



AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.****S. 1298**

To provide nationally consistent measures of performance  
of the Nation's ports, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended  
to be proposed by Mr. THUNE

Viz:

1 Strike all after the enacting clause and insert the fol-

2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Port Performance  
5 Act".

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) America's ports play a critical role in the  
9 Nation's transportation supply chain network.

10 (2) Reliable and efficient movement of goods  
11 through the Nation's ports ensures that American

1 goods are available to customers throughout the  
2 world.

3 (3) Breakdowns in the transportation supply  
4 chain network, particularly at the Nation's ports,  
5 can result in tremendous economic losses for agri-  
6 culture, businesses, and retailers that rely on timely  
7 shipments.

8 (4) A clear understanding of port productivity  
9 and throughput would help—

10 (A) to identify freight bottlenecks;

11 (B) to indicate performance and trends  
12 over time; and

13 (C) to inform investment decisions.

14 **SEC. 3. PORT PERFORMANCE FREIGHT STATISTICS PRO-**  
15 **GRAM.**

16 (a) IN GENERAL.—Chapter 63 of title 49, United  
17 States Code, is amended by adding at the end the fol-  
18 lowing:

19 **“§ 6314. Port performance freight statistics program**

20 “(a) IN GENERAL.—The Director shall establish, on  
21 behalf of the Secretary, a port performance statistics pro-  
22 gram to provide nationally consistent measures of per-  
23 formance of—

24 “(1) the Nation's top 25 ports by tonnage;

1           “(2) the Nation’s top 25 ports by 20-foot equiv-  
2           alent unit; and

3           “(3) the Nation’s top 25 ports by dry bulk.

4           “(b) ANNUAL REPORTS.—

5           “(1) PORT CAPACITY AND THROUGHPUT.—Not  
6           later than January 15 of each year, the Director  
7           shall submit an annual report to Congress that in-  
8           cludes statistics on capacity and throughput at the  
9           ports described in subsection (a).

10          “(2) PORT PERFORMANCE MEASURES.—The  
11          Director shall require each United States port au-  
12          thority referred to in subsection (a) that receives  
13          Federal assistance or is subject to Federal regula-  
14          tion to submit an annual report to the Bureau of  
15          Transportation Statistics that includes monthly sta-  
16          tistics on capacity and throughput as applicable to  
17          the specific configuration of the port, including—

18                 “(A) the total capacity of inbound and out-  
19                 bound cargo, including containers, break bulk,  
20                 vehicles, and dry and liquid bulk;

21                 “(B) the total volume of inbound and out-  
22                 bound cargo, including containers, break bulk,  
23                 vehicles, and dry and liquid bulk;

24                 “(C) the average number of lifts per hour  
25                 of containers by crane;

1           “(D) the average vessel turn time by vessel  
2           type;

3           “(E) the average cargo or container dwell  
4           time;

5           “(F) port storage capacity and utilization;

6           “(G) the average truck time at ports;

7           “(H) the average rail time at ports; and

8           “(I) any additional metrics, as determined  
9           by the Director after receiving recommenda-  
10          tions from the working group established under  
11          subsection (c).

12          “(c) RECOMMENDATIONS.—

13           “(1) IN GENERAL.—The Director shall obtain  
14          recommendations for—

15           “(A) specifications and data measurements  
16          for the port performance measures listed in  
17          subsection (b)(2); and

18           “(B) additional needed data elements for  
19          measuring port performance.

20           “(2) WORKING GROUP.—Not later than 60 days  
21          after the date of the enactment of this Act, the Di-  
22          rector shall commission a working group composed  
23          of—

24           “(A) operating administrations of the De-  
25          partment of Transportation;

1                   “(B) the Coast Guard;  
2                   “(C) the Federal Maritime Commission;  
3                   “(D) U.S. Customs and Border Protection;  
4                   “(E) the Marine Transportation System  
5 National Advisory Council;  
6                   “(F) the Army Corps of Engineers;  
7                   “(G) the Saint Lawrence Seaway Develop-  
8 ment Corporation;  
9                   “(H) the Advisory Committee on Supply  
10 Chain Competitiveness;  
11                   “(I) 1 representative from the rail indus-  
12 try;  
13                   “(J) 1 representative from the trucking in-  
14 dustry;  
15                   “(K) 1 representative from the port man-  
16 agement industry;  
17                   “(L) 1 representative from the maritime  
18 shipping industry;  
19                   “(M) 1 representative from the maritime  
20 labor industry;  
21                   “(N) representatives of the National  
22 Freight Advisory Committee of the Depart-  
23 ment; and  
24                   “(O) representatives of the Transportation  
25 Research Board of the National Academies.

1           “(3) RECOMMENDATIONS.—Not later than 1  
2           year after the date of the enactment of this Act, the  
3           working group commissioned under this subsection  
4           shall submit its recommendations to the Director.

5           “(d) ACCESS TO DATA.—The Director shall ensure  
6           that the statistics compiled under this section are readily  
7           accessible to the public, consistent with applicable security  
8           constraints and confidentiality interests.”.

9           (b) PROHIBITION ON CERTAIN DISCLOSURES.—Sec-  
10          tion 6307(b)(1) of title 49, United States Code, is amend-  
11          ed by inserting “or section 6314(b)” after “section  
12          6302(b)(3)(B)” each place it appears.

13          (c) COPIES OF REPORTS.—Section 6307(b)(2)(A) of  
14          title 49, United States Code, is amended by inserting “or  
15          section 6314(b)” after “section 6302(b)(3)(B)”.

16          (d) TECHNICAL AND CONFORMING AMENDMENT.—  
17          The table of sections for chapter 63 of title 49, United  
18          States Code, is amended by adding at the end the fol-  
19          lowing:

          “6314. Port performance freight statistics program.”.

20       **SEC. 4. MONTHLY REPORTS ON PERFORMANCE AT UNITED**  
21                               **STATES PORTS.**

22          (a) IN GENERAL.—Not later than 1 year before the  
23          expiration date of a maritime labor agreement that applies  
24          to facilities of a United States port, 3 months before the  
25          expiration date of the maritime labor agreement, and

1 monthly thereafter until a new agreement is agreed to, the  
2 Secretary of Transportation, in consultation with the Sec-  
3 retary of Commerce and the Secretary of Labor, shall sub-  
4 mit a report to the Committee on Commerce, Science, and  
5 Transportation of the Senate and the Committee on  
6 Transportation and Infrastructure of the House of Rep-  
7 resentatives that includes port performance indicators at  
8 the affected port. If multiple ports are affected by the ex-  
9 piration of the maritime labor agreement, the Secretary  
10 of Transportation shall submit a report for each affected  
11 port.

12 (b) CONTENTS.—Each report required under sub-  
13 section (a) shall include, for the affected port during the  
14 previous month—

15 (1) the performance indicators listed under sec-  
16 tion 6314(b)(2) of title 49, United States Code;

17 (2) the number and type of vessels awaiting  
18 berthing, including average wait time;

19 (3) the number of cancelled vessel calls;

20 (4) an estimate of the economic impact associ-  
21 ated with any delays both at the port and across the  
22 national economy;

23 (5) an estimate of the amount of time required  
24 to clear any congestion;

1           (6) the average number of positions ordered  
2           and filled; and

3           (7) any other factors that might have created  
4           delays, including weather, equipment maintenance or  
5           failures, or infrastructure development or repair.

6           (c) EFFECTIVE PERIOD.—The Secretary of Trans-  
7           portation, in consultation with the Secretary of Commerce  
8           and the Secretary of Labor, shall submit a report required  
9           under subsection (a) for an affected port until the date  
10          on which a new maritime labor agreement that applies to  
11          the facilities of the port is agreed to by all of the parties  
12          to that maritime labor agreement.

13          (d) DEFINITION OF MARITIME LABOR AGREE-  
14          MENT.—In this section, the term “maritime labor agree-  
15          ment” has the meaning given such term in section 40102  
16          of title 46, United States Code.