

Calendar No. 558

115TH CONGRESS }
2d Session }

SENATE

{ REPORT
115-324 }

PORT OPERATIONS, RESEARCH, AND
TECHNOLOGY ACT

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 3273



AUGUST 20, 2018.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

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PORT OPERATIONS, RESEARCH, AND TECHNOLOGY ACT

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Mr. THUNE, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany S. 3273]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 3273) to improve the safety, efficiency, and reliability of the movement of goods through ports and intermodal connections to ports, and for other purposes, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The purpose of this legislation is to do the following: update the existing StrongPorts program to build a more defined and effective program to address port and intermodal needs across the country; and require the Commandant of the Coast Guard to establish and develop a Blue Technology Center of Expertise to promote awareness and adoption of technologies that enhance Coast Guard missions.

BACKGROUND AND NEEDS

PORTS

Maritime transportation is a significant mode of transportation for international and domestic freight movement. According to the Department of Transportation's Beyond Traffic report, deepwater seaports handle more than 70 percent of our Nation's imports and

exports by weight.¹ In addition to seaports, more than 70 inland ports along navigable waterways and the Great Lakes carry approximately 10 percent of domestic freight ton-miles and 30 percent of total freight tonnage.² Growth in containerized and bulk freight volumes continues to add stress to port infrastructure, with containerized volumes alone expected to nearly double by 2029.³ Moreover, expansion of the Panama Canal in 2016 to accommodate “New Panamax” vessels has also changed shipping patterns and increased the demand for terminals in ports on the East Coast capable of accommodating these vessels. In addition, ports continue to deploy new technologies for their operations, which many port operators and freight companies view as increasing supply chain efficiency and throughput and which certain labor organizations, such as the International Longshore and Warehouse Union and International Longshoremen’s Association, view as presenting potentially negative effects on certain types of employment.

Both seaports and inland ports are eligible for funding through various grant programs, including the Better Utilizing Investments to Leverage Development (BUILD) and the Infrastructure for Rebuilding America (INFRA) programs, though the latter only allows funding for port infrastructure with a multimodal nexus. However, unlike for other modes, such as highways, transit, and rail, to date Congress has not appropriated funding for a dedicated maritime transportation grant program focused on broad port infrastructure improvements.⁴

In section 3512 of the National Defense Authorization Act for Fiscal Year 2010 (NDAA for FY 2010), Congress authorizes a port infrastructure development program—named StrongPorts—intended to improve port facilities.⁵ However, StrongPorts has an undefined and unconstrained authorization structure, does not have basic program components, such as matching requirements or clearly defined eligible applicants, and thus it has never received an appropriation.

To focus on broad port infrastructure improvements, the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232) includes a \$5 million set-aside for StrongPorts out of the broader \$60.4 million authorization for Maritime Administration (MARAD) operations and programs. In fiscal year (FY) 2018, Congress appropriated, out of the broader MARAD operations and programs authorization, approximately \$10 million for MARAD grant programs; the approximately \$50 million in remaining funds is for MARAD operations. Thus, for FY 2019, the \$5 million set-aside would effectively be funded out of the \$10 million for MARAD grant programs.

¹U.S. Department of Transportation, “Beyond Traffic”, 2015. (https://www.transportation.gov/sites/dot.gov/files/docs/BeyondTraffic_tagged_508_final.pdf)

²Bureau of Transportation Statistics. National Transportation Statistics. 2018. (<https://www.bts.gov/product/national-transportation-statistics>)

³Federal Maritime Commission. U.S. Container Port Congestion and Related International Supply Chain Issues: Causes, Consequences and Challenges. 2015. (https://www.fmc.gov/assets/1/1/PortForumReport_FINALwebAll.pdf)

⁴Congress does provide funding for the Maritime Administration’s Marine Highways Program, which allocates annual grants toward the development of designated marine highways to relieve highway congestion and can involve port infrastructure improvements. But that program does not typically focus on broad port infrastructure improvements. The Marine Highways program received \$7 million in appropriations under the Consolidated Appropriations Act, 2018.

⁵46 U.S.C. §50302.

BLUE TECHNOLOGY

Currently, the Research and Development Center (RDC) within the Coast Guard is responsible for evaluating the affordability and feasibility of emerging technologies as they relate to the acquisition process. However, the RDC is primarily focused on internal research and the optimization of existing Coast Guard assets. The emergence of numerous technologies in the private sector—including improvements to hydrographic surveys, autonomous drones, and integrated communication systems—present opportunities for the Coast Guard to leverage these technologies to improve operational performance. The Coast Guard may also consider coordination with academia, nonprofit organizations, and other Federal agencies, particularly the National Oceanic and Atmospheric Administration.

SUMMARY OF PROVISIONS

If enacted, S. 3273 would do the following:

Ports

- Update StrongPorts to build a more defined and effective program to address port and intermodal needs across the country and to rename it the Port and Intermodal Improvement Program (PIIP).
- Add selection criteria centered on improving the safety, efficiency, or reliability of the movement of goods into, out of, around, or within a port or intermodal facility; and define eligible applicants to include a wide range of public and private stakeholders.
- Include provisions to ensure small projects receive consideration and that the Secretary of Transportation considers geographic distribution.

Blue Technology

- Require the Commandant of the Coast Guard to establish a Blue Technology Center of Expertise not later than 1 year after the date of enactment of the Act.
- Develop a structure for the new Center of Expertise to do the following:
 - Promote awareness within the Coast Guard of the range and diversity of Blue Technologies and how those technologies could enhance Coast Guard missions.
 - Function as an interactive conduit to enable the sharing and dissemination of Blue Technology information between the private sector, academia, nonprofits, other Federal agencies, and the Coast Guard.

LEGISLATIVE HISTORY

S. 3273 was introduced on July 25, 2018, by Senator Wicker and was referred to the Committee on Commerce, Science, and Transportation of the Senate. On August 1, 2018, the Committee met in open Executive Session, and by voice vote, ordered S. 3273 to be reported favorably with an amendment (in the nature of a substitute). Senator Lee offered an amendment which was adopted by voice vote; the amendment would eliminate from the program's eli-

gibilities certain subsidies or administrative costs eligible for Federal credit assistance.

Ports.—On June 6, 2018, Senators Wicker and Nelson offered a floor amendment (Wicker #2821) to the NDAA for FY 2019 that would update and improve StrongPorts for the already existing set-aside in that measure’s MARAD title. A modified version of that amendment was included in S. 3273.

Blue Technology.—On June 25, 2018, Congressman John Garamendi (D–CA), with the co-sponsorship of Congressman Duncan Hunter (R–CA), introduced H.R. 6206, the Coast Guard Blue Technology Center of Expertise Act. On June 27, 2018, the House of Representatives Committee on Transportation and Infrastructure ordered H.R. 6206 to be reported by voice vote. On July 25, 2018, the House of Representatives passed on suspension the bill as part of S. 756, the Save Our Seas Act of 2017.

On April 4, 2017, the Committee’s Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security held a multimodal transportation stakeholder hearing entitled, “Keeping Goods Moving: Continuing to Enhance Multimodal Freight Policy and Infrastructure,” which examined the importance of the multimodal freight transportation network and policies needed for a growing economy.

On April 24, 2018, the Committee’s Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security held a maritime transportation hearing entitled, “Maritime Transportation: Opportunities and Challenges,” which focused on the U.S. maritime industry, the state of the Nation’s maritime transportation system and its current challenges, and the ways in which Federal policy and programs could enhance its performance.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

S. 3273—Port Operations, Research, and Technology Act

Summary: S. 3273 would expand the eligibility criteria for grants that the Maritime Administration (MARAD) is authorized to provide to improve infrastructure at maritime ports and facilities. The bill also would direct the Coast Guard (USCG) to undertake activities to promote the use of certain new maritime technologies.

Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 3273 would cost \$18 million over the 2019–2023 period. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting S. 3273 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

S. 3273 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary effect of S. 3273 is shown in the following table. The costs of the legislation fall within budget function 400 (transportation).

	By fiscal year, in millions of dollars—						
	2018	2019	2020	2021	2022	2023	2019–2023
INCREASES IN SPENDING SUBJECT TO APPROPRIATION							
Estimated Authorization Level	0	5	5	5	5	6	26
Estimated Outlays	0	1	3	4	5	5	18

Basis of estimate: CBO assumes that the bill will be enacted by the end of 2018 and that the necessary amounts will be provided each year.

Under current law, MARAD is authorized to provide grants to support capital improvements at ports to benefit the U.S. maritime industry—the civilian mariners and fleet of U.S. vessels engaged primarily in waterborne commerce. Section 2 would specify that such grants could also be used for projects to improve intermodal facilities, which connect ports to different modes of transportation.

MARAD did not receive funding for grants to promote port development in 2018. Assuming that the grants authorized under S. 3273 are used for projects similar in scope and cost to those supported by MARAD’s existing grant program, CBO estimates that providing those grants would require appropriations of about \$5 million in the first year with increases each year thereafter to account for inflation. Based on historical spending patterns for grants administered by MARAD, CBO estimates that the outlays stemming from those grants would occur gradually over a period of about five years, totaling \$18 million over the 2019–2023 period (and \$8 million after 2023).

Section 3 would direct the USCG to establish a center of expertise to promote the use of new maritime technologies related to activities including surveillance and monitoring, search and rescue, emergency response, and law enforcement. (Under current law, the agency operates several such centers, which provide technical assistance on a range of issues related to maritime safety.) Because the USCG’s existing Research and Development Center is already pursuing similar activities, CBO expects that any increases in the agency’s costs to implement section 3—which would be subject to appropriation—would not exceed \$500,000 in any year. (In 2018, the USCG allocated about \$5 million in appropriated funds to those efforts.)

Pay-As-You-Go considerations: None.

Increase in long-term direct spending and deficits: CBO estimates that enacting S. 3273 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

Mandates: S. 3273 contains no intergovernmental or private-sector mandates as defined in UMRA.

Previous CBO estimate: On July 20, 2018, CBO transmitted a cost estimate for H.R. 6206, the Coast Guard Blue Technology Center of Expertise Act, as ordered reported by the House Committee on Transportation and Infrastructure on June 27, 2018. H.R. 6206 is similar to section 3 of S. 3273, and the estimated costs are the same for both bills.

Estimate prepared by: Federal Costs: Megan Carroll; Mandates: Jon Sperl.

Estimate reviewed by: Kim P. Cawley Chief, Natural and Physical Resources Cost Estimates Unit; H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

This measure, as reported, would not create any new programs or impose any new significant regulatory requirements, and, therefore, would not subject any individuals or businesses to new significant regulations. In creating a more defined grant program to improve port infrastructure, this measure would affect ports, other transportation and infrastructure entities, and communities served by the commerce moving in and out of ports.

ECONOMIC IMPACT

Enactment of this legislation is not expected to have any significant adverse impacts on the Nation's economy. It is expected to have a positive impact by improving commerce in and out of the Nation's ports.

PRIVACY

S. 3273 will not have any adverse impact on the privacy of individuals.

PAPERWORK

S. 3273 would not impose a substantial paperwork burden on individuals or businesses. The bill does require additional paperwork for grant applicants, but this would be offset by the benefits of increased opportunity for the port and intermodal infrastructure improvements.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short title.

This section would provide that the bill may be cited as the "Port Operations, Research, and Technology Act."

Section 2. Port and Intermodal Improvement Program.

This section would amend the existing StrongPorts, found in section 50302 of title 46, United States Code, and rename it PIIP. This section would improve the existing program by providing a competitive grant program for eligible applicants to apply to the

Secretary of Transportation (Secretary) to fund port and intermodal projects on an annual basis.

This section would define eligible applicants to include a State, public authority, or private entity with a public sponsor lead. This section would define eligible projects to include those that improve the safety, efficiency, or reliability of goods movement into, out of, around, or within a port facility, covering both sea and inland ports. For example, a potential eligible project covered under PIIP could include, among other types of projects, an on-dock rail project, a highway connection point into the port facility, marine terminal equipment, or a dredging project at a port berth. This section would set certain requirements to ensure sufficient non-Federal matches, drawing more localized resources to improve infrastructure.

This section would set project selection criteria, including: that the project improves the safety, efficiency, or reliability of the movement of goods through a port or intermodal connection to a port; the project is cost-effective; the eligible applicant has authority to carry out the project; the eligible applicant has sufficient funding available to meet the matching requirements; the project will be completed without unreasonable delay; and the project cannot be easily and efficiently completed without Federal funding or financial assistance available to the project sponsor. The section would require the Secretary, after considering the aforementioned criteria, to give substantial weight to the following: (1) the utilization of non-Federal contribution; and (2) the net benefits of the funds awarded under the subsection, considering the cost-benefit analysis of the project, as applicable. In considering the cost-benefit analysis of the project, the Secretary should give consideration to any evidence presented of effects on employment.

This section would allow for a higher Federal share for projects located in rural areas. This section also would include a set-aside of 25 percent for small projects, along with a streamlined application process for such projects. This section would ensure that not more than 25 percent of the amounts made available for grants may be used to make grants for projects in any one State to ensure an equitable geographic distribution of funding.

This section would require the Secretary to notify the appropriate committees of Congress of the proposed grant amount, including an evaluation and justification for the project, at least 60 days before making a grant. This section would provide that the Secretary may not make a grant to fund a project if Congress enacts a joint resolution disapproving funding for the proposed project within 60 days of receipt of the notification.

Section 3. Coast Guard Blue Technology Center of Expertise.

This section would require the Commandant of the Coast Guard to establish a Blue Technology Center of Expertise not later than 1 year from the date of enactment of the Act.

This section would detail several missions of the Blue Technology Center of Expertise, including the following: promoting awareness of Blue Technologies within the Coast Guard; enabling the sharing of Blue Technology information between the private sector, academia, nonprofit organizations, other Federal agencies, and the Coast Guard; increasing awareness of Coast Guard acquisition poli-

cies and practices among Blue Technology manufacturers, entrepreneurs, and vendors; providing technical support, coordination, and assistance to Coast Guard districts and the Coast Guard Research and Development Center; and, subject to the requirements of the Coast Guard Academy, coordinating with the Academy to develop appropriate curricula regarding Blue Technology.

This section also would direct the Commandant of the Coast Guard to report to the appropriate committees of Congress on the costs and benefits of hosting a biennial Coast Guard Blue Technology exposition.

This section also would define the terms “center”, “Commandant”, and “Blue Technology.”

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 46. SHIPPING

SUBTITLE V. MERCHANT MARINE

PART A. GENERAL

CHAPTER 503. ADMINISTRATIVE

§ 50302. Port development

(a) GENERAL REQUIREMENTS.—With the objective of promoting, encouraging, and developing ports and transportation facilities in connection with water commerce over which the Secretary of Transportation has jurisdiction, the Secretary, in cooperation with the Secretary of the Army, shall—

(1) investigate territorial regions and zones tributary to ports, taking into consideration the economies of transportation by rail, water, and highway and the natural direction of the flow of commerce;

(2) investigate the causes of congestion of commerce at ports and applicable remedies;

(3) investigate the subject of water terminals, including the necessary docks, warehouses, and equipment, to devise and suggest the types most appropriate for different locations and for the most expeditious and economical transfer or interchange of passengers or property between water carriers and rail carriers;

(4) consult with communities on the appropriate location and plan of construction of wharves, piers, and water terminals;

(5) investigate the practicability and advantages of harbor, river, and port improvements in connection with foreign and coastwise trade; and

(6) investigate any other matter that may tend to promote and encourage the use by vessels of ports adequate to care for the freight that naturally would pass through those ports.

(b) SUBMISSION OF FINDINGS TO SURFACE TRANSPORTATION BOARD.—After an investigation under subsection (a), if the Sec-

retary of Transportation believes that the rates or practices of a rail carrier subject to the jurisdiction of the Surface Transportation Board are detrimental to the objective specified in subsection (a), or that new rates or practices, new or additional port terminal facilities, or affirmative action by a rail carrier is necessary to promote that objective, the Secretary may submit findings to the Board for action the Board considers appropriate under existing law.

[(c) PORT INFRASTRUCTURE DEVELOPMENT PROGRAM.—

[(1) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation, through the Maritime Administrator, shall establish a port infrastructure development program for the improvement of port facilities as provided in this subsection.

[(2) AUTHORITY OF THE ADMINISTRATOR.—In order to carry out any project under the program established under paragraph (1), the Administrator may—

[(A) receive funds provided for the project from Federal, non-Federal, and private entities that have a specific agreement or contract with the Administrator to further the purposes of this subsection;

[(B) coordinate with other Federal agencies to expedite the process established under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for the improvement of port facilities to improve the efficiency of the transportation system, to increase port security, or to provide greater access to port facilities;

[(C) seek to coordinate all reviews or requirements with appropriate local, State, and Federal agencies; and

[(D) provide such technical assistance and financial assistance, including grants, to port authorities or commissions or their subdivisions and agents as needed for project planning, design, and construction.

[(3) PORT INFRASTRUCTURE DEVELOPMENT FUND.—

[(A) ESTABLISHMENT.—There is a Port Infrastructure Development Fund for use by the Administrator in carrying out projects under the port infrastructure development program. The Fund shall be available to the Administrator—

[(i) to administer and carry out projects under the program;

[(ii) to receive Federal, non-Federal, and private funds from entities which have specific agreements or contracts with the Administrator; and

[(iii) to make refunds for projects that will not be completed.

[(B) CREDITS.—There may be deposited into the Fund—

[(i) funds from Federal, non-Federal, and private entities which have agreements or contracts with the Administrator and which shall remain in the Fund until expended or refunded; and

[(ii) such amounts as may be appropriated or transferred, subject to subparagraph (C), to the Fund under this subsection.

[(C) TRANSFERS.—

[(i) IN GENERAL.—Subject to clauses (ii) and (iii), amounts appropriated or otherwise made available for any fiscal year for a marine facility or intermodal facility that includes maritime transportation may be transferred, at the option of the recipient of such amounts, to the Fund and administered by the Administrator as a component of a project under the program.

[(ii) PROHIBITION ON TRANSFERS.—Except as provided in clause (iii), no funds appropriated or made available under title 23 or chapter 53 of title 49, United States Code, including funds from the Highway Trust Fund (section 9503(c) of the Internal Revenue Code of 1986), funds from the Mass Transit Account of the Highway Trust Fund (section 9503(e) of Internal Revenue Code of 1986), and funds provided for public transportation programs within the mass transit category (as defined in section 250(c)(4)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985), shall be transferred into the Fund.

[(iii) EXCEPTION.—

[(I) IN GENERAL.—Amounts described in subclause (II) are eligible for transfer into the Fund if—

[(aa) the recipient of the amounts has a specific agreement or contract with the Administrator;

[(bb) the Department of Transportation agency that administers the amounts to be transferred has granted project approval for each component of the project that is to be funded using such amounts;

[(cc) the Department of Transportation agency that administers the amounts to be transferred and the Maritime Administration agree to the transfer through a signed Memorandum of Understanding; and

[(dd) the amounts will be used only to carry out the project for which funds were approved, and in accordance with any conditions governing the amounts under title 23 or chapter 53 of title 49, United States Code.

[(II) AMOUNTS DESCRIBED.—The amounts referred to in subclause (I) are amounts appropriated or made available—

[(aa) for loans, loan guarantees, or lines of credit under chapter 6 of title 23, United States Code, for a project eligible under such chapter to facilitate direct intermodal exchange, transfer, and access into and out of a port as defined under section 601(a)(8)(D)(iii) of such title, as in effect on the date of enactment of this subsection; or

[(bb) for projects under title XII of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5).

[(D) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to alter or otherwise affect existing authorities to conduct port infrastructure programs in Hawaii (as authorized by section 9008 of Public Law 109–59), Alaska (as authorized by section 10205 of Public Law 109–59), or Guam (as authorized by section 3512 of Public Law 110–417).

[(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such sums as may be necessary to carry out the program, taking into account amounts received under paragraph (3)(A)(ii).]

(c) *PORT AND INTERMODAL IMPROVEMENT PROGRAM.*—

(1) *GENERAL AUTHORITY.*—*Subject to the availability of appropriations, the Secretary of Transportation shall make grants, on a competitive basis, to eligible applicants to assist in funding eligible projects for the purpose of improving the safety, efficiency, or reliability of the movement of goods through ports and intermodal connections to ports.*

(2) *ELIGIBLE APPLICANT.*—*The Secretary may make a grant under this subsection to the following:*

(A) *A State.*

(B) *A political subdivision of a State or local government.*

(C) *A public agency or publicly chartered authority established by 1 or more States.*

(D) *A special purpose district with a transportation function.*

(E) *A multistate or multijurisdictional group of entities described in this subsection.*

(F) *A lead entity described in subparagraph (A), (B), (C), (D), or (E) jointly with a private entity or group of private entities.*

(3) *ELIGIBLE PROJECTS.*—*The Secretary may make a grant under this subsection—*

(A) *for a project that—*

(i) *is either—*

(I) *within the boundary of a port; or*

(II) *outside the boundary of a port, but is directly related to port operations or to an intermodal connection to a port; and*

(ii) *will be used to improve the safety, efficiency, or reliability of—*

(I) *the loading and unloading of goods at the port, such as for marine terminal equipment;*

(II) *the movement of goods into, out of, around, or within a port, such as for highway or rail infrastructure, intermodal facilities, freight intelligent transportation systems, and digital infrastructure systems; or*

(III) *the movement of vessels in and out of the port facility by dredging a vessel berthing area that is not part of a Federal channel or an access channel associated with a Federal channel; or*

(B) notwithstanding paragraph (6)(A)(v), to provide financial assistance to 1 or more projects under subparagraph (A) for development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, and preliminary engineering and design work.

(4) *PROHIBITED USES.*—A grant award under this subsection may not be used—

(A) to finance or refinance the construction, reconstruction, reconditioning, or purchase of a vessel that is eligible for such assistance under chapter 537, unless the Secretary determines such vessel—

(i) is necessary for a project described in paragraph (3)(A)(ii)(III) of this subsection; and

(ii) is not receiving assistance under chapter 537; or

(B) for any project within a small shipyard (as defined in section 54101).

(5) *APPLICATIONS AND PROCESS.*—

(A) *APPLICATIONS.*—To be eligible for a grant under this subsection, an eligible applicant shall submit to the Secretary an application in such form, at such time, and containing such information as the Secretary considers appropriate.

(B) *SOLICITATION PROCESS.*—Not later than 30 days after the date that amounts are made available for grants under this subsection for a fiscal year, the Secretary shall solicit grant applications for eligible projects in accordance with this subsection.

(6) *PROJECT SELECTION CRITERIA.*—

(A) *IN GENERAL.*—The Secretary may select a project described in paragraph (3) for funding under this subsection if the Secretary determines that—

(i) the project improves the safety, efficiency, or reliability of the movement of goods through a port or intermodal connection to a port;

(ii) the project is cost-effective;

(iii) the eligible applicant has authority to carry out the project;

(iv) the eligible applicant has sufficient funding available to meet the matching requirements under paragraph (8);

(v) the project will be completed without unreasonable delay; and

(vi) the project cannot be easily and efficiently completed without Federal funding or financial assistance available to the project sponsor.

(B) *ADDITIONAL CONSIDERATIONS.*—In selecting projects described in paragraph (3) for funding under this subsection, the Secretary shall give substantial weight to—

(i) the utilization of non-Federal contributions; and

(ii) the net benefits of the funds awarded under this subsection, considering the cost-benefit analysis of the project, as applicable.

(C) *SMALL PROJECTS.*—The Secretary may waive the cost-benefit analysis under subparagraph (A)(ii), and establish

a simplified, alternative basis for determining whether a project is cost-effective, for a small project described in paragraph (7)(B).

(7) ALLOCATION OF FUNDS.—

(A) GEOGRAPHIC DISTRIBUTION.—Not more than 25 percent of the amounts made available for grants under this subsection for a fiscal year may be used to make grants for projects in any 1 State.

(B) SMALL PROJECTS.—The Secretary shall reserve 25 percent of the amounts made available for grants under this subsection each fiscal year to make grants for eligible projects described in paragraph (3)(A) that request the lesser of—

- (i) 10 percent of the amounts made available for grants under this subsection for a fiscal year; or
- (ii) \$1,000,000.

(C) DREDGING PROJECTS.—Not more than 25 percent of the amounts made available for grants under this subsection for a fiscal year may be used to make grants for projects described in paragraph (3)(A)(ii)(III).

(D) DEVELOPMENT PHASE ACTIVITIES.—Not more than 10 percent of the amounts made available for grants under this subsection for a fiscal year may be used to make grants for development phase activities under paragraph (3)(B).

(8) FEDERAL SHARE OF TOTAL PROJECT COSTS.—

(A) TOTAL PROJECT COSTS.—To be eligible for a grant under this subsection, an eligible applicant shall submit to the Secretary an estimate of the total costs of a project under this subsection based on the best available information, including any available engineering studies, studies of economic feasibility, environmental analyses, and information on the expected use of equipment or facilities.

(B) FEDERAL SHARE.—

(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the Federal share of the total costs of a project under this subsection shall not exceed 80 percent.

(ii) DREDGING PROJECTS.—The Federal share of the total costs of a project described in paragraph (3)(A)(ii)(III) shall not exceed 50 percent.

(iii) RURAL AREAS.—The Secretary may increase the Federal share of costs above 80 percent for a project located in a rural area.

(9) PROCEDURAL SAFEGUARDS.—The Secretary shall issue guidelines to establish appropriate accounting, reporting, and review procedures to ensure that—

- (A) grant funds are used for the purposes for which they were made available;
- (B) each grantee properly accounts for all expenditures of grant funds; and
- (C) grant funds not used for such purposes and amounts not obligated or expended are returned.

(10) GRANT CONDITIONS.—The Secretary shall require as a condition of making a grant under this subsection that a grantee—

- (A) maintain such records as the Secretary considers necessary;
- (B) make the records described in subparagraph (A) available for review and audit by the Secretary; and
- (C) periodically report to the Secretary such information as the Secretary considers necessary to assess progress.
- (11) CONGRESSIONAL NOTIFICATION.—
- (A) NOTIFICATION.—At least 60 days before making a grant for a project under this section, the Secretary shall notify, in writing, the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the proposed grant.
- (B) CONTENTS.—Each notification under subparagraph (A) shall include—
- (i) an evaluation of and justification for the project; and
- (ii) the amount of the proposed grant award.
- (C) CONGRESSIONAL DISAPPROVAL.—The Secretary may not make a grant or any other obligation or commitment to fund a project under this section if a joint resolution is enacted disapproving funding for the project before the last day of the 60-day period described in subparagraph (A).
- (12) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection may be construed to affect existing authorities to conduct port infrastructure programs in—
- (A) Hawaii, as authorized by section 9008 of the SAFETEA-LU Act (Public Law 109–59; 119 Stat. 1926);
- (B) Alaska, as authorized by section 10205 of the SAFETEA-LU Act (Public Law 109–59; 119 Stat. 1934); or
- (C) Guam, as authorized by section 3512 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (48 U.S.C. 1421r).
- (13) REPORTS.—The Secretary shall make available on the website of the Department of Transportation at the end of each fiscal year an annual report that lists each project for which a grant has been provided under this subsection during that fiscal year.
- (14) ADMINISTRATION.—
- (A) ADMINISTRATIVE AND OVERSIGHT COSTS.—The Secretary may retain not more than 1 percent of the amounts appropriated for each fiscal year under this subsection for the administrative and oversight costs incurred by the Secretary to carry out this subsection.
- (B) AVAILABILITY.—
- (i) IN GENERAL.—Amounts appropriated for carrying out this subsection shall remain available until expended.
- (ii) UNEXPENDED FUNDS.—Amounts awarded as a grant under this subsection that are not expended by the grantee during the 4-year period following the date of the award shall remain available to the Secretary for use for grants under this subsection in a subsequent fiscal year.
- (15) DEFINITIONS.—In this subsection:

- (A) *APPROPRIATE COMMITTEES OF CONGRESS.*—The term “appropriate committees of Congress” means—
- (i) the Committee on Commerce, Science, and Transportation of the Senate; and
 - (ii) the Committee on Transportation and Infrastructure of the House of Representatives.
- (B) *PORT.*—The term “port” includes—
- (i) a sea port; and
 - (ii) an inland waterways port.
- (C) *PROJECT.*—The term “project” includes construction, reconstruction, rehabilitation, acquisition of property, including land related to the project and improvements to the land, equipment acquisition, and operational improvements.
- (D) *RURAL AREA.*—The term “rural area” means an area that is outside an urbanized area.
- (d) *ADDITIONAL AUTHORITY OF THE SECRETARY.*—In carrying out this section, the Secretary may—
- (1) receive funds from a Federal or non-Federal entity that has a specific agreement with the Secretary to further the purposes of this section;
 - (2) coordinate with other Federal agencies to expedite the process established under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for the improvement of port facilities to improve the efficiency of the transportation system, to increase port security, or to provide greater access to port facilities;
 - (3) seek to coordinate all reviews or requirements with appropriate local, State, and Federal agencies; and
 - (4) in addition to any financial assistance provided under subsection (c), provide such technical assistance to port authorities or commissions or their subdivisions and agents as needed for project planning, design, and construction.