A BILL

To reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other

purposes.

(S. 1318)

Calendar No. 221

104TH CONGRESS

1ST SESSION

November 2, 1995
Calendar No. 221

104TH CONGRESS
1ST SESSION

S. 1318

[Report No. 104-157]

To reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes.

IN THE SENATE OF THE UNITED STATES

October 12 (legislative day, October 10), 1995

Mr. Pressler, from the Committee on Commerce, Science, and Transportation, reported the following original bill; which was read twice and placed on the calendar

October 19 (legislative day, October 18), 1995

Ordered referred to the Committee on Finance solely for the consideration of title X, for a period not to exceed 15 calendar days to report or be discharged

November 2, 1995

Reported by Mr. Roth, with an amendment

[Omit the part struck through]

A BILL

To reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes.

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

This Act may be cited as the “Amtrak and Local Rail Revitalization Act of 1995”.

SEC. 2. FINDINGS.

The Congress finds that—

(1) intercity rail passenger service is an essential component of a national intermodal passenger transportation system, and the National Railroad Passenger Corporation (Amtrak) must provide a quality transportation product in the form of clean, comfortable, and on-time service to achieve its full potential;

(2) Amtrak has been forced to significantly cut back its basic system due to cash shortages, and further cutback may be required unless Amtrak is able to reduce its costs and increase its revenues;

(3) to ensure Amtrak’s long-term viability as a provider of intercity rail passenger service, all of Amtrak’s stakeholders must participate in efforts to reduce Amtrak’s costs and increase its revenues;

(4) additional management flexibility is needed to allow Amtrak to operate in a businesslike manner in order to adjust quickly to meet demand and changing customer needs;

(5) Amtrak’s management and employees are dedicated to providing the high-quality service that
Amtrak’s customers deserve but additional capital investment is needed to acquire the modern equipment and efficient facilities that are essential to satisfy the demand for superior intercity rail passenger service;

(6) adequate levels of capital investment from the Federal Government and State governments and innovative partnerships with the private sector will enable Amtrak to provide the world class service American rail passengers deserve and will help reduce operating costs in the long term;

(7) Amtrak’s management should be held accountable to ensure that all capital investment by the Federal Government and State governments is used effectively to improve the quality of service and the long-term financial health of Amtrak;

(8) Amtrak’s employees should share equitably in the burden of restoring Amtrak to financial health;

(9) States, local governments, and private parties can and should play an increasingly significant role in supporting cost-efficient intercity rail passenger transportation and in addressing local transportation needs and air quality control;
(10) mandatory payments reflecting funds paid into the railroad retirement and railroad unemployment systems on Amtrak’s behalf in excess of the funds needed to pay retirement and unemployment benefits for Amtrak’s employees and their beneficiaries should not be considered a Federal operating subsidy of Amtrak;

(11) Federal financial assistance to cover operating losses incurred by Amtrak should be eliminated by the year 2001;

(12) Amtrak and its employees should proceed quickly with proposals to modify collective bargaining agreements to make more efficient use of manpower and to realize cost savings which are necessary to eliminate Federal financial assistance to cover its operating losses by the fiscal year following the fifth anniversary of the date of enactment of this Act; and

(13) Amtrak should ensure that new management flexibility produces cost savings without compromising safety.
TITLE I—PROCUREMENT REFORMS

SEC. 101. CONTRACTING OUT.

(a) CONTRACTING OUT REFORM.—Effective 180 days after the date of enactment of this Act, section 24312 of title 49, United States Code, is amended—

(1) by striking the paragraph designation for paragraph (1) of subsection (a);

(2) by striking ``(2)'' in subsection (a)(2) and inserting ``(b)''; and

(3) by striking subsection (b).

The amendment made by paragraph (3) is without prejudice to the power of Amtrak to contract out the provision of food and beverage services on board Amtrak trains or to contract out work not resulting in the layoff of Amtrak employees.

(b) NEGOTIATION OF CONTRACTING OUT RULES.—

(1) IN GENERAL.—Within 5 days after the date of enactment of this Act, Amtrak and its labor organizations shall meet to resolve the issue of under what conditions, if any, Amtrak may contract out work normally performed by an employee in a bargaining unit covered by a contract between Amtrak and its labor organizations when the contracting out results in the layoff of employees in the bargaining
unit. The issue for negotiation under this paragraph does not include the contracting out of work involving food and beverage services provided on Amtrak trains or the contracting out of work not resulting in the layoff of Amtrak employees.

(2) Assisted negotiations if issue unresolved within 90 days.—If the parties negotiating under paragraph (1) are unable to resolve the issue within 90 days after such date of enactment, they shall each select a neutral person from the list of National Mediation Board arbitrators. The persons selected shall meet and select an arbitrator who will assist the parties in their discussions and arbitrate the dispute if the parties fail to negotiate a resolution of the issue. If the National Mediation Board is not informed of the selection of the arbitrator within 120 days after such date of enactment, the National Mediation Board will immediately select the arbitrator for the issue in dispute. One half of the expenses of the neutral persons and the arbitrator selected under this paragraph will be borne by Amtrak, and the other half by the labor organizations jointly.

(3) Hearing scheduled.—If the issue remains unresolved 120 days after such date of enact-
ment, the arbitrator selected under paragraph (2) shall schedule a hearing to be held 150 days after such date of enactment and shall meet with the parties to mediate the issue before the hearing.

(4) **Last Best Offers.**—If the issue has not been resolved before the date of the hearing scheduled under paragraph (3), each party involved in the negotiation shall submit its last best offer to the arbitrator at the time of the hearing.

(5) **Hearing Procedure.**—At the hearing, the arbitrator shall receive the arguments and supporting evidence for the positions of the parties, as well as any clarifications of last best offers submitted by the parties. All materials to be reviewed by the arbitrator shall be presented at the hearing.

(6) **Award.**—

(A) **In General.**—Within 170 days after such date of enactment, the arbitrator will select either of the last best offers and render an award resolving the issue. The authority of the arbitrator is limited to resolving the issue presented by the hearing. The award will take effect on the 180th day after such date of enactment, and, except as provided in subparagraph

(B) shall be final and binding on all parties.
(B) Contest of Award.—The United States District Court for the District of Columbia has exclusive jurisdiction to hear an action contesting an award under subparagraph (A). The court may not set aside or modify such an award except on—

(i) the grounds that the proceeding or the award plainly does not conform to the substantive requirements of this section; or

(ii) grounds set forth in section 9 Third (c) of the Railway Labor Act (45 U.S.C. 159 Third (c)).

Except as otherwise provided in this section, the provisions of section 9 of such Act (45 U.S.C. 159) govern any contest of an award under subparagraph (A) of this paragraph.

(C) Award Supersedes Existing Collective Bargaining Arrangements.—An award under subparagraph (A) supersedes any collective bargaining agreement entered into before the award is made, and any practice in effect before the award is made, to the extent that such agreement or practice is inconsistent with the award or limits the right to engage in subcontracting under the award.
(7) **AMENDMENT OF AWARD.**—The award remains in effect until amended by mutual agreement of the parties. Notices under section 6 of the Railway Labor Act to amend the award may not be served until 30 days before the end of the third year after the effective date of the award.

(b) **NO PRECEDENT FOR FREIGHT.**—Nothing in this section shall be a precedent for the resolution of any dispute between a freight railroad and any labor organization representing that railroad’s employees.

**SEC. 102. CONTRACTING PRACTICES.**

(a) **BELOW-COST COMPETITION.**—Section 24305(b) of title 49, United States Code, is amended to read as follows:

“(b) **BELOW-COST COMPETITION.**—Amtrak shall not submit any bid for the performance of services under a contract for an amount less than the cost to Amtrak of performing such services, with respect to any activity other than the provision of intercity rail passenger transportation, or mail or express transportation. For purposes of this subsection, the cost to Amtrak of performing services shall be determined using generally accepted accounting principles for contracting. This subsection shall not apply for any fiscal year for which Amtrak receives no Federal subsidy.”.

(b) Through Service in Conjunction With Intercity Bus Operations.—Section 24305(a) of title 49, United States Code, is amended by adding at the end the following new paragraph:

“(3) (A) Except as provided in subsection (d)(2), Amtrak may enter into a contract with a motor carrier of passengers for the intercity transportation of passengers by motor carrier over regular routes only—

“(i) if the motor carrier is not a public recipient of governmental assistance, as such term is defined in section 10922(d)(1)(F)(i) of this title, other than a recipient of funds under section 18 of the Federal Transit Act;

“(ii) for passengers who have had prior movement by rail or will have subsequent movement by rail; and

“(iii) if the buses, when used in the provision of such transportation, are used exclusively for the transportation of passengers described in clause (ii).

“(B) Subparagraph (A) shall not apply to transportation funded predominantly by a State or local government, or to ticket selling agreements.”.

(2) Section 24305(d) of title 49, United States Code, is amended by adding at the end the following new paragraph:
“(3) Congress encourages Amtrak and motor common carriers of passengers to use the authority conferred in section 11342(a) of this title for the purpose of providing improved service to the public and economy of operation.”.

SEC. 103. RAIL AND MOTOR CARRIER PASSENGER SERVICE.

(a) In General.—Notwithstanding any other provision of law (other than section 24305(a) of title 49, United States Code), Amtrak and motor carriers of passengers are authorized—

(1) to combine or package their respective services and facilities to the public as a means of increasing revenues; and

(2) to coordinate schedules, routes, rates, reservations, and ticketing to provide for enhanced intermodal surface transportation.

(b) Review.—The authority granted by subsection (a) is subject to the review of the Interstate Commerce Commission and such authority may be modified or revoked by the Interstate Commerce Commission if in the public interest.

SEC. 104. WORLD CLASS SERVICE.

Section 24101(c) of title 49, United States Code, is amended by redesignating paragraphs (10) and (11) as
(12) and (13), respectively, and by inserting after paragraph (9) the following:

“(10) manage capital investment in such a way as to provide customers with world class service;

“(11) treat all passengers with respect, courtesy, and dignity;”.

SEC. 105. PASSENGER CHOICE.

Federal employees shall be permitted to choose travel on Amtrak for official business where total travel cost from office to office is competitive on a total trip or time basis.

SEC. 106. FREEDOM OF INFORMATION ACT.

Section 24301(e) of title 49, United States Code, is amended by adding at the end thereof the following: “Section 552 of title 5, United States Code, shall apply to Amtrak in any fiscal year for which Amtrak receives a Federal operating subsidy.”.

TITLE II—OPERATIONAL REFORMS

SEC. 201. BASIC SYSTEM.

(a) Operation of Basic System.—Amtrak shall strive to operate as a national rail passenger transportation system which provides access to all areas of the country and ties together existing and emergent regional
rail passenger networks and other intermodal passenger service.

(b) **Improving Rail Passenger Transportation.**—Section 24702 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

(c) **Discontinuance.**—Section 24706 of title 49, United States Code, is amended—

1. (1) by striking “90 days” and inserting “180 days” in subsection (a)(1);
2. (2) by striking “a discontinuance under section 24704 or 24707(a) or (b) of this title” in subsection (a)(1) and inserting “discontinuing service over a route”;
3. (3) by inserting “or assume” after “agree to share” in subsection (a)(1); and
4. (4) by striking “section 24704 or 24707(a) or (b) of this title” in subsections (a)(2) and (b)(1) and inserting “paragraph (1)”.

(d) **Cost and Performance Review.**—Section 24707 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

(e) **Special Commuter Transportation.**—Section 24708 of title 49, United States Code, and the item relat-
ing thereto in the table of sections of chapter 247 of such
title, are repealed.

(f) Conforming Amendment.—Section 24312(a)(1) of title 49, United States Code, is amended
by striking “, 24701(a),”.

SEC. 202. MAIL, EXPRESS, AND AUTO-FERRY TRANSPORTATION.

(a) Repeal.—Section 24306 of title 49, United
States Code, and the item relating thereto in the table of
sections of chapter 243 of such title, are repealed.

(b) Conforming Amendment.—Section 24301 of
title 49, United States Code, is amended by adding at the
end the following new subsection:

“(o) Nonapplication of Certain Other Laws.—
State and local laws and regulations that impair the provi-
sion of mail, express, and auto-ferry transportation do not
apply to Amtrak or a rail carrier providing mail, express,
or auto-ferry transportation.”.

SEC. 203. ROUTE AND SERVICE CRITERIA.

Section 24703 of title 49, United States Code, and
the item relating thereto in the table of sections of chapter
247 of such title, are repealed.
SEC. 204. ADDITIONAL QUALIFYING ROUTES.

Section 24705 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

SEC. 205. TRANSPORTATION REQUESTED BY STATES, AUTHORITIES, AND OTHER PERSONS.

(a) REPEAL.—Section 24704 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

(b) EXISTING AGREEMENTS.—Amtrak shall not, after the date of the enactment of this Act, be required to provide transportation services pursuant to an agreement entered into before such date of enactment under the section repealed by subsection (a) of this section.

(c) STATE, REGIONAL, AND LOCAL COOPERATION.—Section 24101(c)(2) of title 49, United States Code, is amended by inserting , separately or in combination, after and the private sector.

(d) CONFORMING AMENDMENT.—Section 24312(a)(1) of title 49, United States Code, is amended by striking or 24704(b)(2).

SEC. 206. AMTRAK COMMUTER.

(a) REPEAL OF CHAPTER 245.—Chapter 245 of title 49, United States Code, and the item relating thereto in the table of chapters of subtitle V of such title, are repealed.
(b) CONFORMING AMENDMENT.—Section 24301(f) of title 49, United States Code, is amended to read as follows:

“(f) TAX EXEMPTION FOR CERTAIN COMMUTER AUTHORITIES.—A commuter authority that was eligible to make a contract with Amtrak Commuter to provide commuter rail passenger transportation but which decided to provide its own rail passenger transportation beginning January 1, 1983, is exempt, effective October 1, 1981, from paying a tax or fee to the same extent Amtrak is exempt.”.

(c) TRACKAGE RIGHTS NOT AFFECTED.—Subsection (a) of this section shall not affect any trackage rights held by Amtrak or the Consolidated Rail Corporation.

SEC. 207. COMMUTER COST SHARING ON THE NORTHEAST CORRIDOR.

(a) DETERMINATION OF COMPENSATION.—(1) Section 24904(c)(2) of title 49, United States Code, is amended—

(A) by striking “between intercity rail passenger and rail freight transportation” and inserting “among intercity rail passenger, commuter rail passenger, and rail freight transportation”; and

(B) by inserting “commuter rail carrier or” after “Commission shall assign to a”.

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(2) The amendments made by paragraph (1) of this subsection shall take effect 2 years after the date of the enactment of this Act.

(b) Privatization.—Section 24101(d) of title 49, United States Code, is amended to read as follows:

“(d) Minimizing Government Subsidies.—To carry out this part, Amtrak is encouraged to make agreements with the private sector and undertake initiatives that are consistent with good business judgment, that produce income to minimize Government subsidies, and that promote the potential privatization of Amtrak’s operations.”.

SEC. 208. ACCESS TO RECORDS AND ACCOUNTS.

Section 24315 of title 49, United States Code, is amended by adding at the end the following new subsection:

“(h) Access to Records and Accounts.—A State shall have access to Amtrak’s records, accounts, and other necessary documents used to determine the amount of any payment to Amtrak required of the State.”.

TITLE III—EMPLOYEE PROTECTION REFORMS

SEC. 301. SERVICE DISCONTINUANCE.

(a) Repeal.—Section 24706(c) of title 49, United States Code, is amended to read as follows:
“(c) Employee Protection.—Notwithstanding any arrangement in effect before the enactment of the Amtrak and Local Rail Revitalization Act of 1995—

“(1) an employee of Amtrak shall be entitled to protective benefits only if deprived of employment as a result of a discontinuance of intercity rail passenger service or other transaction creating an entitlement to such benefits;

“(2) the total amount of protective payments shall not exceed 6 months’ pay; and

“(3) fringe benefits shall not be continued in excess of 6 months or the minimum period established by other Federal law for such benefits, whichever is longer.”.

(b) Intercity Passenger Service Employees.—

Section 1165(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1113(a)) is amended—

(1) by inserting ““(1)” before “After January 1, 1983”;

(2) by striking “Amtrak, Amtrak Commuter, and Conrail” and inserting “Amtrak and Conrail”;

(3) by striking “Such agreement shall ensure” and all that follows through “submitted to binding arbitration.”; and
(4) by adding at the end the following new paragraph:

“(2) Notwithstanding any other provision of law, agreement, or arrangement, with respect to employees in any class or craft in train or engine service, Conrail shall have the right to furlough one such employee for each employee in train or engine service who moves from Amtrak to Conrail in excess of the cumulative number of such employees who move from Conrail to Amtrak. Conrail shall not be obligated to fill any position governed by an agreement concerning crew consist, attrition arrangements, reserve boards, or reserve engine service positions, where an increase in positions is the result of the return of an Amtrak employee pursuant to an agreement entered into under paragraph (1). Conrail’s collective bargaining agreements with organizations representing its train and engine service employees shall be deemed to have been amended to conform to this paragraph. Any dispute or controversy with respect to the interpretation, application, or enforcement of this paragraph which has not been resolved within 90 days after the date of the enactment of this paragraph may be submitted by either party to an adjustment board for a final and binding decision under section 3 of the Railway Labor Act.”.
(c) Technical Amendment.—Section 11347 of title 49, United States Code, is amended by striking “sections 24307(c), 24312, and” and inserting “section”.

TITLE IV—USE OF RAILROAD FACILITIES

SEC. 401. LIABILITY LIMITATION.

(a) Amendment.—Chapter 281 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 28103. Limitations on rail passenger transportation liability

“(a) LIMITATIONS.—

“(1) Notwithstanding any other statutory or common law or public policy, or the nature of the conduct giving rise to damages or liability, a contract between Amtrak and its passengers, the Alaska Railroad and its passengers, or private railroad car operators and their passengers regarding claims for personal injury, death, or damage to property arising from or in connection with the provision of rail passenger transportation, or from or in connection with any operations over or use of right-of-way or facilities owned, leased, or maintained by Amtrak or the Alaska Railroad, or from or in connection with any rail passenger transportation operations over or
rail passenger transportation use of right-of-way or facilities owned, leased, or maintained by any high-speed railroad authority or operator, any commuter authority or operator, or any rail carrier shall be enforceable if—

“(A) punitive or exemplary damages, where permitted, are not limited to less than 2 times compensatory damages awarded to any claimant by any State or Federal court or administrative agency, or in any arbitration proceeding, or in any other forum or $250,000, whichever is greater;

“(B) passengers are provided adequate notice of any such contractual limitation or waiver or choice of forum; and

“(C) passengers are given an opportunity to purchase supplemental insurance coverage when a ticket is purchased or at point of departure.

“(2) For purposes of this subsection, the term ‘claim’ means a claim made directly or indirectly—

“(A) against Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, or any rail carrier including
the Alaska Railroad or private rail car operators; or

“(B) against an affiliate engaged in rail-
road operations, officer, employee, or agent of,
Amtrak, any high-speed railroad authority or
operator, any commuter authority or operator,
or any rail carrier.

“(3) Notwithstanding paragraph (1)(A), if, in
any case in which death was caused, the law of the
place where the act or omission complained of oc-
curred provides, or has been construed to provide,
for damages only punitive in nature, a claimant may
recover in a claim limited by this subsection for ac-
tual or compensatory damages measured by the pe-
cuniary injuries, resulting from such death, to the
persons for whose benefit the action was brought,
subject to the provisions of paragraph (1)(B).

“(b) Effect on Other Laws.—This section shall
not affect the damages that may be recovered under the
Act of April 27, 1908 (45 U.S.C. 51 et seq.; popularly
known as the ‘Federal Employers’ Liability Act’) or under
any workers compensation act.”.

(b) Conforming Amendment.—The table of sec-
tions of chapter 281 of title 49, United States Code, is
amended by adding at the end the following new item:

“28103. Limitations on rail passenger transportation liability.”.
TITLE V—FINANCIAL REFORMS

SEC. 501. AMTRAK FINANCIAL GOALS.

Section 24101(d) of title 49, United States Code, is amended by adding at the end thereof the following:

“Within 90 days after the date of enactment of the Amtrak and Local Rail Revitalization Act of 1995, Amtrak shall prepare a financial plan to operate within the funding levels authorized by section 24104 of this chapter, including budgetary goals for fiscal years 1995 through 1997. Commencing no later than the fiscal year following the fifth anniversary of the enactment of the Amtrak and Local Rail Revitalization Act of 1995, Amtrak shall operate without the need for any Federal operating grant funds appropriated for its benefit. The plan shall include internal reforms to maximize cost savings through overhead reduction and productivity improvement, steps to maximize revenue, implementation of a commercially rationalized national route system, and achievement through negotiation of substantial reductions in costs directly relating to health and welfare plans, train and engine crew size requirements, and mechanical workforce efficiencies. Each year before the fifth anniversary of the date of enactment of the Amtrak and Local Rail Revitalization Act of 1995, the Amtrak Reform Council shall submit to the Congress a progress report outlining the likeli-
hood that Amtrak will not require Federal operating grants after that anniversary.”.

SEC. 502. AMTRAK SUNSET TRIGGER.

Section 24104 of title 49, United States Code, is amended by adding at the end thereof the following:

“(g) SUNSET TRIGGER.—

“(1) Following the third anniversary of the enactment of the Amtrak and Local Rail Revitalization Act of 1995, the Amtrak Reform Council shall review the progress Amtrak has made under its plan to achieve the financial goals specified in section 24101(d), and determine on the basis of performance under the plan the likelihood that Amtrak will not require Federal operating grant funds appropriated for its benefit after the fifth anniversary of the enactment of that Act. The Amtrak Reform Council will submit a report on its findings and determinations, and the action plan recommended for implementation by the Secretary and Amtrak under section 601 of that Act to the Congress 90 days after the third anniversary of the enactment of that Act. Authorizations for appropriations made by this section for fiscal years beginning after the submission of the report to the Congress pursuant to this subsection are conditioned on Amtrak achieving the
targets in its plan and findings that Amtrak will not require Federal operating grant funds to be appropriated for its benefit in fiscal years following the fifth anniversary of the enactment of that Act.

“(2) In determining whether Amtrak has met the targets in its plans and the likelihood that it will not require a Federal operating subsidy for fiscal years beginning after the fifth anniversary of the date of enactment of the Amtrak and Local Rail Revitalization Act of 1995, the Amtrak Reform Council shall take into account Acts of God, national emergencies, and other events beyond the reasonable control of Amtrak.

“(3) If the Amtrak Reform Council finds that—

“(A) Amtrak—

“(i) has met the financial goals anticipated for it at the end of 3 years, taking into account the factors in paragraph (2), and

“(ii) will be able to maintain a national passenger rail system which provides access to all areas of the country without Federal operational support,
then the Secretary and Amtrak shall implement the Amtrak plan developed under section 601(b)(6)(A) of the Amtrak and Local Rail Revitalization Act of 1995 providing the continued operation of Amtrak unless the Congress disapproves the plan within 45 days after it is submitted to the Congress; or

“(B) Amtrak has failed to meet the financial goals anticipated for it at the end of 3 years, taking into account the factors in paragraph (2), then the Secretary and Amtrak shall implement the Amtrak sunset plan developed under section 601(b)(6)(B) of that Act providing for the complete liquidation of Amtrak, unless the Congress disapproves the plan within 45 days after it is submitted to the Congress.

“(4) The annual report of the Amtrak Reform Council shall include an assessment of progress on the resolution or status of productivity issues, including—

“(A) train and engine manning requirements;

“(B) utilization of employees in the mechanical operations;
“(C) health and welfare benefits and plan design;

“(D) management efficiency improvement;

“(E) property utilization and management;

“(F) revenue enhancement and ridership;

“(G) Amtrak’s operation as a national passenger rail system which provides access to all areas of the country and ties together existing and emerging regional rail passenger networks and other intermodal passenger service;

“(H) technology utilization; and

“(I) procurement reforms.”.

SEC. 503. DISBURSEMENT OF FEDERAL FUNDS; GRANT RELEAS DATE.

Section 24104(d) of title 49, United States Code, is amended to read as follows:

“(d) ADMINISTRATION OF APPROPRIATIONS.—Funds appropriated pursuant to this section shall be provided to Amtrak upon appropriation when requested by Amtrak. Notwithstanding any agreement to the contrary, funds that have been appropriated to the Secretary for use in implementing the Northeast Corridor Improvement Project prior to September 30, 1995, shall be made immediately available to Amtrak for use in undertaking the improvements authorized by chapter 249 of this title.”.
SEC. 504. TRANSFER OF EXCESS RAILROAD TAXES.

Section 24301 of title 49, United States Code, as amended by section 202 of this Act, is amended by adding at the end thereof the following new subsection:

“(p) Tax Relief.—

“(1) In general.—To the extent funds are appropriated pursuant to paragraph (3) of this subsection, Amtrak shall, effective October 1, 1995, be relieved from any liability or obligation to pay—

“(A) tax liabilities under section 3221 of the Internal Revenue Code of 1986 that are more than the amount needed for benefits for individuals who retire from Amtrak and for their beneficiaries; and

“(B) obligations of Amtrak under section 8(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 358(a)) that are more than obligations of Amtrak calculated on an experience-related basis.

“(2) Scope.—

“(A) Employee classification.—In determining Amtrak’s liabilities or obligations under the provisions of law to which reference is made in paragraph (1), workers not on Amtrak’s employee roster shall not be classified as Amtrak’s employees.
“(B) No reduction of benefit.—Nothing in this subsection shall be construed as a basis for reducing any benefit payable to any railroad employee, retiree, or beneficiary.

“(C) Residual liability.—Amtrak remains liable for any obligations not paid under paragraph (3).

“(3) Authorization of appropriations.—There are authorized to be appropriated to the Secretary amounts necessary to relieve Amtrak of portions of its liabilities under section 3221 of the Internal Revenue Code of 1986 and section 8(a) of the Railroad Unemployment Insurance Act, as provided in paragraph (1) of this subsection, up to the estimated amount of such portions in each calendar year. To the extent funds are appropriated pursuant to this paragraph, Amtrak is relieved of such liabilities. Appropriations to the Secretary which have been authorized by this subsection shall be paid in the same manner as tax liabilities or obligations from which Amtrak has not been relieved. Amounts appropriated under this subsection shall not be considered a United States Government subsidy of Amtrak.”.
SEC. 505. REPORTS AND AUDITS.

Section 24315 of title 49, United States Code, as amended by section 208, is amended—

(1) by striking subsections (a) and (c);

(2) by redesignating subsections (b), (d), (e), (f), (g), and (h) as subsections (a), (b), (e), (d), (e), and (f) respectively; and

(3) in subsection (d), as so redesignated by paragraph (2) of this section, by striking “(d) or (e)” and inserting “(b) or (e)’’.

SEC. 506. OFFICERS’ PAY.

Section 24303(b) of title 49, United States Code, is amended by adding at the end the following: “The preceding sentence shall not apply for any fiscal year for which no Federal operating assistance is provided to Amtrak.”.

SEC. 507. EXEMPTION FROM TAXES.

(a) In General.—Section 24301(l)(1) of title 49, United States Code, is amended—

(1) by inserting “, and any passenger or other customer of Amtrak or such subsidiary,” after “subsidiary of Amtrak”;  

(2) by striking “or fee imposed” and all that follows through “levied on it” and inserting “, fee, head charge, or other charge, imposed or levied by a State, political subdivision, or local taxing authority, directly or indirectly on Amtrak, a rail carrier
subsidiary of Amtrak, or on persons traveling in intercity rail passenger transportation or on mail or express transportation provided by Amtrak or such a subsidiary, or on the carriage of such persons, mail, or express, or on the sale of any such transportation, or on the gross receipts derived therefrom”; and

(3) by striking the last sentence and inserting the following: “Amtrak is not exempt from a tax or fee it was required to pay as of September 10, 1982, if that tax or fee was assessed before April 1, 1995.”.

(b) Effective Date.—The amendments made by subsection (a) do not apply to sales taxes imposed on intrastate travel as of the date of enactment of this Act.

TITLE VI—MISCELLANEOUS

SEC. 601. AMTRAK REFORM COUNCIL.

(a) Establishment.—There is established an independent commission to be known as the Amtrak Reform Council.

(b) Duties.—The Council shall—

(1) evaluate Amtrak’s performance and report thereon annually to the Congress;

(2) prepare an analysis and critique of Amtrak’s business plan;
(3) suggest strategies for further cost containment and productivity improvements, including strategies with the potential for further reduction in Federal operating subsidies;

(4) consider the merits, costs, and service implications of the partial or complete privatization of Amtrak’s operations;

(5) recommend appropriate methods for adoption of uniform cost and accounting procedures throughout the Amtrak system, based on generally accepted accounting principles; and

(6) either—

(A) develop, and submit to the Congress, an action plan for Amtrak, to take effect not later than the fiscal year beginning after the fifth anniversary of the date of enactment of this Act in the event that the Amtrak sunset is not triggered under section 24104(g) of title 49, United States Code; or

(B) develop, and submit to the Congress, an action plan for complete liquidation of Amtrak no later than the fifth anniversary of the date of enactment of this Act in the event Amtrak sunset is triggered under section 24104(g) of title 49, United States Code.
(c) MEMBERSHIP.—(1)(A) The Council shall consist of 8 members appointed by the President, by and with the advise and consent of the Senate. 

(B) The President shall transmit to the Senate the nominations for appointment to the Commission within 90 days after the date of enactment of this Act. 

(C) Members shall serve for terms of 5 years. 

(2) Appointments under paragraph (1) shall be made from among individuals who—

(A) have technical qualification, professional standing, and demonstrated expertise in the fields of transportation, rail labor, and corporate management; and

(B) are not employees of Amtrak, employees of the United States, or representatives of rail labor or rail management.

(3) In selecting individuals for nominations for appointment to the Council, the President shall consult with—

(A) the Speaker of the House of Representatives concerning the appointment of 2 members; 

(B) the majority leader of the Senate concerning the appointment of 2 members;
(C) the minority leader of the House of Representa

tives concerning the appointment of 1 member; and

(D) the minority leader of the Senate concerning

the appointment of 1 member.

(4) At the time the President nominates individuals

for appointment to the Council, the President shall des-

ignate one such individual as Chairman. The Chairman

shall serve as chairman until the confirmation of his suc-

cessor.

(5) If a vacancy occurs other than by the expiration

of a term, the individual appointed to fill the vacancy shall

serve only for the unexpired portion of the term for which

that individual’s predecessor was appointed.

(d) MEETINGS.—

(1) Each meeting of the Council, other than

meetings in which proprietary information is to be
discussed, shall be open to the public.

(2) All proceedings, information, and deliber-

ations of the Council shall be open, upon request, to
the Chairman and the ranking minority party mem-

ber of the Subcommittee on Surface Transportation
of the Committee on Commerce, Science, and Trans-

portation of the Senate or such other members of
the subcommittee designated by the chairman or ranking minority party member.

(c) **Travel Expenses.**—Each member of the Council shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(f) **Administrative Support.**—The Secretary of Transportation shall provide to the Council such administrative support as the Council requires to carry out this section.

(g) **Access to Information.**—Amtrak shall make available to the Council all information the Council requires to carry out this section. The Council shall establish appropriate procedures to ensure against the public disclosure of any information obtained under this subsection which is a trade secret or commercial or financial information that is privileged or confidential.

(h) **Status.**—The Council shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.) or section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act).

**SEC. 602. PRINCIPAL OFFICE AND PLACE OF BUSINESS.**

Section 24301 of title 49, United States Code, is amended—
(1) by striking the first sentence of subsection (b);

(2) by striking “District of Columbia” in subsection (b) and inserting “State in which its principal office and place of business is located”;

(3) by adding at the end of subsection (b) the following: “For purposes of this subsection, the term ‘State’ includes the District of Columbia. Notwithstanding section 3 of the District of Columbia Business Corporation Act, Amtrak may, at its election, continue to be organized under the provisions of that Act.”; and

(4) by striking “the District of Columbia Business Corporation Act (D.C. Code § 29–301 et seq.)” in subsection (e) and inserting “the corporate law of the State in which it is incorporated”.

SEC. 603. STATUS AND APPLICABLE LAWS.

Section 24301 of title 49, United States Code, is amended—

(1) by striking “rail carrier under section 10102” in subsection (a)(1) and inserting “railroad carrier under section 20102(2) and chapters 261 and 281”; and

(2) by amending subsection (c) to read as follows:
“(c) Application of Subtitle IV.—Subtitle IV of this title shall not apply to Amtrak, except for sections 11303, 11342(a), 11504(a) and (d), and 11707. Notwithstanding the preceding sentence, Amtrak shall continue to be considered an employer under the Railroad Retirement Act of 1974, the Railroad Unemployment Insurance Act, and the Railroad Retirement Tax Act.”.

SEC. 604. WASTE DISPOSAL.

Section 24301(m)(1)(A) of title 49, United States Code, is amended by striking “1996” and inserting “2001”.

SEC. 605. ASSISTANCE FOR UPGRADING FACILITIES.

Section 24310 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 243 of such title, are repealed.

SEC. 606. RAIL SAFETY SYSTEM PROGRAM.

Section 24313 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 243 of such title, are repealed.

SEC. 607. DEMONSTRATION OF NEW TECHNOLOGY.

Section 24314 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 243 of such title, are repealed.
SEC. 608. NORTHEAST CORRIDOR IMPROVEMENT PROJECT.

Section 24902 of title 49, United States Code, is amended by adding at the end the following new subsection:

“(m) APPLICABLE PROCEDURES.—For the purpose of any State or local requirement for permit or other approval for construction or operation of any improvement undertaken by or for the benefit of Amtrak as part of, or in furtherance of, the Northeast Corridor Improvement Project, or chapter 241, 243, or 247 of this title, the exemptions and procedures applicable to a project undertaken by the Federal Government or an agency thereof shall apply. The preceding sentence shall not apply to any project initiated in any fiscal year for which Amtrak receives no Federal operating subsidy.”.

SEC. 609. PROGRAM MASTER PLAN FOR BOSTON-NEW YORK MAIN LINE.

(a) REPEAL.—Section 24903 of title 49, United States Code, is repealed and the table of sections for chapter 249 of such title is amended by striking the item relating to that section.

(b) CONFORMING AMENDMENTS.—

(1) Section 24902 of title 49, United States Code, as amended by section 608 of this Act, is amended by striking subsections (a), (c), and (d) and redesignating subsection (b) as subsection (a)
and subsections (e) through (m) as subsections (b) through (j), respectively.

(2) Section 24904(a)(8) is amended by striking “the high-speed rail passenger transportation area specified in section 24902(a) (1) and (2)” and inserting “a high-speed rail passenger transportation area”.

SEC. 610. AMERICANS WITH DISABILITIES ACT OF 1990.

(a) APPLICATION TO AMTRAK.—Amtrak shall not be subject to any requirement under subsections (a) (1) and (3) and under subsection (e)(2) of section 242 of the Americans With Disabilities Act of 1990 (42 U.S.C. 12162) until—

(1) January 1, 1998, for subsections (a) (1) and (3); and

(2) October 15, 2001, for subsection (e)(2).

(b) CONFORMING AMENDMENT.—Section 24307 of title 49, United States Code, is amended—

(1) by striking subsection (b); and

(2) by redesignating subsection (e) as subsection (b).

SEC. 611. DEFINITIONS.

Section 24102 of title 49, United States Code, is amended—

(1) by striking paragraphs (2) and (11);
(2) by redesignating paragraphs (3) through (8) as paragraphs (2) through (7), respectively;

(3) by inserting “, including a unit of State or local government,” after “means a person” in paragraph (7), as so redesignated; and

(4) by inserting after paragraph (7), as so redesignated, the following new paragraph:

“(8) ‘rail passenger transportation’ means the interstate, intrastate, or international transportation of passengers by rail, including mail and express.”.

SEC. 612. NORTHEAST CORRIDOR COST DISPUTE.

Section 1163 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1111) is repealed.

SEC. 613. INSPECTOR GENERAL ACT OF 1978 AMENDMENT.

(a) AMENDMENT.—


(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect in the first fiscal year for which Amtrak receives no Federal operating subsidy.

(b) AMTRAK NOT A FEDERAL ENTITY.—Amtrak shall not be considered a Federal entity for purposes of the Inspector General Act of 1978. The preceding sen-
tence shall apply for any fiscal year for which Amtrak re-
ceives no Federal operating subsidy.

SEC. 614. CONSOLIDATED RAIL CORPORATION.

Section 4023 of the Conrail Privatization Act (45
U.S.C. 1323), and the item relating thereto in the table
of contents of such Act, are repealed.

SEC. 615. INTERSTATE RAIL COMPACTS.

(a) CONSENT TO COMPACTS.—Congress grants con-
sent to States with an interest in a specific form, route,
or corridor of intercity passenger rail service (including
high speed rail service) to enter into interstate compacts
to promote the provision of the service, including—

(1) retaining an existing service or commencing
a new service;

(2) assembling rights-of-way; and

(3) performing capital improvements, includ-
ing—

(A) the construction and rehabilitation of
maintenance facilities;

(B) the purchase of locomotives; and

(C) operational improvements, including
communications, signals, and other systems.

(b) FINANCING.—An interstate compact established
by States under subsection (a) may provide that, in order
to carry out the compact, the States may—
(1) accept contributions from a unit of State or local government or a person;
(2) use any Federal or State funds made available for intercity passenger rail service (except funds made available for the National Railroad Passenger Corporation);
(3) on such terms and conditions as the States consider advisable—
   (A) borrow money on a short-term basis and issue notes for the borrowing; and
   (B) issue bonds; and
(4) obtain financing by other means permitted under Federal or State law.

TITLE VII—AUTHORIZATION OF APPROPRIATIONS

SEC. 701. AUTHORIZATION OF APPROPRIATIONS.
(a) In General.—Section 24104(a) of title 49, United States Code, is amended to read as follows:
   “(a) In General.—There are authorized to be appropriated to the Secretary of Transportation—
   “(1) $772,000,000 for fiscal year 1995;
   “(2) $712,000,000 for fiscal year 1996;
   “(3) $712,000,000 for fiscal year 1997;
   “(4) $712,000,000 for fiscal year 1998; and
   “(5) $403,000,000 for fiscal year 1999,
for the benefit of Amtrak for capital expenditures under chapters 243 and 247 of this title, operating expenses, and payments described in subsection (c)(1) (A) through (C).
In fiscal years following the fifth anniversary of the enactment of the Amtrak and Local Rail Revitalization Act of 1995 no funds authorized for Amtrak shall be used for operating expenses.’’.

(b) ADDITIONAL AUTHORIZATIONS.—Section 24104(b) of title 49, United States Code, is amended to read as follows:

“(b) ADDITIONAL AUTHORIZATIONS.—In addition to amounts appropriated under subsection (a), there are authorized to be appropriated to the Secretary of Transportation—

“(1) $200,000,000 for fiscal year 1995;
“(2) $200,000,000 for fiscal year 1996;
“(3) $200,000,000 for fiscal year 1997;
“(4) $200,000,000 for fiscal year 1998; and
“(5) $200,000,000 for fiscal year 1999,
for the benefit of Amtrak to make capital expenditures under chapter 249 of this title.’’.

(c) CONFORMING AMENDMENTS.—Section 24909 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 249 of such title, are repealed.
(d) GUARANTEE OF OBLIGATIONS.—There are au-

thorized to be appropriated to the Secretary of Transpor-
tation—

(1) $50,000,000 for fiscal year 1996;
(2) $50,000,000 for fiscal year 1997;
(3) $50,000,000 for fiscal year 1998; and
(4) $50,000,000 for fiscal year 1999,

for guaranteeing obligations of Amtrak under section 511
of the Railroad Revitalization and Regulatory Reform Act
of 1976 (45 U.S.C. 831). Notwithstanding any other pro-
vision of law to the contrary, the proceeds of the obliga-
tions guaranteed hereunder may be used for the acquisi-
tion, rehabilitation, improvement, development, or estab-
lishment of any intercity rail passenger equipment or fa-
cilities or the refinancing of any of the foregoing. The
United States shall be deemed to have reasonable protec-
tion and security if the Secretary obtains a lien or mort-
gage encumbering such facilities or equipment, which lien
or mortgage may be subordinated to any mortgages or
liens thereon securing obligations to a lender or lessor.
The Secretary shall not be required to make any finding
regarding the value or prospective earning power of the
equipment or facilities or the earning power of the obligor
or the place where high-speed rail facilities or equipment
are mined, produced, or manufactured. The obligor may
incure the obligations guaranteed by the Secretary hereunder without obtaining the consent of the Secretary under section 24304(f) of title 49, United States Code. The obligations shall have a liquidation interest superior to the preferred stock of the obligor issued to the Secretary and may be secured by a lien or mortgage on the property of the obligor superior to any lien or mortgage held by the Secretary. The Secretary shall not require that pre-existing obligations of the obligor be subordinated to the rights of the Secretary in the event of a default. The Secretary shall act on an application for a guarantee hereunder within 30 days after it is submitted.

(e) Amtrak shall expend capital funds equitably across its national passenger rail system on projects deemed necessary to meet its most critical operating and capital needs. Priority shall be given to those projects which offer significant return on investment and which leverage the highest levels of State, local, and private financial support.

TITLE VIII—AMTRAK REVENUE ENHANCEMENT

SEC. 801. INTERCITY RAIL PASSENGER ACCOUNT.

(a) In General.—Chapter 243 of title 49, United States Code, is amended by adding at the end thereof the following new section:
§ 24316. Intercity Rail Passenger Account

(a) Establishment.—Amtrak shall establish an Intercity Rail Passenger Account. Amounts deposited in this account shall be available for use by Amtrak to—

“(1) acquire passenger equipment and locomotives;

“(2) encourage State and local investment in facilities and equipment used to provide intercity rail passenger transportation; and

“(3) address other critical capital priorities.

“(b) Deposits.—During fiscal years 1995 through 1999, Amtrak shall deposit amounts equal in the aggregate to 5 percent of ticket revenue for that 5 fiscal year period into the Intercity Rail Passenger Account and may deposit into the Account—

“(1) payments received for the use of its equipment or facilities;

“(2) claims recovered by Amtrak;

“(3) amounts from any other source to the extent authorized by law; and

“(4) amounts received by Amtrak as refunds of taxes on the fuel required for its operations.”.

(b) Clerical Amendment.—The table of sections for chapter 243 of such title is amended by adding at the end thereof the following:

“24316. Intercity Rail Passenger Account”.
SEC. 802. UNION STATION STATE OF GOOD REPAIR.

In lieu of payments to the Secretary of Transportation for loan repayments, the Union Station Redevelopment Corporation shall make an equal payment into a capital reserve account to maintain Washington Union Station in a state of good repair.

SEC. 803. COMMERCIAL DIVERSIFICATION.

(a) IN GENERAL.—Amtrak may increase non-Federal revenues through—

(1) the sale of concessions and the use of vending machines and video and audio entertainment on trains;

(2) the sale of advertising space on trains and in rail stations;

(3) use of telecommunications networks or infrastructure; and

(4) other creative marketing and services activities.

(b) APPLICABLE LAWS.—Section 24301 of title 49, United States Code, as amended by section 504 of this Act, is amended by adding at the end thereof the following:

“(q) POWER PURCHASES.—The sale of power to Amtrak for its own use, including operating its electric traction system, does not constitute a direct sale of electric
energy to an ultimate consumer under section 212(h)(1)
of the Federal Power Act (16 U.S.C. 824k(h)(1)).

“(r) Power Sales to Commuter Authorities
and Others.—A state or other law, rule, regulation,
order, or standards relating to the licensing, rates, terms,
and conditions of sales of electric energy at retail does not
apply to Amtrak in making sales of electric energy from
its electric power transmission and distribution system to
commuter authorities and other consumers of electricity.

“(s) Transmission Service.—Any entity selling
power to Amtrak for its own use or to be resold by Amtrak
to Commuter authorities or other consumers of electricity
may seek an order under section 211(a) of the Federal
Power Act (16 U.S.C. 824j(a)) requiring a utility to pro-
vide transmission service for this power without regard to
any restrictions in subsections (g) and (h) of section 212
of such Act (16 U.S.C. 824k).”.

(c) Definition of Amtrak.—Section 24102 of title
49, United States Code, is amended by redesignating
paragraphs (1) through (11) as (2) through (12), respec-
tively, and by inserting before paragraph (2), as so redes-
ignated, the following:

“(1) ‘Amtrak’ means the National Railroad
Passenger Corporation and any successor, assign,
subsidiary, affiliate, or joint venture in which that
Corporation has a material interest.”.
(d) AUTHORITY TO SELL SURPLUS POWER.—Section
24305 of title 49, United States Code, is amended by add-
ing at the end the following:
“(g) SALE OF SURPLUS POWER.—Whenever Amtrak
owns electric energy or power transmission capacity that
is surplus to its traction power needs, it may sell such
power at wholesale or retail to any purchaser, sell power
transmission services, seek interconnection under section
210 of the Federal Power Act (16 U.S.C. 824i), and enter
into coordination, power pooling, and other arrangements
with electric utilities designed to increase Amtrak’s reve-
nues or decrease its costs.”.
(e) CONFORMING AMENDMENT.—Section
212(h)(2)(A) of the Federal Power Act (16 U.S.C.
824k(h)(2)(A)) is amended by inserting “Amtrak;” after
“a State or any political subdivision of a State (or an
agency, authority or instrumentality of a State or any po-
litical subdivision of a State);”.

TITLE IX—PRESERVATION OF
RAIL INFRASTRUCTURE

SEC. 901. SHORT TITLE.
This title may be cited as the “Rail Infrastructure
Preservation Act of 1995”.

•S 1318 RS
SEC. 902. LOCAL RAIL FREIGHT ASSISTANCE; AUTHORIZATION OF APPROPRIATIONS.

Section 22108 of title 49, United States Code, is amended—

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

“(a) IN GENERAL.—

“(1) There is authorized to be appropriated to the Secretary of Transportation to carry out this chapter the sum of $25,000,000 for the fiscal year ending September 30, 1996, and for each subsequent fiscal year.”; and

(2) by striking subsection (a)(3).

SEC. 903. DISASTER FUNDING FOR RAILROADS.

Section 22101 of title 49, United States Code, is amended by redesignating subsection (d) as (e), and by inserting after subsection (c) the following:

“(d) DISASTER FUNDING FOR RAILROADS.—

“(1) The Secretary may declare that a disaster has occurred and that it is necessary to repair and rebuild rail lines damaged as a result of such disaster. If the Secretary makes the declaration under this paragraph, the Secretary may—

“(A) waive the requirements of this section; and
“(B) prescribe the form and time for applications for assistance made available herein.

“(2) The Secretary may not provide assistance under this subsection unless emergency disaster relief funds are appropriated for that purpose.

“(3) Funds provided for under this subsection shall remain available until extended.”.

SEC. 904. GRADE-CROSSING ELIGIBILITY.

Section 22101(a) of title 49, United States Code, is amended—

(1) by striking “and” after the semicolon in paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

“(4) the cost of closing or improving a railroad grade crossing or series of railroad grade crossings; and

“(5) the cost of creating a State-supervised grain car pool.”.

SEC. 905. DECLARATION OF POLICY.

Section 101(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801(a)(4)) is amended to read as follows:
“(4) continuation of service on, or preservation of, light density lines that are necessary to continued employment and community well-being throughout the United States;”.

SEC. 906. RAILROAD LOAN GUARANTEES; MAXIMUM RATE OF INTEREST.

Section 511(f) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(f)) is amended by striking “shall not exceed an annual percentage rate which the Secretary determines to be reasonable, taking into consideration the prevailing interest rates for similar obligations in the private market.” and inserting “shall not exceed the annual percentage rate charged equivalent to the cost of money to the Federal government.”.

SEC. 907. RAILROAD LOAN GUARANTEES; MINIMUM REPAYMENT PERIOD AND PREPAYMENT PENALTIES.

Section 511(g)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(g)(2)) is amended to read as follows:

“(2) payment of the obligation is required by its terms to be made not less than 15 years and not more than 25 years from the date of its execution,
with no penalty imposed for prepayment after 5 years;”.

SEC. 908. RAILROAD LOAN GUARANTEES; DETERMINATION OF REPAYABILITY.

Section 511(g)(5) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(g)(5)) is amended to read as follows:

“(5) either the loan can reasonably be repaid by the applicant or the loan is collateralized at no more than the current value of assets being financed under this section to provide protection to the United States;”.

SEC. 909. RAILROAD LOAN GUARANTEES; RIGHTS OF SECRETARY.

Section 511(i) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(i)) is amended by adding at the end the following:

“(4) The Secretary shall not require, as a condition for guarantee of an obligation, that all pre-existing secured obligations of an obligor be subordinated to the rights of the Secretary in the event of a default.”.
TITLE X—FISCAL REVITALIZATION

SEC. 1001. ON-TIME PERFORMANCE INCENTIVES.

(a) In General.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended—

(1) by redesignating section 137 as 138; and

(2) by inserting after section 136 the following:

"SEC. 137. INCENTIVE PAYMENTS FOR ON-TIME PERFORMANCE.

"Gross income does not include payments received by a railroad as an incentive for the on-time operation of intercity passenger trains."

(b) The table of sections for such part is amended by striking the item relating to section 137 and inserting the following:

"Sec. 137. On-time performance incentives.
"Sec. 138. Cross references to other Acts."

SEC. 1002. PAYMENT TO THE INTERCITY RAIL PASSENGER ACCOUNT OF EXCISE TAXES ON FUEL.

Section 6427 of the Internal Revenue Code of 1986 (relating to fuels not used for taxable purposes) is amended by redesignating subsection (r) as subsection (s) and by inserting after subsection (q) the following:

"(r) AMTRAK INTERCITY PASSENGER TRAINS.—The Secretary shall pay (without interest) to the Intercity Rail Passenger Account established by section 24316 of title
49, United States Code, the amount of tax paid by Amtrak under chapter 31 or 32 on any fuel used in the operation of intercity passenger trains. For purposes of subsection (k)(1) of this section, payment to the Intercity Rail Passenger Account shall be considered to be a payment described in subsection (k)(1)(A)."

SEC. 1003. FUNDING FOR THE NATIONAL RAILROAD PASSENGER CORPORATION FROM THE MASS TRANSIT ACCOUNT.

Section 9503(c) of the Internal Revenue Code of 1986 (relating to establishment of mass transit account) is amended by adding at the end thereof the following:

``(6) Transfers to the Intercity Rail Passenger Account. Notwithstanding any other provision of law to the contrary, the Secretary shall transfer from the Mass Transit Account to the Intercity Rail Passenger Account established under section 24316 of title 49, United States Code, the intercity rail passenger portion of the amounts appropriated under subsection (b) of this section which are attributable to taxes under sections 4041 and 4081 imposed on or after October 1, 1995. The intercity rail passenger portion is appropriated for the benefit of Amtrak for expenditure in accordance with the provisions of such section 24316. For pur-
poses of this paragraph; the term "intercity rail passenger portion" means the amount attributable to 0.5 cent per gallon of the 2 cents per gallon to be transferred to the Mass Transit Account pursuant to paragraph (2) of this subsection. The Secretary shall transfer such funds at the end of each quarter of a fiscal year.”.

SEC. 1004. SAFEHARBOR LEASING OF INTERCITY RAIL PASSENGER EQUIPMENT AND FACILITIES.

(a) In General.—Section 168 of the Internal Revenue Code of 1986 (relating to accelerated cost recovery system) is amended by adding at the end thereof the following new subsection:

``(k) Leased Property Used in the Provision of Intercity Rail Passenger Service——

``(1) In General.—In the case of an agreement with respect to qualified leased property, if all of the parties to the agreement characterize such agreement as a lease and elect to have the provisions of this subsection apply with respect to such agreement; and if the requirements of paragraph (2) are met, then, for purposes of this subtitle, such agreement shall be treated as a lease entered into by the parties in the course of carrying on a trade or business and the lessor shall be treated as the owner of
the property and the lessee shall be treated as the
lessee of the property.

**(2) Certain requirements must be met.—**
The requirements of this subsection are met if the
minimum investment of the lessor at the time the
property is first placed in service under the lease
and at all times during the lease term is not less
than 10 percent of the adjusted basis of such prop-
erty and the term of the lease (including any exten-
sions) does not exceed the greater of 90 percent of
the useful life of such property or 150 percent of the
class life of such property.

**(3) No other factors taken into ac-
count.—** If the requirements of paragraphs (1) and
(2) are met with respect to any transaction de-
scribed in paragraph (1), no other factors shall be
taken into account in making a determination as to
whether paragraph (1) applies with respect to the
transaction.

**(4) Qualified leased property.—** For pur-
poses of this subsection, the term ‘qualified leased
property’ means property used in the provision of
intercity rail passenger service which was leased
within 3 months after such property was placed in
service by the lessee and with respect to which the
adjusted basis of the lessor does not exceed the adjusted basis of the lessee at the time of the lease.

(ii)(5) MINIMUM INVESTMENT.—For purposes of paragraph (1), the term ‘minimum investment’ means the amount the lessor has at risk with respect to the property (other than financing from the lessee or a related party of the lessee). For the purposes of the preceding sentence, an agreement between the lessor and lessee requiring either or both parties to purchase or sell the qualified leased property at some price (whether or not fixed in the agreement at the end of the lease term) shall not affect the amount the lessor is treated as having at risk with respect to the property.

(ii)(6) USE OF PRIVATE ACTIVITY BOND FINANCING.—A private activity bond issued to finance qualified leased property shall be deemed to be a qualified bond (within the meaning of section 141) for the purpose of section 103 and subpart A of part IV of this chapter. Qualified leased property financed by a private activity bond shall not be deemed to be ‘tax-exempt bond financed property’ or ‘tax-exempt use property’ for the purpose of subsection (g).
"(7) CHARACTERIZATION BY PARTIES.—For purposes of this subsection, any determination as to whether a person is a lessor or lessee, or whether property is leased, shall be made on the basis of the characterization of such person or property under the agreement described in paragraph (1).

"(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations consistent with such purposes which limit the aggregate amount of (and timing of) deductions and credits in respect of qualified leased property to the aggregate amount (and the timing) allowable without regard to this subsection.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to property placed in service after the date of enactment of this Act.

SEC. 1005. ISSUANCE OF TAX-EXEMPT DEBT.

(a) In General.—Section 150 of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by adding at the end thereof the following:

"(f) INTERCITY RAIL PASSENGER BONDS.—

"(1) In General.—For purposes of this part and section 103—
"(A) Treatment as state or local bond.—An intercity rail passenger bond shall be treated as a State or local bond.

"(B) Definition of intercity rail passenger bond.—The term ‘intercity rail passenger bond’ means a bond issued by an intercity passenger railroad created under an Act of Congress (or a related party thereto) 95 percent or more of the net proceeds of which are to be used by the issuer (or a related party) in the trade or business of operating an intercity passenger railroad, including the acquisition, construction, reconstruction, or improvement of property to be used for such purposes and other general purposes of the issuer. Issuance of not more than $100,000,000 per year shall be treated as a State or local bond under this section.

"(C) Not federally guaranteed or private activity bond.—An intercity rail passenger bond shall not be treated as a private activity bond or as Federally guaranteed.

"(2) Coordination with other provisions.—
“(A) Treatment of bond-financed property.—Property acquired with the proceeds of intercity rail passenger bonds shall not be treated as tax-exempt bond financed property for purposes of section 168.

“(B) Treatment of issuer.—The issuer of such a bond shall not be treated as a tax-exempt entity for any purpose of this title solely because of such issuance.

“(C) Treatment of lease agreements.—An agreement entered into by the issuer of such a bond which otherwise qualifies as a lease of property to the issuer under this title will be treated as a lease, notwithstanding any use of proceeds of the bonds to finance the acquisition of leased property.”.

(b) Effective Date.—The amendment made by subsection (a) applies to bonds issued after the date of enactment of this Act.