out the
agreement, except that eligible costs may
not be more than the cost of the most fa-
vorable financing terms reasonably avail-
able for the project at the time of bor-
rowing. The applicant shall certify, in a
way satisfactory to the Secretary, that the
applicant has shown reasonable diligence in
seeking the most favorable financing
terms. If an applicant does not carry out
the project for reasons within the control
of the applicant, the applicant shall repay
all Government payments made under the
work agreement plus reasonable interest
and penalty charges the Secretary estab-
lishes in the agreement.

“(C) TOTAL OF FUTURE OBLIGATIONS.—
The total estimated amount of future obliga-
tions of the Government and contingent com-
mitments to incur obligations covered by all
outstanding letters of intent, full funding grant
agreements, and early systems work agreements
may be not more than the greater of the
amount authorized to carry out this section,
less an amount the Secretary reasonably esti-
mates is necessary for grants under this sub-
section not covered by a letter. The total
amount covered by new letters and contingent
commitments included in full funding grant
agreements and early systems work agreements
may be not more than a limitation specified in
law.

“(5) GOVERNMENT’S SHARE OF NET PROJECT
COST.—Based on engineering studies, studies of eco-
nomic feasibility, and information on the expected
use of equipment or facilities, the Secretary shall es-
timate the net project cost. A grant for the project
is for 80 percent of the net project cost, unless the
grant recipient requests a lower grant percentage.
The remainder shall be provided in cash from a
source other than amounts of the Government.
Amounts that make up the remainder must be from
an undistributed cash surplus, a replacement or de-
preciation cash fund or reserve, or new capital. A re-
fund or reduction of the remainder may be made
only if a refund of a proportional amount of the
grant of the Government is made at the same time.
“(6) **FINANCIAL PLAN.—**A recipient of Federal financial assistance for a project under this section with an estimated total cost of $100,000,000 or more shall submit to the Secretary an annual financial plan for the project. The plan shall be based on detailed annual estimates of the cost to complete the remaining elements of the project and on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.

“(7) **FISCAL CAPACITY CONSIDERATIONS.—**If the Secretary gives priority consideration to financing projects that include more than the non-Government share required under paragraph (5), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

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

“(A) the State or local governmental authority applies for the payment;
“(B) the Secretary approves the payment; and

“(C) before carrying out the part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under the goods movement program.

“(9) REPORTS.—Not later than the first Monday in February of each year, the Secretary shall submit to the Congress a report that includes a proposal on the allocation of amounts to be made available to finance grants for capital projects under the goods movement program for those amounts.

“(e) SPECIFIC DESIGNATIONS.—

“(1) IN GENERAL.—Notwithstanding any other provision of this section, Congress deems the following to be projects of national economic significance: [To Be Supplied].

“(2) REPORTS.—Not later than October 1, 2006, and October 1, 2008, project recipients under this section shall submit to the Secretary and the Congress a report enumerating the national economic significance of the project.

“(f) AUTHORIZATION OF APPROPRIATIONS.—
“(1) IN GENERAL.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $3,000,000,000 for each of fiscal years 2005 through 2010. Of such amount, $1,500,000,000 per fiscal year shall be available only for carrying out projects designated under subsection (e).

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

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

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter I of such title is amended by adding at the end the following:

“165. Goods movement program.”.

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