S. 158

To reauthorize the Surface Transportation Board, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 25 (legislative day, JANUARY 5), 2011

Mr. ROCKEFELLER (for himself and Mrs. HUTCHISON) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To reauthorize the Surface Transportation Board, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Surface Transpor-
tation Board Reauthorization Act of 2011”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Amendment of title 49, United States Code.

TITLE I—ADMINISTRATIVE PROVISIONS

Sec. 101. Authorization of appropriations.
Sec. 102. Board members.
Sec. 103. Establishment of Board as independent agency.
Sec. 104. Filing fees for certain cases.
Sec. 105. Repeal of expired and obsolete provisions.
Sec. 106. Department of Transportation Inspector General authority.
Sec. 107. Railroad-Shipper Transportation Advisory Council.

TITLE II—AUTHORITY IMPROVEMENTS

Sec. 201. Rail transportation policy update.
Sec. 203. Investigative authority.
Sec. 204. Compilation of complaints.
Sec. 205. Exempt traffic.
Sec. 206. Railroad service metrics and performance data.
Sec. 207. Uniform railroad costing system.
Sec. 208. Replacement cost study.
Sec. 209. Rail practices study.
Sec. 211. Offers of financial assistance.
Sec. 212. Adverse abandonments.
Sec. 213. Emergency service orders.
Sec. 214. Rate agreements.
Sec. 215. Miscellaneous provisions.

TITLE III—REGULATORY REFORM

Sec. 301. Paper barriers.
Sec. 302. Bottleneck and terminal switching rates.
Sec. 303. Terminal access.
Sec. 304. Service.
Sec. 305. Arbitration of certain rail rate, practice, and common carrier service expectation disputes.
Sec. 306. Maximum relief in certain rate cases.
Sec. 307. Advance rate challenge.
Sec. 308. Rate review timelines.
Sec. 309. Revenue adequacy study.
Sec. 310. Public usage of abandoned rail properties.
Sec. 311. Transactions.
Sec. 312. Considerations in consolidations, mergers, and acquisitions.
Sec. 313. Railroad development.
Sec. 314. Regulatory reform review.

TITLE IV—TECHNICAL CORRECTIONS

Sec. 401. Technical corrections to Public Law 110–432.

TITLE V—MISCELLANEOUS

Sec. 501. Effective dates.

1 SEC. 3. AMENDMENT OF TITLE 49, UNITED STATES CODE.

2 Except as otherwise expressly provided, whenever in

3 this Act an amendment or repeal is expressed in terms
of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

TITLE I—ADMINISTRATIVE PROVISIONS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Section 705 is amended by striking paragraphs (1) through (3) and inserting the following:

“(1) $40,370,000 for fiscal year 2011;
“(2) $47,518,000 for fiscal year 2012;
“(3) $40,834,000 for fiscal year 2013;
“(4) $44,315,000 for fiscal year 2014; and
“(5) $47,971,000 for fiscal year 2015.”.

SEC. 102. BOARD MEMBERS.

(a) MEMBERSHIP.—Section 701(b) is amended—

(1) by striking “3 members,” in paragraph (1) and inserting “5 members,”;

(2) by striking “2 members” in paragraph (1) and inserting “3 members”; and

(3) by striking paragraph (2) and inserting the following:

“(2) At any given time, at least 3 members of the Board shall be individuals with professional standing and demonstrated knowledge in the fields of transportation,
transportation regulation, or economic regulation, and at least 2 members shall be individuals with professional or business experience (including agriculture or other rail customers) in the private sector.”.

(b) Repeal of Holdover Limitation.—Section 701(b) is amended by striking “qualified, but for a period not to exceed one year.” in paragraph (3) and inserting “qualified.”.

(c) Repeal of Obsolete Provision.—Section 701(b) is amended—

(1) by striking paragraph (4) and redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively; and

(2) by striking “In the case of an individual who becomes a member of the Board pursuant to paragraph (4), or an individual” in paragraph (4), as redesignated, and inserting “An individual”.

SEC. 103. ESTABLISHMENT OF BOARD AS INDEPENDENT AGENCY.

(a) In General.—Section 701(a) is amended to read as follows:

“(a) Establishment of Board.—The Surface Transportation Board is an independent establishment of the United States Government.”.

(b) Conforming Amendments.—
(1) **Administrative provisions.**—Section 703 is amended—

(A) by striking subsections (a), (c), (f), and (g);

(B) by redesignating subsections (b), (d), and (e) as subsections (a), (b), and (c), respectively; and

(C) by adding at the end thereof the following:

“(d) **Submissions and Transmittals.**—Whenever the Board submits or transmits any budget estimate, budget request, supplemental budget estimate, or other budget information, legislative recommendation, prepared testimony for congressional hearings, or comment on legislation to the President or to the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. No officer or agency of the United States shall have any authority to require the Board to submit its budget requests or estimates, legislative recommendations, prepared testimony for congressional hearings, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.”.
(2) Administrative support.—

(A) Subchapter II of chapter 7 is amended by striking section 725.

(B) The table of contents for chapter 7 is amended by striking the item relating to section 725.

SEC. 104. FILING FEES FOR CERTAIN CASES.

(a) In general.—Subchapter II of chapter 7, as amended by section 103(b)(2)(A) of this Act, is amended by inserting after section 724 the following:

“§ 725. Filing fees

“The Board may not require a party to pay a filing fee to bring a formal complaint before the Board that is greater than the fee provided by section 1914 of title 28 for bringing a civil action in a district court of the United States.”.

(b) Conforming amendment.—The table of contents for chapter 7 is amended by inserting after the item relating to section 724 the following:

“725. Filing fees”.

SEC. 105. REPEAL OF EXPIRED AND OBSOLETE PROVISIONS.

(a) Contract limitation.—Section 10709 is amended by striking subsection (h).

(b) Agent in D.C.—

(1) Section 723 is amended—
(A) by striking “in the District of Colum-
bia,” in subsection (a); and

(B) by striking “in the District of Colum-
bia” in subsection (c).

(2) Section 724(a) is amended by striking “in
the District of Columbia” each place it appears.

SEC. 106. DEPARTMENT OF TRANSPORTATION INSPECTOR
GENERAL AUTHORITY.

(a) IN GENERAL.—Subchapter II of chapter 7 is
amended—

(1) by redesignating section 727 as section 728;

and

(2) by inserting after section 726 the following:

“§ 727. Authority of the Inspector General

“(a) IN GENERAL.—The Inspector General of the
Department of Transportation, in accordance with the
mission of the Inspector General to prevent and detect
fraud and abuse, shall have authority to review only the
financial management, property management, and busi-
ness operations of the Surface Transportation Board, in-
cluding internal accounting and administrative control
systems, to determine compliance with applicable Federal
laws, rules, and regulations.

“(b) DUTIES.—In carrying out this section, the In-
spector General shall—
“(1) keep the Chairman of the Board and the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure fully and currently informed about problems relating to administration of the internal accounting and administrative control systems of the Board;

“(2) issue findings and recommendations for actions to address such problems; and

“(3) report periodically to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on any progress made in implementing actions to address such problems.

“(c) ACCESS TO INFORMATION.—In carrying out this section, the Inspector General may exercise authorities granted to the Inspector General under subsections (a) and (b) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.).

“(d) AUTHORIZATIONS OF APPROPRIATIONS.—

“(1) FUNDING.—There are authorized to be appropriated to the Secretary of Transportation for use by the Inspector General of the Department of Transportation such sums as may be necessary to
cover expenses associated with activities pursuant to
the authority exercised under this section.

“(2) Reimbursable Agreement.—In the ab-

sence of an appropriation under this subsection for
an expense referred to in paragraph (1), the Inspec-
tor General and the Board shall have a reimbursable
agreement to cover such expense.”.

(b) Conforming Amendment.—The table of con-
tents for chapter 7 is amended by striking the item relat-
ing to section 701 and inserting the following:

“727. Authority of the Inspector General
“728. Definitions”.

SEC. 107. RAILROAD-SHIPPER TRANSPORTATION ADVISORY
COUNCIL.

Section 726 is amended—

(1) by striking “and” after the semicolon in
subsection (a)(2)(A);

(2) by striking “railroads.” in subsection
(a)(2)(B) and inserting “railroads; and”;

(3) by adding at the end of subsection (a)(2)
the following:

“(C) the ninth voting member shall be a
member-at-large, and may be a representative
of rail labor, a State or local transportation
agency, an academic institution, or other rel-
levant entity selected by the Chairman.”;
(4) by striking the second sentence of subsection (a)(4); and

(5) by striking the first sentence of subsection (f)(4) and inserting “The Council shall prepare an annual report concerning its activities and the results of Council efforts to resolve railroad and shipper issues and shall include in the report at least one recommendation to the Board stemming from the Council’s activities and any proposal regarding regulations or legislation it considers appropriate.”.

TITLE II—AUTHORITY IMPROVEMENTS

SEC. 201. RAIL TRANSPORTATION POLICY UPDATE.

Section 10101 is amended to read as follows:

“§ 10101. Rail transportation policy

“In regulating the railroad industry, it is the policy of the United States Government to balance the following objectives:

“(1) To promote a safe and efficient rail transportation system.

“(2) To allow, to the maximum extent possible, competition and the demand for services to establish reasonable rates for transportation by rail.

“(3) To protect rail shippers and to maintain reasonable rates where there is an absence of effec-
tive competition and where rail rates provide revenues that exceed the amount necessary to maintain and expand the rail system and to attract capital.

“(4) To foster the continuation and expansion of a sound rail transportation system while also preserving effective competition among rail carriers and with other modes to meet the needs of the public and National defense.

“(5) To ensure that rail carriers can earn adequate revenues to provide and sustain consistent, efficient, and reliable transportation services and to maintain and expand rail infrastructure, equipment, and technology.

“(6) To prohibit predatory pricing and practices, avoid undue concentrations of market power, and to prohibit unlawful discrimination.

“(7) To provide fair and expeditious regulatory decisions and ensure that the regulatory process is accessible and cost-effective for all affected parties.

“(8) To advance the environmental and energy efficiency advantages of rail transportation and encourage energy conservation and environmentally-responsible practices among rail carriers.

“(9) To foster intercity and commuter rail passenger service.
“(10) To encourage fair wages and safe and suitable working conditions in the railroad industry.”.

SEC. 202. OFFICE OF PUBLIC ASSISTANCE, GOVERNMENTAL AFFAIRS, AND COMPLIANCE.

(a) IN GENERAL.—Subchapter II of chapter 7, as amended by section 106 of this Act, is further amended—

(1) redesignating section 728 (as redesignated by section 106 of this Act) as section 729; and

(2) by inserting after section 727 the following:

“§ 728. Office of Public Assistance, Governmental Affairs, and Compliance

“(a) IN GENERAL.—The Board shall maintain an Office of Public Assistance, Governmental Affairs, and Compliance with authority over public assistance and outreach, governmental affairs, and compliance. The Office shall—

“(1) mediate disputes between affected parties;

“(2) monitor rail carrier operations subject to the Board’s jurisdiction to ensure that such operations are in compliance with each rail carrier’s statutory and regulatory responsibilities;

“(3) act as the Board’s point of contact with government, public and private parties;

“(4) facilitate communication among stakeholders subject to the Board’s jurisdiction; and
“(5) carry out other duties and powers prescribed by the Board.

“(b) CUSTOMER ADVOCATE.—The Board shall appoint a rail customer advocate who shall report directly to the Board. The rail customer advocate—

“(1) shall review or investigate rail customer inquiries and complaints;

“(2) shall serve as a technical advisor to a rail customer in any appropriate proceeding of the Board;

“(3) shall advise the Board in certain matters, as appropriate;

“(4) shall review information regarding the cost and efficiency of rail transportation;

“(5) shall carry out other duties and powers prescribed by the Board; and

“(6) may participate as a party in a proceeding of the Board, as appropriate.

“(c) OMBUDSMAN.—The Board may designate an employee of the Board to serve as an ombudsman of the Board in regional or local matters of Board interest, including matters related to railroad service, mergers and acquisitions, or any other matter designated by the Board.”.
(b) CONFORMING AMENDMENT.—The table of contents for chapter 7, as amended by section 106 of this Act, is amended by striking the item relating to section 728 and inserting the following:

“728. Office of Public Assistance, Governmental Affairs, and Compliance
729. Definitions”.

SEC. 203. INVESTIGATIVE AUTHORITY.

(a) AUTHORITY TO INITIATE INVESTIGATION.—Section 11701(a) is amended by striking “only on complaint.” and inserting “on the Board’s own initiative or on complaint.”.

(b) RATE PROCEEDINGS.—Section 10704(b) is amended by striking the first sentence and inserting “The Board may begin a proceeding under subsection (a)(1) on its own initiative or upon complaint, except that a proceeding to determine the reasonableness of the level of a rate charged by a carrier may only be initiated upon complaint.”.

SEC. 204. COMPILATION OF COMPLAINTS.

(a) IN GENERAL.—Section 704 is amended—

(1) by striking the section heading and inserting the following:

“§704. Reports”;

(2) by inserting “(a) ANNUAL REPORT.—” before “The Board”; and

(3) by adding at the end the following:
“(b) Complaints.—

“(1) The Board shall establish and maintain a database of complaints received by the Board.

“(2) The Board shall post a quarterly report of formal and informal service complaints received by the Board during the previous quarter that shall include—

“(A) a list of the type of each complaint;

“(B) the geographic region of the complaint; and

“(C) the resolution of the complaint, if appropriate.

“(3) The quarterly report may identify a complainant that submitted an informal complaint only upon the written consent of the complainant.

“(4) The report shall be posted on the Board’s public website.”.

(b) Conforming Amendment.—The table of contents for chapter 7 is amended by striking the item relating to section 704 and inserting the following:

“704. Reports”.

SEC. 205. EXEMPT TRAFFIC.

(a) In General.—Section 10502 is amended—

(1) by striking “the Board, to the maximum extent consistent with this part, shall” in subsection (a) and inserting “the Board shall”; and
(2) by striking “title.” in subsection (d) and inserting “title or to protect shippers from the abuse of market power.”.

(b) CURRENT CLASS EXEMPTIONS.—Within 2 years after the date of enactment of this Act, the Surface Transportation Board shall conclude a study of class exemptions in effect on the date of enactment of this Act to determine whether any exemptions should be revoked pursuant to section 10502(d) of title 49, United States Code. In conducting the study, the Board shall provide public notice and opportunity for comment and conduct 1 or more public hearings. Upon completion of the study, the Board shall—

(1) revise any such exemptions as necessary on the basis of the Board’s findings and conclusions from the study; and

(2) establish a process for the periodic review, and revision as necessary, of class exemptions.

SEC. 206. RAILROAD SERVICE METRICS AND PERFORMANCE DATA.

(a) REPORTING REQUIREMENTS.—Within 2 years after the date of enactment of this Act, the Surface Transportation Board shall require Class I railroad carriers and other railroad carriers, as appropriate, to regularly report railroad service metrics and other performance data as
prescribed by the Board. The metrics and data may include transportation cycle times and transit times and variations in such times, average train speed, and terminal dwell time by type of traffic and by geographic area and other metrics, as determined by the Board.

(b) **CONFIDENTIALITY.**—The Board shall ensure that metrics and other performance data submitted pursuant to this section and deemed confidential by the Board are appropriately protected.

**SEC. 207. UNIFORM RAILROAD COSTING SYSTEM.**

(a) **STUDY.**—Within 180 days after the date of enactment of this Act, the Surface Transportation Board shall initiate a proceeding to examine the Uniform Railroad Costing System. The examination shall consider matters deemed appropriate by the Board.

(b) **UPDATE.**—Within 3 years after the date of enactment of this Act, the Board shall update, revise, or replace the System and any related reporting of financial and operating information by rail carriers as deemed appropriate by the Board based on the examination required by subsection (a).

(c) **INTERIM REPORT.**—Within 18 months after the date of enactment of this Act, the Board shall submit an interim report on its progress on the proceeding to the Senate Committee on Commerce, Science, and Transpor-
tation and the House of Representatives Committee on Transportation and Infrastructure.

(d) MOVEMENT-SPECIFIC ADJUSTMENTS.—Until the Board updates, revises, or replaces the system pursuant to subsection (b), or thereafter at the discretion of the Board, parties may make reasonable movement-specific adjustments to the variable costs calculated by the System in full stand-alone cost rate challenges.

(e) MATERIAL CHANGE ADJUSTMENTS.—If the System is materially changed pursuant to subsection (b), the Board shall develop a one-time adjustment factor to be used to adjust the variable costs in rate prescriptions determined under the changed procedures to equal those that would have been obtained under the prior procedures, and will apply this adjustment factor, upon request, in rate prescriptions that are in effect as of the date of enactment of this Act.

SEC. 208. REPLACEMENT COST STUDY.

(a) STUDY.—Within 180 days after the date of enactment of this Act, the Surface Transportation Board shall initiate a study to review the use of a replacement cost approach to value the assets of rail facilities. The review shall include matters deemed appropriate by the Board, but shall include, at a minimum, consideration of the feasibility, effectiveness, and appropriateness of using a re-
placement cost approach in Board proceedings where re-
placement costs may be relevant. In conducting the study,
the Board shall provide public notice and opportunity for
comment and conduct 1 or more public hearings. The
Board shall complete the study within 2 years after its
initiation.

(b) REPORT TO CONGRESS.—Within 180 days after
completion of the study, the Board shall provide a report
to the Senate Committee on Commerce, Science, and
Transportation and the House of Representatives Com-
mittee on Transportation and Infrastructure on its find-
ings.

SEC. 209. RAIL PRACTICES STUDY.

(a) STUDY.—Within 180 days after the date of enact-
ment of this Act, the Surface Transportation Board shall
initiate a study of rail practices, including switching, sur-
charges, penalties, demurrage, and accessorial charges. In
conducting the study, the Board shall provide public notice
and opportunity for comment and conduct 1 or more pub-
lic hearings.

(b) REPORT TO CONGRESS.—Within 180 days after
completion of the study, the Board shall provide a report
to the Senate Committee on Commerce, Science, and
Transportation and the House of Representatives Com-
mittee on Transportation and Infrastructure on its findings.

SEC. 210. RAIL CAR INTERCHANGE STUDY.

(a) STUDY.—Within 180 days after the date of enactment of this Act, the Surface Transportation Board shall initiate a study of rail interchange rules, including car service, interchange, and other operating rules adopted and administered by the Association of American Railroads and the effect of those rules on the national rail system. In conducting the study, the Board shall provide public notice and opportunity for comment and conduct one or more public hearings.

(b) REPORT TO CONGRESS.—Within 180 days after completion of the study, the Board shall provide a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on its findings.

SEC. 211. OFFERS OF FINANCIAL ASSISTANCE.

Section 10904 is amended—

(1) by striking so much of subsection (d) as precedes paragraph (2) and inserting the following:

“(d)(1) Unless the Board, within 15 days after the expiration of the 4-month period described in subsection (c), finds that one or more financially responsible persons
(including a governmental authority) have offered finan-
cial assistance and established a reasonable likelihood of
freight rail service, public transportation, or intercity rail
passenger transportation over that part of the railroad line
to be abandoned or over which all rail transportation is
to be discontinued, abandonment or discontinuance may
be carried out in accordance with section 10903.”; and

(2) by striking “30 days” in subsection
(f)(1)(A) and inserting “60 days”.

SEC. 212. ADVERSE ABANDONMENTS.

Section 10903 is amended—

(1) by striking so much of subsection (a) as
precedes paragraph (2) and inserting the following:
“(a)(1) An application relating to the abandonment
of or discontinuance of operation of all rail transportation
over any part of a railroad line shall be filed with the
Board. An abandonment or discontinuance may be carried
out only as authorized under this chapter.”;

(2) by striking “When a rail carrier providing
transportation subject to the jurisdiction of the
Board under this part files an application, the appli-
cation” in subsection (a)(2) and inserting “An appli-
cation filed under this section”;

(3) by striking “rail carrier’s” in subsection
(a)(2)(A);
(4) by striking “(C)(i)” in subsection (a)(2)(C) and inserting “(C) if filed by a rail carrier, (i)”; and
(5) by striking “The rail carrier shall—” in subsection (a)(3) and inserting “The applicant shall—”.

SEC. 213. EMERGENCY SERVICE ORDERS.
Section 11123(c)(1) is amended by striking the second sentence and inserting “Action by the Board under subsection (a) of this section may be extended in 90-day increments until the Board finds that the emergency has ended.”.

SEC. 214. RATE AGREEMENTS.
(a) IN GENERAL.—Section 10706 is amended to read as follows:

§ 10706. Rate agreements
“(a) IN GENERAL.—In any proceeding in which it is alleged that a carrier was a party to an agreement, conspiracy, or combination in violation of the Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12 et seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9), or the Act of June 19, 1936 (15 U.S.C. 13, 13a, 13b, 21a) or of any similar State law, proof of an agreement, conspiracy, or combination may not be inferred from evidence that two or more rail carriers acted together with respect to an interline rate or related matter
and that a party to such action took similar action with respect to a rate or related matter on another route or traffic.

“(b) Inadmissible Evidence.—In any proceeding in which such a violation is alleged, evidence of a discussion or agreement between or among such rail carrier and one or more other rail carriers, or of any rate or other action resulting from such discussion or agreement, shall not be admissible if the discussion or agreement concerned an interline movement of the rail carrier, and the discussion or agreement would not, considered by itself, violate the laws referred to in subsection (a).

“(c) Determination by Court.—In any such proceeding before a jury, the court shall determine whether the requirements of subsection (b) are satisfied before allowing the introduction of any such evidence.”.

(b) Conforming Amendment.—The table of contents for chapter 107 is amended by striking the item relating to section 10706 and inserting the following:

“10706. Rate agreements”.

SEC. 215. MISCELLANEOUS PROVISIONS.

(a) Simplified Procedure.—Section 10701(d)(3) is amended to read as follows:

“(3) The Board shall maintain a simplified and expedited method for determining the reasonableness of chal-
lenged rates in those cases in which a full stand-alone cost
presentation is too costly, given the value of the case.”.

(b) EXPEDITIOUS HANDLING.—Section 10704(d) is
amended by striking the first sentence and inserting “The
Board shall maintain procedures to ensure expeditious
handling of challenges to the reasonableness of railroad
rates.”.

TITLE III—REGULATORY
REFORM

SEC. 301. PAPER BARRIERS.

(a) INTERCHANGE COMMITMENT DEFINED.—Section
10102 is amended—

(1) by redesignating paragraphs (4) through
(10) as paragraphs (5) through (11), respectively;
and

(2) by inserting after paragraph (3) the fol-
lowing:

“(4) ‘interchange commitment’ means a con-
tractual agreement between two or more rail carriers
subject to the jurisdiction of the Board reached as
part of a sale or lease of a rail line for which the
approval of the Board is required under chapter 109
or 113 of this part, which limits the incentive or the
ability of the purchaser or tenant rail carrier to
interchange traffic with a rail carrier other than the
seller or lessor rail carrier;”.

(b) AUTHORIZING AN ACQUISITION OR OPERATION
TRANSACTION.—

(1) Section 10901(c) is amended by adding at
the end thereof “The Board may not issue a certifi-
cate authorizing an acquisition or operation trans-
action under subsection (a)(4) that includes inter-
change commitments or other mechanisms restrict-
ing the purchaser’s or tenant’s ability to interchange
with any other carrier unless such commitments or
mechanisms are reasonable and in the public inter-
est.”.

(2) Section 10902(c) is amended by adding at
the end thereof “The Board may not issue a certifi-
cate authorizing an acquisition or operation trans-
action under this section that includes interchange
commitments or other mechanisms restricting the
purchaser’s or tenant’s ability to interchange with
any other carrier unless such commitments or mech-
anisms are reasonable and in the public interest.”.

(3) Section 11323 is amended by adding at the
end thereof the following:

“(d) The Board may not authorize an acquisition or
operation transaction under this section that includes
interchange commitments or other mechanisms restricting
the purchaser’s or tenant’s ability to interchange with any
other carrier unless such commitments or mechanisms are
reasonable and in the public interest.”.

(c) RIGHTS AND REMEDIES FOR INTERCHANGE COM-
MITMENTS.—Chapter 117 is amended by adding at end
thereof the following:

“§ 11708. Interchange commitments: rights and rem-
edies

“(a) IN GENERAL.—The Board shall maintain a
process to allow affected persons to challenge existing
interchange commitments as contrary to other provisions
of this part. The Attorney General and the Secretary of
Transportation may participate in such proceedings.

“(b) ACCESS TO INTERCHANGE COMMITMENTS.—
After the filing of a complaint or petition, the Board shall
provide affected persons access, upon request, to existing
and proposed interchange commitments, subject to condi-
tions protecting the confidentiality of those agreements.

“(c) REDRESS AUTHORITY.—The Board shall take
appropriate action to address any conflict between an
interchange commitment and the provisions of this part.

“(d) PURCHASE AUTHORITY.—
“(1) IN GENERAL.—Except as provided in para-
graph (5), if the Board finds that—
“(A) an interchange commitment is found to be in violation of this part, and

“(B) the purchaser or tenant rail carrier and the seller or lessor rail carrier cannot bring the interchange commitment into compliance with this part within a reasonable period of time,

the Board may require, upon application by the pur- chaser or tenant rail carrier, the elimination of the interchange commitment at a price paid by the pur- chaser or tenant rail carrier not less than the terms established under paragraph (2).

“(2) TERMS.—In the case of an interchange commitment subject to elimination under paragraph (1), the Board shall determine the fair market value of an interchange commitment by considering—

“(A) any credits, payments, expenses, or other income paid and due from the inter- change commitment to the seller or lessor rail carrier;

“(B) reasonable financial hardships of the purchaser or tenant rail carrier due to unrea- sonable terms, if any, of the interchange agree- ment; and
“(C) other relevant factors as determined by the Board.

“(3) **EMPLOYEE PROTECTION.**—The Board shall require protections consistent with the requirements of section 11326(a) for rail labor employees who are affected by an action under this subsection.

“(4) **PURCHASER PRECONDITIONS.**—Any purchaser or tenant rail carrier that buys out an interchange commitment under this subsection may determine preconditions, such as payment of a subsidy, which must be met by shippers in order to obtain service over such lines, but such rail carrier must notify the shippers on the line of its intention to impose such preconditions.

“(5) **EXCEPTION.**—If the Board requires the elimination of an interchange commitment under paragraph (1), and the purchaser or tenant rail carrier or the seller or lessor rail carrier demonstrates that the sale or lease agreement containing the interchange commitment contains a provision governing the manner in which the agreement may be terminated, the Board shall permit the agreement to be terminated in accordance with that provision.

“(6) **DEFINITIONS.**—In this subsection:
“(A) PURCHASER OR TENANT RAIL CARRIER.—The term ‘purchaser or tenant rail carrier’ means a Class II or Class III rail carrier that purchases or leases a rail line that is subject to terms of an interchange commitment.

“(B) SELLER OR LESSOR RAIL CARRIER.—The term ‘seller or lessor rail carrier’ means a Class I rail carrier that leased or sold a rail line subject to terms of an interchange commitment.

“(e) DEADLINE FOR COMPLETION OF PROCEEDING.—The Board shall complete any proceeding under this section within 180 days after the close of the administrative record.”.

(d) RAILROAD REHABILITATION AND IMPROVEMENT FINANCING.—

(1) Section 502(b)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(b)(1)) is amended—

(A) by striking “or” after the semicolon in subparagraph (B);

(B) by striking “facilities.” in subparagraph (C) and inserting “facilities; or”; and

(C) by inserting after subparagraph (C) the following:
“(D) provide financial assistance to purchase or lease a rail line subject to terms established by the Surface Transportation Board under section 11708(d) of title 49, United States Code.”.

(2) Section 502 of that Act (45 U.S.C. 822) is amended—

(A) by adding at the end of subsection (e) the following:

“(3) INTEREST RATE REDUCTION.—Subject to the availability of funds authorized by subsection (k), the Secretary may reduce the interest to be paid on direct loans provided to a Class II or Class III rail carrier for the purpose of subsection (b)(1)(D).”;

(B) in subsection (f)(1)—

(i) by inserting “or private insurance, including bond insurance,” after “in part credit risk”; and

(ii) by inserting “or insurance, including bond insurance,” after “authority and credit risk”;

(C) by striking “amounts.” in subsection (f)(3) and inserting “amounts or, at the discretion of the Secretary, in a series of payments
over the term of the loan. If insurance, including bond insurance, is used, the policy premium shall be paid before the loan is disbursed.”; and

(D) by adding at the end the following:

“(k) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary for purposes of carrying out subsection (e)(3) such funds as may be necessary for fiscal years 2011 through 2015.”.

(e) Interchange Commitment Relief Grants.— Chapter 201 is amended by adding at end thereof the following:

“§ 20168. Interchange commitment relief grants

“(a) In General.—Upon application, the Secretary of Transportation, in consultation with the Surface Transportation Board, may make grants available to assist any Class III rail carrier providing transportation subject to the jurisdiction of the Surface Transportation Board with the credit risk premium of a direct loan or loan guarantee made for the purposes of section 502(b)(1)(D) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(b)(1)(D)).

“(b) Limitations.—The Secretary of Transportation—

“(1) shall award grants only to applicants with financial need; and
“(2) may approve a grant under this section only as part of an application for a Railroad Rehabilitation and Improvement Financing loan or loan guarantee.

“(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Transportation for grants under this section $7,500,000 for fiscal years 2011 through 2015.”.

(f) Conforming Amendments.—

(1) The table of contents for chapter 117 is amended by inserting after the item relating to section 11707 the following:

“11708. Interchange commitments: rights and remedies”.

(2) The table of contents for chapter 201 is amended by inserting after the item relating to section 20167 the following:

“20168. Interchange commitment relief grants”.

SEC. 302. BOTTLENECK AND TERMINAL SWITCHING RATES.

(a) In General.—Subchapter I of chapter 107 is amended by adding at the end thereof the following:

“§ 10710. Bottleneck and terminal switching rates

“(a) A Class I rail carrier, or other rail carrier as deemed appropriate by the Board, that provides a rate for transportation between an origin and destination either as a single line movement or as part of an interline movement and over which the carrier has market dominance pursu-
ant to section 10707 shall, upon the reasonable request of a rail customer, establish a bottleneck rate for the purpose of providing transportation over a bottleneck segment located between such an origin and destination pursuant to this section. If the rail carrier contends that the transportation is not subject to market dominance under that section, the rail carrier shall seek an expedited determination of that issue from the Board.

“(b) Such a carrier shall establish such a rate and provide service upon such request without regard to whether the shipper has made arrangements for transportation for any other part of that movement.

“(c)(1) If the Board determines, under section 10707 of this title, that such a rail carrier has market dominance between the origin and destination, the bottleneck rate established for transportation pursuant to this section must be reasonable.

“(2)(A) Not later than one year after the date of enactment of the Surface Transportation Board Reauthorization Act of 2011, the Board shall establish and maintain standards for determining whether a bottleneck rate established by a rail carrier is reasonable for purposes of this section and establish a simplified and expedited method for determining the reasonableness of challenged bottleneck rates. In developing those standards the Board shall
consider rail carriers’ need to earn adequate revenues to provide and sustain consistent, efficient, and reliable transportation services and to maintain the national rail system.

“(B) In developing the standards, the Board shall include, as part of a reasonable rate—

“(i) operating costs, including any additional labor costs, of providing the requested transportation service over the bottleneck segment;

“(ii) maintenance costs associated with providing the requested transportation service;

“(iii) additional capital and investment costs required to perform the requested transportation service over the bottleneck segment;

“(iv) a reasonable return on embedded capital used for the requested transportation service over the bottleneck segment sufficient to meet the rail carrier’s cost of capital or, if such cost is not available, the rail industry cost of capital;

“(v) a reasonable contribution, to the extent appropriate, to that carrier’s network infrastructure costs of the non-bottleneck segment of the route offered by the incumbent rail carrier that is sufficient, along with other traffic on the segment, to maintain the non-bottleneck segment; and
“(vi) any other contributing factors appropriate to meet the consideration in subparagraph (A).

“(d) In any proceeding in which a rail customer challenges a bottleneck rate established under this section as unreasonable, the burden of proof that the rate is reasonable shall be on the rail carrier.

“(e) In this section:

“(1) The term ‘bottleneck rate’ means a rate for transportation over a bottleneck segment.

“(2) The term ‘bottleneck segment’ means the rail facilities, including rail facilities located entirely in terminal areas, between an origin on the carrier’s system and an interchange or between a destination on the carrier’s system and an interchange.

“(3) The term ‘interchange’ means an interchange on such a rail carrier’s system that exists on the date of the shipper’s request for a rate covered by this section that—

“(A) is practicable and would not significantly adversely affect such rail carrier’s network efficiency; and

“(B) would not significantly impair service to other customers of such rail carrier.”.

(b) CONFORMING AMENDMENTS.—
(1) The table of contents for chapter 107 is amended by inserting after the item relating to section 10709 the following:

“10710. Bottleneck and terminal switching rates”.

(2) Section 10705(a)(2)(A) is amended by inserting “10710,” after “under section”.

SEC. 303. TERMINAL ACCESS.

Section 11102 is amended to read as follows:

“§ 11102. Use of terminal facilities

“(a) For a Class I rail carrier, or other rail carrier as deemed appropriate by the Board, providing transportation over which the rail carrier has market dominance pursuant to section 10707 in a terminal area, the Board may require the rail carrier to make its terminal facilities, including mainline tracks for a reasonable distance outside of that terminal, available for use by another rail carrier for such transporation.

“(b) The Board may only require that a rail carrier take such action under subsection (a) if the Board finds that such action—

“(1) would be practicable and would not significantly adversely affect the operations of the terminal or facility owned by such rail carrier or rail carriers otherwise entitled to use the terminal or facilities;
“(2) would not significantly adversely affect the network efficiency of such rail carrier or rail carriers otherwise entitled to use the terminal or facilities;

“(3) would not significantly impair service to other customers of such rail carrier or other rail carriers entitled to use the terminal or facilities;

“(4) is necessary to promote the efficient operation of the railroad system and improve rail service; and

“(5) is in the public interest.

“(c) The rail carriers required to make facilities available or provide service pursuant to subsection (a) are responsible for establishing reasonable conditions and compensation for the use of the facilities. The compensation shall be paid or adequately secured before a rail carrier may begin to use the facilities of another rail carrier.

“(d)(1) Not later than one year after the date of enactment of the Surface Transportation Board Reauthorization Act of 2011, the Board shall establish and maintain standards for determining whether compensation is reasonable for purposes of this section and establish a simplified and expedited method for determining the reasonableness of challenged compensation rates.

“(2) In developing such standards, the Board shall consider rail carriers’ need to earn adequate revenues to
provide and sustain consistent, efficient, and reliable transportation services and to maintain the national rail system.

“(e) In developing the standards required by subsection (d), the Board shall include, as part of a reasonable compensation—

“(1) operating costs, including any additional labor costs, of providing the requested usage;

“(2) maintenance costs associated with providing the requested usage;

“(3) additional capital and investment costs required to perform the requested usage;

“(4) a reasonable return on embedded capital employed for the requested usage of terminal facilities sufficient to meet the rail carrier’s cost of capital or, if such cost is not available, the rail industry cost of capital;

“(5) a reasonable contribution, to the extent appropriate, to that carrier’s network infrastructure costs of the route beyond the terminal facilities and main line tracks made available for the requested usage, that is sufficient, along with other traffic on the route and mainline track, to maintain the route beyond the terminal facilities and mainline tracks made available for the requested usage; and
“(6) any other contributing factors appropriate to meet the considerations in subsection (d)(2).

“(g) A rail carrier whose terminal facilities are required to be used by another rail carrier under this section is entitled to recover compensation from the other rail carrier for damages sustained as the result of compliance with the requirement in a civil action.

“(h) In any proceeding in which a rail carrier challenges a compensation rate established under this section as unreasonable, the burden of proof that the rate is reasonable shall be on the rail carrier whose terminal facilities are required to be used by the other rail carrier.

“(i) If the Board requires that a rail carrier take such an action under subsection (a), the Board shall provide for the protection of the interests of employees affected thereby, consistent with the level of protection under section 10902 of this title.

“(j) The Board shall complete any proceeding under this section within 180 days after the closing of the evidentiary record. The Board may extend the deadline in incremental 30-day periods if it issues a decision demonstrating why such an extension is necessary.”.

SEC. 304. SERVICE.

Section 11101 is amended—
(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following:

“(f) The Board shall, by regulation, require rail carriers to publish reasonable common carrier service expectation ranges. These may include ranges for normal car cycle times, transit times, switching frequency, and other service components as determined by the Board to be appropriate.”.

SEC. 305. ARBITRATION OF CERTAIN RAIL RATE, PRACTICE, AND COMMON CARRIER SERVICE EXPECTATION DISPUTES.

(a) IN GENERAL.—Chapter 117, as amended by section 301, is further amended by adding at the end the following:

“§ 11709. Arbitration of certain rail rate, practice, and common carrier service disputes

“(a) IN GENERAL.—Not later than one year after enactment of the Surface Transportation Board Reauthorization Act of 2011, the Board shall promulgate regulations to establish a binding arbitration process to resolve rail rate, practice, and common carrier service expectation complaints subject to the jurisdiction of the Board.
“(b) COVERED DISPUTES.—The binding arbitration process—

“(1) shall apply to disputes involving rates, practices, and common carrier service expectations subject to the jurisdiction of the Board;

“(2) shall not apply to disputes to obtain the grant, denial, stay or revocation of any license, authorization or exemption, to prescribe for the future any conduct, rules, or results of general, industry-wide applicability, or to enforce labor protective conditions; and

“(3) shall not apply to disputes solely between 2 or more rail carriers.

“(c) ARBITRATION PROCEDURES.—

“(1) The Board—

“(A) may make the binding arbitration process available only to the relevant parties—

“(i) after the filing of a formal complaint; or

“(ii) upon petition by a party at the conclusion of any informal dispute resolution process provided by the Board for a complaint subject to this section;

“(B) with respect to rate disputes, may make the binding arbitration process available
only to the relevant parties if the rail carrier has market dominance, as determined under section 10707 of this title; and

“(C) shall determine whether to pursue the binding arbitration process no later than 30 days after the filing of a petition or formal complaint.

“(2) Initiation of the binding arbitration process shall preclude the Board from separately reviewing a complaint or dispute related to the same rate, practice, or common carrier service expectation in a covered dispute involving the same parties.

“(3) In resolving disputes involving the reasonableness of a rail carrier’s rates, the arbitrator shall consider the Board’s methodologies for setting maximum lawful rates, giving due consideration to the need for differential pricing to permit a rail carrier to collect adequate revenues within the meaning of section 10704(a)(2) of this title.

“(4) In resolving disputes involving common carrier service expectations, the arbitrator shall consider service expectations as published pursuant to section 11101(f).
“(d) Arbitration Decisions.—Any decision reached in an arbitration process under this section shall—

“(1) be consistent with subtitle IV of this title;

“(2) be in writing and shall contain findings of fact and conclusions;

“(3) have no precedential effect in any other or subsequent arbitration dispute; and

“(4) be binding upon the parties.

“(e) Timelines.—

“(1) The arbitrator shall be selected within 14 days after the Board’s decision to initiate arbitration.

“(2) The evidentiary process of the arbitration process shall be completed within 90 days after the date of initiation of the arbitration process, unless a party requests an extension and the arbitrator grants it.

“(3) The arbitrator shall issue a decision within 30 days after the close of the evidentiary record.

“(4) The Board may extend any of the timelines in this subsection upon the agreement of all parties in the dispute.

“(f) Arbitrators.—Arbitration under this section shall be conducted by an arbitrator selected from a roster,
maintained by the Board, of persons with transportation,
economic regulation, professional or business experience,
including agriculture, in the private sector. If the parties
cannot mutually agree on an arbitrator, the parties shall
select an arbitrator from the roster by alternately striking
names from the roster until only 1 name remains. The
parties shall share the costs of the arbitration equally.

“(g) RELIEF.—

“(1) LIMITATION.—A decision under this sec-
tion may award the payment of damages or rate pre-
scriptive relief, but the value of the award may not
exceed $250,000 per year and the award may not
cover a total time period of more than 2 years.

“(2) REVIEW.—The board shall periodically re-
view the amount in paragraph (1) and adjust it as
necessary to reflect inflation.

“(h) BOARD REVIEW.—If a party appeals an arbitra-
tor’s decision to the Board, the Board may review the deci-
sion under this section to determine if—

“(1) the decision is consistent with subtitle IV
of this title as applied by the Board; or

“(2) the award exceeds the limitation in sub-
section (g).”.
(b) CONFORMING AMENDMENT.—The table of contents for chapter 117 is amended by adding at the end following:

"11709. Arbitration of certain rail rate, practice, and common carrier service disputes".

SEC. 306. MAXIMUM RELIEF IN CERTAIN RATE CASES.

(a) IN GENERAL.—The Board shall revise the maximum amount of rate relief available to railroad shippers in cases brought pursuant to the methods developed under section 10701(d)(3) of title 49, United States Code, as that section existed as of the date of enactment of this Act, to be as follows—

(1) $1,500,000 in a rate case brought using the Board’s “three-benchmark” procedure; and

(2) $10,000,000 in a rate case brought using the Board’s “simplified stand-alone cost” procedure.

(b) PERIODIC REVIEW.—The Board shall periodically review the amounts established by subsection (a) and revise them as appropriate.

SEC. 307. ADVANCE RATE CHALLENGE.

The Surface Transportation Board may consider the reasonableness of a rate quoted by a rail carrier up to 1 year before the date on which the rate is to take effect.

SEC. 308. RATE REVIEW TIMELINES.

In stand-alone cost rate challenges, the Surface Transportation Board shall comply with the following
timelines unless it extends them, after a request from any party or in the interest of due process:

(1) For discovery, 150 days after the date on which the challenge is initiated.

(2) For development of the evidentiary record, 155 days after that date.

(3) For submission of parties’ closing briefs, 60 days after that date.

(4) For a final Board decision, 180 days after the date on which the parties submit closing briefs.

SEC. 309. REVENUE ADEQUACY STUDY.

Within 180 days after the date of enactment of this Act, the Surface Transportation Board shall initiate a study to provide further guidance on how it will apply its revenue adequacy constraint. In conducting the study the Board shall provide public notice and opportunity for comment and conduct 1 or more public hearings.

SEC. 310. PUBLIC USAGE OF ABANDONED RAIL PROPERTIES.

Section 10905 is amended—

(1) by striking “other forms of mass transportation,” and inserting “public transportation,”;

(2) by striking “the properties may be sold,” and inserting “the Board may require that the properties be sold,”;
(3) by striking “only under conditions” and inserting “pursuant to conditions, including the amount of compensation,”; and

(4) by striking “The conditions may include a prohibition on any such disposal” and inserting “At a minimum, the Board shall prohibit any disposal of such properties”.

SEC. 311. TRANSACTIONS.

Section 11325 is amended—

(1) by inserting “(1)” after “(a)” in subsection (a) and redesignating paragraphs (1) through (3) as subparagraphs (A) through (C);

(2) by adding at the end of subsection (a) the following:

“(2) The Board may extend the time limits specified in subsections (b), (c), and (d) of this section when more time is necessary to complete the environmental review process.”; and

(3) by striking “a transaction other than the merger or control of at least two Class I railroads, as defined by the Board, which the Board has determined to be of regional or national transportation significance,” in subsection (e) and inserting “the merger or control of one Class I railroad and at least one Class II railroad, as defined by the Board,
or if it involves a merger or control transaction, other than a transaction subject to subsection (b), which the Board has determined to be of regional or national transportation significance,”.

SEC. 312. CONSIDERATIONS IN CONSOLIDATIONS, MERGERS, AND ACQUISITIONS.

Section 11324 is amended—

(1) by striking paragraph (5) of subsection (b) and inserting the following:

“(5) the effect of the proposed transaction on competition among rail carriers in the affected region or in the national rail system.”;

(2) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively;

(3) by striking “Board,” in subsection (d) and inserting “Board, subject to subsection (e)”;

(4) by inserting after subsection (d) the following:

“(e) In considering whether to approve, deny, or approve with conditions a transaction covered under subsections (b) or (d) of this section, the Board may take into account any potentially significant effects of the transaction on—

“(1) public health, safety, and the environment; and

and
“(2) intercity rail passenger transportation and commuter rail passenger transportation, as defined by section 24102 of this title.”.

SEC. 313. RAILROAD DEVELOPMENT.

Section 10907(h) is amended to read as follows:

“(h) If a purchasing carrier under this section proposes to sell or abandon all or any portion of a purchased railroad line within 5 years after the date of sale under this section, such purchasing carrier shall offer the right of first refusal with respect to such line or portion thereof to the carrier which sold such line under this section. The offer shall be made at a price equal to the sum of the price paid by such purchasing carrier to such selling carrier for such line or portion thereof and the fair market value (less deterioration) of any improvements made, as adjusted to reflect inflation.”.

SEC. 314. REGULATORY REFORM REVIEW.

(a) Review.—The Comptroller General of the United States shall undertake a review of the regulatory changes made by this Act. The review shall include—

(1) a review of the Surface Transportation Board’s progress in implementing the provisions of this Act;
(2) an assessment of the impact on the rail
transportation system of the regulatory changes
made by this Act; and

(3) a specific analysis of the impact on railroad
operations, rates, competition, service, revenues,
maintenance, and investment resulting from the im-
plementation of sections 11102 and 10710 of title
49, United States Code, as amended and added, re-
spectively, by this Act.

(b) CONSULTATION.—In conducting this review, the
Comptroller General shall solicit input from the railroads,
railroad shippers, railroad non-profit employee labor orga-
nizations, the Federal Railroad Administration, and other
entities, as appropriate.

(c) REPORT TO CONGRESS.—Not later than Decem-
ber 31, 2013, the Comptroller General shall transmit a
report to the Senate Committee on Commerce, Science,
and Transportation and the House of Representatives
Committee on Transportation and Infrastructure con-
taining the results of the review required by this section
and any appropriate recommendations.
TITLE IV—TECHNICAL CORRECTIONS

SEC. 401. TECHNICAL CORRECTIONS TO PUBLIC LAW 110–432.


(b) The table of contents in section 1(b) of the Rail Safety Improvement Act of 2008 is amended—

(1) in the item relating to section 201 by striking “Pedestrian crossing safety” and inserting “Pedestrian safety at or near railroad passenger stations”; and

(2) in the item relating to section 403 by striking “Track inspection time study” and inserting “Study and rulemaking on track inspection time; rulemaking on concrete crossties”.

(c) Section 2(a)(1) of the Rail Safety Improvement Act of 2008 is amended by inserting a comma after “railroad tracks at grade”.

(d) Section 102(a)(6) of the Rail Safety Improvement Act of 2008 is amended to read as follows:

“(6) Improving the safety of railroad bridges, tunnels, and related infrastructure to prevent accidents, incidents, injuries, and fatalities caused by
catastrophic and other failures of such infrastruct-
ure.”.

e) Section 108(f)(1) of the Rail Safety Improvement
Act of 2008 is amended by striking “requirements for rec-
ordkeeping and reporting for Hours of Service of Railroad
Employees” and inserting “requirements for record keep-
ing and reporting for hours of service of railroad employ-
ees”.

(f) Section 201 of the Rail Safety Improvement Act
of 2008 is amended—

(1) in the section heading by striking “PE-
DESTRIAN CROSSING SAFETY.” and in-
serting “PEDESTRIAN SAFETY AT OR
NEAR RAILROAD PASSENGER STA-
TIONS.”;

(2) by striking “strategies and methods to pre-
vent pedestrian accidents, incidents, injuries, and fa-
talities at or near passenger stations, including—”
and inserting “strategies and methods to prevent
train-related accidents, incidents, injuries, and fa-
talities that involve a pedestrian at or near a rail-
road passenger station, including—”;

(3) in paragraph (1) by striking “at railroad
passenger stations”.

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(g) Section 206(a) of the Rail Safety Improvement Act of 2008 is amended by striking “Public Service Announcements” and inserting “public service announcements”.

(h) Section 403 of the Rail Safety Improvement Act of 2008 is amended—

(1) in the section heading by striking “TRACK INSPECTION TIME STUDY.” and inserting “STUDY AND RULEMAKING ON TRACK INSPECTION TIME; RULEMAKING ON CONCRETE CROSSTIES.”;

and

(2) in subsection (d)—

(A) by striking “CROSS TIES” in the subsection heading and inserting “CROSSTIES”;

(B) by striking “cross ties” and inserting “crossties”; and

(C) in paragraph (2) by striking “cross tie” and inserting “crosstie”.

(i) Section 405 of the Rail Safety Improvement Act of 2008 is amended—

(1) in subsection (a) by striking “cell phones,” and inserting “cellular telephones,”; and

(2) in subsection (d) by striking “of Transportation”.
(j) Section 411(a) of the Rail Safety Improvement Act of 2008 is amended—

(1) by striking “5101(a)” and inserting “5105(a)”; and

(2) by striking “5101(b)” and inserting “5105(b)”.

(k) Section 412 of the Rail Safety Improvement Act of 2008 is amended by striking “of Transportation”.

(l) Section 414 of the Rail Safety Improvement Act of 2008 is amended—

(1) in paragraph (2) by striking “parts” and inserting “sections”; and

(2) by striking “part 1520.5” and inserting “section 1520.5”.

(m) Section 416 of the Rail Safety Improvement Act of 2008 is amended—

(1) by striking “of Transportation”;

(2) in paragraphs (3) and (4), by striking “Federal Railroad Administration” and inserting “Secretary”; and

(3) in paragraph (4) by striking “subsection” and inserting “section”.

(n) Section 417(c) of the Rail Safety Improvement Act of 2008 is amended by striking “each railroad” and inserting “each railroad carrier”.

•S 158 IS
(o) Section 503 of the Rail Safety Improvement Act of 2008 is amended—

(1) in subsection (a) by striking “rail accidents,” and inserting “rail passenger accidents,”; and

(2) by adding at the end the following:

“(d) DEFINITIONS.—In this section, the terms ‘passenger’, ‘rail passenger accident’, and ‘rail passenger carrier’ have the meaning given those terms by section 1139 of title 49, United States Code.

“(e) FUNDING.—Out of funds appropriated pursuant to section 20117(a)(1)(A) of title 49, United States Code, there shall be made available to the Secretary of Transportation $500,000 for fiscal year 2009 to carry out this section. Amounts made available pursuant to this subsection shall remain available until expended.”.

(p) Section 206(a) of the Passenger Rail Investment and Improvement Act of 2008 is amended by inserting “of this division” after “302”.

(q) Section 211 of the Passenger Rail Investment and Improvement Act of 2008 is amended—

(1) by inserting “of this division” after “101(e)” in subsection (d); and

(2) by inserting “of this division” after “101(d)” in subsection (e).
(r) Section 1139 is amended—

(1) in subsection (a)(1) by striking “phone number” and inserting “telephone number”;

(2) in subsection (a)(2) by striking “post trauma” and inserting “post-trauma”;

(3) in subsections (h)(1)(A) and (h)(2)(A) by striking “interstate”;

(4) in subsections (h)(1)(B) and (h)(2)(B)—

(A) by striking “interstate or intrastate”;

and

(B) by striking “26105” and inserting “26106(b)(4)”;

(5) in subsection (j)(1) by striking “(other than subsection (g))” and inserting “(other than subsections (g) and (k))”;

and

(6) in paragraphs (1) and (2) of subsection (j) by striking “railroad passenger accident” and inserting “rail passenger accident”.

(s) Section 10909(b) is amended by striking “Railroad” and inserting “Railroads”.

(t) Section 20109 is amended—

(1) by striking “the railroad shall promptly arrange” in subsection (c)(1) and inserting “the railroad carrier shall promptly arrange”;
(2) by inserting “subsection” after “under” in subsection (d)(2)(A)(i); and


(u) Section 20120(a) is amended—

(1) in paragraph (2)(G), by inserting “and” at the end; and

(2) in paragraph (5)(B) by striking “Administrative Hearing Officer or Administrative Law Judge” and inserting “administrative hearing officer or administrative law judge”.

(v) Section 20151(d)(1) is amended by striking “to drive around a grade crossing gate” and inserting “to drive through, around, or under a grade crossing gate”.

(w) Section 20152(b) is amended by striking “rail carriers” and inserting “railroad carriers”.

(x) Section 20156 is amended—

(1) in subsection (e) by inserting a comma after “In developing its railroad safety risk reduction program”; and

(2) in subsection (g)(1) by striking “non-profit” and inserting “nonprofit”.

(y) Section 20157(a)(1) is amended—

(1) by striking “Class I railroad carrier” and inserting “Class I railroad”; and
(2) by striking “parts” and inserting “sections”.

(z) Section 20158(b)(3) is amended by striking “20156(e)(2)” and inserting “20156(e)”.

(aa) Section 20159 is amended by inserting “of Transportation” after “the Secretary”.

(bb) Section 20160 is amended—

(1) in subsection (a)(1) by striking “or with respect to” and inserting “with respect to”; and

(2) in subsection (b)(1)(A) by striking “or with respect to” and inserting “with respect to”.

(cc) Section 20162(a)(3) is amended by striking “railroad compliance with Federal standards” and inserting “railroad carrier compliance with Federal standards”.

(dd) Section 20164(a) is amended by striking “Railroad Safety Enhancement Act of 2008,” and inserting “Rail Safety Improvement Act of 2008,”.

(ee) Section 21102(c)(4) is amended by re-designating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(ff) Section 22106(b) is amended by striking “interest thereof” and inserting “interest thereon”.

(gg) Section 24105(e) of title 49, United States Code, is amended by striking “section 301 of the Passenger Rail
Investment and Improvement Act of 2008” and inserting “section 24406”.

(hh) Section 24302(a)(3) is amended by striking “5 individuals” and inserting “4 individuals”.

(ii) Section 24316 is amended by striking subsection (g).

(jj) The item relating to section 24316 in the table of contents for chapter 243 is amended by striking “to assist families of passengers” and inserting “to address needs of families of passengers”.

(kk) Section 24402 is amended—

(1) by striking “22506” in subsection (d) and inserting “22706”; and

(2) by striking subsection (e) and inserting the following:

“(e) AMTRAK ELIGIBILITY.—Amtrak may be the recipient of a grant under this section if Amtrak has entered into a cooperative agreement with 1 or more applicants to carry out 1 or more projects on a State rail plan’s list of rail capital projects developed under section 22705(a)(5) of this title. For such a grant, Amtrak may not use Federal funds authorized under section 101(a) or (c) of the Passenger Rail Investment and Improvement Act of 2008 to fulfill the non-Federal share requirements under subsection (g) of this section.”;
(4) by striking “AND EARLY SYSTEMS WORK AGREEMENTS” in the heading of subsection (f);

(5) by striking “A metropolitan planning organization, State transportation department, or other project sponsor” in subsection (i)(1) and inserting “An applicant”; and

(6) by striking subsection (k) and inserting the following:

“(k) SMALL CAPITAL PROJECTS.—The Secretary shall make not less than 5 percent annually available from the amounts appropriated under section 24406 beginning in fiscal year 2009 for grants for capital projects eligible under this section not exceeding $2,000,000, including costs eligible under section 209(d) of the Passenger Rail Investment and Improvement Act of 2008. For grants awarded under this subsection, the Secretary may waive requirements of this section, including State rail plan requirements, as appropriate.”.

(l) Section 24403(b)(1) is amended by striking “oversee the construction of such projects.” and inserting “for activities to award and oversee the implementation of such projects.”.

(mm) Section 24702(a) is amended by striking “not included in the national rail passenger transportation system”.

(nn) Section 24706 is amended—

(1) by striking “a discontinuance under section 24704 or or” in subsection (a)(1);
(2) by striking “section 24704 or” in subsection (a)(2); and
(3) by striking “section 24704 or” in subsection (b).

(oo) Section 24709 is amended by striking “The Secretary of the Treasury and the Attorney General,” and inserting “The Secretary of Homeland Security,”.

(pp) Section 24905(f)(1) is amended—

(1) in subparagraph (C) by striking “freight carriers” and inserting “freight railroad carriers”;
and
(2) in subparagraph (F) by striking “rail labor;” and inserting “representatives of nonprofit employee labor organizations representing railroad employees;”.

(rr) Section 26106(e)(4) is amended by striking “22506” and inserting “22706”.

TITLE V—MISCELLANEOUS

SEC. 501. EFFECTIVE DATES.

(a) In General.—Except as provided in subsection (b), this Act shall take effect on the date of enactment.
(b) SECTION 214.—The amendments made by section 214 shall take effect 2 years after the date of enactment of this Act.