

PASSENGER RAIL INVESTMENT AND IMPROVEMENT ACT  
OF 2008

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JUNE 5, 2008.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed  
\_\_\_\_\_

Mr. OBERSTAR, from the Committee on Transportation and  
Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 6003]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom  
was referred the bill (H.R. 6003) to reauthorize Amtrak, and for  
other purposes, having considered the same, report favorably there-  
on with an amendment and recommend that the bill as amended  
do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Passenger Rail Investment and Improvement Act  
of 2008”.

**SEC. 2. AMENDMENT OF TITLE 49, UNITED STATES CODE.**

Except as otherwise specifically provided, whenever in this Act an amendment is  
expressed in terms of an amendment to a section or other provision of law, the refer-  
ence shall be considered to be made to a section or other provision of title 49,  
United States Code.

**SEC. 3. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Amendment of title 49, United States Code.
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- Sec. 102. Repayment of long-term debt and capital leases.
- Sec. 103. Other authorizations.
- Sec. 104. Tunnel project.

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- Sec. 201. National railroad passenger transportation system defined.
- Sec. 202. Amtrak Board of Directors.

- Sec. 203. Establishment of improved financial accounting system.
- Sec. 204. Development of 5-year financial plan.
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#### TITLE III—INTERCITY PASSENGER RAIL POLICY

- Sec. 301. Capital assistance for intercity passenger rail service; State rail plans.
- Sec. 302. State rail plans.
- Sec. 303. Next generation corridor train equipment pool.
- Sec. 304. Rail cooperative research program.
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#### TITLE IV—COMMUTER RAIL TRANSIT ENHANCEMENT

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- Sec. 501. High-speed rail corridor program.
- Sec. 502. Additional high-speed projects.
- Sec. 503. High-speed rail study.
- Sec. 504. Grant conditions.

## TITLE I—AUTHORIZATIONS

### SEC. 101. AUTHORIZATION FOR AMTRAK CAPITAL AND OPERATING EXPENSES AND STATE CAPITAL GRANTS.

(a) OPERATING GRANTS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for operating costs the following amounts:

- (1) For fiscal year 2009, \$525,000,000.
- (2) For fiscal year 2010, \$600,000,000.
- (3) For fiscal year 2011, \$614,000,000.
- (4) For fiscal year 2012, \$638,000,000.
- (5) For fiscal year 2013, \$654,000,000.

(b) INSPECTOR GENERAL.—Out of the amounts authorized under subsection (a), there are authorized to be appropriated to the Secretary of Transportation for the Office of the Inspector General of Amtrak the following amounts:

- (1) For fiscal year 2009, \$20,368,900.
- (2) For fiscal year 2010, \$22,586,000.
- (3) For fiscal year 2011, \$24,337,000.
- (4) For fiscal year 2012, \$26,236,000.
- (5) For fiscal year 2013, \$28,287,000.

(c) AMERICANS WITH DISABILITIES ACT COMPLIANCE.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for compliance with the requirements of the Americans With Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) the following amounts:

- (1) For fiscal year 2009, \$68,500,000.
- (2) For fiscal year 2010, \$240,000,000.
- (3) For fiscal year 2011, \$240,000,000.
- (4) For fiscal year 2012, \$240,000,000.
- (5) For fiscal year 2013, \$240,000,000.

(d) CAPITAL GRANTS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for capital projects (as defined in subparagraphs (A) and (B) of section 24401(2) of title 49, United States Code) to bring the Northeast Corridor (as defined in section 24102(a)) to a state-of-good-repair, for capital expenses of the national rail passenger transportation system, and for purposes of making capital grants under section 24402 of that title to States, the following amounts:

- (1) For fiscal year 2009, \$1,202,000,000.
- (2) For fiscal year 2010, \$1,321,000,000.

- (3) For fiscal year 2011, \$1,321,000,000.
- (4) For fiscal year 2012, \$1,427,000,000.
- (5) For fiscal year 2013, \$1,427,000,000.

(e) AMOUNTS FOR STATE GRANTS.—Out of the amounts authorized under subsection (d), the following percentage shall be available each fiscal year for capital grants to States under section 24402 of title 49, United States Code, to be administered by the Secretary of Transportation:

- (1) 41.60 percent for fiscal year 2009.
- (2) 38 percent for fiscal year 2010.
- (3) 38 percent for fiscal year 2011.
- (4) 35 percent for fiscal year 2012.
- (5) 35 percent for fiscal year 2013.

(f) PROJECT MANAGEMENT OVERSIGHT.—The Secretary may withhold up to ½ of 1 percent of amounts appropriated pursuant to subsection (d) for the costs of project management oversight of capital projects carried out by Amtrak.

#### SEC. 102. REPAYMENT OF LONG-TERM DEBT AND CAPITAL LEASES.

(a) AMTRAK PRINCIPAL AND INTEREST PAYMENTS.—

(1) PRINCIPAL AND INTEREST ON DEBT SERVICE.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for retirement of principal and payment of interest on loans for capital equipment, or capital leases, not more than the following amounts:

- (A) For fiscal year 2009, \$345,000,000.
- (B) For fiscal year 2010, \$345,000,000.
- (C) For fiscal year 2011, \$345,000,000.
- (D) For fiscal year 2012, \$345,000,000.
- (E) For fiscal year 2013, \$345,000,000.

(2) EARLY BUYOUT OPTION.—There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary for the use of Amtrak for the payment of costs associated with early buyout options if the exercise of those options is determined to be advantageous to Amtrak.

(3) LEGAL EFFECT OF PAYMENTS UNDER THIS SECTION.—The payment of principal and interest on secured debt, with the proceeds of grants authorized by this section shall not—

- (A) modify the extent or nature of any indebtedness of the National Railroad Passenger Corporation to the United States in existence of the date of enactment of this Act;
- (B) change the private nature of Amtrak's or its successors' liabilities; or
- (C) imply any Federal guarantee or commitment to amortize Amtrak's outstanding indebtedness.

#### SEC. 103. OTHER AUTHORIZATIONS.

There are authorized to be appropriated to the Secretary of Transportation—

(1) \$5,000,000 for each of fiscal years 2009 through 2013 to carry out the rail cooperative research program under section 24910 of title 49, United States Code; and

(2) \$5,000,000 for fiscal year 2009, to remain available until expended, for grants to Amtrak and States participating in the Next Generation Corridor Train Equipment Pool Committee established under section 303 of this Act for the purpose of designing, developing specifications for, and initiating the procurement of an initial order of 1 or more types of standardized next-generation corridor train equipment and establishing a jointly owned corporation to manage that equipment.

#### SEC. 104. TUNNEL PROJECT.

(a) NEW TUNNEL ALIGNMENT AND ENVIRONMENTAL REVIEW.—Not later than September 30, 2013, the Federal Railroad Administration, working with Amtrak, the City of Baltimore, State of Maryland, and rail operators described in subsection (b), shall—

- (1) approve a new rail tunnel alignment in Baltimore that will permit an increase in train speed and service reliability; and
- (2) ensure completion of the related environmental review process.

(b) AFFECTED RAIL OPERATORS.—Rail operators other than Amtrak may participate in activities described in subsection (a) to the extent that they can demonstrate the intention and ability to contribute to the construction of the new tunnel.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Railroad Administration for carrying out this section \$60,000,000 for the period encompassing fiscal years 2009 through 2013.

## TITLE II—AMTRAK REFORM AND OPERATIONAL IMPROVEMENTS

### SEC. 201. NATIONAL RAILROAD PASSENGER TRANSPORTATION SYSTEM DEFINED.

(a) IN GENERAL.—Section 24102 is amended—

- (1) by striking paragraph (2);
- (2) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively; and
- (3) by inserting after paragraph (4) as so redesignated the following:
  - “(5) ‘national rail passenger transportation system’ means—
    - “(A) the segment of the Northeast Corridor between Boston, Massachusetts and Washington, DC;
    - “(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 2008; 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.”.

(b) AMTRAK ROUTES WITH STATE FUNDING.—

- (1) IN GENERAL.—Chapter 247 is amended by inserting after section 24701 the following:

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

“(a) CONTRACTS FOR TRANSPORTATION.—Amtrak may enter into a contract with a State, a regional or local authority, or another person 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.”.

- (2) CONFORMING AMENDMENT.—The chapter analysis for chapter 247 is amended by inserting after the item relating to section 24701 the following:

“24702. Transportation requested by States, authorities, and other persons.”.

(c) AMTRAK TO CONTINUE TO PROVIDE NON-HIGH-SPEED SERVICES.—Nothing in this Act is intended to preclude Amtrak from restoring, improving, or developing non-high-speed intercity passenger rail service.

(d) APPLICABILITY OF SECTION 24706.—Section 24706 is amended by adding at the end the following:

“(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 except section 24702(b).”.

### SEC. 202. AMTRAK BOARD OF DIRECTORS.

(a) IN GENERAL.—Section 24302 is amended to read as follows:

#### “§ 24302. Board of Directors

“(a) COMPOSITION AND TERMS.—

- (1) The Board of Directors of Amtrak is composed of the following 10 directors, each of whom must be a citizen of the United States:

“(A) The Secretary of Transportation.

“(B) The President of Amtrak, who shall serve ex officio, as a non-voting member.

“(C) 8 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 employees or users of passenger rail transportation or a 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 5 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.”

(b) EFFECTIVE DATE FOR DIRECTORS’ PROVISION.—The amendment made by subsection (a) shall take effect 6 months after the date of enactment of this Act. The members of the Amtrak Board serving on the date of enactment of this Act may continue to serve for the remainder of the term to which they were appointed.

#### SEC. 203. ESTABLISHMENT OF IMPROVED FINANCIAL ACCOUNTING SYSTEM.

(a) IN GENERAL.—The Amtrak Board of Directors—

(1) may employ an independent financial consultant with experience in railroad accounting to assist Amtrak in improving Amtrak’s financial accounting and reporting system and practices;

(2) shall implement a modern financial accounting and reporting system not later than 1 year after the date of enactment of this Act; and

(3) shall, not later than 90 days after the end of each fiscal year through fiscal year 2013—

(A) submit to Congress a comprehensive report that allocates all of Amtrak’s revenues and costs to each of its routes, each of its lines of business, and each major activity within each route and line of business activity, including—

- (i) train operations;
- (ii) equipment maintenance;
- (iii) food service;
- (iv) sleeping cars;
- (v) ticketing; and
- (vi) reservations;

(B) include the report described in subparagraph (A) in Amtrak’s annual report; and

(C) post such report on Amtrak’s website.

(b) VERIFICATION OF SYSTEM; REPORT.—The Inspector General of the Department of Transportation shall review the accounting system designed and implemented under subsection (a) to ensure that it accomplishes the purposes for which it is intended. The Inspector General shall report his findings and conclusions, together with any recommendations, to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation.

(c) CATEGORIZATION OF REVENUES AND EXPENSES.—

(1) IN GENERAL.—In carrying out subsection (a), the Amtrak Board of Directors shall separately categorize routes, assigned revenues, and attributable expenses by type of service, including long distance routes, State-sponsored routes, commuter contract routes, and Northeast Corridor routes.

(2) **NORTHEAST CORRIDOR.**—Amtrak revenues generated by freight and commuter railroads operating on the Northeast Corridor shall be separately listed to include the charges per car mile assessed by Amtrak to other freight and commuter railroad entities.

(3) **FIXED OVERHEAD EXPENSES.**—Fixed overhead expenses that are not directly assigned or attributed to any route (or group of routes) shall be listed separately by line item and expense category.

**SEC. 204. DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.**

(a) **DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.**—The Amtrak Board of Directors shall submit an annual budget and business plan for Amtrak, and a 5-year financial plan for the fiscal year to which that budget and business plan relate and the subsequent 4 years, prepared in accordance with this section, to the Secretary of Transportation and the Inspector General of the Department of Transportation no later than—

(1) the first day of each fiscal year beginning after the date of enactment of this Act; or

(2) the date that is 60 days after the date of enactment of an appropriation Act for the fiscal year, if later.

(b) **CONTENTS OF 5-YEAR FINANCIAL PLAN.**—The 5-year financial plan for Amtrak shall include, at a minimum—

(1) all projected revenues and expenditures for Amtrak, including governmental funding sources;

(2) projected ridership levels for all Amtrak passenger operations;

(3) revenue and expenditure forecasts for non-passenger operations;

(4) capital funding requirements and expenditures necessary to maintain passenger service which will accommodate predicted ridership levels and predicted sources of capital funding;

(5) operational funding needs, if any, to maintain current and projected levels of passenger service, including state-supported routes and predicted funding sources;

(6) projected capital and operating requirements, ridership, and revenue for any new passenger service operations or service expansions;

(7) an assessment of the continuing financial stability of Amtrak, such as Amtrak's ability to efficiently manage its workforce, and Amtrak's ability to effectively provide passenger train service;

(8) estimates of long-term and short-term debt and associated principal and interest payments (both current and anticipated);

(9) annual cash flow forecasts;

(10) a statement describing methods of estimation and significant assumptions;

(11) specific measures that demonstrate measurable improvement year over year in the financial results of Amtrak's operations;

(12) prior fiscal year and projected operating ratio, cash operating loss, and cash operating loss per passenger on a route, business line, and corporate basis;

(13) prior fiscal year and projected specific costs and savings estimates resulting from reform initiatives;

(14) prior fiscal year and projected labor productivity statistics on a route, business line, and corporate basis; and

(15) prior fiscal year and projected equipment reliability statistics.

(c) **STANDARDS TO PROMOTE FINANCIAL STABILITY.**—In meeting the requirements of subsection (b), Amtrak shall—

(1) apply sound budgetary practices, including reducing costs and other expenditures, improving productivity, increasing revenues, or combinations of such practices;

(2) use the categories specified in the financial accounting and reporting system developed under section 203 when preparing its 5-year financial plan; and

(3) ensure that the plan is consistent with the authorizations of appropriations under title I of this Act.

**SEC. 205. ESTABLISHMENT OF GRANT PROCESS.**

(a) **GRANT REQUESTS.**—Amtrak shall submit grant requests (including a schedule for the disbursement of funds), consistent with the requirements of this Act, to the Secretary of Transportation for funds authorized to be appropriated to the Secretary for the use of Amtrak under sections 101(a), (c), and (d), 102, and 103(c) of this Act.

(b) **PROCEDURES FOR GRANT REQUESTS.**—The Secretary shall establish substantive and procedural requirements, including schedules, for grant requests under this section not later than 30 days after the date of enactment of this Act and shall transmit copies to the Committee on Transportation and Infrastructure of the House of

Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(c) REVIEW AND APPROVAL.—

(1) 30-DAY APPROVAL PROCESS.—The Secretary shall complete the review of a complete grant request (including the disbursement schedule) and approve or disapprove the request within 30 days after the date on which Amtrak submits the grant request. If the Secretary disapproves the request or determines that the request is incomplete or deficient, the Secretary shall include the reason for disapproval or the incomplete items or deficiencies in the notice to Amtrak.

(2) 15-DAY MODIFICATION PERIOD.—Within 15 days after receiving notification from the Secretary under the preceding sentence, Amtrak shall submit a modified request for the Secretary's review.

(3) REVISED REQUESTS.—Within 15 days after receiving a modified request from Amtrak, the Secretary shall either approve the modified request, or, if the Secretary finds that the request is still incomplete or deficient, the Secretary shall identify in writing to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation the remaining deficiencies and recommend a process for resolving the outstanding portions of the request.

**SEC. 206. STATE-SUPPORTED ROUTES.**

(a) IN GENERAL.—Within 2 years after the date of enactment of this Act, the Board of Directors of Amtrak, in consultation with the Secretary of Transportation and the governors of each relevant State and the Mayor of the District of Columbia or groups representing those officials, shall develop and implement a single, Nationwide standardized methodology for establishing and allocating the operating and capital costs among the States and Amtrak associated with trains operated on routes described in section 24102(5)(B) or (D) or section 24702 that—

(1) ensures, within 5 years after the date of enactment of this Act, equal treatment in the provision of like services of all States and groups of States (including the District of Columbia); and

(2) allocates to each route the costs incurred only for the benefit of that route and a proportionate share, based upon factors that reasonably reflect relative use, of costs incurred for the common benefit of more than 1 route.

(b) REVIEW.—If Amtrak and the States (including the District of Columbia) in which Amtrak operates such routes do not voluntarily adopt and implement the methodology developed under subsection (a) in allocating costs and determining compensation for the provision of service in accordance with the date established therein, the Surface Transportation Board shall determine the appropriate methodology required under subsection (a) for such services in accordance with the procedures and procedural schedule applicable to a proceeding under section 24904(c) of title 49, United States Code, and require the full implementation of this methodology with regards to the provision of such service within 1 year after the Board's determination of the appropriate methodology.

(c) USE OF CHAPTER 244 FUNDS.—Funds provided to a State under chapter 244 of title 49, United States Code, may be used, as provided in that chapter, to pay capital costs determined in accordance with this section.

**SEC. 207. METRICS AND STANDARDS.**

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Administrator of the Federal Railroad Administration and Amtrak shall jointly, in consultation with the Surface Transportation Board, rail carriers over whose rail lines Amtrak trains operate, States, Amtrak employees, nonprofit employee organizations representing Amtrak employees, and groups representing Amtrak passengers, as appropriate, develop new or improve existing metrics and minimum standards for measuring the performance and service quality of intercity passenger train operations, including cost recovery, on-time performance and minutes of delay, ridership, on-board services, stations, facilities, equipment, and other services. Such metrics, at a minimum, shall include the percentage of avoidable and fully allocated operating costs covered by passenger revenues on each route, ridership per train mile operated, measures of on-time performance and delays incurred by intercity passenger trains on the rail lines of each rail carrier and, for long distance routes, measures of connectivity with other routes in all regions currently receiving Amtrak service and the transportation needs of communities and populations that are not well-served by other forms of public transportation. Amtrak shall provide reasonable access to the Federal Railroad Administration in order to enable the Administration to carry out its duty under this section.

(b) QUARTERLY REPORTS.—The Administrator of the Federal Railroad Administration shall collect the necessary data and publish a quarterly report on the performance and service quality of intercity passenger train operations, including Amtrak's

cost recovery, ridership, on-time performance and minutes of delay, causes of delay, on-board services, stations, facilities, equipment, and other services.

(c) **CONTRACT WITH HOST RAIL CARRIERS.**—To the extent practicable, Amtrak and its host rail carriers shall incorporate the metrics and standards developed under subsection (a) into their access and service agreements.

(d) **ARBITRATION.**—If the development of the metrics and standards is not completed within the 180-day period required by subsection (a), any party involved in the development of those standards may petition the Surface Transportation Board to appoint an arbitrator to assist the parties in resolving their disputes through binding arbitration.

**SEC. 208. NORTHEAST CORRIDOR STATE-OF-GOOD-REPAIR PLAN.**

(a) **IN GENERAL.**—Within 9 months after the date of enactment of this Act, the National Railroad Passenger Corporation, in consultation with the Secretary and the States (including the District of Columbia) that make up the Northeast Corridor (as defined in section 24102 of title 49, United States Code), shall prepare a capital spending plan for capital projects required to return the railroad right-of-way (including track, signals, and auxiliary structures), facilities, stations, and equipment, of the Northeast Corridor to a state of good repair by the end of fiscal year 2024, consistent with the funding levels authorized in this Act and shall submit the plan to the Secretary.

(b) **APPROVAL BY THE SECRETARY.**—

(1) The Corporation shall submit the capital spending plan prepared under this section to the Secretary of Transportation for review and approval pursuant to the procedures developed under section 205 of this Act.

(2) The Secretary of Transportation shall require that the plan be updated at least annually and shall review and approve such updates. During review, the Secretary shall seek comments and review from the commission established under section 24905 of title 49, United States Code, and other Northeast Corridor users regarding the plan.

(3) The Secretary shall make grants to the Corporation with funds authorized by section 101(d) of this Act for Northeast Corridor capital investments contained within the capital spending plan prepared by the Corporation and approved by the Secretary.

(4) Using the funds authorized by section 101(f) of this Act, the Secretary shall review Amtrak's capital expenditures funded by this section to ensure that such expenditures are consistent with the capital spending plan and that Amtrak is providing adequate project management oversight and fiscal controls.

(c) **ELIGIBILITY OF EXPENDITURES.**—The Federal share of expenditures for capital improvements under this section may not exceed 100 percent.

**SEC. 209. NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS IMPROVEMENTS.**

(a) **IN GENERAL.**—Section 24905 is amended to read as follows:

**“§ 24905. Northeast Corridor Infrastructure and Operations Advisory Commission**

**“(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 2008, 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 operations 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 Secretary of Transportation and the Federal Railroad Administration;

“(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, and serving at the pleasure of, the chief executive officer thereof; and

“(D) non-voting representatives of freight railroad carriers using the Northeast Corridor selected by the Secretary.

“(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 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 state-of-good-repair under section 208 of the Passenger Rail Investment and Improvement Act of 2008;

“(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 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 2008, 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;

“(C) transmit the proposed timetable to the Surface Transportation Board; and

“(D) at the request of a Commission member, petition the Surface Transportation Board to appoint a mediator to assist the Commission members through non-binding mediation to reach an agreement under this section.

“(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 entities fail to implement such new agreements in accordance with the timetable, the Commission shall petition the Surface Transportation Board to determine the appropriate compensation amounts for such services in accordance with section 24904(c) of this title. The Surface Transportation Board shall enforce its determination on the party or parties involved.

“(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 Committee on Transportation and In-

frastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.”

- (b) CONFORMING AMENDMENTS.—(1) Section 24904(c)(2) is amended by—  
 (A) inserting “commuter rail passenger and” after “between”; and  
 (B) striking “freight” in the second sentence.

(2) The chapter analysis for chapter 249 is amended by striking the item relating to section 24905 and inserting the following:

“24905. Northeast Corridor Infrastructure and Operations Advisory Commission.”

(c) ACELA SERVICE STUDY.—

(1) IN GENERAL.—Amtrak shall conduct a study to determine the infrastructure and equipment improvements necessary to provide regular Acela service—

- (A) between Washington, DC and New York City—  
 (i) in 2 hours and 30 minutes;  
 (ii) in 2 hours and 15 minutes; and  
 (iii) in 2 hours; and  
 (B) between New York City and Boston—  
 (i) in 3 hours and 15 minutes;  
 (ii) in 3 hours; and  
 (iii) in 2 hours and 45 minutes.

(2) ISSUES.—The study conducted under paragraph (1) shall include—

- (A) an estimated time frame for achieving the trip time described in paragraph (1);  
 (B) an analysis of any significant obstacles that would hinder such an achievement; and  
 (C) a detailed description and cost estimate of the specific infrastructure and equipment improvements necessary for such an achievement.

(3) REPORT.—Within 1 year after the date of enactment of this Act, Amtrak shall submit a written report containing the results of the study required under this subsection to—

- (A) the Committee on Transportation and Infrastructure of the House of Representatives;  
 (B) the Committee on Appropriations of the House of Representatives;  
 (C) the Committee on Commerce, Science, and Transportation of the Senate;  
 (D) the Committee on Appropriations of the Senate; and  
 (E) the Federal Railroad Administration.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation to enable Amtrak to conduct the study under this subsection \$5,000,000.

**SEC. 210. RESTRUCTURING LONG-TERM DEBT AND CAPITAL LEASES.**

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Secretary of Transportation and Amtrak, may make agreements to restructure Amtrak’s indebtedness as of the date of enactment of this Act. This authorization expires 18 months after the date of enactment of this Act.

(b) DEBT RESTRUCTURING.—The Secretary of the Treasury, in consultation with the Secretary of Transportation and Amtrak, shall enter into negotiations with the holders of Amtrak debt, including leases, outstanding on the date of enactment of this Act for the purpose of restructuring (including repayment) and repaying that debt. The Secretary of the Treasury may secure agreements for restructuring or repayment on such terms as the Secretary of the Treasury deems favorable to the interests of the Government.

(c) CRITERIA.—In restructuring Amtrak’s indebtedness, the Secretary of the Treasury and Amtrak—

- (1) shall take into consideration repayment costs, the term of any loan or loans, and market conditions; and  
 (2) shall ensure that the restructuring results in significant savings to Amtrak and the United States Government.

(d) PAYMENT OF RENEGOTIATED DEBT.—If the criteria under subsection (c) are met, the Secretary of the Treasury may assume or repay the restructured debt, as appropriate.

(e) AMTRAK PRINCIPAL AND INTEREST PAYMENTS.—

(1) PRINCIPAL ON DEBT SERVICE.—Unless the Secretary of the Treasury makes sufficient payments to creditors under subsection (d) so that Amtrak is required to make no payments to creditors in a fiscal year, the Secretary of Transportation shall use funds authorized by section 102(a)(1) of this Act for the use of Amtrak for retirement of principal on loans for capital equipment, or capital leases.

(2) INTEREST ON DEBT.—Unless the Secretary of the Treasury makes sufficient payments to creditors under subsection (d) so that Amtrak is required to make no payments to creditors in a fiscal year, the Secretary of Transportation shall use funds authorized by section 102(a)(1) of this Act for the use of Amtrak for the payment of interest on loans for capital equipment, or capital leases.

(3) REDUCTIONS IN AUTHORIZATION LEVELS.—Whenever action taken by the Secretary of the Treasury under subsection (a) results in reductions in amounts of principal or interest that Amtrak must service on existing debt, the corresponding amounts authorized by section 102(a)(1) shall be reduced accordingly.

(f) LEGAL EFFECT OF PAYMENTS UNDER THIS SECTION.—The payment of principal and interest on secured debt, other than debt assumed under subsection (d), with the proceeds of grants under subsection (e) shall not—

(1) modify the extent or nature of any indebtedness of the National Railroad Passenger Corporation to the United States in existence of the date of enactment of this Act;

(2) change the private nature of Amtrak's or its successors' liabilities; or

(3) imply any Federal guarantee or commitment to amortize Amtrak's outstanding indebtedness.

(g) SECRETARY APPROVAL.—Amtrak may not incur more debt after the date of enactment of this Act without the express advance approval of the Secretary of Transportation.

(h) REPORT.—The Secretary of the Treasury shall transmit a report to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Appropriations of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Appropriations of the Senate, by November 1, 2009—

(1) describing in detail any agreements to restructure the Amtrak debt; and

(2) providing an estimate of the savings to Amtrak and the United States Government.

**SEC. 211. STUDY OF COMPLIANCE REQUIREMENTS AT EXISTING INTERCITY RAIL STATIONS.**

Amtrak, in consultation with station owners and other railroads operating service through the existing stations that it serves, shall evaluate the improvements necessary to make these stations readily accessible to and usable by individuals with disabilities, as required by such section 242(e)(2) of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. 12162(e)(2)). The evaluation shall include, for each applicable station, improvements required to bring it into compliance with the applicable parts of such section 242(e)(2), any potential barriers to achieving compliance, the estimated cost of the improvements necessary, the identification of the responsible person (as defined in section 241(5) of that Act (42 U.S.C. 12161(5))), and the earliest practicable date when such improvements can be made. The evaluation shall also include an overall schedule for bringing all applicable stations into compliance with the applicable parts of section 242(e)(2). Amtrak shall submit the evaluation to the Committee on Transportation and Infrastructure of the House of Representatives; the Committee on Commerce, Science, and Transportation of the Senate; the Department of Transportation; and the National Council on Disability by July 1, 2009, along with recommendations for funding the necessary improvements. Should the Department of Transportation issue the Final Rule to its Notice of Proposed Rulemaking of February 27, 2006, on "Transportation for Individuals with Disabilities," after Amtrak submits its evaluation, Amtrak shall, not later than 120 days after the date the Final Rule is published, submit to the above parties a supplemental evaluation on the impact of those changes on its cost and schedule for achieving full compliance.

**SEC. 212. OVERSIGHT OF AMTRAK'S COMPLIANCE WITH ACCESSIBILITY REQUIREMENTS.**

Using the funds authorized by section 101(f) of this Act, the Federal Railroad Administration shall monitor and conduct periodic reviews of Amtrak's compliance with applicable sections of the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1974 to ensure that Amtrak's services and facilities are accessible to individuals with disabilities to the extent required by law.

**SEC. 213. ACCESS TO AMTRAK EQUIPMENT AND SERVICES.**

If a State desires to select or selects an entity other than Amtrak to provide services required for the operation of an intercity passenger train route described in section 24102(5)(D) or 24702 of title 49, United States Code, the State may make an agreement with Amtrak to use facilities and equipment of, or have services provided by, Amtrak under terms agreed to by the State and Amtrak to enable the State to utilize an entity other than Amtrak to provide services required for operation of the route. If the parties cannot agree upon terms, and the Surface Transportation Board

finds that access to Amtrak's facilities or equipment, or the provision of services by Amtrak, is necessary to carry out this provision and that the operation of Amtrak's other services will not be impaired thereby, the Surface Transportation Board shall, within 120 days after submission of the dispute, issue an order that the facilities and equipment be made available, and that services be provided, by Amtrak, and shall determine reasonable compensation, liability and other terms for use of the facilities and equipment and provision of the services. Compensation shall be determined in accordance with the methodology established pursuant to section 206 of this Act.

**SEC. 214. GENERAL AMTRAK PROVISIONS.**

(a) **REPEAL OF SELF-SUFFICIENCY REQUIREMENTS.—**

(1) **PLAN REQUIRED.—**Section 24101(d) is amended—

(A) by striking “plan to operate within the funding levels authorized by section 24104 of this chapter, including budgetary goals for fiscal years 1998 through 2002.” and inserting “plan, consistent with section 204 of the Passenger Rail Investment and Improvement Act of 2008, including the budgetary goals for fiscal years 2009 through 2013.”; and

(B) by striking the last sentence and inserting “Amtrak and its Board of Directors shall adopt a long-term plan that minimizes the need for Federal operating subsidies.”.

(2) **AMTRAK REFORM AND ACCOUNTABILITY ACT AMENDMENTS.—**Title II of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 nt) is amended by striking sections 204 and 205.

(b) **LEASE ARRANGEMENTS.—**Amtrak may obtain services from the Administrator of General Services, and the Administrator may provide services to Amtrak, under section 201(b) and 211(b) of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 481(b) and 491(b)) for each of fiscal years 2009 through 2013.

(c) **TRAVEL FACILITATION.—**Using existing authority or agreements, or upon reaching additional agreements with Canada, the Secretary of Transportation and other Federal agencies, as appropriate, are authorized to establish facilities and procedures to conduct preclearance of passengers traveling on Amtrak trains from Canada to the United States. The Secretary shall seek to establish such facilities and procedures in areas determined appropriate by the Secretary.

**SEC. 215. AMTRAK MANAGEMENT ACCOUNTABILITY.**

(a) **IN GENERAL.—**Chapter 243 is amended by inserting after section 24309 the following:

**“§ 24310. Management accountability**

“(a) **IN GENERAL.—**Three years after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008, and two years thereafter, the Inspector General of the Department of Transportation shall complete an overall assessment of the progress made by Amtrak management and the Department of Transportation in implementing the provisions of that Act.

“(b) **ASSESSMENT.—**The management assessment undertaken by the Inspector General may include a review of—

“(1) effectiveness in improving annual financial planning;

“(2) effectiveness in implementing improved financial accounting;

“(3) efforts to implement minimum train performance standards;

“(4) progress maximizing revenues and minimizing Federal subsidies and improving financial results; and

“(5) any other aspect of Amtrak operations the Inspector General finds appropriate to review.”.

(b) **CONFORMING AMENDMENT.—**The chapter analysis for chapter 243 is amended by inserting after the item relating to section 24309 the following:

“24310. Management accountability.”.

**SEC. 216. PASSENGER RAIL STUDY.**

(a) **IN GENERAL.—**The Comptroller General of the General Accountability Office shall conduct a study to determine the potential cost and benefits of expanding passenger rail service options in underserved communities.

(b) **SUBMISSION.—**Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit a report containing the results of the study conducted under this section to—

(1) the Committee on Transportation and Infrastructure of the House of Representatives; and

(2) the Committee on Commerce, Science, and Transportation of the Senate.

**SEC. 217. CONGESTION GRANTS.**

(a) **AUTHORITY.**—The Secretary of Transportation may make grants to States, or to Amtrak in cooperation with States, for financing the capital costs of facilities, infrastructure, and equipment for high priority rail corridor projects necessary to reduce congestion or facilitate ridership growth in intercity passenger rail transportation.

(b) **ELIGIBLE PROJECTS.**—Projects eligible for grants under this section include projects—

(1) identified by Amtrak as necessary to reduce congestion or facilitate ridership growth in intercity passenger rail transportation along heavily traveled rail corridors; and

(2) designated by the Secretary as being sufficiently advanced in development to be capable of serving the purposes described in subsection (a) on an expedited schedule.

(c) **COMPLIANCE WITH ENVIRONMENTAL LAWS.**—The Secretary shall not make a grant under this section for a project without adequate assurances that the project will be completed in full compliance with all applicable Federal and State environmental laws and regulations.

(d) **FEDERAL SHARE.**—The Federal share of the cost of a project financed under this section shall not exceed 80 percent.

(e) **EMPLOYEE PROTECTION.**—The recipient of a grant under this section shall agree to comply with the standards of section 24312 of title 49, United States Code, 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 such title.

**SEC. 218. PLAN FOR RESTORATION OF SERVICE.**

(a) **IN GENERAL.**—Not later than 9 months after the date of enactment of this Act, Amtrak shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan for restoring passenger rail service between New Orleans, Louisiana, and Sanford, Florida. The plan shall include a projected timeline for restoring such service, the costs associated with restoring such service, and any proposals for legislation necessary to support such restoration of service. In developing the plan, Amtrak shall consult with representatives from the States of Louisiana, Alabama, Mississippi, and Florida, railroad carriers whose tracks may be used for such service, rail passengers, rail labor, and other entities as appropriate.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Transportation to enable Amtrak to conduct the study under this subsection \$1,000,000.

**SEC. 219. LOCOMOTIVE BIOFUEL STUDY.**

(a) **IN GENERAL.**—The Administrator of the Federal Railroad Administration, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall conduct a study to determine the extent to which freight and passenger rail operators could use biofuel blends to power its locomotive fleet and other vehicles that operate on rail tracks.

(b) **DEFINITION.**—For purposes of this section, the term “biofuel” means a fuel that utilizes renewable resources and is composed substantially of a renewable resource blended with ethanol, methanol, or other additive.

(c) **FACTORS.**—In conducting the study, the Federal Railroad Administration shall consider—

(1) the energy intensity of various biofuel blends compared to diesel fuel;

(2) the emission benefits of using various biofuel blends compared to locomotive diesel fuel;

(3) the cost of purchasing biofuel blends;

(4) the public benefits derived from the use of such fuels; and

(5) the effect of biofuel use on relevant locomotive and other vehicle performance.

(d) **LOCOMOTIVE TESTING.**—As part of the study, the Federal Railroad Administration shall test locomotive engine performance and emissions using blends of biofuel and diesel fuel in order to recommend a premium locomotive biofuel blend.

(e) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Federal Railroad Administration shall issue the results of this study to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Transportation \$1,000,000 to carry out this section, to remain available until expended.

**SEC. 220. STUDY OF THE USE OF BIOBASED LUBRICANTS.**

Not later than 180 days after the date of enactment of this Act, the Federal Railroad Administration shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the results of a study of the feasibility of using readily biodegradable lubricants by freight and passenger railroads. The Federal Railroad Administration shall work with an agricultural-based lubricant testing facility or facilities to complete this study. The study shall include—

- (1) an analysis of the potential use of soy-based grease and soy-based hydraulic fluids to perform according to railroad industry standards;
- (2) an analysis of the potential use of other readily biodegradable lubricants to perform according to railroad industry standards;
- (3) a comparison of the health and safety of petroleum-based lubricants with biobased lubricants, which shall include an analysis of fire safety; and
- (4) a comparison of the environmental impact of petroleum-based lubricants with biobased lubricants, which shall include rate and effects of biodegradability.

**SEC. 221. APPLICABILITY OF BUY AMERICAN ACT.**

Section 24305(f) is amended to read as follows:

“(f) **APPLICABILITY OF BUY AMERICAN ACT.**—Amtrak shall be subject to the Buy American Act (41 U.S.C. 10a–d) and the regulations thereunder, for purchases of \$100,000 or more.”.

**SEC. 222. INTERCITY PASSENGER RAIL SERVICE PERFORMANCE.**

(a) **DEVELOPMENT OF EVALUATION METRICS.**—Not later than 6 months after the date of enactment of this Act, the Inspector General of the Department of Transportation shall, using the financial and performance metrics developed under section 207, develop metrics for the evaluation of the performance and service quality of intercity passenger rail services including cost recovery, on-time performance and minutes of delay, ridership, onboard services, maintenance of facilities and equipment, and other services.

(b) **IDENTIFICATION OF WORST PERFORMING ROUTES.**—On the basis of these metrics, the Inspector General shall identify the five worst performing Amtrak routes.

(c) **ALTERNATIVE ROUTES.**—The Inspector General shall also establish criteria for evaluating routes not currently served by Amtrak which might be able to support passenger rail service at a reasonable cost.

(d) **REPORT TO CONGRESS.**—The Inspector General shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate recommending a process for the Department of Transportation to consider proposals by Amtrak and others to serve underperforming routes, and routes not currently served by Amtrak. The proposals shall require that applicants follow grant requirements of section 504. The Inspector General shall recommend one route not currently served by Amtrak and two routes (from among the five worst routes identified under subsection (b)) currently served by Amtrak, for the Department of Transportation to consider under the selection process.

(e) **IMPLEMENTATION.**—The Secretary shall not implement the selection process recommended by the Inspector General under subsection (d) until legislation has been enacted authorizing the Secretary to take such action.

**SEC. 223. AMTRAK INSPECTOR GENERAL UTILIZATION STUDY.**

Not later than 9 months after the date of enactment of this Act, the Amtrak Inspector General shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on Amtrak’s utilization of its facilities, including the Beech Grove Repair facility in Indiana. The report shall include an examination of Amtrak’s utilization of its existing facilities to determine the extent Amtrak is maximizing the opportunities for each facility, including any attempts to provide maintenance and repair to other rail carriers. In developing this report, the Amtrak Inspector General shall consult with other railroad carriers as it deems appropriate.

**SEC. 224. AMTRAK SERVICE PREFERENCE STUDY.**

Not later than 6 months after the date of enactment of this Act, the Surface Transportation Board shall transmit to the Congress a report containing—

- (1) the findings of a study of the effectiveness of the implementation of section 24308(c) of title 49, United States Code, in ensuring the preference of Amtrak service over freight transportation service; and

(2) recommendations with respect to any regulatory or legislative actions that would improve such effectiveness.

## **TITLE III—INTERCITY PASSENGER RAIL POLICY**

### **SEC. 301. CAPITAL ASSISTANCE FOR INTERCITY PASSENGER RAIL SERVICE; STATE RAIL PLANS.**

(a) IN GENERAL.—Part C of subtitle V is amended by inserting the following after chapter 243:

#### **“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 chapter:

“(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, track and track structures, 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, 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 this title.

#### **“§ 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, infrastructure, 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 2008.

“(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, or under the plan required by section 302 of the Passenger Rail Investment and Improvement Act of 2008, 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 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 to meet anticipated or existing demand, or other significant service enhancements as measured against minimum standards developed under section 207 of the Passenger Rail Investment and Improvement Act of 2008;

“(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 improve freight or commuter rail operations.

“(C) Projects that have significant environmental benefits, including projects that involve the purchase of environmentally sensitive, fuel-efficient, and cost-effective passenger rail equipment.

“(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).

“(J) Projects described in section 5302(a)(1)(G) of this title that are designed to support intercity passenger rail service.

“(K) Projects that encourage intermodal connectivity, create significant opportunity for State and private contributions toward station development, are energy and environmentally efficient, and have economic benefits.

“(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(d) of the Passenger Rail Investment and Improvement Act of 2008, 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 and operating costs in fiscal years 2002, 2003, 2004, 2005, 2006, 2007, and 2008 shall be credited towards the matching requirements for grants awarded in fiscal years 2009, 2010, and 2011 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 fiscal year 2007, for capital projects to benefit intercity passenger rail service or for the operating costs of such service above the average capital and operating expenditures made for such service in fiscal years 2004, 2005, 2006, 2007, and 2008 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) 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.

“(j) SMALL CAPITAL PROJECTS.—The Secretary shall make available \$10,000,000 annually from the amounts authorized under section 101(d) of the Passenger Rail Investment and Improvement Act of 2008 beginning in fiscal year 2009 for grants for capital projects eligible under this section not exceeding \$2,000,000, including costs eligible under section 206(c) of that Act. The Secretary may waive requirements of this section, including state rail plan requirements, as appropriate.

**“§ 24403. Project management oversight**

“(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—To receive Federal financial assistance for a major capital project under this chapter, 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 chapter 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 chapter 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 chapter, the Secretary of Transportation may approve the use of capital assistance under this chapter 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 (A) 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 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 that definition or in which that definition applies, including—

“(1) the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.);

“(2) the Railway Labor Act (43 U.S.C. 151 et seq.); and

“(3) the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.).

“(c) GRANT CONDITIONS.—The Secretary shall require as a condition of making any grant under this title for a project that uses 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;

“(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

“(D) an assurance that an applicant complies with liability requirements consistent with section 28103 of this title; 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 chapter.

“(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.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for subtitle V is amended by inserting the following after the item relating to chapter 243:

“244. INTERCITY PASSENGER RAIL SERVICE CORRIDOR CAPITAL ASSISTANCE ..... 24401”.

#### SEC. 302. STATE RAIL PLANS.

(a) IN GENERAL.—Part B of subtitle V is amended by adding at the end the following:

#### “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 chapter:

“(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, reduction of public expenditures 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 chapter.

“(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, 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 chapter, 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 on 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. State rail plans completed before the date of enactment of the Passenger Rail Investment and Improvement Act of 2008 that substantially meet the requirements of this chapter, as determined by the Secretary, shall be deemed by the Secretary to have met the requirements of this chapter.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for subtitle V is amended by inserting the following after the item relating to chapter 223:

“225. STATE RAIL PLANS AND HIGH PRIORITY PROJECTS ..... 22501”.

**SEC. 303. NEXT GENERATION CORRIDOR TRAIN EQUIPMENT POOL.**

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act, Amtrak shall establish a Next Generation Corridor Equipment Pool Committee, comprised of representatives of Amtrak, the Federal Railroad Administration, host freight railroad companies, passenger railroad equipment manufacturers, and other passenger railroad operators as appropriate and interested States. The purpose of the Committee shall be to design, develop specifications for, and procure standardized next-generation corridor equipment.

(b) FUNCTIONS.—The Committee may—

(1) determine the number of different types of equipment required, taking into account variations in operational needs and corridor infrastructure;

(2) establish a pool of equipment to be used on corridor routes funded by participating States; and

(3) subject to agreements between Amtrak and States, utilize services provided by Amtrak to design, maintain and remanufacture equipment.

(c) COOPERATIVE AGREEMENTS.—Amtrak and States participating in the Committee may enter into agreements for the funding, procurement, remanufacture, ownership and management of corridor equipment, including equipment currently owned or leased by Amtrak and next-generation corridor equipment acquired as a result of the Committee's actions, and may establish a corporation, which may be owned or jointly owned by Amtrak, participating States or other entities, to perform these functions.

(d) FUNDING.—In addition to the authorization provided in section 103(2) of this Act, capital projects to carry out the purposes of this section shall be eligible for grants made pursuant to chapter 244 of title 49, United States Code.

**SEC. 304. RAIL COOPERATIVE RESEARCH PROGRAM.**

(a) ESTABLISHMENT AND CONTENT.—Chapter 249 is amended by adding at the end the following:

**“§ 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;

“(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;

“(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; and

“(12) to review rail crossing safety improvements, including improvements using new safety technology.

“(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.”.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 249 is amended by adding at the end the following:

“24910. Rail cooperative research program.”.

**SEC. 305. PASSENGER RAIL SYSTEM COMPARISON STUDY.**

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall complete a study that compares the passenger rail system in the United States with the passenger rail systems in Canada, Germany, Great Britain, France, China, Spain, and Japan.

(b) ISSUES TO BE STUDIED.—The study conducted under subsection (a) shall include a country-by-country comparison of—

(1) the development of high-speed rail;

(2) passenger rail operating costs;

(3) the amount and payment source of rail line construction and maintenance costs;

(4) the amount and payment source of station construction and maintenance costs;

(5) passenger rail debt service costs;

(6) passenger rail labor agreements and associated costs;

(7) the net profit realized by the major passenger rail service providers in each of the 4 most recent quarters;

(8) the percentage of the passenger rail system’s costs that are paid from general government revenues; and

(9) the method used by the government to provide the subsidies described in paragraph (8).

(c) REPORT.—Not later than 180 days after the completion of the study under subsection (a), the Comptroller General shall submit a report containing the findings of such study to—

(1) the Committee on Transportation and Infrastructure of the House of Representatives; and

(2) the Committee on Commerce, Science, and Transportation of the Senate.

## TITLE IV—COMMUTER RAIL TRANSIT ENHANCEMENT

### SEC. 401. COMMUTER RAIL TRANSIT ENHANCEMENT.

(a) AMENDMENT.—Part E of subtitle V is amended by adding at the end the following:

#### “CHAPTER 285—COMMUTER RAIL TRANSIT ENHANCEMENT

“Sec.

“28501. Definitions

“28502. Surface Transportation Board mediation of trackage use requests.

“28503. Surface Transportation Board mediation of rights-of-way use requests.

“28504. Applicability of other laws.

“28505. Rules and regulations.

#### “§ 28501. Definitions

“In this chapter—

“(1) the term ‘Board’ means the Surface Transportation Board;

“(2) the term ‘capital work’ means maintenance, restoration, reconstruction, capacity enhancement, or rehabilitation work on trackage that would be treated, in accordance with generally accepted accounting principles, as a capital item rather than an expense;

“(3) the term ‘fixed guideway transportation’ means public transportation (as defined in section 5302(a)(10)) provided on, by, or using a fixed guideway (as defined in section 5302(a)(4));

“(4) the term ‘public transportation authority’ means a local governmental authority (as defined in section 5302(a)(6)) established to provide, or make a contract providing for, fixed guideway transportation;

“(5) the term ‘rail carrier’ means a person, other than a governmental authority, providing common carrier railroad transportation for compensation subject to the jurisdiction of the Board under chapter 105;

“(6) the term ‘segregated fixed guideway facility’ means a fixed guideway facility constructed within the railroad right-of-way of a rail carrier but physically separate from trackage, including relocated trackage, within the right-of-way used by a rail carrier for freight transportation purposes; and

“(7) the term ‘trackage’ means a railroad line of a rail carrier, including a spur, industrial, team, switching, side, yard, or station track, and a facility of a rail carrier.

#### “§ 28502. Surface Transportation Board mediation of trackage use requests

“If, after a reasonable period of negotiation, a public transportation authority cannot reach agreement with a rail carrier to use trackage of, and have related services provided by, the rail carrier for purposes of fixed guideway transportation, the public transportation authority or the rail carrier may apply to the Board for nonbinding mediation. The Board shall conduct the nonbinding mediation in accordance with the mediation process of section 1109.4 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.

#### “§ 28503. Surface Transportation Board mediation of rights-of-way use requests

“If, after a reasonable period of negotiation, a public transportation authority cannot reach agreement with a rail carrier to acquire an interest in a railroad right-of-way for the construction and operation of a segregated fixed guideway facility, the public transportation authority or the rail carrier may apply to the Board for nonbinding mediation. The Board shall conduct the nonbinding mediation in accordance with the mediation process of section 1109.4 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.

#### “§ 28504. Applicability of other laws

“Nothing in this chapter shall be construed to limit a rail transportation provider’s right under section 28103(b) to enter into contracts that allocate financial responsibility for claims.

#### “§ 28505. Rules and regulations

“Not later than 180 days after the date of enactment of this section, the Board shall issue such rules and regulations as may be necessary to carry out this chapter.”

(b) CLERICAL AMENDMENT.—The table of chapters of such subtitle is amended by adding after the item relating to chapter 283 the following:

“285. COMMUTER RAIL TRANSIT ENHANCEMENT ..... 28501”.

## TITLE V—HIGH-SPEED RAIL

### SEC. 501. HIGH-SPEED RAIL CORRIDOR PROGRAM.

(a) IN GENERAL.—Chapter 261 is amended by adding at the end thereof the following:

#### “§ 26106. High-speed rail corridor program

“(a) IN GENERAL.—The Secretary of Transportation shall establish and implement a high-speed rail corridor program.

“(b) DEFINITIONS.—In this section, the following definitions apply:

“(1) APPLICANT.—The term ‘applicant’ means a State, a group of States, an Interstate Compact, a public agency established by one or more States and having responsibility for providing high-speed rail service, or Amtrak.

“(2) CORRIDOR.—The term ‘corridor’ means a corridor designated by the Secretary pursuant to section 104(d)(2) of title 23.

“(3) CAPITAL PROJECT.—The term ‘capital project’ means a project or program in a State rail plan developed under chapter 225 of this title for acquiring, constructing, improving, or inspecting equipment, track, and track structures, or a facility of use in or for the primary benefit of high-speed 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, high-way-rail grade crossing improvements related to high-speed rail service, mitigating environmental impacts, communication and signalization improvements, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing.

“(4) HIGH-SPEED RAIL.—The term ‘high-speed rail’ means intercity passenger rail service that is reasonably expected to reach speeds of at least 110 miles per hour.

“(5) 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 this title.

“(6) SECRETARY.—The term ‘Secretary’ means the Secretary of Transportation.

“(7) STATE.—The term ‘State’ means any of the 50 States or the District of Columbia.

“(c) GENERAL AUTHORITY.—The Secretary may make grants under this section to an applicant to finance capital projects in high-speed rail corridors.

“(d) APPLICATIONS.—Each applicant seeking to receive a grant under this section to develop a high-speed rail corridor shall submit to the Secretary an application in such form and in accordance with such requirements as the Secretary shall establish.

“(e) COMPETITIVE GRANT SELECTION AND CRITERIA FOR GRANTS.—

“(1) IN GENERAL.—The Secretary shall—

“(A) establish criteria for selecting among projects that meet the criteria specified in paragraph (2);

“(B) conduct a national solicitation for applications; and

“(C) award grants on a competitive basis.

“(2) GRANT CRITERIA.—The Secretary may approve a grant under this section for a project only if the Secretary determines that the project—

“(A) is part of a State rail plan developed under chapter 225 of this title, or under the plan required by section 302 of the Passenger Rail Investment and Improvement Act of 2008;

“(B) is based on the results of preliminary engineering;

“(C) has the legal, financial, and technical capacity to carry out the project; and

“(D) is justified based on the ability of the project—

“(i) to generate national economic benefits, including creating jobs, expanding business opportunities, and impacting the gross domestic product;

“(ii) to increase mobility of United States citizens and reduce congestion, including impacts in the State, region, and Nation; and

“(iii) to otherwise enhance the national transportation system.

“(3) **PROJECT SELECTION CRITERIA.**—In selecting a project under this section, the Secretary shall consider the extent to which the project—

“(A) makes a substantial contribution to providing the infrastructure and equipment required to complete a high-speed rail corridor;

“(B) leverages Federal investment by encouraging non-Federal financial commitments, including evidence of stable and dependable financing sources to construct, maintain, and operate the high-speed rail corridor and service; and

“(C) helps protect the environment.

“(f) **FEDERAL SHARE.**—The Federal share of the cost of a project financed under this section shall not exceed 80 percent of the project net capital cost.

“(g) **ISSUANCE OF REGULATIONS.**—Not later than 1 year after the date of enactment of this section, the Secretary shall issue regulations for carrying out this section.

“(h) **AUTHORIZATION.**—There are authorized to be appropriated to the Secretary to carry out this section \$350,000,000 for each of fiscal years 2009 through 2013.”

(b) **TABLE OF SECTIONS AMENDMENT.**—The table of sections for chapter 261 is amended by adding after the item relating to section 26105 the following new item: “26106. High-speed rail corridor program.”

**SEC. 502. ADDITIONAL HIGH-SPEED PROJECTS.**

(a) **SOLICITATION OF PROPOSALS.**—

(1) **IN GENERAL.**—

(A) **NORTHEAST CORRIDOR.**—Not later than 60 days after the date of enactment of this Act, the Secretary of Transportation shall issue a request for proposals for projects for the financing, design, construction, and operation of an initial high-speed rail system operating between Washington, DC, and New York City. Such proposals shall be submitted to the Secretary not later than 150 days after the publication of such request for proposals.

(B) **OTHER PROJECTS.**—After a report is transmitted under subsection (e) with respect to projects described in subparagraph (A), the Secretary of Transportation may issue a request for proposals for additional projects for the financing, design, construction, and operation of a high-speed rail system operating on any other corridor in the United States. Such proposals shall be submitted to the Secretary not later than 150 days after the publication of such request for proposals.

(2) **CONTENTS.**—A proposal submitted under paragraph (1) shall include—

(A) the names and qualifications of the persons submitting the proposal;

(B) a detailed description of the proposed route and its engineering characteristics and of all infrastructure improvements required to achieve the planned operating speeds and trip times;

(C) how the project would comply with Federal rail safety regulations which govern the track and equipment safety requirements for high-speed rail operations;

(D) the peak and average operating speeds to be attained;

(E) the type of equipment to be used, including any technologies for—

(i) maintaining an operating speed the Secretary determines appropriate; or

(ii) in the case of a proposal submitted under paragraph (1)(A), achieving less than 2-hour express service between Washington, DC, and New York City;

(F) the locations of proposed stations;

(G) a detailed description of any proposed legislation needed to facilitate the project;

(H) a financing plan identifying—

(i) sources of revenue;

(ii) the amount of any proposed public contribution toward capital costs or operations;

(iii) ridership projections;

(iv) the amount of private investment;

(v) projected revenue;

(vi) annual operating and capital costs;

(vii) the amount of projected capital investments required (both initially and in subsequent years to maintain a state of good repair); and

(viii) the sources of the private investment required, including the identity of any person or entity that has made or is expected to make a commitment to provide or secure funding and the amount of such commitment;

- (I) a description of how the project would contribute to the development of a national high-speed rail system, and an intermodal plan describing how the system will connect with other transportation links;
  - (J) labor protections that would comply with the requirements of section 504;
  - (K) provisions to ensure that the proposal will be designed to operate in harmony with existing and projected future intercity, commuter, and freight service;
  - (L) provisions for full fair market compensation for any asset, property right or interest, or service acquired from, owned, or held by a private person or non-Federal entity that would be acquired, impaired, or diminished in value as a result of a project, except as otherwise agreed to by the private person or entity; and
  - (M) a detailed description of the environmental impacts of the project, and how any adverse impacts would be mitigated.
- (3) DOCUMENTS.—Documents submitted or developed pursuant to this subsection shall not be subject to section 552 of title 5, United States Code.
- (b) DETERMINATION OF COST EFFECTIVENESS AND ESTABLISHMENT OF COMMISSIONS.—Not later than 60 days after receipt of a proposal under subsection (a), the Secretary of Transportation shall—
- (1) make a determination as to whether the proposal is cost effective; and
  - (2) for each corridor for which one or more cost effective proposals are received, establish a commission under subsection (c).
- (c) COMMISSIONS.—
- (1) MEMBERS.—The commission referred to in subsection (b)(2) shall consist of—
    - (A) the governor of the affected State or States, or their respective designees;
    - (B) a rail labor representative, a representative from a rail freight carrier using the relevant corridor, and a commuter authority using the relevant corridor, appointed by the Secretary of Transportation, in consultation with the chairman and ranking minority member of the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate;
    - (C) the Secretary of Transportation or his designee;
    - (D) the president of Amtrak or his designee; and
    - (E) the mayors of the three largest municipalities serviced by the proposed high-speed rail corridor.
  - (2) CHAIRPERSON AND VICE-CHAIRPERSON SELECTION.—The Chairperson and Vice Chairperson shall be elected from among members of the Commission.
  - (3) QUORUM AND VACANCY.—
    - (A) QUORUM.—A majority of the members of the Commission shall constitute a quorum.
    - (B) VACANCY.—Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made.
- (d) COMMISSION CONSIDERATION.—
- (1) IN GENERAL.—Each commission established under subsection (b)(2) shall be responsible for reviewing the proposal or proposals with respect to which the commission was established, and not later than 90 days after the establishment of the commission, shall transmit to the Secretary, and to the chairman and ranking minority member of the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a report which includes—
    - (A) a summary of each proposal received;
    - (B) a ranking of the order of the proposals according to cost effectiveness, advantages over existing services, projected revenue, and cost and benefit to the public and private parties;
    - (C) an indication of which proposal or proposals are recommended by the commission; and
    - (D) an identification of any proposed legislative provisions which would facilitate implementation of the recommended project.
  - (2) VERBAL PRESENTATION.—Proposers shall be given an opportunity to make a verbal presentation to the commission to explain their proposals.
- (e) SELECTION BY SECRETARY.—Not later than 60 days after receiving a report from a commission under subsection (d)(1), the Secretary of Transportation shall transmit to the Congress a report that ranks all of the recommended proposals according to cost effectiveness, advantages over existing services, projected revenue, and cost and benefit to the public and private parties.

(f) **NORTHEAST CORRIDOR ECONOMIC DEVELOPMENT STUDY.**—Not later than 9 months after the date of enactment of this Act, the Secretary of Transportation shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the results of an economic development study of Amtrak’s Northeast Corridor service between Washington, DC, and New York City. Such study shall examine how to achieve maximum utilization of the Northeast Corridor as a transportation asset, including—

- (1) maximizing the assets of the Northeast Corridor for potential economic development purposes;
- (2) real estate improvement and financial return;
- (3) improved intercity, commuter, and freight services;
- (4) optimum utility utilization in conjunction with potential separated high-speed rail passenger services; and
- (5) any other means of maximizing the economic potential of the Northeast Corridor.

**SEC. 503. HIGH-SPEED RAIL STUDY.**

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall conduct—

- (1) an alternatives analysis of the Secretary’s December 1, 1998, extension of the designation of the Southeast High-Speed Rail Corridor as authorized under section 104(d)(2) of title 23, United States Code; and
- (2) a feasibility analysis regarding the expansion of the South Central High-Speed Rail Corridor to the Port of Houston, Texas.

These analyses shall consider changes that have occurred in the region’s population, anticipated patterns of population growth, connectivity with other modes of transportation, ability of the designation to reduce regional traffic congestion, and the ability of current and proposed routings to meet the needs of tourists. The Secretary shall submit recommendations to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and conduct a redesignation of one or both corridors if necessary.

**SEC. 504. 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, or the amendments made by 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 (A) 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, or the amendments made by this title, shall be considered a rail carrier as defined in section 10102(5) of title 49, United States Code, for purposes of this title and any other statute that adopts that definition or in which that definition applies, including—

- (1) the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.);
- (2) the Railway Labor Act (43 U.S.C. 151 et seq.); and
- (3) the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.).

(c) GRANT CONDITIONS.—The Secretary shall require as a condition of making any grant under this title, or the amendments made by this title, for a project that uses 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;
- (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
- (D) an assurance that an applicant complies with liability requirements consistent with section 28103 of title 49, United States Code; and

(2) the applicant agrees to comply with—

(A) the standards of section 24312 of title 49, United States Code, 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 title 49, United States Code; 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 chapter.

(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, or the amendments made by 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 title 49, United States Code) operations of a State or local government authority (as those terms are defined in section 5302(11) and (6), respectively, of title 49, United States Code) eligible to receive financial assistance under section 5307 of title 49, United States Code, 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.

#### PURPOSE OF THE LEGISLATION

H.R. 6003, the “Passenger Rail Investment and Improvement Act of 2008”, as amended, reauthorizes the National Railroad Passenger Corporation (“Amtrak”) through fiscal year 2013, makes improvements to Federal passenger rail transportation policy and activities, and authorizes construction of high-speed rail corridors throughout the United States.

#### BACKGROUND AND NEED FOR LEGISLATION

Intercity passenger rail is an increasingly necessary transportation alternative to highway and air travel, particularly in congested parts of the country. It offers direct access to downtown stations and is travel time competitive to other transportation modes. Further, it is critical to decrease our dependence on foreign oil and alleviate the impacts of global climate change.

The National Rail Passenger Corporation, better known as “Amtrak”, provides a majority of the nation’s intercity passenger rail service. Amtrak was created with the enactment of the Rail Passenger Service Act of 1970. The congressionally chartered, non-governmental corporation was created to relieve private railroads of their legal mandate to operate money-losing intercity passenger rail service and to preserve and reinvigorate intercity passenger rail service throughout the country. When Amtrak commenced operations on May 1, 1971, the rail share of the intercity travel mar-



ket was 0.4 percent. The number of daily intercity passenger trains had declined from 11,000 in 1964 to fewer than 300 in 1970.

Amtrak has grown considerably since then. In FY 2007, Amtrak served more than 25.8 million passengers at more than 500 stations in 46 States on approximately 22,000 route miles. Amtrak's FY 2007 ridership is the fifth straight year of record ridership and it increased ridership across all of its services in both corridor and long-distance routes. On average, more than 70,000 passengers ride on Amtrak trains each day. Amtrak also improved its financial performance due to improvements in its service and operations. In FY 2007, the railroad posted approximately \$1.5 billion in ticket revenue, a gain of 10.8 percent over FY 2006 ticket revenues and the third consecutive year of ticket revenue gain.

Despite these impressive ridership and revenue achievements, Amtrak has consistently had to fight for sufficient capital and operating investment from Congress. There have been unrealistic expectations that Amtrak should be self-sufficient and profitable. Amtrak was charged to operate over routes and services that were generally unprofitable for the private railroads that preceded Amtrak service. In many of these cases, Amtrak provided this service with second-hand equipment acquired from private railroads and limited federal start-up support.

In addition, the expectation of self-sufficient and profitable Amtrak service is unique in comparison to the Federal approach of financing the Nation's other major passenger transportation modes. The nation's highway, public transportation, and aviation systems all receive robust Federal investment, significantly financed by user fees. While this expectation helped justify efforts of significantly restricting or eliminating Federal investment for intercity passenger rail, it has also undermined efforts to develop a national intercity passenger rail system that is capable of meeting the needs of the nation in the 21st Century.

Federal investment in Amtrak is provided through the annual appropriations process from discretionary funds. This investment has varied significantly from year to year, depending on overall budget conditions and political support. Amtrak's last authorization, the Amtrak Reform and Accountability Act of 1997, reauthorized Amtrak for five years, providing a total of \$5.3 billion for fiscal years 1998 through 2002. However, Federal investment in Amtrak remained inconsistent and frequently failed to meet authorized spending levels. As a result, Amtrak was forced to take on new debt to finance its basic system needs. Today, a majority of Amtrak's \$3.2 billion long-term debt stems from equipment capital leases acquired during this period that allowed Amtrak to preserve its operations. This long-term debt is reduced somewhat by assets related to defeased leases. Amtrak spends approximately \$300 million per year in servicing this debt.

In addition, this limited and inconsistent Congressional support also forced Amtrak to curtail or defer many needed capital projects that created a serious deferred maintenance problem. Poor train performance and reliability due to equipment and infrastructure deficiencies undermined Amtrak's operations and revenue potential.

Today, Amtrak reports it has approximately \$6 billion in deferred maintenance. Completing this maintenance would bring the

Northeast Corridor (“NEC”) to a state-of-good-repair (which is defined as replacing assets during their useful design life); make improvements to bridges and tunnels; and replace Amtrak’s fleet of railcars. Amtrak has refurbished nearly 70 percent of its rolling stock to a state-of-good-repair. However, most of these cars are over 25 years old and reaching the end of their useful design life. Completing this maintenance work will allow Amtrak to accommodate increased ridership, provide improved amenities and service, improve service reliability, and increase capacity on some of its corridors.

While Federal investment has increased since 2002, Amtrak has not received the necessary funding to address its deferred maintenance. In addition, Amtrak anticipates it will not be able to keep pace with the passenger ridership growth of the past five years unless it has the capital and operating resources necessary to provide a service that the public can depend on. While Amtrak is enjoying a period of passenger and revenue growth, the deferred maintenance, limited capital investment, and heavy debt hamper Amtrak’s ability to continue to accommodate this growth with current funding levels.

Making this Federal investment in Amtrak is important during a time of increased congestion on the highways and in the air, the increased cost of gasoline, and growing concerns over the impacts of global climate change. Over the past decade, congestion on highways and in our aviation system has reached alarming levels across the United States. Gridlock is becoming a shared experience for tens of millions of motorists every day, which impacts communities across the country. In 2005, vehicle miles traveled (“VMT”) on the nation’s highways reached three trillion miles for the first time, five times the level experienced in 1955. Over the past decade alone, travel growth on the nation’s highways has averaged 2.2 percent annually. In 2007, congestion forced Americans to waste 2.9 billion gallons of fuel and cost Americans a staggering \$78 billion. One full passenger train can take 250 to 350 cars off the road, and the average train today carries 151 people. Further, intercity passenger rail is competitive with air travel of 500 miles or less, and more than 80 percent of all trips exceeding 100 miles in length are less than 500 miles.

Amtrak and intercity passenger rail also provides significant benefits to alleviate the impacts of emissions. For example, the Department of Energy’s Transportation Energy Data Book reports that intercity passenger rail consumes 17 percent less energy per passenger mile than airlines and 21 percent less per passenger mile than automobiles. The average intercity passenger rail train produces 60 percent lower carbon dioxide emissions per passenger mile than the average auto, and one-half the carbon dioxide emissions per passenger mile of an airplane. In conjunction with metropolitan transit systems, the city-center to city-center service offered by intercity passenger rail can also support dense, transit-oriented development in downtown areas, helping to reduce highway travel demand for both local trips and intercity trips.

By diverting traffic from highways and the air to a more efficient alternative, railroads save fuel and reduce the transportation sector’s emissions impact. According to Amtrak, intercity passenger

rail removes eight million cars from the road and eliminates the need for 50,000 fully-loaded passenger airplanes each year.

These savings continue to improve. Amtrak's British Thermal Unit ("BTU") per passenger mile decreased from 2,800 in 2003 to 2,760 in 2004, 2,709 in 2005, and 2,650 in 2006. This level of energy usage compares favorably to the 3,264 BTUs for air travel and 3,445 BTUs for highway travel in 2006. New equipment is further improving energy efficiency. For instance, Amtrak's Acela Express trains include regenerative braking system. In addition, Amtrak has acquired new energy-efficient Auto Train vehicle carriers and is evaluating acquisition of more fuel efficient switching locomotives.

Finally, improved Amtrak services further reduce emissions and fuel consumption. After Amtrak restored electrified service to the 104-mile Philadelphia-Harrisburg line in October 2006, it replaced nine diesel-powered roundtrip trains per weekday with 12 roundtrip trains powered by electricity. Today, most of the electric power that Amtrak uses on the Northeast Corridor between Washington, DC and New York, New York is generated from non-fossil fuel sources.

States are increasingly taking the initiative to meet growing demand for intercity passenger rail to develop new or improved services. Amtrak has frequently urged Congress to establish a Federal matching program to support State passenger rail investments, suggesting that such a program could substantially expand States' abilities to meet the growing demand for passenger rail services. Indeed, Amtrak also states that such strategic public investments in passenger rail corridors would provide additional benefits to freight railroads because most Amtrak routes operate over tracks owned by freight railroads.

States are uniquely qualified to understand their own mobility needs and connectivity requirements through statewide and metropolitan area intermodal and multimodal transportation planning. Over the past ten years, ridership on Amtrak routes that benefited from State support grew 73 percent. Over that same period, ridership on Amtrak routes without State support only increased by seven percent. The U.S. Department of Transportation reports that the greatest single impediment to encouraging state support is the lack of a Federal/State partnership—similar to what exists for highways and transit—for investing in capital needs of intercity passenger rail.

To address these critical intercity passenger rail needs, Committee on Transportation and Infrastructure Chairman James L. Oberstar introduced H.R. 6003, the "Passenger Rail Investment and Improvement Act of 2008" on May 8, 2008. The bill authorizes \$14.9 billion for Amtrak capital and operating grants, state intercity passenger grants, and high-speed rail over the next five years.

Major provisions of the bill include:

Increases Capital and Operating Grants to Amtrak. The bill authorizes \$4.2 billion (an average of \$840 million per year) to Amtrak for capital grants and \$3.0 billion (an average of \$606 million per year) for operating grants. Past inconsistent Federal support has hampered Amtrak's ability to replace catenaries, passenger cars, bridges, ties, and other equipment necessary for Amtrak to provide service. These capital grants will help Amtrak bring the

Northeast Corridor to a state-of-good-repair, procure new rolling stock, rehabilitate existing bridges, as well as make additional capital improvements and maintenance over its entire network. In addition, the operating grants authorized under the bill will help Amtrak pay salaries, health costs, overtime pay, fuel costs, facilities, and train maintenance and operations. These operating grants will also ensure that Amtrak can meet its obligations under its recently negotiated labor contract.

Develops State Passenger Corridors. In an effort to encourage the development of new and improved intercity passenger rail services, the bill creates a new State Capital Grant program for intercity passenger rail capital projects, and based on the New Starts transit capital program administered by the Federal Transit Administration. The bill provides \$2.5 billion (\$500 million per year) for grants to States to pay for the capital costs of facilities and equipment necessary to provide new or improved intercity passenger rail. The Federal share of the grants is up to 80 percent. The Secretary of Transportation would award these grants on a competitive basis for projects based on economic performance, expected ridership, and other factors.

Provides Funding for High-Speed Rail Corridors. The National Surface Transportation Policy and Revenue Study Commission, established to develop a national transportation vision to address surface transportation needs for the next 50 years, recommends that the United States establish a high-speed rail network that spans the entire country. The bill authorizes \$1.75 billion (\$350 million per year) for grants to States and/or Amtrak to finance the construction and equipment for 11 authorized high-speed rail corridors. The Federal share of the grants is up to 80 percent. The Secretary of Transportation would award these grants on a competitive basis for projects based on economic performance, expected ridership, and other factors.

Alleviates Rail "Choke Points." Many of Amtrak's service routes outside the Northeast Corridor suffer from poor service reliability and on-time performance because of freight traffic congestion. This congestion prevents Amtrak from retaining and attracting new ridership, and increases Amtrak's operating costs. The Department of Transportation Inspector General recently reported that if Amtrak achieved an 85 percent on-time performance outside the Northeast Corridor in fiscal year 2006, it would have saved Amtrak \$136.6 million, or almost one-third of its operating budget. Amtrak is required by law to have preferred access on freight corridors; however, Amtrak does not always receive its preferred access. The bill addresses this problem by providing congestion grants to Amtrak and the States for high-priority rail corridors in order to reduce congestion and facilitate ridership growth. The Congressional Budget Office estimates that this program authorizes \$520 million from fiscal years 2009 through 2013.

Reduces Amtrak's Debt. Federal support of Amtrak was cut drastically in fiscal year 2000 and 2001, forcing Amtrak to assume a large amount of debt to stay in operation. Amtrak has aggressively targeted this debt, paying down \$600 million from 2002 through 2007. Our bill helps Amtrak to take further steps to reduce its debt, authorizing \$1.7 billion (\$345 million per year) for debt service through FY2013. This funding will allow Amtrak to focus its re-

sources on improving existing services and making additional capital and operational improvements.

Establishes an RFP for High-Speed Rail Service. A provision of H.R. 6003 directs the Secretary of Transportation to issue a request for proposals for projects for the financing, design, construction, and operation of an initial high-speed rail system operating between Washington, DC, and New York City. Proposals would need to meet certain financial, labor, and planning criteria, as well as a detailed description to account for any impacts on existing passenger, commuter, and freight rail traffic to be considered. If the Secretary receives a qualifying proposal, she would be directed to form a Commission to study any proposals received. Finally, the Secretary would issue a report to the Congress on the Commission's findings. Any further action on a proposal would need legislative approval by Congress.

Resolves Disputes between Commuter and Freight Railroads. Currently, no Federal guidelines exist to mediate disputes between commuter rail providers and freight railroads over use of freight rail tracks or rights-of-way, nor is there a standard forum for negotiating commuter rail operating agreements. The bill establishes a forum at the STB to help complete stalled commuter rail negotiations, helping our rail network operate as efficiently as possible. This section is identical to what was included in H.R. 2701, the "Transportation Energy Security and Climate Change Mitigation Act of 2007", as ordered reported by the Committee on Transportation and Infrastructure on June 20, 2007.

The state and high-speed rail corridor grants will help meet the growing need for increased investment in intercity passenger rail. There is an identified \$8.1 billion need for annual investment for new and enhanced "regional service" in high growth intercity corridors. It is estimated that the construction of such a network could potentially accommodate an expansion in intercity passenger rail use of eight to nine times above the current level of 5.5 billion annual passenger miles, resulting in a significant increase in passenger rail's market share.

These Federal investments in intercity passenger rail in the United States will help us address highway and aviation congestion, decrease our dependence on foreign oil, and alleviate the impacts of global climate change.

#### SUMMARY OF THE LEGISLATION

##### *Section 1. Short title*

Section 1 designates the short title of the bill as the "Passenger Rail Investment and Improvement Act of 2008".

##### *Section 2. Amendment of Title 49, United States Code*

Section 2 provides that, except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

##### *Section 3. Table of Contents*

Section 3 sets out the table of contents for the bill.

## TITLE I—AUTHORIZATIONS

*Section 101. Authorization for Amtrak capital and operating expenses and state capital grants*

Section 101 authorizes capital and operating grants for Amtrak for each of fiscal years 2009 through 2013. For operating grants, this section authorizes \$525 million for FY 2009, \$600 million for FY 2010, \$614 million for 2011, \$638 million for 2012, and \$654 million for 2013. These amounts are based on Amtrak's submitted needs for these fiscal years. These authorizations include specific authorizations for the Office of the Inspector General of Amtrak ("IG").

This section also authorizes \$68.5 million in FY 2009 and \$240 million in each of FY 2010 through FY 2013 for Amtrak to improve the accessibility of facilities and services. The Committee strongly believes that Amtrak must comply with the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) ("ADA") by the statutory deadline of July 26, 2010. The authorization amounts for fiscal years 2011 through 2013 are intended for maintenance of accessibility features, improvements and upgrades to accessibility features, and other efforts to improve the usability of Amtrak for people with disabilities.

The capital grants authorized for Amtrak under this section are expected to bring Amtrak's assets to a state-of-good-repair within 15 years and make service improvements on its network, and for the Secretary of Transportation to make grants to States for other intercity rail passenger improvements under section 301. This section authorizes \$1.202 billion for FY 2009, \$1.321 billion for each of FY 2010 and FY 2011, and \$1.427 billion for each of FY 2012 and FY 2013. Of these authorized amounts, \$500 million is allocated for state grants for each of fiscal years 2009 through 2013. 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. Repayment of long-term debt and capital leases*

Section 102 authorizes \$345 million for each of fiscal years 2009 through 2013 to make payments on Amtrak's debt. Funds are also authorized to exercise early buyouts of existing Amtrak debt or capital leases. Authorization amounts under this section shall be reduced by the amount of Amtrak's debt service costs reduced through debt restructuring by the Secretary of Treasury pursuant to section 210 of the bill.

*Section 103. Other authorizations*

Section 103 authorizes \$5 million for each of fiscal years 2009 through 2013 to carry out the rail cooperative research program authorized pursuant to section 304 of the bill. This section also authorizes \$5 million for FY 2009 for grants to Amtrak and States participating in the Next Generation Corridor Train Equipment Pool Committee established under section 303 of the bill.

*Section 104. Tunnel Projects*

Section 104 authorizes \$60 million to the Federal Railroad Administration (“FRA”) to work with the City of Baltimore, the State of Maryland, Amtrak, and interested freight railroads to complete the preliminary alignment selection and environmental review necessary to construct a new tunnel for intercity passenger rail through Baltimore, Maryland. It is the Committee’s expectation that the parties listed above will work together and complete this work by the end of FY 2013.

TITLE II—AMTRAK REFORM AND OPERATIONAL IMPROVEMENTS

*Section 201. National railroad passenger transportation system defined*

Section 201 repeals the current and obsolete definition of the basic Amtrak route system and redefines it as: Amtrak’s Northeast Corridor (“NEC”) from Boston, Massachusetts, to Washington, DC; high-speed rail corridors designated by the Secretary of Transportation after they have been approved to operate high-speed service; long-distance routes greater than 750 miles and in operation on the date of enactment of this Act; and short-distance corridors operated by Amtrak or a non-Amtrak recipient of Federal capital assistance pursuant to section 301. Amtrak and a State may agree on the operation of an intercity route or service not included in the national rail passenger transportation system. Nothing in this section provides 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 have to contract with Amtrak to operate such service if Amtrak’s statutory right of access to private rail infrastructure is to be used.

*Section 202. Amtrak board of directors*

Section 202 provides that, effective six months after date of enactment of this Act, the Amtrak Board of Directors shall be expanded to 10 members as follows: the Secretary of Transportation (“Secretary”); the President of Amtrak, who shall serve ex-officio as a non-voting member; and eight individuals with experience in business, finance, or activities related to passenger transportation, who are appointed by the President of the United States, with the advice and consent of the Senate, for a term of five years or until their successors have been appointed and qualified. The President is required to consult with Congressional leaders to ensure balanced representation of geographic regions served by Amtrak. Members of Amtrak’s Board serving on the date of enactment of the Act will be allowed to continue to serve until 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 one year after the date of enactment of this Act that enables Amtrak to: (1) assign revenues and expenses to each of its lines of business and major activities, such as train operations, equipment maintenance, ticketing, and reservations; (2) separate costs of infrastructure and rail operations; (3) analyze ticketing and reservation data on a real time basis; and (4) provide

cost accounting data. This section requires the Department of Transportation (“DOT”) Inspector General (“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*

Section 204 requires the Amtrak Board of Directors to submit an annual budget and business plan for Amtrak to the DOT. In addition, this section requires the Board to submit a five-year financial plan to DOT and the DOT IG. The five-year plan shall include projected revenues, expenditures, ridership, capital funding requirements, cash flow forecasts, and an assessment of Amtrak’s continuing financial stability. The five-year financial plan should specify how Amtrak plans to invest Federal funds and is distinct from the budget request that Amtrak submits to the administration and Congress.

*Section 205. Establishment of grant process*

Section 205 requires the Secretary to establish substantive and procedural requirements for Amtrak grant requests. After Amtrak submits a grant request, the Secretary shall approve or disapprove it within 30 days. If the request is denied, the Secretary must notify Amtrak of the reasons for the denial, and Amtrak shall submit a modified request within 15 days. If the Secretary denies the modified request, the Secretary shall, within 15 days of its receipt, notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and recommend a process for resolving the outstanding issues with the request. This grant process provides additional Federal oversight to ensure that funds appropriated for Amtrak are used efficiently and for purposes consistent with this Act.

*Section 206. State-supported routes*

Currently, Federal financial participation for corridor routes varies widely. In some cases, the Federal Government supports the full investment; in other cases, the States exclusively support the routes themselves.

Section 206 standardizes Federal participation across all corridors. Within two years of the date of enactment of this Act, Amtrak, in consultation with the Secretary, the Governor of each relevant State, and the Mayor of the District of Columbia, shall develop and implement a single, nationwide standardized methodology for establishing and allocating operating and capital costs among the States and Amtrak for short-distance routes. Within five years of the date of enactment of this Act, Amtrak must implement the new methodology which shall ensure equal treatment to all States supporting short-distance service. If Amtrak and the States do not voluntarily adopt and implement the new methodology, the Surface Transportation Board (“STB”) will develop and implement an allocation methodology. State grants authorized under section 301 of this Act may be used to pay capital costs under this section.



*Section 207. Metrics and standards*

Section 207 provides that the FRA and Amtrak shall jointly, in consultation with the STB, rail carriers, States, Amtrak employees, nonprofit employee organizations, and groups representing Amtrak passengers, develop metrics and minimum standards for measuring the performance and service quality of intercity train operations. 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 also requires FRA to publish a quarterly report on train performance and service quality.

*Section 208. Northeast Corridor state-of-good-repair plan*

Section 208 requires Amtrak, in consultation with the Secretary and the NEC States (Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island and the District of Columbia), to prepare a capital spending plan to return the right-of-way, facilities, stations, and equipment of the NEC to a state-of-good-repair by the end of FY 2013. The Secretary shall review the plan and annual updates for approval. The Secretary makes capital grants of appropriated funds, as authorized by section 101 and through the process established in section 205 of this Act, for up to 100 percent of the capital investments contained in the investment plan. Amounts made available to Amtrak under this Act for projects contained in the plan are allowed to be combined with other sources of capital investment to finance improvements that incorporate elements contained in the state-of-good-repair plan.

*Section 209. Northeast Corridor infrastructure and operations improvements*

Section 209 requires the Secretary to establish an NEC Infrastructure and Operations Advisory Commission, which will include representatives of Amtrak, the FRA, and each of the States in the NEC, with none of these parties constituting a majority. The Commission will develop future funding requirement recommendations for capital improvements and scheduling and safety enhancements. Furthermore, the Commission will develop a proposal for a standardized formula to determine costs and compensation to be paid by the NEC commuter rail 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, the Commission shall petition the STB to determine the appropriate compensation amounts for such services.

*Section 210. Restructuring long term debt and capital leases*

Section 210 authorizes the Secretary of the Treasury, in consultation with the Secretary of Transportation and Amtrak, to make agreements to restructure Amtrak's debt. This section 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 Federal Government. To the extent Amtrak's principal and interest payments are reduced as a result of this section, authorizations for such payments under section 102 of this Act are correspondingly

reduced. After the date of enactment of this Act, Amtrak may not incur additional debt without advance approval of the Secretary of Transportation.

*Section 211. Study of compliance requirements at existing intercity rail stations*

Section 211 requires Amtrak to evaluate the improvements necessary to make the stations it serves readily accessible to and usable by individuals with disabilities, as required by the ADA. The evaluation shall include, for each applicable station, improvements required to bring it into compliance with the ADA, any potential barriers to achieving compliance, the estimated cost of the improvements necessary, the identification of the responsible person pursuant to section 241(5) of the ADA, and the earliest practicable date when such improvements can be made. The evaluation shall also include an overall schedule for bringing all applicable stations into compliance. Amtrak shall submit the evaluation to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, DOT, and the National Council on Disability by July 1, 2009. The Committee strongly believes that Amtrak should be in full compliance with ADA requirements by the statutory deadline of July 26, 2010. This study is not intended to delay construction or other improvements that would make stations or platforms accessible to people with disabilities.

*Section 212. Oversight of Amtrak's compliance with accessibility requirements*

Section 212 requires the FRA to monitor and conduct periodic reviews of Amtrak's compliance with applicable sections of the ADA and the Rehabilitation Act of 1974 to ensure that Amtrak's services and facilities are accessible to individuals with disabilities to the extent required by law.

*Section 213. Access to Amtrak equipment and services*

Section 213 authorizes States wishing to use operators other than Amtrak for the provision of State-supported services to make agreements with Amtrak to use Amtrak facilities and equipment 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 compensation, liability, and other terms of use of the facilities and equipment in accordance with section 206 of this Act and direct Amtrak to make such assets available to the State if such use is essential to the planned service and will not impair or degrade Amtrak's other operations.

*Section 214. General Amtrak provisions*

Section 214 repeals the operating self-sufficiency requirement imposed on Amtrak in 1997, and the 2002 "sunset trigger" for failing to meet the requirement. It also repeals the requirement to redeem Amtrak's outstanding common stock. In addition, the provision authorizes Amtrak to continue leasing vehicles from the General Services Administration. Finally, the section authorizes the establishment of facilities and procedures to conduct pre-clearance of passengers on Amtrak trains entering the U.S. from Canada. The

Committee is aware of significant delays for Amtrak trains entering the United States from Canada because of customs clearance procedures that occur en-route. It is expected that this authorization will lead to the establishment of pre-clearance operations in Canada to expedite travel to the United States by Amtrak, similar to pre-clearance arrangements used for certain airline flights between the two nations.

*Section 215. Amtrak management accountability*

Section 215 requires the DOT IG to complete an overall assessment of the progress made by Amtrak management and DOT to implement the provisions of this Act.

*Section 216. Passenger rail study*

Section 216 requires the U.S. Government Accountability Office (“GAO”) to complete a study to determine the potential cost and benefits of expanding passenger rail service options in underserved communities.

*Section 217. Congestion grants*

Section 217 authorizes the Secretary of Transportation to make grants to States, or to Amtrak in cooperation with States, for financing the capital costs of facilities, infrastructure, and equipment for high-priority rail corridor projects. These projects would be funded if the Secretary finds that they would reduce congestion or facilitate ridership growth in intercity passenger rail transportation. Projects eligible for grants under this section include projects identified by Amtrak as necessary to reduce congestion or facilitate ridership growth in intercity passenger rail transportation along heavily traveled rail corridors; and designated by the Secretary as being sufficiently advanced in development to meet these goals. Grants awarded under this section shall not exceed 80 percent of the total cost of the project. Amtrak provided the Committee with information regarding 18 congested points along the national network where Federal funding could immediately improve on-time performance and ridership growth. These corridors are (1) Washington, DC, to Richmond, VA; (2) Richmond, VA, to Selma, NC; (3) Seattle, WA, to Portland, OR; (4) Portland, OR, to Eugene, OR; (5) Chicago, IL, to Porter, IN; (6) Chicago, IL, to Detroit, MI; (7) Chicago, IL, to Carbondale, IL; (8) Chicago, IL, to Joliet, IL; (9) Salinas, CA, to Paso Robles, CA; San Jose, CA, to Oakland, CA, to Sacramento, CA; (10) Oakland, CA, to Bakersfield, CA; (11) San Diego, CA, to Los Angeles, CA, to Santa Barbara, CA; (12) Selma, NC, to Jacksonville, FL; (13) Sebring, FL, to Dyer, FL; (14) Mineola, TX, to Ft. Worth, TX; (15) Syracuse, NY, to Rochester, NY; (16) Albany, NY, to Utica, NY; (17) Poughkeepsie, NY, to Albany, NY; and (18) Elkhart, IN, to Sandusky, OH.

*Section 218. Plan for restoration of service*

Section 218 directs Amtrak to complete a plan to restore passenger rail service between New Orleans, Louisiana, and Sanford, Florida. The plan shall include a projected timeline for restoring such service, the costs associated with restoring such service, and any proposals for legislation necessary to support such restoration of service. In developing the plan, Amtrak shall consult with rep-

representatives from the States of Louisiana, Alabama, Mississippi, and Florida, railroad carriers whose tracks may be used for such service, rail passengers, rail labor, and other entities as appropriate. This section authorizes \$1 million to develop this plan.

*Section 219. Locomotive biofuel study*

Section 219 requires the FRA to conduct a study on the extent to which freight and passenger rail operators can use biofuel to power their locomotive and rolling stock fleet. The FRA is required to consider the energy intensity of various biofuel blends compared to diesel fuel, the emission benefits compared to diesel fuel, the cost, the public benefits of using such fuels, and the effect of such fuels on locomotive and rolling stock vehicle performance. The FRA shall report to Congress the results of the study, including findings, conclusions, and recommendations. This section authorizes \$1 million for the study.

*Section 220. Study of the use of biobased lubricants*

Section 220 requires the FRA to transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the results of a comprehensive study of the feasibility of using readily biodegradable lubricants by freight and passenger railroads. The Committee expects that the FRA will work with a facility affiliated with an institute of higher education, and whose primary mission is research and testing of agricultural-based lubricants.

*Section 221. Applicability of Buy American Act*

Section 221 provides that Amtrak is subject to the Buy American Act for purchases of \$100,000 or more. This section will make Amtrak subject to Buy American requirements that are similar to requirements for Federal Transit Administration grant recipients.

*Section 222. Intercity passenger rail service performance*

Section 222 requires the DOT IG to submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that recommends a process for DOT to consider proposals by Amtrak and others to serve underperforming routes and routes not currently served by Amtrak. Any proposal considered by the DOT IG needs to follow the requirements outlined under section 504 of this Act. The DOT IG shall recommend one route not currently served by Amtrak and two routes (from among the five worst performing routes currently served by Amtrak) to be considered under the process. The Secretary of Transportation shall not implement the selection process recommended by the DOT IG until legislation is enacted authorizing the Secretary to take such action.

*Section 223. Amtrak Inspector General Utilization Study*

This section requires the Amtrak Inspector General to transmit to Congress nine months after the date of enactment of this Act a report on Amtrak's utilization of its facilities, including the Beech Grove Repair facility in Indiana. The report shall include an exam-

ination of Amtrak's utilization of its existing facilities to determine the extent that Amtrak is maximizing the opportunities for each facility, including any attempts to provide maintenance and repair to other rail carriers.

*Section 224. Amtrak Service Preference Study*

This section directs the Surface Transportation Board to transmit to Congress a report containing (1) the findings of the effectiveness of 49 U.S.C 24308(c) in ensuring the preference of Amtrak service over freight transportation service; and (2) recommendations for regulatory or legislative actions to improve such effectiveness. This report is due six months after enactment of this Act.

TITLE III—INTERCITY PASSENGER RAIL POLICY

*Section 301. Capital assistance for intercity passenger rail service; state rail plans*

Section 301 authorizes the Secretary of Transportation to make capital grants, from amounts authorized under section 101 of this Act, to a State or group of States for facilities, infrastructure, and equipment necessary to provide or improve intercity passenger rail transportation. The Secretary shall require each proposed project to meet all safety requirements that are applicable under law and require that the project is part of a State rail plan developed under section 302 of this Act. The Secretary may issue a letter of intent, full funding grant agreement, or early systems work agreement to carry out the project. 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. Grant conditions include: (1) domestic buying preference; (2) compliance with rail carrier laws including the Railroad Retirement Act of 1974, the Railway Labor Act, and the Railroad Unemployment Insurance Act; (3) a written agreement between the applicant and the owner of any railroad facilities to be used or improved; and (4) 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.

*Section 302. State rail plans*

Section 302 authorizes States to prepare and maintain a State rail plan in accordance with requirements listed in this section. A State rail plan is required to designate an authority to approve and carry out the plan and be reviewed by the Secretary of Transportation. The section also provides the purposes and content of State rail plans, including a long-range service and investment program. State grants authorized under section 301 of this Act may be used for projects included in a State rail plan.

*Section 303. Next generation corridor train equipment pool*

Section 303 requires Amtrak to establish a Next Generation Corridor Equipment Pool Committee comprised of Amtrak, the FRA, States, and other interested parties to design, develop specifications for, and procure standardized next-generation corridor equipment.

*Section 304. Rail cooperative research program*

Section 304 directs the Secretary of Transportation to establish a rail cooperative 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.

*Section 305. Passenger rail system comparison study*

Section 305 directs GAO to complete a study that compares the passenger rail system in the United States with the passenger rail systems in Canada, Germany, Great Britain, France, China, Spain, and Japan.

## TITLE IV—COMMUTER RAIL TRANSIT ENHANCEMENT

*Section 401. Commuter rail transit enhancement*

Section 401 establishes a forum for the resolution of disputes between commuter rail authorities and freight railroads at the STB by creating guidelines and procedures regarding commuter rail use of freight railroad tracks and rights-of-way in order to assure that both freight and passenger needs can be achieved in a way that is fair, timely, and reasonable. This title is identical to section 203 of H.R. 2701, the “Transportation Energy Security and Climate Change Mitigation Act of 2007”, as ordered reported by the Committee on Transportation and Infrastructure on June 20, 2007.

## TITLE V—HIGH-SPEED RAIL

*Section 501. High-speed rail corridor program*

Section 501 directs the Secretary of Transportation to establish and implement a high-speed rail corridor program. Under this section, a State, a group of States, an Interstate Compact, or Amtrak may apply for grants for a capital project to acquire, construct, improve or inspect equipment, track and track structures, or facilities for high-speed rail service of at least 110 mph. Projects eligible for funding must be on a “high-speed rail corridor” designated by the Secretary pursuant to section 104(d)(2) of title 23, United States Code. This section authorizes \$350 million for each of fiscal years 2009 through 2013.

*Section 502. Additional high-speed rail projects*

Section 502 directs the Secretary of Transportation to solicit proposals for the financing, design, construction, and operation of a high-speed rail system operating between Washington, DC, and New York, New York. Proposals will require Washington, DC-to-New York, New York express service of no more than two hours. If the Secretary determines that a proposal is cost effective, the Secretary shall establish a Commission of Federal, State, local, rail labor, and rail freight carrier representatives to evaluate the proposals and report its recommendations to Congress. After the Secretary transmits any Commission report on a Washington, DC-to-New York, New York proposal, the Secretary may request proposals for other corridors. This section also directs the Secretary to complete a study to examine how to achieve maximum economic utilization of the Northeast Corridor.

*Section 503. High-speed rail study*

Section 503 authorizes the Secretary of Transportation to conduct (1) an alternatives analysis of the Secretary's December 1, 1998 extension of the designation of the Southeast High-Speed Rail Corridor as authorized under section 104(d)(2) of title 23, United States Code; and (2) a feasibility analysis regarding the expansion of the South Central High-Speed Rail Corridor to the Port of Houston, Texas. These analyses shall consider changes that have occurred in the region's population, anticipated patterns of population growth, connectivity with other modes of transportation, ability of the designation to reduce regional traffic congestion, and the ability of current and proposed routings to meet the needs of tourists. The Secretary shall submit recommendations to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and conduct a re-designation of one or both corridors if necessary.

*Section 504. Grant conditions*

Section 504 establishes grant conditions for projects funded under this title, including: (1) domestic buying preference; (2) compliance with rail carrier laws including the Railroad Retirement Act of 1974, the Railway Labor Act, and the Railroad Unemployment Insurance Act; (3) a written agreement between the applicant and the owner of any railroad facilities to be used or improved; and (4) 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.

LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

To date, the Committee on Transportation and Infrastructure's Subcommittee on Railroads, Pipelines, and Hazardous Materials has held seven hearings on Amtrak and intercity passenger rail in the 110th Congress: on May 14, 2008, the Subcommittee held a hearing entitled "Amtrak Reauthorization"; on February 11, 2008, the Subcommittee held a hearing entitled, "The Role of Intercity Rail During National Emergencies"; on July 11, 2007, the Subcommittee held a hearing entitled "Amtrak Capital Needs"; on June 26, 2007, the Subcommittee held a hearing entitled "Benefits of Intercity Passenger Rail," on June 12, 2007, the Subcommittee held a hearing entitled "Amtrak Strategic Initiatives"; on April 19, 2007, the Subcommittee held a hearing entitled "International High-Speed Rail Systems"; and, finally, on March 7, 2007, the Subcommittee held a joint hearing with the Subcommittee on Highways and Transit entitled "Transit & Rail Security".

On May 8, 2008, Chairman James L. Oberstar introduced H.R. 6003, the "Passenger Rail Investment and Improvement Act of 2008". This bill had not been introduced in previous Congresses.

On May 14, 2008, the Subcommittee on Railroads, Pipelines, and Hazardous Materials held a hearing entitled "Amtrak Reauthorization".

On May 20, 2008, the Subcommittee on Railroads, Pipelines, and Hazardous Materials met in open session to consider H.R. 6003. The Subcommittee favorably recommended the bill to the Com-

mittee on Transportation and Infrastructure by voice vote with a quorum present.

On May 22, 2008, the Committee on Transportation and Infrastructure met in open session to consider H.R. 6003 and adopted an amendment to the bill. The amendment modified the designation of congestion grants; directed the STB to report on the effectiveness 49 U.S.C. 24308(c); directed the Amtrak IG to report on Amtrak's utilization of its facilities; and added a feasibility analysis for the expansion of the South Central High-Speed Rail Corridor to the Port of Houston, Texas. The Committee ordered the bill, as amended, reported favorably to the House by voice vote with a quorum present.

#### RECORD VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken in connection with any amendment offered to H.R. 6003 or on ordering the bill reported. A motion to order H.R. 6003, as amended, reported favorably to the House was agreed to by voice vote with a quorum present.

#### COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

#### COST OF LEGISLATION

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

#### COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included in the report.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this legislation are to reauthorize the National Railroad Passenger Corporation ("Amtrak"); to authorize Federal funding for the operation and development of intercity passenger rail service; and to make improvements to Federal passenger rail transportation policy and activities.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the



enclosed cost estimate for H.R. 6003 from the Director of the Congressional Budget Office.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, June 5, 2008.*

Hon. JAMES L. OBERSTAR,  
*Chairman, Committee on Transportation and Infrastructure,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 6003, the Passenger Rail Investment and Improvement Act of 2008.

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

Sincerely,

ROBERT A. SUNSHINE  
(For Peter R. Orszag, Director).

Enclosure.

*H.R. 6003—Passenger Rail Investment and Improvement Act of 2008*

Summary: H.R. 6003 would authorize the appropriation of an estimated \$14.9 billion over the 2009–2013 period for rail programs administered by Amtrak, states, and the Department of Transportation (DOT). That amount includes \$9.9 billion for grants to Amtrak to cover its operating expenses, capital projects, and debt repayment; \$4.3 billion in grants to states for rail projects, including high-speed rail; and \$520 million for grants to states and Amtrak to reduce rail congestion. Assuming appropriation of the amounts specified and estimated to be necessary, CBO estimates that enacting the legislation would cost \$12.4 billion over the 2009–2013 period.

The bill could affect direct spending because it would authorize the Department of the Treasury to repay Amtrak debt—without further appropriation—if the department chooses to negotiate with Amtrak’s creditors to restructure the debt. CBO does not expect that the Treasury would seek to restructure and repay Amtrak’s debt. If, however, the Treasury did repay Amtrak’s debt, that provision would increase direct spending by more than \$2 billion over the next several years.

Enacting the legislation would not effect revenues.

Section 4 of the Unfunded Mandates Reform Act (UMRA) excludes from the application of that act any legislative provision that establishes or enforces statutory rights that prohibit discrimination on the basis of disability. CBO has determined that sections 211 and 212 of H.R. 6003 fall within that exclusion; therefore, we have not reviewed them for intergovernmental or private-sector mandates.

Other provisions of H.R. 6003 contain no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. The other provisions contain several private-sector mandates as defined in UMRA because they would require Amtrak to comply with requirements related to financial planning and accounting, the performance of train operations, and buying American products. Amtrak already complies with many of

those requirements, and the cost to comply with the remaining mandates would likely be small. Therefore, CBO estimates that the aggregate cost of the mandates in the bill would fall below the annual threshold established in UMRA for private-sector mandates (\$136 million in 2008, adjusted annually for inflation).

**Estimated cost to the Federal Government:** The estimated budgetary impact of H.R. 6003 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

|  | By fiscal year, in millions of dollars— |       |       |       |       |           |
|--|---|-------|-------|-------|-------|-----------|
|  | 2009                                    | 2010  | 2011  | 2012  | 2013  | 2009–2013 |
| CHANGES IN SPENDING SUBJECT TO APPROPRIATION |   |       |       |       |       |           |
| Grants to Amtrak:                            |   |       |       |       |       |           |
| Authorization Level .....                    | 1,634                                   | 1,997 | 2,011 | 2,143 | 2,159 | 9,944     |
| Estimated Outlays .....                      | 1,573                                   | 1,799 | 1,876 | 2,073 | 2,134 | 9,455     |
| Grants to States for Rail Projects:          |   |       |       |       |       |           |
| Authorization Level .....                    | 850                                     | 852   | 852   | 849   | 849   | 4,252     |
| Estimated Outlays .....                      | 85                                      | 255   | 511   | 681   | 808   | 2,340     |
| Grants to Reduce Rail Congestion:            |   |       |       |       |       |           |
| Estimated Authorization Level .....          | 100                                     | 102   | 104   | 106   | 108   | 520       |
| Estimated Outlays .....                      | 75                                      | 97    | 103   | 105   | 107   | 487       |
| Other Authorized Programs:                   |   |       |       |       |       |           |
| Authorization Level .....                    | 70                                      | 5     | 5     | 5     | 5     | 90        |
| Estimated Outlays .....                      | 6                                       | 18    | 36    | 15    | 12    | 87        |
| Oversight, Studies, and Reports:             |   |       |       |       |       |           |
| Estimated Authorization Level .....          | 28                                      | 7     | 7     | 7     | 7     | 56        |
| Estimated Outlays .....                      | 13                                      | 15    | 12    | 8     | 7     | 55        |
| Total Changes:                               |   |       |       |       |       |           |
| Estimated Authorization Level .....          | 2,682                                   | 2,963 | 2,979 | 3,110 | 3,128 | 14,862    |
| Estimated Outlays .....                      | 1,752                                   | 2,184 | 2,538 | 2,882 | 3,068 | 12,424    |

**Basis of estimate:** For this estimate, CBO assumes that H.R. 6003 will be enacted near the end of 2008 and that the amounts authorized and estimated to be necessary will be appropriated each year beginning in fiscal year 2009. Estimates of spending are based on historical spending patterns of existing and similar programs.

#### *Spending subject to appropriation*

H.R. 6003 would authorize the appropriation of an estimated \$14.9 billion over the 2009–2013 period. That amount includes funds for grants to Amtrak for capital, operating, and debt expenses and to states for rail projects, including high-speed rail. Those funds also include grants to reduce rail congestion and improve a rail tunnel in Baltimore, Maryland, and an estimated \$55 million to comply with the bill's reporting and other administrative requirements.

**Grants to Amtrak.** H.R. 6003 would authorize the appropriation of about \$9.9 billion for grants to Amtrak over the 2009–2013 period. This total includes \$3.0 billion for operating expenses, \$4.2 billion for capital projects, \$1.7 billion for repayment of the principal and interest on its debt, and \$1.0 billion for bringing Amtrak trains and stations into compliance with the Americans with Disabilities Act of 1990 (Public Law 101–336). In 2008, Amtrak received appropriations totaling \$850 million for capital expenses and debt service and \$475 million for operating expenses. Based on information from Amtrak about the pace of spending on those activities, CBO estimates that those grants would cost about \$9.5 million over the 2009–2013 period and about \$500 million thereafter.

Grants to States for Rail Projects. The bill would authorize the appropriation of about \$4.3 billion in grants to states over the 2009–2013 period. That total includes \$2.5 billion for capital projects to improve intercity rail service and \$1.8 billion for new high-speed rail projects. The 2008 Consolidated Appropriations Act (Public Law 110–161) included \$30 million for grants to states for capital improvements for intercity passenger rail service. CBO estimates that spending for those grants would total \$2.3 billion over the 2009–2013 period and about \$2.0 billion after 2013.

Grants to Reduce Rail Congestion. The bill would authorize DOT to make grants to states or to Amtrak, in cooperation with states, for rail projects necessary to either reduce congestion in high-priority rail corridors or increase ridership on intercity passenger rail systems. Amtrak expects that it and states with high-priority rail corridors will spend about \$500 million under current law on communication and signal equipment, structures, track, and other projects over the next two years to reduce congestion. To reduce congestion as envisioned in the bill, Amtrak would need to add more than 1,500 miles of track and complete a variety of other improvements, including upgraded signals, extended sidings, and other engineering work. Based on the pace of current Amtrak spending and information from DOT, CBO estimates that the provision would cost \$487 million over the 2009–2013 period, assuming appropriation of the necessary sums. According to Amtrak’s estimates, such spending would allow it to install nearly 500 miles of additional track over the next five years.

Other Authorized Programs. Other provisions of the bill would authorize the appropriation of \$90 million over the 2009–2012 period, including:

- \$60 million for Federal Railroad Administration (FRA) and Amtrak to approve a new rail tunnel alignment in Baltimore, Maryland, and to ensure completion of related environmental reviews;
- \$25 million to DOT to improve models for understanding railroad transportation and to study how railroad transportation could be improved; and
- \$5 million for the FRA, Amtrak, and interested states to form a committee to develop standards for certain rail equipment. The bill would allow Amtrak and participating states to enter into agreements or establish a corporation for acquiring such equipment.

Assuming appropriation of those specified amounts and based on information from Amtrak and DOT regarding the speed at which they can complete the work on the Baltimore tunnel, CBO estimates that implementing those provisions would cost \$87 million over the 2009–2013 period.

Oversight, Studies and Reports. H.R. 6003 would authorize funds for DOT to provide oversight for Amtrak’s operations and would direct the agency to complete several studies with respect to high-speed rail, the use of alternative fuels in rail programs, and rail operations and efficiency. The bill also would require Amtrak and the Government Accountability Office to each complete studies about passenger rail programs and the performance of Amtrak. Assuming appropriation of the amounts specified and estimated to be necessary based on information from DOT and Amtrak, CBO esti-

mates that implementing those provisions would cost \$55 million over the 2009–2013 period.

*Direct spending*

H.R. 6003 would authorize the Department 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 Treasury's authority to initiate such negotiations would expire 18 months after enactment of the legislation. The bill also would direct the Treasury—without further appropriation—to repay whatever debt the department is able to restructure if the government and Amtrak would realize savings.

Based on information from Amtrak, DOT, 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. As of October 1, 2007, Amtrak owed about \$3.3 billion in long-term debt. Of this total, almost \$900 million is held in an escrow account for repayment, leaving about \$2.4 billion available for restructuring under H.R. 6003. If the Treasury did negotiate with Amtrak's creditors and restructure and repay this debt, CBO estimates that the repayment would increase direct spending by more than \$2 billion over the next several years.

Intergovernmental and private-sector impact: Section 4 of UMRA excludes from the application of that act any legislative provision that establishes or enforces statutory rights that prohibit discrimination on the basis of disability. CBO has determined that sections 211 and 212 of H.R. 6003 fall within that exclusion; therefore, we have not reviewed them for intergovernmental or private-sector mandates.

Other provisions of H.R. 6003 contain no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. However, the other provisions of the bill impose several private-sector mandates on Amtrak. CBO estimates that the aggregate cost of those mandates would fall below the annual threshold established in UMRA for private-sector mandates (\$136 million in 2008, adjusted annually for inflation). The bill would authorize appropriations for Amtrak to comply with two of the mandates.

*Mandates that apply to the private sector*

The bill would require Amtrak to implement certain financial planning, accounting, and reporting requirements, including a requirement to obtain advanced approval from the Secretary of Transportation before incurring any additional debt. In addition, the bill would require Amtrak to standardize performance and service quality and methods for calculating the operating and capital costs of short-distance routes. The bill also would require Amtrak to plan for and implement development projects in the Northeast Corridor and along the Gulf of Mexico, follow certain stipulations of the Buy American Act, and submit to the Congress a report on Amtrak's utilization of its facilities.

Amtrak currently complies with most of the requirements included in the bill. For those requirements that may require addi-

tional effort, the cost to make such changes would likely be small. In addition, the bill would authorize \$5 million and \$1 million, respectively, for Amtrak to comply with the requirements involving further development of the Northeast Corridor and a route along the Gulf of Mexico.

Previous CBO estimate: On May 17, 2007, CBO provided a cost estimate for S. 294, the Passenger Rail Investment and Improvement Act of 2007, as ordered reported by the Senate Committee on Commerce, Science, and Transportation. That bill contained provisions addressing the security of rail operations, including authorizing \$399 million for grants for rail security, which are not contained in H.R. 6003. S. 294 also would authorize the Surface Transportation Board to assess penalties on freight railroads for delaying Amtrak trains. That bill authorized the appropriation of \$8.9 billion over five years for grants to Amtrak and \$1.4 billion over five years for grants to states for rail projects. In addition to several mandates on rail carriers, that bill contained many of the same mandates on Amtrak that are included in H.R. 6003. Because of uncertainty about the regulations to be implemented under S. 294, CBO could not determine whether the aggregate costs of the mandates on the private sector would exceed UMRA's annual threshold for private-sector mandates.

Estimate prepared by: Federal Costs: Sarah Puro; Impact on State, Local, and Tribal Governments: Elizabeth Cove; Impact on the Private Sector: Jacob Kuipers.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

#### COMPLIANCE WITH HOUSE RULE XXI

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 6003, as amended, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI of the Rules of the House of Representatives.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104-4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt State, local, or tribal law. The Committee states that H.R. 6003 does not preempt any State, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

This legislation establishes three advisory committees, as defined by section 2 of the Federal Advisory Committee Act (5 U.S.C. app.): (1) the Northeast Corridor Infrastructure and Operations Advisory Commission (section 209); (2) the Advisory Board of Rail Cooperative Research Program (section 304); and (3) the Commissions on Additional High-Speed Rail Projects (section 502). Pursuant to section 5 of the Federal Advisory Committee Act, the Committee determines that the functions of these advisory committees are not being carried out by existing agencies or advisory commissions. The Committee also determines that the advisory committees have a clearly defined purpose, fairly balanced membership, and meet all of the other requirements of section 5(b) of the Federal Advisory Committee Act.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104-1).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, 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 matter is printed in italic, existing law in which no change is proposed is shown in roman):

**TITLE 49, UNITED STATES CODE**

\* \* \* \* \*

**SUBTITLE V—RAIL PROGRAMS**

PART A—SAFETY

|                    |  |       |
|--------------------|--|-------|
| Chapter            |  | Sec.  |
| 201. GENERAL ..... |  | 20101 |
| * * * * *          |  |       |

PART B—ASSISTANCE

|   |  |      |
|---|--|------|
| * * * * *   |  |      |
| 225. <i>STATE RAIL PLANS AND HIGH PRIORITY PROJECTS</i> ..... |  | 2501 |
| * * * * *   |  |      |

PART C—PASSENGER TRANSPORTATION

\* \* \* \* \*

|  |       |
|--|-------|
| 244. INTERCITY PASSENGER RAIL SERVICE CORRIDOR CAPITAL AS- |       |
| SISTANCE .....   | 24401 |
| * * * * *  |       |
| PART E—MISCELLANEOUS                                       |       |
| * * * * *  |       |
| 285. COMMUTER RAIL TRANSIT ENHANCEMENT .....               | 28501 |
| * * * * *  |       |

**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 chapter:*

(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, reduction of public expenditures 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 chapter.*

(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, 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 chapter, 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 on 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. State rail plans completed before the date of enactment of the Passenger Rail Investment and Improvement Act of 2008 that substantially meet the requirements of this chapter, as determined by the Secretary, shall be deemed by the Secretary to have met the requirements of this chapter.

\* \* \* \* \*

**PART C—PASSENGER TRANSPORTATION**

\* \* \* \* \*

**CHAPTER 241—GENERAL**

**§ 24101. Findings, purpose, and goals**

(a) \* \* \*

\* \* \* \* \*

(d) MINIMIZING GOVERNMENT SUBSIDIES.—To carry out subsection (c)(11) of this section, Amtrak is encouraged to make agreements with the private sector and undertake initiatives that are consistent with good business judgment and designed to maximize its revenues and minimize Government subsidies. Amtrak shall prepare a financial [plan to operate within the funding levels authorized by section 24104 of this chapter, including budgetary goals for fiscal years 1998 through 2002. Commencing no later than the fiscal year following the fifth anniversary of the Amtrak Reform and Accountability Act of 1997, Amtrak shall operate without Federal operating grant funds appropriated for its benefit.] plan, consistent with section 204 of the Passenger Rail Investment and Improvement Act of 2008, including the budgetary goals for fiscal years 2009 through 2013. Amtrak and its Board of Directors shall adopt a long-term plan that minimizes the need for Federal operating subsidies.

**§ 24102. Definitions**

In this part—

(1) \* \* \*

[(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, DC;

(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 2008; 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.

\* \* \* \* \*

**CHAPTER 243—AMTRAK**

|        |                             |   |   |   |   |   |
|--------|-----------------------------|---|---|---|---|---|
| Sec.   |                             |   |   |   |   |   |
| 24301. | Status and applicable laws. |   |   |   |   |   |
|        |                             | * | * | * | * | * |
| 24310. | Management accountability.  |   |   |   |   |   |
|        |                             | * | * | * | * | * |

**[§ 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 10 directors, each of whom must be a citizen of the United States:*

(A) *The Secretary of Transportation.*

(B) *The President of Amtrak, who shall serve ex officio, as a non-voting member.*

(C) *8 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 employees or users of passenger rail transportation or a 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 5 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.

\* \* \* \* \*

**§ 24305. General authority**

(a) \* \* \*

\* \* \* \* \*

[(f) *DOMESTIC BUYING PREFERENCES.*—(1) In this subsection, “United States” means the States, territories, and possessions of the United States and the District of Columbia.

[(2) Amtrak shall buy only—

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

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

[(3) Paragraph (2) of this subsection applies only when the cost of those articles, material, or supplies bought is at least \$1,000,000.

[(4) On application of Amtrak, the Secretary of Transportation may exempt Amtrak from this subsection if the Secretary decides that—

[(A) for particular articles, material, or supplies—

[(i) the requirements of paragraph (2) of this subsection are inconsistent with the public interest;

[(ii) the cost of imposing those requirements is unreasonable; or

[(iii) 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; or

[(B) rolling stock or power train equipment cannot be bought and delivered in the United States within a reasonable time.]

(f) *APPLICABILITY OF BUY AMERICAN ACT.*—Amtrak shall be subject to the Buy American Act (41 U.S.C. 10a–d) and the regulations thereunder, for purchases of \$100,000 or more.

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**§ 24310. Management accountability**

(a) *IN GENERAL.*—Three years after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008, and two years thereafter, the Inspector General of the Department of Transportation shall complete an overall assessment of the progress made by Amtrak management and the Department of Transportation in implementing the provisions of that Act.

(b) *ASSESSMENT.*—The management assessment undertaken by the Inspector General may include a review of—

- (1) effectiveness in improving annual financial planning;
- (2) effectiveness in implementing improved financial accounting;
- (3) efforts to implement minimum train performance standards;
- (4) progress maximizing revenues and minimizing Federal subsidies and improving financial results; and
- (5) any other aspect of Amtrak operations the Inspector General finds appropriate to review.

\* \* \* \* \*

**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 chapter:

(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, track and track structures, 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, 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 this title.

**§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, infrastructure, 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 2008.

(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, or under the plan required by section 302 of the Passenger Rail Investment and Improvement Act of 2008, 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 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, ad-



*ditional service frequency to meet anticipated or existing demand, or other significant service enhancements as measured against minimum standards developed under section 207 of the Passenger Rail Investment and Improvement Act of 2008;*

*(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 improve freight or commuter rail operations.*

*(C) Projects that have significant environmental benefits, including projects that involve the purchase of environmentally sensitive, fuel-efficient, and cost-effective passenger rail equipment.*

*(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).*

*(J) Projects described in section 5302(a)(1)(G) of this title that are designed to support intercity passenger rail service.*

*(K) Projects that encourage intermodal connectivity, create significant opportunity for State and private contributions toward station development, are energy and environmentally efficient, and have economic benefits.*

*(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(d) of the Passenger Rail Investment and Improvement Act of 2008, 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 and operating costs in fiscal years 2002, 2003, 2004, 2005, 2006, 2007, and 2008 shall be credited towards the matching requirements for*

grants awarded in fiscal years 2009, 2010, and 2011 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 fiscal year 2007, for capital projects to benefit intercity passenger rail service or for the operating costs of such service above the average capital and operating expenditures made for such service in fiscal years 2004, 2005, 2006, 2007, and 2008 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) **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.*

(j) **SMALL CAPITAL PROJECTS.**—*The Secretary shall make available \$10,000,000 annually from the amounts authorized under section 101(d) of the Passenger Rail Investment and Improvement Act of 2008 beginning in fiscal year 2009 for grants for capital projects eligible under this section not exceeding \$2,000,000, including costs eligible under section 206(c) of that Act. The Secretary may wave requirements of this section, including state rail plan requirements, as appropriate.*

**§ 24403. Project management oversight**

(a) **PROJECT MANAGEMENT PLAN REQUIREMENTS.**—*To receive Federal financial assistance for a major capital project under this chapter, 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 chapter 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 chapter 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 chapter, the Secretary of Transportation may approve the use of capital assistance under this chapter 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 (A) 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 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 that definition or in which that definition applies, including—

(1) the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.);

(2) the Railway Labor Act (43 U.S.C. 151 et seq.); and

(3) *the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.).*

(c) *GRANT CONDITIONS.—The Secretary shall require as a condition of making any grant under this title for a project that uses 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;*

(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*

(D) *an assurance that an applicant complies with liability requirements consistent with section 28103 of this title; 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 chapter.*

(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.*

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**CHAPTER 247—AMTRAK ROUTE SYSTEM**

Sec.

24701. National rail passenger transportation system.

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

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

*(a) CONTRACTS FOR TRANSPORTATION.—Amtrak may enter into a contract with a State, a regional or local authority, or another person 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.*

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**§ 24706. Discontinuance**

(a) \* \* \*

\* \* \* \* \*

*(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 except section 24702(b).*

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**CHAPTER 249—NORTHEAST CORRIDOR IMPROVEMENT PROGRAM**

Sec.

24901. Definitions.

\* \* \* \* \*

**24905. Coordination board and safety committee.**

*24905. Northeast Corridor Infrastructure and Operations Advisory Commission.*

\* \* \* \* \*

24910. *Rail cooperative research program.*

\* \* \* \* \*

**§ 24904. General authority**

(a) \* \* \*

\* \* \* \* \*

(c) **COMPENSATION FOR TRANSPORTATION OVER CERTAIN RIGHTS OF WAY AND FACILITIES.—(1)** \* \* \*

(2) If the parties do not agree, the Interstate Commerce Commission shall order that the transportation continue over facilities acquired under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.) and shall determine compensation (without allowing cross-subsidization between *commuter rail passenger* and intercity rail passenger and rail freight transportation) for the transportation not later than 120 days after the dispute is submitted. The Commission shall assign to a rail **freight** carrier obtaining transportation under this subsection the costs Amtrak incurs only for the benefit of the carrier, plus a proportionate share of all other costs of providing transportation under this paragraph incurred for the common benefit of Amtrak and the carrier. The proportionate share shall be based on relative measures of volume of car operations, tonnage, or other factors that reasonably reflect the relative use of rail property covered by this subsection.

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**§ 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**

(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 2008, 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 operations 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 Secretary of Transportation and the Federal Railroad Administration;*

(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, and serving at the pleasure of, the chief executive officer thereof; and

(D) non-voting representatives of freight railroad carriers using the Northeast Corridor selected by the Secretary.

(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 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 state-of-good-repair under section 208 of the Passenger Rail Investment and Improvement Act of 2008;

(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 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 pursu-

ant to section 203(b) of the Passenger Rail Investment and Improvement Act of 2008, 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;

(C) transmit the proposed timetable to the Surface Transportation Board; and

(D) at the request of a Commission member, petition the Surface Transportation Board to appoint a mediator to assist the Commission members through non-binding mediation to reach an agreement under this section.

(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 entities fail to implement such new agreements in accordance with the timetable, the Commission shall petition the Surface Transportation Board to determine the appropriate compensation amounts for such services in accordance with section 24904(c) of this title. The Surface Transportation Board shall enforce its determination on the party or parties involved.

(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 Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

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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;

(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;

(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; and

(12) to review rail crossing safety improvements, including improvements using new safety technology.

(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.*

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**PART D—HIGH-SPEED RAIL**

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**CHAPTER 261—HIGH-SPEED RAIL ASSISTANCE**

Sec.

26101. Corridor development.

\* \* \* \* \*

26106. *High-speed rail corridor program.*

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**§ 26106. High-speed rail corridor program**

(a) *IN GENERAL.*—*The Secretary of Transportation shall establish and implement a high-speed rail corridor program.*

(b) *DEFINITIONS.*—*In this section, the following definitions apply:*

(1) *APPLICANT.*—*The term “applicant” means a State, a group of States, an Interstate Compact, a public agency established by one or more States and having responsibility for providing high-speed rail service, or Amtrak.*

(2) *CORRIDOR.*—*The term “corridor” means a corridor designated by the Secretary pursuant to section 104(d)(2) of title 23.*

(3) *CAPITAL PROJECT.*—*The term “capital project” means a project or program in a State rail plan developed under chapter 225 of this title for acquiring, constructing, improving, or inspecting equipment, track, and track structures, or a facility of use in or for the primary benefit of high-speed 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 high-speed rail service, mitigating environmental impacts, communication and signalization improvements, relocation assistance, acquiring re-*

placement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing.

(4) *HIGH-SPEED RAIL.*—The term “high-speed rail” means intercity passenger rail service that is reasonably expected to reach speeds of at least 110 miles per hour.

(5) *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 this title.

(6) *SECRETARY.*—The term “Secretary” means the Secretary of Transportation.

(7) *STATE.*—The term “State” means any of the 50 States or the District of Columbia.

(c) *GENERAL AUTHORITY.*—The Secretary may make grants under this section to an applicant to finance capital projects in high-speed rail corridors.

(d) *APPLICATIONS.*—Each applicant seeking to receive a grant under this section to develop a high-speed rail corridor shall submit to the Secretary an application in such form and in accordance with such requirements as the Secretary shall establish.

(e) *COMPETITIVE GRANT SELECTION AND CRITERIA FOR GRANTS.*—

(1) *IN GENERAL.*—The Secretary shall—

(A) establish criteria for selecting among projects that meet the criteria specified in paragraph (2);

(B) conduct a national solicitation for applications; and

(C) award grants on a competitive basis.

(2) *GRANT CRITERIA.*—The Secretary may approve a grant under this section for a project only if the Secretary determines that the project—

(A) is part of a State rail plan developed under chapter 225 of this title, or under the plan required by section 302 of the Passenger Rail Investment and Improvement Act of 2008;

(B) is based on the results of preliminary engineering;

(C) has the legal, financial, and technical capacity to carry out the project; and

(D) is justified based on the ability of the project—

(i) to generate national economic benefits, including creating jobs, expanding business opportunities, and impacting the gross domestic product;

(ii) to increase mobility of United States citizens and reduce congestion, including impacts in the State, region, and Nation; and

(iii) to otherwise enhance the national transportation system.

(3) *PROJECT SELECTION CRITERIA.*—In selecting a project under this section, the Secretary shall consider the extent to which the project—

(A) makes a substantial contribution to providing the infrastructure and equipment required to complete a high-speed rail corridor;

(B) leverages Federal investment by encouraging non-Federal financial commitments, including evidence of stable and dependable financing sources to construct, main-



tain, and operate the high-speed rail corridor and service;  
and

(C) helps protect the environment.

(f) **FEDERAL SHARE.**—The Federal share of the cost of a project financed under this section shall not exceed 80 percent of the project net capital cost.

(g) **ISSUANCE OF REGULATIONS.**—Not later than 1 year after the date of enactment of this section, the Secretary shall issue regulations for carrying out this section.

(h) **AUTHORIZATION.**—There are authorized to be appropriated to the Secretary to carry out this section \$350,000,000 for each of fiscal years 2009 through 2013.

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**PART E—MISCELLANEOUS**

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**CHAPTER 285—COMMUTER RAIL TRANSIT  
ENHANCEMENT**

Sec.

28501. Definitions

28502. Surface Transportation Board mediation of trackage use requests.

28503. Surface Transportation Board mediation of rights-of-way use requests.

28504. Applicability of other laws.

28505. Rules and regulations.—

**§28501. Definitions**

In this chapter—

(1) the term “Board” means the Surface Transportation Board;

(2) the term “capital work” means maintenance, restoration, reconstruction, capacity enhancement, or rehabilitation work on trackage that would be treated, in accordance with generally accepted accounting principles, as a capital item rather than an expense;

(3) the term “fixed guideway transportation” means public transportation (as defined in section 5302(a)(10)) provided on, by, or using a fixed guideway (as defined in section 5302(a)(4));

(4) the term “public transportation authority” means a local governmental authority (as defined in section 5302(a)(6)) established to provide, or make a contract providing for, fixed guideway transportation;

(5) the term “rail carrier” means a person, other than a governmental authority, providing common carrier railroad transportation for compensation subject to the jurisdiction of the Board under chapter 105;

(6) the term “segregated fixed guideway facility” means a fixed guideway facility constructed within the railroad right-of-way of a rail carrier but physically separate from trackage, including relocated trackage, within the right-of-way used by a rail carrier for freight transportation purposes; and

(7) the term “trackage” means a railroad line of a rail carrier, including a spur, industrial, team, switching, side, yard, or station track, and a facility of a rail carrier.

**§28502. Surface Transportation Board mediation of trackage use requests**

*If, after a reasonable period of negotiation, a public transportation authority cannot reach agreement with a rail carrier to use trackage of, and have related services provided by, the rail carrier for purposes of fixed guideway transportation, the public transportation authority or the rail carrier may apply to the Board for nonbinding mediation. The Board shall conduct the nonbinding mediation in accordance with the mediation process of section 1109.4 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.*

**§28503. Surface Transportation Board mediation of rights-of-way use requests**

*If, after a reasonable period of negotiation, a public transportation authority cannot reach agreement with a rail carrier to acquire an interest in a railroad right-of-way for the construction and operation of a segregated fixed guideway facility, the public transportation authority or the rail carrier may apply to the Board for nonbinding mediation. The Board shall conduct the nonbinding mediation in accordance with the mediation process of section 1109.4 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.*

**§28504. Applicability of other laws**

*Nothing in this chapter shall be construed to limit a rail transportation provider's right under section 28103(b) to enter into contracts that allocate financial responsibility for claims.*

**§28505. Rules and regulations**

*Not later than 180 days after the date of enactment of this section, the Board shall issue such rules and regulations as may be necessary to carry out this chapter.*

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**AMTRAK REFORM AND ACCOUNTABILITY ACT OF 1997**

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**TITLE II—FISCAL ACCOUNTABILITY**

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**[SEC. 204. SUNSET TRIGGER.**

**[(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.**

[(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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