

110TH CONGRESS  
1ST SESSION

# H. R. 1300

To strengthen national security and promote energy independence by reducing the Nation's reliance on foreign oil, improving vehicle technology and efficiency, increasing the distribution of alternative fuels, bolstering rail infrastructure, and expanding access to public transit.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 1, 2007

Mr. HOYER (for himself, Mr. CLYBURN, Mr. DINGELL, Mr. OBERSTAR, Mr. SKELTON, Mr. GORDON of Tennessee, Mr. FRANK of Massachusetts, Mr. FILNER, Mr. LANTOS, Mr. REYES, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ALLEN, Mr. ALTMIRE, Mr. ARCURI, Ms. BEAN, Ms. BERKLEY, Mr. BERMAN, Mr. BERRY, Mr. BISHOP of Georgia, Mr. BISHOP of New York, Mr. BLUMENAUER, Ms. BORDALLO, Mr. BOUCHER, Ms. CORRINE BROWN of Florida, Mr. CARDOZA, Mr. CARNAHAN, Ms. CARSON, Mr. CLEAVER, Mr. COHEN, Mr. CROWLEY, Mr. CUMMINGS, Mr. DAVIS of Illinois, Mr. LINCOLN DAVIS of Tennessee, Mrs. DAVIS of California, Mr. DEFazio, Ms. DEGETTE, Mr. DELAHUNT, Ms. DELAURO, Mr. DOYLE, Mr. ELLISON, Mr. ENGEL, Mr. ETHERIDGE, Mr. FATTAH, Ms. GIFFORDS, Mr. GONZALEZ, Mr. GRIJALVA, Mr. HASTINGS of Florida, Ms. HERSETH, Mr. HIGGINS, Mr. HINCHEY, Mr. HOLT, Mr. HONDA, Mr. ISRAEL, Mr. JOHNSON of Georgia, Mr. KENNEDY, Mr. KILDEE, Ms. KILPATRICK, Mr. KIND, Mr. KUCINICH, Mr. LARSEN of Washington, Mr. LEVIN, Mr. LEWIS of Georgia, Mr. LIPINSKI, Mrs. MALONEY of New York, Ms. MATSUI, Mrs. MCCARTHY of New York, Ms. MCCOLLUM of Minnesota, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MCNERNEY, Mr. MILLER of North Carolina, Mr. MORAN of Virginia, Mrs. NAPOLITANO, Ms. NORTON, Mr. PAYNE, Mr. PERLMUTTER, Mr. POMEROY, Mr. PRICE of North Carolina, Mr. ROSS, Mr. ROTHMAN, Mr. RUPPERSBERGER, Mr. SARBANES, Mr. SCHIFF, Ms. SCHWARTZ, Mr. SCOTT of Georgia, Mr. SCOTT of Virginia, Mr. SERRANO, Mr. SIRES, Mr. SMITH of Washington, Mr. SNYDER, Mr. STUPAK, Ms. SUTTON, Mrs. TAUSCHER, Mr. TIERNEY, Mr. TOWNS, Mr. UDALL of Colorado, Mr. VAN HOLLEN, Mr. WALZ of Minnesota, Ms. WASSERMAN SCHULTZ, Ms. WATSON, and Mr. WYNN) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Armed Services, Oversight and Government Reform, Rules, Science and Technology, Ways and Means, House Administration, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in

each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To strengthen national security and promote energy independence by reducing the Nation's reliance on foreign oil, improving vehicle technology and efficiency, increasing the distribution of alternative fuels, bolstering rail infrastructure, and expanding access to public transit.

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; TABLE OF CONTENTS.**

4        (a) SHORT TITLE.—This Act may be cited as the  
 5        “Program for Real Energy Security Act” or the  
 6        “PROGRESS Act”.

7        (b) TABLE OF CONTENTS.—The table of contents of  
 8        this Act is as follows:

Sec. 1. Short title; table of contents.  
 Sec. 2. Findings.

TITLE I—NATIONAL COMMISSION ON ENERGY SECURITY AND  
 TRANSITION TO NEW FUELS

Sec. 101. Establishment.  
 Sec. 102. Duties of Commission.  
 Sec. 103. Membership.  
 Sec. 104. Initial meeting.  
 Sec. 105. Administrative assistance.  
 Sec. 106. Powers of Commission.  
 Sec. 107. Reports.  
 Sec. 108. Action on report recommendations.  
 Sec. 109. Termination.

TITLE II—NEW MANHATTAN CENTER FOR HIGH EFFICIENCY  
 VEHICLES

Sec. 201. Findings.

- Sec. 202. Definitions.
- Sec. 203. New Manhattan Center for High Efficiency Vehicles.
- Sec. 204. Advisory council.
- Sec. 205. Responsibilities.
- Sec. 206. Export of high-efficiency vehicle manufacturing.
- Sec. 207. Protection of information.
- Sec. 208. Authorization on appropriations.
- Sec. 209. Advanced battery loan guarantee program.
- Sec. 210. Domestic manufacturing conversion grant program.

#### TITLE III—BIOFUELS INFRASTRUCTURE DEVELOPMENT

- Sec. 301. Biofuels infrastructure development.

#### TITLE IV—GOVERNMENT USE AND DIVERSITY OF SUPPLY

- Sec. 401. Renewable fuel regulations.
- Sec. 402. Grants for cellulosic ethanol production.
- Sec. 403. Standard specifications for biodiesel.
- Sec. 404. Requirement for greater use of alternative fuels in Federal fleet.
- Sec. 405. Requirement for Inspector General investigations relating to alternative fuel use and supply in Federal agencies and regulations.
- Sec. 406. Report on vehicles and infrastructure for alternative fuel use.
- Sec. 407. Funds set aside for alternative fuel infrastructure.
- Sec. 408. Authority for Department of Defense to enter into long-term contracts to procure biobased fuel and unconventional fuel.
- Sec. 409. Federal support for plug-in hybrid electric vehicles.
- Sec. 410. Congressional alternative fuel use in vehicles.

#### TITLE V—TRANSIT PROMOTION AND RAIL INFRASTRUCTURE DEVELOPMENT

##### Subtitle A—Transit

- Sec. 501. Increase and expansion of employer-provided mass transit fringe benefits.
- Sec. 502. Grants to improve public transportation services.
- Sec. 503. Study of fuel savings from intelligent transportation systems.

##### Subtitle B—Secure Access for Commuter Rail

- Sec. 511. Short title.
- Sec. 512. Findings.
- Sec. 513. Rail transit access.
- Sec. 514. Rail transportation policy.

##### Subtitle C—Intercity Passenger Rail and Rail Bond Program

- Sec. 521. Capital assistance for intercity passenger rail service; State rail plans.
- Sec. 522. State rail plans.
- Sec. 523. Rail cooperative research program.
- Sec. 524. High-speed intercity rail facility bonds.
- Sec. 525. Tax credit to holders of qualified high-speed rail infrastructure bonds.

##### Subtitle D—Energy Supply and Freight Rail

- Sec. 531. Short title.
- Sec. 532. Capital grants for railroad track.

Sec. 541. Reliability of railroad transportation of energy supplies.

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

3 (1) The United States dependence on foreign  
4 petroleum poses a serious risk to our national secu-  
5 rity and our economic well-being. The United States  
6 must immediately develop a proactive energy strat-  
7 egy that includes the promotion of energy efficiency  
8 and the investment in alternative and new energy  
9 technologies.

10 (2) America should achieve energy independ-  
11 ence by reducing its reliance on oil from the Middle  
12 East and other unstable regions of the world by de-  
13 veloping emerging technologies that work in synergy  
14 with the existing energy infrastructure. A sustained  
15 investment in research and development is crucial to  
16 creating cutting-edge technologies that allow us to  
17 develop clean, sustainable energy alternatives and  
18 capitalize on America's vast renewable natural re-  
19 sources.

20 (3) The Federal Government should lead the  
21 Nation in an effort to substantially reduce the use  
22 of petroleum based fuels by rapidly expanding pro-  
23 duction and distribution of synthetic and biobased  
24 fuels, such as ethanol derived from cellulosic sources,

1 and by deploying new engine technologies for fuel-  
2 flexible, hybrid, plug-in hybrid, and biodiesel vehi-  
3 cles.

4 (4) The Nation will be more secure by making  
5 a concerted effort to improve the diversity and reli-  
6 ability of the Nation's energy resources and trans-  
7 portation fuels. We must make greater investments  
8 in renewable energy, alternative fuels such as bio-  
9 mass, and efficiency improvements to answer our  
10 growing demand for energy.

11 (5) The Federal Government should undertake  
12 a complete review of regulations that may affect  
13 supply and bottlenecks that create regional emer-  
14 gencies that threaten the well-being of our economy  
15 and the health and safety of our citizens. We must  
16 make every effort to use all of our energy sources,  
17 making each a cleaner, safer contributor to the Na-  
18 tion's energy resources.

19 (6) Despite the expenditure of billions of dollars  
20 on homeland security since 9/11, the American peo-  
21 ple are still vulnerable to attack by terrorists at  
22 home. Recent natural disasters have also under-  
23 scored the vulnerability and critical importance of  
24 energy supply to the Nation's economic vitality. Our

1 energy facilities, transportation systems, and critical  
2 infrastructure must be adequately secured.

3 (7) Not only must our energy infrastructure be  
4 secured, but Americans must feel safe in utilizing  
5 mass transit systems. Transit provides an alter-  
6 native form of commuting, reduces the use of oil and  
7 gasoline, and plays a key role in moving Americans  
8 and their families in times of emergencies as well.  
9 Increasing security for mass transit through addi-  
10 tional funding for rail, bus, and subway security is  
11 part of the Nation's energy security.

12 **TITLE I—NATIONAL COMMIS-**  
13 **SION ON ENERGY SECURITY**  
14 **AND TRANSITION TO NEW**  
15 **FUELS**

16 **SEC. 101. ESTABLISHMENT.**

17 There is established a commission to be known as the  
18 “National Commission on Energy Security and Transition  
19 to New Fuels” (in this title referred to as the “Commis-  
20 sion”).

21 **SEC. 102. DUTIES OF COMMISSION.**

22 The Commission shall make recommendations to the  
23 Congress and the President for preserving the national en-  
24 ergy security in the event of a terrorist attack or natural  
25 disaster, and for reducing United States dependence on

1 foreign oil according to a schedule for national energy  
2 independence over the next 5, 10, 15, and 20 years. The  
3 Commission shall focus on regional approaches to achiev-  
4 ing such goals, taking into account regional differences in  
5 energy supply and demand, and shall—

6           (1) address fuel supply and infrastructure needs  
7           to support the development of wide-scale use of al-  
8           ternative fueled vehicles, including flexible-fuel vehi-  
9           cles, electric hybrid vehicles, advanced diesel engines,  
10          and hydrogen fueled vehicles, for passenger cars,  
11          commercial fleets, and industrial vehicles;

12          (2) identify vulnerabilities in energy infrastruc-  
13          ture, such as overreliance on refining capacity con-  
14          centrated in areas susceptible to hurricane damage,  
15          and recommend actions to remedy or mitigate such  
16          vulnerabilities;

17          (3) propose legislative actions to—

18                 (A) promote efficiency and biomass and  
19                 other alternative resource use, including the de-  
20                 velopment of biofuels, battery, and composite  
21                 material technologies; and

22                 (B) pursue near-term options to reduce  
23                 transportation fuel demand, such as expanded  
24                 use of public transit; and

1           (4) propose Federal, State, and local fiscal and  
2           regulatory changes to accomplish the purposes de-  
3           scribed in this subsection, and develop uniform codes  
4           and other tools for use by governments to accom-  
5           plish those purposes.

6 **SEC. 103. MEMBERSHIP.**

7           (a) NUMBER AND APPOINTMENT.—

8           (1) IN GENERAL.—The Commission shall con-  
9           sist of—

10                   (A) 6 members appointed by the Speaker  
11                   of the House of Representatives, including—

12                           (i) 1 appointed in consultation with  
13                           the chairman of the Committee on Energy  
14                           and Commerce;

15                           (ii) 1 appointed in consultation with  
16                           the chairman of the Committee on Trans-  
17                           portation and Infrastructure;

18                           (iii) 1 appointed in consultation with  
19                           the chairman of the Committee on Agri-  
20                           culture;

21                           (iv) 1 appointed in consultation with  
22                           the chairman of the Committee on Over-  
23                           sight and Government Reform;

1 (v) 1 appointed in consultation with  
2 the chairman of the Committee on Science  
3 and Technology; and

4 (vi) 1 appointed in consultation with  
5 the chairman of the Committee on Armed  
6 Services;

7 (B) 6 members appointed by the minority  
8 leader of the House of Representatives, includ-  
9 ing—

10 (i) 1 appointed in consultation with  
11 the ranking minority member of the Com-  
12 mittee on Energy and Commerce;

13 (ii) 1 appointed in consultation with  
14 the ranking minority member of the Com-  
15 mittee on Transportation and Infrastruc-  
16 ture;

17 (iii) 1 appointed in consultation with  
18 the ranking minority member of the Com-  
19 mittee on Agriculture;

20 (iv) 1 appointed in consultation with  
21 the ranking minority member of the Com-  
22 mittee on Oversight and Government Re-  
23 form;

1 (v) 1 appointed in consultation with  
2 the ranking minority member of the Com-  
3 mittee on Science and Technology; and

4 (vi) 1 appointed in consultation with  
5 the chairman of the Committee on Armed  
6 Services;

7 (C) 6 members appointed by the majority  
8 leader of the Senate, including—

9 (i) 1 appointed in consultation with  
10 the chairman of the Committee on Com-  
11 merce, Science, and Transportation;

12 (ii) 1 appointed in consultation with  
13 the chairman of the Committee on Energy  
14 and Natural Resources;

15 (iii) 1 appointed in consultation with  
16 the chairman of the Committee on Home-  
17 land Security and Governmental Affairs;  
18 and

19 (iv) 1 appointed in consultation with  
20 the chairman of the Committee on Armed  
21 Services;

22 (D) 6 members appointed by the minority  
23 leader of the Senate, including—

24 (i) 1 appointed in consultation with  
25 the ranking minority member of the Com-

1                   committee on Commerce, Science, and Trans-  
2                   portation;

3                   (ii) 1 appointed in consultation with  
4                   the ranking minority member of the Com-  
5                   mittee on Energy and Natural Resources;

6                   (iii) 1 appointed in consultation with  
7                   the ranking minority member of the Com-  
8                   mittee on Homeland Security and Govern-  
9                   mental Affairs; and

10                  (iv) 1 appointed in consultation with  
11                  the chairman of the Committee on Armed  
12                  Services; and

13                  (E) 12 members appointed by the Presi-  
14                  dent, including—

15                   (i) 1 appointed in consultation with  
16                   the Secretary of Energy;

17                   (ii) 1 appointed in consultation with  
18                   the Secretary of Transportation;

19                   (iii) 1 appointed in consultation with  
20                   the Secretary of Commerce;

21                   (iv) 1 appointed in consultation with  
22                   the Secretary of Agriculture; and

23                   (v) 1 appointed in consultation with  
24                   the Administrator of the Environmental  
25                   Protection Agency.

1 (2) APPOINTMENT PRINCIPLES.—

2 (A) CHAIRMAN.—The President shall des-  
3 ignate 1 member appointed under paragraph  
4 (1)(E) to be Chairman of the Commission.

5 (B) CONSULTATION.—At least 3 of the ap-  
6 pointments by the President shall be made in  
7 consultation with the bipartisan national asso-  
8 ciations representing elected State and local  
9 governmental officials.

10 (C) LIMITATION ON PARTY MEMBER-  
11 SHIP.—Not more than 3 of the members ap-  
12 pointed by the President under paragraph  
13 (1)(E), other than members appointed under  
14 clauses (i) through (v) of that subparagraph,  
15 shall be members of the same political party as  
16 the President.

17 (D) BALANCE.—Each person appointing  
18 members of the Commission under paragraph  
19 (1) shall seek to achieve a balance of Commis-  
20 sion members among representatives of appro-  
21 priate Federal, State, and local government  
22 agencies, industry, academia, and nonprofit  
23 stakeholder organizations, and among diverse  
24 geographical areas.

1 (b) VACANCIES.—Any vacancy occurring before the  
2 termination of the Commission shall be filled in the same  
3 manner as the original appointment.

4 (c) COMPENSATION.—

5 (1) IN GENERAL.—Except as provided in para-  
6 graph (2), members of the Commission shall serve  
7 without pay.

8 (2) TRAVEL EXPENSES.—Each member shall  
9 receive travel expenses, including per diem in lieu of  
10 subsistence, in accordance with applicable provisions  
11 under chapter I of chapter 57 of title 5, United  
12 States Code.

13 (d) RECOMMENDATIONS.—The Commission may only  
14 make recommendations if 75 percent or more of its mem-  
15 bership approve those recommendations.

16 **SEC. 104. INITIAL MEETING.**

17 The Commission shall hold its initial meeting not  
18 later than 60 days after the date of enactment of this Act.

19 **SEC. 105. ADMINISTRATIVE ASSISTANCE.**

20 (a) IN GENERAL.—The Secretary of Energy shall  
21 provide to the Commission any administrative assistance  
22 necessary for the Commission to carry out its duties under  
23 this title.

1 (b) EXPERTS AND CONSULTANTS.—The Commission  
2 may procure temporary and intermittent services under  
3 section 3109(b) of title 5, United States Code.

4 (c) STAFF OF FEDERAL AGENCIES.—Upon request  
5 of the Commission, the head of any Federal department  
6 or agency may detail, on a reimbursable basis, any of the  
7 personnel of that department or agency to the Commission  
8 to assist it in carrying out its duties under this title.

9 **SEC. 106. POWERS OF COMMISSION.**

10 (a) HEARINGS AND SESSIONS.—The Commission  
11 may, for the purpose of carrying out this title, hold hear-  
12 ings, sit and act at times and places, take testimony, and  
13 receive evidence as the Commission considers appropriate.

14 (b) POWERS OF MEMBERS AND AGENTS.—Any mem-  
15 ber or agent of the Commission may, if authorized by the  
16 Commission, take any action which the Commission is au-  
17 thorized to take by this section.

18 (c) OBTAINING OFFICIAL DATA.—The Commission  
19 may secure directly from any department or agency of the  
20 United States information necessary to enable it to carry  
21 out this title. Upon request of the Chairperson of the Com-  
22 mission, the head of that department or agency shall fur-  
23 nish that information to the Commission.

24 (d) MAILS.—The Commission may use the United  
25 States mails in the same manner and under the same con-

1 ditions as other departments and agencies of the United  
2 States.

3 (e) SUBPOENA POWER.—

4 (1) IN GENERAL.—The Commission may issue  
5 subpoenas requiring the attendance and testimony of  
6 witnesses and the production of any evidence relat-  
7 ing to any matter which the Commission is empow-  
8 ered to investigate by this title. The attendance of  
9 witnesses and the production of evidence may be re-  
10 quired from any place within the United States at  
11 any designated place of hearing within the United  
12 States.

13 (2) FAILURE TO OBEY A SUBPOENA.—If a per-  
14 son refuses to obey a subpoena issued under para-  
15 graph (1), the Commission may apply to a United  
16 States district court for an order requiring that per-  
17 son to appear before the Commission to give testi-  
18 mony, produce evidence, or both, relating to the  
19 matter under investigation. The application may be  
20 made within the judicial district where the hearing  
21 is conducted or where that person is found, resides,  
22 or transacts business. Any failure to obey the order  
23 of the court may be punished by the court as civil  
24 contempt.

1           (3) SERVICE OF SUBPOENAS.—The subpoenas  
2 of the Commission shall be served in the manner  
3 provided for subpoenas issued by a United States  
4 district court under the Federal Rules of Civil Pro-  
5 cedure for the United States district courts.

6           (4) SERVICE OF PROCESS.—All process of any  
7 court to which application is made under paragraph  
8 (2) may be served in the judicial district in which  
9 the person required to be served resides or may be  
10 found.

11 **SEC. 107. REPORTS.**

12           (a) INITIAL REPORT.—Not later than 3 months after  
13 the first meeting of the Commission, the Commission shall  
14 transmit to the President and the Congress and initial re-  
15 port containing such recommendations as the Commission  
16 has been able to prepare at that time.

17           (b) FINAL REPORT.—Not later than 6 months after  
18 transmittal of the report under subsection (a), the Com-  
19 mission shall transmit a final report to the President and  
20 the Congress. The final report shall contain a detailed  
21 statement of the findings and conclusions of the Commis-  
22 sion, together with its recommendations.

23 **SEC. 108. ACTION ON REPORT RECOMMENDATIONS.**

24           (a) PRESIDENTIAL RESPONSE.—Not later than 30  
25 days after receiving a report from the Commission under

1 section 107(a) or (b), the President shall transmit to Con-  
2 gress a response consisting of either approval or dis-  
3 approval of each of the recommendations contained in the  
4 report from the Commission. Such response shall include  
5 an explanation for the disapproval of any such rec-  
6 ommendation.

7 (b) IMPLEMENTATION.—The appropriate Federal of-  
8 ficials shall, unless a joint resolution described in sub-  
9 section (c) is enacted pursuant to this section, implement  
10 all recommendations approved by the President under sub-  
11 section (a).

12 (c) TERMS OF THE RESOLUTION.—For purposes of  
13 subsection (b), the term “joint resolution” means only a  
14 joint resolution which is introduced within the 10-day pe-  
15 riod beginning on the date on which the President trans-  
16 mits the response to the Congress under subsection (a),  
17 and—

18 (1) which does not have a preamble;

19 (2) the matter after the resolving clause of  
20 which is as follows “That Congress disapproves the  
21 recommendations of the National Commission on  
22 Energy Security and Transition to New Fuels as  
23 submitted by the President on \_\_\_\_\_”, the  
24 blank space being filled in with the appropriate date;  
25 and

1           (3) the title of which is as follows: “Joint reso-  
2           lution disapproving the recommendations of the Na-  
3           tional Commission on Energy Security and Transi-  
4           tion to New Fuels”.

5           (d) REFERRAL.—A resolution described in subsection  
6 (c) that is introduced in the House of Representatives  
7 shall be referred to the appropriate committees of the  
8 House of Representatives. A resolution described in sub-  
9 section (c) introduced in the Senate shall be referred to  
10 the appropriate committees of the Senate.

11          (e) DISCHARGE.—If the committee to which a resolu-  
12 tion described in subsection (c) is referred has not re-  
13 ported such resolution (or an identical resolution) by the  
14 end of the 20-day period beginning on the date on which  
15 the President transmits the response to the Congress  
16 under subsection (a), such committee shall be, at the end  
17 of such period, discharged from further consideration of  
18 such resolution, and such resolution shall be placed on the  
19 appropriate calender of the House involved.

20          (f) CONSIDERATION.—(1) On or after the third day  
21 after the date on which the committee to which such a  
22 resolution is referred has reported, or has been discharged  
23 (under subsection (e)) from further consideration of, such  
24 a resolution, it is in order (even though a previous motion  
25 to the same effect has been disagreed to) for any Member

1 of the respective House to move to proceed to the consider-  
2 ation of the resolution. A Member may make the motion  
3 only on the day after the calender day on which the Mem-  
4 ber announces to the House concerned the Member's in-  
5 tention to make the motion, except that, in the case of  
6 the House of Representatives, the motion may be made  
7 without such prior announcement if the motion is made  
8 by direction of the committee to which the resolution was  
9 referred. All points of order against the resolution (and  
10 against consideration of the resolution) are waived. The  
11 motion is highly privileged in the House of Representatives  
12 and is privileged in the Senate and is not debatable. The  
13 motion is not subject to amendment, or to a motion to  
14 postpone, or to a motion to proceed to the consideration  
15 of other business. A motion to reconsider the vote by  
16 which the motion is agreed to or disagreed to shall not  
17 be in order. If a motion to proceed to the consideration  
18 of the resolution is agreed to, the respective House shall  
19 immediately proceed to consideration of the joint resolu-  
20 tion without intervening motion, order, or other business,  
21 and the resolution shall remain the unfinished business of  
22 the respective House until disposed of.

23 (2) Debate on the resolution, and on all debatable  
24 motions and appeals in connection therewith, shall be lim-  
25 ited to not more than 2 hours, which shall be divided

1 equally between those favoring and those opposing the res-  
2 olution. An amendment to the resolution is not in order.  
3 A motion to postpone, or a motion to proceed to the con-  
4 sideration of other business, or a motion to recommit the  
5 resolution is not in order. A motion to reconsider the vote  
6 by which the resolution is agreed to or disagreed to is not  
7 in order.

8       (3) Immediately following the conclusion of the de-  
9 bate on a resolution described in subsection (c) and a sin-  
10 gle quorum call at the conclusion of the debate if re-  
11 quested in accordance with the rules of the appropriate  
12 House, the vote on final passage of the resolution shall  
13 occur.

14       (4) Appeals from the decisions of the Chair relating  
15 to the application of the rules of the Senate or the House  
16 of Representatives, as the case may be, to the procedure  
17 relating to a resolution described in subsection (c) shall  
18 be decided without debate.

19       (g) CONSIDERATION BY OTHER HOUSE.—(1) If, be-  
20 fore the passage by one House of a resolution of that  
21 House described in subsection (c), that House receives  
22 from the other House a resolution described in subsection  
23 (c), then the following procedures shall apply:

24               (A) The resolution of the other House shall not  
25       be referred to a committee and may not be consid-

1       ered in the House receiving it except in the case of  
2       final passage as provided in subparagraph (B)(ii).

3               (B) With respect to a resolution described in  
4       subsection (c) of the House receiving the resolu-  
5       tion—

6                       (i) the procedure in that House shall be  
7                       the same as if no resolution had been received  
8                       from the other House; but

9                       (ii) the vote on final passage shall be on  
10                      the resolution of the other House.

11       (2) Upon disposition of the resolution received from  
12       the other House, it shall no longer be in order to consider  
13       the resolution that originated in the receiving House.

14       (h) RULES OF THE SENATE AND HOUSE.—This sec-  
15       tion is enacted by Congress—

16                      (1) as an exercise of the rulemaking power of  
17       the Senate and House of Representatives, respec-  
18       tively, and as such it is deemed a part of the rules  
19       of each House, respectively, but applicable only with  
20       respect to the procedure to be followed in that  
21       House in the case of a resolution described in sub-  
22       section (c), and it supersedes other rules only to the  
23       extent that it is inconsistent with such rules; and

24                      (2) with full recognition of the constitutional  
25       right of either House to change the rules (so far as

1 relating to the procedure of that House) at any time,  
2 in the same manner, and to the same extent as in  
3 the case of any other rule of that House.

4 **SEC. 109. TERMINATION.**

5 The Commission shall terminate 60 days after trans-  
6 mitting its final report pursuant to section 107(b).

7 **TITLE II—NEW MANHATTAN**  
8 **CENTER FOR HIGH EFFI-**  
9 **CIENCY VEHICLES**

10 **SEC. 201. FINDINGS.**

11 The Congress finds that—

12 (1) private, academic, and government research  
13 and development resources need to be focused and  
14 coordinated to accomplish the rapid commercializa-  
15 tion and deployment of technologies and resources  
16 needed to achieve energy independence;

17 (2) a project similar to the Manhattan Project  
18 is needed to bring national attention to the need for  
19 energy independence and to move the United States  
20 beyond its reliance on oil and gasoline;

21 (3) an independent entity is needed to identify  
22 the areas where scientific breakthroughs and govern-  
23 ment investment are best focused, in coordination  
24 with private and academic efforts, to encourage the  
25 commercial development of viable vehicle and fuel

1 technologies in areas such as efficiency, biomass,  
2 and hydrogen that could play a role in reducing de-  
3 mand for oil and meeting growing domestic eco-  
4 nomic needs for fuel;

5 (4) such an entity could encourage the develop-  
6 ment of those technologies, help break through pri-  
7 vate sector risk barriers to their development, and  
8 advise Congress and the President on policies needed  
9 to foster their use; and

10 (5) such an effort would improve the Nation’s  
11 energy and national security by lowering demand for  
12 petroleum, increasing domestic fuel supplies, cre-  
13 ating jobs, and improving the environment.

14 **SEC. 202. DEFINITIONS.**

15 In this title—

16 (1) **ADVISORY COUNCIL.**—The term “Advisory  
17 Council” means the Advisory Council established  
18 under section 204.

19 (2) **CENTER.**—The term “Center” means the  
20 New Manhattan Center for High Efficiency Vehicles  
21 established under section 203(c).

22 (3) **RESEARCH.**—The term “research” includes  
23 research on the technologies, materials, and manu-  
24 facturing processes required for high efficiency vehi-  
25 cles.

1 **SEC. 203. NEW MANHATTAN CENTER FOR HIGH EFFI-**  
2 **CIENCY VEHICLES.**

3 (a) SUMMIT.—Not later than 60 days after the date  
4 of enactment of this Act, the President shall convene a  
5 summit of the principal advisors and directors of all pro-  
6 grams in the Federal Government related to the develop-  
7 ment of vehicle (or related and component parts) tech-  
8 nologies and alternative fuels, including ethanol and  
9 biofuels, electric drive, and hydrogen. Such summit shall  
10 include leading researchers at the Federal laboratories and  
11 representatives of private sector partners, and affiliated  
12 labor unions, engaged in the production and manufac-  
13 turing of these vehicle and fuel technologies. The summit  
14 shall be for the purpose of—

15 (1) reviewing the progress and promise for each  
16 of these technologies toward increasing fuel econ-  
17 omy, the interrelationship of these technologies to  
18 each other, and additional funding resources needed  
19 to accelerate the progress of these programs toward  
20 improving efficiency and economy dramatically in  
21 the next decade, including review of technology de-  
22 veloped and lessons learned from the Federal Gov-  
23 ernment’s initiative known as the Partnership for a  
24 New Generation of Vehicles; and

1           (2) making recommendations as to the organi-  
2           zation and structure of the Center described in this  
3           section.

4           (b) PROGRAM.—The Secretary of Energy, in con-  
5           sultation with the Secretary of Defense, the Secretary of  
6           Transportation, and the Administrator of the Environ-  
7           mental Protection Agency, shall carry out a program con-  
8           sisting of a collaborative effort with industry, government,  
9           and academia to support research, development, dem-  
10          onstration, and commercial application activities related to  
11          high efficiency vehicles. Such program shall include exam-  
12          ination of motors, clutches, sensors, controllers, cooling  
13          systems, variable combustion engine technologies, flexible  
14          fueled and dual fuel fueling systems, hybrid electric flexi-  
15          ble fuel vehicles, electric drive accessory components, and  
16          advanced batteries in an effort to—

17               (1) reduce production costs to the lowest pos-  
18               sible level, with special emphasis on identifying elec-  
19               tric drive components and systems that can be ad-  
20               vanced through research and development toward  
21               commercialization;

22               (2) increase fuel economy; and

23               (3) coordinate related Federal research, devel-  
24               opment, and commercialization programs in accord-

1           ance with the recommendations resulting from the  
2           summit convened under subsection (a).

3           (c) GRANTS.—Such program shall consist of grants  
4 to—

5                   (1) the Center, made in accordance with the  
6           memorandum of understanding entered into under  
7           subsection (e);

8                   (2) researchers, including Center participants;

9                   (3) small businesses;

10                  (4) National Laboratories; and

11                  (5) institutions of higher education.

12           (d) CENTER.—Not later than 90 days after the date  
13 of enactment of this Act, the Secretary of Energy shall  
14 competitively select a consortium to serve as the New  
15 Manhattan Center for High Efficiency Vehicles, which  
16 shall consist of participants who are private, for-profit  
17 United States firms, open to large and small businesses,  
18 that, as a group, are broadly representative of United  
19 States high efficiency vehicle research, development, infra-  
20 structure, and manufacturing expertise as a whole.

21           (e) MEMORANDUM OF UNDERSTANDING.—The Sec-  
22 retary of Energy shall enter into a memorandum of under-  
23 standing with the Center for the purposes of this title. The  
24 memorandum of understanding shall require the following:

25                   (1) That the Center shall have—

1 (A) a charter agreed to by all representa-  
2 tives of the automotive industry that are par-  
3 ticipating members of the Center; and

4 (B) an annual operating plan that is devel-  
5 oped in the consultation with the Secretary of  
6 Energy and the Advisory Council.

7 (2) That the total amount of funds made avail-  
8 able to the Center by Federal, State, and local gov-  
9 ernment agencies for any fiscal year for the support  
10 of the research and development activities of the  
11 Center under this section may not exceed 50 percent  
12 of the total cost of such activities.

13 (3) That the Center, in conducting research  
14 and development activities pursuant to the memo-  
15 randum of understanding, cooperate with and draw  
16 on the expertise of the National Laboratories of the  
17 Department of Energy and of colleges and univer-  
18 sities in the United States in the field of automotive  
19 manufacturing technology.

20 (4) That an independent, commercial auditor be  
21 retained—

22 (A) to determine the extent to which the  
23 funds made available to the Center by the  
24 United States for the research and development  
25 activities of the Center have been expended in

1 a manner that is consistent with the purposes  
2 of this title, the charter of the Center, and the  
3 annual operating plan of the Center; and

4 (B) to submit to the Secretary of Energy,  
5 the Center, and the Comptroller General of the  
6 United States an annual report containing the  
7 findings and determinations of such auditor.

8 (5) That the Center take all steps necessary to  
9 maximize the expeditious and timely transfer of  
10 technology developed and owned by the Center to the  
11 participants in the Center in accordance with the  
12 agreement between the Center and those partici-  
13 pants and for the purpose of improving the high effi-  
14 ciency vehicle manufacturing productivity of United  
15 States automotive firms.

16 (f) COST SHARING.—In carrying out this section, the  
17 Secretary of Energy shall require cost sharing in accord-  
18 ance with section 988 of the Energy Policy Act of 2005  
19 (42 U.S.C. 16352).

20 (g) RIGHTS TO INTELLECTUAL PROPERTY.—The  
21 Secretary of Energy may require (in accordance with sec-  
22 tion 202(a)(ii) of title 35, United States Code, section 152  
23 of the Atomic Energy Act of 1954 (42 U.S.C. 2182), and  
24 section 9 of the Federal Nonnuclear Energy Research and

1 Development Act of 1974 (42 U.S.C. 5908)) that for any  
2 new invention developed under this title—

3           (1) the Center participants who are active par-  
4           ticipants in research, development, and demonstra-  
5           tion activities related to the high efficiency vehicle  
6           technologies that are covered by this section shall be  
7           granted the first option to negotiate with the inven-  
8           tion owner, at least in the field of high efficiency ve-  
9           hicles, nonexclusive licenses and royalties on terms  
10          that are reasonable under the circumstances;

11          (2) for 1 year after a United States patent is  
12          issued for the invention—

13                (A) the patent holder shall not negotiate  
14                any license or royalty with any entity that is  
15                not a participant in the Center; and

16                (B) the patent holder shall negotiate non-  
17                exclusive licenses and royalties in good faith  
18                with any interested participant in the Center;  
19                and

20          (3) such other terms are applied as the Sec-  
21          retary determines are required to promote acceler-  
22          ated commercialization of inventions made under  
23          this section.

24          (h) NATIONAL ACADEMY REVIEW.—The Secretary of  
25          Energy shall enter into an arrangement with the National

1 Academy of Sciences to conduct periodic reviews of the  
2 program under this section.

3 **SEC. 204. ADVISORY COUNCIL.**

4 (a) ESTABLISHMENT.—There is established the Advi-  
5 sory Council on Federal Participation in the New Manhat-  
6 tan Center for High Efficiency Vehicles.

7 (b) FUNCTIONS.—(1) The Advisory Council shall ad-  
8 vise the Center and the Secretary of Energy on appro-  
9 priate technology goals for the research and development  
10 activities of the Center, and shall develop a plan to achieve  
11 those goals. The plan shall provide for the development  
12 of high-quality, high-yield high efficiency vehicle manufac-  
13 turing technologies that meet the national energy security  
14 and commercial needs of the United States.

15 (2) The Advisory Council shall—

16 (A) conduct an annual review of the activities  
17 of the Center for the purpose of determining the ex-  
18 tent of the progress made by the Center in carrying  
19 out the plan referred to in paragraph (1); and

20 (B) on the basis of its determinations under  
21 subparagraph (A), submit to the Center any rec-  
22 ommendations for modification of the plan or the  
23 technological goals in the plan considered appro-  
24 priate by the Advisory Council.

1           (3) The Advisory Council shall review the research  
2 activities of the Center and shall submit to the Secretary  
3 of Energy and the Congress an annual report containing  
4 a description of the extent to which the Center is achieving  
5 its research and development goals.

6           (c) MEMBERSHIP.—The Advisory Council shall be  
7 composed of 12 members as follows:

8                   (1) The Under Secretary for Science of the De-  
9                   partment of Energy.

10                   (2) The Administrator of the Research and In-  
11                   novative Technology Administration.

12                   (3) The Director of the National Science Foun-  
13                   dation.

14                   (4) The Chairman of the Federal Laboratory  
15                   Consortium for Technology Transfer.

16                   (5) Eight members appointed by the President  
17                   as follows:

18                           (A) Three members who are eminent indi-  
19                           viduals in the automotive technology and manu-  
20                           facturing industry.

21                           (B) Two members who are eminent indi-  
22                           viduals in the fields of alternative fuels tech-  
23                           nology.

24                           (C) Two members who represent organized  
25                           labor in these related manufacturing fields.

1                   (D) One member who represents consumer  
2                   interests in energy efficiency and conservation.

3           (d) TERMS OF MEMBERSHIP.—Each member of the  
4   Advisory Council appointed under subsection (c)(5) shall  
5   be appointed for a term of three years, except that of the  
6   members first appointed, two shall be appointed for a term  
7   of one year, two shall be appointed for a term of two years,  
8   and three shall be appointed for a term of three years,  
9   as designated by the President at the time of appointment.  
10   A member of the Advisory Council may serve after the  
11   expiration of the member’s term until a successor has  
12   taken office.

13           (e) VACANCIES.—A vacancy in the Advisory Council  
14   shall not affect its powers but, in the case of a member  
15   appointed under subsection (c)(5), shall be filled in the  
16   same manner as the original appointment was made. Any  
17   member appointed to fill a vacancy for an unexpired term  
18   shall be appointed for the remainder of such term.

19           (f) QUORUM.—Seven members of the Advisory Coun-  
20   cil shall constitute a quorum.

21           (g) MEETINGS.—The Advisory Council shall meet at  
22   the call of the Chairman or a majority of its members.

23           (h) COMPENSATION.—(1) Each member of the Advi-  
24   sory Council shall serve without compensation.



1 Emergency Economic Powers Act, and shall not be subject  
2 to the Arms Export Control Act.

3 **SEC. 207. PROTECTION OF INFORMATION.**

4 (a) FREEDOM OF INFORMATION ACT.—Section 552  
5 of title 5, United States Code, shall not apply to informa-  
6 tion obtained by the Federal Government on a confidential  
7 basis under this title.

8 (b) INFORMATION.—Notwithstanding any other pro-  
9 vision of law, intellectual property, trade secrets, and tech-  
10 nical data owned and developed by the Center or any of  
11 the participants in the Center may not be disclosed by any  
12 officer or employee of the Department of Energy except  
13 as provided in the provision included in the memorandum  
14 of understanding pursuant to section 202(d).

15 **SEC. 208. AUTHORIZATION ON APPROPRIATIONS.**

16 There are authorized to be appropriated to the Sec-  
17 retary of Energy for carrying out this title \$500,000,000  
18 for each of the fiscal years 2008 through 2017.

19 **SEC. 209. ADVANCED BATTERY LOAN GUARANTEE PRO-**  
20 **GRAM.**

21 (a) ESTABLISHMENT OF PROGRAM.—The Secretary  
22 of Energy shall establish a program to provide guarantees  
23 of loans by private institutions for the construction of fa-  
24 cilities for the manufacture of advanced vehicle batteries

1 that are developed and produced in the United States, in-  
2 cluding advanced lithium ion batteries.

3 (b) REQUIREMENTS.—The Secretary may provide a  
4 loan guarantee under subsection (a) to an applicant if—

5 (1) without a loan guarantee, credit is not  
6 available to the applicant under reasonable terms or  
7 conditions sufficient to finance the construction of a  
8 facility described in subsection (a);

9 (2) the prospective earning power of the appli-  
10 cant and the character and value of the security  
11 pledged provide a reasonable assurance of repayment  
12 of the loan to be guaranteed in accordance with the  
13 terms of the loan; and

14 (3) the loan bears interest at a rate determined  
15 by the Secretary to be reasonable, taking into ac-  
16 count the current average yield on outstanding obli-  
17 gations of the United States with remaining periods  
18 of maturity comparable to the maturity of the loan.

19 (c) CRITERIA.—In selecting recipients of loan guar-  
20 antees from among applicants, the Secretary shall give  
21 preference to proposals that—

22 (1) meet all applicable Federal and State per-  
23 mitting requirements;

24 (2) are most likely to be successful; and

1           (3) are located in local markets that have the  
2           greatest need for the facility.

3           (d) MATURITY.—A loan guaranteed under subsection  
4 (a) shall have a maturity of not more than 20 years.

5           (e) TERMS AND CONDITIONS.—The loan agreement  
6 for a loan guaranteed under subsection (a) shall provide  
7 that no provision of the loan agreement may be amended  
8 or waived without the consent of the Secretary.

9           (f) ASSURANCE OF REPAYMENT.—The Secretary  
10 shall require that an applicant for a loan guarantee under  
11 subsection (a) provide an assurance of repayment in the  
12 form of a performance bond, insurance, collateral, or other  
13 means acceptable to the Secretary in an amount equal to  
14 not less than 20 percent of the amount of the loan.

15          (g) GUARANTEE FEE.—The recipient of a loan guar-  
16 antee under subsection (a) shall pay the Secretary an  
17 amount determined by the Secretary to be sufficient to  
18 cover the administrative costs of the Secretary relating to  
19 the loan guarantee.

20          (h) FULL FAITH AND CREDIT.—The full faith and  
21 credit of the United States is pledged to the payment of  
22 all guarantees made under this section. Any such guar-  
23 antee made by the Secretary shall be conclusive evidence  
24 of the eligibility of the loan for the guarantee with respect  
25 to principal and interest. The validity of the guarantee

1 shall be incontestable in the hands of a holder of the guar-  
2 anteed loan.

3 (i) REPORTS.—Until each guaranteed loan under this  
4 section has been repaid in full, the Secretary shall annu-  
5 ally submit to Congress a report on the activities of the  
6 Secretary under this section.

7 (j) AUTHORIZATION OF APPROPRIATIONS.—There  
8 are authorized to be appropriated such sums as are nec-  
9 essary to carry out this section.

10 (k) TERMINATION OF AUTHORITY.—The authority of  
11 the Secretary to issue a loan guarantee under subsection  
12 (a) terminates on the date that is 10 years after the date  
13 of enactment of this Act.

14 **SEC. 210. DOMESTIC MANUFACTURING CONVERSION**  
15 **GRANT PROGRAM.**

16 Section 712 of the Energy Policy Act of 2005 (42  
17 U.S.C. 16062) is amended—

18 (1) in subsection (a)—

19 (A) by inserting “and components thereof,  
20 including vehicles and components derived from  
21 the activities of the New Manhattan Center for  
22 High Efficiency Vehicles” after “sales of effi-  
23 cient hybrid and advanced diesel vehicles”;

1 (B) by inserting “, plug-in electric hybrid,  
2 flexible-fuel,” after “production of efficient hy-  
3 brid”; and

4 (C) by adding at the end the following:  
5 “Priority shall be given to the refurbishment or  
6 retooling of manufacturing facilities that have  
7 recently ceased operation or will cease operation  
8 in the near future.”; and

9 (2) by striking subsection (b) and inserting the  
10 following:

11 “(b) COORDINATION WITH STATE AND LOCAL PRO-  
12 GRAMS.—The Secretary may coordinate implementation of  
13 this section with State and local programs designed to ac-  
14 complish similar goals, including the retention and retrain-  
15 ing of skilled workers from the such manufacturing facili-  
16 ties, including by establishing matching grant arrange-  
17 ments.

18 “(c) AUTHORIZATION OF APPROPRIATIONS.—There  
19 are authorized to be appropriated to the Secretary for car-  
20 rying out this section—

21 “(1) \$200,000,000 for each of the fiscal years  
22 2008 through 2012; and

23 “(2) such sums as may be necessary for each  
24 of the fiscal years 2013 through 2016.”.

1 **TITLE III—BIOFUELS INFRA-**  
2 **STRUCTURE DEVELOPMENT**

3 **SEC. 301. BIOFUELS INFRASTRUCTURE DEVELOPMENT.**

4 (a) GRANT PROGRAM.—The Secretary of Energy  
5 shall establish a program for making grants for providing  
6 assistance to retail and wholesale motor fuel dealers or  
7 other entities for the installation, replacement, or conver-  
8 sion of motor fuel storage and dispensing infrastructure  
9 to be used exclusively to store and dispense biobased fuel  
10 (as defined in section 303(2) of the Biomass Research and  
11 Development Act of 2000 (7 U.S.C. 8101 note)), including  
12 E-85 gasoline, biodiesel, or biodiesel blended fuel. Such  
13 infrastructure may include equipment used in the blend-  
14 ing, distribution, and transport of such fuels.

15 (b) RETAIL TECHNICAL AND MARKETING ASSIST-  
16 ANCE.—The Secretary of Energy shall enter into contracts  
17 with entities with demonstrated experience in assisting re-  
18 tail fueling stations in installing refueling systems and  
19 marketing alternative fuels nationally, for the provision of  
20 technical and marketing assistance to recipients of grants  
21 under this section. Such assistance shall include—

22 (1) technical advice for compliance with applica-  
23 ble Federal and State environmental requirements;

24 (2) help in identifying supply sources and se-  
25 curing long-term contracts; and

1           (3) provision of public outreach, education, and  
2           labeling materials.

3           (c) ALLOCATION.—Grants under this section shall be  
4           made to applicants based upon criteria that will maximize  
5           the availability and use of the alternative fuel, and that  
6           will ensure that alternative fuels are available across the  
7           country, such as population, number of vehicles that can  
8           operate on E-85, number of diesel powered vehicles, num-  
9           ber of retail fuel outlets, and saturation of vehicles capable  
10          of operating on the fuels described in subsection (a). The  
11          Secretary of Energy may also reserve funds appropriated  
12          for carrying out this section to support biofuels infrastruc-  
13          ture development projects with a cost of greater than  
14          \$1,000,000, that are of national significance. The Sec-  
15          retary shall reserve funds appropriated for the biofuels in-  
16          frastructure development grant program for technical and  
17          marketing assistance described in subsection (b). Grants  
18          shall be prioritized based on criteria that include—

19                (1) the public demand for each alternative fuel  
20                in a particular geographic area based on State reg-  
21                istration records showing the number of automobiles  
22                that can be operated with alternative fuel; and

23                (2) the opportunity to create or expand cor-  
24                ridors of alternative fuel stations along interstate or  
25                State highways.

1 (d) COMBINED APPLICATIONS.—States and local gov-  
2 ernment entities and nonprofit entities may apply for as-  
3 sistance under this section on behalf of a group of retailers  
4 within a certain geographic area, or to carry out regional  
5 or multistate deployment projects. Any such application  
6 shall certify the availability and details of a program to  
7 match the Federal grant as required under subsection (e)  
8 and list the retail locations that would receive the funds.

9 (e) LIMITATIONS.—Assistance provided under this  
10 section shall not exceed—

11 (1) 33 percent of the estimated cost of the in-  
12 stallation, replacement, or conversion of motor fuel  
13 storage and dispensing infrastructure; or

14 (2) \$180,000 for a combination of equipment at  
15 any one retail outlet.

16 (f) OPERATION OF ALTERNATIVE FUEL STATIONS.—  
17 The Secretary shall establish rules that set forth require-  
18 ments for grant recipients under this section that include  
19 providing to the public the alternative fuel, establishing  
20 a marketing plan that informs consumers of the price and  
21 availability of the alternative fuel, clearly labeling the dis-  
22 pensers and related equipment, and providing periodic re-  
23 ports on the status of the alternative fuel sales, the type  
24 and amount of the alternative fuel dispensed at each loca-  
25 tion, and the average price of such fuel.

1 (g) NOTIFICATION REQUIREMENTS.—Not later than  
2 the date on which each alternative fuel station begins to  
3 offer alternative fuel to the public, the grant recipient that  
4 used grant funds to construct or upgrade such station  
5 shall notify the Secretary of Energy of such opening. The  
6 Secretary of Energy shall add each new alternative fuel  
7 station to the alternative fuel station locator on its  
8 Website when it receives notification under this sub-  
9 section.

10 (h) INELIGIBILITY.—No person may receive assist-  
11 ance under this section and receive a credit under section  
12 30C of the Internal Revenue Code of 1986.

13 (i) AUTHORIZATION OF APPROPRIATIONS.—There  
14 are authorized to be appropriated to the Secretary of En-  
15 ergy for carrying out this section \$200,000,000 for each  
16 of the fiscal years 2008 through 2012, and such sums as  
17 may be necessary thereafter.

## 18 **TITLE IV—GOVERNMENT USE**

## 19 **AND DIVERSITY OF SUPPLY**

### 20 **SEC. 401. RENEWABLE FUEL REGULATIONS.**

21 The Secretary of Energy shall issue regulations under  
22 section 212 of the Clean Air Act (as added by section 1511  
23 of the Energy Policy Act of 2005) to provide for cellulosic  
24 ethanol production loan guarantees and issue a request for

1 proposals under subsection (b) of such section 212 within  
2 90 days after the enactment of this Act.

3 **SEC. 402. GRANTS FOR CELLULOSIC ETHANOL PRODUC-**  
4 **TION.**

5 Subsection (s) of section 211 of the Clean Air Act  
6 is redesignated as subsection (t) and subsection (r) of such  
7 section 211 (as added by section 1512 of the Energy Pol-  
8 icy Act of 2005), relating to conversion assistance for cel-  
9 lulosic biomass, waste-derived ethanol, and approved re-  
10 newable fuels, is redesignated as subsection (s) and  
11 amended as follows:

12 (1) By adding the following new subparagraphs  
13 at the end of paragraph (3):

14 “(D) \$500,000,000 for fiscal year 2009.

15 “(E) \$500,000,000 for fiscal year 2010.”.

16 (2) By adding the following new paragraph at  
17 the end thereof:

18 “(5) GEOGRAPHICAL DISPERSION.—The grants  
19 under this subsection shall be made to recipients dis-  
20 tributed regionally across the country in such man-  
21 ner that an eligible production facility is constructed  
22 in each PADD (and each of the subpads in PADD  
23 1) throughout the country with each such facility  
24 using, to the extent possible, a different feedstock  
25 material.”.

1 **SEC. 403. STANDARD SPECIFICATIONS FOR BIODIESEL.**

2 Section 211 of the Clean Air Act is amended by add-  
3 ing the following new subsection at the end thereof:

4 “(u) STANDARD SPECIFICATIONS FOR BIODIESEL.—

5 Not later than 180 days after the enactment of this sub-  
6 section, the Administrator shall promulgate regulations es-  
7 tablishing a series of uniform per gallon fuel standards  
8 for categories of biodiesel fuel and designate an identifica-  
9 tion number for fuel meeting each the standard in each  
10 such category so that vehicle manufacturers are able to  
11 design engines to use biodiesel fuel meeting one or more  
12 of such standards.”.

13 **SEC. 404. REQUIREMENT FOR GREATER USE OF ALTER-**  
14 **NATIVE FUELS IN FEDERAL FLEET.**

15 Section 400AA(a)(3)(E) of the Energy Policy and  
16 Conservation Act (42 U.S.C. 6374(a)(3)(E)) is amended  
17 by adding at the end the following new clauses:

18 “(iii) The report under clause (ii) also shall include  
19 an identification of the geographic areas where the alter-  
20 native fuel required to be used in dual fueled vehicles ac-  
21 quired pursuant to this section is not reasonably available,  
22 as certified under clause (i)(I), and a list of such areas  
23 where it would be most beneficial, in order of priority, to  
24 install a pump for dispensing a fuel known as E-85 or  
25 biodiesel fuel for such vehicles.

1       “(iv) The Secretary may not grant a waiver under  
2 clause (i) in any fiscal year following a fiscal year in which  
3 the report under clause (ii) is not filed. In the case of  
4 an agency that receives a waiver under clause (i) for 2  
5 successive fiscal years, the agency shall submit to the Sec-  
6 retary and Congress recommendations for solving the  
7 problems causing the need for the waiver.”.

8 **SEC. 405. REQUIREMENT FOR INSPECTOR GENERAL INVES-**  
9                   **TIGATIONS RELATING TO ALTERNATIVE**  
10                   **FUEL USE AND SUPPLY IN FEDERAL AGEN-**  
11                   **CIES AND REGULATIONS.**

12       (a) **REQUIREMENT.**—The Inspector General of each  
13 department or agency shall conduct a comprehensive in-  
14 vestigation into alternative fuel use and supply within the  
15 department or agency to identify the reasons why alter-  
16 native fuels are not being used in all dual fueled vehicles  
17 operated by the department or agency.

18       (b) **MATTERS COVERED.**—At a minimum, the inves-  
19 tigation required under subsection (a) shall cover the fol-  
20 lowing:

21               (1) The location of the dual fueled vehicles op-  
22 erated by the department or agency and the location  
23 of the nearest alternative fuel pumps.

24               (2) Whether dual fueled vehicles operated by  
25 the department or agency would make better use of

1 alternative fuel if the vehicles were redeployed to  
2 other geographic areas.

3 (3) The steps undertaken by the head of the de-  
4 partment or agency to ensure that the dual fueled  
5 vehicles use alternative fuel, including—

6 (A) whether such use is a priority for the  
7 department or agency; and

8 (B) whether and how often waivers are  
9 sought and obtained under section  
10 400AA(a)(3)(E) of the Energy Policy and Con-  
11 servation Act (42 U.S.C. 6374(a)(3)(E)).

12 (4) The manner in which use of alternative fuel  
13 is kept track of in vehicles leased by the department  
14 or agency.

15 (c) REPORT.—The Inspector General of each depart-  
16 ment or agency shall submit to Congress a report on the  
17 investigation conducted under subsection (a) not later  
18 than January 3, 2008. The report shall include the results  
19 of the investigation and recommendations by the Inspector  
20 General for increased use of alternative fuels in the dual  
21 fueled vehicles operated by the department or agency.

22 **SEC. 406. REPORT ON VEHICLES AND INFRASTRUCTURE**  
23 **FOR ALTERNATIVE FUEL USE.**

24 Not later than 90 days after the date of the enact-  
25 ment of this Act, the Secretary of Defense shall submit

1 to Congress a report that identifies, across the Armed  
2 Forces, the locations and concentrations of flex-fuel vehi-  
3 cles in the current and planned inventory of the Depart-  
4 ment of Defense, as well as the diesel engine vehicles and  
5 equipment, so as to prioritize the location and placement  
6 of new alternative fuel infrastructure to maximize the use  
7 of alternative fuels (such as E-85 and biodiesel) in vehi-  
8 cles acquired under the requirements of the Energy Policy  
9 Act of 1992. The report shall also identify the locations  
10 that are currently served by contract or commercial avail-  
11 ability, and contain recommendations for future coordina-  
12 tion and use of commercial outlets of alternative fuels.

13 **SEC. 407. FUNDS SET ASIDE FOR ALTERNATIVE FUEL IN-**  
14 **FRASTRUCTURE.**

15 (a) **PERCENTAGE REQUIRED.**—Of the amounts ap-  
16 propriated or otherwise made available for a fiscal year  
17 for activities of the Defense Energy Support Center of the  
18 Defense Logistics Agency for noncombat fuel infrastruc-  
19 ture, not less than 5 percent shall be available only for  
20 alternative fuel (such as E-85 and biodiesel) infrastruc-  
21 ture.

22 (b) **TERMINATION.**—The requirement of subsection  
23 (a) terminates as of the date on which the Secretary of  
24 Defense submits to Congress the Secretary's certification  
25 that the Department of Defense can run all noncombat

1 flex-fuel vehicles in the inventory of the Department on  
2 alternative fuels (such as E-85 and biodiesel).

3 **SEC. 408. AUTHORITY FOR DEPARTMENT OF DEFENSE TO**  
4 **ENTER INTO LONG-TERM CONTRACTS TO**  
5 **PROCURE BIOBASED FUEL AND UNCONVEN-**  
6 **TIONAL FUEL.**

7 Section 2922d of title 10, United States Code, is  
8 amended—

9 (1) in subsection (b), by inserting after “cov-  
10 ered fuel” the following: “, biobased fuel, or coal-to-  
11 liquid fuel”;

12 (2) in subsection (d)—

13 (A) by inserting after “covered fuel” the  
14 following: “, biobased fuel, or coal-to-liquid  
15 fuel”; and

16 (B) by striking “1 or more years” and in-  
17 serting “up to 25 years”; and

18 (3) by adding at the end the following new sub-  
19 section:

20 “(f) DEFINITIONS.—In this section:

21 “(1) The term ‘biobased fuel’ has the meaning  
22 provided in section 303(2) of the Biomass Research  
23 and Development Act of 2000 (7 U.S.C. 8101  
24 note)), including E-85 gasoline, biodiesel, or bio-  
25 diesel blended fuel.

1           “(2) The term ‘coal-to-liquid fuel’ means a fuel  
2           produced from a coal-to-liquid process or technology  
3           in a coal-to-liquid facility.

4           “(3) The term ‘coal-to-liquid’ means—

5                   “(A) with respect to a process or tech-  
6                   nology, the use of the coal resources of the  
7                   United States, using the class of chemical reac-  
8                   tions known as Fischer-Tropsch, to produce  
9                   synthetic fuel suitable for transportation; and

10                   “(B) with respect to a facility, the portion  
11                   of a facility related to the Fischer-Tropsch  
12                   process, or related to Fischer-Tropsch finished  
13                   fuel production, that ensures the capture, trans-  
14                   portation, and sequestration of byproducts of  
15                   the use of coal at the facility, including carbon  
16                   emissions.”.

17 **SEC. 409. FEDERAL SUPPORT FOR PLUG-IN HYBRID ELEC-**  
18 **TRIC VEHICLES.**

19           (a) AMENDMENT.—Section 301 of the Energy Policy  
20 Act of 1992 (42 U.S.C. 13211) is amended—

21                   (1) in paragraph (8)—

22                           (A) by striking “or” at the end of subpara-  
23                           graph (A);

24                           (B) by inserting “or” at the end of sub-  
25                           paragraph (B); and

1 (C) by adding after subparagraph (B) the  
2 following new subparagraph:

3 “(C) a hybrid electric vehicle;”;

4 (2) by redesignating paragraphs (11), (12),  
5 (13), and (14) as paragraphs (12), (13), (14), and  
6 (16) respectively;

7 (3) by inserting after paragraph (10) the fol-  
8 lowing new paragraph:

9 “(11) the term ‘hybrid electric vehicle’ means a  
10 vehicle that—

11 “(A) can operate on either liquid combus-  
12 tible fuel or electric power provided by an on-  
13 board battery; and

14 “(B) utilizes regenerative power capture  
15 technology to recover energy expended in brak-  
16 ing the vehicle for use in recharging the bat-  
17 tery;”;

18 (4) in paragraph (14), as so redesignated by  
19 paragraph (2) of this subsection, by striking “and”  
20 at the end; and

21 (5) by inserting after paragraph (14), as so re-  
22 designated by paragraph (2) of this subsection, the  
23 following new paragraph:

24 “(15) the term ‘plug-in hybrid electric vehicle’  
25 means a hybrid electric vehicle that can operate sole-

1 ly on electric power for a minimum of 20 miles  
2 under city driving conditions, and that is capable of  
3 recharging its battery from an offboard electricity  
4 source; and”.

5 (b) PLUG-IN HYBRID ELECTRIC VEHICLE MATCHING  
6 GRANTS.—

7 (1) ESTABLISHMENT.—The Secretary of En-  
8 ergy shall establish a competitive grant program to  
9 provide not more than 25 grants annually to State  
10 governments, local governments, metropolitan trans-  
11 portation authorities, or combinations thereof for the  
12 purposes of procuring and testing plug-in hybrid  
13 electric vehicles.

14 (2) APPLICATIONS.—

15 (A) REQUIREMENTS.—The Secretary shall  
16 issue requirements for applying for grants  
17 under the program. The Secretary shall require  
18 that applications, at a minimum, include a de-  
19 scription of how data will be—

20 (i) collected on the—

21 (I) performance of the vehicle or  
22 vehicles and the components, includ-  
23 ing the battery, energy management,  
24 and charging systems, under various

1 driving speeds, trip ranges, traffic,  
2 and other driving conditions;

3 (II) costs of the vehicle or vehi-  
4 cles, including acquisition, operating,  
5 and maintenance costs, and how the  
6 project or projects will be self-sus-  
7 taining after Federal assistance is  
8 completed; and

9 (III) emissions of the vehicle or  
10 vehicles, including greenhouse gases,  
11 and the amount of petroleum dis-  
12 placed as a result of the project or  
13 projects; and

14 (ii) summarized for dissemination to  
15 the Department of Energy, other grantees,  
16 and the public.

17 (B) PARTNERS.—An applicant under sub-  
18 paragraph (A) may carry out a project or  
19 projects in partnership with one or more private  
20 entities.

21 (C) RESTRICTIONS.—The Secretary shall  
22 award grants under this subsection with geo-  
23 graphic diversity such that there is at least one  
24 recipient government partner in every PADD,

1 and in every Sub-PADD in the case of PADD

2 1.

3 (c) REPORT.—The Secretary of Energy shall report  
4 to Congress on the potential for Federal Government pro-  
5 curement and acquisition of plug-in electric hybrid vehi-  
6 cles, including a proposed schedule for the acquisition of  
7 such vehicles, and including possible participation in com-  
8 mitment programs such as the National Plug-in Partners  
9 Campaign.

10 **SEC. 410. CONGRESSIONAL ALTERNATIVE FUEL USE IN VE-**  
11 **HICLES.**

12 (a) FINDINGS.—The Congress finds that—

13 (1) Members of Congress should follow their  
14 own example of setting forth legislation that encour-  
15 ages the use of alternatively fueled vehicles;

16 (2) in 2005, the total cost of automobile leases  
17 for Members of Congress surpassed \$1,000,000, and  
18 a collective switch to alternative fuel vehicles, hybrid  
19 vehicles, or vehicles powered by biofuels could poten-  
20 tially save American taxpayers thousands of dollars  
21 annually; and

22 (3) the General Services Administration has al-  
23 ready purchased over 68,000 alternative fueled vehi-  
24 cles for the use of Federal customers, more than any  
25 other organization in the United States.

1 (b) STUDY.—Not later than 6 months after the date  
2 of enactment of this Act, the Comptroller General shall  
3 transmit to the Congress the results of a study, along with  
4 recommendations, as to how best to enable Members of  
5 Congress to procure alternative fuel vehicles for official  
6 use.

7 (c) LEASING ADVICE.—The Chief Administrative Of-  
8 ficer of the House of Representatives and the Secretary  
9 of the Senate shall advise Members of their respective bod-  
10 ies as to the available options to lease alternative fuel vehi-  
11 cles, including vehicles treated as alternative fuels vehicles  
12 by the Administrator of General Services under standards  
13 established by the Administrator, any other vehicles pow-  
14 ered by alternative fuel or synthetic fuel, and any other  
15 vehicles powered in whole or in part by flexible-fuel oper-  
16 ating systems, biofuel operating systems, electrical oper-  
17 ating systems, or hybrid-electrical operating systems.

18 **TITLE V—TRANSIT PROMOTION**  
19 **AND RAIL INFRASTRUCTURE**  
20 **DEVELOPMENT**

21 **Subtitle A—Transit**

22 **SEC. 501. INCREASE AND EXPANSION OF EMPLOYER-PRO-**  
23 **VIDED MASS TRANSIT FRINGE BENEFITS.**

24 (a) EQUALIZATION OF LIMITATION FOR EMPLOYER-  
25 PROVIDED MASS TRANSIT FRINGE BENEFIT WITH LIMI-

1 TATION FOR EMPLOYER-PROVIDED PARKING FRINGE  
2 BENEFIT.—

3 (1) IN GENERAL.—Subparagraph (A) of section  
4 132(f)(2) of the Internal Revenue Code of 1986 is  
5 amended by striking “\$100” and inserting “\$175”.

6 (2) INFLATION ADJUSTMENT.—Subparagraph  
7 (A) of section 132(f)(6) of such Code is amended by  
8 striking the last sentence thereof.

9 (b) EXTENSION OF TRANSPORTATION FRINGE BEN-  
10 EFIT TO BICYCLE COMMUTERS.—

11 (1) IN GENERAL.—Paragraph (1) of section  
12 132(f) of the Internal Revenue Code of 1986 (relat-  
13 ing to general rule for qualified transportation  
14 fringe) is amended by adding at the end the fol-  
15 lowing:

16 “(D) Bicycle commuting allowance.”.

17 (2) BICYCLE COMMUTING ALLOWANCE DE-  
18 FINED.—Paragraph (5) of section 132(f) of such  
19 Code (relating to definitions) is amended by adding  
20 at the end the following:

21 “(F) BICYCLE COMMUTING ALLOWANCE.—

22 The term ‘bicycle commuting allowance’ means  
23 an amount provided to an employee for trans-  
24 portation on a bicycle if such transportation is

1           in connection with travel between the employ-  
2           ee’s residence and place of employment.”.

3           (3) LIMITATION ON EXCLUSION.—Subpara-  
4           graph (A) of section 132(f)(2) of such Code is  
5           amended by striking “subparagraphs (A) and (B)”  
6           and inserting “subparagraphs (A), (B), and (D)”.

7           (c) EFFECTIVE DATE.—The amendments made by  
8           this section shall apply to taxable years beginning after  
9           December 31, 2006.

10 **SEC. 502. GRANTS TO IMPROVE PUBLIC TRANSPORTATION**  
11 **SERVICES.**

12           (a) AUTHORIZATIONS OF APPROPRIATIONS.—

13           (1) URBANIZED AREA FORMULA GRANTS.—In  
14           addition to other amounts authorized or made avail-  
15           able, there is authorized to be appropriated  
16           \$2,000,000,000 for fiscal year 2008 to carry out  
17           section 5307 of title 49, United States Code.

18           (2) FORMULA GRANTS FOR OTHER THAN UR-  
19           BANIZED AREAS.—In addition to other amounts au-  
20           thorized or made available, there is authorized to be  
21           appropriated \$200,000,000 for fiscal year 2008 to  
22           carry out section 5311 of such title.

23           (b) USE OF FUNDS.—

24           (1) IN GENERAL.—Funds appropriated pursu-  
25           ant to this section shall be used for projects that will

1 expand or improve public transportation services  
2 provided by existing public transportation systems,  
3 as determined by the Secretary of Transportation.

4 (2) PRIORITY.—In awarding grants using funds  
5 appropriated pursuant to subsection (a)(2), the Sec-  
6 retary shall give priority to projects involving vehi-  
7 cles that use clean fuels or are powered by biofuels.

8 (c) MATCHING SHARE.—

9 (1) DEFERRAL.—In awarding a grant for a  
10 project using funds appropriated pursuant to sub-  
11 section (a), the Secretary may permit the recipient  
12 of the grant to defer payment of the non-Federal  
13 share of cost of the project for a period not to ex-  
14 ceed 2 fiscal years.

15 (2) LIMITATION.—The Secretary may permit  
16 such a deferral only if the Secretary determines that  
17 the deferral will not result in a decrease in the ag-  
18 gregate amount of funds provided by the recipient in  
19 a fiscal year for projects under section 5307 or 5311  
20 of such title, as appropriate, as compared to the pre-  
21 ceding fiscal year.

22 (d) AVAILABILITY OF FUNDS.—Funds appropriated  
23 pursuant to this section shall remain available until ex-  
24 pended.

1 **SEC. 503. STUDY OF FUEL SAVINGS FROM INTELLIGENT**  
2 **TRANSPORTATION SYSTEMS.**

3 Not later than 2 years after the date of enactment  
4 of this Act, the Secretary of Energy shall, in consultation  
5 with the Secretary of Transportation, report to Congress  
6 on the potential fuel savings from intelligent transpor-  
7 tation systems that help businesses and consumers to plan  
8 their travel and avoid delays. These systems may include  
9 web-based real-time transit information systems, conges-  
10 tion information systems, carpool information systems,  
11 parking information systems, freight route management,  
12 and traffic management systems. The report shall include  
13 analysis of fuel savings, analysis of system costs, assess-  
14 ment of local, State, and regional differences in applica-  
15 bility, and evaluation of case studies, best practices, and  
16 emerging technologies from both the private and public  
17 sector.

18 **Subtitle B—Secure Access for**  
19 **Commuter Rail**

20 **SEC. 511. SHORT TITLE.**

21 This subtitle may be cited as the “Transit Rail Ac-  
22 commodation Improvement and Needs Act”.

23 **SEC. 512. FINDINGS.**

24 The Congress finds that—

25 (1) modern and efficient fixed guideway trans-  
26 portation is important to the viability and well-being

1 of metropolitan areas and to the energy conservation  
2 and self-sufficiency goals of the United States;

3 (2) public convenience and necessity require the  
4 development of fixed guideway transportation sys-  
5 tems in metropolitan areas presently without such  
6 service, and the expansion of existing systems in  
7 metropolitan areas already receiving such service;  
8 and

9 (3) use of existing railroad trackage and rights-  
10 of-way in and around metropolitan areas provides a  
11 unique and valuable opportunity for the development  
12 and expansion of fixed guideway transportation fa-  
13 cilities with a minimum of disruption to the environ-  
14 ment and the surrounding community.

15 **SEC. 513. RAIL TRANSIT ACCESS.**

16 (a) AMENDMENT.—Part E of subtitle V of title 49,  
17 United States Code, is amended by adding at the end the  
18 following new chapter:

19 **“CHAPTER 285—RAIL TRANSIT ACCESS**

“Sec.

“28501. Definitions.

“28502. Shared use of rail carrier trackage by mass transportation authorities.

“28503. Shared use of rail rights-of-way by mass transportation authorities.

“28504. Applicability of other laws.

“28505. Standards for Board action.

20 **“§ 28501. Definitions**

21 “In this chapter—

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

3           “(2) the term ‘capital work’ means mainte-  
4           nance, restoration, reconstruction, capacity enhance-  
5           ment, or rehabilitation work on trackage that would  
6           be treated, in accordance with generally accepted ac-  
7           counting principles, as a capital item rather than an  
8           expense;

9           “(3) the term ‘fixed guideway transportation’  
10          means mass transportation (as defined in section  
11          5302(a)(7)) provided on, by, or using a fixed guide-  
12          way (as defined in section 5302(a)(4));

13          “(4) the term ‘mass transportation authority’  
14          means a local governmental authority (as defined in  
15          section 5302(a)(6)) established to provide, or make  
16          a contract providing for, fixed guideway transpor-  
17          tation;

18          “(5) the term ‘rail carrier’ means a person,  
19          other than a governmental authority, providing com-  
20          mon carrier railroad transportation for compensation  
21          subject to the jurisdiction of the Board under chap-  
22          ter 105;

23          “(6) the term ‘segregated fixed guideway facil-  
24          ity’ means a fixed guideway facility constructed  
25          within the railroad right-of-way of a rail carrier but

1 physically separate from trackage, including relo-  
2 cated trackage, within the right-of-way used by a  
3 rail carrier for freight transportation purposes; and

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

8 **“§ 28502. Shared use of rail carrier trackage by mass**  
9 **transportation authorities**

10 “(a) AUTHORITY.—If, after a reasonable period of  
11 negotiation, a mass transportation authority cannot reach  
12 agreement with a rail carrier to use trackage of, and have  
13 related services provided by, the rail carrier for purposes  
14 of fixed guideway transportation, the Board shall, upon  
15 application of the mass transportation authority or the rail  
16 carrier, and if the Board finds it necessary or useful to  
17 carry out this chapter—

18 “(1) order that the trackage be made available  
19 and the related services be provided to the mass  
20 transportation authority; and

21 “(2) prescribe reasonable terms and compensa-  
22 tion for use of the trackage and provision of the re-  
23 lated services, including the performance of capital  
24 work if the mass transportation authority has dem-  
25 onstrated that such capital work is required for effi-

1       cient and reliable passenger operations on the track-  
2       age to be used.

3       “(b) STANDARD FOR COMPENSATION; QUALITY OF  
4 SERVICE.—When prescribing reasonable compensation  
5 under subsection (a)(2), the Board shall consider alter-  
6 native cost allocation principles, including incremental cost  
7 and fully allocated cost, under rules promulgated by the  
8 Board within 6 months after the date of the enactment  
9 of the Transit Rail Accommodation Improvement and  
10 Needs Act. The Board shall consider quality of service by  
11 the rail carrier as a major factor when determining com-  
12 pensation for the use of the trackage and providing the  
13 related services.

14       “(c) TERMS OF OPERATION.—When prescribing rea-  
15 sonable terms under subsection (a)(2), the Board may pre-  
16 scribe the number of trains that may be operated by or  
17 for the mass transportation authority, the speeds at which  
18 such trains may be operated, and the trackage mainte-  
19 nance levels to be provided by the rail carrier.

20       “(d) ADDITIONAL TRAINS.—When a rail carrier and  
21 a mass transportation authority cannot agree to terms for  
22 the operation of additional trains by or for a mass trans-  
23 portation authority over a rail line of the carrier, the mass  
24 transportation authority or the rail carrier may apply to  
25 the Board for an order establishing such terms. If the

1 Board finds it reasonable to carry out this chapter, the  
2 Board shall order the rail carrier to allow operation of the  
3 requested additional trains on such terms as the Board  
4 finds reasonable under the circumstances.

5       “(e) TRACKAGE MAINTENANCE.—If a mass transpor-  
6 tation authority believes that maintenance or related cap-  
7 ital work of trackage operated by or for the mass transpor-  
8 tation authority has fallen below a necessary level to main-  
9 tain reliable service at speeds necessary to provide conven-  
10 ient and efficient mass transportation service, the mass  
11 transportation authority may, after notice to the rail car-  
12 rier and a sufficient period for maintenance or related cap-  
13 ital work improvements, apply to the Board for an order  
14 requiring the rail carrier to provide increased or improved  
15 maintenance or related capital work on the trackage. If  
16 the Board finds it reasonable to carry out this part, the  
17 Board shall order the rail carrier to provide such increased  
18 or improved maintenance or related capital work as the  
19 Board finds reasonable under the circumstances. The rem-  
20 edy available under this subsection shall be in addition to  
21 any contract rights that a mass transportation authority  
22 may possess with respect to trackage maintenance or re-  
23 lated capital work.

24       “(f) ACCELERATED SPEEDS.—If a rail carrier re-  
25 fuses to allow accelerated speeds for trains operated by

1 or for a mass transportation authority, the mass transpor-  
2 tation authority may apply to the Board for an order re-  
3 quiring the rail carrier to allow the accelerated speeds and  
4 related capital work required to permit operation at the  
5 accelerated speeds. The Board shall decide whether accel-  
6 erated speeds are practicable and which capital work  
7 would be required to make accelerated speeds practicable.  
8 The Board shall establish the maximum allowable speeds  
9 for trains operated by or for a mass transportation author-  
10 ity on terms the Board decides are reasonable.

11 “(g) PREFERENCE OVER FREIGHT TRANSPOR-  
12 TATION.—Except in an emergency, and consistent with  
13 subtitle E of title V of the PROGRESS Act and regula-  
14 tions issued thereunder, fixed guideway transportation  
15 provided by or for a mass transportation authority pursu-  
16 ant to an order issued under subsection (a) has preference  
17 over freight transportation in using a rail line, junction,  
18 or crossing unless the Board orders otherwise under this  
19 chapter. A rail carrier affected by this subsection may  
20 apply to the Board for relief. If the Board decides that  
21 preference for fixed guideway transportation materially  
22 will lessen the quality of freight transportation provided  
23 to shippers, the Board shall establish the rights of the rail  
24 carrier and the mass transportation authority on reason-  
25 able terms.



1           “(b) COMPENSATION AND TERMS.—A conveyance or-  
2       dered by the Board under this section shall be subject to  
3       the payment of just compensation and to such other rea-  
4       sonable terms as the Board may prescribe.

5       **“§ 28504. Applicability of other laws**

6           “(a) BOARD REVIEW OR APPROVAL.—Operations or  
7       conveyances undertaken pursuant to an order issued  
8       under section 28502 or 28503 are not subject to Board  
9       review or approval under subtitle IV of this title unless  
10      the Board, on a case-by-case basis, has determined that  
11      the mass transportation authority has assumed rights or  
12      obligations under such order to provide transportation  
13      subject to the jurisdiction of the Board under chapter 105.

14          “(b) CONTRACTUAL OBLIGATIONS FOR CLAIMS.—  
15      Nothing in this chapter shall be construed to limit a rail  
16      transportation provider’s right under section 28103(b) to  
17      enter into contracts that allocate financial responsibility  
18      for claims.

19      **“§ 28505. Standards for Board action**

20          “In proceedings under sections 28502 and 28503 the  
21      Board shall utilize, to the extent relevant and feasible, the  
22      principles, standards, and precedents utilized in pro-  
23      ceedings under sections 24308 and 24311(c) involving the  
24      National Railroad Passenger Corporation.”.

25          (b) CONFORMING AMENDMENTS.—

1           (1) LIMITATIONS ON RAIL PASSENGER TRANS-  
 2           PORTATION LIABILITY.—Section 28103(a) of title  
 3           49, United States Code, is amended by inserting “or  
 4           other fixed guideway transportation” after “com-  
 5           muter”.

6           (2) TABLE OF CHAPTERS.—The table of chap-  
 7           ters of subtitle V of title 49, United States Code, is  
 8           amended by adding after the item relating to chap-  
 9           ter 283 the following new item:

“285. RAIL TRANSIT ACCESS ..... 28501”.

10 **SEC. 514. RAIL TRANSPORTATION POLICY.**

11           Section 10101 of title 49, United States Code, is  
 12           amended—

13           (1) by striking “and” at the end of paragraph  
 14           (14);

15           (2) by striking the period at the end of para-  
 16           graph (15) and inserting “; and”; and

17           (3) by adding at the end the following new  
 18           paragraph:

19           “(16) to encourage and promote the operation  
 20           of safe, efficient, and reliable commuter rail pas-  
 21           senger service and other fixed guideway transpor-  
 22           tation systems, including operations where the serv-  
 23           ice will share lines, corridors, or other facilities with  
 24           freight railroads or with intercity rail passenger  
 25           service.”.

1       **Subtitle C—Intercity Passenger**  
 2       **Rail and Rail Bond Program**

3       **SEC. 521. CAPITAL ASSISTANCE FOR INTERCITY PAS-**  
 4       **SENGER RAIL SERVICE; STATE RAIL PLANS.**

5       (a) IN GENERAL.—Part C of subtitle V of title 49,  
 6       United States Code, is amended by inserting the following  
 7       after chapter 243:

“CHAPTER 244—INTERCITY PASSENGER RAIL SERVICE CORRIDOR  
 CAPITAL ASSISTANCE

“Sec.

“24401. Definitions.

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

“24403. Project management oversight.

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

“24405. Grant conditions.

“24406. Authorization of appropriations.

8       **“§ 24401. Definitions**

9       “In this chapter:

10           “(1) APPLICANT.—The term ‘applicant’ means  
 11           a State (including the District of Columbia), a group  
 12           of States, an Interstate Compact, or a public agency  
 13           established by one or more States and having re-  
 14           sponsibility for providing intercity passenger rail  
 15           service.

16           “(2) CAPITAL PROJECT.—The term ‘capital  
 17           project’ means a project or program in a State rail  
 18           plan developed under chapter 225 of this title for—

19                   “(A) acquiring, constructing, improving, or  
 20                   inspecting equipment or a facility for use in or

1 for the primary benefit of intercity passenger  
2 rail service, expenses incidental to the acquisi-  
3 tion or construction (including designing, engi-  
4 neering, location surveying, mapping, environ-  
5 mental studies, and acquiring rights-of-way),  
6 payments for the capital portions of rail track-  
7 age rights agreements, highway-rail grade  
8 crossing improvements related to intercity pas-  
9 senger rail service, security, mitigating environ-  
10 mental impacts, communication and signaliza-  
11 tion improvements, relocation assistance, ac-  
12 quiring replacement housing sites, and acquir-  
13 ing, constructing, relocating, and rehabilitating  
14 replacement housing;

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

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

20 “(D) the first-dollar liability costs for in-  
21 surance related to the provision of intercity pas-  
22 senger rail service under section 24404.

23 “(3) INTERCITY PASSENGER RAIL SERVICE.—  
24 The term ‘intercity passenger rail service’ means  
25 transportation services with the primary purpose of

1 passenger transportation between towns, cities and  
2 metropolitan areas by rail, including high-speed rail,  
3 as defined in section 24102.

4 **“§ 24402. Capital investment grants to support inter-**  
5 **city passenger rail service**

6 “(a) GENERAL AUTHORITY.—

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

12 “(2) The Secretary shall require that a grant  
13 under this section be subject to the terms, condi-  
14 tions, requirements, and provisions the Secretary de-  
15 cides are necessary or appropriate for the purposes  
16 of this section, including requirements for the dis-  
17 position of net increases in value of real property re-  
18 sulting from the project assisted under this section  
19 and shall prescribe procedures and schedules for the  
20 awarding of grants under this chapter, including ap-  
21 plication and qualification procedures and a record  
22 of decision on applicant eligibility. The Secretary  
23 shall issue a final rule establishing such procedures  
24 not later than 90 days after the date of enactment  
25 of this chapter.

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

2 “(1) The Secretary may not approve a grant for  
3 a project under this section unless the Secretary  
4 finds that the project is part of a State rail plan de-  
5 veloped under chapter 225 of this title and that the  
6 applicant or recipient has or will have the legal, fi-  
7 nancial, and technical capacity to carry out the  
8 project, satisfactory continuing control over the use  
9 of the equipment or facilities, and the capability and  
10 willingness to maintain the equipment or facilities.

11 “(2) An applicant shall provide sufficient infor-  
12 mation upon which the Secretary can make the find-  
13 ings required by this subsection.

14 “(3) If an applicant has not selected the pro-  
15 posed operator of its service competitively, the appli-  
16 cant shall provide written justification to the Sec-  
17 retary showing why the proposed operator is the  
18 best, taking into account price and other factors,  
19 and that use of the proposed operator will not un-  
20 necessarily increase the cost of the project.

21 “(c) PROJECT SELECTION CRITERIA.—The Sec-  
22 retary, in selecting the recipients of financial assistance  
23 to be provided under subsection (a), shall—

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

4           “(2) give preference to projects with high levels  
5 of estimated ridership, increased on-time perform-  
6 ance, reduced trip time, additional service frequency,  
7 or other significant service enhancements;

8           “(3) encourage intermodal connectivity through  
9 projects that provide direct connections between  
10 train stations, airports, bus terminals, subway sta-  
11 tions, ferry ports, and other modes of transpor-  
12 tation;

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

15           “(A) plans developed pursuant to the re-  
16 quirements of section 135 of title 23, United  
17 States Code; and

18           “(B) the national rail plan (if it is avail-  
19 able); and

20           “(5) favor the following kinds of projects:

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

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

1           “(C) Projects that have significant envi-  
2           ronmental benefits.

3           “(D) Projects that are—

4                   “(i) at a stage of preparation that all  
5                   pre-commencement compliance with envi-  
6                   ronmental protection requirements has al-  
7                   ready been completed; and

8                   “(ii) ready to be commenced.

9           “(E) Projects with positive economic and  
10           employment impacts.

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

13           “(G) Projects that have commitments of  
14           funding from non-Federal Government sources  
15           in a total amount that exceeds the minimum  
16           amount of the non-Federal contribution re-  
17           quired for the project.

18           “(H) Projects that involve donated prop-  
19           erty interests or services.

20           “(I) Projects that are identified by the  
21           Surface Transportation Board as necessary to  
22           improve the on time performance and reliability  
23           of intercity passenger rail under section  
24           24308(f).

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

7       “(e) LETTERS OF INTENT, FULL FUNDING GRANT  
8 AGREEMENTS, AND EARLY SYSTEMS WORK AGREE-  
9 MENTS.—

10           “(1) The Secretary may issue a letter of intent  
11 to an applicant announcing an intention to obligate,  
12 for a major capital project under this section, an  
13 amount from future available budget authority speci-  
14 fied in law that is not more than the amount stipu-  
15 lated as the financial participation of the Secretary  
16 in the project.

17           “(2) The Secretary may make a full funding  
18 grant agreement with an applicant. The agreement  
19 shall—

20           “(A) establish the terms of participation by  
21 the United States Government in a project  
22 under this section;

23           “(B) establish the maximum amount of  
24 Government financial assistance for the project;

1           “(C) cover the period of time for com-  
2           pleting the project, including a period extending  
3           beyond the period of an authorization; and

4           “(D) make timely and efficient manage-  
5           ment of the project easier according to the law  
6           of the United States.

7           “(3) The total estimated amount of future obli-  
8           gations of the Government and contingent commit-  
9           ments to incur obligations covered by all outstanding  
10          letters of intent, full funding grant agreements, and  
11          early systems work agreements may be not more  
12          than the amount authorized under section 24406,  
13          less an amount the Secretary reasonably estimates is  
14          necessary for grants under this section not covered  
15          by a letter. The total amount covered by new letters  
16          and contingent commitments included in full funding  
17          grant agreements and early systems work agree-  
18          ments may be not more than a limitation specified  
19          in law.

20          “(f) FEDERAL SHARE OF NET PROJECT COST.—

21                 “(1)(A) Based on engineering studies, studies  
22                 of economic feasibility, and information on the ex-  
23                 pected use of equipment or facilities, the Secretary  
24                 shall estimate the net project cost.

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

3           “(C) The Secretary shall give priority in allo-  
4 cating future obligations and contingent commit-  
5 ments to incur obligations to grant requests seeking  
6 a lower Federal share of the project net capital cost.

7           “(2) 50 percent of the average amounts ex-  
8 pended by a State or group of States (including the  
9 District of Columbia) for capital projects to benefit  
10 intercity passenger rail service in fiscal years 2006  
11 and 2007 shall be credited towards the matching re-  
12 quirements for grants awarded under this section.  
13 The Secretary may require such information as nec-  
14 essary to verify such expenditures.

15           “(3) 50 percent of the average amounts ex-  
16 pended by a State or group of States (including the  
17 District of Columbia) in a fiscal year beginning in  
18 2008 for capital projects to benefit intercity pas-  
19 senger rail service or for the operating costs of such  
20 service above the average of expenditures made for  
21 such service in fiscal years 2006 and 2007 shall be  
22 credited towards the matching requirements for  
23 grants awarded under this section. The Secretary  
24 may require such information as necessary to verify  
25 such expenditures.

1 “(g) UNDERTAKING PROJECTS IN ADVANCE.—

2 “(1) The Secretary may pay the Federal share  
3 of the net capital project cost to an applicant that  
4 carries out any part of a project described in this  
5 section according to all applicable procedures and re-  
6 quirements if—

7 “(A) the applicant applies for the payment;

8 “(B) the Secretary approves the payment;

9 and

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

14 “(2) The cost of carrying out part of a project  
15 includes the amount of interest earned and payable  
16 on bonds issued by the applicant to the extent pro-  
17 ceeds of the bonds are expended in carrying out the  
18 part. However, the amount of interest under this  
19 paragraph may not be more than the most favorable  
20 interest terms reasonably available for the project at  
21 the time of borrowing. The applicant shall certify, in  
22 a manner satisfactory to the Secretary, that the ap-  
23 plicant has shown reasonable diligence in seeking the  
24 most favorable financial terms.

1           “(3) The Secretary shall consider changes in  
2           capital project cost indices when determining the es-  
3           timated cost under paragraph (2) of this subsection.

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

13          “(i) PUBLIC-PRIVATE PARTNERSHIPS.—

14                 “(1) IN GENERAL.—A metropolitan planning  
15                 organization, State transportation department, or  
16                 other project sponsor may enter into an agreement  
17                 with any public, private, or nonprofit entity to coop-  
18                 eratively implement any project funded with a grant  
19                 under this chapter.

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

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

25                         “(B) cost-sharing of any project expense;

1           “(C) carrying out administration, construc-  
2           tion management, project management, project  
3           operation, or any other management or oper-  
4           ational duty associated with the project; and

5           “(D) any other form of participation ap-  
6           proved by the Secretary.

7           “(3) SUBALLOCATION.—A State may allocate  
8           funds under this section to any entity described in  
9           paragraph (1).

10          “(j) SPECIAL TRANSPORTATION CIRCUMSTANCES.—  
11         In carrying out this section, the Secretary shall allocate  
12         an appropriate portion of the amounts available under this  
13         section to provide grants to States in which there is no  
14         intercity passenger rail service for the purpose of funding  
15         freight rail capital projects that are on a State rail plan  
16         developed under chapter 225 of this title that provide pub-  
17         lic benefits (as defined in chapter 225) as determined by  
18         the Secretary.

19         **“§ 24403. Project management oversight**

20           “(a) PROJECT MANAGEMENT PLAN REQUIRE-  
21         MENTS.—To receive Federal financial assistance for a  
22         major capital project under this chapter, an applicant  
23         must prepare and carry out a project management plan  
24         approved by the Secretary of Transportation.

25           “(b) SECRETARIAL OVERSIGHT.—



1 ability insurance coverage for rail passenger service associ-  
2 ated with the capital assistance grant, but the coverage  
3 may not exceed \$20,000,000 per occurrence or  
4 \$20,000,000 in aggregate per year.

5 **“§ 24405. Grant conditions**

6 “(a) DOMESTIC BUYING PREFERENCE.—

7 “(1) REQUIREMENT.—

8 “(A) IN GENERAL.—In carrying out a  
9 project funded in whole or in part with a grant  
10 under this chapter, the grant recipient shall  
11 purchase only—

12 “(i) unmanufactured articles, mate-  
13 rial, and supplies mined or produced in the  
14 United States; or

15 “(ii) manufactured articles, material,  
16 and supplies manufactured in the United  
17 States substantially from articles, material,  
18 and supplies mined, produced, or manufac-  
19 tured in the United States.

20 “(B) DE MINIMIS AMOUNT.—Subpara-  
21 graph (A) applies only to a purchase in an total  
22 amount that is not less than \$1,000,000.

23 “(2) EXEMPTIONS.—On application of a recipi-  
24 ent, the Secretary may exempt a recipient from the  
25 requirements of this subsection if the Secretary de-

1 cides that, for particular articles, material, or sup-  
2 plies—

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

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

7 “(C) the articles, material, or supplies, or  
8 the articles, material, or supplies from which  
9 they are manufactured, are not mined, pro-  
10 duced, or manufactured in the United States in  
11 sufficient and reasonably available commercial  
12 quantities and are not of a satisfactory quality.

13 “(3) UNITED STATES DEFINED.—In this sub-  
14 section, the term ‘the United States’ means the  
15 States, territories, and possessions of the United  
16 States and the District of Columbia.

17 “(b) OPERATORS DEEMED RAIL CARRIERS AND EM-  
18 PLOYERS FOR CERTAIN PURPOSES.—A person that con-  
19 ducts rail operations over rail infrastructure constructed  
20 or improved with funding provided in whole or in part in  
21 a grant made under this chapter—

22 “(1) shall be considered an employer for pur-  
23 poses of the Railroad Retirement Act of 1974 (45  
24 U.S.C. 231 et seq.); and

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

3           “(c) GRANT CONDITIONS.—The Secretary shall re-  
4           quire as a condition of making any grant under this chap-  
5           ter that includes the improvement or use of rights-of-way  
6           owned by a railroad that—

7           “(1) a written agreement exist between the ap-  
8           plicant and the railroad regarding such use and  
9           ownership, including—

10                   “(A) any compensation for such use;

11                   “(B) assurances regarding the adequacy of  
12           infrastructure capacity to accommodate both  
13           existing and future freight and passenger oper-  
14           ations; and

15                   “(C) an assurance by the railroad that col-  
16           lective bargaining agreements with the rail-  
17           road’s employees (including terms regulating  
18           the contracting of work) will remain in full  
19           force and effect according to their terms for  
20           work performed by the railroad on the railroad  
21           transportation corridor; and

22           “(2) the applicant agrees to comply with—

23                   “(A) the standards of section 24312 of this  
24           title, as such section was in effect on September  
25           1, 2003, with respect to the project in the same

1 manner that the National Railroad Passenger  
2 Corporation is required to comply with those  
3 standards for construction work financed under  
4 an agreement made under section 24308(a) of  
5 this title; and

6 “(B) the protective arrangements estab-  
7 lished under section 504 of the Railroad Revi-  
8 talization and Regulatory Reform Act of 1976  
9 (45 U.S.C. 836) with respect to employees af-  
10 fected by actions taken in connection with the  
11 project to be financed in whole or in part by  
12 grants under this chapter.

13 “(d) REPLACEMENT OF EXISTING INTERCITY PAS-  
14 Senger Rail Service.—

15 “(1) COLLECTIVE BARGAINING AGREEMENT  
16 FOR INTERCITY PASSENGER RAIL PROJECTS.—Any  
17 entity providing intercity passenger railroad trans-  
18 portation that begins operations after the date of en-  
19 actment of this Act on a project funded in whole or  
20 in part by grants made under this chapter and re-  
21 places intercity rail passenger service that was pro-  
22 vided by Amtrak, unless such service was provided  
23 solely by Amtrak to another entity, as of such date  
24 shall enter into an agreement with the authorized

1 bargaining agent or agents for adversely affected  
2 employees of the predecessor provider that—

3 “(A) gives each such qualified employee of  
4 the predecessor provider priority in hiring ac-  
5 cording to the employee’s seniority on the pred-  
6 ecessor provider for each position with the re-  
7 placing entity that is in the employee’s craft or  
8 class and is available within 3 years after the  
9 termination of the service being replaced;

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

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

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

16 “(2) IMMEDIATE REPLACEMENT SERVICE.—

17 “(A) NEGOTIATIONS.—If the replacement  
18 of preexisting intercity rail passenger service oc-  
19 curs concurrent with or within a reasonable  
20 time before the commencement of the replacing  
21 entity’s rail passenger service, the replacing en-  
22 tity shall give written notice of its plan to re-  
23 place existing rail passenger service to the au-  
24 thorized collective bargaining agent or agents  
25 for the potentially adversely affected employees

1 of the predecessor provider at least 90 days be-  
2 fore the date on which it plans to commence  
3 service. Within 5 days after the date of receipt  
4 of such written notice, negotiations between the  
5 replacing entity and the collective bargaining  
6 agent or agents for the employees of the prede-  
7 cessor provider shall commence for the purpose  
8 of reaching agreement with respect to all mat-  
9 ters set forth in subparagraphs (A) through (D)  
10 of paragraph (1). The negotiations shall con-  
11 tinue for 30 days or until an agreement is  
12 reached, whichever is sooner. If at the end of  
13 30 days the parties have not entered into an  
14 agreement with respect to all such matters, the  
15 unresolved issues shall be submitted for arbitra-  
16 tion in accordance with the procedure set forth  
17 in subparagraph (B).

18 “(B) ARBITRATION.—If an agreement has  
19 not been entered into with respect to all mat-  
20 ters set forth in subparagraphs (A) through (D)  
21 of paragraph (1) as described in subparagraph  
22 (A) of this paragraph, the parties shall select  
23 an arbitrator. If the parties are unable to agree  
24 upon the selection of such arbitrator within 5  
25 days, either or both parties shall notify the Na-

1           tional Mediation Board, which shall provide a  
2           list of seven arbitrators with experience in arbi-  
3           trating rail labor protection disputes. Within 5  
4           days after such notification, the parties shall al-  
5           ternately strike names from the list until only  
6           1 name remains, and that person shall serve as  
7           the neutral arbitrator. Within 45 days after se-  
8           lection of the arbitrator, the arbitrator shall  
9           conduct a hearing on the dispute and shall  
10          render a decision with respect to the unresolved  
11          issues among the matters set forth in subpara-  
12          graphs (A) through (D) of paragraph (1). This  
13          decision shall be final, binding, and conclusive  
14          upon the parties. The salary and expenses of  
15          the arbitrator shall be borne equally by the par-  
16          ties; all other expenses shall be paid by the  
17          party incurring them.

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

24           “(4) SUBSEQUENT REPLACEMENT OF SERV-  
25          ICE.—If the replacement of existing rail passenger

1 service takes place within 3 years after the replacing  
2 entity commences intercity passenger rail service,  
3 the replacing entity and the collective bargaining  
4 agent or agents for the adversely affected employees  
5 of the predecessor provider shall enter into an agree-  
6 ment with respect to the matters set forth in sub-  
7 paragraphs (A) through (D) of paragraph (1). If the  
8 parties have not entered into an agreement with re-  
9 spect to all such matters within 60 days after the  
10 date on which the replacing entity replaces the pred-  
11 ecessor provider, the parties shall select an arbi-  
12 trator using the procedures set forth in paragraph  
13 (2)(B), who shall, within 20 days after the com-  
14 mencement of the arbitration, conduct a hearing and  
15 decide all unresolved issues. This decision shall be  
16 final, binding, and conclusive upon the parties.

17 “(e) INAPPLICABILITY TO CERTAIN RAIL OPER-  
18 ATIONS.—Nothing in this section applies to—

19 “(1) commuter rail passenger transportation  
20 (as defined in section 24102(4) of this title) oper-  
21 ations of a State or local government authority (as  
22 those terms are defined in section 5302(11) and (6),  
23 respectively, of this title) eligible to receive financial  
24 assistance under section 5307 of this title, or to its  
25 contractor performing services in connection with

1 commuter rail passenger operations (as so defined);  
 2 or

3 “(2) the National Railroad Passenger Corpora-  
 4 tion’s access rights to railroad rights of way and fa-  
 5 cilities under current law for projects funded under  
 6 this chapter where train operating speeds do not ex-  
 7 ceed 79 miles per hour.

8 **“§ 24406. Authorization of appropriations.**

9 “There are authorized to be appropriated to the Sec-  
 10 retary of Transportation for carrying out this chapter  
 11 \$200,000,000 for each of the fiscal years 2008 through  
 12 2012.”.

13 (b) CONFORMING AMENDMENTS.—The table of chap-  
 14 ters for subtitle V of title 49, United States Code, is  
 15 amended by inserting the following after the item relating  
 16 to chapter 243:

“244. INTERCITY PASSENGER RAIL SERVICE CAPITAL AS-  
 SISTANCE ..... 24401”.

17 **SEC. 522. STATE RAIL PLANS.**

18 (a) IN GENERAL.—Part B of subtitle V of title 49,  
 19 United States Code, is amended by adding at the end the  
 20 following:

21 **“CHAPTER 225—STATE RAIL PLANS AND**  
 22 **HIGH PRIORITY PROJECTS**

“Sec.  
 “22501. Definitions.  
 “22502. Authority.  
 “22503. Purposes.

“22504. Transparency; coordination; review.

“22505. Content.

“22506. Review.

1 **“§ 22501. Definitions**

2 “In this subchapter:

3 “(1) PRIVATE BENEFIT.—

4 “(A) IN GENERAL.—The term ‘private  
5 benefit’—

6 “(i) means a benefit accrued to a per-  
7 son or private entity, other than the Na-  
8 tional Railroad Passenger Corporation,  
9 that directly improves the economic and  
10 competitive condition of that person or en-  
11 tity through improved assets, cost reduc-  
12 tions, service improvements, or any other  
13 means as defined by the Secretary; and

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

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

20 “(2) PUBLIC BENEFIT.—

21 “(A) IN GENERAL.—The term ‘public ben-  
22 efit’—

23 “(i) means a benefit accrued to the  
24 public in the form of enhanced mobility of

1 people or goods, environmental protection  
2 or enhancement, congestion mitigation, en-  
3 hanced trade and economic development,  
4 improved air quality or land use, more effi-  
5 cient energy use, enhanced public safety or  
6 security, reduction of public expenditures  
7 due to improved transportation efficiency  
8 or infrastructure preservation, and any  
9 other positive community effects as defined  
10 by the Secretary; and

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

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

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

19 “(4) STATE RAIL TRANSPORTATION AUTHOR-  
20 ITY.—The term ‘State rail transportation authority’  
21 means the State agency or official responsible under  
22 the direction of the Governor of the State or a State  
23 law for preparation, maintenance, coordination, and  
24 administration of the State rail plan.

1 **“§ 22502. Authority**

2 “(a) IN GENERAL.—Each State may prepare and  
3 maintain a State rail plan in accordance with the provi-  
4 sions of this subchapter.

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

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

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

12 “(3) submit the State’s approved plan to the  
13 Secretary of Transportation for review; and

14 “(4) revise and resubmit a State-approved plan  
15 no less frequently than once every 5 years for re-  
16 approval by the Secretary.

17 **“§ 22503. Purposes**

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

20 “(1) To set forth State policy involving freight  
21 and passenger rail transportation, including com-  
22 muter rail operations, in the State.

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

1           “(3) To present priorities and strategies to en-  
2           hance rail service in the State that benefits the pub-  
3           lic.

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

6           “(b) COORDINATION.—A State rail plan shall be co-  
7           ordinated with other State transportation planning goals  
8           and programs and set forth rail transportation’s role with-  
9           in the State transportation system.

10   **“§ 22504. Transparency; coordination; review**

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

18           “(b) INTERGOVERNMENTAL COORDINATION.—A  
19           State shall review the freight and passenger rail service  
20           activities and initiatives by regional planning agencies, re-  
21           gional transportation authorities, and municipalities with-  
22           in the State, or in the region in which the State is located,  
23           while preparing the plan, and shall include any rec-  
24           ommendations made by such agencies, authorities, and  
25           municipalities as deemed appropriate by the State.

1 **“§ 22505. Content**

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

4 “(1) An inventory of the existing overall rail  
5 transportation system and rail services and facilities  
6 within the State and an analysis of the role of rail  
7 transportation within the State’s surface transpor-  
8 tation system.

9 “(2) A review of all rail lines within the State,  
10 including proposed high speed rail corridors and sig-  
11 nificant rail line segments not currently in service.

12 “(3) A statement of the State’s passenger rail  
13 service objectives, including minimum service levels,  
14 for rail transportation routes in the State.

15 “(4) A general analysis of rail’s transportation,  
16 economic, and environmental impacts in the State,  
17 including congestion mitigation, trade and economic  
18 development, air quality, land-use, energy-use, and  
19 community impacts.

20 “(5) A long-range rail investment program for  
21 current and future freight and passenger infrastruc-  
22 ture in the State that meets the requirements of  
23 subsection (b).

24 “(6) A statement of public financing issues for  
25 rail projects and service in the State, including a list  
26 of current and prospective public capital and oper-

1       ating funding resources, public subsidies, State tax-  
2       ation, and other financial policies relating to rail in-  
3       frastructure development.

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

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

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

17              “(10) A performance evaluation of passenger  
18      rail services operating in the State, including pos-  
19      sible improvements in those services, and a descrip-  
20      tion of strategies to achieve those improvements.

21              “(11) A compilation of studies and reports on  
22      high-speed rail corridor development within the  
23      State not included in a previous plan under this sub-  
24      chapter, and a plan for funding any recommended  
25      development of such corridors in the State.

1           “(12) A statement that the State is in compli-  
2           ance with the requirements of section 22102.

3           “(b) LONG-RANGE SERVICE AND INVESTMENT PRO-  
4           GRAM.—

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

9                   “(A) A list of any rail capital projects ex-  
10                   pected to be undertaken or supported in whole  
11                   or in part by the State.

12                   “(B) A detailed funding plan for those  
13                   projects.

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

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

18                   “(B) a statement of the correlation be-  
19                   tween—

20                           “(i) public funding contributions for  
21                           the projects; and

22                           “(ii) the public benefits.

23           “(3) CONSIDERATIONS FOR PROJECT LIST.—In  
24           preparing the list of freight and intercity passenger  
25           rail capital projects, a State rail transportation au-

1       thority should take into consideration the following  
2       matters:

3               “(A) Contributions made by non-Federal  
4               and non-State sources through user fees,  
5               matching funds, or other private capital involve-  
6               ment.

7               “(B) Rail capacity and congestion effects.

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

10              “(D) Regional balance.

11              “(E) Environmental impact.

12              “(F) Economic and employment impacts.

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

15   **“§ 22506. Review**

16              “The Secretary shall prescribe procedures for States  
17   to submit State rail plans for review under this title, in-  
18   cluding standardized format and data requirements.”.

19              (b) CONFORMING AMENDMENT.—The table of chap-  
20   ters for subtitle V of title 49, United States Code, is  
21   amended by inserting the following after the item relating  
22   to chapter 223:

“225. STATE RAIL PLANS ..... 22501”.

1 **SEC. 523. RAIL COOPERATIVE RESEARCH PROGRAM.**

2 (a) ESTABLISHMENT AND CONTENT.—Chapter 249  
3 of title 49, United States Code, is amended by adding at  
4 the end the following:

5 **“§ 24910. Rail cooperative research program**

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

9 “(1) address, among other matters, intercity  
10 rail passenger and freight rail services, including ex-  
11 isting rail passenger and freight technologies and  
12 speeds, incrementally enhanced rail systems and in-  
13 frastructure, and new high-speed wheel-on-rail sys-  
14 tems and rail security;

15 “(2) address ways to expand the transportation  
16 of international trade traffic by rail, enhance the ef-  
17 ficiency of intermodal interchange at ports and other  
18 intermodal terminals, and increase capacity and  
19 availability of rail service for seasonal freight needs;

20 “(3) consider research on the interconnected-  
21 ness of commuter rail, passenger rail, freight rail,  
22 and other rail networks; and

23 “(4) give consideration to regional concerns re-  
24 garding rail passenger and freight transportation,  
25 including meeting research needs common to des-  
26 ignated high-speed corridors, long-distance rail serv-

1       ices, and regional intercity rail corridors, projects,  
2       and entities.

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

5           “(1) to identify the unique aspects and at-  
6 tributes of rail passenger and freight service;

7           “(2) to develop more accurate models for evalu-  
8 ating the impact of rail passenger and freight serv-  
9 ice, including the effects on highway and airport and  
10 airway congestion, environmental quality, and energy  
11 consumption;

12           “(3) to develop a better understanding of modal  
13 choice as it affects rail passenger and freight trans-  
14 portation, including development of better models to  
15 predict utilization;

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

18           “(5) to meet additional priorities as determined  
19 by the advisory board established under subsection  
20 (c), including any recommendations made by the Na-  
21 tional Research Council;

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

24           “(7) to address rail capacity constraints that  
25 affect passenger and freight rail service through a

1 wide variety of options, ranging from operating im-  
2 provements to dedicated new infrastructure, taking  
3 into account the impact of such options on oper-  
4 ations;

5 “(8) to improve maintenance, operations, cus-  
6 tomer service, or other aspects of intercity rail pas-  
7 senger and freight service;

8 “(9) to recommend objective methodologies for  
9 determining intercity passenger rail routes and serv-  
10 ices, including the establishment of new routes, the  
11 elimination of existing routes, and the contraction or  
12 expansion of services or frequencies over such  
13 routes;

14 “(10) to review the impact of equipment and  
15 operational safety standards on the further develop-  
16 ment of high speed passenger rail operations con-  
17 nected to or integrated with non-high speed freight  
18 or passenger rail operations; and

19 “(11) to recommend any legislative or regu-  
20 latory changes necessary to foster further develop-  
21 ment and implementation of high speed passenger  
22 rail operations while ensuring the safety of such op-  
23 erations that are connected to or integrated with  
24 non-high speed freight or passenger rail operations.

25 “(c) ADVISORY BOARD.—

1           “(1) ESTABLISHMENT.—In consultation with  
2           the heads of appropriate Federal departments and  
3           agencies, the Secretary shall establish an advisory  
4           board to recommend research, technology, and tech-  
5           nology transfer activities related to rail passenger  
6           and freight transportation.

7           “(2) MEMBERSHIP.—The advisory board shall  
8           include—

9                   “(A) representatives of State transpor-  
10                  tation agencies;

11                  “(B) transportation and environmental  
12                  economists, scientists, and engineers; and

13                  “(C) representatives of Amtrak, the Alaska  
14                  Railroad, freight railroads, transit operating  
15                  agencies, intercity rail passenger agencies, rail-  
16                  way labor organizations, and environmental or-  
17                  ganizations.

18           “(d) NATIONAL ACADEMY OF SCIENCES.—The Sec-  
19           retary may make grants to, and enter into cooperative  
20           agreements with, the National Academy of Sciences to  
21           carry out such activities relating to the research, tech-  
22           nology, and technology transfer activities described in sub-  
23           section (b) as the Secretary deems appropriate.”.

1 (b) CLERICAL AMENDMENT.—The chapter analysis  
 2 for chapter 249 is amended by adding at the end the fol-  
 3 lowing:

“24910. Rail cooperative research program.”.

4 **SEC. 524. HIGH-SPEED INTERCITY RAIL FACILITY BONDS.**

5 (a) AMENDMENT.—Chapter 261 of title 49, United  
 6 States Code, is amended by adding at the end the fol-  
 7 lowing new section:

8 **“§ 26106. High-speed rail infrastructure bonds**

9 “(a) DESIGNATION.—The Secretary may designate  
 10 bonds for purposes of subsection (f) or section 54A of the  
 11 Internal Revenue Code of 1986 if—

12 “(1) the bonds are to be issued by—

13 “(A) a State, if the entire railroad pas-  
 14 senger transportation corridor containing the  
 15 infrastructure project to be financed is within  
 16 the State;

17 “(B) 1 or more of the States that have en-  
 18 tered into an agreement or an interstate com-  
 19 pact consented to by Congress under section  
 20 410(a) of Public Law 105–134 (49 U.S.C.  
 21 24101 nt); or

22 “(C) an agreement or an interstate com-  
 23 pact described in subparagraph (B);

24 “(2) the bonds are for the purpose of financ-  
 25 ing—

1           “(A) projects that make a substantial con-  
2           tribution to providing the infrastructure and  
3           equipment required to complete a high-speed  
4           rail transportation corridor (including projects  
5           for the acquisition, financing, or refinancing of  
6           equipment and other capital improvements, in-  
7           cluding the introduction of new high-speed tech-  
8           nologies such as magnetic levitation systems,  
9           track or signal improvements, the elimination of  
10          grade crossings, development of intermodal fa-  
11          cilities, improvement of train speeds or safety,  
12          or both, and station rehabilitation or construc-  
13          tion), but only if the Secretary determines that  
14          the projects are part of a viable and comprehen-  
15          sive high-speed rail transportation corridor de-  
16          sign for intercity passenger service, including a  
17          design for minimally operable segments of a  
18          corridor designated under section 104(d)(2) of  
19          title 23, United States Code; or

20           “(B) projects for the Alaska Railroad;

21           “(3) for a railroad passenger transportation  
22          corridor design that includes the use of rights-of-way  
23          owned by a freight railroad, a written agreement ex-  
24          ists between the applicant and the freight railroad  
25          regarding such use and ownership, including com-

1        pensation for such use and assurances regarding the  
2        adequacy of infrastructure capacity to accommodate  
3        both existing and future freight and passenger oper-  
4        ations, and including an assurance by the freight  
5        railroad that collective bargaining agreements with  
6        the freight railroad’s employees (including terms  
7        regulating the contracting of work) shall remain in  
8        full force and effect according to their terms for  
9        work performed by the freight railroad on such rail-  
10       road passenger transportation corridor;

11               “(4) the corridor design eliminates existing rail-  
12       way-highway grade crossings that the Secretary de-  
13       termines would impede high-speed rail operations;

14               “(5) the applicant agrees to comply with—

15                       “(A) the standards of section 24312, as in  
16       effect on September 1, 2002, with respect to  
17       the project in the same manner that the Na-  
18       tional Railroad Passenger Corporation is re-  
19       quired to comply with such standards for con-  
20       struction work financed under an agreement  
21       made under section 24308(a); and

22                       “(B) the protective arrangements estab-  
23       lished under section 504 of the Railroad Revi-  
24       talization and Regulatory Reform Act of 1976  
25       (45 U.S.C. 836) with respect to employees af-

1           fected by actions taken in connection with the  
2           project to be financed by the bond; and

3           “(6) the applicant agrees not to pay the prin-  
4           cipal or interest on the bonds using funds derived di-  
5           rectly or indirectly from the Highway Trust Fund,  
6           except as permitted by law as of the date of the en-  
7           actment of this section.

8           “(b) BOND AMOUNT LIMITATION.—

9           “(1) IN GENERAL.—The amount of bonds des-  
10          ignated under this section may not exceed—

11           “(A) in the case of subsection (f) bonds,  
12           \$1,200,000,000 for each of the fiscal years  
13           2008 through 2017; and

14           “(B) in the case of section 54A bonds,  
15           \$1,200,000,000 for each of the fiscal years  
16           2008 through 2017.

17           “(2) CARRYOVER OF UNUSED LIMITATION.—If  
18          for any fiscal year the limitation amount under sub-  
19          paragraph (A) or (B) of paragraph (1) exceeds—

20           “(A) with respect to subparagraph (A) of  
21           paragraph (1), the amount of subsection (f)  
22           bonds issued during such year; or

23           “(B) with respect to subparagraph (B) of  
24           paragraph (1), the amount of section 54A  
25           bonds issued during such year,

1 the limitation amount under subparagraph (A) or  
2 (B) of paragraph (1), as the case may be, for the  
3 following fiscal year (through fiscal year 2021) shall  
4 be increased by the amount of such excess.

5 “(c) PREFERENCE.—The Secretary shall give pref-  
6 erence to the designation under this section of bonds for  
7 projects—

8 “(1) to be funded through a combination of  
9 subsection (f) bonds and section 54A bonds;

10 “(2) which propose to link rail passenger serv-  
11 ice with other modes of transportation;

12 “(3) expected to have a significant impact on  
13 air traffic congestion;

14 “(4) expected to also improve commuter rail op-  
15 erations;

16 “(5) where all environmental work has already  
17 been completed and the project is ready to com-  
18 mence; or

19 “(6) that have received financial commitments  
20 and other support of State and local governments.

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

24 “(e) ANNUAL REPORTS.—

1           “(1) FROM ISSUER OF BONDS.—The issuer of  
2 bonds designated under subsection (a) shall report  
3 annually to the Secretary regarding the terms of  
4 outstanding designated bonds and the progress made  
5 with respect to the project financed by the bonds.

6           “(2) FROM SECRETARY.—The Secretary, in  
7 consultation with the Secretary of the Treasury,  
8 shall transmit to the Congress an annual report  
9 which includes—

10                   “(A) reports received under paragraph (1);

11                   and

12                   “(B) an assessment of the progress made  
13 toward completion of high-speed rail transpor-  
14 tation corridors resulting from projects financed  
15 by bonds designated under subsection (a).

16           “(f) TAX TREATMENT OF SUBSECTION (f) BONDS.—

17                   “(1) EXCLUSION FROM GROSS INCOME.—The  
18 interest on a bond designated by the Secretary  
19 under subsection (a) for purposes of this subsection  
20 shall be excluded from gross income under section  
21 103 of the Internal Revenue Code of 1986, notwith-  
22 standing section 149(c) of such Code.

23                   “(2) EXEMPTION FROM VOLUME CAP.—For  
24 purposes of section 146 of such Code, a bond des-  
25 ignated by the Secretary under subsection (a) for

1 purposes of this subsection shall be considered to be  
2 exempt from the volume cap of the issuing authority  
3 in the same manner as bonds listed in subsection (g)  
4 of such section 146.

5 “(g) REFINANCING RULES.—Bonds designated by  
6 the Secretary under subsection (a) may be issued for refi-  
7 nancing projects only if the indebtedness being refinanced  
8 (including any obligation directly or indirectly refinanced  
9 by such indebtedness) was originally incurred by the  
10 issuer—

11 “(1) after the date of the enactment of this sec-  
12 tion;

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

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

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

18 “(h) PROVISIONS REGARDING HIGH-SPEED RAIL  
19 SERVICE.—

20 “(1) STATUS AS EMPLOYER OR CARRIER.—Any  
21 entity providing railroad transportation (within the  
22 meaning of section 20102) that begins operations  
23 after the date of the enactment of this section and  
24 that uses property acquired pursuant to this section  
25 (except as provided in subsection (a)(2)(B)), shall be

1 considered an employer for purposes of the Railroad  
2 Retirement Act of 1974 (45 U.S.C. 231 et seq.) and  
3 considered a carrier for purposes of the Railway  
4 Labor Act (45 U.S.C. 151 et seq.).

5 “(2) COLLECTIVE BARGAINING AGREEMENT.—

6 Any entity providing high-speed intercity passenger  
7 railroad transportation (within the meaning of sec-  
8 tion 20102) that begins operations after the date of  
9 enactment of this section on a project funded in  
10 whole or in part by bonds designated under sub-  
11 section (a), and replaces intercity rail passenger  
12 service that was provided by another entity as of the  
13 date of enactment of this section, shall enter into an  
14 agreement with the authorized bargaining agent or  
15 agents for employees of the predecessor provider  
16 that—

17 “(A) gives each employee of the prede-  
18 cessor provider priority in hiring according to  
19 the employee’s seniority on the predecessor pro-  
20 vider for each position with the replacing entity  
21 that is in the employee’s craft or class and is  
22 available within three years after the termi-  
23 nation of the service being replaced;

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

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

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

5           “(3) IMMEDIATE REPLACEMENT OF EXISTING  
6 RAIL PASSENGER SERVICE.—

7           “(A) NEGOTIATIONS.—If the replacement  
8 of preexisting intercity rail passenger service oc-  
9 curs concurrent with or within a reasonable  
10 amount of time before the commencement of  
11 the replacing entity’s high-speed rail passenger  
12 service, the replacing entity shall give written  
13 notice of its plan to replace existing rail pas-  
14 senger service to the authorized collective bar-  
15 gaining agent or agents for the employees of  
16 the predecessor provider at least 90 days prior  
17 to the date it plans to commence service. With-  
18 in 5 days after the date of receipt of such writ-  
19 ten notice, negotiations between the replacing  
20 entity and the collective bargaining agent or  
21 agents for the employees of the predecessor pro-  
22 vider shall commence for the purpose of reach-  
23 ing agreement with respect to all matters set  
24 forth in paragraph (2) (A)–(D). The negotia-  
25 tions shall continue for 30 days or until an

1 agreement is reached, whichever is sooner. If at  
2 the end of 30 days the parties have not entered  
3 into an agreement with respect to all such mat-  
4 ters, the unresolved issues shall be submitted  
5 for arbitration in accordance with the procedure  
6 set forth in subparagraph (B).

7 “(B) ARBITRATION.—If an agreement has  
8 not been entered into with respect to all mat-  
9 ters set forth in paragraph (2) (A)–(D) as pro-  
10 vided in subparagraph (A) of this paragraph,  
11 the parties shall select an arbitrator. If the par-  
12 ties are unable to agree upon the selection of  
13 such arbitrator within 5 days, either or both  
14 parties shall notify the National Mediation  
15 Board, which shall provide a list of seven arbi-  
16 trators with experience in arbitrating rail labor  
17 protection disputes. Within 5 days after such  
18 notification, the parties shall alternately strike  
19 names from the list until only one name re-  
20 mains, and that person shall serve as the neu-  
21 tral arbitrator. Within 45 days after selection of  
22 the arbitrator, the arbitrator shall conduct a  
23 hearing on the dispute and shall render a deci-  
24 sion with respect to the unresolved issues set  
25 forth in paragraph (2) (A)–(D). This decision

1 shall be final, binding, and conclusive upon the  
2 parties. The salary and expenses of the arbi-  
3 trator shall be borne equally by the parties; all  
4 other expenses shall be paid by the party incur-  
5 ring them.

6 “(C) SERVICE COMMENCEMENT.—A re-  
7 placing entity under this paragraph shall com-  
8 mence service only after an agreement is en-  
9 tered into with respect to the matters set forth  
10 in paragraph (2) (A)–(D) or the decision of the  
11 arbitrator has been rendered.

12 “(4) SUBSEQUENT REPLACEMENT OF EXISTING  
13 RAIL PASSENGER SERVICE.—If the replacement of  
14 existing rail passenger service takes place within 3  
15 years after the replacing entity commences high-  
16 speed rail passenger service, the replacing entity and  
17 the collective bargaining agent or agents for the em-  
18 ployees of the predecessor provider shall enter into  
19 an agreement with respect to the matters set forth  
20 in paragraph (2) (A)–(D). If the parties have not  
21 entered into an agreement with respect to all such  
22 matters within 60 days after the date on which the  
23 replacing entity replaces the predecessor provider,  
24 the parties shall select an arbitrator using the proce-  
25 dures set forth in paragraph (3)(B), who shall, with-

1 in 20 days after the commencement of the arbitra-  
2 tion, conduct a hearing and decide all unresolved  
3 issues. This decision shall be final, binding, and con-  
4 clusive upon the parties.

5 “(i) ISSUANCE OF REGULATIONS.—Not later than 6  
6 months after the date of the enactment of this section,  
7 the Secretary shall issue regulations for carrying out this  
8 section.

9 “(j) DEFINITIONS.—For purposes of this section—  
10 “(1) SUBSECTION (f) BOND.—The term ‘sub-  
11 section (f) bond’ means a bond designated by the  
12 Secretary under subsection (a) for purposes of sub-  
13 section (f).

14 “(2) SECTION 54A BOND.—The term ‘section  
15 54A bond’ means a bond designated by the Sec-  
16 retary under subsection (a) for purposes of section  
17 54A of the Internal Revenue Code of 1986 (relating  
18 to credit to holders of qualified high-speed rail infra-  
19 structure bonds).”.

20 (b) TABLE OF SECTIONS AMENDMENT.—The table of  
21 sections of chapter 261 of title 49, United States Code,  
22 is amended by adding after the item relating to section  
23 26105 the following new item:

“26106. High-speed rail infrastructure bonds.”.

1 **SEC. 525. TAX CREDIT TO HOLDERS OF QUALIFIED HIGH-**  
2 **SPEED RAIL INFRASTRUCTURE BONDS.**

3 (a) IN GENERAL.—Subpart H of part IV of sub-  
4 chapter A of chapter 1 of the Internal Revenue Code of  
5 1986 (relating to credits against tax) is amended by add-  
6 ing at the end the following new section:

7 **“SEC. 54A. CREDIT TO HOLDERS OF QUALIFIED HIGH-**  
8 **SPEED RAIL INFRASTRUCTURE BONDS.**

9 “(a) ALLOWANCE OF CREDIT.—If a taxpayer holds  
10 a qualified high-speed rail infrastructure bond on one or  
11 more credit allowance dates of the bond occurring during  
12 any taxable year, there shall be allowed as a credit against  
13 the tax imposed by this chapter for the taxable year an  
14 amount equal to the sum of the credits determined under  
15 subsection (b) with respect to such dates.

16 “(b) AMOUNT OF CREDIT.—

17 “(1) IN GENERAL.—The amount of the credit  
18 determined under this subsection with respect to any  
19 credit allowance date for a qualified high-speed rail  
20 infrastructure bond is 25 percent of the annual cred-  
21 it determined with respect to such bond.

22 “(2) ANNUAL CREDIT.—The annual credit de-  
23 termined with respect to any qualified high-speed  
24 rail infrastructure bond is the product of—

1           “(A) the credit rate determined by the Sec-  
2           retary under paragraph (3) for the day on  
3           which such bond was sold, multiplied by

4           “(B) the outstanding face amount of the  
5           bond.

6           “(3) DETERMINATION.—For purposes of para-  
7           graph (2), with respect to any qualified high-speed  
8           rail infrastructure bond, the Secretary shall deter-  
9           mine daily or cause to be determined daily a credit  
10          rate which shall apply to the first day on which  
11          there is a binding, written contract for the sale or  
12          exchange of the bond. The credit rate for any day  
13          is the credit rate which the Secretary or the Sec-  
14          retary’s designee estimates will permit the issuance  
15          of qualified high-speed rail infrastructure bonds with  
16          a specified maturity or redemption date without dis-  
17          count and without interest cost to the qualified  
18          issuer.

19          “(4) CREDIT ALLOWANCE DATE.—For purposes  
20          of this section, the term ‘credit allowance date’  
21          means—

22                 “(A) March 15,

23                 “(B) June 15,

24                 “(C) September 15, and

25                 “(D) December 15.

1 Such term includes the last day on which the bond  
2 is outstanding.

3 “(5) SPECIAL RULE FOR ISSUANCE AND RE-  
4 DEMPTION.—In the case of a bond which is issued  
5 during the 3-month period ending on a credit allow-  
6 ance date, the amount of the credit determined  
7 under this subsection with respect to such credit al-  
8 lowance date shall be a ratable portion of the credit  
9 otherwise determined based on the portion of the 3-  
10 month period during which the bond is outstanding.  
11 A similar rule shall apply when the bond is re-  
12 deemed.

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

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

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

20 “(B) the sum of the credits allowable  
21 under this part (other than subpart C, sections  
22 1400N(1) and 54, and this section).

23 “(2) CARRYOVER OF UNUSED CREDIT.—If the  
24 credit allowable under subsection (a) exceeds the  
25 limitation imposed by paragraph (1) for such taxable

1 year, such excess shall be carried to the succeeding  
2 taxable year and added to the credit allowable under  
3 subsection (a) for such taxable year.

4 “(d) CREDIT INCLUDED IN GROSS INCOME.—Gross  
5 income includes the amount of the credit allowed to the  
6 taxpayer under this section (determined without regard to  
7 subsection (c)) and the amount so included shall be treat-  
8 ed as interest income.

9 “(e) QUALIFIED HIGH-SPEED RAIL INFRASTRUC-  
10 TURE BOND.—For purposes of this part, the term ‘quali-  
11 fied high-speed rail infrastructure bond’ means any bond  
12 issued as part of an issue if—

13 “(1) the issuer certifies that the Secretary of  
14 Transportation has designated the bond for purposes  
15 of this section under section 26106(a) of title 49,  
16 United States Code, as in effect on the date of the  
17 enactment of this section,

18 “(2) 95 percent or more of the proceeds from  
19 the sale of such issue are to be used for expenditures  
20 incurred after the date of the enactment of this sec-  
21 tion for any project described in section 26106(a)(2)  
22 of title 49, United States Code,

23 “(3) the term of each bond which is part of  
24 such issue does not exceed 20 years,

1           “(4) the payment of principal with respect to  
2 such bond is the obligation solely of the issuer, and

3           “(5) the issue meets the requirements of sub-  
4 section (f) (relating to arbitrage).

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

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

10           “(A) to spend at least 95 percent of the  
11 proceeds from the sale of the issue for 1 or  
12 more qualified projects within the 3-year period  
13 beginning on such date,

14           “(B) to incur a binding commitment with  
15 a third party to spend at least 10 percent of the  
16 proceeds from the sale of the issue, or to com-  
17 mence construction, with respect to such  
18 projects within the 6-month period beginning on  
19 such date, and

20           “(C) to proceed with due diligence to com-  
21 plete such projects and to spend the proceeds  
22 from the sale of the issue.

23           “(2) RULES REGARDING CONTINUING COMPLI-  
24 ANCE AFTER 3-YEAR DETERMINATION.—If at least  
25 95 percent of the proceeds from the sale of the issue

1 is not expended for 1 or more qualified projects  
2 within the 3-year period beginning on the date of  
3 issuance, but the requirements of paragraph (1) are  
4 otherwise met, an issue shall be treated as con-  
5 tinuing to meet the requirements of this subsection  
6 if either—

7 “(A) the issuer uses all unspent proceeds  
8 from the sale of the issue to redeem bonds of  
9 the issue within 90 days after the end of such  
10 3-year period, or

11 “(B) the following requirements are met:

12 “(i) The issuer spends at least 75 per-  
13 cent of the proceeds from the sale of the  
14 issue for 1 or more qualified projects with-  
15 in the 3-year period beginning on the date  
16 of issuance.

17 “(ii) Either—

18 “(I) the issuer spends at least 95  
19 percent of the proceeds from the sale  
20 of the issue for 1 or more qualified  
21 projects within the 4-year period be-  
22 ginning on the date of issuance, or

23 “(II) the issuer pays to the Fed-  
24 eral Government any earnings on the  
25 proceeds from the sale of the issue

1 that accrue after the end of the 3-year  
2 period beginning on the date of  
3 issuance and uses all unspent pro-  
4 ceeds from the sale of the issue to re-  
5 deem bonds of the issue within 90  
6 days after the end of the 4-year pe-  
7 riod beginning on the date of  
8 issuance.

9 “(g) RECAPTURE OF PORTION OF CREDIT WHERE  
10 CESSATION OF COMPLIANCE.—

11 “(1) IN GENERAL.—If any bond which when  
12 issued purported to be a qualified high-speed rail in-  
13 frastructure bond ceases to be such a qualified bond,  
14 the issuer shall pay to the United States (at the  
15 time required by the Secretary) an amount equal to  
16 the sum of—

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

23 “(B) interest at the underpayment rate  
24 under section 6621 on the amount determined  
25 under subparagraph (A) for each calendar year

1           for the period beginning on the first day of  
2           such calendar year.

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

15          “(3) SPECIAL RULES.—

16                 “(A) TAX BENEFIT RULE.—The tax for  
17                 the taxable year shall be increased under para-  
18                 graph (2) only with respect to credits allowed  
19                 by reason of this section which were used to re-  
20                 duce tax liability. In the case of credits not so  
21                 used to reduce tax liability, the carryforwards  
22                 under subsection (c) shall be appropriately ad-  
23                 justed.

24                 “(B) NO CREDITS AGAINST TAX.—Any in-  
25                 crease in tax under paragraph (2) shall not be

1 treated as a tax imposed by this chapter for  
2 purposes of determining—

3 “(i) the amount of any credit allow-  
4 able under this part, or

5 “(ii) the amount of the tax imposed  
6 by section 55.

7 “(h) OTHER DEFINITIONS AND SPECIAL RULES.—  
8 For purposes of this section—

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

11 “(2) QUALIFIED PROJECT.—The term ‘qualified  
12 project’ means any project described in section  
13 26106(a)(2) of title 49, United States Code.

14 “(3) TREATMENT OF CHANGES IN USE.—For  
15 purposes of subsection (e)(2), the proceeds from the  
16 sale of an issue shall not be treated as used for a  
17 qualified project to the extent that the issuer takes  
18 any action within its control which causes such pro-  
19 ceeds not to be used for a qualified project. The Sec-  
20 retary shall prescribe regulations specifying remedial  
21 actions that may be taken (including conditions to  
22 taking such remedial actions) to prevent an action  
23 described in the preceding sentence from causing a  
24 bond to fail to be a qualified high-speed rail infra-  
25 structure bond.

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

8           “(5) BONDS HELD BY REGULATED INVEST-  
9 MENT COMPANIES.—If any qualified high-speed rail  
10 infrastructure bond is held by a regulated invest-  
11 ment company, the credit determined under sub-  
12 section (a) shall be allowed to shareholders of such  
13 company under procedures prescribed by the Sec-  
14 retary.

15           “(6) REPORTING.—Issuers of qualified high-  
16 speed rail infrastructure bonds shall submit reports  
17 similar to the reports required under section  
18 149(e).”.

19 (b) REPORTING.—

20           (1) IN GENERAL.—Subparagraph (A) of section  
21 6049(d)(8) of the Internal Revenue Code of 1986 is  
22 amended—

23                   (A) by inserting “, 54A(d),” after “54(g)”,  
24                   and

1 (B) by inserting “, 54A(b)(4),” after  
2 “54(b)(4)”.

3 (2) CONFORMING AMENDMENT.—The heading  
4 of section 6049(d)(8) of such Code is amended by  
5 striking “CLEAN RENEWABLE ENERGY BONDS” and  
6 inserting “CERTAIN TAX CREDIT BONDS”.

7 (c) CLERICAL AMENDMENT.—The table of subparts  
8 for subpart H of part IV of subchapter A of chapter 1  
9 of such Code is amended by adding at the end the fol-  
10 lowing new item:

“Sec. 54A. Credit to holders of qualified high-speed rail infrastructure bonds.”.

11 (d) ISSUANCE OF REGULATIONS.—Not later than 6  
12 months after the date of the enactment of this section,  
13 the Secretary of the Treasury shall issue regulations for  
14 carrying out this section and the amendments made by  
15 this section.

16 (e) HIGH-SPEED INTERCITY RAIL FACILITIES.—

17 (1) REQUIREMENT TO MEET TITLE 49 RE-  
18 QUIREMENTS.—Section 142(i) of the Internal Rev-  
19 enue Code of 1986 is amended by adding at the end  
20 the following new paragraph:

21 “(4) ADDITIONAL REQUIREMENTS.—A bond  
22 issued as part of an issue described in subsection  
23 (a)(11) shall not be considered an exempt facility  
24 bond unless the requirements of paragraphs (1)

1 through (6) of section 26106(a) of title 49, United  
2 States Code, are met.”.

3 (2) REVISION OF SPEED REQUIREMENT.—Sec-  
4 tion 142(i)(1) of such Code is amended by striking  
5 “150 miles per hour” and inserting “110 miles per  
6 hour”.

7 (f) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to obligations issued after the date  
9 of the enactment of this Act.

## 10 **Subtitle D—Energy Supply and** 11 **Freight Rail**

### 12 **SEC. 531. SHORT TITLE.**

13 This subtitle may be cited as the “Railroad Track  
14 Modernization Act of 2007”.

### 15 **SEC. 532. CAPITAL GRANTS FOR RAILROAD TRACK.**

16 (a) AMENDMENT.—Chapter 223 of title 49, United  
17 States Code, is amended to read as follows:

## 18 **“CHAPTER 223—CAPITAL GRANTS FOR** 19 **RAILROAD TRACK**

“Sec.

“22301. Capital grants for railroad track.

### 20 **“§ 22301. Capital grants for railroad track**

21 “(a) ESTABLISHMENT OF PROGRAM.—

22 “(1) ESTABLISHMENT.—The Secretary of  
23 Transportation shall establish a program of capital  
24 grants for the rehabilitation, preservation, or im-

1       provement of railroad track (including roadbed,  
2       bridges, and related track structures) of class II and  
3       class III railroads. Such grants shall be for rehabili-  
4       tating, preserving, or improving track used primarily  
5       for freight transportation to a standard ensuring  
6       that the track can be operated safely and efficiently,  
7       including grants for rehabilitating, preserving, or im-  
8       proving track to handle 286,000 pound rail cars.  
9       Grants may be provided under this chapter—

10               “(A) directly to the class II or class III  
11               railroad; or

12               “(B) with the concurrence of the class II  
13               or class III railroad, to a State or local govern-  
14               ment.

15               “(2) STATE COOPERATION.—Class II and class  
16       III railroad applicants for a grant under this chap-  
17       ter are encouraged to utilize the expertise and assist-  
18       ance of State transportation agencies in applying for  
19       and administering such grants. State transportation  
20       agencies are encouraged to provide such expertise  
21       and assistance to such railroads.

22               “(3) INTERIM REGULATIONS.—Not later than  
23       December 31, 2007, the Secretary shall issue tem-  
24       porary regulations to implement the program under  
25       this section. Subchapter II of chapter 5 of title 5

1 does not apply to a temporary regulation issued  
2 under this paragraph or to an amendment to such  
3 a temporary regulation.

4 “(4) FINAL REGULATIONS.—Not later than Oc-  
5 tober 1, 2008, the Secretary shall issue final regula-  
6 tions to implement the program under this section.

7 “(b) MAXIMUM FEDERAL SHARE.—The maximum  
8 Federal share for carrying out a project under this section  
9 shall be 80 percent of the project cost. The non-Federal  
10 share may be provided by any non-Federal source in cash,  
11 equipment, or supplies. Other in-kind contributions may  
12 be approved by the Secretary on a case by case basis con-  
13 sistent with this chapter.

14 “(c) PROJECT ELIGIBILITY.—For a project to be eli-  
15 gible for assistance under this section the track must have  
16 been operated or owned by a class II or class III railroad  
17 as of the date of the enactment of the Railroad Track  
18 Modernization Act of 2007.

19 “(d) USE OF FUNDS.—Grants provided under this  
20 section shall be used to implement track capital projects  
21 as soon as possible. In no event shall grant funds be con-  
22 tractually obligated for a project later than the end of the  
23 third Federal fiscal year following the year in which the  
24 grant was awarded. Any funds not so obligated by the end

1 of such fiscal year shall be returned to the Secretary for  
2 reallocation.

3       “(e) ADDITIONAL PURPOSE.—In addition to making  
4 grants for projects as provided in subsection (a), the Sec-  
5 retary may also make grants to supplement direct loans  
6 or loan guarantees made under title V of the Railroad Re-  
7 vitalization and Regulatory Reform Act of 1976 (45  
8 U.S.C. 822(d)), for projects described in the last sentence  
9 of section 502(d) of such title. Grants made under this  
10 subsection may be used, in whole or in part, for paying  
11 credit risk premiums, lowering rates of interest, or pro-  
12 viding for a holiday on principal payments.

13       “(f) EMPLOYEE PROTECTION.—The Secretary shall  
14 require as a condition of any grant made under this sec-  
15 tion that the recipient railroad provide a fair arrangement  
16 at least as protective of the interests of employees who  
17 are affected by the project to be funded with the grant  
18 as the terms imposed under section 11326(a), as in effect  
19 on the date of the enactment of the Railroad Track Mod-  
20 ernization Act of 2007.

21       “(g) LABOR STANDARDS.—

22               “(1) PREVAILING WAGES.—The Secretary shall  
23 ensure that laborers and mechanics employed by  
24 contractors and subcontractors in construction work  
25 financed by a grant made under this section will be

1       paid wages not less than those prevailing on similar  
2       construction in the locality, as determined by the  
3       Secretary of Labor under the Act of March 3, 1931  
4       (known as the Davis-Bacon Act; 40 U.S.C. 276a et  
5       seq.). The Secretary shall make a grant under this  
6       section only after being assured that required labor  
7       standards will be maintained on the construction  
8       work.

9               “(2) WAGE RATES.—Wage rates in a collective  
10       bargaining agreement negotiated under the Railway  
11       Labor Act (45 U.S.C. 151 et seq.) are deemed for  
12       purposes of this subsection to comply with the Act  
13       of March 3, 1931 (known as the Davis-Bacon Act;  
14       40 U.S.C. 276a et seq.).

15       “(h) STUDY.—The Secretary shall conduct a study  
16       of the projects carried out with grant assistance under this  
17       section to determine the public interest benefits associated  
18       with the light density railroad networks in the States and  
19       their contribution to a multimodal transportation system.  
20       Not later than March 31, 2009, the Secretary shall report  
21       to Congress any recommendations the Secretary considers  
22       appropriate regarding the eligibility of light density rail  
23       networks for Federal infrastructure financing.

24       “(i) AUTHORIZATION OF APPROPRIATIONS.—There  
25       are authorized to be appropriated to the Secretary of

1 Transportation \$350,000,000 for each of the fiscal years  
 2 2008 through 2010 for carrying out this section.”.

3 (b) CONFORMING AMENDMENT.—The item relating  
 4 to chapter 223 in the table of chapters of subtitle V of  
 5 title 49, United States Code, is amended to read as fol-  
 6 lows:

“223. CAPITAL GRANTS FOR RAILROAD TRACK ..... 22301”.

7 **Subtitle E—Rail Reliability**

8 **SEC. 541. RELIABILITY OF RAILROAD TRANSPORTATION OF**  
 9 **ENERGY SUPPLIES.**

10 (a) FINDING.—The Congress finds that the Nation’s  
 11 rail system is a critical part of national security, and that  
 12 the Surface Transportation Board has the obligation and  
 13 authority to ensure that the Nation’s rail infrastructure  
 14 is adequate to enable safe, efficient, and reliable delivery  
 15 of passengers, energy supplies, and other goods and serv-  
 16 ices, and that the Nation’s rail carriers meet their common  
 17 carrier obligations to deliver products and maintain infra-  
 18 structure at a level which provides for the safe, efficient,  
 19 and reliable delivery of passengers, energy supplies, and  
 20 other goods and services.

21 (b) RELIABILITY REQUIREMENTS.—Not later than  
 22 180 days after the date of enactment of this Act, the Sur-  
 23 face Transportation Board, after consultation with the  
 24 Secretary of Transportation, the Secretary of Energy, the  
 25 Secretary of Commerce, the Secretary of Agriculture, the

1 Secretary of Defense, and the Chairman of the Federal  
2 Energy Regulatory Commission, shall issue regulations re-  
3 quiring implementation of the reliability standards ap-  
4 proved under this section.

5 (c) DEFINITION.—For purposes of this section, the  
6 term “reliability standard” means a requirement, ap-  
7 proved by the Surface Transportation Board under this  
8 section, to provide for reliable and timely operation of rail-  
9 road transportation of passengers, energy supplies, and  
10 other goods and services. The term shall include a require-  
11 ment for operation and maintenance of the railroad sys-  
12 tem as well as for efficient transfer of freight cars and  
13 train sets between different railroads.

14 (d) ADVISORY PANEL.—Not later than 90 days after  
15 the date of enactment of this Act, the Surface Transpor-  
16 tation Board shall establish an advisory panel, consisting  
17 of representatives of the rail carrier industry, energy sup-  
18 ply companies, and industrial and individual consumers of  
19 energy and rail transportation services. Such advisory  
20 panel shall ensure its independence of the users, owners,  
21 and operators of the railroad system while ensuring fair  
22 stakeholder representation in the selection of its directors,  
23 ensure balanced decisionmaking in any committee or orga-  
24 nizational structure, and provide for reasonable notice and  
25 opportunity for public comment, due process, openness,

1 and balance of interests in developing reliability standards  
2 and otherwise exercising its duties. Such advisory panel  
3 shall, after obtaining all relevant stakeholder comments,  
4 make recommendations for the establishment of standards  
5 for rail operations to ensure the timely and efficient trans-  
6 portation of fuels and energy feedstocks, especially during  
7 times of energy or fuel supply emergencies. The first such  
8 recommendations shall be transmitted to the Surface  
9 Transportation Board not later than 270 days after the  
10 date of enactment of this Act. These recommendations  
11 may include suggestions for expanded rail infrastructure  
12 to expand, connect new, or bolster existing points within  
13 the current rail line network.

14 (e) SURFACE TRANSPORTATION BOARD AP-  
15 PROVAL.—

16 (1) IN GENERAL.—The Surface Transportation  
17 Board may approve, by rule or order, a proposed re-  
18 liability standard or modification to a reliability  
19 standard if it determines that the standard is just,  
20 reasonable, not unduly discriminatory or pref-  
21 erential, and in the public interest. The Surface  
22 Transportation Board shall use the recommenda-  
23 tions developed by the advisory panel under sub-  
24 section (d) with respect to the content of a proposed  
25 standard or modification to a reliability standard. A

1 proposed standard or modification shall take effect  
2 upon approval by the Surface Transportation Board.  
3 The Surface Transportation Board shall approve or  
4 disapprove the first recommended standards trans-  
5 mitted by the advisory panel not later than 1 year  
6 after receiving such transmittal.

7 (2) REMAND.—The Surface Transportation  
8 Board shall remand to the advisory panel for further  
9 consideration a proposed reliability standard or a  
10 modification to a reliability standard that the Sur-  
11 face Transportation Board disapproves in whole or  
12 in part.

13 (3) SURFACE TRANSPORTATION BOARD INITI-  
14 ATED STANDARDS.—The Surface Transportation  
15 Board, upon its own motion or upon complaint, may  
16 request the advisory panel to submit to the Surface  
17 Transportation Board a recommendation for a pro-  
18 posed reliability standard or modification to a reli-  
19 ability standard that addresses a specific matter if  
20 the Surface Transportation Board considers such a  
21 new or modified reliability standard appropriate to  
22 carry out this section. If the advisory panel fails to  
23 submit a proposed or modified standard within 1  
24 year after such a request from the Surface Trans-

1 portation Board, the Board may implement its own  
2 standard to carry out this section.

3 (4) CONFLICT.—A final rule adopted under this  
4 section shall include fair processes for the identifica-  
5 tion and timely resolution of any conflict between a  
6 reliability standard and any function, rule, order,  
7 tariff, rate schedule, or agreement accepted, ap-  
8 proved, or ordered by the Surface Transportation  
9 Board applicable to a rail carrier. Such rail carrier  
10 shall continue to comply with such function, rule,  
11 order, tariff, rate schedule, or agreement accepted  
12 approved, or ordered by the Surface Transportation  
13 Board until—

14 (A) the Surface Transportation Board  
15 finds a conflict exists between a reliability  
16 standard and any such provision;

17 (B) the Surface Transportation Board or-  
18 ders a change to such provision; and

19 (C) the ordered change becomes effective.

20 If the Surface Transportation Board determines  
21 that a reliability standard needs to be changed as a  
22 result of such a conflict, it shall order the advisory  
23 panel to develop and recommend to the Surface  
24 Transportation Board a modified reliability stand-  
25 ard.

1           (5) PENALTIES.—On its own motion or upon  
2           complaint, the Surface Transportation Board may  
3           order compliance with a reliability standard and may  
4           impose a penalty against a rail carrier or other enti-  
5           ty if the Surface Transportation Board finds, after  
6           notice and opportunity for a hearing, that the rail  
7           carrier or other entity has engaged or is about to en-  
8           gage in any acts or practices that constitute or will  
9           constitute a violation of a reliability standard.

○