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109TH CONGRESS *1st Session*	SENATE	REPORT 109–143

PASSENGER RAIL INVESTMENT AND IMPROVEMENT ACT OF 2005

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

S. 1516



OCTOBER 18, 2005.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

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OCTOBER 18, 2005.—Ordered to be printed

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

REPORT

[To accompany S. 1516]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1516) to reauthorize Amtrak, 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

S. 1516, the Passenger Rail Investment and Improvement Act of 2005 (PRIIA) authorizes Federal funding for the operation and development of intercity passenger rail service; makes improvements to Federal passenger rail transportation policy and activities; enhances passenger rail security; and reauthorizes Amtrak for 6 years.

BACKGROUND AND NEEDS

The National Railroad Passenger Corporation, known as Amtrak, was formed as a non-governmental corporation in 1971 through the enactment of the Rail Passenger Service Act of 1970. Creation of Amtrak relieved the then-financially beleaguered private railroad sector of their statutory obligations to offer intercity passenger transportation and to preserve and reinvigorate intercity passenger rail service throughout the nation. Amtrak was established as a for-profit corporation—a goal the Corporation has never met—and was expected to operate without Federal support beginning in 1973, despite inheriting routes and services that were generally un-

profitable when operated by the private railroads immediately preceding Amtrak's creation. Since its inception, Amtrak has received more than $29 billion in operating and capital support from the Federal government, mostly in the form of annual appropriations.

While intercity passenger rail service patronage steadily declined for decades in the United States following the second World War, recent increases in highway and aviation congestion, rising fuel costs, available rail capacity, and minimal environmental impacts have all made intercity passenger rail service a growing and increasingly important part of the nation's multi-modal transportation system. Today, Amtrak serves more than 500 stations in 46 States (Amtrak does not offer rail service in Alaska, Hawaii, South Dakota, or Wyoming) on over more than 22,000 route miles. Amtrak directly owns 730 route miles, primarily between Massachusetts and Washington, D.C. on Amtrak's Northeast Corridor (NEC) and in the State of Michigan, several station facilities including Pennsylvania Station in New York, New York and Chicago Union Station in Chicago, Illinois, and several major maintenance and repair facilities. In addition to infrastructure, Amtrak owns or leases 425 locomotives, 2,141 railroad cars, and numerous pieces of maintenance of way equipment, vehicles, and other associated assets. Outside of the NEC, Amtrak operates over tracks owned by freight railroads through access rights provided by law and either owns or contracts for the use of station facilities.

Amtrak's services can be classified into 4 distinct categories:

- NEC SERVICES.—Three classes of trains (regional, metroliner, and high-speed Acela Express) offer service between city pairs along the NEC, serving the densely populated and congested Northeast. Ridership on these services accounted for roughly 45 percent of Amtrak's total ridership in 2004;
- LONG-DISTANCE SERVICES.—Amtrak's long-distance trains generally travel over 750 miles and connect different regions of the country, serving both major cities and sparsely-populated rural areas where other transportation options are often limited. Ridership on these services accounted for roughly 16 percent of Amtrak's total ridership in 2004;
- CORRIDOR SERVICES.—Amtrak's corridor services connect intra- or interstate city pairs within 750 miles of each other. Amtrak generally receives some financial support from the States for the operational and capital costs of these services. Ridership on these services accounted for roughly 39 percent of Amtrak's total ridership in 2004;
- COMMUTER SERVICES.—Amtrak is also the nation's largest provider of contract-commuter service for State and regional authorities, operating rail commuter service in California, Maryland, Connecticut, Washington, and Virginia, and serving an additional 61.1 million people per year.

Since Amtrak's inception, Congress has provided Federal funding for Amtrak's operational and capital needs, either directly to Amtrak or through a Department of Transportation (DOT) grant process, which is currently the case. Federal funding is provided through the annual appropriations process from discretionary funds, and can vary significantly from year to year, depending on overall budget conditions and political support, as shown below.

FEDERAL CAPITAL AND OPERATING FUNDS FOR AMTRAK:

FY 1997	$0.8 billion
FY 1998	$1.7 billion
FY 1999	$1.7 billion
FY 2000	$0.6 billion
FY 2001	$0.5 billion
FY 2002	$0.8 billion
FY 2003	$1.0 billion
FY 2004	$1.2 billion
FY 2005	$1.2 billion

Amtrak's most recent authorization, the Amtrak Reform and Accountability Act of 1997 (Reform Act), reauthorized Amtrak for 5 years totaling $5.3 billion for FYs 1998–2002 and required Amtrak to achieve operational self-sufficiency ("operational self-sufficiency" was defined to mean that Amtrak's operating costs, excluding depreciation, would not be funded with Federal funds) by December 2002—a goal which the Corporation did not meet. During these years, limited Federal funding, failed Amtrak revenue initiatives, and an unwillingness by the railroad to exit services perceived as essential to their public mission led to the failure to dramatically reduce the corporation's reliance on Federal operating subsidies as called for by the Reform Act. Therefore, in order to survive with the available revenues and Federal monies, Amtrak curtailed or deferred many needed capital investments and took on large amounts of private debt financing to fund its basic system needs. Today, Amtrak has over $3 billion in debt, with associated servicing costs averaging $300 million annually. The lack of continuous capital investment in both rolling stock and infrastructure created a serious problem of deferred maintenance, primarily on the NEC, which currently undermines Amtrak's train performance and reliability, and therefore its revenue potential. During the time of the Reform Act, Amtrak's subsidy per passenger declined from about $80 in 1998 to about $22 in 2001, but this was due in large part to Amtrak's heavy borrowing and liquidation of assets to generate cash, leaving it with a large debt service bill today. In 2002, the final year of the Reform Act, Amtrak received a Federal loan and an emergency appropriation to avoid bankruptcy and its subsidy jumped to nearly $40 per passenger. Increases in the per passenger subsidy were similarly observed over the next 2 years, reaching nearly $44 in 2003 and $48 in 2004.

Under current management, Amtrak has undertaken significant efforts to reduce costs, restructure services, rebuild equipment and return infrastructure to a state-of-good-repair. Management reforms have led to reduced or stable operating costs, the termination of unproductive business lines, and increased ridership. Headcount at the Corporation has dropped by 3,900 since 2002, while the number of daily trains has risen from 265 in 2002 to 300 today. Amtrak's ridership grew 4.3 percent in 2004 to a record level of 25.1 million passengers. Significant challenges and funding needs remain. Amtrak and the DOT Inspector General (IG) identified roughly $5 billion in deferred maintenance and capital backlog projects needed to return the NEC to a state-of-good-repair. On-time performance across Amtrak's system remains dismally low, and Amtrak's flagship fleet of high-speed trains, the Acela Express,

were sidelined for several months due to brake problems. Acela Express trains only recently returned to service. The Corporation and its operating unions remain deadlocked in longstanding contract negotiations. Additionally, the Administration has proposed eliminating all funding for Amtrak, except for limited funds to be available to continue commuter rail services on the NEC should Amtrak enter bankruptcy.

Responding to calls for reforms and improved and expanded service, Amtrak's Board of Directors developed strategic reform initiatives (Board Plan) in April, 2005 to guide the future actions of the Corporation. Accompanying this plan was a request for $1.82 billion in Federal funding to support FY 06 capital investment programs and to support national operations.

The Board Plan sets forth several internal efforts to improve the railroad while also calling upon Congress to adequately fund the system and enact changes in statute to facilitate the achievement of certain goals. The 4 fundamental objectives of the Board Plan are:

- Development of passenger rail corridors utilizing a Federal/State matching approach common to all other modes (generally 80/20). States, not Amtrak, would lead the development of the corridors, a number of which have already been federally designated, and Amtrak and others may competitively bid to provide the service;
- Return of the NEC infrastructure to a state-of-good-repair and operational reliability, with phased-in financial responsibility for capital and operating costs assumed on a proportionate basis by all users, including Amtrak, freight and commuter railroads;
- Establishment of phased-in financial performance thresholds for Amtrak's existing 15 long-distance trains and any future similar proposed service; and
- Creation of markets for competition, private commercial participation and industrial reforms in various rail functions. This includes competition among operators, including Amtrak, for new corridor routes.

SUMMARY OF PROVISIONS

To address the challenges facing Amtrak and to promote the expansion and improvement of intercity passenger rail service, the Passenger Rail Investment and Improvement Act of 2005 (PRIIA) authorizes stable and predictable funding for long-term investments and improvements to intercity passenger rail service and sets forth strict guidelines for improvements to Amtrak's long-distance and corridor routes to reduce Amtrak's operating subsidy. PRIIA incorporates features from the Board's Strategic Plan, DOT's reauthorization proposal, recommendations by the DOT IG, and previous Senate reauthorization proposals.

PRIIA is a 6-year reauthorization bill (FY 2006-2011)—the same time frame as proposed in the Board Plan. The bill authorizes funding for Amtrak's capital and operating needs to maintain current operations, upgrade equipment, and return the NEC to a state-of-good-repair. Over the life of the bill, Amtrak's operating subsidy is reduced by 40 percent through cost cutting, restructuring, and reform while capital funding to Amtrak and the States for intercity passenger rail projects is increased.

FUNDING SUMMARY
(dollars in millions)

	2006	2007	2008	2009	2010	2011	Total	Avg. Annual
Amtrak 5-Year Plan Operating Subsidy Request	580	601	642	683	724	765	3,995	666
PRIIA Operating Subsidy Authorizations	580	590	600	575	535	455	3,335	556
Capital	788	810	821	821	821	821	4,893	816
State Grants	25	100	250	300	350	400	1,425	238
Debt Repayment	278	282	289.8	207.8	270	297.3	1,725	287
Total	1,671	1,782	1,961	2,004	1,976	1,973	11,378	1,896

The authorization levels for PRIIA are based, in part, on future operating and capital spending estimates developed by Amtrak and the DOT IG. The DOT's own Amtrak reauthorization proposal did not recommend specific funding amounts, but rather recommended "such sums as necessary" for the Corporation and related intercity passenger rail programs. Specifically, the amounts for capital include authorizations for the NEC and other corridors, long-distance trains, and Amtrak's system.

Through the operational reforms and flexibilities provided in the bill, Amtrak is expected to achieve operational efficiencies that will result in cost reductions and revenue increases that will result in a forty percent reduction (in real terms) in its Federal operating subsidy over the 6-year term of the bill. This reduction is reflected in the authorized funding levels. Sources of savings include: restructuring and streamlining long-distance train service; increased productivity; and, outsourcing and streamlining of food service and station operations. Amtrak revenues should increase due to increased State contributions for corridor service and increased passenger revenue due to service enhancements.

Amtrak Reforms and Operational Improvements

PRIIA requires several major Amtrak reform initiatives designed to increase financial and operation transparency and accountability, reduce Federal operating subsidies, and improve train performance and customer service.

The bill requires Amtrak to develop a new financial and cost accounting system for Amtrak operations and a 5-year financial plan that is consistent with the authorized funding levels in the bill. Amtrak's current accounting system is limited by both data quality and analysis depth, which hinders the development of accurate business plans and service models. This requirement will ensure increased transparency and better data inputs and analysis on which to base sound business decisions.

To address the staggering debt-load facing Amtrak, which currently consumes a significant portion of the Corporation's revenues and Federal assistance, the bill directs the Secretary of the Treasury, in consultation with the Secretary of Transportation and Amtrak, to enter into negotiations to restructure Amtrak's debt within 1 year after enactment. If such a restructuring results in significant savings to Amtrak or the Federal government, the Secretary

of the Treasury may assume the restructured debt, with the full faith and credit backing of the United States. If no restructuring is possible, Amtrak remains solely responsible for the debt without any Federal guarantee, as is the case currently. This approach provides an incentive for creditors to renegotiate and restructure current agreements in a way favorable to Amtrak in exchange for certainty of repayment. Reductions in principal and interest costs to Amtrak achieved through such a restructuring should lower Amtrak's need for Federal operating assistance, thus saving the public money.

PRIIA expands the current Amtrak Board of Directors by adding an additional member and the Amtrak President, bringing the total number of members to 9. Further, the bill seeks to establish a professional Board with the expertise to effectively lead the Corporation by requiring members to have a background in rail, transportation, or business. Additionally, the bill modifies the procedure for congressional consultation of member appointments and ensures that the Board has bipartisan representation. These steps should help to hasten the Senate confirmation process for Board members and ensure a full Board.

To track and enhance customer service, train performance and reliability, PRIIA requires the Federal Railroad Administration (FRA) and Amtrak, in consultation with the Surface Transportation Board (STB) and the freight railroads on whose track Amtrak operates, to jointly develop metrics and standards for measuring the performance and service quality of intercity train operations. Such metrics and standards shall address cost-recovery, on-time performance, ridership per train mile, on-board and station services, and the connectivity of routes. The bill further directs the Federal Railroad Administration to collect metric data and publish quarterly reports on train performance and service quality.

PRIIA also directs the FRA to retain an independent consultant to develop and recommend objective methodologies for route and service decisions. The methodologies shall give consideration to cost recovery and on-time performance of existing routes, connections with other routes, transportation needs of communities not served by other public transportation, and the methodologies used by rail service providers in other countries. Amtrak shall consider adoption of the methodologies recommended by the consultant. Amtrak often faces requests from the public and its representatives to begin new service, alter existing routes, or changes frequencies. This effort is expected to provide Amtrak with new options to consider when making decisions about when, where, and how often to run trains and provide the public with a better understanding of the considerations impacting such decisions.

States wishing to directly, or through another rail carrier, operate intercity passenger rail corridor service may seek use of Amtrak equipment, facilities, and reservation systems. If Amtrak and a State fail to reach an agreement governing such use, PRIIA directs the STB to determine reasonable terms of use and allows STB to direct Amtrak to make such assets available under such terms, so long as such use is essential to the planned service and will not impair or degrade Amtrak's other operations.

Northeast Corridor and Short-Distance Routes

The NEC is Amtrak's flagship asset. The Corporation operates the majority of its passenger trains on this line and the NEC provides Amtrak with the bulk of its patronage and revenue. However, the NEC, as Amtrak's main capital asset, also has the greatest capital needs and poses the largest set of future challenges to the Corporation. The intensity of current intercity and commuter operations coupled with years of deferred maintenance and limited capital spending has significantly impaired operations. While the on-time performance on the NEC is significantly better than the performance of some of Amtrak's long-distance trains, Amtrak's ownership and dispatching control of the NEC should mean reliable and on-time service, yet regular problems with Corridor infrastructure, equipment, and trackage consistently impacts train performance.

To address these issues, PRIIA requires Amtrak to develop a capital spending plan to return the NEC to a state-of-good-repair by the end of 2011. Some of the capital funds authorized in the bill are available to carry out the plan at a 100 percent Federal share. The bill also establishes an advisory commission to provide advice and oversight of the NEC's operations and infrastructure and to plan for the Corridor's future needs. The commission membership would represent Amtrak, the FRA, and the 13 States along the NEC. Additionally, to address historical differences in the fees paid to Amtrak for NEC access by various northeastern commuter authorities and to ensure that Amtrak is charging adequate fees to cover the associated costs, the commission is required to develop a proposal for determining the proper cost allocations and access fees for NEC passenger and commuter trains. If Amtrak and the States fail to develop or implement a proposal for determining such costs and assigning commiserate fees, PRIIA authorizes STB to impose restructured fees for the users of the NEC.

For other short distance corridor's services, Amtrak and the States, in consultation with FRA, must develop uniform cost allocation methodology to assign costs and determine compensation levels from States for the services Amtrak provides. Currently, States pay widely varying amounts to Amtrak to cover capital and operating costs associated with these services. PRIIA requires Amtrak and all States in which short distance trains are operated to settle on a cost allocation formula that eliminates this discrepancy, allowing all States to pay like amounts for like services. If Amtrak and the States do not develop or implement the proposed formula, the STB would be authorized to impose restructured compensation rates.

Long-Distance Trains

Amtrak's 15 long-distance trains serve 41 States connecting major regional population centers across the nation. These trains serve several travel markets simultaneously, providing basic public transportation in rural regions of the country where other options are limited, serving leisure travelers and tourists, and providing intercity corridor service between city pairs along a given route. Long distance trains come in various sizes and configurations, depending on the markets served, with trains featuring a mix of first class services, sleeping accommodations, coaches, dining cars, and baggage equipment. All of the long-distance trains incur operating

losses and require significant Federal operating subsidies. The long-distance services also routinely suffer significant delays en route for a number of reasons, including delays caused by freight train interference as they traverse freight railroad-owned trackage, which reflect Amtrak's reliability and the revenue potential for these services.

While some have called for the wholesale elimination of these trains, PRIIA requires that significant steps be taken to try to improve or restructure these services in order to reduce costs and enhance service while continuing to provide basic long-distance service to meet the mobility needs of rural communities that may not have access to other transportation alternatives where they can be justified. The bill requires Amtrak to rate the performance of its long-distance routes and establish performance improvement plans for all long-distance trains, beginning with the 5 lowest ranked routes. As Amtrak develops these plans, it must consider restructuring these routes, improving on-board services, changing amenities such as sleeper car service and food service, seeking revenue contributions from States or other sources, and changing train frequencies. Amtrak should also consider the feasibility of restructuring long-distance trains into a series of interconnected corridors. Such interconnected corridors may be able to provide better frequencies and operate at times that are more convenient to passengers on the route. Because Amtrak's long-distance trains generally operate night and day, a number of communities along the route receive service only at inconvenient times such as late in the middle of the night. If Amtrak fails to implement a plan for a specific route in accordance with the timetable set in the bill or if the plan does not lead to the achievement of the stated objectives, FRA has the authority to withhold Federal operating support for that route.

In an additional effort to improve service, the bill establishes a competitive bid program, administered by the FRA, allowing freight railroads to bid to operate a limited number of long-distance trains over their current routes. This program will introduce competition in an attempt to reduce operating costs and improve service and will offer an opportunity to observe passenger train performance over freight railroads when the host railroad is entirely in charge of the provision of service. Operating subsidies for any operators under this program are capped at the amount provided in the previous year. Any Amtrak employee adversely affected by the cessation of the operation of a route will either be relocated to other positions within Amtrak, provided financial incentives in exchange for the voluntary termination of their employment, or paid termination payments guaranteed under existing collective bargaining agreements.

Other Provisions

To address on-time performance and service issues impacting intercity passenger trains operating over freight railroad trackage, the bill directs the STB to issue a quarterly on-time service report. If for a particular route, a passenger train's on-time performance record falls below 80 percent for 2 consecutive quarters or fails to meet other requirements set by the FRA, STB will investigate the causes and make recommendations to Amtrak or a freight railroad how to reduce delays. If the STB determines that delays to pas-

senger trains are the result of freight railroads not providing priority access to Amtrak, as required under law, the Board may take appropriate action to enforce Amtrak's priority access rights.

In an effort to encourage the development of new and improved intercity passenger rail services, PRIIA creates a new State Capital Grant program for intercity passenger rail capital projects as proposed by the Administration and based on the New Starts transit capital program administered by the Federal Transit Administration (FTA). The program authorizes grants to a State, or a group of States, to pay for the capital costs of facilities and equipment necessary to provide new or improved intercity passenger rail. The Federal match is 80 percent. The Secretary of Transportation will award grants for projects based on economic performance, expected ridership and other factors.

Complementing the State Capital Grant program, PRIIA authorizes States and Amtrak to issue Federal tax credit bonds to finance intercity passenger rail capital projects, should such bonds be enacted into law. The Senate Finance Committee has jurisdiction over the creation of such bonds and the Commerce Committee hopes that the Finance Committee will purse their creation. The availability of tax credit bonds would provide States and Amtrak with a multi-year, dedicated source of capital funding, allowing for long-term development projects and efficient construction practices. Under PRIIA, bond proceeds would be available for projects that are contained in a State's rail plan. For Amtrak, projects must be contained within the Corporation's 5-year plan and Amtrak may not issue bonds without the approval of the Secretary of Transportation.

PRIIA includes the Amtrak and passenger rail security and tunnel life/safety provisions from the Rail Security Act of 2004. This bill was unanimously passed by the Senate in 2004 and reflects the Committee's long-standing interest in enhancing rail security.

LEGISLATIVE HISTORY

S. 1516 was introduced on July 27, 2005, by Senator Lott and cosponsored by Senators Lautenberg, Stevens, Inouye, Burns, and Hutchison, and was referred to the Senate Committee on Commerce, Science, and Transportation. A hearing on the reauthorization of Amtrak was held by the Commerce Committee's Subcommittee on Surface Transportation and Merchant Marine on April 21, 2005. On July 28, 2005, the Committee met in open executive session and ordered S.1516 reported favorably with an amendment in the nature of a substitute.

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:

SEPTEMBER 30, 2005.

Hon. TED STEVENS,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1516, the Passenger Rail Investment and Improvement Act of 2005.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Rachel Milberg.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

S. 1516—Passenger Rail Investment and Improvement Act of 2005

Summary: S. 1516 authorizes the appropriation of about $9.2 billion over the 2006–2010 period, and another $1.5 billion in 2011, for grants to Amtrak to cover operating expenses, capital projects, debt repayment, security improvements, and a study required by the bill. The legislation also would authorize the appropriation of about $1 billion over the 2006–2010 period, and another $411 million in 2011, to the Secretary of Transportation for a new grant program for state railroad projects, a new research program, a new grant program for Amtrak and participating states to share railroad equipment, and a study on screening the baggage of Amtrak passengers. Assuming appropriation of the specified amounts, CBO estimates that implementing those provisions would cost $9.6 billion over the 2006–2010 period, and another $2.6 billion after 2010.

In addition to those authorizations of appropriation, S. 1516 would increase the requirements of the Federal Railroad Administration (FRA) and the Inspector General of the Department of Transportation (DOT) to oversee Amtrak. Assuming appropriation of the necessary amounts, CBO estimates that those provisions would cost about $5 million each year beginning in 2006.

S. 1516 would affect direct spending by authorizing the Surface Transportation Board (STB) to charge penalties to freight railroads for delaying Amtrak trains and provide those penalties to Amtrak. The bill also would authorize the Secretary of the Treasury to repay Amtrak debt if the Secretary chooses to negotiate with Amtrak's creditors to restructure the debt. CBO expects that the impact on direct spending would be insignificant because STB would spend whatever it collects in penalties and because we do not expect that the Treasury would seek to restructure and repay Amtrak's debt. If, however, the Treasury does repay Amtrak's debt, that provision would increase direct spending by over $2 billion over the next several years. Enacting S. 1516 would not affect revenues.

S. 1516 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA); any costs to State, local, and tribal governments would result from participation in a voluntary Federal program. Other provisions of the bill would benefit States by authorizing about $1.5 billion in new grants for States to improve intercity passenger rail service.

S. 1516 would impose various private-sector mandates, as defined in UMRA, on Amtrak. CBO estimates that the direct costs of those mandates would fall below the annual threshold established by UMRA for private-sector mandates ($123 million in 2005, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1516 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

	By fiscal year, in millions of dollars—					
	2005	2006	2007	2008	2009	2010
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law for Amtrak:						
Budget Authority[1]	1,207	0	0	0	0	0
Estimated Outlays	1,235	10	10	0	0	0
Proposed Changes:						
Amtrak:						
Authorization Level	0	1,936	1,934	1,967	1,705	1,627
Estimated Outlays	0	1,936	1,934	1,967	1,705	1,627
Grants to States for Rail Projects:						
Authorization Level	0	24	100	246	274	369
Estimated Outlays	0	4	22	72	139	205
Rail Research:						
Authorization Level	0	5	5	5	5	5
Estimated Outlays	0	3	5	5	5	5
Train Equipment Pool:						
Authorization Level	0	5	0	0	0	0
Estimated Outlays	0	1	1	1	1	1
Study on Screening Amtrak Baggage:						
Authorization Level	0	1	0	0	0	0
Estimated Outlays	0	1	0	0	0	0
DOT Oversight of Amtrak and State Rail Plans:						
Estimated Authorization Level	0	5	5	5	5	5
Estimated Outlays	0	5	5	5	5	5
Total Changes:						
Estimated Authorization Level	0	1,976	2,044	2,223	1,989	2,006
Estimated Outlays	0	1,950	1,967	2,050	1,855	1,843
Spending Under S. 1516:						
Estimated Authorization Level[1]	1,207	1,976	2,044	2,223	1,989	2,006
Estimated Outlays	1,235	1,960	1,977	2,050	1,855	1,843

[1] The 2005 level is the amount appropriated for that year.

Basis of estimate: S. 1516 would authorize the appropriation of $12.2 billion over the 2006–2011 period; CBO assumes that the amounts specified in the bill would be appropriated near the beginning of each fiscal year. S. 1516 also increases the responsibilities of FRA and the DOT Inspector General for overseeing Amtrak. CBO assumes that the amounts necessary to increase oversight—about $5 million a year—would be appropriated. Estimates of outlays are based on historical trends for Amtrak spending and other programs similar to the ones that S. 1516 would authorize.

Spending subject to appropriation

Amtrak. S. 1516 would authorize the appropriation of $10.7 billion for grants to Amtrak over the 2006–2011 period. This total includes $4.4 billion for operating expenses, $4.9 billion for capital projects, $1.7 billion for the repayment of the principal and interest on its debt, $794 million for security improvements, and $500,000 to develop a plan to address the needs of families of passengers involved in a rail accident. CBO expects that Amtrak spending under this bill would be primarily for short-term capital projects and op-

erating expenses. Currently, the Secretary of Transportation makes appropriations immediately available to Amtrak for such expenses. Assuming appropriation of the amounts specified, CBO estimates those grants to Amtrak would cost $9.2 billion over the 2005–2010 period, and another $1.5 billion in 2011.

Grants to States for Rail Projects. S. 1516 would authorize the Secretary of Transportation to make grants to states for capital projects that would improve intercity rail service. For those grants, the bill would authorize the appropriations of $1.4 billion over the 2006–2011 period. Assuming appropriation of the specified amounts, CBO estimates those grants would cost about $1 billion over the 2006–2010 period and just over $400 million after 2010.

Rail Research. S. 1516 would authorize the appropriation of $30 million over the 2006–2011 period to the Secretary of Transportation to improve models for understanding railroad transportation, and study ways in which railroad transportation could be improved. Assuming appropriation of the specified amounts, CBO estimates this research would cost $23 million over the 2006–2010 period and another $7 million after 2010.

Train Equipment Pool. S. 1516 would direct FRA, Amtrak, and interested states to form a committee that would develop standards for rail corridor equipment. Under the bill, Amtrak and participating states could also enter into agreements or establish a corporation for acquiring such equipment. For these activities, the bill would authorize the appropriation of $5 million to the Secretary of Transportation. Assuming appropriation of the specified amount, CBO estimates this program would cost $5 million over the 2006–2010 period.

Study on Screening Amtrak Baggage. S. 1516 would authorize the appropriation of $1 million in 2006 to the Secretary of Homeland Security for a study on screening the baggage and cargo on Amtrak trains. Assuming appropriation of the authorized amount, CBO estimates this study would cost $1 million in 2006.

DOT Oversight. S. 1516 would require the Federal Railroad Administration to develop ways to measure Amtrak's performance, organize two commissions to oversee Amtrak's Northeast Corridor, review state rail plans, create a national rail plan, and report on passenger rail security. The legislation would also require DOT's Inspector General to review Amtrak's financial statements and five-year plans. Assuming appropriation of the necessary amounts, CBO estimates those provisions would cost about $5 million each year beginning in 2006.

Direct spending

S. 1516 would authorize the Surface Transportation Board to charge penalties to freight railroads, provide those penalties to Amtrak, and the bill would authorize the Secretary of Treasury to repay Amtrak debt. CBO, however, expects that the impact on direct spending of those provisions would be insignificant.

Freight Railroad Penalties. S. 1516 would direct the STB to investigate Amtrak's failure to meet certain performance measures, and determine when the performance failure is due to a freight rail carrier's refusal to provide Amtrak preference over its tracks. The bill would authorize the STB to charge penalties to freight rail carriers for refusing to give Amtrak such preference, and the bill

would direct STB to provide those penalties to Amtrak. Collecting the penalties and providing them to Amtrak would affect direct spending, but CBO estimates that the net impact on the federal deficit would be insignificant. CBO estimates that such penalties would total less than $500,000.

Repayment of Amtrak Debt. S. 1516 would authorize the Secretary of the Treasury to negotiate with Amtrak's creditors to restructure Amtrak's long-term debt with the goal of reducing costs to Amtrak and the government. The Secretary's authority to initiate such negotiations would expire on January 1, 2007. The bill also would direct the Secretary to repay whatever debt the Secretary is able to restructure if the government and Amtrak would realize savings. Based on information from Amtrak, the Department of Transportation, and the Treasury, CBO does not expect that the Secretary of the Treasury would opt to negotiate with Amtrak's creditors, and as a result, would not repay any of Amtrak's debt under this bill. Thus, CBO does not estimate that this provision would affect direct spending. Amtrak currently holds about $3.7 billion in long-term debt. Of this total, almost $1 billion is held in an escrow account for repayment, leaving $2.7 billion available for restructuring under S. 1516. If the Treasury does restructure and repay this debt, CBO estimates that the repayment would increase direct spending by more than $2 billion over the next several years.

Estimated impact on state, local, and tribal governments: S. 1516 contains no intergovernmental mandates as defined in UMRA. Provisions of the bill would either benefit states or impose costs on them as a result of their participation in a voluntary federal program.

Title I of the bill would authorize about $1.5 billion over the 2006–2011 period for grants to states to improve intercity rail service. This provision would generally benefit intergovernmental entities. Grants to states would require matching funds from nonfederal sources, but such costs would be incurred voluntarily.

Title II would require certain states with Amtrak routes to agree on a formula for the distribution of capital and operating costs. The federal govenrment—via Amtrak—currently subsidizes these routes, so any requirements on states would be a condition of receiving federal assistance. The bill effectively would increase the price of the federal service, and CBO views these types of relationships as voluntary federal programs.

Estimated impact on the private sector: S. 1516 would impose various private-sector mandates, as defined in UMRA, on Amtrak. The bill includes reforms related to financial reporting that would require Amtrak to submit an annual budget and a five-year fiscal plan for Amtrak to the Secretary of Transportation and DOT's Inspector General and implement a modern financial accounting and reporting system, subject to review by DOT. The bill also would require Amtrak to evaluate the performance of each long-distance passenger rail route annually and the improvements necessary to make all existing stations readily accessible to and usable by persons with disabilities. The bill would require that Amtrak:

- Develop new or improve existing metrics and minimum standards for measuring performance and service quality of intercity train operations;

- Develop and implement a plan to improve on-board service within one year after those metrics and minimum standards are established; and
- Submit a plan to the Chairman of the National Transportation Safety Board and the Secretary of Transportation for addressing the needs of families of passenger involved in fatal rail accidents involving Amtrak intercity trains.

Most of the requirements in the bill are already being met by Amtrak. For those requirements that may require additional effort or changes to current efforts, the cost to make such changes would be small. CBO estimates that the aggregate cost of the private-sector mandates included in S. 1516 would fall below the annual threshold established by UMRA for private-sector mandates ($123 million in 2005, adjusted annually for inflation).

Estimate prepared by: Federal Costs: Rachel Milberg; Impact on State, Local, and Tribal Governments: Sarah Puro; Impact on the Private Sector: Selena Caldera.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

For an analysis of the economic impact on the private sector, see page 10 of the CBO estimate.

SECTION-BY-SECTION ANALYSIS

TITLE I—AUTHORIZATIONS

Section 101. Authorization for Amtrak Capital and Operating Expenses and State Capital Grants.

This section authorizes capital and operating grants to Amtrak for each of the fiscal years 2006 through 2011. Operating grant authorizations are as follows:

FY 06: $580 million
FY 07: $590 million
FY 08: $600 million
FY 09: $575 million
FY 10: $535 million
FY 11: $455 million

This section authorizes capital grants for the national railroad transportation system, for expenses to bring the Northeast Corridor to a state-of-good-repair, and to make grants directly to States for other intercity rail passenger improvements under section 301. Capital grant authorizations are as follows:

Amount authorized	Percent available for States
FY 06: $813 million	3 percent
FY 07: $910 million	11 percent
FY 08: $1.071 billion	23 percent
FY 09: $1.096 billion	25 percent
FY 10: $1.191 billion	31 percent
FY 11: $1.231 billion	33 percent

One half of one percent of the available capital funds is available to the Secretary of Transportation to perform project management

oversight for Amtrak and State capital projects funded under this section.

Section 102. Authorization for the Federal Railroad Administration.

There are authorized to be appropriated to the Federal Railroad Administration such funds as are necessary to implement responsibilities authorized by this Act for fiscal years 2006 through 2011.

Section 103. Repayment of long-term debt and capital leases.

Funds are authorized to be appropriated to pay interest and principal on Amtrak's long-term debt for fiscal years 2006 through 2011. The average amount authorized per year for interest and principal repayment is $287.5 million. Funds also are authorized, to the extent necessary, to exercise early buyout options if advantageous to Amtrak, and therefore the taxpayers. These authorization amounts shall be reduced by the amount of Amtrak's debt service costs reduced through debt restructuring by the Secretary of the Treasury under section 215.

Section 104. Excess railroad retirement.

Such sums as are necessary are authorized to be appropriated to the Secretary of Transportation for fiscal year 2006 to pay into the Railroad Retirement Account the portion of Amtrak's Railroad Retirement Tier II Tax which exceeds the Railroad Retirement Tier II annuities paid to Amtrak retirees. The authorization level for Amtrak's operations grant is to be reduced by payments the Secretary makes under this section.

Section 105. Other authorizations.

Five million dollars is authorized for each of fiscal years 2006 through 2011 for the rail cooperative research program required under section 305. Another $5 million is authorized for fiscal year 2006 to Amtrak and States participating on the Next Generation Corridor Train Equipment Pool Committee.

TITLE II—AMTRAK REFORM AND OPERATION IMPROVEMENTS

Section 201. National railroad passenger transportation system defined.

The definition of the basic Amtrak route system, which has been obsolete since 1997, is repealed, and a new "national rail passenger transportation system" is defined as: Amtrak's Boston-Washington Northeast Corridor; high-speed corridors designated by the Secretary of Transportation once they have been improved for high-speed service; long-distance routes (of greater than 750 miles) operated on the date of enactment; and short-distance routes operated by Amtrak or a non-Amtrak recipient of Federal capital assistance under section 301. Amtrak and a State may agree on the operation of an intercity route or service not included in the national rail transportation system.

Subsection (b) clarifies that the 180-day notice period for routes which Amtrak seeks to discontinue does not apply for routes exclusively supported by non-Federal sources, including States, local regional or local authorities, or other parties that contract with Amtrak to provide intercity passenger rail service. Nothing in this pro-

vision is meant to provide third parties with direct statutory access to Amtrak or privately-owned rail infrastructure. As is the case today, third parties seeking to initiate intercity passenger rail service must contract with Amtrak to operate such service if Amtrak's statutory right of access to private rail infrastructure is to be used.

Subsection (c) states that Amtrak's general powers to develop and operate non-high-speed intercity service are unaffected by this bill.

Subsection (d) states that the provision of law pertaining to the discontinuance of Amtrak routes, 49 U.S.C. 24706, applies to all routes operated by Amtrak regardless of a route's inclusion in the National Railroad Passenger Transportation System. This provision affirms that a route's inclusion in the National Railroad Passenger Transportation System does not protect that route from possible discontinuance. The Committee does not intend for this provision to countervail the amendments made by subsection (b).

Section 202. Amtrak board of directors.

Effective, January 1, 2006, the Amtrak Board is expanded to 9 members as follows: the Secretary of Transportation, the President of Amtrak, and 7 individuals with experience in business, finance, or activities related to passenger transportation, who are appointed by the President of the United States, by and with the advice and consent of the Senate, for a term of 5 years or until their successors have been appointed and qualified. The President must consult with congressional leaders to ensure balanced representation of regions served by Amtrak. Members of Amtrak's Board serving on the date of enactment may continue to serve to the end of their terms.

Section 203. Establishment of improved financial accounting system.

Section 203 directs Amtrak to implement a modern accounting and reporting system that enables the railroad to: assign revenues and expenses to each of its lines of business and major activities, such as train operations, equipment maintenance, ticketing and reservations; separate costs of infrastructure and rail operations; allow analysis or ticketing and reservation data on a real-time basis; and provide cost-accounting data. Requires the DOT IG to review the accounting system and ensure it accomplishes the specified purposes. Without improved financial systems and controls, it will be difficult for Amtrak to substantially improve its operations, save money, and increase revenue.

Section 204. Development of 5-year financial plan.

Requires Amtrak to submit its annual budget for the next fiscal year and a 5-year financial plan to DOT on the first day of the fiscal year or 60 days after enactment of an appropriation for such fiscal year. The budget should specify how Amtrak plans to spend its Federal subsidy that it has received in the appropriations act. This budget is distinct from the budget request that Amtrak submits to the Administration and Congress. The 5-year plan shall include projected revenues, expenditures, ridership, capital funding requirements, cash flow forecasts, and an assessment of Amtrak's continuing financial stability. The Inspector General of the Depart-

ment of Transportation shall report to the Congress on the annual budget and the 5-year plan prepared by Amtrak. It is the Committee's expectation that the 5-year plan conform to the authorization levels contained in this legislation and that the out-year detail be sufficient for Congress to be able to ascertain if Amtrak will be able to achieve the operating subsidy reductions required by section 101.

Section 205. Establishment of grant process.

Section 205 requires the Secretary of Transportation to establish substantive and procedural requirements for Amtrak grant requests. It is the Committee's expectation that the requirements developed by the Secretary provide sufficient transparency and controls over Amtrak's use of the Federal appropriation. The requirements should include controls that ensure that Federal funds appropriated for capital projects are not diverted to cover operating costs. After Amtrak submits a complete grant request including a schedule for funding, the Secretary must approve or disapprove it within 30 days. If the request is denied, the Secretary must notify Amtrak of the reasons, and Amtrak must submit a modified request within 15 days. If the Secretary denies the modified request, the Secretary must, within 15 days of its receipt, notify the appropriate House and Senate Committees of the reasons for such disapproval and recommend a process for resolving the outstanding issues. This grant process provides additional Federal oversight ensuring that funds appropriated for the use of Amtrak are used efficiently and for purposes consistent with this Act. Additionally, the Committee believes that statutory establishment of this process will provide both Amtrak and the Secretary with clear timelines and expectations, which should minimize disputes and result in the timely and predictable transmittal of appropriated funds. The Committee does not intend the grant process to be used by either party as a means to pursue or require initiatives not included in this reauthorization.

Section 206. State-supported routes.

Within 2 years after the date of enactment, Amtrak, in consultation with the Secretary and the chief executive of each State, must develop a standardized methodology for computing and allocating operating and capital costs of short distance routes of 750 miles or less. Within 5 years after the date of enactment, the new methodology must be implemented and ensure equal treatment to all States supporting short-distance service. In the event of a failure to adopt and implement such a methodology, the STB must develop and implement an allocation methodology. Grants to a State described under section 301 may be used to pay capital costs under this section. Currently Federal financial participation for corridor routes varies widely. In some cases the Federal Government supports the full subsidy, in other cases the routes are supported exclusively by State funds. The purpose of this provision is to standardize Federal participation across all corridors.

Section 207. Independent auditor to establish methodologies for Amtrak route and service planning decisions.

This section directs the FRA to retain a consultant to develop and recommend objective methodologies for route and service decisions including expansion or elimination of services. Cost recovery and on-time performance of existing routes, connections with other routes, transportation needs of communities not served by other public transportation services, and the methodologies used by rail service providers in other countries must be considered. The Amtrak Board shall consider adoption of the consultant's recommendations. It is the Committee's expectation that the methodologies be based on objective criteria and that the independent consultant shall not have a financial interest or other such conflicts in the outcome of Amtrak's routing decisions.

Section 208. Metrics and standards.

This section provides that in consultation with the STB and the operating freight railroads, the FRA and Amtrak will jointly develop metrics and standards for measuring the performance and service quality of intercity train operations within 180 days after the date of enactment. These metrics and standards include cost-recovery; on-time performance; ridership per train mile; on-board and station services; and the connectivity of routes. This section requires the FRA to publish a quarterly report on train performance and service quality. It is the Committee's expectation that the freight railroads be consulted in the development of the metrics and that to the extent practicable, the metrics and standards developed not be inconsistent with measures of on-time performance included in the contracts between the freight railroads and Amtrak.

Section 209. Passenger train performance.

Section 209 provides that if for any 2 consecutive quarters, the on-time performance of any intercity passenger train averages less than 80 percent, or the service quality fails to meet the standards established under section 208, the STB will investigate the extent to which such failure is due to causes that could reasonably be addressed by the operating freight railroad or by Amtrak. If the Board determines that the cause is the failure of a freight railroad to provide preference to Amtrak over freight trains, the Board shall enforce that preference under applicable law. In addition, this section requires the Board to publish a schedule of penalties for such infractions. The section also amends existing law to allow freight railroads to petition the STB for relief if the railroad believes that the operation of a particular Amtrak route is having a negative impact on its freight operations. Under current law, the railroad may only petition the Secretary of Transportation. The intent of this section is to provide a forum for both Amtrak and the freight railroads for the adjudication of service disputes. The Committee believes that the STB will be able to consider disputes in an efficient and evenhanded manner. Currently, the Committee understands that the existing process is cumbersome and is almost never used, and that the frustration of both the freight railroads and Amtrak seems to be increasing.

Section 210. Long distance routes.

Using the metrics and standards developed under section 208, Amtrak must annually evaluate each long-distance route. Further, Amtrak must rank the routes, based upon their performance in 2006, as the best-performing third of such routes, the second-best performing third, and the worst-performing third. Amtrak must develop a performance improvement plan for its long-distance routes and implement it in fiscal year 2007 with respect to the third-worst performing routes; in FY 2008 for the second-worst performers; and in 2009 for the best performing. The FRA monitors the development and implementation of the long-distance route performance plan and may withhold, following notice to Amtrak which has an opportunity to be heard, appropriated funds for operating a route on which reasonable progress in improving performance is not being made. It is the Committee's expectation that the performance improvement plans be the result of thorough evaluations of the long-distance routes and that changes to food service, sleeper service, and other on board amenities be considered. It has been suggested that significant savings may be realized if Amtrak restructured its contracts for food and beverage service. Amtrak should also evaluate the long-distance routes to see if they could be restructured to be a series of inter-connected corridors. It has also been suggested that such inter-connected corridors could provide more frequent service at more convenient times offering the potential for increased ridership.

Section 211. Alternate passenger rail service program.

Within 1 year after the date of enactment of this Act, the FRA develops a program under which a rail carrier or carriers that own a route over which Amtrak operates may petition the FRA to become a passenger rail carrier for that route in lieu of Amtrak. The rail carrier and Amtrak submit a bid to provide service over the entire route and the FRA awards the right to provide such service in accordance with standards it may prescribe. In addition, the FRA provides the operating subsidy not in excess of that which Amtrak received for the route prior to the petition. The first deadline for submission of petitions will be in fiscal year 2007 for alternate operations to commence in fiscal year 2008. This section will not apply to more than one Amtrak route in fiscal year 2008 and 2 routes beginning in fiscal year 2009 and fiscal years thereafter. Any contract awarded by the FRA under this section requires the operator to meet the metrics and standards under section 208.

Section 212. Employee transition assistance.

For Amtrak employees adversely affected by the cessation of Amtrak as the operator of a long-distance route under section 211, the Secretary shall develop a program to provide up to $50,000 per employee in benefits in lieu of other termination-related payments due from Amtrak. If the affected employees do not accept the incentives offered under such program, the Secretary shall make grants to Amtrak of funds otherwise appropriated to the FRA to permit Amtrak to pay termination-related benefits to such employees under existing contractual agreements. Since there will be ample time to plan for the transition on service from Amtrak to the winning bidder, it is likely that Amtrak will be able to use the employees on

the affected line to back-fill positions elsewhere in its system due to the attrition.

Section 213. Northeast Corridor state-of-good-repair plan.

Within 6 months after the date of enactment, Amtrak, in consultation with the Secretary and the NEC, is required to prepare a capital spending plan to return the NEC to a state-of-good-repair by the end of fiscal year 2011. The Secretary reviews the plan and annual updates for approval. The Secretary makes capital grants of appropriated funds, as authorized by section 101 of this Act, for up to 100 percent of the capital investments contained in the spending plan. It is the Committee's expectation that the Secretary shall use the grant process established in section 205 to ensure that funds appropriated for the NEC and made available to Amtrak are spent on the Corridor and are spent in a manner consistent with the improvement plan. The bill also allows the Secretary to withhold up to one-half percent of funds appropriated for the NEC to fund project management oversight (PMO). PMO is used in other DOT programs to ensure that funds are effectively spent. The Committee intends that no local or State match be required for projects on the state-of-good-repair plan.

Section 214. Northeast Corridor infrastructure and operations improvements.

Within 6 months after the date of enactment, the Secretary must establish a Northeast Corridor Infrastructure and Operations Advisory Commission which includes representatives of Amtrak, the FRA, and each of the States in the NEC, with none of these parties constituting a majority. The Commission then will develop future funding requirement recommendations for capital improvements, and scheduling and safety enhancements. Further, within 1 year after the date of enactment of PRIIA, the Commission will develop a proposal for a standardized formula to determine costs and compensation to be paid by the NEC commuter authorities for the use of facilities or services provided to them by Amtrak. If Amtrak and the commuter authorities do not implement the recommended formula, they may go to arbitration or petition the STB for a ruling. Lastly, this provision directs the Secretary to establish a Northeast Corridor Safety and Security Committee.

Section 215. Restructuring long-term debt and capital leases.

Between the date of enactment and January 1, 2007, the Secretary of the Treasury, in consultation with the Secretary of Transportation and Amtrak, may make agreements to restructure Amtrak's debt. The provision directs the Secretary of the Treasury to enter into negotiations with the holders of such debt for the purpose of restructuring and assuming, or repaying, the debt on terms significantly more favorable to the United States Government. To the extent Amtrak's principal and interest payments are reduced as a result of this section, authorizations for such payments under section 103 of this Act are correspondingly reduced. Amtrak may incur no new debt without advance approval of the Secretary of Transportation.

Section 216. Study of compliance requirements at existing intercity rail stations.

Under this section, Amtrak evaluates the improvements necessary to make all existing stations it serves readily accessible as required under the Americans with Disabilities Act of 1990. The evaluation includes the estimated cost of such improvements and the earliest date they can be made. The evaluation submitted by Amtrak goes to the House and Senate authorizing Committees and the National Council on Disability by September 30, 2006, along with recommendations for funding such improvements.

Section 217. Incentive pay.

This section encourages Amtrak to develop an incentive pay program for Amtrak employees. The Committee believes that incentive pay could be an important tool to increase productivity at Amtrak and allow the railroad to operate more like a business.

Section 218. Access to Amtrak equipment and services.

Under this section, States wishing to use operators other than Amtrak for the provision of State-supported services shall have access to Amtrak equipment, facilities, and reservation systems for the purpose of operating that particular route. If Amtrak and a State fail to reach an agreement governing such use, the STB shall determine reasonable terms of use in accordance with section 206 of this Act and direct Amtrak to make such assets available to the State, so long as such use is essential to the planned service and will not impair or degrade Amtrak's other operations.

Section 219. General Amtrak provisions.

The operating self-sufficiency requirement imposed on Amtrak in 1997 is repealed, along with the 2002 "sunset trigger" for failing to meet the requirement. This repeal is technical in nature and is not meant to indicate that Amtrak should not strive to reduce it dependency on Federal funds or improve the efficiency of how it spends Federal funds. Also repealed is the requirement to redeem Amtrak's outstanding common stock. In addition, the provision authorizes Amtrak to continue leasing vehicles from the General Services Administration.

Section 220. Private sector funding of passenger trains.

The provision prompts Amtrak to seek out business with private-sector customers (i.e., charters, etc.) in order to decrease its Federal operations grant amounts. The Committee believes that Amtrak should explore such business arrangements and that such partnerships have the potential of reducing costs and improving the level of service.

Section 221. On-board service improvements.

Under this provision, Amtrak will develop and implement a plan to improve on-board service based on the metrics and standards developed under section 208. Amtrak is to provide a report to Congress describing how it will improve on-board service and provide a timeline for implementing such improvements. Amtrak's on-board service has frequently been the subject of criticism. The Committee

believes major improvements can be made to improve the experience of passengers.

TITLE III—INTERCITY PASSENGER RAIL POLICY

Section 301. Capital assistance for intercity passenger rail service.

This provision establishes that the Secretary of Transportation may make capital grants to a State to fund improvements to intercity passenger rail transportation from the funds authorized for capital improvements under section 101. A grant may not exceed 80 percent of the capital cost, but the remaining 20 percent may be funded from amounts appropriated to a department of the Federal Government and eligible to be expended on transportation. The Secretary shall also allocate an appropriate portion of grants under this section to States with no intercity rail passenger service (Hawaii, South Dakota and Wyoming) and to the State of Alaska. Conditions of the grants are: (1) compliance with laws generally governing major Federal projects, (2) a written agreement between the grantee and the owner of any railroad facilities to be used or improved, and (3) a written agreement between any new rail operator and Amtrak labor organizations to protect the rights of Amtrak employees who would otherwise be adversely affected (this does not apply to Amtrak's access to railroad rights-of-way for projects where train speeds do not exceed 79 miles per hour, or to the Alaska Railroad). Although these grants are primarily established for States to fund improvements to intercity passenger rail transportation, these projects may benefit either infrastructure owners or other users.

Section 302. State rail plans.

States may prepare and maintain a State rail plan in accord with requirements listed in this section. A State rail plan must designate an authority to approve and carry out the plan and be reviewed by the Secretary. The section also provides criteria for the purpose and content of the State rail plans, including a long range service and investment program.

Section 303. Next-generation corridor train equipment pool.

Amtrak shall establish within 180 days of enactment of this act, a committee, along with FRA and interested States, to design and develop specifications for a joint procurement of equipment (i.e., passenger cars, locomotives, etc.).

Section 304. Federal rail policy.

Under this section, the organization of the FRA is modified and its responsibilities are expanded, including a requirement to develop a national rail plan. The development of the national rail plan shall not impede ongoing state rail planning, project development, or funding.

Section 305. Rail cooperative research program.

The Secretary is directed to establish a research program to examine issues relating to intercity, commuter, and freight rail enhancements, including impacts on highway and airport congestion,

rail capacity constraints, and development of high-speed rail services.

TITLE IV—PASSENGER RAIL SECURITY AND SAFETY

Section 401. Systemwide Amtrak security upgrades.

Section 401 authorizes the Secretary of Homeland Security to make grants to Amtrak for security improvements, including the tunnels in New York, Baltimore, and Washington, D.C. A total of $123 million is authorized to be appropriated annually fiscal years 2006 through 2008.

Section 402. Fire and life-safety improvements.

Section 402 authorizes the Secretary of Transportation to make grants to Amtrak for fire and life-safety improvements to tunnels in each of fiscal years 2006, 2007, and 2008, as follows: New York, $190 million per year; Baltimore, $19 million per year; and Washington, D.C., $13 million per year. The Secretary must first approve Amtrak's plans for the work and must consider the feasibility of seeking a contribution from other rail carriers that also use the referenced tunnels.

Section 403. Amtrak plan to assist families of passengers involved in rail passenger accidents.

Six months after the date of enactment, Amtrak is required to submit to the National Transportation Safety Board a plan for providing a list of the names of passengers involved in train accidents and notifying their families appropriately.

Section 404. Northern border passenger rail report.

Section 404 requires within 180 days after the date of enactment, the Secretary of Transportation to study and report to the Congress on the current system of screening passengers and baggage traveling in passenger rail service between the United States and Canada. The study shall address the feasibility for expediting that screening through pre-clearance procedures now used for airline passengers, or screening passengers while on board Amtrak trains.

Section 405. Passenger, baggage, and cargo screening.

This section requires the Secretary of Homeland Security to study the cost and feasibility of rail passenger and baggage screening and report to the appropriate committees of Congress 1 year from the date of enactment.

TITLE V—RAIL BOND AUTHORITY

Section 501. Intercity rail facility bonds.

This section allows the Secretary to designate bonds to be issued by a State, a group of States, or by Amtrak. These bonds are for projects that make a substantial contribution to providing the infrastructure and equipment to complete or improve a rail transportation corridor. The amount of bonds designated under this section for each of the fiscal years 2006 through 2015 shall not exceed $1.3 billion. It is important to note that this section simply governs how the Secretary would administer such a bond program. The legisla-

tive language required to authorize the bonds, which is under the jurisdiction of the Senate Finance Committee, is not included here.

ROLLCALL VOTES IN COMMITTEE

By a rollcall vote of 17 yeas and 2 nays as follows, the bill was ordered reported subject to amendment:

YEAS—17	NAYS—2
Mr. Burns	Mr. McCain
Mr. Lott	Mr. DeMint
Mrs. Hutchison	
Ms. Snowe[1]	
Mr. Smith	
Mr. Allen	
Mr. Inouye	
Mr. Rockefeller[1]	
Mr. Kerry[1]	
Mr. Dorgan[1]	
Mrs. Boxer[1]	
Mr. Nelson of Florida	
Ms. Cantwell	
Mr. Lautenberg	
Mr. Nelson of Nebraska	
Mr. Pryor	
Mr. Stevens	

[1]By proxy

Senator McCain offered an amendment to eliminate the rail bond authority granted under title V of the bill. By a rollcall vote of 7 yeas and 15 nays as follows, the amendment was defeated:

YEAS—7	NAYS—15
Mr. McCain	Mr. Burns
Mr. Smith	Mr. Lott
Mr. Ensign	Mrs. Hutchison
Mr. Allen	Ms. Snowe
Mr. Sununu[1]	Mr. Inouye
Mr. DeMint	Mr. Rockefeller[1]
Mr. Vitter	Mr. Kerry[1]
	Mr. Dorgan[1]
	Mrs. Boxer
	Mr. Nelson of Florida
	Ms. Cantwell
	Mr. Lautenberg
	Mr. Nelson of Nebraska[1]
	Mr. Pryor
	Mr. Stevens

[1]By proxy

Senator Lott offered an amendment in the nature of a substitute. On a rollcall vote of 18 yeas and 4 nays as follows, the amendment was adopted:

YEAS—18	NAYS—4
Mr. Burns	Mr. McCain[1]
Mr. Lott	Mr. Ensign[1]
Mrs. Hutchison	Mr. Sununu[1]
Ms. Snowe	Mr. DeMint[1]
Mr. Smith	
Mr. Allen	
Mr. Vitter	
Mr. Inouye	
Mr. Rockefeller[1]	
Mr. Kerry[1]	
Mr. Dorgan	
Mrs. Boxer	
Mr. Nelson of Florida	
Ms. Cantwell	
Mr. Lautenberg	
Mr. Nelson of Nebraska[1]	
Mr. Pryor	
Mr. Stevens	

[1]By proxy

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):

AMTRAK REFORM AND ACCOUNTABILITY ACT OF 1997

[SEC. 204. SUNSET TRIGGER.

[49 U.S.C. 24304 note]

[(a) IN GENERAL.—If at any time more than 2 years after the date of enactment of this Act and implementation of the financial plan referred to in section 24104(d) of title 49, United States Code, as amended by section 201 of this Act, the Amtrak Reform Council finds that—

[(1) Amtrak's business performance will prevent it from meeting the financial goals set forth in section 24104(d) of title 49, United States Code, as amended by section 201 of this Act; or

[(2) Amtrak will require operating grant funds after the fifth anniversary of the date of enactment of this Act, then the Council shall immediately notify the President, the Committee on Commerce, Science, and Transportation of the United States Senate, and the Committee on Transportation and Infrastructure of the United States House of Representatives.

[(b) FACTORS CONSIDERED.—In making a finding under subsection (a), the Council shall take into account—

[(1) Amtrak's performance;

[(2) the findings of the independent assessment conducted under section 202;

[(3) the level of Federal funds made available for carrying out the financial plan referred to in section 24104(d) of title 49, United States Code, as amended by section 201 of this Act; and

[(4) Acts of God, national emergencies, and other events beyond the reasonable control of Amtrak.

[(c) ACTION PLAN.—Within 90 days after the Council makes a finding under subsection (a)—

[(1) it shall develop and submit to the Congress an action plan for a restructured and rationalized national intercity rail passenger system; and

[(2) Amtrak shall develop and submit to the Congress an action plan for the complete liquidation of Amtrak, after having the plan reviewed by the Inspector General of the Department of Transportation and the General Accounting Office for accuracy and reasonableness.

[SEC. 205. SENATE PROCEDURE FOR CONSIDERATION OF RESTRUCTURING AND LIQUIDATION PLANS.

[49 U.S.C. 24101 note]

[(a) IN GENERAL.—If, within 90 days (not counting any day on which either House is not in session) after a restructuring plan is submitted to the House of Representatives and the Senate by the Amtrak Reform Council under section 204 of this Act, an implementing Act with respect to a restructuring plan (without regard to whether it is the plan submitted) has not been passed by the Congress, then a liquidation disapproval resolution shall be introduced in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. The liquidation disapproval resolution shall be held at the desk at the request of the Presiding Officer.

[(b) CONSIDERATION IN THE SENATE.—

[(1) REFERRAL AND REPORTING.—A liquidation disapproval resolution introduced in the Senate shall be placed directly and immediately on the Calendar.

[(2) IMPLEMENTING RESOLUTION FROM HOUSE.—When the Senate receives from the House of Representatives a liquidation disapproval resolution, the resolution shall not be referred to committee and shall be placed on the Calendar.

[(3) CONSIDERATION OF SINGLE LIQUIDATION DISAPPROVAL RESOLUTION.—After the Senate has proceeded to the consideration of a liquidation disapproval resolution under this subsection, then no other liquidation disapproval resolution originating in that same House shall be subject to the procedures set forth in this section.

[(4) AMENDMENTS.—No amendment to the resolution is in order except an amendment that is relevant to liquidation of Amtrak. Consideration of the resolution for amendment shall not exceed one hour excluding time for recorded votes and quorum calls. No amendment shall be subject to further amendment, except for perfecting amendments.

[(5) MOTION NONDEBATABLE.—A motion to proceed to consideration of a liquidation disapproval resolution under this subsection shall not be debatable. It shall not be in order to move to reconsider the vote by which the motion to proceed was adopted or rejected, although subsequent motions to proceed may be made under this paragraph.

[(6) LIMIT ON CONSIDERATION.—

[(A) After no more than 20 hours of consideration of a liquidation disapproval resolution, the Senate shall proceed, without intervening action or debate (except as permitted under paragraph (9)), to vote on the final disposition thereof to the exclusion of all amendments not then pending and to the exclusion of all motions, except a motion to reconsider or table.

[(B) The time for debate on the liquidation disapproval resolution shall be equally divided between the Majority Leader and the Minority Leader or their designees.

[(7) DEBATE OF AMENDMENTS.—Debate on any amendment to a liquidation disapproval resolution shall be limited to one

hour, equally divided and controlled by the Senator proposing the amendment and the majority manager, unless the majority manager is in favor of the amendment, in which case the minority manager shall be in control of the time in opposition.

[(8) NO MOTION TO RECOMMIT.—A motion to recommit a liquidation disapproval resolution shall not be in order.

[(9) DISPOSITION OF SENATE RESOLUTION.—If the Senate has read for the third time a liquidation disapproval resolution that originated in the Senate, then it shall be in order at any time thereafter to move to proceed to the consideration of a liquidation disapproval resolution for the same special message received from the House of Representatives and placed on the Calendar pursuant to paragraph (2), strike all after the enacting clause, substitute the text of the Senate liquidation disapproval resolution, agree to the Senate amendment, and vote on final disposition of the House liquidation disapproval resolution, all without any intervening action or debate.

[(10) CONSIDERATION OF HOUSE MESSAGE.—Consideration in the Senate of all motions, amendments, or appeals necessary to dispose of a message from the House of Representatives on a liquidation disapproval resolution shall be limited to not more than 4 hours. Debate on each motion or amendment shall be limited to 30 minutes. Debate on any appeal or point of order that is submitted in connection with the disposition of the House message shall be limited to 20 minutes. Any time for debate shall be equally divided and controlled by the proponent and the majority manager, unless the majority manager is a proponent of the motion, amendment, appeal, or point of order, in which case the minority manager shall be in control of the time in opposition.

[(c) CONSIDERATION IN CONFERENCE.—

[(1) CONVENING OF CONFERENCE.—In the case of disagreement between the two Houses of Congress with respect to a liquidation disapproval resolution passed by both Houses, conferees should be promptly appointed and a conference promptly convened, if necessary.

[(2) SENATE CONSIDERATION.—Consideration in the Senate of the conference report and any amendments in disagreement on a liquidation disapproval resolution shall be limited to not more than 4 hours equally divided and controlled by the Majority Leader and the Minority Leader or their designees. A motion to recommit the conference report is not in order.

[(d) DEFINITIONS.—For purposes of this section—

[(1) LIQUIDATION DISAPPROVAL RESOLUTION.—The term "liquidation disapproval resolution" means only a resolution of either House of Congress which is introduced as provided in subsection (a) with respect to the liquidation of Amtrak.

[(2) RESTRUCTURING PLAN.—The term "restructuring plan" means a plan to provide for a restructured and rationalized national intercity rail passenger transportation system.

[(e) RULES OF SENATE.—This section is enacted by the Congress—

[(1) as an exercise of the rulemaking power of the Senate, and as such they are deemed a part of the rules of the Senate,

but applicable only with respect to the procedure to be followed in the Senate in the case of a liquidation disapproval resolution; and they supersede other rules only to the extent that they are inconsistent therewith; and

[(2) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.]

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SEC. 415. FINANCIAL POWERS.

[49 U.S.C. 24304 note]

(a) [Executed amendments]

[(b) REDEMPTION OF COMMON STOCK.—Amtrak shall, before October 1, 2002, redeem all common stock previously issued, for the fair market value of such stock.]

(c) ELIMINATION OF LIQUIDATION PREFERENCE AND VOTING RIGHTS OF PREFERRED STOCK.—

(1)(A) Preferred stock of Amtrak held by the Secretary of Transportation shall confer no liquidation preference.

(B) Subparagraph (A) shall take effect 90 days after the date of the enactment of this Act.

(2)(A) Preferred stock of Amtrak held by the Secretary of Transportation shall confer no voting rights.

(B) Subparagraph (A) shall take effect 60 days after the date of the enactment of this Act.

TITLE 49, UNITED STATES CODE

SUBTITLE I. DEPARTMENT OF TRANSPORTATION

CHAPTER 1. ORGANIZATION

§ 103. Federal Railroad Administration

(a) *IN GENERAL.*—The Federal Railroad Administration is an administration in the Department of Transportation. [To carry out all railroad safety laws of the United States, the Administration is divided on a geographical basis into at least 8 safety offices. The Secretary of Transportation is responsible for all acts taken under those laws and for ensuring that the laws are uniformly administered and enforced among the safety offices.]

(b) *ADMINISTRATOR.*—The head of the Administration is the Administrator who is appointed by the President, by and with the advice and consent of the Senate. The Administrator reports directly to the Secretary.

(c) SAFETY.—To carry out all railroad safety laws of the United States, the Administration is divided on a geographical basis into at least 8 safety offices. The Secretary of Transportation is responsible for all acts taken under those laws and for ensuring that the laws are uniformly administered and enforced among the safety offices.

[(c)] *(d) POWERS AND DUTIES.*—The Administrator shall carry out—

(1) duties and powers related to railroad safety vested in the Secretary by section 20134(c) and chapters 203-211 of this

title, and chapter 213 of this title in carrying out chapters 203-211; [and]

(2) the duties and powers related to railroad policy and development under subsection (e); and

[(2)] *(3)* additional duties and powers prescribed by the Secretary.

[(d)] *(e) TRANSFERS OF DUTY.*—A duty or power specified by subsection (c)(1) of this section may be transferred to another part of the Department only when specifically provided by law or a reorganization plan submitted under chapter 9 of title 5. A decision of the Administrator in carrying out those duties or powers and involving notice and hearing required by law is administratively final.

[(e)] *(f) CONTRACTS, GRANTS, LEASES, COOPERATIVE AGREEMENTS, AND SIMILAR TRANSACTIONS.*— Subject to the provisions of subtitle I of title 40 and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), the Secretary of Transportation may make, enter into, and perform such contracts, grants, leases, cooperative agreements, and other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and make such payments, by way of advance or reimbursement, as the Secretary may determine to be necessary or appropriate to carry out functions of the Federal Railroad Administration. [The authority of the Secretary granted by this subsection shall be carried out by the Administrator. Notwithstanding any other provision of this chapter, no authority to enter into contracts or to make payments under this subsection shall be effective, except as provided for in appropriations Acts.]

(g) ADDITIONAL DUTIES OF THE ADMINISTRATOR.—The Administrator shall—

(1) provide assistance to States in developing State rail plans prepared under chapter 225 and review all State rail plans submitted under that section;

(2) develop a long range national rail plan that is consistent with approved State rail plans and the rail needs of the Nation, as determined by the Secretary in order to promote an integrated, cohesive, efficient, and optimized national rail system for the movement of goods and people;

(3) develop a preliminary national rail plan within a year after the date of enactment of the Passenger Rail Investment and Improvement Act of 2005;

(4) develop and enhance partnerships with the freight and passenger railroad industry, States, and the public concerning rail development;

(5) support rail intermodal development and high-speed rail development, including high speed rail planning;

(6) ensure that programs and initiatives developed under this section benefit the public and work toward achieving regional and national transportation goals; and

(7) facilitate and coordinate efforts to assist freight and passenger rail carriers, transit agencies and authorities, municipalities, and States in passenger-freight service integration on shared rights of way by providing neutral assistance at the joint request of affected rail service providers and infrastructure

owners relating to operations and capacity analysis, capital requirements, operating costs, and other research and planning related to corridors shared by passenger or commuter rail service and freight rail operations.

(h) PERFORMANCE GOALS AND REPORTS.—

(1) PERFORMANCE GOALS.—In conjunction with the objectives established and activities undertaken under section 103(e) of this title, the Administrator shall develop a schedule for achieving specific, measurable performance goals.

(2) RESOURCE NEEDS.—The strategy and annual plans shall include estimates of the funds and staff resources needed to accomplish each goal and the additional duties required under section 103(e).

(3) SUBMISSION WITH PRESIDENT'S BUDGET.—Beginning with fiscal year 2007 and each fiscal year thereafter, the Secretary shall submit to Congress, at the same time as the President's budget submission, the Administration's performance goals and schedule developed under paragraph (1), including an assessment of the progress of the Administration toward achieving its performance goals.

SUBTITLE V. RAIL PROGRAMS

PART B—ASSISTANCE

CHAPTER 225. STATE RAIL PLANS AND HIGH PRIORITY PROJECTS

Sec.
22501. Definitions
22502. Authority
22503. Purposes
22504. Transparency; coordination; review
22505. Content
22506. Review

§ 22501. Definitions

In this subchapter:

(1) PRIVATE BENEFIT.—

(A) IN GENERAL.—The term "private benefit"—

(i) means a benefit accrued to a person or private entity, other than the National Railroad Passenger Corporation, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or any other means as defined by the Secretary; and

(ii) shall be determined on a project-by-project basis, based upon an agreement between the parties.

(B) CONSULTATION.—The Secretary may seek the advice of the States and rail carriers in further defining this term.

(2) PUBLIC BENEFIT.—

(A) IN GENERAL.—The term "public benefit"—

(i) means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expendi-

tures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary; and

(ii) shall be determined on a project-by-project basis, based upon an agreement between the parties.

(B) CONSULTATION.—The Secretary may seek the advice of the States and rail carriers in further defining this term.

(3) STATE.—The term "State" means any of the 50 States and the District of Columbia.

(4) STATE RAIL TRANSPORTATION AUTHORITY.—The term "State rail transportation authority" means the State agency or official responsible under the direction of the Governor of the State or a State law for preparation, maintenance, coordination, and administration of the State rail plan.".

§ 22502. Authority

(a) IN GENERAL.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this subchapter.

(b) REQUIREMENTS.—For the preparation and periodic revision of a State rail plan, a State shall—

(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

(2) establish or designate a State rail plan approval authority to approve the plan;

(3) submit the State's approved plan to the Secretary of Transportation for review; and

(4) revise and resubmit a State-approved plan no less frequently than once every 5 years for reapproval by the Secretary.

§ 22503. Purposes

(a) PURPOSES.—The purposes of a State rail plan are as follows:

(1) To set forth State policy involving freight and passenger rail transportation, including commuter rail operations, in the State.

(2) To establish the period covered by the State rail plan.

(3) To present priorities and strategies to enhance rail service in the State that benefits the public.

(4) To serve as the basis for Federal and State rail investments within the State.

(b) COORDINATION.—A State rail plan shall be coordinated with other State transportation planning goals and programs and set forth rail transportation's role within the State transportation system.

§ 22504. Transparency; coordination; review

(a) PREPARATION.—A State shall provide adequate and reasonable notice and opportunity for comment and other input to the public, rail carriers, commuter and transit authorities operating in, or affected by rail operations within the State, units of local government, and other interested parties in the preparation and review of its State rail plan.

(b) INTERGOVERNMENTAL COORDINATION.—A State shall review the freight and passenger rail service activities and initiatives by regional planning agencies, regional transportation authorities, and

municipalities within the State, or in the region in which the State is located, while preparing the plan, and shall include any recommendations made by such agencies, authorities, and municipalities as deemed appropriate by the State.

§ 22505. Content

(a) IN GENERAL.—Each State rail plan shall contain the following:

(1) An inventory of the existing overall rail transportation system and rail services and facilities within the State and an analysis of the role of rail transportation within the State's surface transportation system.

(2) A review of all rail lines within the State, including proposed high speed rail corridors and significant rail line segments not currently in service.

(3) A statement of the State's passenger rail service objectives, including minimum service levels, for rail transportation routes in the State.

(4) A general analysis of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts.

(5) A long-range rail investment program for current and future freight and passenger infrastructure in the State that meets the requirements of subsection (b).

(6) A statement of public financing issues for rail projects and service in the State, including a list of current and prospective public capital and operating funding resources, public subsidies, State taxation, and other financial policies relating to rail infrastructure development.

(7) An identification of rail infrastructure issues within the State that reflects consultation with all relevant stake holders.

(8) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports, and prioritized options to maximize service integration and efficiency between rail and other modes of transportation within the State.

(9) A review of publicly funded projects within the State to improve rail transportation safety and security, including all major projects funded under section 130 of title 23.

(10) A performance evaluation of passenger rail services operating in the State, including possible improvements in those services, and a description of strategies to achieve those improvements.

(11) A compilation of studies and reports on high-speed rail corridor development within the State not included in a previous plan under this subchapter, and a plan for funding any recommended development of such corridors in the State.

(12) A statement that the State is in compliance with the requirements of section 22102.

(b) LONG-RANGE SERVICE AND INVESTMENT PROGRAM.—

(1) PROGRAM CONTENT.—A long-range rail investment program included in a State rail plan under subsection (a)(5) shall include the following matters:

(A) A list of any rail capital projects expected to be undertaken or supported in whole or in part by the State.

(B) A detailed funding plan for those projects.

(2) PROJECT LIST CONTENT.—The list of rail capital projects shall contain—

(A) a description of the anticipated public and private benefits of each such project; and

(B) a statement of the correlation between—

(i) public funding contributions for the projects; and

(ii) the public benefits.

(3) CONSIDERATIONS FOR PROJECT LIST.—In preparing the list of freight and intercity passenger rail capital projects, a State rail transportation authority should take into consideration the following matters:

(A) Contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.

(B) Rail capacity and congestion effects.

(C) Effects to highway, aviation, and maritime capacity, congestion, or safety.

(D) Regional balance.

(E) Environmental impact.

(F) Economic and employment impacts.

(G) Projected ridership and other service measures for passenger rail projects.

§ 22506. Review

The Secretary shall prescribe procedures for States to submit State rail plans for review under this title, including standardized format and data requirements.

PART C—PASSENGER TRANSPORTATION

CHAPTER 241. GENERAL

§ 24102. Definitions

In this part—

(1) "auto-ferry transportation" means intercity rail passenger transportation—

(A) of automobiles or recreational vehicles and their occupants; and

(B) when space is available, of used unoccupied vehicles.

[(2) "basic system" means the system of intercity rail passenger transportation designated by the Secretary of Transportation under section 4 of the Amtrak Improvement Act of 1978 and approved by Congress, and transportation required to be provided under section 24705(a) of this title and section 4(g) of the Act, including changes in the system or transportation that Amtrak makes using the route and service criteria.**]**

[(3)**]** *(2)* "commuter authority" means a State, local, or regional entity established to provide, or make a contract providing for, commuter rail passenger transportation.

[(4)**]** *(3)* "commuter rail passenger transportation" means short-haul rail passenger transportation in metropolitan and suburban areas usually having reduced fare, multiple-ride, and

commuter tickets and morning and evening peak period operations.

[(5)] *(4)* "intercity rail passenger transportation" means rail passenger transportation, except commuter rail passenger transportation.

(5) "national rail passenger transportation system" means—

(A) the segment of the Northeast Corridor between Boston, Massachusetts and Washington, D.C.;

(B) rail corridors that have been designated by the Secretary of Transportation as high-speed corridors (other than corridors described in subparagraph (A)), but only after they have been improved to permit operation of high-speed service;

(C) long-distance routes of more than 750 miles between endpoints operated by Amtrak as of the date of enactment of the Passenger Rail Investment and Improvement Act of 2005; and

(D) short-distance corridors, or routes of not more than 750 miles between endpoints, operated by—

(i) Amtrak; or

(ii) another rail carrier that receives funds under chapter 244.

(6) "Northeast Corridor" means Connecticut, Delaware, the District of Columbia, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island.

(7) "rail carrier" means a person, including a unit of State or local government, providing rail transportation for compensation.

(8) "rate" means a rate, fare, or charge for rail transportation.

(9) "regional transportation authority" means an entity established to provide passenger transportation in a region.

CHAPTER 243. AMTRAK

[§ 24302. Board of directors

[(a) REFORM BOARD.—

[(1) ESTABLISHMENT AND DUTIES.—The Reform Board described in paragraph (2) shall assume the responsibilities of the Board of Directors of Amtrak by March 31, 1998, or as soon thereafter as at least 4 members have been appointed and qualified. The Board appointed under prior law shall be abolished when the Reform Board assumes such responsibilities.

[(2) MEMBERSHIP.—

[(A)(i) The Reform Board shall consist of 7 voting members appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years.

[(ii) Notwithstanding clause (i), if the Secretary of Transportation is appointed to the Reform Board, such appointment shall not be subject to the advice and consent of the Senate. If appointed, the Secretary may be represented at Board meetings by his designee.

[(B) In selecting the individuals described in subparagraph (A) for nominations for appointments to the Reform

Board, the President should consult with the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, and the Minority Leader of the Senate.

[(C) Appointments under subparagraph (A) shall be made from among individuals who—

[(i) have technical qualifications, professional standing, and demonstrated expertise in the fields of transportation or corporate or financial management;

[(ii) are not representatives of rail labor or rail management; and

[(iii) in the case of 6 of the 7 individuals selected, are not employees of Amtrak or of the United States.

[(D) The President of Amtrak shall serve as an ex officio, nonvoting member of the Reform Board.

[(3) CONFIRMATION PROCEDURE IN SENATE.—

[(A) This paragraph is enacted by the Congress—

[(i) as an exercise of the rulemaking power of the Senate, and as such it is deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of a motion to discharge; and it supersedes other rules only to the extent that it is inconsistent therewith; and

[(ii) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

[(B) If, by the first day of June on which the Senate is in session after a nomination is submitted to the Senate under this section, the committee to which the nomination was referred has not reported the nomination, then it shall be discharged from further consideration of the nomination and the nomination shall be placed on the Executive Calendar.

[(C) It shall be in order at any time thereafter to move to proceed to the consideration of the nomination without any intervening action or debate.

[(D) After no more than 10 hours of debate on the nomination, which shall be evenly divided between, and controlled by, the Majority Leader and the Minority Leader, the Senate shall proceed without intervening action to vote on the nomination.

[(b) BOARD OF DIRECTORS.—Five years after the establishment of the Reform Board under subsection (a), a Board of Directors shall be selected—

[(1) if Amtrak has, during the then current fiscal year, received Federal assistance, in accordance with the procedures set forth in subsection (a)(2); or

[(2) if Amtrak has not, during the then current fiscal year, received Federal assistance, pursuant to bylaws adopted by the Reform Board (which shall provide for employee representation), and the Reform Board shall be dissolved.

[(c) AUTHORITY TO RECOMMEND PLAN.—The Reform Board shall have the authority to recommend to the Congress a plan to implement the recommendations of the 1997 Working Group on Inter-City Rail regarding the transfer of Amtrak's infrastructure assets and responsibilities to a new separately governed corporation.]

§ 24302. Board of directors

(a) COMPOSITION AND TERMS.—

(1) The Board of Directors of Amtrak is composed of the following 9 directors, each of whom must be a citizen of the United States:

(A) The Secretary of Transportation.

(B) The President of Amtrak.

(C) 7 individuals appointed by the President of the United States, by and with the advice and consent of the Senate, with general business and financial experience, experience or qualifications in transportation, freight and passenger rail transportation, travel, hospitality, cruise line, and passenger air transportation businesses, or representatives of users of passenger rail transportation or State government.

(2) In selecting individuals described in paragraph (1) for nominations for appointments to the Board, the President shall consult with the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, and the Minority Leader of the Senate and try to provide adequate and balanced representation of the major geographic regions of the United States served by Amtrak.

(3) An individual appointed under paragraph (1)(C) of this subsection serves for 5 years or until the individual's successor is appointed and qualified. Not more than 4 individuals appointed under paragraph (1)(C) may be members of the same political party.

(4) The Board shall elect a chairman and a vice chairman from among its membership. The vice chairman shall serve as chairman in the absence of the chairman.

(5) The Secretary may be represented at board meetings by the Secretary's designee.

(b) PAY AND EXPENSES.—Each director not employed by the United States Government is entitled to $300 a day when performing Board duties. Each Director is entitled to reimbursement for necessary travel, reasonable secretarial and professional staff support, and subsistence expenses incurred in attending Board meetings.

(c) VACANCIES.—A vacancy on the Board is filled in the same way as the original selection, except that an individual appointed by the President of the United States under subsection (a)(1)(C) of this section to fill a vacancy occurring before the end of the term for which the predecessor of that individual was appointed is appointed for the remainder of that term. A vacancy required to be filled by appointment under subsection (a)(1)(C) must be filled not later than 120 days after the vacancy occurs.

(d) QUORUM.—A majority of the members serving shall constitute a quorum for doing business.

(e) BYLAWS.—The Board may adopt and amend bylaws governing the operation of Amtrak. The bylaws shall be consistent with this part and the articles of incorporation.

* * * * * * *

§ 24308. Use of facilities and providing services to Amtrak

(a) GENERAL AUTHORITY.—

(1) Amtrak may make an agreement with a rail carrier or regional transportation authority to use facilities of, and have services provided by, the carrier or authority under terms on which the parties agree. The terms shall include a penalty for untimely performance.

(2)(A) If the parties cannot agree and if the [Interstate Commerce Commission] *Surface Transportation Board* finds it necessary to carry out this part, the [Commission] *Board* shall—

(i) order that the facilities be made available and the services provided to Amtrak; and

(ii) prescribe reasonable terms and compensation for using the facilities and providing the services.

(B) When prescribing reasonable compensation under subparagraph (A) of this paragraph, the [Commission] *Board* shall consider quality of service as a major factor when determining whether, and the extent to which, the amount of compensation shall be greater than the incremental costs of using the facilities and providing the services.

(C) The [Commission] *Board* shall decide the dispute not later than 90 days after Amtrak submits the dispute to the [Commission] *Board*.

(3) Amtrak's right to use the facilities or have the services provided is conditioned on payment of the compensation. If the compensation is not paid promptly, the rail carrier or authority entitled to it may bring an action against Amtrak to recover the amount owed.

(4) Amtrak shall seek immediate and appropriate legal remedies to enforce its contract rights when track maintenance on a route over which Amtrak operates falls below the contractual standard.

(b) OPERATING DURING EMERGENCIES.—To facilitate operation by Amtrak during an emergency, the [Commission] *Board*, on application by Amtrak, shall require a rail carrier to provide facilities immediately during the emergency. The [Commission] *Board* then shall promptly prescribe reasonable terms, including indemnification of the carrier by Amtrak against personal injury risk to which the carrier may be exposed. The rail carrier shall provide the facilities for the duration of the emergency.

(c) PREFERENCE OVER FREIGHT TRANSPORTATION.—Except in an emergency, intercity and commuter rail passenger transportation provided by or for Amtrak has preference over freight transportation in using a rail line, junction, or crossing unless the Secretary of Transportation orders otherwise under this subsection. A rail

carrier affected by this subsection may apply to the [Secretary] *Board* for relief. If the [Secretary,] *Board,* after an opportunity for a hearing under section 553 of title 5, decides that preference for intercity and commuter rail passenger transportation materially will lessen the quality of freight transportation provided to shippers, the [Secretary] *Board* shall establish the rights of the carrier and Amtrak on reasonable terms.

(d) ACCELERATED SPEEDS.—If a rail carrier refuses to allow accelerated speeds on trains operated by or for Amtrak, Amtrak may apply to the Secretary for an order requiring the carrier to allow the accelerated speeds. The Secretary shall decide whether accelerated speeds are unsafe or impracticable and which improvements would be required to make accelerated speeds safe and practicable. After an opportunity for a hearing, the Secretary shall establish the maximum allowable speeds of Amtrak trains on terms the Secretary decides are reasonable.

(e) ADDITIONAL TRAINS.—

(1) When a rail carrier does not agree to provide, or allow Amtrak to provide, for the operation of additional trains over a rail line of the carrier, Amtrak may apply to the Secretary for an order requiring the carrier to provide or allow for the operation of the requested trains. After a hearing on the record, the Secretary may order the carrier, within 60 days, to provide or allow for the operation of the requested trains on a schedule based on legally permissible operating times. However, if the Secretary decides not to hold a hearing, the Secretary, not later than 30 days after receiving the application, shall publish in the Federal Register the reasons for the decision not to hold the hearing.

(2) The Secretary shall consider—

(A) when conducting a hearing, whether an order would impair unreasonably freight transportation of the rail carrier, with the carrier having the burden of demonstrating that the additional trains will impair the freight transportation; and

(B) when establishing scheduled running times, the statutory goal of Amtrak to implement schedules that attain a system-wide average speed of at least 60 miles an hour that can be adhered to with a high degree of reliability and passenger comfort.

(3) Unless the parties have an agreement that establishes the compensation Amtrak will pay the carrier for additional trains provided under an order under this subsection, the [Commission] *Board* shall decide the dispute under subsection (a) of this section.

(f) PASSENGER TRAIN PERFORMANCE AND OTHER STANDARDS.—

(1) INVESTIGATION OF SUBSTANDARD PERFORMANCE.—If the on-time performance of any intercity passenger train averages less than 80 percent for any 2 consecutive calendar quarters, or the service quality of intercity train operations for which minimum standards are established under section 208 of the Passenger Rail Investment and Improvement Act of 2005 fails to meet those standards for 2 consecutive calendar quarters, the Surface Transportation Board shall investigate whether, and to

what extent, delays or failure to achieve minimum standards are due to causes that could reasonably be addressed by a rail carrier over the tracks of which the intercity passenger train operates or reasonably addressed by the intercity passenger rail operator. In carrying out such an investigation, the Board shall obtain information from all parties involved and make recommendations regarding reasonable measures to improve the service, quality, and on-time performance of the train.

(2) PROBLEMS CAUSED BY HOST RAIL CARRIER.—If the Board determines that delays or failures to achieve minimum standards investigated under paragraph (1) are attributable to a rail carrier's failure to provide preference to Amtrak over freight transportation under subsection (c), then the Board shall enforce its recommendations for relief under this section.

(3) PENALTIES.—

(A) IN GENERAL.—The Board shall publish a schedule of penalties which will—

(A) fairly reflect the extent to which Amtrak suffers financial loss as a result of host rail carrier delays or failure to achieve minimum standards; and

(B) will adequately deter future actions which may reasonably be expected to be likely to result in delays to Amtrak.

(B) ASSESSMENT.—The Board may assess these penalties upon a host rail carrier.

(C) USE.—The Board shall make any amounts received as penalties under this paragraph available to Amtrak.

* * * * * * *

§ 24316. Plans to address needs of families of passengers involved in rail passenger accidents

(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Passenger Rail Investment and Improvement Act of 2005, Amtrak shall submit to the Chairman of the National Transportation Safety Board and the Secretary of Transportation a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life.

(b) CONTENTS OF PLANS.—The plan to be submitted by Amtrak under subsection (a) shall include, at a minimum, the following:

(1) A process by which Amtrak will maintain and provide to the National Transportation Safety Board and the Secretary of Transportation, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for Amtrak to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.

(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs,

and for providing staff, to handle calls from the families of the passengers.

(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.

(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as Amtrak has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within Amtrak's control; that any possession of the passenger within Amtrak's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within Amtrak's control will be retained by the rail passenger carrier for at least 18 months.

(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

(7) An assurance that Amtrak will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident.

(c) USE OF INFORMATION.—The National Transportation Safety Board, the Secretary of Transportation, and Amtrak may not release to any person information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or Amtrak considers appropriate.

(d) LIMITATION ON LIABILITY.—Amtrak shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of Amtrak in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by Amtrak under subsection (b), unless such liability was caused by Amtrak's conduct.

(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that Amtrak may take, or the obligations that Amtrak may have, in providing assistance to the families of passengers involved in a rail passenger accident.

(f) FUNDING.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak $500,000 for fiscal year 2006 to carry out this section. Amounts made available pursuant to this subsection shall remain available until expended.

CHAPTER 244—INTERCITY PASSENGER RAIL SERVICE CORRIDOR CAPITAL ASSISTANCE

Sec.
24401. Definitions.
24402. Capital investment grants to support intercity passenger rail service.
24403. Project management oversight.
24404. Use of capital grants to finance first-dollar liability of grant project.
24405. Grant conditions.

§ 24401. Definitions

In this subchapter:

(1) APPLICANT.—The term "applicant" means a State (including the District of Columbia), a group of States, an Interstate Compact, or a public agency established by one or more States and having responsibility for providing intercity passenger rail service.

(2) CAPITAL PROJECT.—The term "capital project" means a project or program in a State rail plan developed under chapter 225 of this title for—

(A) acquiring, constructing, improving, or inspecting equipment or a facility for use in or for the primary benefit of intercity passenger rail service, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, environmental studies, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, highway-rail grade crossing improvements related to intercity passenger rail service, security, mitigating environmental impacts, communication and signalization improvements, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

(B) rehabilitating, remanufacturing or overhauling rail rolling stock and facilities used primarily in intercity passenger rail service;

(C) costs associated with developing State rail plans; and

(D) the first-dollar liability costs for insurance related to the provision of intercity passenger rail service under section 24404.

(3) INTERCITY PASSENGER RAIL SERVICE.—The term "intercity passenger rail service" means transportation services with the primary purpose of passenger transportation between towns, cities and metropolitan areas by rail, including high-speed rail, as defined in section 24102 of title 49, United States Code.

§ 24402. Capital investment grants to support intercity passenger rail service

(a) GENERAL AUTHORITY.—

(1) The Secretary of Transportation may make grants under this section to an applicant to assist in financing the capital costs of facilities and equipment necessary to provide or improve intercity passenger rail transportation.

(2) The Secretary shall require that a grant under this section be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section and shall prescribe procedures and schedules for the awarding of grants under this title, including application and qualification procedures and a record of decision on applicant eligibility. The Secretary shall issue a final rule establishing such procedures not later than 90 days after the date of enactment of the Passenger Rail Investment and Improvement Act of 2005.

(b) PROJECT AS PART OF STATE RAIL PLAN.—

(1) The Secretary may not approve a grant for a project under this section unless the Secretary finds that the project is part of a State rail plan developed under chapter 225 of this title and that the applicant or recipient has or will have the legal, financial, and technical capacity to carry out the project, satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities.

(2) An applicant shall provide sufficient information upon which the Secretary can make the findings required by this subsection.

(3) If an applicant has not selected the proposed operator of its service competitively, the applicant shall provide written justification to the Secretary showing why the proposed operator is the best, taking into account price and other factors, and that use of the proposed operator will not unnecessarily increase the cost of the project.

(c) PROJECT SELECTION CRITERIA.—The Secretary, in selecting the recipients of financial assistance to be provided under subsection (a), shall—

(1) require that each proposed project meet all safety and security requirements that are applicable to the project under law;

(2) give preference to projects with high levels of estimated ridership, increased on-time performance, reduced trip time, additional service frequency, or other significant service enhancements as measured against minimum standards developed under section 208 of the Passenger Rail Investment and Improvement Act of 2005;

(3) encourage intermodal connectivity through projects that provide direct connections between train stations, airports, bus terminals, subway stations, ferry ports, and other modes of transportation;

(4) ensure that each project is compatible with, and is operated in conformance with—

(A) plans developed pursuant to the requirements of section 135 of title 23, United States Code; and

(B) the national rail plan (if it is available); and

(5) favor the following kinds of projects:

(A) Projects that are expected to have a significant favorable impact on air or highway traffic congestion, capacity, or safety.

(B) Projects that also improve freight or commuter rail operations.

(C) Projects that have significant environmental benefits.

(D) Projects that are—

(i) at a stage of preparation that all pre-commencement compliance with environmental protection requirements has already been completed; and

(ii) ready to be commenced.

(E) Projects with positive economic and employment impacts.

(F) Projects that encourage the use of positive train control technologies.

(G) Projects that have commitments of funding from non-Federal Government sources in a total amount that exceeds the minimum amount of the non-Federal contribution required for the project.

(H) Projects that involve donated property interests or services.

(I) Projects that are identified by the Surface Transportation Board as necessary to improve the on time performance and reliability of intercity passenger rail under section 24308(f).

(d) AMTRAK ELIGIBILITY.—To receive a grant under this section, the National Railroad Passenger Corporation may enter into a cooperative agreement with 1 or more States to carry out 1 or more projects on a State rail plan's ranked list of rail capital projects developed under section 22504(a)(5) of this title.

(e) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—

(1)(A) The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a major capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.

(B) At least 30 days before issuing a letter under subparagraph (A) of this paragraph or entering into a full funding grant agreement, the Secretary shall notify in writing the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and the House and Senate Committees on Appropriations of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

(C) An obligation or administrative commitment may be made only when amounts are appropriated.

(2)(A) The Secretary may make a full funding grant agreement with an applicant. The agreement shall—

(i) establish the terms of participation by the United States Government in a project under this section;

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

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

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

"(B) An agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law. The agreement shall state that the contingent commitment is not an obligation of the Government and is subject to the availability

of appropriations made by Federal law and to Federal laws in force on or enacted after the date of the contingent commitment. Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

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

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

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

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

(4) The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full funding grant agreements, and early systems work agreements may be not more than the amount authorized under section 101(c) of Passenger Rail Investment and Improvement Act of 2005, less an amount the Secretary reasonably estimates is necessary for grants under this section not covered by a letter. The total amount covered by new letters and contingent commitments included in full funding grant agreements and early systems

work agreements may be not more than a limitation specified in law.

(f) FEDERAL SHARE OF NET PROJECT COST.—

(1)(A) Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net project cost.

(B) A grant for the project shall not exceed 80 percent of the project net capital cost.

(C) The Secretary shall give priority in allocating future obligations and contingent commitments to incur obligations to grant requests seeking a lower Federal share of the project net capital cost.

(2) Up to an additional 20 percent of the required non-Federal funds may be funded from amounts appropriated to or made available to a department or agency of the Federal Government that are eligible to be expended for transportation.

(3) 50 percent of the average amounts expended by a State or group of States (including the District of Columbia) for capital projects to benefit intercity passenger rail service in fiscal years 2004 and 2005 shall be credited towards the matching requirements for grants awarded under this section. The Secretary may require such information as necessary to verify such expenditures.

(4) 50 percent of the average amounts expended by a State or group of States (including the District of Columbia) in a fiscal year beginning in 2006 for capital projects to benefit intercity passenger rail service or for the operating costs of such service above the average of expenditures made for such service in fiscal years 2004 and 2005 shall be credited towards the matching requirements for grants awarded under this section. The Secretary may require such information as necessary to verify such expenditures.

(g) UNDERTAKING PROJECTS IN ADVANCE.—

(1) The Secretary may pay the Federal share of the net capital project cost to an applicant that carries out any part of a project described in this section according to all applicable procedures and requirements if—

(A) the applicant applies for the payment;

(B) the Secretary approves the payment; and

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

(2) The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the applicant to the extent proceeds of the bonds are expended in carrying out the part. However, the amount of interest under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financial terms.

(3) The Secretary shall consider changes in capital project cost indices when determining the estimated cost under paragraph (2) of this subsection.

(h) 2-YEAR AVAILABILITY.—Funds appropriated under this section shall remain available until expended. If any amount provided as a grant under this section is not obligated or expended for the purposes described in subsection (a) within 2 years after the date on which the State received the grant, such sums shall be returned to the Secretary for other intercity passenger rail development projects under this section at the discretion of the Secretary.

(i) PUBLIC-PRIVATE PARTNERSHIPS.—

(1) IN GENERAL.—A metropolitan planning organization, State transportation department, or other project sponsor may enter into an agreement with any public, private, or nonprofit entity to cooperatively implement any project funded with a grant under this title.

(2) FORMS OF PARTICIPATION.—Participation by an entity under paragraph (1) may consist of—

(A) ownership or operation of any land, facility, locomotive, rail car, vehicle, or other physical asset associated with the project;

(B) cost-sharing of any project expense;

(C) carrying out administration, construction management, project management, project operation, or any other management or operational duty associated with the project; and

(D) any other form of participation approved by the Secretary.

(3) SUB-ALLOCATION.—A State may allocate funds under this section to any entity described in paragraph (1).

(j) SPECIAL TRANSPORTATION CIRCUMSTANCES.—In carrying out this section, the Secretary shall allocate an appropriate portion of the amounts available under this section to provide grants to States—

(1) in which there is no intercity passenger rail service for the purpose of funding freight rail capital projects that are on a State rail plan developed under chapter 225 of this title that provide public benefits (as defined in chapter 225) as determined by the Secretary; or

(2) in which the rail transportation system is not physically connected to rail systems in the continental United States or may not otherwise qualify for a grant under this section due to the unique characteristics of the geography of that State or other relevant considerations, for the purpose of funding transportation-related capital projects.

§ 24403. Project management oversight

(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—To receive Federal financial assistance for a major capital project under this subchapter, an applicant must prepare and carry out a project management plan approved by the Secretary of Transportation. The plan shall provide for—

(1) adequate recipient staff organization with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;

(2) a budget covering the project management organization, appropriate consultants, property acquisition, utility relocation,

systems demonstration staff, audits, and miscellaneous payments the recipient may be prepared to justify;

(3) a construction schedule for the project;

(4) a document control procedure and recordkeeping system;

(5) a change order procedure that includes a documented, systematic approach to handling the construction change orders;

(6) organizational structures, management skills, and staffing levels required throughout the construction phase;

(7) quality control and quality assurance functions, procedures, and responsibilities for construction, system installation, and integration of system components;

(8) material testing policies and procedures;

(9) internal plan implementation and reporting requirements;

(10) criteria and procedures to be used for testing the operational system or its major components;

(11) periodic updates of the plan, especially related to project budget and project schedule, financing, and ridership estimates; and

(12) the recipient's commitment to submit a project budget and project schedule to the Secretary each month.

(b) SECRETARIAL OVERSIGHT.—

(1) The Secretary may use no more than 0.5 percent of amounts made available in a fiscal year for capital projects under this subchapter to enter into contracts to oversee the construction of such projects.

(2) The Secretary may use amounts available under paragraph (1) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under paragraph (1).

(3) The Federal Government shall pay the entire cost of carrying out a contract under this subsection.

(c) ACCESS TO SITES AND RECORDS.—Each recipient of assistance under this subchapter shall provide the Secretary and a contractor the Secretary chooses under subsection (c) of this section with access to the construction sites and records of the recipient when reasonably necessary.

§ 24404. Use of capital grants to finance first-dollar liability of grant project

Notwithstanding the requirements of section 24402 of this subchapter, the Secretary of Transportation may approve the use of capital assistance under this subchapter to fund self-insured retention of risk for the first tier of liability insurance coverage for rail passenger service associated with the capital assistance grant, but the coverage may not exceed $20,000,000 per occurrence or $20,000,000 in aggregate per year.

§ 24405. Grant conditions

(a) DOMESTIC BUYING PREFERENCE.—

(1) REQUIREMENT.—

(A) IN GENERAL.—In carrying out a project funded in whole or in part with a grant under this title, the grant recipient shall purchase only—

(i) unmanufactured articles, material, and supplies mined or produced in the United States; or

(ii) manufactured articles, material, and supplies manufactured in the United States substantially from articles, material, and supplies mined, produced, or manufactured in the United States.

(B) DE MINIMIS AMOUNT.—Subparagraph (1) applies only to a purchase in an total amount that is not less than $1,000,000.

(2) EXEMPTIONS.—On application of a recipient, the Secretary may exempt a recipient from the requirements of this subsection if the Secretary decides that, for particular articles, material, or supplies—

(A) such requirements are inconsistent with the public interest;

(B) the cost of imposing the requirements is unreasonable; or

(C) the articles, material, or supplies, or the articles, material, or supplies from which they are manufactured, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and are not of a satisfactory quality.

(3) UNITED STATES DEFINED.—In this subsection, the term "the United States" means the States, territories, and possessions of the United States and the District of Columbia.

(b) OPERATORS DEEMED RAIL CARRIERS AND EMPLOYERS FOR CERTAIN PURPOSES.—A person that conducts rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under this title—

(1) shall be considered a rail carrier as defined in section 10102(5) of this title for purposes of this title and any other statute that adopts the that definition or in which that definition applies;

(2) shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(3) shall be considered a carrier for purposes of the Railway Labor Act (43 U.S.C. 151 et seq.).

(c) GRANT CONDITIONS.—The Secretary shall require as a condition of making any grant under this title that includes the improvement or use of rights-of-way owned by a railroad that—

(1) a written agreement exist between the applicant and the railroad regarding such use and ownership, including—

(A) any compensation for such use;

(B) assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations; and

(C) an assurance by the railroad that collective bargaining agreements with the railroad's employees (including terms regulating the contracting of work) will remain in full force and effect according to their terms for work performed by the railroad on the railroad transportation corridor; and

(2) the applicant agrees to comply with—

(A) the standards of section 24312 of this title, as such section was in effect on September 1, 2003, with respect to the project in the same manner that the National Railroad Passenger Corporation is required to comply with those standards for construction work financed under an agreement made under section 24308(a) of this title; and

(B) the protective arrangements established under section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 836) with respect to employees affected by actions taken in connection with the project to be financed in whole or in part by grants under this subchapter.

(d) REPLACEMENT OF EXISTING INTERCITY PASSENGER RAIL SERVICE.—

(1) COLLECTIVE BARGAINING AGREEMENT FOR INTERCITY PASSENGER RAIL PROJECTS.—Any entity providing intercity passenger railroad transportation that begins operations after the date of enactment of this Act on a project funded in whole or in part by grants made under this title and replaces intercity rail passenger service that was provided by Amtrak, unless such service was provided solely by Amtrak to another entity, as of such date shall enter into an agreement with the authorized bargaining agent or agents for adversely affected employees of the predecessor provider that—

(A) gives each such qualified employee of the predecessor provider priority in hiring according to the employee's seniority on the predecessor provider for each position with the replacing entity that is in the employee's craft or class and is available within 3 years after the termination of the service being replaced;

(B) establishes a procedure for notifying such an employee of such positions;

(C) establishes a procedure for such an employee to apply for such positions; and

(D) establishes rates of pay, rules, and working conditions.

(2) IMMEDIATE REPLACEMENT SERVICE.—

(A) NEGOTIATIONS.—If the replacement of preexisting intercity rail passenger service occurs concurrent with or within a reasonable time before the commencement of the replacing entity's rail passenger service, the replacing entity shall give written notice of its plan to replace existing rail passenger service to the authorized collective bargaining agent or agents for the potentially adversely affected employees of the predecessor provider at least 90 days before the date on which it plans to commence service. Within 5 days after the date of receipt of such written notice, negotiations between the replacing entity and the collective bargaining agent or agents for the employees of the predecessor provider shall commence for the purpose of reaching agreement with respect to all matters set forth in subparagraphs (A) through (D) of paragraph (1). The negotiations shall continue for 30 days or until an agreement is reached, whichever is sooner. If at the end of 30 days the parties

have not entered into an agreement with respect to all such matters, the unresolved issues shall be submitted for arbitration in accordance with the procedure set forth in subparagraph (B).

(B) ARBITRATION.—If an agreement has not been entered into with respect to all matters set forth in subparagraphs (A) through (D) of paragraph (1) as described in subparagraph (A) of this paragraph, the parties shall select an arbitrator. If the parties are unable to agree upon the selection of such arbitrator within 5 days, either or both parties shall notify the National Mediation Board, which shall provide a list of seven arbitrators with experience in arbitrating rail labor protection disputes. Within 5 days after such notification, the parties shall alternately strike names from the list until only 1 name remains, and that person shall serve as the neutral arbitrator. Within 45 days after selection of the arbitrator, the arbitrator shall conduct a hearing on the dispute and shall render a decision with respect to the unresolved issues among the matters set forth in subparagraphs (A) through (D) of paragraph (1). This decision shall be final, binding, and conclusive upon the parties. The salary and expenses of the arbitrator shall be borne equally by the parties; all other expenses shall be paid by the party incurring them.

(3) SERVICE COMMENCEMENT.—A replacing entity under this subsection shall commence service only after an agreement is entered into with respect to the matters set forth in subparagraphs (A) through (D) of paragraph (1) or the decision of the arbitrator has been rendered.

(4) SUBSEQUENT REPLACEMENT OF SERVICE.—If the replacement of existing rail passenger service takes place within 3 years after the replacing entity commences intercity passenger rail service, the replacing entity and the collective bargaining agent or agents for the adversely affected employees of the predecessor provider shall enter into an agreement with respect to the matters set forth in subparagraphs (A) through (D) of paragraph (1). If the parties have not entered into an agreement with respect to all such matters within 60 days after the date on which the replacing entity replaces the predecessor provider, the parties shall select an arbitrator using the procedures set forth in paragraph (2)(B), who shall, within 20 days after the commencement of the arbitration, conduct a hearing and decide all unresolved issues. This decision shall be final, binding, and conclusive upon the parties.

(e) INAPPLICABILITY TO CERTAIN RAIL OPERATIONS.— Nothing in this section applies to—

(1) commuter rail passenger transportation (as defined in section 24102(4) of this title) operations of a State or local government authority (as those terms are defined in section 5302(11) and (6), respectively, of this title) eligible to receive financial assistance under section 5307 of this title, or to its contractor performing services in connection with commuter rail passenger operations (as so defined);

(2) the Alaska Railroad or its contractors; or

(3) the National Railroad Passenger Corporation's access rights to railroad rights of way and facilities under current law for projects funded under this title where train operating speeds do not exceed 79 miles per hour.

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CHAPTER 247. AMTRAK ROUTE SYSTEM

§ 24701. National rail passenger transportation system

[49 U.S.C. 24701]

Amtrak shall operate a national rail passenger transportation system which ties together existing and emergent regional rail passenger service and other intermodal passenger service.

§ 24702. Transportation requested by States, authorities, and other persons

(a) CONTRACTS FOR TRANSPORTATION.—Amtrak and a State, a regional or local authority, or another person may enter into a contract for Amtrak to operate an intercity rail service or route not included in the national rail passenger transportation system upon such terms as the parties thereto may agree.

(b) DISCONTINUANCE.—Upon termination of a contract entered into under this section, or the cessation of financial support under such a contract by either party, Amtrak may discontinue such service or route, notwithstanding any other provision of law.

* * * * * * *

§ 24706. Discontinuance

(a) NOTICE OF DISCONTINUANCE.—

(1) Except as provided in subsection (b) of this section, at least 180 days before a discontinuance under section 24704 or discontinuing service over a route, Amtrak shall give notice of the discontinuance in the way Amtrak decides will give a State, a regional or local authority, or another person the opportunity to agree to share or assume the cost of any part of the train, route, or service to be discontinued.

(2) Notice of the discontinuance under section 24704 or paragraph (1) shall be posted in all stations served by the train to be discontinued at least 14 days before the discontinuance.

(b) DISCONTINUANCE FOR LACK OF APPROPRIATIONS.—

(1) Amtrak may discontinue service under section 24704 or subsection (a)(1) during—

(A) the first month of a fiscal year if the authorization of appropriations and the appropriations for Amtrak are not enacted at least 90 days before the beginning of the fiscal year; and

(B) the 30 days following enactment of an appropriation for Amtrak or a rescission of an appropriation.

(2) Amtrak shall notify each affected State or regional or local transportation authority of a discontinuance under this subsection as soon as possible after Amtrak decides to discontinue the service.

(c) APPLICABILITY.—This section applies to all service over routes provided by Amtrak, notwithstanding any provision of section 24701 of this title or any other provision of this title.

§ 24710. Long distance routes

(a) ANNUAL EVALUATION.—Using the financial and performance metrics developed under section 208 of the Passenger Rail Investment and Improvement Act of 2005, Amtrak shall—

(1) evaluate annually the performance of each long-distance passenger rail route operated by Amtrak; and

(2) rank the overall performance of such routes for 2006 and identify each long-distance passenger rail route operated by Amtrak in 2006 according to its overall performance as belonging to the best performing third of such routes, the second best performing third of such routes, or the worst performing third of such routes.

(b) PERFORMANCE IMPROVEMENT PLAN.—Amtrak shall develop a performance improvement plan for its long-distance passenger rail routes based on the data collected through the application of the financial and performance metrics developed under section 208 of that Act. The plan shall address—

(1) on-time performance;

(2) scheduling, frequency, routes, and stops;

(3) the feasibility of restructuring service into connected corridor service;

(4) performance-related equipment changes and capital improvements;

(5) on-board amenities and service, including food, first class, and sleeping car service;

(6) State or other non-Federal financial contributions; and

(7) other aspects of Amtrak's long-distance passenger rail routes that affect the financial, competitive, and functional performance of service on Amtrak's long-distance passenger rail routes.

(c) IMPLEMENTATION.—Amtrak shall implement the performance improvement plan developed under subsection (b)—

(1) beginning in fiscal year 2007 for those routes identified as being in the worst performing third under subsection (a)(3);

(2) beginning in fiscal year 2008 for those routes identified as being in the second best performing third under subsection (a)(3); and

(3) beginning in fiscal year 2009 for those routes identified as being in the best performing third under subsection (a)(3).

(d) ENFORCEMENT.—The Federal Railroad Administration shall monitor the development, implementation, and outcome of improvement plans under this section. If, for any year, it determines that Amtrak is not making reasonable progress in implementing its performance improvement plan or in achieving the expected outcome of the plan for any calendar year, the Federal Railroad Administration—

(1) shall notify Amtrak of its determination under this subsection;

(2) shall provide an opportunity for a hearing with respect to that determination; and

(3) may withhold any appropriated funds otherwise available to Amtrak for the operation of a route or routes on which it is not making progress, other than funds made available for passenger safety or security measures.

§ 24711. Alternate passenger rail service program

(a) IN GENERAL.—Within 1 year after the date of enactment of the Passenger Rail Investment and Improvement Act of 2005, the Federal Railroad Administration shall initiate a rulemaking proceeding to develop a program under which—

(1) a rail carrier or rail carriers that own infrastructure over which Amtrak operates a passenger rail service route described in subparagraph (B), (C), or (D) of section 24102(5) or in section 24702 of title 49, United States Code may petition the Federal Railroad Administration to be considered as a passenger rail service provider over that route in lieu of Amtrak;

(2) the Administration would notify Amtrak within 30 days after receiving a petition under paragraph (1) and establish a deadline by which both the petitioner and Amtrak would be required to submit a bid to provide passenger rail service over the route to which the petition relates;

(3) the Administration would make a decision within a specified, limited time after that deadline awarding to the winning bidder—

(A) the right and obligation to provide passenger rail service over that route subject to such performance standards as the Administration may require; and

(B) an operating subsidy will be provided—

(i) for the first year at a level not in excess of the level in effect during the fiscal year preceding the fiscal year in which the petition was received, adjusted for inflation; and

(ii) for any subsequent years at such level, adjusted for inflation.

(b) IMPLEMENTATION.—

(1) INITIAL PETITIONS.—Pursuant to any rules or regulations promulgated under subsection (A), the Administration shall establish a deadline for the submission of a petition under subsection (a)—

(A) during fiscal year 2007 for operations commencing in fiscal year 2008; and

(B) during the immediately preceding fiscal year for operations commencing in subsequent fiscal years.

(2) ROUTE LIMITATIONS.—The Administration may not make the program available with respect to more than 1 Amtrak passenger rail routes for operations beginning in fiscal year 2008 nor to more than 2 such routes for operations beginning in fiscal year 2010 and subsequent fiscal years.

(c) PERFORMANCE STANDARDS; ACCESS TO FACILITIES; EMPLOYEES.—If the Administration awards the right and obligation to provide passenger rail service over a route under the program to a rail carrier or rail carriers—

(1) it shall execute a contract with the rail carrier or rail carriers for rail passenger operations on that route that conditions the operating and subsidy rights upon—

(A) the service provider continuing to provide passenger rail service on the route that is no less frequent, nor over a shorter distance, than Amtrak provided on that route before the award; and

(B) the service provider's compliance with the minimum standards established under section 208 of the Passenger Rail Investment and Improvement Act of 2005 and such additional performance standards as the Administration may establish;

(2) it shall, if the award is made to a rail carrier other than Amtrak, require Amtrak to provide access to its reservation system, stations, and facilities to any rail carrier or rail carriers awarded a contract under this section, in accordance with section 218 of that Act, necessary to carry our the purposes of this section; and

(3) any person used by a rail carrier or rail carriers (as defined in section 10102(5) of this title) to operate a route under this section shall be considered an employee of that carrier or carriers and subject to the applicable Federal laws and regulations governing similar crafts or classes of employees of Amtrak, including provisions under section 121 of the Amtrak Reform and Accountability Act of 1997 relating to employees that provide food and beverage service.

(d) CESSATION OF SERVICE.—If a rail carrier or rail carriers awarded a route under this section cease to operate the service or fail to fulfill their obligations under the contract required under subsection (c), the Administrator, in collaboration with the Surface Transportation Board when applicable, shall take any necessary action consistent with this title to enforce the contract and ensure the continued provision of service, including the installment of an interim service provider and re-bidding the contract to operate the service.

(e) ADEQUATE RESOURCES.—Before taking any action allowed under this section, the Secretary shall certify that the Administrator has sufficient resources that are adequate to undertake the program established under this section.

CHAPTER 249. NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

§ 24905. Coordination board and safety committee

(a) NORTHEAST CORRIDOR COORDINATION BOARD.—(1) The Northeast Corridor Coordination Board is composed of the following members:

(A) one individual from each commuter authority (as defined in section 1135(a) of the Omnibus Budget Reconciliation Act of 1981 (45 U.S.C. 1104)) that provides or makes a contract to provide commuter rail passenger transportation over the main line of the Northeast Corridor.

(B) 2 individuals selected by Amtrak.

(C) one individual selected by the Consolidated Rail Corporation.

(2) The Board shall recommend to Amtrak—

(A) policies that ensure equitable access to the Northeast Corridor, considering the need for equitable access by commuter and intercity rail passenger transportation and the requirements of section 24308(c) of this title; and

(B) equitable policies for the Northeast Corridor related to—

(i) dispatching;

(ii) public information;

(iii) maintaining equipment and facilities;

(iv) major capital facility investments; and

(v) harmonizing equipment acquisitions, rates, and schedules.

(3) The Board may recommend to the board of directors and President of Amtrak action necessary to resolve differences on providing transportation, except for facilities and transportation matters under section 24308(a) or 24904(a)(5) and (c) of this title.

(b) NORTHEAST CORRIDOR SAFETY COMMITTEE.—(1) THE NORTHEAST CORRIDOR SAFETY COMMITTEE IS COMPOSED OF MEMBERS APPOINTED BY THE SECRETARY OF TRANSPORTATION. THE MEMBERS SHALL BE REPRESENTATIVES OF—

(A) the Secretary;

(B) Amtrak;

(C) freight carriers operating more than 150,000 train miles a year on the main line of the Northeast Corridor;

(D) commuter agencies;

(E) rail passengers;

(F) rail labor; and

(G) other individuals and organizations the Secretary decides have a significant interest in rail safety.

(2) The Secretary shall consult with the Committee about safety improvements on the Northeast Corridor main line. The Committee shall meet at least once every 2 years to consider safety matters on the main line.

(3) At the beginning of the first session of each Congress, the Secretary shall submit a report to Congress on the status of efforts to improve safety on the Northeast Corridor main line. The report shall include the safety recommendations of the Committee and the comments of the Secretary on those recommendations.

(4) The Committee shall cease to exist on January 1, 1999, or on another date the Secretary decides is appropriate. The Secretary shall notify Congress in writing of a decision to terminate the Committee on another date.

§ 24905. Northeast Corridor Infrastructure and Operations Advisory Commission; Safety and Security Committee.

(a) NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS ADVISORY COMMISSION.—

(1) Within 180 days after the date of enactment of the Passenger Rail Investment and Improvement Act of 2005, the Secretary of Transportation shall establish a Northeast Corridor Infrastructure and Operations Advisory Commission (hereinafter referred to in this section as the Commission") to promote mutual cooperation and planning pertaining to the rail oper-

ations and related activities of the Northeast Corridor. The Commission shall be made up of—

(A) members representing the National Railroad Passenger Corporation;

(B) members representing the Federal Railroad Administration; and

(C) 1 member from each of the States (including the District of Columbia) that constitute the Northeast Corridor as defined in section 24102, designated by the chief executive officer thereof.

(2) The Secretary shall ensure that the membership belonging to any of the groups enumerated under subparagraph (1) shall not constitute a majority of the Commission's memberships.

(3) The Commission shall establish a schedule and location for convening meetings, but shall meet no less than four times per fiscal year, and the Commission shall develop rules and procedures to govern the Commission's proceedings.

(4) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(6) The Chairman of the Commission shall be elected by the members.

(7) The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(8) Upon request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(9) Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(10) The Commission shall consult with freight railroads users of the Northeast Corridor and other entities as appropriate.

(b) GENERAL RECOMMENDATIONS.—The Commission shall develop recommendations concerning northeast corridor rail infrastructure and operations including proposals addressing, as appropriate—

(1) short-term and long-term capital investment needs beyond the stat-of-good-repair under section 213;

(2) future funding requirements for capital improvements and maintenance;

(3) operational improvements of intercity passenger rail, commuter rail, and freight rail services;

(4) opportunities for additional non-rail uses of the Northeast Corridor;

(5) scheduling and dispatching;

(6) safety and security enhancements;

(7) equipment design;

(8) marketing of rail services; and

(9) future capacity requirements.

(c) ACCESS COSTS.—

(1) DEVELOPMENT OF FORMULA.—Within 1 year after verification of Amtrak's new financial accounting system pursuant to section 203(b) of the Passenger Rail Investment and Improvement Act of 2005, the Commission shall—

(A) develop a standardized formula for determining and allocating costs, revenues, and compensation for northeast corridor commuter rail passenger transportation, as defined in section 24102 of this title, that use National Railroad Passenger Corporation facilities or services or that provide such facilities or services to the National Railroad Passenger Corporation that ensure that—

(i) there is no cross-subsidization of commuter rail passenger, intercity rail passenger, or freight rail transportation; and

(ii) each service is assigned the costs incurred only for the benefit of that service, and a proportionate share, based upon factors that reasonably reflect relative use, of costs incurred for the common benefit of more than 1 service;

(B) develop a proposed timetable for implementing the formula before the end of the 6th year following the date of enactment of that Act; and

(C) transmit the proposed timetable to the Surface Transportation Board.

(2) IMPLEMENTATION.—The National Railroad Passenger Corporation and the commuter authorities providing commuter rail passenger transportation on the northeast corridor shall implement new agreements for usage of facilities or services based on the formula proposed in paragraph (1) in accordance with the timetable established therein. If the parties fail to implement such new agreements in accordance with the timetable, the parties shall—

(A) submit any dispute regarding such implementation to binding arbitration conducted by a mutually agreed upon arbitrator and comply with the decision of that arbitrator; or

(B) petition the Surface Transportation Board to determine the appropriate compensation amounts for such services in accordance with section 24904(c) of this title.

(d) TRANSMISSION OF RECOMMENDATIONS.—The Commission shall annually transmit the recommendations developed under subsection (b) and the formula and timetable developed under subsection (c)(1) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(e) NORTHEAST CORRIDOR SAFETY COMMITTEE.—

(1) IN GENERAL.—The Secretary shall establish a Northeast Corridor Safety and Security Committee composed of members appointed by the Secretary. The members shall be representatives of—

(A) the Secretary;

(B) Amtrak;

(C) freight carriers operating more than 150,000 train miles a year on the main line of the Northeast Corridor;

(D) commuter agencies;

(E) rail passengers;

(F) rail labor;

(G) the Transportation Security Administration; and

(H) other individuals and organizations the Secretary decides have a significant interest in rail safety.

(2) FUNCTION; MEETINGS.—The Secretary shall consult with the Committee about safety and security improvements on the Northeast Corridor main line. The Committee shall meet at least once every 2 years to consider safety matters on the main line.

(3) REPORT.—At the beginning of the first session of each Congress, the Secretary shall submit a report to the Commission and to Congress on the status of efforts to improve safety and security on the Northeast Corridor main line. The report shall include the safety recommendations of the Committee and the comments of the Secretary on those recommendations.

(4) TERMINATION.—The Committee shall cease to exist on January 1, 2009, or on another date the Secretary decides is appropriate. The Secretary shall notify Congress in writing of a decision to terminate the Committee on another date.

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"§ 24910. Rail cooperative research program

(a) IN GENERAL.—The Secretary shall establish and carry out a rail cooperative research program. The program shall—

(1) address, among other matters, intercity rail passenger and freight rail services, including existing rail passenger and freight technologies and speeds, incrementally enhanced rail systems and infrastructure, and new high-speed wheel-on-rail systems and rail security;

(2) address ways to expand the transportation of international trade traffic by rail, enhance the efficiency of intermodal interchange at ports and other intermodal terminals, and increase capacity and availability of rail service for seasonal freight needs;

(3) consider research on the interconnectedness of commuter rail, passenger rail, freight rail, and other rail networks; and

(4) give consideration to regional concerns regarding rail passenger and freight transportation, including meeting research needs common to designated high-speed corridors, long-distance rail services, and regional intercity rail corridors, projects, and entities.

(b) CONTENT.—The program to be carried out under this section shall include research designed—

(1) to identify the unique aspects and attributes of rail passenger and freight service;

(2) to develop more accurate models for evaluating the impact of rail passenger and freight service, including the effects on highway and airport and airway congestion, environmental quality, and energy consumption;

(3) to develop a better understanding of modal choice as it affects rail passenger and freight transportation, including development of better models to predict utilization;

(4) to recommend priorities for technology demonstration and development;

(5) to meet additional priorities as determined by the advisory board established under subsection (c), including any recommendations made by the National Research Council;

(6) to explore improvements in management, financing, and institutional structures;

(7) to address rail capacity constraints that affect passenger and freight rail service through a wide variety of options, ranging from operating improvements to dedicated new infrastructure, taking into account the impact of such options on operations;

(8) to improve maintenance, operations, customer service, or other aspects of intercity rail passenger and freight service;

(9) to recommend objective methodologies for determining intercity passenger rail routes and services, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes;

(10) to review the impact of equipment and operational safety standards on the further development of high speed passenger rail operations connected to or integrated with non-high speed freight or passenger rail operations; and

(11) to recommend any legislative or regulatory changes necessary to foster further development and implementation of high speed passenger rail operations while ensuring the safety of such operations that are connected to or integrated with non-high speed freight or passenger rail operations.

(c) ADVISORY BOARD.—

(1) ESTABLISHMENT.—In consultation with the heads of appropriate Federal departments and agencies, the Secretary shall establish an advisory board to recommend research, technology, and technology transfer activities related to rail passenger and freight transportation.

(2) MEMBERSHIP.—The advisory board shall include—

(A) representatives of State transportation agencies;

(B) transportation and environmental economists, scientists, and engineers; and

(C) representatives of Amtrak, the Alaska Railroad, freight railroads, transit operating agencies, intercity rail passenger agencies, railway labor organizations, and environmental organizations.

(d) NATIONAL ACADEMY OF SCIENCES.— The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to the research, technology, and technology transfer activities described in subsection (b) as the Secretary deems appropriate.

PART D—HIGH-SPEED RAIL

CHAPTER 261. HIGH-SPEED RAIL ASSISTANCE

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§ 26106. Rail infrastructure bonds

(a) DESIGNATION.—The Secretary may designate bonds for purposes of section 54 of the Internal Revenue Code of 1986 if—

(1) the bonds are to be issued by—

(A) a State, if the entire railroad passenger transportation corridor containing the infrastructure project to be financed is within the State;

(B) 1 or more of the States that have entered into an agreement or an interstate compact consented to by Congress under section 410(a) of Public Law 105–134 (49 U.S.C. 24101 note);

(C) an agreement or an interstate compact described in subparagraph (B); or

(D) Amtrak, for capital projects under its 5-year plan;

(2) the bonds are for the purpose of financing projects that make a substantial contribution to providing the infrastructure and equipment required to complete or improve a rail transportation corridor (including projects for the acquisition, financing, or refinancing of equipment and other capital improvements, including the introduction of new high-speed technologies such as magnetic levitation systems, track or signal improvements, the elimination of grade crossings, development of intermodal facilities, improvement of train speeds or safety, or both, and station rehabilitation or construction), but only if the Secretary determines that the projects are part of a viable and comprehensive rail transportation corridor design for intercity passenger service included in a State rail plan under chapter 225 (except for bonds issued under paragraph (1)(D)); and

(3) for a railroad passenger transportation corridor not operated by Amtrak that includes the use of rights-of-way owned by a freight railroad, a written agreement exists between the applicant and the freight railroad regarding such use and ownership, including compensation for such use and assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations, and including an assurance by the freight railroad that collective bargaining agreements with the freight railroad's employees (including terms regulating the contracting of work) shall remain in full force and effect according to their terms for work performed by the freight railroad on such railroad passenger transportation corridor.

(b) BOND AMOUNT LIMITATION.—

(1) IN GENERAL.—The amount of bonds designated under this section may not exceed in the case of section 54 bonds, $1,300,000,000 for each of the fiscal years 2006 through 2015.

(2) CARRYOVER OF UNUSED LIMITATION.—If for any fiscal year the limitation amount under paragraph (1) exceeds the amount of section 54 bonds issued during such year, the limitation amount under paragraph (1) for the following fiscal year

(through fiscal year 2019) shall be increased by the amount of such excess.

(c) PROJECT SELECTION CRITERIA.—The Secretary shall give preference to the designation under this section of bonds for projects selected using the criteria in chapter 244.

(d) TIMELY DISPOSITION OF APPLICATION.—The Secretary shall grant or deny a requested designation within 9 months after receipt of an application.

(e) REFINANCING RULES.—Bonds designated by the Secretary under subsection (a) may be issued for refinancing projects only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred by the issuer—

(1) after the date of the enactment of this section;

(2) for a term of not more than 3 years;

(3) to finance projects described in subsection (a)(2); and

(4) in anticipation of being refinanced with proceeds of a bond designated under subsection (a).

(f) APPLICATION OF CONDITIONS.—Any entity providing railroad transportation (within the meaning of section 20102) that begins operations after the date of the enactment of this section and that uses property acquired pursuant to this section (except as provided in subsection (a)(2)(B)), shall be subject to the conditions under section 24405.

(g) ISSUANCE OF REGULATIONS.—Not later than 6 months after the date of the enactment of the Passenger Rail Investment and Improvement Act of 2005, the Secretary shall issue regulations for carrying out this section.

(h) SECTION 54 BOND DEFINED.—In this section, the term 'section 54 bond' means a bond designated by the Secretary under subsection (a) for purposes of section 54 of the Internal Revenue Code of 1986 (relating to credit to holders of qualified rail infrastructure bonds).

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