

108TH CONGRESS  
1ST SESSION

# S. 1505

To establish a National Passenger Rail Office, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 30 (legislative day, JULY 21), 2003

Mrs. HUTCHISON (for herself, Mr. LOTT, Mr. BURNS, and Ms. SNOWE) introduced the following bill; which was read twice and referred to the Committee on Finance

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# A BILL

To establish a National Passenger Rail Office, and for other purposes.

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

**3 SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “American Rail Equity  
5       Act of 2003”.

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

7       Except as otherwise expressly provided, whenever in  
8       this Act an amendment or repeal is expressed in terms  
9       of an amendment to, or a repeal of, a section or other  
10      provision, the reference shall be considered to be made to

- 1 a section or other provision of title 49, United States
- 2 Code.

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

- 4 The table of contents for this Act is as follows:

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

**TITLE I—NATIONAL PASSENGER RAIL OFFICE**

- Sec. 101. Establishment of National Passenger Rail Office.

**TITLE II—NATIONAL PASSENGER RAIL SYSTEM**

Subtitle A—National Passenger Rail System

- Sec. 201. National passenger rail system.

Subtitle B—High-Speed Corridors for Passenger Rail

- Sec. 211. Interstate railroad passenger high-speed transportation policy.
- Sec. 212. High-speed rail corridor planning.
- Sec. 213. Assistance for establishment of corridors for high-speed rail service.

**TITLE III—RAIL INFRASTRUCTURE IMPROVEMENT**

Subtitle A—Rail Infrastructure Finance Corporation

- Sec. 301. Establishment of corporation.
- Sec. 302. Board of directors.
- Sec. 303. Officers and employees.
- Sec. 304. Nonprofit and nonpolitical nature of the corporation.
- Sec. 305. Purpose and activities of corporation.
- Sec. 306. Report to Congress.
- Sec. 307. Administrative matters.
- Sec. 308. Rail infrastructure finance trust.

Subtitle B—Rail Development Grant Program

- Sec. 311. National system improvement grant program.
- Sec. 312. Grant program requirements and limitations.

Subtitle C—Rail Infrastructure Tax Credit Bonds

- Sec. 321. Credit to holders of qualified rail infrastructure bonds.
- Sec. 322. Annual report by Treasury on rail infrastructure trust account.
- Sec. 323. Issuance of regulations.
- Sec. 324. Effective date.

**TITLE IV—RAIL INFRASTRUCTURE AND INTERMODAL TRANSPORTATION**

- Sec. 401. Intermodal transportation policy.
- Sec. 402. State rail plans.

1       **TITLE I—NATIONAL PASSENGER**  
2                   **RAIL OFFICE**

3       **SEC. 101. ESTABLISHMENT OF NATIONAL PASSENGER RAIL**  
4                   **OFFICE.**

5               (a) ESTABLISHMENT.—(1) Chapter 1 of title 49,  
6   United States Code, is amended by inserting after section  
7   107 the following new section:

8       **“§ 107A. National Passenger Rail Office**

9               “(a) IN GENERAL.—The National Passenger Rail Of-  
10  fice is an office in the Department of Transportation.

11               “(b) HEAD OF OFFICE.—The head of the Office is  
12  the Director of the National Passenger Rail Office who  
13  is appointed by the President, by and with the advice and  
14  consent of the Senate.

15               “(c) ADMINISTRATIVE MATTERS.—

16               “(1) ADMINISTRATIVE LOCATION.—The Office  
17  is located within the Federal Transit Administration  
18  for administrative purposes.

19               “(2) SUPERVISION.—The Director of the Na-  
20  tional Passenger Rail Office reports directly to the  
21  Administrator of the Federal Transit Administra-  
22  tion.

23               “(d) DUTIES.—The duties of the Office are as fol-  
24  lows:

1               “(1) To carry out the responsibilities of the Of-  
2        fice with respect to the national passenger railroad  
3        system under chapter 251 of this title, including—

4               “(A) the allocation of funds to the Na-  
5        tional Passenger Rail Corporation for the oper-  
6        ations of the Corporation under section 25005  
7        of this title;

8               “(B) the responsibilities for the national  
9        passenger railroad system set forth under sec-  
10        tion 25006 of this title;

11               “(C) the responsibilities for the national  
12        passenger railroad system route map set forth  
13        under section 25007 of this title; and

14               “(D) the quarterly identification of infra-  
15        structure improvement projects for the national  
16        passenger railroad system under section 25008  
17        of this title.

18               “(2) To carry out such other responsibilities as  
19        may be provided by the Secretary of Transportation  
20        or by law.

21               “(e) FUNDING OF ADMINISTRATIVE EXPENSES.—  
22        The amount available under section 25010(c)(1) of this  
23        title each fiscal year shall be available for the administra-  
24        tive costs of the Office in such fiscal year.”.

1       (2) The table of section at the beginning of such  
 2 chapter is amended by inserting after the item relating  
 3 to section 107 the following new item:

“107A. National Passenger Rail Office.”.

4       (b) RATE OF PAY OF DIRECTOR OF OFFICE.—Sec-  
 5 tion 5315 of title 5, United States Code, is amended by  
 6 adding at the end the following:

7           “Director, National Passenger Rail Office.”.

8           **TITLE II—NATIONAL**  
 9           **PASSENGER RAIL SYSTEM**  
 10          **Subtitle A—National Passenger**  
 11           **Rail System**

12          **SEC. 201. NATIONAL PASSENGER RAIL SYSTEM.**

13       (a) IN GENERAL.—Part C of subtitle V of title 49,  
 14 United States Code, is amended by adding at the end the  
 15 following new chapter:

16          **“CHAPTER 250—NATIONAL PASSENGER**  
 17           **RAIL SYSTEM**

“Sec.

“25001. Purpose.

“25002. National passenger rail system.

“25003. Designation of Amtrak as National Passenger Rail Corporation.

“25004. National Passenger Rail Corporation: responsibility for national pas-  
 senger rail system; status.

“25005. National Passenger Rail Office: allocation of operating funds to Na-  
 tional Passenger Rail Corporation.

“25006. National Passenger Rail Office: responsibility for national passenger  
 rail system.

“25007. National Passenger Rail Office: responsibility for national passenger  
 rail system route map.

“25008. National Passenger Rail Office: identification of rail infrastructure im-  
 provement projects for national passenger rail system.

“25009. Rail infrastructure improvements grant program.

“25010. Construction with other law; preservation and allocation of authorities.

“25011. Authorizations.

1   **“§ 25001. Purpose**

2       “The purpose of this chapter is to improve rail pas-  
3       senger service in the United States by—

4           “(1) redesignating Amtrak as the National Pas-  
5       senger Rail Corporation; and

6           “(2) reallocating the responsibilities of Amtrak  
7       for intercity and commuter rail passenger transpor-  
8       tation (and related transportation) among the Na-  
9       tional Passenger Rail Corporation and the National  
10      Rail Passenger Office so that—

11           “(A) the National Passenger Rail Corpora-  
12       tion retains the responsibilities of Amtrak for  
13       the provision of such transportation; and

14           “(B) the National Rail Passenger Office  
15       assumes the responsibilities of Amtrak for the  
16       equipment and facilities of Amtrak and for the  
17       route map of the national passenger rail sys-  
18       tem.

19   **“§ 25002. National passenger rail system**

20       “(a) IN GENERAL.—The system of intercity rail pas-  
21       senger transportation (and related transportation), known  
22       as the national passenger rail system, includes—

1           “(1) the segment of the Northeast Corridor be-  
2       tween Boston, Massachusetts, and Washington,  
3       D.C.;

4           “(2) rail corridors that have been designated by  
5       the Secretary of Transportation as high-speed cor-  
6       ridors, but only after they have been improved to  
7       permit operation of high-speed service;

8           “(3) long-distance routes of more than 750  
9       miles between endpoints operated by Amtrak as of  
10      the date of enactment of the American Rail Equity  
11      Act of 2003; and

12          “(4) short-distance corridors or routes operated  
13       by Amtrak.

14          “(b) TRANSPORTATION REQUESTED BY STATES, AU-  
15      THORITIES, AND OTHER PERSONS.—

16          “(1) CONTRACTS FOR TRANSPORTATION.—Am-  
17      trak and a State, a regional or local authority, or  
18      another person may enter into a contract for Am-  
19      trak to operate an intercity rail service or route not  
20      included in the national rail passenger transpor-  
21      tation system upon such terms as the parties thereto  
22      may agree.

23          “(2) DISCONTINUANCE.—Upon termination of  
24      a contract entered into under this subsection, or the  
25      cessation of financial support under such a contract,

1       Amtrak may discontinue such service or route, notwithstanding  
2       any other provision of law.

5       “Effective as of the date of the enactment of the  
6 American Rail Equity Act of 2003, the portion of Amtrak  
7 that is responsible for the operations relating to intercity  
8 rail passenger transportation and commuter rail passenger  
9 transportation (and related transportation) specified in  
10 section 25004(b) of this title is hereby redesignated as the  
11 National Passenger Rail Corporation.

15        "(a) TERMINATION OF FOR-PROFIT STATUS.—The  
16 National Passenger Rail Corporation shall not be required  
17 to be operated or managed as a for-profit corporation.

18        "(b) LIMITATION OF RESPONSIBILITIES TO TRANS-  
19 PORTATION AND CERTAIN MAINTENANCE FACILITIES.—  
20 The Corporation shall have responsibility only for the fol-  
21 lowing:

22           “(1) Operations relating to the provision of  
23           intercity rail passenger transportation.

1                   “(3) Operations relating to the transportation  
2                   of mail and express.

3                   “(4) Operations relating to auto-ferry transpor-  
4                   tation.

7           “(6) Facilities for the maintenance of the roll-  
8           ing stock necessary to provide transportation under  
9           paragraphs (1) through (4).

10        "(c) TRANSFER OF OTHER ASSETS AND RESPON-  
11 SIBILITIES TO NATIONAL PASSENGER RAIL OFFICE.—

12 The Corporation shall transfer to the National Passenger  
13 Rail Office jurisdiction of all equipment and facilities of  
14 the Corporation as of the date of the enactment of the  
15 American Rail Equity Act of 2003 that are not the respon-  
16 sibility of the Corporation under subsection (b).

“(a) IN GENERAL.—The National Passenger Rail Of-  
fice shall, from amounts available for a fiscal year under  
section 25010(c)(2)(A) of this title, allocate amounts to  
the National Passenger Rail Corporation in order to per-  
mit the Corporation carry out operations for the provision  
of transportation under section 25004(b) of this title.

1       “(b) ALLOCATION ON ROUTE-BY-ROUTE BASIS.—

2 The Office shall allocate amounts to the Corporation  
3 under subsection (a) on a route-by-route basis.

4       “(c) OVERSIGHT OF EXPENDITURES.—The Office  
5 shall oversee and review expenditures of amounts allocated  
6 to the Corporation under subsection (a) in order to ensure  
7 that the Corporation is utilizing amounts so allocated in  
8 an appropriate manner.

9       **“§ 25006. National Passenger Rail Office: responsi-**

10                   **bility for national passenger rail system**

11       “(a) NORTHEAST CORRIDOR EQUIPMENT AND FA-  
12 CILITIES.—The National Passenger Rail Office shall have  
13 responsibility for all equipment and facilities relating to  
14 the Northeast Corridor route that are transferred to the  
15 Office under section 25003(c) of this title.

16       “(b) PENNSYLVANIA STATION, NEW YORK.—The Of-  
17 fice shall treat Pennsylvania Station, New York, and the  
18 electric power generation facilities at Pennsylvania Station  
19 for the Northeast Corridor route, as a part of the North-  
20 east Corridor route under subsection (a).

21       “(c) OTHER EQUIPMENT AND FACILITIES.—

22                   “(1) OPERATION THROUGH LEASE RE-  
23 QUIRED.—The Office shall provide for the operation  
24 of any equipment and facilities transferred to the  
25 Office under section 25004(c) of this title that are

1 not the responsibility of the Office under subsections  
2 (a) and (b) through the lease of such equipment and  
3 facilities to 1 or more appropriate persons or enti-  
4 ties.

5       “(2) FULL AND OPEN COMPETITION.—The Of-  
6 fice shall identify any lessee of equipment and facili-  
7 ties under paragraph (1) utilizing procedures for full  
8 and open competition.

9       **“§ 25007. National Passenger Rail Office: responsi-**  
10                   **bility for national passenger rail system**  
11                   **route map**

12       “(a) IN GENERAL.—The National Passenger Rail Of-  
13 fice shall have responsibility for the modification of routes  
14 of the National Passenger Rail Corporation.

15       “(b) FAILURE OF ON-TIME PERFORMANCE.—

16                   “(1) SURVEYS OF ON-TIME PERFORMANCE.—  
17 Not later than 12 months after the date of the en-  
18 actment of this American Rail Equity Act of 2003  
19 and every year thereafter, the Office shall determine  
20 for each route of the Corporation whether the Cor-  
21 poration met the on-time performance goal for such  
22 route during the most recent performance period.

23                   “(2) CONTINGENT REQUIREMENT TO PRESERVE  
24 ROUTES.—The Office may not discontinue a route of  
25 the Corporation as in effect on the date of the enact-

1       ment of that Act unless the Office determines under  
2       paragraph (1) in any year that the Corporation did  
3       not meet the on-time performance goal for such  
4       route in 3 out of the 5 years immediately preceding  
5       the year in which the determination is made.

6               “(3) TRANSPORTATION RIGHTS FOLLOWING  
7       FAILURE ON ON-TIME PERFORMANCE.—

8               “(A) FORFEITURE OF RIGHTS.—If the Of-  
9       fice determines (in the determination under  
10      paragraph (2) that is required to be completed  
11      5 years after the date of the enactment of the  
12      American Rail Equity Act of 2003) that the  
13      Corporation did not meet the on-time perform-  
14      ance goal for a route of the Corporation during  
15      the most recent performance period, the Cor-  
16      poration shall forfeit to the Office the right to  
17      provide passenger rail transportation on such  
18      route (including the right to use the tracks of  
19      such route to provide such transportation).

20               “(B) LEASE OF FORFEITED RIGHTS.—The  
21      Office shall lease to an appropriate person or  
22      entity the right to provide passenger rail trans-  
23      portation on a route (including the right to use  
24      the tracks of such route to provide such trans-  
25      portation) that is forfeited under subparagraph

5                     “(C) TRANSPORTATION.—A person or enti-  
6                     ty leasing the right to provide rail passenger  
7                     transportation on a route under subparagraph  
8                     (B) shall provide such rail passenger transpor-  
9                     tation on the route as is specified by the Office  
10                    in the lease under subparagraph (B). The rail  
11                    passenger transportation so specified for a  
12                    route shall be equivalent to the rail passenger  
13                    transportation scheduled to provided by the  
14                    Corporation on the route before the forfeiture  
15                    of the right to provide transportation on the  
16                    route under subparagraph (A).

17                     “(D) ASSISTANCE.—A person or entity  
18                     providing rail passenger transportation on a  
19                     route under subparagraph (B) shall be entitled  
20                     to such assistance under this part, and under  
21                     any other provision of law, for the provision of  
22                     such rail passenger transportation as would  
23                     otherwise have been provided to the Corporation  
24                     if the Corporation had provided such rail pas-  
25                     senger transportation on such route.

1                     “(E) BONUS.—If the Office determines  
2                     that a person or entity providing rail passenger  
3                     transportation on a route under subparagraph  
4                     (B) has met the on-time performance goal for  
5                     that route during the most recent performance  
6                     period, the Office may pay such person or enti-  
7                     ty a bonus in an amount determined appro-  
8                     priate by the Office.

9                     “(4) FAILURE OF ON-TIME PERFORMANCE  
10                     BASED ON LACK OF ACCESS.—

11                     “(A) NOTICE.—The Corporation shall no-  
12                     tify the Office of each allegation of the Cor-  
13                     poration that the failure of the Corporation to  
14                     meet the on-time performance goal for a route  
15                     is due to the denial of access to the tracks of  
16                     the route by the rail carrier owning the route.

17                     “(B) TRANSMITTAL.—Amtrak shall trans-  
18                     mit to the Surface Transportation Board each  
19                     allegation received by the Office under subpara-  
20                     graph (A).

21                     “(C) INVESTIGATION.—The Board shall  
22                     investigate each allegation transmitted under  
23                     subparagraph (B).

24                     “(D) CIVIL PENALTIES.—If as a result of  
25                     an investigation under subparagraph (C) the

1       Board verifies an allegation under subparagraph (A), the Board may impose a civil penalty on the rail carrier that is the subject of the allegation in such amount as the Board considers appropriate.

6       “(5) DEFINITIONS.—In this subsection:

7               “(A) ON-TIME PERFORMANCE GOAL.—  
8       Within 12 months after the date of enactment  
9       of the American Rail Equity Act of 2003, the  
10      National Rail Office, after consultation with Am-  
11      trak, shall establish criteria for determining  
12      what attributes characterize an ‘on-time per-  
13      formance goal’. In the case of a route, the cri-  
14      teria shall be based upon at least 80 percent of  
15      the trains scheduled to provide passenger rail  
16      transportation on the route during the most re-  
17      cent performance period arriving not later than  
18      their scheduled arrival time.

19               “(B) PERFORMANCE PERIOD.—The term  
20      ‘performance period’ means the 12-month pe-  
21      riod ending on the date a determination is  
22      made regarding whether the trains scheduled to  
23      provide passenger rail transportation on a route  
24      met their on-time performance goal.

25       “(c) ADDITIONAL ROUTES.—

1           “(1) ADDITIONAL ROUTES.—The Office may es-  
2 tablish 1 or more additional routes for the national  
3 rail passenger system if the Office determines pursu-  
4 ant to the study under section 502 of the American  
5 Rail Equity Act of 2003 that the establishment of  
6 such route or routes is feasible and advisable.

7           “(2) CORRIDORS FOR HIGH-SPEED RAIL SERV-  
8 ICE.—The Office may add to the national passenger  
9 rail system any corridor for high-speed rail service  
10 established pursuant to section 26104 of this title.

11 **“§ 25008. National Passenger Rail Office: identifica-**  
12 **tion of rail infrastructure improvement**  
13 **projects for national passenger rail sys-**  
14 **tem**

15           “(a) IDENTIFICATION OF RAIL INFRASTRUCTURE IM-  
16 PROVEMENT PROJECTS.—

17           “(1) IN GENERAL.—The National Passenger  
18 Rail Office shall, on a quarterly basis, identify the  
19 rail infrastructure improvement projects that are ad-  
20 visable to improve or enhance the operations of the  
21 national passenger rail system, including operations  
22 in the Northeast Corridor.

23           “(2) NATURE OF IMPROVEMENTS.—The infra-  
24 structure improvements covered by rail infrastruc-

1       ture improvement projects under paragraph (1) may  
2       include—

3               “(A) track and other capital improvements;  
4               “(B) the acquisition of rights-of-way; and  
5               “(C) such other improvements as the Of-  
6       fice considers advisable to improve or enhance  
7       the operations of the national passenger rail  
8       system.

9               “(3) STATE INPUT.—Recommendations of  
10      States for projects for identification under para-  
11      graph (1) shall be submitted to the National Pas-  
12      senger Rail Office in accordance with such require-  
13      ments as the Director of the Office may prescribe.

14               “(b) INFORMATION ON POTENTIAL PROJECTS.—A  
15      rail carrier seeking to carry out a rail infrastructure im-  
16      provement project for purposes of subsection (a) shall sub-  
17      mit to the Office such information on the project as the  
18      Director of the Office shall require, including—

19               “(1) the nature of the infrastructure improve-  
20      ments under the project;

21               “(2) the cost of the infrastructure improve-  
22      ments; and

23               “(3) an assessment of the extent to which the  
24      infrastructure improvements will improve or enhance  
25      the operations of the national passenger rail system.

1       “(c) REPORTS TO NATIONAL RAIL TRANSPORTATION  
2 FINANCING CORPORATION.—

3           “(1) IN GENERAL.—The Director of the Office  
4 shall, on a quarterly basis, submit to the National  
5 Rail Transportation Financing Corporation a report  
6 setting forth the rail infrastructure improvement  
7 projects identified under subsection (a) during the  
8 preceding quarter.

9           “(2) REPORT ELEMENTS.—Each report under  
10 paragraph (1) shall contain such information as the  
11 Director of the Office and the Corporation jointly  
12 consider appropriate in order—

13           “(A) to fully inform the Corporation of the  
14 nature, cost, benefits, and priority of each rail  
15 infrastructure improvement project identified in  
16 such report; and

17           “(B) to permit the Corporation to evaluate  
18 the advisability of making a grant for each such  
19 rail infrastructure improvement project under  
20 306 of the American Rail Equity Act of 2003.

21 **“§ 25009. Rail infrastructure improvements grant pro-**  
22 **gram**

23       “The National Passenger Rail Office may make  
24 grants for rail infrastructure improvement projects identi-  
25 fied under section 25008 of this title.

1    **“§ 25010. Construction with other law; preservation**2                    **and allocation of authorities**

3                “(a) CONSTRUCTION.—The provisions of this chapter  
4    supersede any provisions of this part, and any other provi-  
5    sions of law, that are inconsistent with the provisions of  
6    this chapter.

7                “(b) PRESERVATION OF AUTHORITIES.—

8                “(1) NATIONAL PASSENGER RAIL OFFICE.—For  
9    purposes of carrying out its responsibility under this  
10   chapter, including the operation and maintenance of  
11   facilities under section 25005(c) of this title, the Na-  
12   tional Passenger Rail Office may utilize any power  
13   or authority of Amtrak under this part, or under  
14   any other provision of law, to the extent that such  
15   power or authority is not inconsistent with a provi-  
16   sion of this chapter, as if the Office were Amtrak.

17                “(2) NATIONAL PASSENGER RAIL AUTHOR-  
18   ITY.—For purposes of carrying out its responsibil-  
19   ities under section 25004(b) of this title, the Na-  
20   tional Passenger Rail Corporation may utilize any  
21   power or authority of Amtrak under this part, or  
22   under any other provision of law, to the extent that  
23   such power or authority is not inconsistent with a  
24   provision of this chapter, as if the Corporation were  
25   Amtrak.

1       “(c) MEMORANDUM OF UNDERSTANDING.—The Of-  
2 fice and the Corporation shall, subject to the supervision  
3 and concurrence of the Administrator of the Federal  
4 Transit Administration, enter into a memorandum of un-  
5 derstanding allocating among the Office and the Corpora-  
6 tion the authorities, powers, and responsibilities of Am-  
7 trak under this part, and under any other provision of law,  
8 in a manner consistent with the provisions of this chapter.

9       “(d) REFERENCES.—

10       “(1) NATIONAL PASSENGER RAIL AUTHOR-  
11 ITY.—Any reference to Amtrak in any law, regula-  
12 tion, map, document, record, or other paper of the  
13 United States with respect to the performance of  
14 any function or activity that is retained by the Na-  
15 tional Passenger Rail Corporation under this chap-  
16 ter shall be considered to be a reference to the Na-  
17 tional Passenger Rail Corporation.

18       “(2) NATIONAL PASSENGER RAIL OFFICE.—Any  
19 reference to Amtrak in any law, regulation, map,  
20 document, record, or other paper of the United  
21 States with respect to the performance of any func-  
22 tion or activity that is assumed by the National Pas-  
23 senger Rail Office under this chapter shall be con-  
24 sidered to be a reference to the National Passenger  
25 Rail Office.

## 1 “§ 25011. Authorizations

2       “(a) IN GENERAL.—There are authorized to be ap-  
3 propriated \$2,000,000,000 for each of fiscal years 2004  
4 through 2009 for the operations of the National Passenger  
5 Rail Corporation under this chapter.

6        "(b) ALLOCATIONS.—To the extent provided in ap-  
7 propriations Acts, \$3,000,000 of the amount appropriated  
8 pursuant to the authorization of appropriations in sub-  
9 section (a) in any fiscal year shall be available for the Na-  
10 tional Passenger Rail Office for the administrative ex-  
11 penses of the Office in such fiscal year.”.

12 (b) CLERICAL AMENDMENT.—The table of chapters  
13 at the beginning of subtitle V of title 49, United States  
14 Code, is amended by inserting after the item relating to  
15 chapter 249 the following new item:

**“250. NATIONAL PASSENGER RAILROAD SYSTEM ..... 25001”.**

18 SEC. 211. INTERSTATE RAILROAD PASSENGER HIGH-SPEED  
19 TRANSPORTATION POLICY

20 (a) IN GENERAL.—Chapter 261 is amended by in-  
21 serting before section 26101 the following:

22 “§ 26100. Policy

23        "The Congress declares that it is the policy of the  
24 United States that designated high-speed railroad pas-  
25 senger transportation corridors are the building blocks of

1 an interconnected interstate railroad passenger system  
2 that serves the entire Nation.”.

3 (b) CONFORMING AMENDMENT.—The chapter anal-  
4 ysis for chapter 261 is amended by inserting before the  
5 item relating to section 26101 the following:

“26100. Policy”.

**6 SEC. 212. HIGH-SPEED RAIL CORRIDOR PLANNING.**

7 (a) IN GENERAL.—Section 26101(a) is amended to  
8 read as follows:

9 “(a) PLANNING.—

10 “(1) IN GENERAL.—The Secretary of Transpor-  
11 tation shall provide planning assistance to States or  
12 group of States and other public agencies promoting  
13 the development of high-speed rail corridors des-  
14 ignated by the Secretary under section 104(d) of  
15 title 23.

16 “(2) SECRETARY MAY PROVIDE DIRECT OR FI-  
17 NANCIAL ASSISTANCE.—The Secretary may provide  
18 planning assistance under paragraph (1) directly or  
19 by providing financial assistance to a public agency  
20 or group of public agencies to undertake planning  
21 activities approved by the Secretary. Not less than  
22 20 percent of the publicly financed planning costs  
23 associated with projects assisted under this chapter  
24 shall come from non-Federal sources. State match-

1       ing contributions may not be derived, directly or in-  
2       directly, from Federal funds.”.

3       (b) CONFORMING AND OTHER AMENDMENTS TO  
4 SECTION 26101.—Section 26101 is further amended—

5               (1) by striking subsection (c)(2) and inserting  
6       the following:

7               “(2) the extent to which the proposed planning  
8       focuses on high-speed rail systems, giving a priority  
9       to systems which will achieve sustained speeds of  
10      125 miles per hour or greater and projects involving  
11      dedicated rail passenger rights-of-way;”;

12               (2) by inserting “and” after the semicolon in  
13       subsection (c)(12);

14               (3) by striking “completed; and” in subsection  
15       (c)(13) and inserting “completed.”; and

16               (4) by striking subsection (c)(14).

17       (c) CONFORMING AMENDMENT.—Section  
18 26105(2)(A) is amended by striking “more than 125 miles  
19      per hour;” and inserting “90 miles per hour or more;”.

20       (d) FINANCIAL ASSISTANCE TO INCLUDE LOANS  
21      AND LOAN GUARANTEES.—Section 26105(1) is amended  
22      by inserting “loans, loan guarantees,” after “contracts.”.

23       (e) AUTHORIZATION OF APPROPRIATIONS.—There  
24      are authorized to be appropriated to the Secretary of  
25      Transportation such sums as may be necessary for each

1 of fiscal years 2004 through 2008 to provide planning as-  
2 sistance under section 26101(a) of title 49, United States  
3 Code, as amended by subsection (a).

4 **SEC. 213. ASSISTANCE FOR ESTABLISHMENT OF COR-**  
5 **RIDORS FOR HIGH-SPEED RAIL SERVICE.**

6 (a) IN GENERAL.—Chapter 261 of title 49, United  
7 States Code, is amended—

8 (1) by redesignating sections 26104 and 26105  
9 as sections 26105 and 26106, respectively; and

10 (2) by inserting after section 26103 the fol-  
11 lowing new section 26104:

12 **“§ 26104. Additional support for establishment of**  
13 **high-speed rail corridors**

14 (a) PURPOSE.—The purpose of this section is to fa-  
15 cilitate the establishment of a national network of cor-  
16 ridors for high-speed rail service.

17 (b) CORPORATION TO MAKE GRANTS.—The Na-  
18 tional Rail Transportation Financing Corporation under  
19 title III of the American Rail Equity Act of 2003 may  
20 make grants of financial assistance to individual States  
21 or compacts of States for the establishment of corridors  
22 for high-speed rail service.

23 (c) APPLICATION.—A State or compact of States  
24 seeking a grant under this section shall submit to the Cor-

1 poration an application therefor in such form, and includ-  
2 ing such information, as the Corporation shall require.

3       “(d) MATCHING REQUIREMENT.—A State or com-  
4 pact of States receiving a grant under this section for ac-  
5 tivities relating to the establishment of a corridor for high-  
6 speed rail service shall bear not less than 80 percent of  
7 the costs of the activities funded by the grant.

8       “(e) USE OF GRANT.—A State or compact of States  
9 receiving a grant under this section shall use the grant  
10 amount for purposes of the establishment of 1 or more  
11 corridors for high-speed rail service, including the pur-  
12 chase of rights-of-way for the provision of such service.

13       “(f) TREATMENT OF CORRIDORS.—The National  
14 Passenger Rail Office may treat a corridor established  
15 pursuant to this section as part of the national passenger  
16 rail system under chapter 251 of this title.

17       “(g) CONSTRUCTION WITH OTHER ASSISTANCE COR-  
18 PORATION.—The authority to make grants under this sec-  
19 tion for the establishment of corridors for high-speed rail  
20 service is in addition to any other authority in this chap-  
21 ter, or under any other provision of law, relating to the  
22 provision of assistance for the establishment of corridors  
23 for high-speed rail service.

24       “(h) FUNDING.—Amounts derived from the issuance  
25 of qualified rail transportation bonds under title III of the

1 American Rail Equity Act of 2003 and section 54 of the  
2 Internal Revenue Code of 1986 shall be available for  
3 grants under this section.”.

4 (b) CLERICAL AMENDMENT.—The table of sections  
5 at the beginning of chapter 261 of such title is amended  
6 by striking the items relating to section 26104 and 26105  
7 and inserting the following new items:

“26104. Additional support for establishment of high-speed rail corridors.  
“26105. Authorization of appropriations.  
“26106. Definitions.”.

8 **TITLE III—RAIL INFRASTRUCTURE IMPROVEMENT**

9  
10 **Subtitle A—Rail Infrastructure  
Finance Corporation**

11  
12 **SEC. 301. ESTABLISHMENT OF CORPORATION.**

13 There is established a nonprofit corporation, to be  
14 known as the “Rail Infrastructure Finance Corporation”.  
15 The Rail Infrastructure Finance Corporation is not an  
16 agency or establishment of the United States Government.  
17 The Corporation shall be subject to the provisions of this  
18 subtitle, and, to the extent consistent with this section,  
19 to the laws of the State of Delaware applicable to corpora-  
20 tions not for profit.

21 **SEC. 302. BOARD OF DIRECTORS.**

22 (a) APPOINTMENT.— The Rail Infrastructure Fi-  
23 nance Corporation shall have a Board of Directors con-  
24 sisting of 9 members appointed by the President, by and

1 with the advice and consent of the Senate. Not more than  
2 5 members of the Board may be members of the same  
3 political party.

4 (b) MEMBERSHIP QUALIFICATIONS.—

5 (1) IN GENERAL.—The 9 members of the  
6 Board shall be appointed from among citizens of the  
7 United States (not regular full-time employees of the  
8 United States) who are eminent in the fields of rail  
9 transportation, rail financing, and intermodal trans-  
10 portation planning, and the financing and manage-  
11 ment of large-scale, long-term public-private cooper-  
12 ative projects.

13 (2) REPRESENTATION OF SPECIFIC INTER-  
14 ESTS.—Of the 9 members of the Board, 8 of the  
15 members shall be selected as follows:

16 (A) Two members from among individuals  
17 who represent the interests of freight rail trans-  
18 portation.

19 (B) One member from among individuals  
20 who represent the interests of passenger rail  
21 transportation.

22 (C) One member from among individuals  
23 who represent the interests of the States.

(D) One member from among individuals who represent the interests of intercity passenger rail users.

4 (E) One member from among individuals  
5 who represent the interests of organized labor.

(F) Two members from among persons  
who are involved in finance.

13 (d) TERMS OF OFFICE.—Members of the Board shall  
14 be appointed for terms of 6 years, except that of the mem-  
15 bers first appointed, the President shall designate 2 to  
16 serve a term of 1 year and 2 to serve a term of 3 years.  
17 No member of the Board shall be eligible to serve in excess  
18 of 2 consecutive full terms.

19 (e) VACANCIES.—A member of the Board appointed  
20 to fill a vacancy occurring before the expiration of the  
21 term for which the member's predecessor was appointed  
22 shall serve only for the remainder of the term. Upon the  
23 expiration of a member's term, the member shall continue  
24 to serve until a successor is appointed.

1        (f) ATTENDANCE REQUIRED.—Members of the  
2 Board shall attend not less than 50 percent of all duly  
3 convened meetings of the Board in any calendar year. A  
4 member who fails to meet the requirement of the pre-  
5 ceding sentence shall forfeit membership and the Presi-  
6 dent shall appoint a new member to fill the resulting va-  
7 cancy not later than 30 days after such vacancy is deter-  
8 mined by the Chairman of the Board.

9        (g) ELECTION OF CHAIRMAN AND VICE CHAIR-  
10 MAN.—Members of the Board shall annually elect 1 of  
11 their members to be Chairman and elect 1 or more of their  
12 members as a Vice Chairman or Vice Chairmen.

13        (h) COMPENSATION.—The members of the Board  
14 shall not, by reason of such membership, be considered  
15 to be officers or employees of the United States. They  
16 shall, while attending meetings of the Board or while en-  
17 gaged in duties related to such meetings or other activities  
18 of the Board pursuant to this title, be entitled to receive  
19 compensation at the rate of \$150 per day, including trav-  
20 eltime. No Board member shall receive compensation of  
21 more than \$10,000 in any fiscal year. While away from  
22 their homes or regular places of business, Board members  
23 shall be allowed travel and actual, reasonable, and nec-  
24 essary expenses.

1        (i) MEETINGS OPEN TO PUBLIC.—All meetings of  
2 the Board of Directors of the Corporation, including any  
3 committee of the Board, shall be open to the public under  
4 such terms, conditions, and exceptions as the Board may  
5 establish.

6 **SEC. 303. OFFICERS AND EMPLOYEES.**

7        (a) IN GENERAL.—The Rail Infrastructure Finance  
8 Corporation shall have a President, and such other officers  
9 as may be named and appointed by the Board for terms  
10 and at rates of compensation fixed by the Board. No offi-  
11 cer or employee of the Corporation may be compensated  
12 by the Corporation at an annual rate of pay that exceeds  
13 the rate of basic pay for level I of the Executive Schedule  
14 under section 5312 of title 5, United States Code. No indi-  
15 vidual other than a citizen of the United States may be  
16 an officer of the Corporation. Subject to section 302(h),  
17 no officer of the Corporation may receive any salary or  
18 other compensation (except for compensation for services  
19 on boards of directors of other organizations that do not  
20 receive funds from the Corporation, on committees of such  
21 boards, and in similar activities for such organizations)  
22 from any sources other than the Corporation for services  
23 rendered during the period of his or her employment by  
24 the Corporation. Service by any officer on boards of direc-  
25 tors of other organizations, on committees of such boards,

1 and in similar activities for such organizations shall be  
2 subject to annual advance approval by the Board and sub-  
3 ject to the provisions of the Corporation's Statement of  
4 Ethical Conduct. All officers shall serve at the pleasure  
5 of the Board.

6 (b) NONPARTISAN NATURE OF APPOINTMENTS.—  
7 Except as provided in the second sentence of section  
8 302(a), no political test or qualification shall be used in  
9 selecting, appointing, promoting, or taking other personnel  
10 actions with respect to officers, agents, and employees of  
11 the Corporation.

12 **SEC. 304. NONPROFIT AND NONPOLITICAL NATURE OF THE**  
13 **CORPORATION.**

14 (a) STOCK.—The Rail Infrastructure Finance Cor-  
15 poration shall have no power to issue any shares of stock,  
16 or to declare or pay any dividends.

17 (b) NO PRIVATE BENEFIT.—No part of the income  
18 or assets of the Corporation shall inure to the benefit of  
19 any director, officer, employee, or any other individual ex-  
20 cept as salary or reasonable compensation for services.

21 (c) POLITICAL ACTIVITY PROHIBITED.—The Cor-  
22 poration may not contribute to or otherwise support any  
23 political party or candidate for elective public office.

24 (d) CONFLICTS OF INTEREST.—No director, officer,  
25 or employee of the Corporation shall in any manner, di-

1 rectly or indirectly, participate in the deliberation upon or  
2 the determination of any question affecting his or her per-  
3 sonal interests or the interests of any corporation, partner-  
4 ship, or organization in which he or she is directly or indi-  
5 rectly interested. Board members shall recuse themselves  
6 from Board decisions that directly affect either them or  
7 entities they represent regarding grants and other assist-  
8 ance provided to States by the Board.

9 **SEC. 305. PURPOSE AND ACTIVITIES OF CORPORATION.**

10 (a) PURPOSE.—The Rail Infrastructure Finance Cor-  
11 poration shall, through the issuance of qualified rail infra-  
12 structure bonds in accordance with section 54 of the Inter-  
13 nal Revenue Code of 1986 and this title, provide financial  
14 support for rail transportation capital projects under sub-  
15 title B.

16 (b) BOND ISSUANCE CORPORATION.—

17 (1) IN GENERAL.—In order to carry out its  
18 purposes, the Corporation is authorized to issue  
19 qualified rail infrastructure bonds (as defined in sec-  
20 tion 54(e) of the Internal Revenue Code of 1986)  
21 during the 6-year period beginning October 1, 2003.

22 (2) LIMITATION.—The total face amount of the  
23 bonds outstanding under paragraph (1) at any time  
24 may not exceed \$48,000,000,000.

25 (3) NO FEDERAL GUARANTEE.—

7 (B) SPECIAL RULE.—This paragraph shall  
8 not affect the determination of whether such  
9 obligation is guaranteed for purposes of Federal  
10 income taxes.

11 (C) SECURITIES OFFERED BY THE COR-  
12 PORATION.—No debt or equity securities of the  
13 Corporation shall be deemed to be guaranteed  
14 by the full faith and credit of the United  
15 States.

21 (c) FEDERAL ASSISTANCE.—The Corporation shall  
22 be eligible to receive discretionary grants, contracts, gifts,  
23 contributions, or technical assistance from any department  
24 or agency of the Federal Government, but only to the ex-  
25 tent permitted by law and to the extent necessary to carry

1 out the purpose set forth in subsection (a) and the activi-  
2 ties described in subsection (b).

3 **SEC. 306. REPORT TO CONGRESS.**

4 (a) IN GENERAL.—On or before May 15 of each year,  
5 the Rail Infrastructure Finance Corporation shall submit  
6 an annual report for the fiscal year ending on September  
7 30 of the preceding year to the Committee on Commerce,  
8 Science, and Transportation of the Senate and the Com-  
9 mittee on Transportation and Infrastructure of the House  
10 of Representatives. The report shall include a comprehen-  
11 sive and detailed report of the Corporation’s operations,  
12 activities, financial condition, and accomplishments under  
13 this title and such recommendations as the Corporation  
14 deems appropriate.

15 (b) AVAILABILITY FOR TESTIMONY.—The officers  
16 and directors of the Corporation shall be available to tes-  
17 tify before those committees with respect to such report,  
18 the report of any audit made by the Comptroller General  
19 pursuant to section 307(d)(3), or any other matter which  
20 such committees may determine.

21 **SEC. 307. ADMINISTRATIVE MATTERS.**

22 (a) BUDGET.—The Rail Infrastructure Finance Cor-  
23 poration shall establish an annual budget for the Corpora-  
24 tion, including the Rail Infrastructure Investment Account  
25 under subsection (c).

## 1       (b) IMPLEMENTATION PLAN.—

2               (1) REQUIREMENT FOR PLAN.—The Corporation  
3               shall conduct a study and prepare a plan on  
4               how the Corporation can best achieve the purposes  
5               and fulfill the requirements of this title.

6               (2) CONSULTATION.—In preparing the plan,  
7               the Corporation may consult with the Secretary of  
8               Transportation, the Secretary of the Treasury, and  
9               representatives of State and local governments.

10               (3) OTHER REQUIREMENTS.—The plan, which  
11               shall be based on the conclusions resulting from the  
12               study conducted under paragraph (1), shall be sub-  
13               mitted by the Corporation to the Committee on  
14               Commerce, Science, and Transportation of the Sen-  
15               ate and the Committee on Transportation and Infra-  
16               structure of the House of Representatives not later  
17               than January 31, 2004. Unless directed otherwise  
18               by law, the Corporation shall implement the plan  
19               during the first fiscal year beginning after the fiscal  
20               year in which the plan is submitted to Congress.

21               (c) RAIL INFRASTRUCTURE INVESTMENT AC-  
22               COUNT.—

23               (1) ESTABLISHMENT.—The Board of Directors  
24               for the Corporation shall establish an account to be

1 known as the Rail Infrastructure Investment Ac-  
2 count.

3 (2) DEPOSIT OF BOND PROCEEDS.—The Cor-  
4 poration shall deposit the proceeds of sales of any  
5 bonds issued under section 54 of the Internal Rev-  
6 enue Code of 1986 into the Account.

7 (3) DEPOSIT OF NON-FEDERAL CONTRIBU-  
8 TIONS.—The Board shall deposit all contributions  
9 received under section 304(a) into the Account.

10 (4) DISBURSEMENTS.—The Board shall make  
11 available and may disburse, at the beginning of fis-  
12 cal year 2004 and of each succeeding fiscal year  
13 thereafter, such funds as may be available for obli-  
14 gation and expenditure from the Account.

15 (5) USE OF ACCOUNT FUNDS.—Funds in the  
16 Account—

17 (A) shall be used by the Corporation for  
18 investment purposes through the trust estab-  
19 lished under section 308 to generate an amount  
20 sufficient—

21 (i) to repay the principal of the bonds  
22 at their maturity; and

23 (ii) to pay the administrative costs of  
24 the Corporation and the Rail Infrastruc-  
25 ture Finance Trust under section 308; and

6 (6) NET SPENDABLE PROCEEDS DEFINED.—In  
7 this subsection, the term ‘net spendable proceeds’,  
8 with respect to the Rail Infrastructure Investment  
9 Account, means the amount equal to the excess of—

10 (A) the total amount in such Account, over  
11 (B) the amount in such Account that is  
12 needed for uses under paragraph (5)(A).

13 (d) RECORDS AND AUDIT.—

1       dits shall be made available to the person or persons  
2       conducting the audits; and full facilities for verifying  
3       transactions with the balances or securities held by  
4       depositories, fiscal agents and custodians shall be af-  
5       forded to such person or persons.

6               (2) AUDIT REPORT.—The report of each such  
7       independent audit shall be included in the annual re-  
8       port required by section 306. The audit report shall  
9       set forth the scope of the audit and include such  
10       statements as are necessary to present fairly the  
11       Corporation's assets and liabilities, surplus or def-  
12       icit, with an analysis of the changes therein during  
13       the year, supplemented in reasonable detail by a  
14       statement of the Corporation's income and expenses  
15       during the year, and a statement of the sources and  
16       application of funds, together with the independent  
17       auditor's opinion of those statements.

18               (3) AUDIT BY COMPTROLLER GENERAL.—The  
19       financial transactions of the Corporation may be au-  
20       dited by the General Accounting Office in accord-  
21       ance with the principles and procedures applicable to  
22       commercial corporate transactions and under such  
23       rules and regulations as may be prescribed by the  
24       Comptroller General of the United States. Any such  
25       audit shall be conducted at the place or places where

1 accounts of the Corporation are normally kept. The  
2 representative of the General Accounting Office shall  
3 have access to all books, accounts, records, reports,  
4 files, and all other papers, things, or property be-  
5 longing to or in use by the Corporation pertaining  
6 to its financial transactions and necessary to facili-  
7 tate the audit, and they shall be afforded full facili-  
8 ties for verifying transactions with the balances or  
9 securities held by depositories, fiscal agents, and  
10 custodians. All such books, accounts, records, re-  
11 ports, files, papers and property of the Corporation  
12 shall remain in possession and custody of the Cor-  
13 poration.

14 (4) GAO REPORT TO CONGRESS.—A report of  
15 each audit under paragraph (3) shall be made by the  
16 Comptroller General to the Committee on Com-  
17 merce, Science, and Transportation of the Senate  
18 and the Committee on Transportation and Infra-  
19 structure of the House of Representatives. The re-  
20 port shall contain such comments and information  
21 as the Comptroller General considers necessary to  
22 inform the committees of the financial operations  
23 and condition of the Corporation, together with such  
24 recommendations with respect thereto as he may  
25 deem advisable. The report shall also show specifi-

1       cally any program, expenditure, or other financial  
2       transaction or undertaking observed in the course of  
3       the audit, which, in the opinion of the Comptroller  
4       General, has been carried on or made without au-  
5       thority of law. A copy of each report shall be fur-  
6       nished to the President, to the Secretary, and to the  
7       Corporation at the time submitted to the Congress.

8               (5) ACCOUNTING PRINCIPLES.—

9                       (A) APPLICABLE PRINCIPLES.—Not later  
10               than 1 year after the date of the enactment of  
11               this Act, the Corporation shall develop account-  
12               ing principles which shall be used uniformly by  
13               all entities receiving funds under this title, tak-  
14               ing into account organizational differences  
15               among various categories of such entities. Such  
16               principles shall be designed to account fully for  
17               all funds received and expended for purposes of  
18               this title by such entities.

19                       (B) CONSULTATION.—The Corporation  
20               may consult with the Comptroller General and,  
21               as appropriate, with others in the development  
22               of the accounting principles under subpara-  
23               graph (A).

24                       (6) REQUIREMENTS FOR RECIPIENTS.—Each  
25               entity receiving funds under this title shall—

4 (B) either—

5 (i) undergo a biennial audit by inde-  
6 pendent certified public accountants or  
7 independent licensed public accountants  
8 certified or licensed by a regulatory au-  
9 thority of a State, which audit shall be in  
10 accordance with auditing standards devel-  
11 oped by the Corporation, in consultation  
12 with the Comptroller General; or

19 (C) furnish biennially to the Corporation a  
20 copy of the audit report required pursuant to  
21 the subparagraph (B), as well as such other in-  
22 formation regarding finances (including an an-  
23 nual financial report) as the Corporation may  
24 require.



## 8 SEC. 308. RAIL INFRASTRUCTURE FINANCE TRUST.

9 (a) ESTABLISHMENT.—The Board of Directors of the  
10 Rail Infrastructure Finance Corporation shall establish  
11 the Rail Infrastructure Finance Trust (hereafter in this  
12 section referred to as the “Trust”) as a trust domiciled  
13 in the State of Delaware. The Trust shall, to the extent  
14 not inconsistent with this Act, be subject to the laws of  
15 the State of Delaware that are applicable to trusts. The  
16 Trust shall manage and invest the assets of the Rail Infra-  
17 structure Account described in section 307(c) that are  
18 transferred to it by the Board in the manner set forth  
19 in this section.

20 (b) NOT A FEDERAL AGENCY OR INSTRUMENTALITY.—The Trust is not a department, agency, or other  
21 instrumentality of the Government of the United States and shall not be subject to title 31, United States Code.

24 (c) BOARD OF TRUSTEES.—

## 3 (2) COMPOSITION.—

12 (B) REPRESENTATION OF PARTICULAR IN-  
13 TERESTS.—The 5 members of the Board of  
14 Trustees shall be selected as follows:

15 (i) One from among persons who rep-  
16 resent the interests of the States

19 (iii) One from among persons who  
20 represent the interests of passenger rail-  
21 roads

22 (iv) One from among persons who  
23 represent the interests of holders of quali-  
24 fied rail infrastructure bonds issued by the  
25 Rail Infrastructure Finance Corporation.

1 (v) One from among persons whose  
2 interests are independent of interests re-  
3 ferred to in the other clauses of this sub-  
4 paragraph.

1 such member's predecessor was appointed shall be  
2 appointed for the remainder of such term.

3 (d) POWERS.—The Board of Trustees shall—

4 (1) establish investment policies, including  
5 guidelines, and retain independent advisers to assist  
6 in the formulation and adoption of the investment  
7 guidelines;

8 (2) retain independent investment managers to  
9 invest the assets of the Trust in a manner consistent  
10 with such investment guidelines;

11 (3) invest assets in the Trust, pursuant to the  
12 policies adopted in paragraph (1);

13 (4) pay administrative expenses of the Trust  
14 from the assets in the Trust; and

15 (5) transfer money to the Rail Infrastructure  
16 Investment Account, upon request of the Board of  
17 Directors of the Rail Infrastructure Finance Cor-  
18 poration, for bond repayment and administrative ex-  
19 penses, and for grants under subtitle B.

20 (e) REPORTING REQUIREMENTS AND FIDUCIARY  
21 STANDARDS.—The following reporting requirements and  
22 fiduciary standards shall apply with respect to the Trust:

23 (1) DUTIES OF THE BOARD OF TRUSTEES.—  
24 The Trust and each member of the Board of Trust-  
25 ees shall discharge the duties of the Trust and the

1       duties of the Trustee, respectively (including the vot-  
2       ing of proxies), with respect to the assets of the  
3       Trust solely in the interests of the Rail Infrastruc-  
4       ture Finance Corporation and the programs funded  
5       under this title—

6 (A) for the exclusive purposes of—

7 (i) providing sufficient funds to repay  
8 qualified rail infrastructure bonds issued  
9 by the Rail Infrastructure Finance Cor-  
10 poration, to fund the administrative costs  
11 of the Rail Infrastructure Finance Cor-  
12 poration and to provide grants for rail cap-  
13 ital projects under subtitle B; and

14 (ii) defraying reasonable expenses of  
15 administering the Trust;

16 (B) with the care, skill, prudence, and dili-  
17 gence under the circumstances then prevailing  
18 that a prudent person acting in a like capacity  
19 and familiar with such matters would use in the  
20 conduct of an enterprise of a like character and  
21 with like aims:

22 (C) by diversifying investments so as to  
23 minimize the risk of large losses and to avoid  
24 disproportionate influence over a particular in-

3 (D) in accordance with Trust governing  
4 documents and instruments insofar as such doc-  
5 uments and instruments are consistent with  
6 this Act.

10 (A) deal with the assets of the Trust in the  
11 Trustee's own interest or for the Trustee's own  
12 account;

13 (B) in an individual or in any other capac-  
14 ity, act in any transaction involving the assets  
15 of the Trust on behalf of a party (or represent  
16 a party) whose interests are adverse to the in-  
17 terests of the Trust and the Rail Infrastructure  
18 Finance Corporation; or

19 (C) receive any consideration for the  
20 Trustee's own personal account from any party  
21 dealing with the assets of the Trust.

22 (3) EXCULPATORY PROVISIONS AND INSUR-  
23 ANCE.—Any provision in an agreement or instru-  
24 ment that purports to relieve a Trustee from respon-  
25 sibility or liability for any responsibility, obligation,

1 or duty under this Act shall be void. Nothing in this  
2 paragraph shall be construed to preclude—

3 (A) the Trust from purchasing insurance  
4 for its Trustees or for itself to cover liability or  
5 losses occurring by reason of the act or omission  
6 of a Trustee, if such insurance permits recourse  
7 by the insurer against the Trustee in the  
8 case of a breach of a fiduciary obligation by  
9 such Trustee;

10 (B) a Trustee from purchasing insurance  
11 to cover liability under this section from and for  
12 his own account; or

13 (C) an employer or an employee organization  
14 from purchasing insurance to cover potential  
15 liability of 1 or more Trustees with respect  
16 to their fiduciary responsibilities, obligations,  
17 and duties under this section.

18 (4) TRUSTEES BONDS.—

19 (A) REQUIREMENT.—Each Trustee and  
20 every person who handles funds or other property  
21 of the Trust (hereafter in this section referred  
22 to as “Trust official”) shall be bonded.  
23 The bond shall provide protection to the Trust  
24 against loss by reason of acts of fraud or dis-

3 (B) AMOUNT.—The amount of a bond for  
4 a Trustee under this paragraph shall be fixed  
5 at the beginning of each fiscal year of the Trust  
6 by the Board of Directors of the Rail Infra-  
7 structure Finance Corporation. The amount  
8 may not be less than 10 percent of the amount  
9 of the funds administered by the Trust. In no  
10 case may such bond be less than \$1,000 nor  
11 more than \$500,000, except that the Board of  
12 Directors, after consideration of the record,  
13 may prescribe an amount in excess of  
14 \$500,000, subject to the 10 percent minimum  
15 requirement in the preceding sentence.

16 (C) UNLAWFUL CONDUCT.—It shall be un-  
17 lawful for—

18 (i) any Trust official to receive, han-  
19 dle, disburse, or otherwise exercise custody  
20 or control of any of the funds or other  
21 property of the Trust without being bond-  
22 ed as required by this subsection;

23 (ii) any Trust official, or any other  
24 person having authority to direct the per-  
25 formance of such functions, to permit such

1                   functions, or any of them, to be performed  
2                   by any Trust official, with respect to whom  
3                   the requirements of this subsection have  
4                   not been met; and

5                   (iii) any person to procure any bond  
6                   required by this subsection from any sur-  
7                   ety or other company or through any agent  
8                   or broker in whose business operations  
9                   such person has any control or significant  
10                  financial interest, direct or indirect.

11                  (f) AUDIT AND REPORT.—

12                  (1) REQUIREMENT FOR ANNUAL AUDIT.—The  
13                  Trust shall annually engage an independent qualified  
14                  public accountant to audit the financial statements  
15                  of the Trust.

16                  (2) ANNUAL MANAGEMENT REPORT.—The  
17                  Trust shall submit an annual management report to  
18                  be included in the annual report of the Corporation  
19                  required under section 306. The management report  
20                  under this paragraph shall include the following  
21                  matters:

22                  (A) A statement of financial position.  
23                  (B) A statement of operations.  
24                  (C) A statement of cash flows.

1 (D) A statement on internal accounting  
2 and administrative control systems.

3 (E) The report resulting from an audit of  
4 the financial statements of the Trust conducted  
5 under paragraph (1).

6 (F) Any other comments and information  
7 necessary to inform Congress about the oper-  
8 ations and financial condition of the Trust.

13 (g) ENFORCEMENT.—The Rail Infrastructure Fi-  
14 nance Corporation may commence a civil action—

15 (1) to enjoin any act or practice by the Trust,  
16 its Board of Trustees, or its employees or agents  
17 that violates any provision of this Act; or

18 (2) to obtain other appropriate relief to redress  
19 such violations, or to enforce any provisions of this  
20 Act.

21 (h) ADMINISTRATIVE MATTERS.—

1 Finance Corporation) to provide legal, accounting,  
2 investment advisory, or other services necessary for  
3 the proper administration of this section. In the case  
4 of a contract for investment advisory services, com-  
5 pensation for such services may be provided on a  
6 fixed fee basis or on such other terms and conditions  
7 as are customary for such services.

24 (i) EXEMPTION FROM TAX FOR RAIL INFRASTRUC-  
25 TURE FINANCE TRUST.—Subsection (c) of section 501 of

1 the Internal Revenue Code of 1986 is amended by adding

2 at the end the following new paragraph:

3                   “(29) The Rail Infrastructure Finance Trust  
4                   established under section 308 of the American Rail  
5                   Equity Act of 2003.”.

# **Subtitle B—Rail Development Grant Program**

8 SEC. 311. NATIONAL SYSTEM IMPROVEMENT GRANT PRO-  
9

10 (a) GRANTS TO STATES.—The Board of Directors of  
11 the Rail Infrastructure Finance Corporation may, by  
12 grant, provide financial assistance to a State, group of  
13 States, or the National Railroad Passenger Corporation,  
14 for, or in connection with, intercity passenger rail capital  
15 projects that are—

1       (b) PROJECT SELECTION CRITERIA.—The Board, in  
2 selecting the recipients of financial assistance to be pro-  
3 vided under subsection (a), shall—

4               (1) give preference to projects that most signifi-  
5 cantly improve intercity passenger rail service on  
6 routes of the National System through increased fre-  
7 quency of on-time performance, reduced trip time,  
8 higher ridership, increased service frequency, or  
9 other service measures as defined under section  
10 22506 of title 49, United States Code;

11               (2) give preference to projects that effect mul-  
12 tiple routes or the entire National System;

13               (3) require that each proposed project meet all  
14 safety requirements that are applicable to the  
15 project under law, and give a preference to any  
16 project determined by the Board as having provided  
17 for particularly high levels of safety;

18               (4) encourage intermodal connectivity through  
19 projects that provide direct connections between  
20 train stations, airports, bus terminals, subway sta-  
21 tions, ferry ports, and other modes of transpor-  
22 tation;

23               (5) ensure a general balance across geographic  
24 regions of the United States in providing such as-  
25 sistance and avoid a concentration of a dispropor-

1 tionate amount of such financial assistance in a sin-  
2 gle project or region of the country;

3 (6) favor projects that are expected to have a  
4 significant favorable impact on air or highway traffic  
5 congestion;

6 (7) encourage projects that also improve freight  
7 or commuter rail operations;

8 (8) favor projects that either—

9 (A) have significant environmental bene-  
10 fits; or

11 (B) are—

12 (i) at a stage of preparation that all  
13 precommencement compliance with envi-  
14 ronmental protection requirements has al-  
15 ready been completed; and

16 (ii) ready to be commenced;

17 (9) favor projects with positive economic and  
18 employment impacts;

19 (10) encourage the use of positive train control  
20 technologies;

21 (11) favor projects that have commitments of  
22 funding from non-Federal Government sources in a  
23 total amount that exceeds the minimum amount of  
24 the non-Federal contribution required under section  
25 315(a);

3 (A) plans developed pursuant to the re-  
4 quirements of sections 134 and 135 of title 23,  
5 United States Code;

(B) State rail plans under chapter 225 of title 49, United States Code; and

8 (C) the national rail plan; and

9 (13) favor projects that enhance national secu-  
10 rity.

11 (c) AMTRAK ELIGIBILITY.—To receive a grant under

12 this section, the National Railroad Passenger Corporation  
13 may enter into a cooperative agreement with 1 or more  
14 States to carry out 1 or more projects on an approved  
15 State rail plan's ranked list of priority freight and pas-  
16 senger rail capital projects developed under section  
17 22504(5) of title 49, United States Code, or may submit  
18 an independent application for a grant for any project des-  
19 ignated as a National System Improvement Project under  
20 section 22506 of title 49, United States Code. Any such  
21 independent grant request shall be subject to the same se-  
22 lection criteria as apply under subsection (b) to projects  
23 of States, except the criteria set forth in subparagraphs  
24 (A) and (B) of subsection (b)(12).

25 (d) LIMITATIONS.—



1 this section for all grants under this section in that  
2 fiscal year.

3 (5) OTHER PROJECTS.—The total amount of  
4 grants made under this section for projects other  
5 than projects for the Northeast Corridor in any fis-  
6 cal year may not exceed 75 percent of the total  
7 amount available under this section for all grants  
8 under this section in that fiscal year.

9 (6) NORTHEAST CORRIDOR DEFINED.—In this  
10 section, the term “Northeast Corridor” has the  
11 meaning given that term in section 24102(6) of title  
12 49, United States Code.

13 (e) FUNDING.—

14 (1) IN GENERAL.—There are authorized to be  
15 appropriated to the Secretary of Transportation for  
16 fiscal years 2004 through 2009 such sums as may  
17 be necessary to carry out subsections (a) through (e)  
18 of this section.

19 (2) NORTHEAST CORRIDOR FREIGHT-ONLY  
20 TRACK.—

21 (A) IN GENERAL.—Notwithstanding any  
22 other provision of this section, there are author-  
23 ized to be appropriated to the Secretary of  
24 Transportation for the construction of a  
25 freight-only track on the Northeast Corridor for

6 (B) FINANCIAL CONTRIBUTION FROM  
7 OTHER USERS.—The Secretary shall consider the  
8 feasibility of seeking a financial contribution to  
9 the construction of the track and capital im-  
10 provements related thereto from other users.

11 (C) PROJECT CONSTRUCTION.—The Sec-  
12 retary shall coordinate construction of the track  
13 with the owner of the freight easement on the  
14 Northeast Corridor to ensure that current serv-  
15 ice commitments for both passenger and freight  
16 rail transportation are maintained.

17 SEC. 312. GRANT PROGRAM REQUIREMENTS AND LIMITA-  
18 TIONS.

19 (a) AUTHORIZED USES.—The proceeds of a grant  
20 made for a project under this subtitle may be used to de-  
21 fray the costs of the project or to reimburse the recipient  
22 for costs of the project paid by the recipient.

23 (b) NON-FEDERAL CONTRIBUTION.—The proceeds of  
24 a grant for 1 or more projects under this subtitle may  
25 be released upon receipt by the Board of Directors of the

1 Rail Infrastructure Finance Corporation of cash payment  
2 by a non-Federal Government source, or 1 or more such  
3 sources jointly, in an amount not less than the amount  
4 equal to 20 percent of the amount of the grant disbursed.  
5 The cash payment may not be derived, directly or indi-  
6 rectly, from Federal funds. Amounts received under this  
7 subsection shall be credited to the Rail Infrastructure In-  
8 vestment Account established under section 307(c).

9 (c) PREFERENCE INVOLVING DONATED PROPERTY  
10 INTERESTS AND SERVICES.—In selecting projects for  
11 grant funding under this subtitle, the Board may give  
12 preference to projects that involve donated right-of-way,  
13 property, or in-kind services by a public sector or private  
14 sector entity. The value of a donation under subsection  
15 (c) may not be counted toward satisfaction of the require-  
16 ment in subsection (b).

17 (d) FLEXIBILITY.—Notwithstanding any other provi-  
18 sion of this subtitle, amounts made available under section  
19 316 may be combined and used for projects that signifi-  
20 cantly benefit both freight rail service and intercity pas-  
21 senger rail service.

22 (e) SUBALLOCATION; PUBLIC-PRIVATE PARTNER-  
23 SHIPS.—

24 (1) IN GENERAL.—A metropolitan planning or-  
25 ganization, State transportation department, or

1 other project sponsor may enter into an agreement  
2 with any public, private, or nonprofit entity to coop-  
3 eratively implement any project funded with a grant  
4 under this subtitle.

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

7 (A) ownership or operation of any land, fa-  
8 cility, locomotive, rail car, vehicle, or other  
9 physical asset associated with the project;

10 (B) cost-sharing of any project expense;

11 (C) carrying out administration, construc-  
12 tion management, project management, project  
13 operation, or any other management or oper-  
14 ational duty associated with the project; and

15 (D) any other form of participation ap-  
16 proved by the Board.

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

20 (f) APPLICATIONS.—To seek a grant under this sub-  
21 title, a State or, in the case of a grant under section 311,  
22 the National Railroad Passenger Corporation shall submit  
23 an application for the grant to the Board. The application  
24 shall be submitted at such time and contain such informa-  
25 tion as the Board requires.

1       (g) PROCEDURES FOR GRANT AWARD.—The Board  
2 shall prescribe procedures for the awarding of grants  
3 under this subtitle, including application and qualification  
4 procedures and a record of decision on applicant eligibility.  
5 The procedures shall include the execution of a grant  
6 agreement between the applicant and the Board. The  
7 Board shall initiate rulemaking for the purpose of this  
8 subsection not later than 90 days after the date of the  
9 enactment of this Act.

## 10 **Subtitle C—Rail Infrastructure Tax** 11 **Credit Bonds**

12 SEC. 321. CREDIT TO HOLDERS OF QUALIFIED RAIL INFRA-  
13 STRUCTURE BONDS.

14 (a) IN GENERAL.—Part IV of subchapter A of chap-  
15 ter 1 of the Internal Revenue Code of 1986 (relating to  
16 credits against tax) is amended by adding at the end the  
17 following new subpart:

18     **“Subpart H—Nonrefundable Credit for Holders of**  
19                   **Qualified Rail Infrastructure Bonds**

“Sec. 54. Credit to holders of qualified rail infrastructure bonds.

20 "SEC. 54. CREDIT TO HOLDERS OF QUALIFIED RAIL INFRA-  
21 STRUCTURE BONDS.

22        "(a) ALLOWANCE OF CREDIT.—In the case of a tax-  
23 payer who holds a qualified rail infrastructure bond on  
24 a credit allowance date of such bond which occurs during

1 the taxable year, there shall be allowed as a credit against  
2 the tax imposed by this chapter for such taxable year an  
3 amount equal to the sum of the credits determined under  
4 subsection (b) with respect to credit allowance dates dur-  
5 ing such year on which the taxpayer holds such bond.

6       “(b) AMOUNT OF CREDIT.—

7           “(1) IN GENERAL.—The amount of the credit  
8 determined under this subsection with respect to any  
9 credit allowance date for a qualified rail infrastruc-  
10 ture bond is 25 percent of the annual credit deter-  
11 mined with respect to such bond.

12           “(2) ANNUAL CREDIT.—The annual credit de-  
13 termined with respect to any qualified rail infra-  
14 structure bond is the product of—

15           “(A) the applicable credit rate, multiplied  
16 by

17           “(B) the outstanding face amount of the  
18 bond.

19           “(3) APPLICABLE CREDIT RATE.—For purposes  
20 of paragraph (2), the applicable credit rate with re-  
21 spect to an issue is the rate equal to an average  
22 market yield (as of the day before the date of sale  
23 of the issue) on outstanding long-term corporate  
24 debt obligations (determined under regulations pre-  
25 scribed by the Secretary).

1           “(4) CREDIT ALLOWANCE DATE.—For purposes  
2       of this section, the term ‘credit allowance date’  
3       means—

4           “(A) March 15,

5           “(B) June 15,

6           “(C) September 15, and

7           “(D) December 15.

8       Such term includes the last day on which the bond  
9       is outstanding.

10          “(5) SPECIAL RULE FOR ISSUANCE AND RE-  
11       DEMPTION.—In the case of a bond which is issued  
12       during the 3-month period ending on a credit allow-  
13       ance date, the amount of the credit determined  
14       under this subsection with respect to such credit al-  
15       lowance date shall be a ratable portion of the credit  
16       otherwise determined based on the portion of the 3-  
17       month period during which the bond is outstanding.

18       A similar rule shall apply when the bond is re-  
19       deemed.

20          “(c) LIMITATION BASED ON AMOUNT OF TAX.—

21           “(1) IN GENERAL.—The credit allowed under  
22       subsection (a) for any taxable year shall not exceed  
23       the excess of—

1                   “(A) the sum of the regular tax liability  
2                   (as defined in section 26(b)) plus the tax im-  
3                   posed by section 55, over

4                   “(B) the sum of the credits allowable  
5                   under this part (other than this subpart and  
6                   subpart C).

7                   “(2) CARRYOVER OF UNUSED CREDIT.—If the  
8                   credit allowable under subsection (a) exceeds the  
9                   limitation imposed by paragraph (1) for such taxable  
10                  year, such excess shall be carried to the succeeding  
11                  taxable year and added to the credit allowable under  
12                  subsection (a) for such taxable year.

13                  “(d) CREDIT INCLUDED IN GROSS INCOME.—Gross  
14                  income includes the amount of the credit allowed to the  
15                  taxpayer under this section (determined without regard to  
16                  subsection (c)) and the amount so included shall be treat-  
17                  ed as interest income.

18                  “(e) QUALIFIED RAIL INFRASTRUCTURE BOND.—  
19                  For purposes of this part, the term ‘qualified rail infra-  
20                  structure bond’ means any bond issued as part of an issue  
21                  if—

22                  “(1) the bond is issued by the Rail Infrastruc-  
23                  ture Finance Corporation and is in registered form,  
24                  “(2) the term of each bond which is part of  
25                  such issue does not exceed 20 years,

1               “(3) the payment of principal with respect to  
2       such bond is the obligation of the Rail Infrastructure  
3       Finance Corporation and not an obligation of  
4       the United States,

5               “(4) all proceeds from the sale of the issue are  
6       used for the purposes set forth in section 307(c)(5)  
7       of the American Rail Equity Act of 2003, and

8               “(5) 95 percent or more of the net spendable  
9       proceeds from the sale of such issue are to be used  
10      for expenditures incurred after the date of enact-  
11      ment of the American Rail Equity Act of 2003 for  
12      any project described in section 311, 312, 313, or  
13      314 of that Act.

14       “(f) SPECIAL RULES RELATING TO ARBITRAGE.—

15               “(1) IN GENERAL.—Subject to paragraph (2),  
16       an issue shall be treated as meeting the require-  
17       ments of this subsection if, as of the date of  
18       issuance, the issuer reasonably expects—

19               “(A) to award grants under sections 311,  
20       312, 313, and 314 of the American Rail Equity  
21       Act of 2003 in a total amount that is at least  
22       95 percent of the net spendable proceeds of the  
23       issue for 1 or more qualified projects within the  
24       3-year period beginning on such date,

1                   “(B) to incur a binding commitment with  
2                   a third party—

3                   “(i) to spend at least 10 percent of  
4                   the net spendable proceeds of the issue, or  
5                   to commence construction, with respect to  
6                   such projects within the 6-month period  
7                   beginning on such date, and

8                   “(ii) to proceed with due diligence to  
9                   complete such projects, and

10                  “(C) to expend the total amount of the net  
11                  spendable proceeds of the issue.

12                  “(2) RULES REGARDING CONTINUING COMPLI-  
13                  ANCE AFTER 3-YEAR DETERMINATION.—If at least  
14                  95 percent of the net spendable proceeds of the issue  
15                  is not awarded as grants to be expended for 1 or  
16                  more qualified projects within the 3-year period be-  
17                  ginning on the date of issuance, but the require-  
18                  ments of paragraph (1) are otherwise met, an issue  
19                  shall be treated as continuing to meet the require-  
20                  ments of paragraph (1) if either the requirement  
21                  under subparagraph (A) or the requirements under  
22                  subparagraph (B) are met, as follows:

23                  “(A) The issuer uses all unspent proceeds  
24                  from the sale of the issue to redeem bonds of  
25                  the issue within 90 days after the end of such

1       3-year period and disburses any remaining net  
2       spendable proceeds to the Secretary of Trans-  
3       portation within 30 days after the end of such  
4       3-year period.

5               “(B) The issuer—

6                       “(i) awards in grants under sections  
7                       311, 312, 313, and 314 of the American  
8                       Rail Equity Act of 2003 at least 75 per-  
9                       cent of the net spendable proceeds of the  
10                      issue for 1 or more qualified projects with-  
11                      in the 3-year period beginning on the date  
12                      of issuance, and

13                       “(ii) either—

14                               “(I) awards in grants under sec-  
15                               tions 311, 312, 313, and 314 of the  
16                               American Rail Equity Act of 2003 at  
17                               least 95 percent of the net spendable  
18                               proceeds of the issue for 1 or more  
19                               qualified projects within the 4-year  
20                              period beginning on the date of  
21                              issuance, or

22                               “(II) pays to the Federal Govern-  
23                               ment any earnings on the proceeds  
24                               from the sale of the issue that accrue  
25                               after the end of the 3-year period be-

ginning on the date of issuance and uses all unspent proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of the 4-year period beginning on the date of issuance.

7       “(g) RECAPTURE OF PORTION OF CREDIT WHERE  
8 CESSATION OF COMPLIANCE.—

9                 “(1) IN GENERAL.—If any bond which when  
10                 issued purported to be a qualified rail infrastructure  
11                 bond ceases to be such a qualified bond, the issuer  
12                 shall pay to the United States (at the time required  
13                 by the Secretary) an amount equal to the sum of—

14                     “(A) the aggregate of the credits allowable  
15                     under this section with respect to such bond  
16                     (determined without regard to subsection (c))  
17                     for taxable years ending during the calendar  
18                     year in which such cessation occurs and the 2  
19                     preceding calendar years, and

20                             “(B) interest at the underpayment rate  
21                             under section 6621 on the amount determined  
22                             under subparagraph (A) for each calendar year  
23                             for the period beginning on the first day of  
24                             such calendar year.

1           “(2) FAILURE TO PAY.—If the issuer fails to  
2 timely pay the amount required by paragraph (1)  
3 with respect to such bond, the tax imposed by this  
4 chapter on each holder of any such bond which is  
5 part of such issue shall be increased (for the taxable  
6 year of the holder in which such cessation occurs)  
7 by the aggregate decrease in the credits allowed  
8 under this section to such holder for taxable years  
9 beginning in such 3 calendar years which would have  
10 resulted solely from denying any credit under this  
11 section with respect to such issue for such taxable  
12 years.

13           “(3) SPECIAL RULES.—

14           “(A) TAX BENEFIT RULE.—The tax for  
15 the taxable year shall be increased under para-  
16 graph (2) only with respect to credits allowed  
17 by reason of this section which were used to re-  
18 duce tax liability. In the case of credits not so  
19 used to reduce tax liability, the carryforwards  
20 and carrybacks under section 39 shall be appro-  
21 priately adjusted.

22           “(B) NO CREDITS AGAINST TAX.—Any in-  
23 crease in tax under paragraph (2) shall not be  
24 treated as a tax imposed by this chapter for  
25 purposes of determining—

1                     “(i) the amount of any credit allow-  
2                     able under this part, or  
3                     “(ii) the amount of the tax imposed  
4                     by section 55(19).

5             “(h) RAIL INFRASTRUCTURE FINANCE TRUST.—

6             “(1) IN GENERAL.—The following amounts  
7             shall be held in a trust account by the Rail Infra-  
8             structure Finance Corporation:

9             “(A) An amount of the proceeds from the  
10            sale of all bonds designated for purposes of this  
11            section that, when combined with amounts de-  
12            scribed in subparagraphs (B), (C), and (D), is  
13            sufficient—

14             “(i) to ensure the Corporation’s abil-  
15            ity to redeem all bonds upon maturity; and

16             “(ii) to pay the administrative ex-  
17            penses of the Corporation and the Rail In-  
18            frastructure Finance Trust.

19             “(B) The amount of any non-Federal con-  
20            tributions required under section 304(a) of the  
21            American Rail Equity Act of 2003.

22             “(C) The temporary period investment  
23            earnings on proceeds from the sale of such  
24            bonds.

1                   “(D) Any earnings on any amounts de-  
2                   scribed in subparagraph (A), (B), or (C).

3                   “(2) USE OF FUNDS.—Amounts in the trust ac-  
4                   count may be used only for investment purposes to  
5                   generate sufficient funds to redeem qualified rail in-  
6                   frastructure bonds at maturity and pay the adminis-  
7                   trative expenses of the Corporation and the Trust,  
8                   and for funding grants as provided for in section  
9                   307(c)(5)(B) of the American Rail Equity Act of  
10                   2003.

11                   “(3) USE OF REMAINING FUNDS IN TRUST AC-  
12                   COUNT.—If the Corporation determines that the  
13                   amount in the trust account exceeds the amount re-  
14                   quired to comply with paragraph (2), the Corpora-  
15                   tion shall transfer the excess to the Rail Infrastruc-  
16                   ture Finance Trust.

17                   “(i) OTHER DEFINITIONS AND SPECIAL RULES.—  
18                   For purposes of this section—

19                   “(1) BOND.—The term ‘bond’ includes any ob-  
20                   ligation.

21                   “(2) NET SPENDABLE PROCEEDS.—The term  
22                   ‘net spendable proceeds’ has the meaning give such  
23                   term in section 307(c)(6) of the American Rail Eq-  
24                   uity Act of 2003.

1                 “(3) QUALIFIED PROJECT.—The term ‘qualified  
2                 project’ means any project that is eligible for grant  
3                 funding under section 311, 312, 313, or 314 of the  
4                 American Rail Equity Act of 2003.

5                 “(4) PARTNERSHIP; S CORPORATION; AND  
6                 OTHER PASS-THRU ENTITIES.—Under regulations  
7                 prescribed by the Secretary, in the case of a partner-  
8                 ship, trust, S corporation, or other pass-thru entity,  
9                 rules similar to the rules of section 41(g) shall apply  
10                 with respect to the credit allowable under subsection  
11                 (a).

12                 “(5) BONDS HELD BY REGULATED INVEST-  
13                 MENT COMPANIES.—If any qualified rail infrastruc-  
14                 ture bond is held by a regulated investment com-  
15                 pany, the credit determined under subsection (a)  
16                 shall be allowed to shareholders of such company  
17                 under procedures prescribed by the Secretary.

18                 “(6) REPORTING.—Issuers of qualified rail in-  
19                 frastructure bonds shall submit reports similar to  
20                 the reports required under section 149(e).”.

21                 (b) AMENDMENTS TO OTHER CODE SECTIONS.—

22                 (1) REPORTING.—Subsection (d) of section  
23                 6049 of the Internal Revenue Code of 1986 (relating  
24                 to returns regarding payments of interest) is amend-

1       ed by adding at the end the following new para-  
2       graph:

3           “(8) REPORTING OF CREDIT ON QUALIFIED  
4           RAIL INFRASTRUCTURE BONDS.—

5           “(A) IN GENERAL.—For purposes of sub-  
6        section (a), the term ‘interest’ includes amounts  
7        includible in gross income under section 54(d)  
8        and such amounts shall be treated as paid on  
9        the credit allowance date (as defined in section  
10      54(b)(4)).

11           “(B) REPORTING TO CORPORATIONS,  
12        ETC.—Except as otherwise provided in regula-  
13        tions, in the case of any interest described in  
14        subparagraph (A), subsection (b)(4) shall be  
15        applied without regard to subparagraphs (A),  
16        (H), (I), (J), (K), and (L)(i) of such subsection.

17           “(C) REGULATORY AUTHORITY.—The Sec-  
18        retary may prescribe such regulations as are  
19        necessary or appropriate to carry out the pur-  
20        poses of this paragraph, including regulations  
21        which require more frequent or more detailed  
22        reporting.”.

23           (2) TREATMENT FOR ESTIMATED TAX PUR-  
24        POSES.—

7       “(m) SPECIAL RULE FOR HOLDERS OF QUALIFIED  
8 RAIL INFRASTRUCTURE BONDS.—For purposes of this  
9 section, the credit allowed by section 54 to a taxpayer by  
10 reason of holding a qualified rail infrastructure bond on  
11 a credit allowance date shall be treated as if it were a  
12 payment of estimated tax made by the taxpayer on such  
13 date.”.

14 (B) CORPORATE.—Section 6655 of such  
15 Code (relating to failure by corporation to pay  
16 estimated income tax) is amended by adding at  
17 the end of subsection (g) the following new  
18 paragraph:

19                   “(5) SPECIAL RULE FOR HOLDERS OF QUALI-  
20                   FIED RAIL INFRASTRUCTURE BONDS.—For purposes  
21                   of this section, the credit allowed by section 54 to  
22                   a taxpayer by reason of holding a qualified rail in-  
23                   frastructure bond on a credit allowance date shall  
24                   be treated as if it were a payment of estimated tax  
25                   made by the taxpayer on such date.”.

1 (c) CLERICAL AMENDMENTS.—

“Subpart H. Nonrefundable Credit for Holders of Qualified Rail Infrastructure Bonds.”.

7 SEC. 322. ANNUAL REPORT BY TREASURY ON RAIL INFRA-  
8 STRUCTURE TRUST ACCOUNT.

9        The Secretary of the Treasury shall annually report  
10 to Congress as to whether the amount deposited in the  
11 trust account established by the Rail Infrastructure Fi-  
12 nance Corporation under section 54(i) of the Internal Rev-  
13 enue Code of 1986, as added by section 321, is sufficient  
14 to fully repay at maturity the principal of any outstanding  
15 qualified rail infrastructure bonds issued pursuant to sec-  
16 tion 54 of such Code (as so added), together with amounts  
17 expected to be deposited into such account, as certified  
18 by the Rail Infrastructure Finance Corporation in accord-  
19 ance with procedures prescribed by the Secretary of the  
20 Treasury.

## 21 SEC. 323. ISSUANCE OF REGULATIONS.

22 The Secretary of the Treasury shall issue regulations  
23 required under section 54 of the Internal Revenue Code

1 of 1986 (as added by this section 321) not later than 90  
 2 days after the date of the enactment of this Act.

3 **SEC. 324. EFFECTIVE DATE.**

4 The amendments made by section 321 shall apply to  
 5 obligations issued after the date of enactment of this Act.

6 **TITLE IV—RAIL INFRASTRUCTURE AND INTERMODAL  
 7 TRANSPORTATION**

8 **SEC. 401. INTERMODAL TRANSPORTATION POLICY.**

9 Section 302(e) is amended by striking “system” and  
 10 inserting “system, including freight and passenger rail  
 11 service and maritime transportation, including such trans-  
 12 portation via inland waterways.”.

13 **SEC. 402. STATE RAIL PLANS.**

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

16       **“CHAPTER 225—STATE RAIL PLANS**

“Sec.  
 “22501. Authority.  
 “22502. Purposes and coordination.  
 “22503. Transparency and review.  
 “22504. Content.  
 “22505. High priority projects.  
 “22506. Approval.  
 “22507. Definitions.

17 **“§ 22501. Authority**

18 (a) IN GENERAL.—Each State may prepare and  
 19 maintain a State rail plan in accordance with the provi-  
 20 sions of this chapter.

1       “(b) REQUIREMENTS.—For the preparation and peri-  
2 odic revision of a State rail plan, a State shall—

3           “(1) establish or designate a State rail trans-  
4 portation authority to prepare, maintain, coordinate,  
5 and administer the plan;

6           “(2) establish or designate a State rail plan ap-  
7 proval authority to approve the plan;

8           “(3) submit the approved plan to the Secretary  
9 of Transportation for approval; and

10          “(4) revise and resubmit an approved plan no  
11 less frequently than once every 7 years for re-  
12 approval by the Secretary.

13 **“§ 22502. Purposes and coordination**

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

16           “(1) To set forth State policy for all freight and  
17 passenger rail transportation, including commuter  
18 rail operations, in the State.

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

21           “(3) To present priorities and strategies to pre-  
22 serve, enhance, or expand rail service in the State.

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

1       “(b) COORDINATION.—A State rail plan shall be co-  
2 ordinated with other State transportation planning goals  
3 and programs and set forth rail transportation’s role with-  
4 in the State transportation system.

5       **5    “§ 22503. Transparency and review**

6       “(a) PREPARATION.—A State shall provide adequate  
7 and reasonable notice and opportunity for comment and  
8 other input to the public, rail carriers, commuter and tran-  
9 sit authorities operating in, or affected by rail operations  
10 within the State, units of local government, and other in-  
11 terested parties in the preparation and review of its State  
12 rail plan.

13       “(b) ANNUAL REVIEWS.—Each State shall transmit  
14 an annual report on its plan to the Secretary of Transpor-  
15 tation. The report shall include, for the year preceding the  
16 year in which submitted, the following matters:

17       “(1) A review of progress made, and actions  
18 taken, under the plan during the year.

19       “(2) A schedule of actions to be taken during  
20 the current year.

21       “(3) Any modifications made in the plan after  
22 approval of the plan by the Secretary or after the  
23 submission of the most recent annual report on the  
24 plan to the Secretary, including any modifications  
25 made to the priority freight or passenger rail capital

1 project list required by section 22504(a)(5) of this  
2 title.

3 “(c) APPROVAL OF MODIFIED PLANS.—Each modi-  
4 fication of a State rail plan that is determined substantive  
5 by the Secretary, including any modification to a priority  
6 freight or passenger rail capital project list required by  
7 section 22504(a)(5) of this title, is subject to approval (for  
8 the purposes of this chapter) by the Secretary.

9 **“§ 22504. Content**

10 “(a) IN GENERAL.—Each State rail plan shall con-  
11 tain the following:

12 “(1) An evaluation of the existing overall rail  
13 transportation system and rail services and facilities  
14 within the State, a prioritization of such services  
15 and facilities in terms of their contributions to the  
16 State’s rail and transportation system.

17 “(2) A comprehensive review of all rail lines  
18 within the State, including proposed high speed rail  
19 corridors and significant rail line segments not cur-  
20 rently in service, containing an analysis of the trans-  
21 portation services provided by those lines, their own-  
22 ership, operating characteristics, the state of their  
23 infrastructure (including capital and maintenance  
24 requirements), and the economic and environmental  
25 impact of those lines.

1           “(3) A statement of freight and passenger rail  
2       service objectives, including minimum service levels,  
3       for rail transportation routes in the State.

4           “(4) A general analysis and quantification of  
5       rail’s transportation, economic, and environmental  
6       impacts in the State, including congestion mitigation,  
7       trade and economic development, air quality,  
8       land-use, energy-use, and community impacts.

9           “(5) A long-range rail service and investment  
10      program for current and future freight and pas-  
11      senger services in the State that meets the require-  
12      ments of subsection (b).

13           “(6) A statement of rail financing issues in the  
14      State, including a list of current and prospective  
15      capital and operating funding resources, public sub-  
16      sidies, State and Federal taxation, and other finan-  
17      cial policies relating to rail service and rail infra-  
18      structure development.

19           “(7) A statement of rail service issues within  
20      the State, such as congestion and capacity, and cur-  
21      rent system deficiencies on a regional, intrastate,  
22      and interstate basis, that reflects consultation with  
23      neighboring States and describes any coordination of  
24      regional rail service.

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

6           “(9) A description of new technology that re-  
7       lates to rail transportation within the State, includ-  
8       ing logistics and process improvements.

9           “(10) A review of plans and projects within the  
10      State to improve rail transportation safety and secu-  
11      rity, including all major projects funded under sec-  
12      tion 130 of title 23.

13           “(11) A performance evaluation of passenger  
14      rail services operating in the State, including pos-  
15      sible improvements in those services, and a descrip-  
16      tion of strategies to achieve those improvements.

17           “(12) A description of activities by regional  
18      planning agencies, regional transportation authori-  
19      ties, and municipalities in the State on freight and  
20      passenger rail service within the State, or in the re-  
21      gion in which the State is located, including a pres-  
22      entation of any recommendations made by such  
23      agencies, authorities, and municipalities.

24           “(13) A compilation of studies and reports on  
25      high-speed rail corridor development within the

1 State not included in a previous plan under this  
2 chapter, and a plan for funding any recommended  
3 development of such corridors in the State.

4 “(14) A statement that the State is in compli-  
5 ance with the requirements of section 22102.

6 “(b) LONG-RANGE SERVICE AND INVESTMENT PRO-  
7 GRAM.—

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

12 “(A) Two ranked lists for rail capital  
13 projects, one for priority freight rail capital  
14 projects and one for priority passenger rail cap-  
15 ital projects.

16 “(B) A detailed funding plan for the  
17 projects.

18 “(2) PROJECT LIST CONTENT.—The ranked list  
19 of priority freight and passenger rail capital projects  
20 shall contain—

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

23 “(B) a statement of the correlation be-  
24 tween—

1                             “(i) private funding contributions for  
2                             the projects; and  
3                             “(ii) the private benefits.

4                             “(3) CONSIDERATIONS FOR PROJECT LIST.—In  
5                             preparing the ranked list of priority freight and pas-  
6                             senger rail capital projects, a State rail transpor-  
7                             tation authority shall take into consideration the fol-  
8                             lowing matters:

9                             “(A) Contributions made by non-Federal  
10                             Government and non-State sources through  
11                             user fees, matching funds, or other private cap-  
12                             ital involvement.

13                             “(B) Rail capacity and congestion effects.

14                             “(C) Highway and transportation system  
15                             congestion mitigation.

16                             “(D) Regional balance.

17                             “(E) Environmental impact.

18                             “(F) Competitive and service impact for  
19                             rail carriers and shippers.

20                             “(G) Preservation of rail service.

21                             “(H) Economic and employment impacts.

22                             “(I) Projected ridership for passenger  
23                             projects.

24                             “(c) WAIVER.—The Secretary may waive the any re-  
25                             quirement of subsection (a), except the requirement in

1 paragraph (5) of such subsection, upon application under  
2 circumstances that the Secretary determines appropriate.

3 **“§ 22505. High priority projects**

4       “(a) DESIGNATION OF PROJECTS.—The Secretary of  
5 Transportation may designate as a high priority project  
6 any project that meets both of the following criteria:

7           “(1) The project is on a ranked list of priority  
8 freight and passenger rail capital projects that is in-  
9 cluded in a State rail plan under section 22504(5).

10          “(2) The project focuses on key rail congestion  
11 points that are selected by the Secretary—

12           “(A) on the basis of national benefits to  
13 the rail transportation system; and

14           “(B) coordinated with the national rail  
15 plan.

16          “(b) PREFERRED PROJECTS.—The Secretary, in des-  
17 ignating high priority projects, shall give preference to—

18           “(1) projects that have national significance  
19 for—

20           “(A) improving the national rail network  
21 and the Nation’s transportation system;

22           “(B) ensuring particularly high levels of  
23 safety;

24           “(C) increasing intermodal connectivity by  
25 providing or improving direct connections be-

1           tween rail facilities and other modes of trans-  
2           portation;

3           “(D) significantly affecting highway, avia-  
4           tion, or maritime capacity, congestion, or safe-  
5           ty;

6           “(E) improving both intercity passenger  
7           rail an freight rail services;

8           “(F) enhancing rail completion or freight  
9           rail service for shippers;

10           “(G) causing positive economic and em-  
11           ployment results;

12           “(H) producing significant environmental  
13           or community benefits;

14           “(I) having received financial commitments  
15           and other support from numerous entities such  
16           as States, local governments, or private entities;

17           “(J) enhancing international trade;

18           “(K) enhancing national security; or

19           “(L) employing positive train control tech-  
20           nologies; and

21           “(2) projects that are at the stage of prepara-  
22           tion that all precommencement compliance with en-  
23           vironmental protection requirements has been com-  
24           pleted and the projects are ready to commence.

## 1       “(c) REGIONAL BALANCE AND COMPATIBILITY.—

2 The Secretary, in designating high priority projects, shall  
3 ensure that—4           “(1) the geographic distribution of the projects  
5 designated as high priority projects is generally bal-  
6 anced among the geographic regions of the United  
7 States and a disproportionate number of such  
8 projects is not concentrated in a single region or  
9 State; and10           “(2) all projects are compatible with, and car-  
11 ried out in conformance with—12           “(A) plans developed pursuant to the re-  
13 quirements of sections 134 and 135 of title 23;  
14 and

15           “(B) the national rail plan.

16 **“§ 22506. Approval**17           “(a) CRITERIA.—The Secretary may approve a State  
18 rail plan for the purposes of this chapter if—19           “(1) the plan meets all of the requirements ap-  
20 plicable to State plans under this chapter;21           “(2) for each project listed on the ranked list  
22 of priority freight and passenger rail capital projects  
23 under the plan—

1                   “(A) the project meets all safety require-  
2                   ments that are applicable to the project under  
3                   law; and

4                   “(B) the State has entered into an agree-  
5                   ment with any owner of rail infrastructure di-  
6                   rectly affected by the project that provides for  
7                   the State to proceed with the project; and

8                   “(3) the content of the plan is coordinated  
9                   with—

10                   “(A) plans developed pursuant to the re-  
11                   quirements of sections 134 and 135 of title 23;  
12                   and

13                   “(B) the national rail plan and any other  
14                   transportation plan of the Federal Government  
15                   that is required by law.

16                   “(b) PROCEDURES FOR STATE RAIL PLAN SUBMIS-  
17                   SION AND APPROVAL.—The Secretary shall prescribe pro-  
18                   cedures for States to submit State rail plans for review  
19                   under this subtitle, including application and qualification  
20                   procedures. The procedures shall provide for the Secretary  
21                   to review a State rail plan and issue a record of decision  
22                   of approval or disapproval, with comment, on such plan  
23                   within 180 days after the plan is submitted.

24                   **“§ 22507. Definitions**

25                   “In this chapter:

1           “(1) PRIVATE BENEFIT.—The term ‘private  
2 benefit’ means a benefit accrued to a person or pri-  
3 vate entity that directly improves the economic and  
4 competitive condition of that person or entity  
5 through improved assets, cost reductions, service im-  
6 provements, or any other means as defined by the  
7 Secretary.

8           “(2) PUBLIC BENEFIT.—The term ‘public ben-  
9 efit’ means a benefit accrued to the public in the  
10 form of enhanced mobility of people or goods, envi-  
11 ronmental protection or enhancement, congestion  
12 mitigation, enhanced trade and economic develop-  
13 ment, improved air quality or land use, more effi-  
14 cient energy use, enhanced public safety or security,  
15 reduction of public expenditures due to improved  
16 transportation efficiency or infrastructure preserva-  
17 tion, and any other positive community effects as de-  
18 fined by the Secretary.

19           “(3) STATE.—The term ‘State’ means any of  
20 the 50 States and the District of Columbia.

21           “(4) STATE RAIL TRANSPORTATION AUTHOR-  
22 ITY.—The term ‘State rail transportation authority’  
23 means the State agency or official responsible under  
24 the direction of the Governor of the State or a State

1 law for preparation, maintenance, coordination, and  
2 administration of the State rail plan.”.

3 (b) CLERICAL AMENDMENT.—The table of chapters  
4 for subtitle V is amended by inserting after the item relat-  
5 ing to chapter 223 the following:

**“225. STATE RAIL PLANS .....22501”.**

○