

***In the House of Representatives, U. S.,***

*September 24, 2008.*

*Resolved*, That the House agree to the amendment of the Senate to the bill (H.R. 2095) entitled “An Act to amend title 49, United States Code, to prevent railroad fatalities, injuries, and hazardous materials releases, to authorize the Federal Railroad Safety Administration, and for other purposes.”, with the following

**HOUSE AMENDMENT TO SENATE AMENDMENT:**

In lieu of the matter proposed to be inserted by the amendment of the Senate, insert the following:

1           ***DIVISION A—RAIL SAFETY***

2   ***SEC. 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENT***

3                           ***OF TITLE 49.***

4           (a) *SHORT TITLE.*—*This division may be cited as the*  
5 *“Rail Safety Improvement Act of 2008”.*

6           (b) *TABLE OF CONTENTS.*—*The table of contents for*  
7 *this division is as follows:*

*Sec. 1. Short title; table of contents; amendment of title 49.*

*Sec. 2. Definitions.*

*Sec. 3. Authorization of appropriations.*

***TITLE I—RAILROAD SAFETY IMPROVEMENTS***

*Sec. 101. Federal Railroad Administration officers and duties.*

*Sec. 102. Railroad safety strategy.*

*Sec. 103. Railroad safety risk reduction program.*

*Sec. 104. Implementation of positive train control.*

*Sec. 105. Railroad safety technology grants.*

*Sec. 106. Reports on statutory mandates and recommendations.*

*Sec. 107. Rulemaking process.*

- Sec. 108. *Hours-of-service reform.*  
 Sec. 109. *Protection of railroad safety risk analyses information.*  
 Sec. 110. *Pilot projects.*

*TITLE II—HIGHWAY-RAIL GRADE CROSSING AND PEDESTRIAN  
SAFETY AND TRESPASSER PREVENTION*

- Sec. 201. *Pedestrian crossing safety.*  
 Sec. 202. *State action plans.*  
 Sec. 203. *Improvements to sight distance at highway-rail grade crossings.*  
 Sec. 204. *National crossing inventory.*  
 Sec. 205. *Telephone number to report grade crossing problems.*  
 Sec. 206. *Operation Lifesaver.*  
 Sec. 207. *Federal grants to States for highway-rail grade crossing safety.*  
 Sec. 208. *Trespasser prevention and highway-rail grade crossing safety.*  
 Sec. 209. *Accident and incident reporting.*  
 Sec. 210. *Fostering introduction of new technology to improve safety at highway-rail grade crossings.*

*TITLE III—FEDERAL RAILROAD ADMINISTRATION*

- Sec. 301. *Human capital increases.*  
 Sec. 302. *Civil penalty increases.*  
 Sec. 303. *Enforcement report.*  
 Sec. 304. *Expansion of emergency order authority.*  
 Sec. 305. *Prohibition of individuals from performing safety-sensitive functions for a violation of hazardous materials transportation law.*  
 Sec. 306. *Railroad radio monitoring authority.*  
 Sec. 307. *Update of Federal Railroad Administration's website.*  
 Sec. 308. *Emergency waivers.*  
 Sec. 309. *Enforcement by the Attorney General.*  
 Sec. 310. *Criminal penalties.*

*TITLE IV—RAILROAD SAFETY ENHANCEMENTS*

- Sec. 401. *Minimum training standards and plans.*  
 Sec. 402. *Certification of certain crafts or classes of employees.*  
 Sec. 403. *Track inspection time study.*  
 Sec. 404. *Study of methods to improve or correct station platform gaps.*  
 Sec. 405. *Locomotive cab studies.*  
 Sec. 406. *Development and use of rail safety technology.*  
 Sec. 407. *Unified treatment of families of railroad carriers.*  
 Sec. 408. *Study of repeal of Conrail provision.*  
 Sec. 409. *Limitations on non-Federal alcohol and drug testing by railroad carriers.*  
 Sec. 410. *Critical incident stress plan.*  
 Sec. 411. *Railroad carrier employee exposure to radiation study.*  
 Sec. 412. *Alcohol and controlled substance testing for maintenance-of-way employees.*  
 Sec. 413. *Emergency escape breathing apparatus.*  
 Sec. 414. *Tunnel information.*  
 Sec. 415. *Museum locomotive study.*  
 Sec. 416. *Safety inspections in Mexico.*  
 Sec. 417. *Railroad bridge safety assurance.*  
 Sec. 418. *Railroad safety infrastructure improvement grants.*  
 Sec. 419. *Prompt medical attention.*

*Sec. 420. Employee sleeping quarters.*

*TITLE V—RAIL PASSENGER DISASTER FAMILY ASSISTANCE*

*Sec. 501. Assistance by National Transportation Safety Board to families of passengers involved in rail passenger accidents.*

*Sec. 502. Rail passenger carrier plan to assist families of passengers involved in rail passenger accidents.*

*Sec. 503. Establishment of task force.*

*TITLE VI—CLARIFICATION OF FEDERAL JURISDICTION OVER SOLID WASTE FACILITIES*

*Sec. 601. Short title.*

*Sec. 602. Clarification of general jurisdiction over solid waste transfer facilities.*

*Sec. 603. Regulation of solid waste rail transfer facilities.*

*Sec. 604. Solid waste rail transfer facility land-use exemption authority.*

*Sec. 605. Effect on other statutes and authorities.*

*TITLE VII—TECHNICAL CORRECTIONS*

*Sec. 701. Technical corrections.*

1           (c) *AMENDMENT OF TITLE 49.—Except as otherwise*  
 2 *expressly provided, whenever in this division an amend-*  
 3 *ment or repeal is expressed in terms of an amendment to,*  
 4 *or a repeal of, a section or other provision, the reference*  
 5 *shall be considered to be made to a section or other provi-*  
 6 *sion of title 49, United States Code.*

7 **SEC. 2. DEFINITIONS.**

8           (a) *IN GENERAL.—In this division:*

9                   (1) *CROSSING.—The term “crossing” means a lo-*  
 10 *cation within a State, other than a location where*  
 11 *one or more railroad tracks cross one or more rail-*  
 12 *road tracks at grade where—*

13                           (A) *a public highway, road, or street, or a*  
 14 *private roadway, including associated sidewalks*  
 15 *and pathways, crosses one or more railroad*  
 16 *tracks either at grade or grade-separated; or*

1           (B) a pathway explicitly authorized by a  
2           public authority or a railroad carrier that is  
3           dedicated for the use of nonvehicular traffic, in-  
4           cluding pedestrians, bicyclists, and others, that is  
5           not associated with a public highway, road, or  
6           street, or a private roadway, crosses one or more  
7           railroad tracks either at grade or grade-sepa-  
8           rated.

9           (2) *DEPARTMENT.*—The term “Department”  
10          means the Department of Transportation.

11          (3) *RAILROAD.*—The term “railroad” has the  
12          meaning given that term by section 20102 of title 49,  
13          United States Code.

14          (4) *RAILROAD CARRIER.*—The term “railroad  
15          carrier” has the meaning given that term by section  
16          20102 of title 49, United States Code.

17          (5) *SECRETARY.*—The term “Secretary” means  
18          the Secretary of Transportation.

19          (6) *STATE.*—The term “State” means a State of  
20          the United States, the District of Columbia, or the  
21          Commonwealth of Puerto Rico.

22          (b) *IN TITLE 49.*—Section 20102 is amended—

23                 (1) by redesignating paragraphs (1) and (2) as  
24                 paragraphs (2) and (3), respectively;

1           (2) by inserting before paragraph (2), as redesignated, the following:

2           “(1) ‘Class I railroad’, ‘Class II railroad’, and  
3           ‘Class III railroad’ mean railroad carriers that have  
4           annual carrier operating revenues that meet the  
5           threshold amount for Class I carriers, Class II carriers,  
6           and Class III carriers, respectively, as determined by the Surface Transportation Board under  
7           section 1201.1-1 of title 49, Code of Federal Regulations.”; and

8           (3) by adding at the end thereof the following:

9           “(4) ‘safety-related railroad employee’ means—

10           “(A) a railroad employee who is subject to  
11           chapter 211;

12           “(B) another operating railroad employee  
13           who is not subject to chapter 211;

14           “(C) an employee who maintains the right  
15           of way of a railroad;

16           “(D) an employee of a railroad carrier who  
17           is a hazmat employee as defined in section  
18           5102(3) of this title;

19           “(E) an employee who inspects, repairs, or  
20           maintains locomotives, passenger cars, or freight  
21           cars; and

1           “(F) any other employee of a railroad car-  
2           rier who directly affects railroad safety, as deter-  
3           mined by the Secretary.”.

4 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

5           Section 20117(a) of title 49, United States Code, is  
6           amended to read as follows:

7           “(a) *IN GENERAL.*—(1) There are authorized to be ap-  
8           propriated to the Secretary of Transportation to carry out  
9           this part and to carry out responsibilities under chapter  
10          51 as delegated or authorized by the Secretary—

11           “(A) \$225,000,000 for fiscal year 2009;

12           “(B) \$245,000,000 for fiscal year 2010;

13           “(C) \$266,000,000 for fiscal year 2011;

14           “(D) \$289,000,000 for fiscal year 2012; and

15           “(E) \$293,000,000 for fiscal year 2013.

16          “(2) With amounts appropriated pursuant to para-  
17          graph (1), the Secretary shall purchase Gage Restraint  
18          Measurement System vehicles and track geometry vehicles  
19          or other comparable technology as needed to assess track  
20          safety consistent with the results of the track inspection  
21          study required by section 403 of the Rail Safety Improve-  
22          ment Act of 2008.

23          “(3) There are authorized to be appropriated to the  
24          Secretary \$18,000,000 for the period encompassing fiscal  
25          years 2009 through 2013 to design, develop, and construct

1 *the Facility for Underground Rail Station and Tunnel at*  
2 *the Transportation Technology Center in Pueblo, Colorado.*  
3 *The facility shall be used to test and evaluate the*  
4 *vulnerabilities of above-ground and underground rail tun-*  
5 *nels to prevent accidents and incidents in such tunnels, to*  
6 *mitigate and remediate the consequences of any such acci-*  
7 *dents or incidents, and to provide a realistic scenario for*  
8 *training emergency responders.*

9       “(4) Such sums as may be necessary from the amount  
10 appropriated pursuant to paragraph (1) for each of the fis-  
11 cal years 2009 through 2013 shall be made available to the  
12 Secretary for personnel in regional offices and in Wash-  
13 ington, D.C., whose duties primarily involve rail security.”.

14       **TITLE I—RAILROAD SAFETY**  
15       **IMPROVEMENTS**

16       **SEC. 101. FEDERAL RAILROAD ADMINISTRATION OFFICERS**  
17       **AND DUTIES.**

18       Section 103 is amended by striking subsections (b)  
19 through (e) and inserting the following:

20       “(c) **SAFETY AS HIGHEST PRIORITY.**—In carrying out  
21 its duties, the Administration shall consider the assignment  
22 and maintenance of safety as the highest priority, recog-  
23 nizing the clear intent, encouragement, and dedication of  
24 Congress to the furtherance of the highest degree of safety  
25 in railroad transportation.

1       “(d) *ADMINISTRATOR.*—*The head of the Administra-*  
2 *tion shall be the Administrator who shall be appointed by*  
3 *the President, by and with the advice and consent of the*  
4 *Senate, and shall be an individual with professional experi-*  
5 *ence in railroad safety, hazardous materials safety, or other*  
6 *transportation safety. The Administrator shall report di-*  
7 *rectly to the Secretary of Transportation.*

8       “(e) *DEPUTY ADMINISTRATOR.*—*The Administration*  
9 *shall have a Deputy Administrator who shall be appointed*  
10 *by the Secretary. The Deputy Administrator shall carry out*  
11 *duties and powers prescribed by the Administrator.*

12       “(f) *CHIEF SAFETY OFFICER.*—*The Administration*  
13 *shall have an Associate Administrator for Railroad Safety*  
14 *appointed in the career service by the Secretary. The Asso-*  
15 *ciate Administrator shall be the Chief Safety Officer of the*  
16 *Administration. The Associate Administrator shall carry*  
17 *out the duties and powers prescribed by the Administrator.*

18       “(g) *DUTIES AND POWERS OF THE ADMINISTRATOR.*—  
19 *The Administrator shall carry out—*

20               “(1) *duties and powers related to railroad safety*  
21 *vested in the Secretary by section 20134(c) and chap-*  
22 *ters 203 through 211 of this title, and by chapter 213*  
23 *of this title for carrying out chapters 203 through*  
24 *211;*

1           “(2) *the duties and powers related to railroad*  
2           *policy and development under subsection (j); and*

3           “(3) *other duties and powers prescribed by the*  
4           *Secretary.*

5           “(h) *LIMITATION.—A duty or power specified in sub-*  
6           *section (g)(1) may be transferred to another part of the De-*  
7           *partment of Transportation or another Federal Government*  
8           *entity only when specifically provided by law. A decision*  
9           *of the Administrator in carrying out the duties or powers*  
10           *of the Administration and involving notice and hearing re-*  
11           *quired by law is administratively final.*

12           “(i) *AUTHORITIES.—Subject to the provisions of sub-*  
13           *title I of title 40 and title III of the Federal Property and*  
14           *Administrative Services Act of 1949 (41 U.S.C. 251 et seq.),*  
15           *the Secretary of Transportation may make, enter into, and*  
16           *perform such contracts, grants, leases, cooperative agree-*  
17           *ments, and other similar transactions with Federal or other*  
18           *public agencies (including State and local governments)*  
19           *and private organizations and persons, and make such pay-*  
20           *ments, by way of advance or reimbursement, as the Sec-*  
21           *retary may determine to be necessary or appropriate to*  
22           *carry out functions at the Administration. The authority*  
23           *of the Secretary granted by this subsection shall be carried*  
24           *out by the Administrator. Notwithstanding any other provi-*  
25           *sion of this chapter, no authority to enter into contracts*

1 *or to make payments under this subsection shall be effective,*  
2 *except as provided for in appropriations Acts.”.*

3 **SEC. 102. RAILROAD SAFETY STRATEGY.**

4 *(a) SAFETY GOALS.—In conjunction with existing fed-*  
5 *erally-required and voluntary strategic planning efforts on-*  
6 *going at the Department and the Federal Railroad Admin-*  
7 *istration as of the date of enactment of this Act, the Sec-*  
8 *retary shall develop a long-term strategy for improving*  
9 *railroad safety to cover a period of not less than 5 years.*  
10 *The strategy shall include an annual plan and schedule for*  
11 *achieving, at a minimum, the following goals:*

12 *(1) Reducing the number and rates of accidents,*  
13 *incidents, injuries, and fatalities involving railroads*  
14 *including train collisions, derailments, and human*  
15 *factors.*

16 *(2) Improving the consistency and effectiveness of*  
17 *enforcement and compliance programs.*

18 *(3) Improving the identification of high-risk*  
19 *highway-rail grade crossings and strengthening en-*  
20 *forcement and other methods to increase grade cross-*  
21 *ing safety.*

22 *(4) Improving research efforts to enhance and*  
23 *promote railroad safety and performance.*

24 *(5) Preventing railroad trespasser accidents, in-*  
25 *cidents, injuries, and fatalities.*

1           (6) *Improving the safety of railroad bridges, tun-*  
2           *nels, and related infrastructure to prevent accidents,*  
3           *incidents, injuries, and fatalities caused by cata-*  
4           *strophic failures and other bridge and tunnel failures.*

5           (b) *RESOURCE NEEDS.—The strategy and annual*  
6           *plan shall include estimates of the funds and staff resources*  
7           *needed to accomplish the goals established by subsection (a).*  
8           *Such estimates shall also include the staff skills and train-*  
9           *ing required for timely and effective accomplishment of each*  
10          *such goal.*

11          (c) *SUBMISSION WITH THE PRESIDENT’S BUDGET.—*  
12          *The Secretary shall submit the strategy and annual plan*  
13          *to the Senate Committee on Commerce, Science, and Trans-*  
14          *portation and the House of Representatives Committee on*  
15          *Transportation and Infrastructure at the same time as the*  
16          *President’s budget submission.*

17          (d) *ACHIEVEMENT OF GOALS.—*

18                 (1) *PROGRESS ASSESSMENT.—No less frequently*  
19                 *than annually, the Secretary shall assess the progress*  
20                 *of the Department toward achieving the strategic*  
21                 *goals described in subsection (a). The Secretary shall*  
22                 *identify any deficiencies in achieving the goals within*  
23                 *the strategy and develop and institute measures to re-*  
24                 *mediate such deficiencies. The Secretary and the Ad-*  
25                 *ministrator shall convey their assessment to the em-*

1        *ployees of the Federal Railroad Administration and*  
2        *shall identify any deficiencies that should be remedi-*  
3        *ated before the next progress assessment.*

4            (2) *REPORT TO CONGRESS.—Beginning in 2009,*  
5        *not later than November 1 of each year, the Secretary*  
6        *shall transmit a report to the Senate Committee on*  
7        *Commerce, Science, and Transportation and the*  
8        *House of Representatives Committee on Transpor-*  
9        *tation and Infrastructure on the performance of the*  
10       *Federal Railroad Administration containing the*  
11       *progress assessment required by paragraph (1) toward*  
12       *achieving the goals of the railroad safety strategy and*  
13       *annual plans under subsection (a).*

14       **SEC. 103. RAILROAD SAFETY RISK REDUCTION PROGRAM.**

15        (a) *IN GENERAL.—Subchapter II of chapter 201 is*  
16       *amended by adding at end thereof the following:*

17       **“§ 20156. Railroad safety risk reduction program**

18        “(a) *IN GENERAL.—*

19            “(1) *PROGRAM REQUIREMENT.—Not later than 4*  
20        *years after the date of enactment of the Rail Safety*  
21        *Improvement Act of 2008, the Secretary of Transpor-*  
22        *tation, by regulation, shall require each railroad car-*  
23        *rier that is a Class I railroad, a railroad carrier that*  
24        *has inadequate safety performance (as determined by*  
25        *the Secretary), or a railroad carrier that provides*

1 *intercity rail passenger or commuter rail passenger*  
2 *transportation—*

3 *“(A) to develop a railroad safety risk reduc-*  
4 *tion program under subsection (d) that system-*  
5 *atically evaluates railroad safety risks on its sys-*  
6 *tem and manages those risks in order to reduce*  
7 *the numbers and rates of railroad accidents, in-*  
8 *cidents, injuries, and fatalities;*

9 *“(B) to submit its program, including any*  
10 *required plans, to the Secretary for review and*  
11 *approval; and*

12 *“(C) to implement the program and plans*  
13 *approved by the Secretary.*

14 *“(2) RELIANCE ON PILOT PROGRAM.—The Sec-*  
15 *retary may conduct behavior-based safety and other*  
16 *research, including pilot programs, before promul-*  
17 *gating regulations under this subsection and there-*  
18 *after. The Secretary shall use any information and*  
19 *experience gathered through such research and pilot*  
20 *programs under this subsection in developing regula-*  
21 *tions under this section.*

22 *“(3) REVIEW AND APPROVAL.—The Secretary*  
23 *shall review and approve or disapprove railroad safe-*  
24 *ty risk reduction program plans within a reasonable*  
25 *period of time. If the proposed plan is not approved,*

1        *the Secretary shall notify the affected railroad carrier*  
2        *as to the specific areas in which the proposed plan is*  
3        *deficient, and the railroad carrier shall correct all de-*  
4        *ficiencies within a reasonable period of time following*  
5        *receipt of written notice from the Secretary. The Sec-*  
6        *retary shall annually conduct a review to ensure that*  
7        *the railroad carriers are complying with their plans.*

8                *“(4) VOLUNTARY COMPLIANCE.—A railroad car-*  
9        *rier that is not required to submit a railroad safety*  
10        *risk reduction program under this section may volun-*  
11        *tarily submit a program that meets the requirements*  
12        *of this section to the Secretary. The Secretary shall*  
13        *approve or disapprove any program submitted under*  
14        *this paragraph.*

15                *“(b) CERTIFICATION.—The chief official responsible for*  
16        *safety of each railroad carrier required to submit a railroad*  
17        *safety risk reduction program under subsection (a) shall*  
18        *certify that the contents of the program are accurate and*  
19        *that the railroad carrier will implement the contents of the*  
20        *program as approved by the Secretary.*

21                *“(c) RISK ANALYSIS.—In developing its railroad safe-*  
22        *ty risk reduction program each railroad carrier required*  
23        *to submit such a program pursuant to subsection (a) shall*  
24        *identify and analyze the aspects of its railroad, including*  
25        *operating rules and practices, infrastructure, equipment,*

1 *employee levels and schedules, safety culture, management*  
2 *structure, employee training, and other matters, including*  
3 *those not covered by railroad safety regulations or other*  
4 *Federal regulations, that impact railroad safety.*

5 *“(d) PROGRAM ELEMENTS.—*

6 *“(1) IN GENERAL.—Each railroad carrier re-*  
7 *quired to submit a railroad safety risk reduction pro-*  
8 *gram under subsection (a) shall develop a comprehen-*  
9 *sive safety risk reduction program to improve safety*  
10 *by reducing the number and rates of accidents, inci-*  
11 *dents, injuries, and fatalities that is based on the risk*  
12 *analysis required by subsection (c) through—*

13 *“(A) the mitigation of aspects that increase*  
14 *risks to railroad safety; and*

15 *“(B) the enhancement of aspects that de-*  
16 *crease risks to railroad safety.*

17 *“(2) REQUIRED COMPONENTS.—Each railroad*  
18 *carrier’s safety risk reduction program shall include*  
19 *a risk mitigation plan in accordance with this sec-*  
20 *tion, a technology implementation plan that meets the*  
21 *requirements of subsection (e), and a fatigue manage-*  
22 *ment plan that meets the requirements of subsection*  
23 *(f).*

24 *“(e) TECHNOLOGY IMPLEMENTATION PLAN.—*

1           “(1) *IN GENERAL.*—As part of its railroad safety  
2           *risk reduction program, a railroad carrier required to*  
3           *submit a railroad safety risk reduction program*  
4           *under subsection (a) shall develop, and periodically*  
5           *update as necessary, a 10-year technology implemen-*  
6           *tation plan that describes the railroad carrier’s plan*  
7           *for development, adoption, implementation, mainte-*  
8           *nance, and use of current, new, or novel technologies*  
9           *on its system over a 10-year period to reduce safety*  
10           *risks identified under the railroad safety risk reduc-*  
11           *tion program. Any updates to the plan are subject to*  
12           *review and approval by the Secretary.*

13           “(2) *TECHNOLOGY ANALYSIS.*—A railroad car-  
14           *rier’s technology implementation plan shall include*  
15           *an analysis of the safety impact, feasibility, and cost*  
16           *and benefits of implementing technologies, including*  
17           *processor-based technologies, positive train control*  
18           *systems (as defined in section 20157(i)), electronically*  
19           *controlled pneumatic brakes, rail integrity inspection*  
20           *systems, rail integrity warning systems, switch posi-*  
21           *tion monitors and indicators, trespasser prevention*  
22           *technology, highway-rail grade crossing technology,*  
23           *and other new or novel railroad safety technology, as*  
24           *appropriate, that may mitigate risks to railroad safe-*

1 *ty identified in the risk analysis required by sub-*  
2 *section (c).*

3 “(3) *IMPLEMENTATION SCHEDULE.—A railroad*  
4 *carrier’s technology implementation plan shall con-*  
5 *tain a prioritized implementation schedule for the de-*  
6 *velopment, adoption, implementation, and use of cur-*  
7 *rent, new, or novel technologies on its system to re-*  
8 *duce safety risks identified under the railroad safety*  
9 *risk reduction program.*

10 “(4) *POSITIVE TRAIN CONTROL.—Except as re-*  
11 *quired by section 20157 (relating to the requirements*  
12 *for implementation of positive train control systems),*  
13 *the Secretary shall ensure that—*

14 “(A) *each railroad carrier’s technology im-*  
15 *plementation plan required under paragraph (1)*  
16 *that includes a schedule for implementation of a*  
17 *positive train control system complies with that*  
18 *schedule; and*

19 “(B) *each railroad carrier required to sub-*  
20 *mit such a plan implements a positive train*  
21 *control system pursuant to such plan by Decem-*  
22 *ber 31, 2018.*

23 “(f) *FATIGUE MANAGEMENT PLAN.—*

24 “(1) *IN GENERAL.—As part of its railroad safety*  
25 *risk reduction program, a railroad carrier required to*

1     *submit a railroad safety risk reduction program*  
2     *under subsection (a) shall develop and update at least*  
3     *once every 2 years a fatigue management plan that*  
4     *is designed to reduce the fatigue experienced by safe-*  
5     *ty-related railroad employees and to reduce the likeli-*  
6     *hood of accidents, incidents, injuries, and fatalities*  
7     *caused by fatigue. Any such update shall be subject to*  
8     *review and approval by the Secretary.*

9             “(2) *TARGETED FATIGUE COUNTERMEASURES.—*  
10     *A railroad carrier’s fatigue management plan shall*  
11     *take into account the varying circumstances of oper-*  
12     *ations by the railroad on different parts of its system,*  
13     *and shall prescribe appropriate fatigue counter-*  
14     *measures to address those varying circumstances.*

15             “(3) *ADDITIONAL ELEMENTS.—A railroad shall*  
16     *consider the need to include in its fatigue manage-*  
17     *ment plan elements addressing each of the following*  
18     *items, as applicable:*

19             “(A) *Employee education and training on*  
20     *the physiological and human factors that affect*  
21     *fatigue, as well as strategies to reduce or miti-*  
22     *gate the effects of fatigue, based on the most cur-*  
23     *rent scientific and medical research and lit-*  
24     *erature.*

1           “(B) Opportunities for identification, diag-  
2           nosis, and treatment of any medical condition  
3           that may affect alertness or fatigue, including  
4           sleep disorders.

5           “(C) Effects on employee fatigue of an em-  
6           ployee’s short-term or sustained response to  
7           emergency situations, such as derailments and  
8           natural disasters, or engagement in other inten-  
9           sive working conditions.

10          “(D) Scheduling practices for employees, in-  
11          cluding innovative scheduling practices, on-duty  
12          call practices, work and rest cycles, increased  
13          consecutive days off for employees, changes in  
14          shift patterns, appropriate scheduling practices  
15          for varying types of work, and other aspects of  
16          employee scheduling that would reduce employee  
17          fatigue and cumulative sleep loss.

18          “(E) Methods to minimize accidents and in-  
19          cidents that occur as a result of working at times  
20          when scientific and medical research have shown  
21          increased fatigue disrupts employees’ circadian  
22          rhythm.

23          “(F) Alertness strategies, such as policies on  
24          napping, to address acute drowsiness and fatigue  
25          while an employee is on duty.

1           “(G) Opportunities to obtain restful sleep at  
2 lodging facilities, including employee sleeping  
3 quarters provided by the railroad carrier.

4           “(H) The increase of the number of consecu-  
5 tive hours of off-duty rest, during which an em-  
6 ployee receives no communication from the em-  
7 ploying railroad carrier or its managers, super-  
8 visors, officers, or agents.

9           “(I) Avoidance of abrupt changes in rest cy-  
10 cles for employees.

11           “(J) Additional elements that the Secretary  
12 considers appropriate.

13           “(g) CONSENSUS.—

14           “(1) IN GENERAL.—Each railroad carrier re-  
15 quired to submit a railroad safety risk reduction pro-  
16 gram under subsection (a) shall consult with, employ  
17 good faith and use its best efforts to reach agreement  
18 with, all of its directly affected employees, including  
19 any non-profit employee labor organization rep-  
20 resenting a class or craft of directly affected employees  
21 of the railroad carrier, on the contents of the safety  
22 risk reduction program.

23           “(2) STATEMENT.—If the railroad carrier and  
24 its directly affected employees, including any non-  
25 profit employee labor organization representing a



1           “(1) *PLAN REQUIRED.*—Not later than 18  
2           months after the date of enactment of the Rail Safety  
3           Improvement Act of 2008, each Class I railroad car-  
4           rier and each entity providing regularly scheduled  
5           intercity or commuter rail passenger transportation  
6           shall develop and submit to the Secretary of Trans-  
7           portation a plan for implementing a positive train  
8           control system by December 31, 2015, governing oper-  
9           ations on—

10                   “(A) *its main line over which intercity rail*  
11                   *passenger transportation or commuter rail pas-*  
12                   *senger transportation, as defined in section*  
13                   *24102, is regularly provided;*

14                   “(B) *its main line over which poison- or*  
15                   *toxic-by-inhalation hazardous materials, as de-*  
16                   *finied in parts 171.8, 173.115, and 173.132 of*  
17                   *title 49, Code of Federal Regulations, are trans-*  
18                   *ported; and*

19                   “(C) *such other tracks as the Secretary may*  
20                   *prescribe by regulation or order.*

21           “(2) *IMPLEMENTATION.*—The plan shall describe  
22           how it will provide for interoperability of the system  
23           with movements of trains of other railroad carriers  
24           over its lines and shall, to the extent practical, imple-  
25           ment the system in a manner that addresses areas of

1        *greater risk before areas of lesser risk. The railroad*  
2        *carrier shall implement a positive train control sys-*  
3        *tem in accordance with the plan.*

4        “(b) *TECHNICAL ASSISTANCE.*—*The Secretary may*  
5        *provide technical assistance and guidance to railroad car-*  
6        *riers in developing the plans required under subsection (a).*

7        “(c) *REVIEW AND APPROVAL.*—*Not later than 90 days*  
8        *after the Secretary receives a plan, the Secretary shall re-*  
9        *view and approve or disapprove it. If the proposed plan*  
10       *is not approved, the Secretary shall notify the affected rail-*  
11       *road carrier or other entity as to the specific areas in which*  
12       *the proposed plan is deficient, and the railroad carrier or*  
13       *other entity shall correct all deficiencies within 30 days fol-*  
14       *lowing receipt of written notice from the Secretary. The Sec-*  
15       *retary shall annually conduct a review to ensure that the*  
16       *railroad carriers are complying with their plans.*

17       “(d) *REPORT.*—*Not later than December 31, 2012, the*  
18       *Secretary shall transmit a report to the Committee on*  
19       *Transportation and Infrastructure of the House of Rep-*  
20       *resentatives and the Committee on Commerce, Science, and*  
21       *Transportation of the Senate on the progress of the railroad*  
22       *carriers in implementing such positive train control sys-*  
23       *tems.*

24       “(e) *ENFORCEMENT.*—*The Secretary is authorized to*  
25       *assess civil penalties pursuant to chapter 213 for a viola-*

1 *tion of this section, including the failure to submit or com-*  
2 *ply with a plan for implementing positive train control*  
3 *under subsection (a).*

4       “(f) *OTHER RAILROAD CARRIERS.*—*Nothing in this*  
5 *section restricts the discretion of the Secretary to require*  
6 *railroad carriers other than those specified in subsection (a)*  
7 *to implement a positive train control system pursuant to*  
8 *this section or section 20156, or to specify the period by*  
9 *which implementation shall occur that does not exceed the*  
10 *time limits established in this section or section 20156. In*  
11 *exercising such discretion, the Secretary shall, at a min-*  
12 *imum, consider the risk to railroad employees and the pub-*  
13 *lic associated with the operations of the railroad carrier.*

14       “(g) *REGULATIONS.*—*The Secretary shall prescribe*  
15 *regulations or issue orders necessary to implement this sec-*  
16 *tion, including regulations specifying in appropriate tech-*  
17 *nical detail the essential functionalities of positive train*  
18 *control systems, and the means by which those systems will*  
19 *be qualified.*

20       “(h) *CERTIFICATION.*—*The Secretary shall not permit*  
21 *the installation of any positive train control system or com-*  
22 *ponent in revenue service unless the Secretary has certified*  
23 *that any such system or component has been approved*  
24 *through the approval process set forth in part 236 of title*

1 49, Code of Federal Regulations, and complies with the re-  
2 quirements of that part.

3 “(i) *DEFINITIONS.*—*In this section:*

4 “(1) *INTEROPERABILITY.*—*The term ‘interoper-*  
5 *ability’ means the ability to control locomotives of the*  
6 *host railroad and tenant railroad to communicate*  
7 *with and respond to the positive train control system,*  
8 *including uninterrupted movements over property*  
9 *boundaries.*

10 “(2) *MAIN LINE.*—*The term ‘main line’ means a*  
11 *segment or route of railroad tracks over which*  
12 *5,000,000 or more gross tons of railroad traffic is*  
13 *transported annually, except that—*

14 “(A) *the Secretary may, through regulations*  
15 *under subsection (g), designate additional tracks*  
16 *as main line as appropriate for this section; and*

17 “(B) *for intercity rail passenger transpor-*  
18 *tation or commuter rail passenger transpor-*  
19 *tation routes or segments over which limited or*  
20 *no freight railroad operations occur, the Sec-*  
21 *retary shall define the term ‘main line’ by regu-*  
22 *lation.*

23 “(3) *POSITIVE TRAIN CONTROL SYSTEM.*—*The*  
24 *term ‘positive train control system’ means a system*  
25 *designed to prevent train-to-train collisions, over-*

1        *speed derailments, incursions into established work*  
 2        *zone limits, and the movement of a train through a*  
 3        *switch left in the wrong position.”.*

4        *(b) CONFORMING AMENDMENT.—The chapter analysis*  
 5        *for chapter 201, as amended by section 103 of this division,*  
 6        *is amended by inserting after the item relating to section*  
 7        *20156 the following:*

*“20157. Implementation of positive train control systems.”.*

8        **SEC. 105. RAILROAD SAFETY TECHNOLOGY GRANTS.**

9        *(a) IN GENERAL.—Subchapter II of chapter 201, as*  
 10        *amended by section 104 of this division, is further amended*  
 11        *by adding at the end thereof the following:*

12        **“§ 20158. Railroad safety technology grants**

13        *“(a) GRANT PROGRAM.—The Secretary of Transpor-*  
 14        *tation shall establish a grant program for the deployment*  
 15        *of train control technologies, train control component tech-*  
 16        *nologies, processor-based technologies, electronically con-*  
 17        *trolled pneumatic brakes, rail integrity inspection systems,*  
 18        *rail integrity warning systems, switch position indicators*  
 19        *and monitors, remote control power switch technologies,*  
 20        *track integrity circuit technologies, and other new or novel*  
 21        *railroad safety technology.*

22        *“(b) GRANT CRITERIA.—*

23                *“(1) ELIGIBILITY.—Grants shall be made under*  
 24        *this section to eligible passenger and freight railroad*  
 25        *carriers, railroad suppliers, and State and local gov-*

1 *ernments for projects described in subsection (a) that*  
2 *have a public benefit of improved safety and network*  
3 *efficiency.*

4 “(2) *CONSIDERATIONS.—Priority shall be given*  
5 *to projects that—*

6 “(A) *focus on making technologies inter-*  
7 *operable between railroad systems, such as train*  
8 *control technologies;*

9 “(B) *accelerate train control technology de-*  
10 *ployment on high-risk corridors, such as those*  
11 *that have high volumes of hazardous materials*  
12 *shipments or over which commuter or passenger*  
13 *trains operate; or*

14 “(C) *benefit both passenger and freight safe-*  
15 *ty and efficiency.*

16 “(3) *IMPLEMENTATION PLANS.—Grants may not*  
17 *be awarded under this section to entities that fail to*  
18 *develop and submit to the Secretary the plans re-*  
19 *quired by sections 20156(e)(2) and 20157.*

20 “(4) *MATCHING REQUIREMENTS.—Federal funds*  
21 *for any eligible project under this section shall not ex-*  
22 *ceed 80 percent of the total cost of such project.*

23 “(c) *AUTHORIZATION OF APPROPRIATIONS.—There are*  
24 *authorized to be appropriated to the Secretary of Transpor-*  
25 *tation \$50,000,000 for each of fiscal years 2009 through*

1 2013 to carry out this section. Amounts appropriated pur-  
 2 suant to this section shall remain available until ex-  
 3 pended.”.

4 (b) *CONFORMING AMENDMENT.*—The chapter analysis  
 5 for chapter 201, as amended by section 104 of this division,  
 6 is further amended by inserting after the item relating to  
 7 section 20157 the following:

“20158. *Railroad safety technology grants.*”.

8 **SEC. 106. REPORTS ON STATUTORY MANDATES AND REC-**  
 9 **COMMENDATIONS.**

10 Not later than December 31, 2008, and annually there-  
 11 after, the Secretary shall transmit a report to the House  
 12 of Representatives Committee on Transportation and Infra-  
 13 structure and the Senate Committee on Commerce, Science,  
 14 and Transportation on the specific actions taken to imple-  
 15 ment unmet statutory mandates regarding railroad safety  
 16 and each open railroad safety recommendation made by the  
 17 National Transportation Safety Board or the Department’s  
 18 Inspector General.

19 **SEC. 107. RULEMAKING PROCESS.**

20 (a) *AMENDMENT.*—Subchapter I of chapter 201 is  
 21 amended by inserting after section 20115 the following new  
 22 section:

23 **“§20116. Rulemaking process**

24 “No rule or order issued by the Secretary under this  
 25 part shall be effective if it incorporates by reference a code,

1 *rule, standard, requirement, or practice issued by an asso-*  
 2 *ciation or other entity that is not an agency of the Federal*  
 3 *Government, unless the date on which the code, rule, stand-*  
 4 *ard, requirement, or practice was adopted is specifically*  
 5 *cited in the rule or order, or the code, rule, standard, re-*  
 6 *quirement, or practice has been subject to notice and com-*  
 7 *ment under a rule or order issued under this part.”.*

8 (b) *CONFORMING AMENDMENT.—The chapter analysis*  
 9 *for chapter 201 is amended by inserting after the item relat-*  
 10 *ing to section 20115 the following:*

*“20116. Rulemaking process.”.*

11 **SEC. 108. HOURS-OF-SERVICE REFORM.**

12 (a) *CHANGE IN DEFINITION OF SIGNAL EMPLOYEE.—*  
 13 *Section 21101(4) is amended by striking “employed by a*  
 14 *railroad carrier”.*

15 (b) *LIMITATION ON DUTY HOURS OF TRAIN EMPLOY-*  
 16 *EES.—Section 21103 is amended—*

17 (1) *by striking subsection (a) and inserting the*  
 18 *following:*

19 “(a) *IN GENERAL.—Except as provided in subsection*  
 20 *(d) of this section, a railroad carrier and its officers and*  
 21 *agents may not require or allow a train employee to—*

22 (1) *remain on duty, go on duty, wait for*  
 23 *deadhead transportation, be in deadhead transpor-*  
 24 *tation from a duty assignment to the place of final*  
 25 *release, or be in any other mandatory service for the*

1       *carrier in any calendar month where the employee*  
2       *has spent a total of 276 hours—*

3               “(A) *on duty;*

4               “(B) *waiting for deadhead transportation,*  
5               *or in deadhead transportation from a duty as-*  
6               *signment to the place of final release; or*

7               “(C) *in any other mandatory service for the*  
8               *carrier;*

9               “(2) *remain or go on duty for a period in excess*  
10              *of 12 consecutive hours;*

11              “(3) *remain or go on duty unless that employee*  
12              *has had at least 10 consecutive hours off duty during*  
13              *the prior 24 hours; or*

14              “(4) *remain or go on duty after that employee*  
15              *has initiated an on-duty period each day for—*

16                      “(A) *6 consecutive days, unless that em-*  
17                      *ployee has had at least 48 consecutive hours off*  
18                      *duty at the employee’s home terminal during*  
19                      *which time the employee is unavailable for any*  
20                      *service for any railroad carrier except that—*

21                              “(i) *an employee may work a seventh*  
22                              *consecutive day if that employee completed*  
23                              *his or her final period of on-duty time on*  
24                              *his or her sixth consecutive day at a ter-*

1            *minal other than his or her home terminal;*  
2            *and*

3            *“(ii) any employee who works a sev-*  
4            *enth consecutive day pursuant to subpara-*  
5            *graph (i) shall have at least 72 consecutive*  
6            *hours off duty at the employee’s home ter-*  
7            *minal during which time the employee is*  
8            *unavailable for any service for any railroad*  
9            *carrier; or*

10           *“(B) except as provided in subparagraph*  
11           *(A), 7 consecutive days, unless that employee has*  
12           *had at least 72 consecutive hours off duty at the*  
13           *employee’s home terminal during which time the*  
14           *employee is unavailable for any service for any*  
15           *railroad carrier, if—*

16           *“(i) for a period of 18 months fol-*  
17           *lowing the date of enactment of the Rail*  
18           *Safety Improvement Act of 2008, an exist-*  
19           *ing collective bargaining agreement ex-*  
20           *pressly provides for such a schedule or, fol-*  
21           *lowing the expiration of 18 months after the*  
22           *date of enactment of the Rail Safety Im-*  
23           *provement Act of 2008, collective bargaining*  
24           *agreements entered into during such period*  
25           *expressly provide for such a schedule;*

1                   “(ii) such a schedule is provided for by  
2                   a pilot program authorized by a collective  
3                   bargaining agreement; or

4                   “(iii) such a schedule is provided for  
5                   by a pilot program under section 21108 of  
6                   this chapter related to employees’ work and  
7                   rest cycles.

8   *The Secretary may waive paragraph (4), consistent with*  
9   *the procedural requirements of section 20103, if a collective*  
10 *bargaining agreement provides a different arrangement and*  
11 *such an arrangement is in the public interest and consistent*  
12 *with railroad safety.”;*

13                   (2) *by redesignating subsection (c) as subsection*  
14                   *(d) and inserting after subsection (b) the following:*

15                   “(c) *LIMBO TIME LIMITATION AND ADDITIONAL REST*  
16 *REQUIREMENT.—*

17                   “(1) *A railroad carrier may not require or allow*  
18                   *an employee—*

19                   “(A) *to exceed a total of 40 hours per cal-*  
20                   *endar month spent—*

21                   “(i) *waiting for deadhead transpor-*  
22                   *tation; or*

23                   “(ii) *in deadhead transportation from*  
24                   *a duty assignment to the place of final re-*  
25                   *lease,*

1 following a period of 12 consecutive hours on  
2 duty that is neither time on duty nor time off  
3 duty, not including interim rest periods, during  
4 the period from the date of enactment of the Rail  
5 Safety Improvement Act of 2008 to one year  
6 after such date of enactment; and

7 “(B) to exceed a total of 30 hours per cal-  
8 endar month spent—

9 “(i) waiting for deadhead transpor-  
10 tation; or

11 “(ii) in deadhead transportation from  
12 a duty assignment to the place of final re-  
13 lease,

14 following a period of 12 consecutive hours on  
15 duty that is neither time on duty nor time off  
16 duty, not including interim rest periods, during  
17 the period beginning one year after the date of  
18 enactment of the Rail Safety Improvement Act of  
19 2008 except that the Secretary may further limit  
20 the monthly limitation pursuant to regulations  
21 prescribed under section 21109.

22 “(2) The limitations in paragraph (1) shall  
23 apply unless the train carrying the employee is di-  
24 rectly delayed by—

25 “(A) a casualty;

1           “(B) an accident;

2           “(C) an act of God;

3           “(D) a derailment;

4           “(E) a major equipment failure that pre-  
5           vents the train from advancing; or

6           “(F) a delay resulting from a cause un-  
7           known and unforeseeable to a railroad carrier or  
8           its officer or agent in charge of the employee  
9           when the employee left a terminal.

10          “(3) Each railroad carrier shall report to the  
11          Secretary, in accordance with procedures established  
12          by the Secretary, each instance where an employee  
13          subject to this section spends time waiting for  
14          deadhead transportation or in deadhead transpor-  
15          tation from a duty assignment to the place of final  
16          release in excess of the requirements of paragraph (1).

17          “(4) If—

18                 “(A) the time spent waiting for deadhead  
19                 transportation or in deadhead transportation  
20                 from a duty assignment to the place of final re-  
21                 lease that is not time on duty, plus

22                 “(B) the time on duty,  
23          exceeds 12 consecutive hours, the railroad carrier and  
24          its officers and agents shall provide the employee with

1       *additional time off duty equal to the number of hours*  
2       *by which such sum exceeds 12 hours.”; and*

3               *(3) by adding at the end thereof the following:*

4       “(e) *COMMUNICATION DURING TIME OFF DUTY.—*  
5       *During a train employee’s minimum off-duty period of 10*  
6       *consecutive hours, as provided under subsection (a) or dur-*  
7       *ing an interim period of at least 4 consecutive hours avail-*  
8       *able for rest under subsection (b)(7) or during additional*  
9       *off-duty hours under subsection (c)(4), a railroad carrier,*  
10       *and its officers and agents, shall not communicate with the*  
11       *train employee by telephone, by pager, or in any other man-*  
12       *ner that could reasonably be expected to disrupt the employ-*  
13       *ee’s rest. Nothing in this subsection shall prohibit commu-*  
14       *nication necessary to notify an employee of an emergency*  
15       *situation, as defined by the Secretary. The Secretary may*  
16       *waive the requirements of this paragraph for commuter or*  
17       *intercity passenger railroads if the Secretary determines*  
18       *that such a waiver will not reduce safety and is necessary*  
19       *to maintain such railroads’ efficient operations and on-*  
20       *time performance of its trains.”.*

21       (i) *LIMITATION ON DUTY HOURS OF SIGNAL EMPLOY-*  
22       *EES.—Section 21104 is amended—*

23               (1) *by striking subsection (a) and inserting the*  
24       *following:*

1       “(a) *IN GENERAL.*—*Except as provided in subsection*  
2 *(c) of this section, a railroad carrier and its officers and*  
3 *agents may not require or allow its signal employees to re-*  
4 *main or go on duty and a contractor or subcontractor to*  
5 *a railroad carrier and its officers and agents may not re-*  
6 *quire or allow its signal employees to remain or go on duty*  
7 —

8               “(1) *for a period in excess of 12 consecutive*  
9 *hours; or*

10              “(2) *unless that employee has had at least 10*  
11 *consecutive hours off duty during the prior 24*  
12 *hours.”;*

13              “(2) *by striking “duty, except that up to one hour*  
14 *of that time spent returning from the final trouble*  
15 *call of a period of continuous or broken service is*  
16 *time off duty.” in subsection (b)(3) and inserting*  
17 *“duty.”;*

18              “(3) *by inserting “A signal employee may not be*  
19 *allowed to remain or go on duty under the emergency*  
20 *authority provided under this subsection to conduct*  
21 *routine repairs, routine maintenance, or routine in-*  
22 *spection of signal systems.” after “service.” in sub-*  
23 *section (c); and*

24              “(4) *by adding at the end the following:*

1           “(d) *COMMUNICATION DURING TIME OFF DUTY.*—  
2 *During a signal employee’s minimum off-duty period of 10*  
3 *consecutive hours, as provided under subsection (a), a rail-*  
4 *road carrier or a contractor or subcontractor to a railroad*  
5 *carrier, and its officers and agents, shall not communicate*  
6 *with the signal employee by telephone, by pager, or in any*  
7 *other manner that could reasonably be expected to disrupt*  
8 *the employee’s rest. Nothing in this subsection shall prohibit*  
9 *communication necessary to notify an employee of an emer-*  
10 *gency situation, as defined by the Secretary.*

11           “(e) *EXCLUSIVITY.*—*The hours of service, duty hours,*  
12 *and rest periods of signal employees shall be governed exclu-*  
13 *sively by this chapter. Signal employees operating motor*  
14 *vehicles shall not be subject to any hours of service rules,*  
15 *duty hours or rest period rules promulgated by any Federal*  
16 *authority, including the Federal Motor Carrier Safety Ad-*  
17 *ministration, other than the Federal Railroad Administra-*  
18 *tion.”.*

19           (d) *ALTERNATE HOURS OF SERVICE REGIME.*—

20                   (1) *APPLICATION OF HOURS OF SERVICE RE-*  
21 *GAME.*—*Section 21102 is amended—*

22                           (A) *by striking the section caption and in-*  
23                           *serting the following:*

1 **“§21102. Nonapplication, exemption, and alternate**  
2 **hours of service regime”; and**

3 *(B) by adding at the end thereof the fol-*  
4 *lowing:*

5 *“(c) APPLICATION OF HOURS OF SERVICE REGIME TO*  
6 *COMMUTER AND INTERCITY PASSENGER RAILROAD TRAIN*  
7 *EMPLOYEES.—*

8 *“(1) When providing commuter rail passenger*  
9 *transportation or intercity rail passenger transpor-*  
10 *tation, the limitations on duty hours for train em-*  
11 *ployees of railroad carriers, including public authori-*  
12 *ties operating passenger service, shall be solely gov-*  
13 *erned by old section 21103 until the earlier of—*

14 *“(A) the effective date of regulations pre-*  
15 *scribed by the Secretary under section 21109(b)*  
16 *of this chapter; or*

17 *“(B) the date that is 3 years following the*  
18 *date of enactment of the Rail Safety Improve-*  
19 *ment Act of 2008.*

20 *“(2) After the date on which old section 21103*  
21 *ceases to apply, pursuant to paragraph (1), to the*  
22 *limitations on duty hours for train employees of rail-*  
23 *road carriers with respect to the provision of com-*  
24 *muter rail passenger transportation or intercity rail*  
25 *passenger transportation, the limitations on duty*  
26 *hours for train employees of such railroad carriers*

1       *shall be governed by new section 21103, except as pro-*  
2       *vided in paragraph (3).*

3               *“(3) After the effective date of the regulations*  
4       *prescribed by the Secretary under section 21109(b) of*  
5       *this title, such carriers shall—*

6                       *“(A) comply with the limitations on duty*  
7       *hours for train employees with respect to the pro-*  
8       *vision of commuter rail passenger transportation*  
9       *or intercity rail passenger transportation as pre-*  
10       *scribed by such regulations; and*

11                      *“(B) be exempt from complying with the*  
12       *provisions of old section 21103 and new section*  
13       *21103 for such employees.*

14               *“(4) In this subsection:*

15                      *“(A) The terms ‘commuter rail passenger*  
16       *transportation’ and ‘intercity rail passenger*  
17       *transportation’ have the meaning given those*  
18       *terms in section 24102 of this title.*

19                      *“(C) The term ‘new section 21103’ means*  
20       *section 21103 of this chapter as amended by the*  
21       *Rail Safety Improvement Act of 2008.*

22                      *“(D) The term ‘old section 21103’ means*  
23       *section 21103 of this chapter as it was in effect*  
24       *on the day before the enactment of that Act.”.*

1           (2) *CONFORMING AMENDMENT.*—*The chapter*  
 2           *analysis for chapter 211 is amended by striking the*  
 3           *item relating to section 21102 and inserting the fol-*  
 4           *lowing:*

*“21102. Nonapplication, exemption, and alternate hours of service regime.”.*

5           (e) *REGULATORY AUTHORITY.*—

6           (1) *IN GENERAL.*—*Chapter 211 is amended by*  
 7           *adding at the end thereof the following:*

8           **“§21109. Regulatory authority**

9           *“(a) IN GENERAL.*—*In order to improve safety and re-*  
 10          *duce employee fatigue, the Secretary may prescribe regula-*  
 11          *tions—*

12           *“(1) to reduce the maximum hours an employee*  
 13          *may be required or allowed to go or remain on duty*  
 14          *to a level less than the level established under this*  
 15          *chapter;*

16           *“(2) to increase the minimum hours an employee*  
 17          *may be required or allowed to rest to a level greater*  
 18          *than the level established under this chapter;*

19           *“(3) to limit or eliminate the amount of time an*  
 20          *employee spends waiting for deadhead transportation*  
 21          *or in deadhead transportation from a duty assign-*  
 22          *ment to the place of final release that is considered*  
 23          *neither on duty nor off duty under this chapter;*

24           *“(4) for signal employees—*

1           “(A) to limit or eliminate the amount of  
2 time that is considered to be neither on duty nor  
3 off duty under this chapter that an employee  
4 spends returning from an outlying worksite after  
5 scheduled duty hours or returning from a trouble  
6 call to the employee’s headquarters or directly to  
7 the employee’s residence; and

8           “(B) to increase the amount of time that  
9 constitutes a release period, that does not break  
10 the continuity of service and is considered time  
11 off duty; and

12           “(5) to require other changes to railroad oper-  
13 ating and scheduling practices, including unscheduled  
14 duty calls, that could affect employee fatigue and rail-  
15 road safety.

16           “(b) REGULATIONS GOVERNING THE HOURS OF SERV-  
17 ICE OF TRAIN EMPLOYEES OF COMMUTER AND INTERCITY  
18 PASSENGER RAILROAD CARRIERS.—Within 3 years after  
19 the date of enactment of the Rail Safety Improvement Act  
20 of 2008, the Secretary shall prescribe regulations and issue  
21 orders to establish hours of service requirements for train  
22 employees engaged in commuter rail passenger transpor-  
23 tation and intercity rail passenger transportation (as de-  
24 fined in section 24102 of this title) that may differ from  
25 the requirements of this chapter. Such regulations and or-

1 *ders may address railroad operating and scheduling prac-*  
2 *tices, including unscheduled duty calls, communications*  
3 *during time off duty, and time spent waiting for deadhead*  
4 *transportation or in deadhead transportation from a duty*  
5 *assignment to the place of final release, that could affect*  
6 *employee fatigue and railroad safety.*

7       “(c) *CONSIDERATIONS.—In issuing regulations under*  
8 *subsection (a) the Secretary shall consider scientific and*  
9 *medical research related to fatigue and fatigue abatement,*  
10 *railroad scheduling and operating practices that improve*  
11 *safety or reduce employee fatigue, a railroad’s use of new*  
12 *or novel technology intended to reduce or eliminate human*  
13 *error, the variations in freight and passenger railroad*  
14 *scheduling practices and operating conditions, the vari-*  
15 *ations in duties and operating conditions for employees*  
16 *subject to this chapter, a railroad’s required or voluntary*  
17 *use of fatigue management plans covering employees subject*  
18 *to this chapter, and any other relevant factors.*

19       “(d) *TIME LIMITS.—*

20               “(1) *If the Secretary determines that regulations*  
21 *are necessary under subsection (a), the Secretary shall*  
22 *first request that the Railroad Safety Advisory Com-*  
23 *mittee develop proposed regulations and, if the Com-*  
24 *mittee accepts the task, provide the Committee with a*  
25 *reasonable time period in which to complete the task.*

1           “(2) *If the Secretary requests that the Railroad*  
2 *Safety Advisory Committee accept the task of devel-*  
3 *oping regulations under subsection (b) and the Com-*  
4 *mittee accepts the task, the Committee shall reach*  
5 *consensus on the rulemaking within 18 months after*  
6 *accepting the task. If the Committee does not reach*  
7 *consensus within 18 months after the Secretary makes*  
8 *the request, the Secretary shall prescribe appropriate*  
9 *regulations within 18 months.*

10           “(3) *If the Secretary does not request that the*  
11 *Railroad Safety Advisory Committee accept the task*  
12 *of developing regulations under subsection (b), the*  
13 *Secretary shall prescribe regulations within 3 years*  
14 *after the date of enactment of the Rail Safety Im-*  
15 *provement Act of 2008.*

16           “(e) *PILOT PROJECTS.—*

17           “(1) *IN GENERAL.—Not later than 2 years after*  
18 *the date of enactment of the Rail Safety Improvement*  
19 *Act of 2008, the Secretary shall conduct at least 2*  
20 *pilot projects of sufficient size and scope to analyze*  
21 *specific practices which may be used to reduce fatigue*  
22 *for train and engine and other railroad employees as*  
23 *follows:*

24           “(A) *A pilot project at a railroad or rail-*  
25 *road facility to evaluate the efficacy of commu-*

1           *nicating to employees notice of their assigned*  
2           *shift time 10 hours prior to the beginning of*  
3           *their assigned shift as a method for reducing em-*  
4           *ployee fatigue.*

5           “(B) *A pilot project at a railroad or rail-*  
6           *road facility to evaluate the efficacy of requiring*  
7           *railroads who use employee scheduling practices*  
8           *that subject employees to periods of unscheduled*  
9           *duty calls to assign employees to defined or spe-*  
10          *cific unscheduled call shifts that are followed by*  
11          *shifts not subject to call, as a method for reduc-*  
12          *ing employee fatigue.*

13          “(2) *WAIVER.—The Secretary may temporarily*  
14          *waive the requirements of this section, if necessary, to*  
15          *complete a pilot project under this subsection.*

16          “(f) *DUTY CALL DEFINED.—In this section the term*  
17          *‘duty call’ means a telephone call that a railroad places*  
18          *to an employee to notify the employee of his or her assigned*  
19          *shift time.’”.*

20          (2) *CONFORMING AMENDMENTS.—*

21                  (A) *The chapter analysis for chapter 211 is*  
22                  *amended by adding at the end thereof the fol-*  
23                  *lowing:*

                “21109. *Regulatory authority.*”.

24                  (B) *The first sentence of section 21303(a)(1)*  
25                  *is amended by inserting “including section*

1           21103 (as such section was in effect on the day  
2           before the date of enactment of the Rail Safety  
3           Improvement Act of 2008),” after “this title,” the  
4           second place it appears.

5           (f) *RECORD KEEPING AND REPORTING.*—

6           (1) *REGULATIONS.*—Not later than 180 days  
7           after the date of enactment of this Act, the Secretary  
8           shall prescribe a regulation revising the requirements  
9           for recordkeeping and reporting for Hours of Service  
10          of Railroad Employees contained in part 228 of title  
11          49, Code of Federal Regulations—

12                 (A) to adjust record keeping and reporting  
13                 requirements to support compliance with chapter  
14                 211 of title 49, United States Code, as amended  
15                 by this Act;

16                 (B) to authorize electronic record keeping,  
17                 and reporting of excess service, consistent with  
18                 appropriate considerations for user interface;  
19                 and

20                 (C) to require training of affected employees  
21                 and supervisors, including training of employees  
22                 in the entry of hours of service data.

23           (2) *PROCEDURE.*—In lieu of issuing a notice of  
24           proposed rulemaking as contemplated by section 553  
25           of title 5, United States Code, the Secretary may uti-

1        *lize the Railroad Safety Advisory Committee to assist*  
 2        *in development of the regulation. The Secretary may*  
 3        *propose and adopt amendments to the revised regula-*  
 4        *tions thereafter as may be necessary in light of expe-*  
 5        *rience under the revised requirements.*

6        *(g) DELAY IN IMPLEMENTATION OF DUTY HOURS LIM-*  
 7        *ITATION CHANGES.—The amendments made by subsections*  
 8        *(a), (b), and (c) shall take effect 9 months after the date*  
 9        *of enactment of this Act.*

10    **SEC. 109. PROTECTION OF RAILROAD SAFETY RISK ANAL-**  
 11                                    **YSES INFORMATION.**

12        *(a) AMENDMENT.—Subchapter I of chapter 201 is*  
 13        *amended by adding at the end thereof the following:*

14    **“§20118. Prohibition on public disclosure of railroad**  
 15                                    **safety analysis records**

16        *“(a) IN GENERAL.—Except as necessary for the Sec-*  
 17        *retary of Transportation or another Federal agency to en-*  
 18        *force or carry out any provision of Federal law, any part*  
 19        *of any record (including, but not limited to, a railroad car-*  
 20        *rier’s analysis of its safety risks and its statement of the*  
 21        *mitigation measures it has identified with which to address*  
 22        *those risks) that the Secretary has obtained pursuant to a*  
 23        *provision of, or regulation or order under, this chapter re-*  
 24        *lated to the establishment, implementation, or modification*  
 25        *of a railroad safety risk reduction program or pilot pro-*

1 gram is exempt from the requirements of section 552 of title  
2 5 if the record is—

3 “(1) supplied to the Secretary pursuant to that  
4 safety risk reduction program or pilot program; or

5 “(2) made available for inspection and copying  
6 by an officer, employee, or agent of the Secretary pur-  
7 suant to that safety risk reduction program or pilot  
8 program.

9 “(b) *EXCEPTION.*—Notwithstanding subsection (a), the  
10 Secretary may disclose any part of any record comprised  
11 of facts otherwise available to the public if, in the Sec-  
12 retary’s sole discretion, the Secretary determines that dis-  
13 closure would be consistent with the confidentiality needed  
14 for that safety risk reduction program or pilot program.

15 “(c) *DISCRETIONARY PROHIBITION OF DISCLOSURE.*—  
16 The Secretary may prohibit the public disclosure of risk  
17 analyses or risk mitigation analyses that the Secretary has  
18 obtained under other provisions of, or regulations or orders  
19 under, this chapter if the Secretary determines that the pro-  
20 hibition of public disclosure is necessary to promote rail-  
21 road safety.

22 **“§20119. Study on use of certain reports and surveys**

23 “(a) *STUDY.*—The Federal Railroad Administration  
24 shall complete a study to evaluate whether it is in the public  
25 interest, including public safety and the legal rights of per-

1 *sons injured in railroad accidents, to withhold from dis-*  
2 *covery or admission into evidence in a Federal or State*  
3 *court proceeding for damages involving personal injury or*  
4 *wrongful death against a carrier any report, survey, sched-*  
5 *ule, list, or data compiled or collected for the purpose of*  
6 *evaluating, planning, or implementing a railroad safety*  
7 *risk reduction program required under this chapter, includ-*  
8 *ing a railroad carrier’s analysis of its safety risks and its*  
9 *statement of the mitigation measures with which it will ad-*  
10 *dress those risks. In conducting this study, the Secretary*  
11 *shall solicit input from the railroads, railroad non-profit*  
12 *employee labor organizations, railroad accident victims and*  
13 *their families, and the general public.*

14       “(b) *AUTHORITY.*—*Following completion of the study*  
15 *required under subsection (a), the Secretary, if in the public*  
16 *interest, including public safety and the legal rights of per-*  
17 *sons injured in railroad accidents, may prescribe a rule*  
18 *subject to notice and comment to address the results of the*  
19 *study. Any such rule prescribed pursuant to this subsection*  
20 *shall not become effective until 1 year after its adoption.”.*

21       (b) *CONFORMING AMENDMENT.*—*The chapter analysis*  
22 *for chapter 201 is amended by inserting after the item relat-*  
23 *ing to section 20117 the following:*

“20118. *Prohibition on public disclosure of railroad safety analysis records.*

“20119. *Study on use of certain reports and surveys.”.*

1 **SEC. 110. PILOT PROJECTS.**

2 *Section 21108 is amended to read as follows:*

3 **“§21108. Pilot projects**

4 *“(a) IN GENERAL.—As of the date of enactment of the*  
5 *Rail Safety Improvement Act of 2008, a railroad carrier*  
6 *or railroad carriers and all nonprofit employee labor orga-*  
7 *nizations representing any class or craft of directly affected*  
8 *covered service employees of the railroad carrier or railroad*  
9 *carriers, may jointly petition the Secretary of Transpor-*  
10 *tation for approval of—*

11 *“(1) a waiver of compliance with this chapter as*  
12 *in effect on the date of enactment of the Rail Safety*  
13 *Improvement Act of 2008; or*

14 *“(2) a waiver of compliance with this chapter as*  
15 *it will be effective 9 months after the enactment of the*  
16 *Rail Safety Improvement Act of 2008,*  
17 *to enable the establishment of one or more pilot projects to*  
18 *demonstrate the possible benefits of implementing alter-*  
19 *natives to the strict application of the requirements of this*  
20 *chapter, including requirements concerning maximum on-*  
21 *duty and minimum off-duty periods.*

22 *“(b) GRANTING OF WAIVERS.—The Secretary may,*  
23 *after notice and opportunity for comment, approve such*  
24 *waivers described in subsection (a) for a period not to ex-*  
25 *ceed two years, if the Secretary determines that such a*

1 *waiver of compliance is in the public interest and is con-*  
2 *sistent with railroad safety.*

3       “(c) *EXTENSIONS.*—*Any such waiver, based on a new*  
4 *petition, may be extended for additional periods of up to*  
5 *two years, after notice and opportunity for comment. An*  
6 *explanation of any waiver granted under this section shall*  
7 *be published in the Federal Register.*

8       “(d) *REPORT.*—*The Secretary of Transportation shall*  
9 *submit to the Committee on Commerce, Science, and Trans-*  
10 *portation of the Senate and the Committee on Transpor-*  
11 *tation and Infrastructure of the House of Representatives,*  
12 *no later than December 31, 2012, or, if no projects are com-*  
13 *pleted prior to December 31, 2012, no later than 6 months*  
14 *after the completion of a pilot project, a report that—*

15               “(1) *explains and analyzes the effectiveness of*  
16 *any pilot project established pursuant to a waiver*  
17 *granted under subsection (a);*

18               “(2) *describes the status of all other waivers*  
19 *granted under subsection (a) and their related pilot*  
20 *projects, if any; and*

21               “(3) *recommends any appropriate legislative*  
22 *changes to this chapter.*

23       “(e) *DEFINITION.*—*For purposes of this section, the*  
24 *term ‘directly affected covered service employees’ means cov-*

1 *ered service employees to whose hours of service the terms*  
2 *of the waiver petitioned for specifically apply.”.*

3 **TITLE II—HIGHWAY-RAIL GRADE**  
4 **CROSSING AND PEDESTRIAN**  
5 **SAFETY AND TRESPASSER**  
6 **PREVENTION**

7 **SEC. 201. PEDESTRIAN CROSSING SAFETY.**

8 *Not later than 1 year after the date of enactment of*  
9 *this Act, the Secretary shall provide guidance to railroads*  
10 *on strategies and methods to prevent pedestrian accidents,*  
11 *incidents, injuries, and fatalities at or near passenger sta-*  
12 *tions, including—*

13 *(1) providing audible warning of approaching*  
14 *trains to the pedestrians at railroad passenger sta-*  
15 *tions;*

16 *(2) using signs, signals, or other visual devices*  
17 *to warn pedestrians of approaching trains;*

18 *(3) installing infrastructure at pedestrian cross-*  
19 *ings to improve the safety of pedestrians crossing rail-*  
20 *road tracks;*

21 *(4) installing fences to prohibit access to railroad*  
22 *tracks; and*

23 *(5) other strategies or methods as determined by*  
24 *the Secretary.*

1 **SEC. 202. STATE ACTION PLANS.**

2       (a) *IN GENERAL.*—Not later than 1 year after the date  
3 of enactment of this Act, the Secretary shall identify the  
4 10 States that have had the most highway-rail grade cross-  
5 ing collisions, on average, over the past 3 years and require  
6 those States to develop a State grade crossing action plan  
7 within a reasonable period of time, as determined by the  
8 Secretary. The plan shall identify specific solutions for im-  
9 proving safety at crossings, including highway-rail grade  
10 crossing closures or grade separations, and shall focus on  
11 crossings that have experienced multiple accidents or are  
12 at high risk for such accidents. The Secretary shall provide  
13 assistance to the States in developing and carrying out, as  
14 appropriate, the plan. The plan may be coordinated with  
15 other State or Federal planning requirements and shall  
16 cover a period of time determined to be appropriate by the  
17 Secretary. The Secretary may condition the awarding of  
18 any grants under section 20158, 20167, or 22501 of title  
19 49, United States Code, to a State identified under this sec-  
20 tion on the development of such State’s plan.

21       (b) *REVIEW AND APPROVAL.*—Not later than 60 days  
22 after the Secretary receives a plan under subsection (a), the  
23 Secretary shall review and approve or disapprove it. If the  
24 proposed plan is disapproved, the Secretary shall notify the  
25 affected State as to the specific areas in which the proposed  
26 plan is deficient, and the State shall correct all deficiencies

1 *within 30 days following receipt of written notice from the*  
 2 *Secretary.*

3 **SEC. 203. IMPROVEMENTS TO SIGHT DISTANCE AT HIGH-**  
 4 **WAY-RAIL GRADE CROSSINGS.**

5 *(a) IN GENERAL.—Subchapter II of chapter 201, as*  
 6 *amended by section 105 of this division, is further amended*  
 7 *by inserting after section 20158 the following:*

8 **“§20159. Roadway user sight distance at highway-rail**  
 9 **grade crossings**

10 *“Not later than 18 months after the date of enactment*  
 11 *of the Rail Safety Improvement Act of 2008, the Secretary,*  
 12 *after consultation with the Federal Railroad Administra-*  
 13 *tion, the Federal Highway Administration, and States,*  
 14 *shall develop and make available to States model legislation*  
 15 *providing for improving safety by addressing sight obstruc-*  
 16 *tions, including vegetation growth, topographic features,*  
 17 *structures, and standing railroad equipment, at highway-*  
 18 *rail grade crossings that are equipped solely with passive*  
 19 *warnings, as recommended by the Inspector General of the*  
 20 *Department of Transportation in Report No. MH–2007–*  
 21 *044.”.*

22 *(b) CONFORMING AMENDMENT.—The chapter analysis*  
 23 *for chapter 201, as amended by section 105 of this division,*  
 24 *is amended by inserting after the item relating to section*  
 25 *20158 the following new item:*

*“20159. Roadway user sight distance at highway-rail grade crossings.”.*

1 **SEC. 204. NATIONAL CROSSING INVENTORY.**

2       (a) *IN GENERAL.*—Subchapter II of chapter 201, as  
3 amended by section 203 of this division, is further amended  
4 by adding at the end the following new section:

5 **“§20160. National crossing inventory**

6       “(a) *INITIAL REPORTING OF INFORMATION ABOUT*  
7 *PREVIOUSLY UNREPORTED CROSSINGS.*—Not later than 1  
8 year after the date of enactment of the Rail Safety Improve-  
9 ment Act of 2008 or 6 months after a new crossing becomes  
10 operational, whichever occurs later, each railroad carrier  
11 shall—

12               “(1) report to the Secretary of Transportation  
13 current information, including information about  
14 warning devices and signage, as specified by the Sec-  
15 retary, concerning each previously unreported cross-  
16 ing through which it operates or with respect to the  
17 trackage over which it operates; or

18               “(2) ensure that the information has been re-  
19 ported to the Secretary by another railroad carrier  
20 that operates through the crossing.

21       “(b) *UPDATING OF CROSSING INFORMATION.*—

22               “(1) On a periodic basis beginning not later  
23 than 2 years after the date of enactment of the Rail  
24 Safety Improvement Act of 2008 and on or before  
25 September 30 of every year thereafter, or as otherwise

1       *specified by the Secretary, each railroad carrier*  
2       *shall—*

3             “(A) *report to the Secretary current information,*  
4             *including information about warning devices and*  
5             *signage, as specified by the Secretary, concerning each*  
6             *crossing through which it operates or with respect to*  
7             *the trackage over which it operates; or*

8             “(B) *ensure that the information has been re-*  
9             *ported to the Secretary by another railroad carrier*  
10            *that operates through the crossing.*

11           “(2) *A railroad carrier that sells a crossing or any*  
12           *part of a crossing on or after the date of enactment of the*  
13           *Rail Safety Improvement Act of 2008 shall, not later than*  
14           *the date that is 18 months after the date of enactment of*  
15           *that Act or 3 months after the sale, whichever occurs later,*  
16           *or as otherwise specified by the Secretary, report to the Sec-*  
17           *retary current information, as specified by the Secretary,*  
18           *concerning the change in ownership of the crossing or part*  
19           *of the crossing.*

20           “(c) *RULEMAKING AUTHORITY.—The Secretary shall*  
21           *prescribe the regulations necessary to implement this sec-*  
22           *tion. The Secretary may enforce each provision of the De-*  
23           *partment of Transportation’s statement of the national*  
24           *highway-rail crossing inventory policy, procedures, and in-*  
25           *struction for States and railroads that is in effect on the*

1 *date of enactment of the Rail Safety Improvement Act of*  
2 *2008, until such provision is superseded by a regulation*  
3 *issued under this section.*

4 “(d) *DEFINITIONS.—In this section:*

5 “(1) *CROSSING.—The term ‘crossing’ means a lo-*  
6 *cation within a State, other than a location where*  
7 *one or more railroad tracks cross one or more rail-*  
8 *road tracks either at grade or grade-separated,*  
9 *where—*

10 “(A) *a public highway, road, or street, or a*  
11 *private roadway, including associated sidewalks*  
12 *and pathways, crosses one or more railroad*  
13 *tracks either at grade or grade-separated; or*

14 “(B) *a pathway explicitly authorized by a*  
15 *public authority or a railroad carrier that is*  
16 *dedicated for the use of nonvehicular traffic, in-*  
17 *cluding pedestrians, bicyclists, and others, that is*  
18 *not associated with a public highway, road, or*  
19 *street, or a private roadway, crosses one or more*  
20 *railroad tracks either at grade or grade-sepa-*  
21 *rated.*

22 “(2) *STATE.—The term ‘State’ means a State of*  
23 *the United States, the District of Columbia, or the*  
24 *Commonwealth of Puerto Rico.”.*

1           (b) *CONFORMING AMENDMENT.*—*The chapter analysis*  
2 *for chapter 201, as amended by section 203 of this division,*  
3 *is amended by inserting after the item relating to section*  
4 *20159 the following:*

          “20160. *National crossing inventory.*”.

5           (c) *REPORTING AND UPDATING.*—*Section 130 of title*  
6 *23, United States Code, is amended by adding at the end*  
7 *the following:*

8           “(l) *NATIONAL CROSSING INVENTORY.*—

9                   “(1) *INITIAL REPORTING OF CROSSING INFORMA-*  
10 *TION.*—*Not later than 1 year after the date of enact-*  
11 *ment of the Rail Safety Improvement Act of 2008 or*  
12 *within 6 months of a new crossing becoming oper-*  
13 *ational, whichever occurs later, each State shall report*  
14 *to the Secretary of Transportation current informa-*  
15 *tion, including information about warning devices*  
16 *and signage, as specified by the Secretary, concerning*  
17 *each previously unreported public crossing located*  
18 *within its borders.*

19                   “(2) *PERIODIC UPDATING OF CROSSING INFOR-*  
20 *MATION.*—*On a periodic basis beginning not later*  
21 *than 2 years after the date of enactment of the Rail*  
22 *Safety Improvement Act of 2008 and on or before*  
23 *September 30 of every year thereafter, or as otherwise*  
24 *specified by the Secretary, each State shall report to*  
25 *the Secretary current information, including informa-*

1        *tion about warning devices and signage, as specified*  
2        *by the Secretary, concerning each public crossing lo-*  
3        *cated within its borders.*

4            “(3) *RULEMAKING AUTHORITY.*—*The Secretary*  
5        *shall prescribe the regulations necessary to implement*  
6        *this subsection. The Secretary may enforce each provi-*  
7        *sion of the Department of Transportation’s statement*  
8        *of the national highway-rail crossing inventory pol-*  
9        *icy, procedures, and instructions for States and rail-*  
10       *roads that is in effect on the date of enactment of the*  
11       *Rail Safety Improvement Act of 2008, until such pro-*  
12       *vision is superseded by a regulation issued under this*  
13       *subsection.*

14            “(4) *DEFINITIONS.*—*In this subsection—*

15            “(A) *‘public crossing’ means a location*  
16        *within a State, other than a location where one*  
17        *or more railroad tracks cross one or more rail-*  
18        *road tracks either at grade or grade-separated,*  
19        *where—*

20            “(i) *a public highway, road, or street,*  
21        *including associated sidewalks and path-*  
22        *ways, crosses one or more railroad tracks ei-*  
23        *ther at grade or grade-separated; or*

24            “(ii) *a publicly owned pathway explic-*  
25        *itly authorized by a public authority or a*

1           *railroad carrier and dedicated for the use of*  
2           *non-vehicular traffic, including pedestrians,*  
3           *bicyclists, and others, that is not associated*  
4           *with a public highway, road, or street, or a*  
5           *private roadway, crosses one or more rail-*  
6           *road tracks either at grade or grade-sepa-*  
7           *rated; and*

8           “(B) ‘State’ means a State of the United  
9           States, the District of Columbia, or Puerto  
10          Rico.”.

11        (d) *CIVIL PENALTIES.*—

12           (1) *Section 21301(a)(1) is amended—*

13                (A) *by inserting “with section 20160 or”*  
14                *after “comply” in the first sentence; and*

15                (B) *by inserting “section 20160 of this title*  
16                *or” after “violating” in the second sentence.*

17           (2) *Section 21301(a)(2) is amended by inserting*  
18           *“The Secretary shall impose a civil penalty for a vio-*  
19           *lation of section 20160 of this title.” after the first*  
20           *sentence.*

21        **SEC. 205. TELEPHONE NUMBER TO REPORT GRADE CROSS-**  
22                **ING PROBLEMS.**

23           (a) *IN GENERAL.*—*Section 20152 is amended to read*  
24           *as follows:*

1 **“§ 20152. Notification of grade crossing problems**

2       “(a) *IN GENERAL.*—Not later than 18 months after the  
3 date of enactment of the Rail Safety Improvement Act of  
4 2008, the Secretary of Transportation shall require each  
5 railroad carrier to—

6               “(1) *establish and maintain a toll-free telephone*  
7 *service for rights-of-way over which it dispatches*  
8 *trains, to directly receive calls reporting—*

9                       “(A) *malfunctions of signals, crossing gates,*  
10 *and other devices to promote safety at the grade*  
11 *crossing of railroad tracks on those rights-of-way*  
12 *and public or private roads;*

13                       “(B) *disabled vehicles blocking railroad*  
14 *tracks at such grade crossings;*

15                       “(C) *obstructions to the view of a pedestrian*  
16 *or a vehicle operator for a reasonable distance in*  
17 *either direction of a train’s approach; or*

18                       “(D) *other safety information involving*  
19 *such grade crossings;*

20               “(2) *upon receiving a report pursuant to para-*  
21 *graph (1)(A) or (B), immediately contact trains oper-*  
22 *ating near the grade crossing to warn them of the*  
23 *malfunction or disabled vehicle;*

24               “(3) *upon receiving a report pursuant to para-*  
25 *graph (1)(A) or (B), and after contacting trains pur-*  
26 *suant to paragraph (2), contact, as necessary, appro-*

1     *appropriate public safety officials having jurisdiction over*  
2     *the grade crossing to provide them with the informa-*  
3     *tion necessary for them to direct traffic, assist in the*  
4     *removal of the disabled vehicle, or carry out other ac-*  
5     *tivities as appropriate;*

6             *“(4) upon receiving a report pursuant to para-*  
7     *graph (1)(C) or (D), timely investigate the report, re-*  
8     *move the obstruction if possible, or correct the unsafe*  
9     *circumstance; and*

10            *“(5) ensure the placement at each grade crossing*  
11     *on rights-of-way that it owns of appropriately located*  
12     *signs, on which shall appear, at a minimum—*

13            *“(A) a toll-free telephone number to be used*  
14     *for placing calls described in paragraph (1) to*  
15     *the railroad carrier dispatching trains on that*  
16     *right-of-way;*

17            *“(B) an explanation of the purpose of that*  
18     *toll-free telephone number; and*

19            *“(C) the grade crossing number assigned for*  
20     *that crossing by the National Highway-Rail*  
21     *Crossing Inventory established by the Depart-*  
22     *ment of Transportation.*

23            *“(b) WAIVER.—The Secretary may waive the require-*  
24     *ment that the telephone service be toll-free for Class II and*

1 *Class III rail carriers if the Secretary determines that toll-*  
2 *free service would be cost prohibitive or unnecessary.”.*

3 (b) *CONFORMING AMENDMENT.*—*The chapter analysis*  
4 *for chapter 201 is amended by striking the item relating*  
5 *to section 20152 and inserting the following:*

“20152. *Notification of grade crossing problems.*”.

6 **SEC. 206. OPERATION LIFESAVER.**

7 (a) *GRANT.*—*The Federal Railroad Administration*  
8 *shall make a grant or grants to Operation Lifesaver to*  
9 *carry out a public information and education program to*  
10 *help prevent and reduce pedestrian, motor vehicle, and other*  
11 *accidents, incidents, injuries, and fatalities, and to improve*  
12 *awareness along railroad rights-of-way and at highway-rail*  
13 *grade crossings. The program shall include, as appropriate,*  
14 *development, placement, and dissemination of Public Serv-*  
15 *ice Announcements in newspaper, radio, television, and*  
16 *other media. The program shall also include, as appro-*  
17 *priate, school presentations, brochures and materials, sup-*  
18 *port for public awareness campaigns, and related support*  
19 *for the activities of Operation Lifesaver’s member organiza-*  
20 *tions. As part of an educational program funded by grants*  
21 *awarded under this section, Operation Lifesaver shall pro-*  
22 *vide information to the public on how to identify and report*  
23 *to the appropriate authorities unsafe or malfunctioning*  
24 *highway-rail grade crossings.*

1           **(b) PILOT PROGRAM.**—*The Secretary may allow funds*  
2 *provided under subsection (a) also to be used by Operation*  
3 *Lifesaver to implement a pilot program, to be known as*  
4 *the Railroad Safety Public Awareness Program, that ad-*  
5 *dresses the need for targeted and sustained community out-*  
6 *reach on the subjects described in subsection (a). Such a*  
7 *pilot program shall be established in 1 or more States iden-*  
8 *tified under section 202 of this division. In carrying out*  
9 *such a pilot program Operation Lifesaver shall work with*  
10 *the State, community leaders, school districts, and public*  
11 *and private partners to identify the communities at greatest*  
12 *risk, to develop appropriate measures to reduce such risks,*  
13 *and shall coordinate the pilot program with the State grade*  
14 *crossing action plan.*

15           **(c) AUTHORIZATION OF APPROPRIATIONS.**—*There are*  
16 *authorized to be appropriated to the Federal Railroad Ad-*  
17 *ministration for carrying out this section—*

18                   (1) *\$2,000,000 for each of fiscal years 2010 and*  
19                   2011; and

20                   (2) *\$1,500,000 for each of fiscal years 2012 and*  
21                   2013.

22 **SEC. 207. FEDERAL GRANTS TO STATES FOR HIGHWAY-RAIL**  
23 **GRADE CROSSING SAFETY.**

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

1 **“CHAPTER 225—FEDERAL GRANTS TO**  
2 **STATES FOR HIGHWAY-RAIL GRADE**  
3 **CROSSING SAFETY**

“Sec.

“22501. *Financial assistance to States for certain projects.*

“22502. *Distribution.*

“22503. *Standards for awarding grants.*

“22504. *Use of funds.*

“22505. *Authorization of appropriations.*

4 **“§22501. *Financial assistance to States for certain***  
5 ***projects***

6 “*The Secretary of Transportation shall make grants—*

7 “*(1) to a maximum of 3 States per year for de-*  
8 *velopment or continuance of enhanced public edu-*  
9 *cation and awareness activities, in combination with*  
10 *targeted law enforcement, to significantly reduce vio-*  
11 *lations of traffic laws at highway-rail grade crossings*  
12 *and to help prevent and reduce injuries and fatalities*  
13 *along railroad rights-of-way; and*

14 “*(2) to provide for priority highway-rail grade*  
15 *crossing safety improvements, including the installa-*  
16 *tion, repair, or improvement of—*

17 “*(A) railroad crossing signals, gates, and*  
18 *related technologies, including median barriers*  
19 *and four quadrant gates;*

20 “*(B) highway traffic signalization, includ-*  
21 *ing highway signals tied to railroad signal sys-*  
22 *tems;*

1           “(C) highway lighting and crossing ap-  
2           proach signage;

3           “(D) roadway improvements, including  
4           railroad crossing panels and surfaces; and

5           “(E) related work to mitigate dangerous  
6           conditions.

7   **“§ 22502. Distribution**

8           “The Secretary shall provide the grants to the State  
9           agency or agencies responsible for highway-rail grade cross-  
10          ing safety.

11   **“§ 22503. Standards for awarding grants**

12          “(a) SECTION 22501(1) GRANTS.—The Secretary shall  
13          provide grants under section 22501(1) based upon the mer-  
14          its of the proposed program of activities provided by the  
15          State and upon a determination of where the grants will  
16          provide the greatest safety benefits. The Secretary may give  
17          priority to States that have developed and implemented a  
18          State grade crossing action plan, as described under section  
19          202 of the Rail Safety Improvement Act of 2008.

20          “(b) SECTION 22501(2) GRANTS.—The Secretary shall  
21          provide grants to State and local governments under section  
22          22501(2) to provide priority grade crossing safety improve-  
23          ments on an expedited basis at a location where there has  
24          been a highway-rail grade crossing collision within the pre-

1 *vious two years involving major loss of life or multiple seri-*  
2 *ous bodily injuries.*

3 **“§ 22504. Use of funds**

4       “(a) *IN GENERAL.*—Any State receiving a grant under  
5 *section 22501(1) shall use the funds to develop, implement,*  
6 *and continue to measure the effectiveness of a dedicated pro-*  
7 *gram of public education and enforcement of highway-rail*  
8 *crossing safety laws and to prevent casualties along rail-*  
9 *road rights-of-way. The Secretary may not make a grant*  
10 *under this chapter available to assist a State or political*  
11 *subdivision thereof in establishing or continuing a quiet*  
12 *zone pursuant to part 222 of title 49, Code of Federal Regu-*  
13 *lations.*

14       “(b) *MAXIMUM GRANT AMOUNT UNDER SECTION*  
15 *22501(2).*—No grant awarded under section 22501(2) may  
16 *exceed \$250,000.*

17 **“§ 22505. Authorization of appropriations**

18       “*There are authorized to be appropriated to the Sec-*  
19 *retary \$1,500,000 for each of fiscal years 2010 through 2013*  
20 *to carry out the provisions of section 22501(1) of this chap-*  
21 *ter. There are authorized to be appropriated to the Sec-*  
22 *retary \$1,500,000 for each of fiscal years 2010 through 2013*  
23 *to carry out the provisions of section 22501(2) of this chap-*  
24 *ter. Amounts appropriated pursuant to this section shall*  
25 *remain available until expended.”.*

1           (b) *CONFORMING AMENDMENT.*—*The subtitle analysis*  
 2 *for subtitle V is amended by inserting after the item relat-*  
 3 *ing to chapter 223 the following:*

“225. *Federal grants to States for highway-rail grade crossing safety* ..... 22501”.

4 **SEC. 208. TRESPASSER PREVENTION AND HIGHWAY-RAIL**  
 5 **GRADE CROSSING SAFETY.**

6           (a) *TRESPASSER PREVENTION AND HIGHWAY-RAIL*  
 7 *GRADE CROSSING WARNING SIGN VIOLATIONS.*—*Section*  
 8 *20151 is amended—*

9                   (1) *by striking the section heading and inserting*  
 10 *the following:*

11 **“§20151. Railroad trespassing, vandalism, and high-**  
 12 **way-rail grade crossing warning sign vio-**  
 13 **lation prevention strategy”;**

14                   (2) *by striking subsection (a) and inserting the*  
 15 *following:*

16           “(a) *EVALUATION OF EXISTING LAWS.*—*In consulta-*  
 17 *tion with affected parties, the Secretary of Transportation*  
 18 *shall evaluate and review current local, State, and Federal*  
 19 *laws regarding trespassing on railroad property, vandalism*  
 20 *affecting railroad safety, and violations of highway-rail*  
 21 *grade crossing signs, signals, markings, or other warning*  
 22 *devices and develop model prevention strategies and enforce-*  
 23 *ment laws to be used for the consideration of State and local*  
 24 *legislatures and governmental entities. The first such eval-*  
 25 *uation and review shall be completed within 1 year after*

1 *the date of enactment of the Rail Safety Improvement Act*  
 2 *of 2008. The Secretary shall revise the model prevention*  
 3 *strategies and enforcement codes periodically.”;*

4           (3) *by inserting “FOR TRESPASSING AND VAN-*  
 5 *DALISM PREVENTION” in the subsection heading of*  
 6 *subsection (b) after “OUTREACH PROGRAM”;*

7           (4) *in subsection (c)—*

8                 (A) *by redesignating paragraphs (1) and*  
 9                 (2) *as subparagraphs (A) and (B), respectively;*

10                (B) *by inserting “(1)” after “MODEL LEG-*  
 11 *ISLATION.—”;* and

12                (C) *by adding at the end the following new*  
 13 *paragraph:*

14           “(2) *Not later than 18 months after the date of enact-*  
 15 *ment of the Rail Safety Improvement Act of 2008, the Sec-*  
 16 *retary, after consultation with State and local governments*  
 17 *and railroad carriers, shall develop and make available to*  
 18 *State and local governments model State legislation pro-*  
 19 *viding for civil or criminal penalties, or both, for violations*  
 20 *of highway-rail grade crossing signs, signals, markings, or*  
 21 *other warning devices.”; and*

22           (5) *by adding at the end the following new sub-*  
 23 *section:*

24           “(d) *DEFINITION.—In this section, the term ‘violation*  
 25 *of highway-rail grade crossing signs, signals, markings, or*

1 *other warning devices' includes any action by a motorist,*  
 2 *unless directed by an authorized safety officer—*

3           “(1) *to drive around a grade crossing gate in a*  
 4 *position intended to block passage over railroad*  
 5 *tracks;*

6           “(2) *to drive through a flashing grade crossing*  
 7 *signal;*

8           “(3) *to drive through a grade crossing with pas-*  
 9 *sive warning signs without ensuring that the grade*  
 10 *crossing could be safely crossed before any train ar-*  
 11 *rived; and*

12           “(4) *in the vicinity of a grade crossing, who cre-*  
 13 *ates a hazard of an accident involving injury or*  
 14 *property damage at the grade crossing.”.*

15       **(b) CONFORMING AMENDMENT.**—*The chapter analysis*  
 16 *for chapter 201 is amended by striking the item relating*  
 17 *to section 20151 and inserting the following:*

*“20151. Railroad trespassing, vandalism, and highway-rail grade crossing warn-*  
*ing sign violation prevention strategy.”.*

18       **(c) EDUCATIONAL OR AWARENESS PROGRAM ITEMS**  
 19 **FOR DISTRIBUTION.**—*Section 20134(a) is amended by add-*  
 20 *ing at the end the following: “The Secretary may purchase*  
 21 *items of nominal value and distribute them to the public*  
 22 *without charge as part of an educational or awareness pro-*  
 23 *gram to accomplish the purposes of this section and of any*  
 24 *other sections of this title related to improving the safety*

1 *of highway-rail crossings and to preventing trespass on*  
2 *railroad rights of way, and the Secretary shall prescribe*  
3 *guidelines for the administration of this authority.”.*

4 **SEC. 209. ACCIDENT AND INCIDENT REPORTING.**

5 *The Federal Railroad Administration shall conduct an*  
6 *audit of each Class I railroad at least once every 2 years*  
7 *and conduct an audit of each non-Class I railroad at least*  
8 *once every 5 years to ensure that all grade crossing colli-*  
9 *sions and fatalities are reported to any Federal national*  
10 *accident database.*

11 **SEC. 210. FOSTERING INTRODUCTION OF NEW TECH-**  
12 **NOLOGY TO IMPROVE SAFETY AT HIGHWAY-**  
13 **RAIL GRADE CROSSINGS.**

14 *(a) AMENDMENT.—Subchapter II of chapter 201, as*  
15 *amended by section 204 of this division, is further amended*  
16 *by adding at the end the following:*

17 **“§20161. Fostering introduction of new technology to**  
18 ***improve safety at highway-rail grade***  
19 ***crossings***

20 **“(a) FINDINGS.—**

21 ***“(1) Collisions between highway users and trains***  
22 ***at highway-rail grade crossings continue to cause an***  
23 ***unacceptable loss of life, serious personal injury, and***  
24 ***property damage.***

1           “(2) While elimination of at-grade crossings  
2 through consolidation of crossings and grade separa-  
3 tions offers the greatest long-term promise for opti-  
4 mizing the safety and efficiency of the two modes of  
5 transportation, over 140,000 public grade crossings  
6 remain on the general rail system—approximately  
7 one for each route mile on the general rail system.

8           “(3) Conventional highway traffic control devices  
9 such as flashing lights and gates are often effective in  
10 warning motorists of a train’s approach to an  
11 equipped crossing.

12           “(4) Since enactment of the Highway Safety Act  
13 of 1973, over \$4,200,000,000 of Federal funding has  
14 been invested in safety improvements at highway-rail  
15 grade crossings, yet a majority of public highway-rail  
16 grade crossings are not yet equipped with active  
17 warning systems.

18           “(5) The emergence of new technologies presents  
19 opportunities for more effective and affordable warn-  
20 ings and safer passage of highway users and trains  
21 at remaining highway-rail grade crossings.

22           “(6) Implementation of new crossing safety tech-  
23 nology will require extensive cooperation between  
24 highway authorities and railroad carriers.

1           “(7) *Federal Railroad Administration regula-*  
2           *tions establishing performance standards for proc-*  
3           *essor-based signal and train control systems provide*  
4           *a suitable framework for qualification of new or novel*  
5           *technology at highway-rail grade crossings, and the*  
6           *Federal Highway Administration’s Manual on Uni-*  
7           *form Traffic Control Devices provides an appropriate*  
8           *means of determining highway user interface with*  
9           *such new technology.*

10          “(b) *POLICY.—It is the policy of the United States to*  
11          *encourage the development of new technology that can pre-*  
12          *vent loss of life and injuries at highway-rail grade cross-*  
13          *ings. The Secretary of Transportation is designated to carry*  
14          *out this policy in consultation with States and necessary*  
15          *public and private entities.*

16          “(c) *SUBMISSION OF NEW TECHNOLOGY PRO-*  
17          *POSALS.—Railroad carriers and railroad suppliers may*  
18          *submit for review and approval to the Secretary such new*  
19          *technology designed to improve safety at highway-rail grade*  
20          *crossings. The Secretary shall approve by order the new*  
21          *technology designed to improve safety at highway-rail grade*  
22          *crossings in accordance with Federal Railroad Administra-*  
23          *tion standards for the development and use of processor-*  
24          *based signal and train control systems and shall consider*

1 *the effects on safety of highway-user interface with the new*  
 2 *technology.*

3       “(d) *EFFECT OF SECRETARIAL APPROVAL.—If the*  
 4 *Secretary approves by order new technology to provide*  
 5 *warning to highway users at a highway-rail grade crossing*  
 6 *and such technology is installed at a highway-rail grade*  
 7 *crossing in accordance with the conditions of the approval,*  
 8 *this determination preempts any State statute or regulation*  
 9 *concerning the adequacy of the technology in providing*  
 10 *warning at the crossing.”.*

11       (b) *CONFORMING AMENDMENT.—The chapter analysis*  
 12 *for chapter 201, as amended by section 204 of this division,*  
 13 *is further amended by inserting after the item relating to*  
 14 *section 20160, the following:*

*“20161. Fostering introduction of new technology to improve safety at highway-rail grade crossings.”.*

15       ***TITLE III—FEDERAL RAILROAD***  
 16                                   ***ADMINISTRATION***

17       ***SEC. 301. HUMAN CAPITAL INCREASES.***

18       (a) *IN GENERAL.—The Secretary shall increase the*  
 19 *number of Federal Railroad Administration employees*  
 20 *by—*

21                   (1) *50 employees in fiscal year 2009;*

22                   (2) *50 employees in fiscal year 2010;*

23                   (3) *50 employees in fiscal year 2011;*

24                   (4) *25 employees in fiscal year 2012; and*

1           (5) 25 employees in fiscal year 2013.

2           (b) *FUNCTIONS.*—*In increasing the number of employ-*  
3 *ees pursuant to subsection (a), the Secretary shall focus on*  
4 *hiring employees—*

5           (1) *specifically trained to conduct on-site rail-*  
6 *road and highway-rail grade crossing accident inves-*  
7 *tigations;*

8           (2) *to implement the Railroad Safety Strategy;*

9           (3) *to administer and implement section 20156*  
10 *of title 49, United States Code, relating to the Rail-*  
11 *road Safety Risk Reduction Program;*

12           (4) *to conduct routine inspections and audits of*  
13 *railroad and hazardous materials facilities and*  
14 *records for compliance with railroad safety laws and*  
15 *regulations;*

16           (5) *to inspect railroad bridges, tunnels, and re-*  
17 *lated infrastructure, and to review or analyze rail-*  
18 *road bridge, tunnel, and related infrastructure inspec-*  
19 *tion reports;*

20           (6) *to prevent or respond to natural or manmade*  
21 *emergency situations or events involving rail infra-*  
22 *structure or employees;*

23           (7) *to implement section 20157 of title 49,*  
24 *United States Code, relating to positive train control*  
25 *systems;*

1           (8) to implement section 20164 of title 49,  
2           United States Code, relating to the development and  
3           use of rail safety technology; and

4           (9) to support the Federal Railroad Administra-  
5           tion's safety mission.

6 **SEC. 302. CIVIL PENALTY INCREASES.**

7           (a) GENERAL VIOLATIONS OF CHAPTER 201.—Section  
8           21301(a)(2) is amended—

9                   (1) by striking “\$10,000.” and inserting  
10                  “\$25,000.”; and

11                   (2) by striking “\$20,000.” and inserting  
12                  “\$100,000.”.

13           (b) ACCIDENT AND INCIDENT VIOLATIONS OF CHAPTER  
14           201; VIOLATIONS OF CHAPTERS 203 THROUGH 209.—Sec-  
15           tion 21302(a)(2) is amended—

16                   (1) by striking “\$10,000.” and inserting  
17                  “\$25,000.”; and

18                   (2) by striking “\$20,000.” and inserting  
19                  “\$100,000.”.

20           (c) VIOLATIONS OF CHAPTER 211.—Section  
21           21303(a)(2) is amended—

22                   (1) by striking “\$10,000.” and inserting  
23                  “\$25,000.”; and

24                   (2) by striking “\$20,000.” and inserting  
25                  “\$100,000.”.

1 **SEC. 303. ENFORCEMENT REPORT.**

2 (a) *IN GENERAL.*—Subchapter I of chapter 201, as  
3 amended by section 109 of this division, is amended by add-  
4 ing at the end the following:

5 **“§ 20120. Enforcement report**

6 “(a) *IN GENERAL.*—Beginning not later than Decem-  
7 ber 31, 2009, the Secretary of Transportation shall make  
8 available to the public and publish on its public website  
9 an annual report that—

10 “(1) provides a summary of railroad safety and  
11 hazardous materials compliance inspections and au-  
12 dits that Federal or State inspectors conducted in the  
13 prior fiscal year organized by type of alleged viola-  
14 tion, including track, motive power and equipment,  
15 signal, grade crossing, operating practices, accident  
16 and incidence reporting, and hazardous materials;

17 “(2) provides a summary of all enforcement ac-  
18 tions taken by the Secretary or the Federal Railroad  
19 Administration during the prior fiscal year, includ-  
20 ing—

21 “(A) the number of civil penalties assessed;

22 “(B) the initial amount of civil penalties  
23 assessed;

24 “(C) the number of civil penalty cases set-  
25 tled;

1           “(D) the final amount of civil penalties as-  
2           sessed;

3           “(E) the difference between the initial and  
4           final amounts of civil penalties assessed;

5           “(F) the number of administrative hearings  
6           requested and completed related to hazardous  
7           materials transportation law violations or en-  
8           forcement actions against individuals;

9           “(G) the number of cases referred to the At-  
10          torney General for civil or criminal prosecution;

11          “(H) the number and subject matter of all  
12          compliance orders, emergency orders, or pre-  
13          cursor agreements;

14          “(3) analyzes the effect of the number of inspec-  
15          tions conducted and enforcement actions taken on the  
16          number and rate of reported accidents and incidents  
17          and railroad safety;

18          “(4) provide the information required by para-  
19          graphs (2) and (3)—

20                 “(A) for each Class I railroad individually;  
21                 and

22                 “(B) in the aggregate for—

23                         “(i) Class II railroads;

24                         “(ii) Class III railroads;

1                   “(iii) hazardous materials shippers;

2                   and

3                   “(iv) individuals;

4                   “(5) identifies the number of locomotive engineer  
5                   certification denial or revocation cases appealed to  
6                   and the average length of time it took to be decided  
7                   by—

8                   “(A) the Locomotive Engineer Review  
9                   Board;

10                  “(B) an Administrative Hearing Officer or  
11                  Administrative Law Judge; or

12                  “(C) the Administrator of the Federal Rail-  
13                  road Administration;

14                  “(6) provides an explanation regarding any  
15                  changes in the Secretary’s or the Federal Railroad  
16                  Administration’s enforcement programs or policies  
17                  that may substantially affect the information re-  
18                  ported; and

19                  “(7) includes any additional information that  
20                  the Secretary determines is useful to improve the  
21                  transparency of its enforcement program.”.

22                  (b) *CONFORMING AMENDMENT.*—The chapter analysis  
23                  for chapter 201, as amended by section 109 of this division,  
24                  is amended by inserting after the item relating to section  
25                  20119 the following:

“20120. Enforcement report.”.

1 **SEC. 304. EXPANSION OF EMERGENCY ORDER AUTHORITY.**

2 *Section 20104(a)(1) is amended by striking “death or*  
3 *personal injury” and inserting “death, personal injury, or*  
4 *significant harm to the environment”.*

5 **SEC. 305. PROHIBITION OF INDIVIDUALS FROM PER-**  
6 **FORMING SAFETY-SENSITIVE FUNCTIONS**  
7 **FOR A VIOLATION OF HAZARDOUS MATE-**  
8 **RIALS TRANSPORTATION LAW.**

9 *Section 20111(c) is amended to read as follows:*

10 *“(c) ORDERS PROHIBITING INDIVIDUALS FROM PER-*  
11 *FORMING SAFETY-SENSITIVE FUNCTIONS.—*

12 *“(1) If an individual’s violation of this part,*  
13 *chapter 51 of this title, or a regulation prescribed, or*  
14 *an order issued, by the Secretary under this part or*  
15 *chapter 51 of this title is shown to make that indi-*  
16 *vidual unfit for the performance of safety-sensitive*  
17 *functions, the Secretary, after providing notice and*  
18 *an opportunity for a hearing, may issue an order*  
19 *prohibiting the individual from performing safety-*  
20 *sensitive functions in the railroad industry for a spec-*  
21 *ified period of time or until specified conditions are*  
22 *met.*

23 *“(2) This subsection does not affect the Sec-*  
24 *retary’s authority under section 20104 of this title to*  
25 *act on an emergency basis.”.*

1 **SEC. 306. RAILROAD RADIO MONITORING AUTHORITY.**

2 *Section 20107 is amended by inserting at the end the*  
3 *following:*

4 *“(c) RAILROAD RADIO COMMUNICATIONS.—*

5 *“(1) IN GENERAL.—To carry out the Secretary’s*  
6 *responsibilities under this part and under chapter 51,*  
7 *the Secretary may authorize officers, employees, or*  
8 *agents of the Secretary to conduct, with or without*  
9 *making their presence known, the following activities*  
10 *in circumstances the Secretary finds to be reasonable:*

11 *“(A) Intercepting a radio communication,*  
12 *with or without the consent of the sender or other*  
13 *receivers of the communication, but only where*  
14 *such communication is broadcast or transmitted*  
15 *over a radio frequency which is—*

16 *“(i) authorized for use by one or more*  
17 *railroad carriers by the Federal Commu-*  
18 *nications Commission; and*

19 *“(ii) primarily used by such railroad*  
20 *carriers for communications in connection*  
21 *with railroad operations.*

22 *“(B) Communicating the existence, contents,*  
23 *substance, purport, effect, or meaning of the com-*  
24 *munication, subject to the restrictions in para-*  
25 *graph (3).*

1           “(C) *Receiving or assisting in receiving the*  
2           *communication (or any information therein con-*  
3           *tained).*

4           “(D) *Disclosing the contents, substance,*  
5           *purport, effect, or meaning of the communication*  
6           *(or any part thereof of such communication) or*  
7           *using the communication (or any information*  
8           *contained therein), subject to the restrictions in*  
9           *paragraph (3), after having received the commu-*  
10          *nication or acquired knowledge of the contents,*  
11          *substance, purport, effect, or meaning of the com-*  
12          *munication (or any part thereof).*

13          “(E) *Recording the communication by any*  
14          *means, including writing and tape recording.*

15          “(2) *ACCIDENT AND INCIDENT PREVENTION AND*  
16          *INVESTIGATION.—The Secretary, and officers, employ-*  
17          *ees, and agents of the Department of Transportation*  
18          *authorized by the Secretary, may engage in the ac-*  
19          *tivities authorized by paragraph (1) for the purpose*  
20          *of accident and incident prevention and investiga-*  
21          *tion.*

22          “(3) *USE OF INFORMATION.—(A) Information*  
23          *obtained through activities authorized by paragraphs*  
24          *(1) and (2) shall not be admitted into evidence in any*  
25          *administrative or judicial proceeding except—*

1           “(i) in a prosecution of a felony under Fed-  
2           eral or State criminal law; or

3           “(ii) to impeach evidence offered by a party  
4           other than the Federal Government regarding the  
5           existence, electronic characteristics, content, sub-  
6           stance, purport, effect, meaning, or timing of, or  
7           identity of parties to, a communication inter-  
8           cepted pursuant to paragraphs (1) and (2) in  
9           proceedings pursuant to section 5122, 5123,  
10          20702(b), 20111, 20112, 20113, or 20114 of this  
11          title.

12          “(B) If information obtained through activities  
13          set forth in paragraphs (1) and (2) is admitted into  
14          evidence for impeachment purposes in accordance  
15          with subparagraph (A), the court, administrative law  
16          judge, or other officer before whom the proceeding is  
17          conducted may make such protective orders regarding  
18          the confidentiality or use of the information as may  
19          be appropriate in the circumstances to protect pri-  
20          vacy and administer justice.

21          “(C) No evidence shall be excluded in an admin-  
22          istrative or judicial proceeding solely because the gov-  
23          ernment would not have learned of the existence of or  
24          obtained such evidence but for the interception of in-

1 *formation that is not admissible in such proceeding*  
2 *under subparagraph (A).*

3 *“(D) Information obtained through activities set*  
4 *forth in paragraphs (1) and (2) shall not be subject*  
5 *to publication or disclosure, or search or review in*  
6 *connection therewith, under section 552 of title 5.*

7 *“(E) Nothing in this subsection shall be con-*  
8 *strued to impair or otherwise affect the authority of*  
9 *the United States to intercept a communication, and*  
10 *collect, retain, analyze, use, and disseminate the in-*  
11 *formation obtained thereby, under a provision of law*  
12 *other than this subsection.*

13 *“(4) APPLICATION WITH OTHER LAW.—Section*  
14 *705 of the Communications Act of 1934 (47 U.S.C.*  
15 *605) and chapter 119 of title 18 shall not apply to*  
16 *conduct authorized by and pursuant to this sub-*  
17 *section.”.*

18 **SEC. 307. UPDATE OF FEDERAL RAILROAD ADMINISTRA-**  
19 **TION’S WEBSITE.**

20 *(a) IN GENERAL.—The Secretary shall update the Fed-*  
21 *eral Railroad Administration’s public website to better fa-*  
22 *cilitate the ability of the public, including those individuals*  
23 *who are not regular users of the public website, to find cur-*  
24 *rent information regarding the Federal Railroad Adminis-*  
25 *tration’s activities.*

1           (b) *PUBLIC REPORTING OF VIOLATIONS.*—*On the Fed-*  
2 *eral Railroad Administration’s public website’s home page,*  
3 *the Secretary shall provide a mechanism for the public to*  
4 *submit written reports of potential violations of Federal*  
5 *railroad safety and hazardous materials transportation*  
6 *laws, regulations, and orders to the Federal Railroad Ad-*  
7 *ministration.*

8 **SEC. 308. EMERGENCY WAIVERS.**

9           Section 20103 is amended—

10                   (1) by striking “*WAIVERS.—*” in subsection (d)  
11                   and inserting “*NONEMERGENCY WAIVERS.—*”;

12                   (2) by striking subsection (e) and inserting the  
13                   following:

14                   “(e) *HEARINGS.*—*The Secretary shall conduct a hear-*  
15 *ing as provided by section 553 of title 5 when prescribing*  
16 *a regulation or issuing an order under this part, including*  
17 *a regulation or order establishing, amending, or providing*  
18 *a waiver, described in subsection (d), of compliance with*  
19 *a railroad safety regulation prescribed or order issued*  
20 *under this part. An opportunity for an oral presentation*  
21 *shall be provided.”; and*

22                   (3) by adding at the end thereof the following:

23                   “(g) *EMERGENCY WAIVERS.*—

24                   “(1) *IN GENERAL.*—*The Secretary may waive*  
25 *compliance with any part of a regulation prescribed*

1        *or order issued under this part without prior notice*  
2        *and comment if the Secretary determines that—*

3                *“(A) it is in the public interest to grant the*  
4                *waiver;*

5                *“(B) the waiver is not inconsistent with*  
6                *railroad safety; and*

7                *“(C) the waiver is necessary to address an*  
8                *actual or impending emergency situation or*  
9                *emergency event.*

10                *“(2) PERIOD OF WAIVER.—A waiver under this*  
11                *subsection may be issued for a period of not more*  
12                *than 60 days and may be renewed upon application*  
13                *to the Secretary only after notice and an opportunity*  
14                *for a hearing on the waiver. The Secretary shall im-*  
15                *mediately revoke the waiver if continuation of the*  
16                *waiver would not be consistent with the goals and ob-*  
17                *jectives of this part.*

18                *“(3) STATEMENT OF REASONS.—The Secretary*  
19                *shall state in the decision issued under this subsection*  
20                *the reasons for granting the waiver.*

21                *“(4) CONSULTATION.—In granting a waiver*  
22                *under this subsection, the Secretary shall consult and*  
23                *coordinate with other Federal agencies, as appro-*  
24                *priate, for matters that may impact such agencies.*

1           “(5) *EMERGENCY SITUATION; EMERGENCY*  
2 *EVENT.*—*In this subsection, the terms ‘emergency sit-*  
3 *uation’ and ‘emergency event’ mean a natural or*  
4 *manmade disaster, such as a hurricane, flood, earth-*  
5 *quake, mudslide, forest fire, snowstorm, terrorist act,*  
6 *biological outbreak, release of a dangerous radio-*  
7 *logical, chemical, explosive, or biological material, or*  
8 *a war-related activity, that poses a risk of death, seri-*  
9 *ous illness, severe injury, or substantial property*  
10 *damage. The disaster may be local, regional, or na-*  
11 *tional in scope.”.*

12 **SEC. 309. ENFORCEMENT BY THE ATTORNEY GENERAL.**

13 *Section 20112(a) is amended—*

14           (1) *by inserting “this part, except for section*  
15 *20109 of this title, or” in paragraph (1) after “en-*  
16 *force,”;*

17           (2) *by striking “21301” in paragraph (2) and*  
18 *inserting “21301, 21302, or 21303”;*

19           (3) *by striking “subpena” in paragraph (3) and*  
20 *inserting “subpoena, request for admissions, request*  
21 *for production of documents or other tangible things,*  
22 *or request for testimony by deposition”;* and

23           (4) *by striking “chapter.” in paragraph (3) and*  
24 *inserting “part.”.*

1 **SEC. 310. CRIMINAL PENALTIES.**

2 *Section 21311(b) is amended to read as follows:*

3 *“(b) ACCIDENT AND INCIDENT REPORTS.—A railroad*  
 4 *carrier not filing a report in violation of section 20901 of*  
 5 *this title shall be fined not more than \$2,500. A separate*  
 6 *violation occurs for each day the violation continues.”.*

7 **TITLE IV—RAILROAD SAFETY**  
 8 **ENHANCEMENTS**

9 **SEC. 401. MINIMUM TRAINING STANDARDS AND PLANS.**

10 *(a) AMENDMENT.—Subchapter II of chapter 201, as*  
 11 *amended by section 210 of this division, is further amended*  
 12 *by adding at the end the following new section:*

13 **“§ 20162. Minimum training standards and plans**

14 *“(a) IN GENERAL.—The Secretary of Transportation*  
 15 *shall, not later than 1 year after the date of enactment of*  
 16 *the Rail Safety Improvement Act of 2008, establish—*

17 *“(1) minimum training standards for each class*  
 18 *and craft of safety-related railroad employee (as de-*  
 19 *finied in section 20102) and equivalent railroad car-*  
 20 *rier contractor and subcontractor employees, which*  
 21 *shall require railroad carriers, contractors, and sub-*  
 22 *contractors to qualify or otherwise document the pro-*  
 23 *ficiency of such employees in each such class and*  
 24 *craft regarding their knowledge of, and ability to*  
 25 *comply with, Federal railroad safety laws and regula-*  
 26 *tions and railroad carrier rules and procedures pro-*

1 *mulgated to implement those Federal railroad safety*  
2 *laws and regulations;*

3 *“(2) a requirement that railroad carriers, con-*  
4 *tractors, and subcontractors develop and submit*  
5 *training and qualification plans to the Secretary for*  
6 *approval, including training programs and informa-*  
7 *tion deemed necessary by the Secretary to ensure that*  
8 *all safety-related railroad employees receive appro-*  
9 *prate training in a timely manner; and*

10 *“(3) a minimum training curriculum, and ongo-*  
11 *ing training criteria, testing, and skills evaluation*  
12 *measures to ensure that safety-related railroad em-*  
13 *ployees, and contractor and subcontractor employees,*  
14 *charged with the inspection of track or railroad*  
15 *equipment are qualified to assess railroad compliance*  
16 *with Federal standards to identify defective condi-*  
17 *tions and initiate immediate remedial action to cor-*  
18 *rect critical safety defects that are known to con-*  
19 *tribute to derailments, accidents, incidents, or inju-*  
20 *ries, and, in implementing the requirements of this*  
21 *paragraph, take into consideration existing training*  
22 *programs of railroad carriers.*

23 *“(b) APPROVAL.—The Secretary shall review and ap-*  
24 *prove the plans required under subsection (a)(2) utilizing*  
25 *an approval process required for programs to certify the*

1 *qualification of locomotive engineers pursuant to part 240*  
2 *of title 49, Code of Federal Regulations.*

3 “(c) *EXEMPTION.—The Secretary may exempt rail-*  
4 *road carriers and railroad carrier contractors and sub-*  
5 *contractors from submitting training plans for which the*  
6 *Secretary has issued training regulations before the date of*  
7 *enactment of the Rail Safety Improvement Act of 2008.”.*

8 (b) *CONFORMING AMENDMENT.—The chapter analysis*  
9 *for chapter 201, as amended by section 210 of this division,*  
10 *is amended by inserting after the item relating to section*  
11 *20161 the following:*

*“20162. Minimum training standards and plans.”.*

12 **SEC. 402. CERTIFICATION OF CERTAIN CRAFTS OR CLASSES**  
13 **OF EMPLOYEES.**

14 (a) *AMENDMENT.—Subchapter II of chapter 201, as*  
15 *amended by section 401 of this division, is further amended*  
16 *by adding at the end the following new section:*

17 **“§20163. Certification of train conductors**

18 “(a) *REGULATIONS.—Not later than 18 months after*  
19 *the date of enactment of the Rail Safety Improvement Act*  
20 *of 2008, the Secretary of Transportation shall prescribe reg-*  
21 *ulations to establish a program requiring the certification*  
22 *of train conductors. In prescribing such regulations, the*  
23 *Secretary shall require that train conductors be trained, in*  
24 *accordance with the training standards developed pursuant*  
25 *to section 20162.*

1       “(b) *PROGRAM REQUIREMENTS.*—*In developing the*  
2 *regulations required by subsection (a), the Secretary may*  
3 *consider the requirements of section 20135(b) through (e).*”.

4       (b) *REPORT.*—*Not later than 6 months after promul-*  
5 *gating regulations under section 20162 of title 49, United*  
6 *States Code, the Secretary shall issue a report to the Senate*  
7 *Committee on Commerce, Science, and Transportation and*  
8 *the House of Representatives Committee on Transportation*  
9 *and Infrastructure about whether the certification of certain*  
10 *crafts or classes of railroad carrier or railroad carrier con-*  
11 *tractor or subcontractor employees is necessary to reduce*  
12 *the number and rate of accidents and incidents or to im-*  
13 *prove railroad safety.*

14       (c) *CRAFTS AND CLASSES TO BE CONSIDERED.*—*As*  
15 *part of the report, the Secretary shall consider—*

16           (1) *car repair and maintenance employees;*

17           (2) *onboard service workers;*

18           (3) *rail welders;*

19           (4) *dispatchers;*

20           (5) *signal repair and maintenance employees;*

21       *and*

22           (6) *any other craft or class of employees that the*  
23 *Secretary determines appropriate.*

24       (d) *REGULATIONS.*—*The Secretary may prescribe reg-*  
25 *ulations requiring the certification of certain crafts or class-*

1 *es of employees that the Secretary determines pursuant to*  
 2 *the report required by paragraph (1) are necessary to re-*  
 3 *duce the number and rate of accidents and incidents or to*  
 4 *improve railroad safety.*

5 *(e) CONFORMING AMENDMENT.—The chapter analysis*  
 6 *for chapter 201, as amended by section 401 of this division,*  
 7 *is amended by inserting after the item relating to section*  
 8 *20162 the following:*

*“20163. Certification of train conductors.”.*

9 **SEC. 403. TRACK INSPECTION TIME STUDY.**

10 *(a) STUDY.—Not later than 2 years after the date of*  
 11 *enactment of this Act, the Secretary shall transmit to the*  
 12 *Committee on Transportation and Infrastructure of the*  
 13 *House of Representatives and the Committee on Commerce,*  
 14 *Science, and Transportation of the Senate a report con-*  
 15 *taining the results of a study to determine whether—*

16 *(1) the required intervals of track inspections for*  
 17 *each class of track should be amended;*

18 *(2) track remedial action requirements should be*  
 19 *amended;*

20 *(3) different track inspection and repair prior-*  
 21 *ities or methods should be required; and*

22 *(4) the speed at which railroad track inspection*  
 23 *vehicles operate and the scope of the territory they*  
 24 *generally cover allow for proper inspection of the*

1 *track and whether such speed and appropriate scope*  
2 *should be regulated by the Secretary.*

3 *(b) CONSIDERATIONS.—In conducting the study the*  
4 *Secretary shall consider—*

5 *(1) the most current rail flaw, rail defect growth,*  
6 *rail fatigue, and other relevant track- or rail-related*  
7 *research and studies;*

8 *(2) the availability and feasibility of developing*  
9 *and implementing new or novel rail inspection tech-*  
10 *nology for routine track inspections;*

11 *(3) information from National Transportation*  
12 *Safety Board or Federal Railroad Administration ac-*  
13 *cident investigations where track defects were the*  
14 *cause or a contributing cause; and*

15 *(4) other relevant information, as determined by*  
16 *the Secretary.*

17 *(c) UPDATE OF REGULATIONS.—Not later than 2 years*  
18 *after the completion of the study required by subsection (a),*  
19 *the Secretary shall prescribe regulations based on the results*  
20 *of the study conducted under subsection (a).*

21 *(d) CONCRETE CROSS TIES.—Not later than 18*  
22 *months after the date of enactment of this Act, the Secretary*  
23 *shall promulgate regulations for concrete cross ties. In de-*  
24 *veloping the regulations for class 1 through 5 track, the Sec-*  
25 *retary may address, as appropriate—*

- 1           (1) *limits for rail seat abrasion;*
- 2           (2) *concrete cross tie pad wear limits;*
- 3           (3) *missing or broken rail fasteners;*
- 4           (4) *loss of appropriate toeload pressure;*
- 5           (5) *improper fastener configurations; and*
- 6           (6) *excessive lateral rail movement.*

7   **SEC. 404. STUDY OF METHODS TO IMPROVE OR CORRECT**  
8                           **STATION PLATFORM GAPS.**

9           *Not later than 2 years after the enactment of this Act,*  
10 *the Secretary shall complete a study to determine the most*  
11 *safe, efficient, and cost-effective way to improve the safety*  
12 *of rail passenger station platforms gaps in order to increase*  
13 *compliance with the requirements under the Americans*  
14 *with Disabilities Act (42 U.S.C. 12101 et seq.), including*  
15 *regulations issued pursuant to section 504 of such Act (42*  
16 *U.S.C. 12204) and to minimize the safety risks associated*  
17 *with such gaps for railroad passengers and employees.*

18 **SEC. 405. LOCOMOTIVE CAB STUDIES.**

19           *(a) IN GENERAL.—Not later than 1 year after the date*  
20 *of enactment of this Act, the Secretary, through the Rail-*  
21 *road Safety Advisory Committee if the Secretary makes*  
22 *such a request, shall complete a study on the safety impact*  
23 *of the use of personal electronic devices, including cell*  
24 *phones, video games, and other distracting devices, by safe-*  
25 *ty-related railroad employees (as defined in section*

1 20102(4) of title 49, United States Code), during the per-  
2 formance of such employees' duties. The study shall consider  
3 the prevalence of the use of such devices.

4 (b) *LOCOMOTIVE CAB ENVIRONMENT*.—The Secretary  
5 may also study other elements of the locomotive cab environ-  
6 ment and their effect on an employee's health and safety.

7 (c) *REPORT*.—Not later than 6 months after the com-  
8 pletion of any study under this section, the Secretary shall  
9 issue a report on the study to the Senate Committee on  
10 Commerce, Science, and Transportation and the House of  
11 Representatives Committee on Transportation and Infra-  
12 structure.

13 (d) *AUTHORITY*.—Based on the conclusions of the  
14 study required under (a), the Secretary of Transportation  
15 may prohibit the use of personal electronic devices, such as  
16 cell phones, video games, or other electronic devices that  
17 may distract employees from safely performing their duties,  
18 unless those devices are being used according to railroad  
19 operating rules or for other work purposes. Based on the  
20 conclusions of other studies conducted under subsection (b),  
21 the Secretary may prescribe regulations to improve ele-  
22 ments of the cab environment to protect an employee's  
23 health and safety.

1 **SEC. 406. DEVELOPMENT AND USE OF RAIL SAFETY TECH-**  
2 **NOLOGY.**

3 (a) *IN GENERAL.*—Subchapter II of chapter 201, as  
4 amended by section 402 of this division, is further amended  
5 by adding at the end the following new section:

6 **“§20164. Development and use of rail safety tech-**  
7 **nology**

8 “(a) *IN GENERAL.*—Not later than 1 year after enact-  
9 ment of the Railroad Safety Enhancement Act of 2008, the  
10 Secretary of Transportation shall prescribe standards,  
11 guidance, regulations, or orders governing the development,  
12 use, and implementation of rail safety technology in dark  
13 territory, in arrangements not defined in section 20501 or  
14 otherwise not covered by Federal standards, guidance, regu-  
15 lations, or orders that ensure the safe operation of such tech-  
16 nology, such as—

17 “(1) *switch position monitoring devices or indi-*  
18 *cators;*

19 “(2) *radio, remote control, or other power-as-*  
20 *sisted switches;*

21 “(3) *hot box, high water, or earthquake detectors;*

22 “(4) *remote control locomotive zone limiting de-*  
23 *vices;*

24 “(5) *slide fences;*

25 “(6) *grade crossing video monitors;*

26 “(7) *track integrity warning systems; or*

1           “(8) other similar rail safety technologies, as de-  
2           termined by the Secretary.

3           “(b) *DARK TERRITORY DEFINED.*—*In this section, the*  
4 *term ‘dark territory’ means any territory in a railroad sys-*  
5 *tem that does not have a signal or train control system in-*  
6 *stalled or operational.’.*”

7           (b) *CONFORMING AMENDMENT.*—*The chapter analysis*  
8 *for chapter 201, as amended by section 402 of this division,*  
9 *is amended by inserting after the item relating to section*  
10 *20163 the following:*

          “20164. *Development and use of rail safety technology.*”

11 **SEC. 407. UNIFIED TREATMENT OF FAMILIES OF RAILROAD**  
12 **CARRIERS.**

13           Section 20102(3), as redesignated by section 2(b) of  
14 this division, is amended to read as follows:

15           “(3) ‘railroad carrier’ means a person providing  
16           railroad transportation, except that, upon petition by  
17           a group of commonly controlled railroad carriers that  
18           the Secretary determines is operating within the  
19           United States as a single, integrated rail system, the  
20           Secretary may by order treat the group of railroad  
21           carriers as a single railroad carrier for purposes of  
22           one or more provisions of part A, subtitle V of this  
23           title and implementing regulations and order, subject  
24           to any appropriate conditions that the Secretary may  
25           impose.”.

1 **SEC. 408. STUDY OF REPEAL OF CONRAIL PROVISION.**

2 *Not later than 1 year after the date of enactment of*  
3 *this Act, the Secretary shall complete a study of the impacts*  
4 *of repealing section 711 of the Regional Rail Reorganiza-*  
5 *tion Act of 1973 (45 U.S.C. 797j). Not later than 6 months*  
6 *after completing the study, the Secretary shall transmit a*  
7 *report with the Secretary’s findings, conclusions, and rec-*  
8 *ommendations to the Senate Committee on Commerce,*  
9 *Science, and Transportation and the House of Representa-*  
10 *tives Committee on Transportation and Infrastructure.*

11 **SEC. 409. LIMITATIONS ON NON-FEDERAL ALCOHOL AND**  
12 **DRUG TESTING BY RAILROAD CARRIERS.**

13 *(a) IN GENERAL.—Chapter 201, as amended by sec-*  
14 *tion 406 of this division, is further amended by adding at*  
15 *the end the following:*

16 **“§20165. Limitations on non-Federal alcohol and**  
17 **drug testing**

18 *“(a) TESTING REQUIREMENTS.—Any non-Federal al-*  
19 *cohol and drug testing program of a railroad carrier must*  
20 *provide that all post-employment tests of the specimens of*  
21 *employees who are subject to both the program and chapter*  
22 *211 of this title be conducted using a scientifically recog-*  
23 *nized method of testing capable of determining the presence*  
24 *of the specific analyte at a level above the cut-off level estab-*  
25 *lished by the carrier.*

1           “(b) *REDRESS PROCESS.*—*Each railroad carrier that*  
 2 *has a non-Federal alcohol and drug testing program must*  
 3 *provide a redress process to its employees who are subject*  
 4 *to both the alcohol and drug testing program and chapter*  
 5 *211 of this title for such an employee to petition for and*  
 6 *receive a carrier hearing to review his or her specimen test*  
 7 *results that were determined to be in violation of the pro-*  
 8 *gram. A dispute or grievance raised by a railroad carrier*  
 9 *or its employee, except a probationary employee, in connec-*  
 10 *tion with the carrier’s alcohol and drug testing program*  
 11 *and the application of this section is subject to resolution*  
 12 *under section 3 of the Railway Labor Act (45 U.S.C. 153).”.*

13           (b) *CONFORMING AMENDMENT.*—*The chapter analysis*  
 14 *for chapter 201, as amended by section 406 of this division,*  
 15 *is further amended by inserting after the item relating to*  
 16 *section 20164 the following:*

“20165. *Limitations on non-Federal alcohol and drug testing by railroad carriers.*”.

17 **SEC. 410. CRITICAL INCIDENT STRESS PLAN.**

18           (a) *IN GENERAL.*—*The Secretary of Transportation,*  
 19 *in consultation with the Secretary of Labor and the Sec-*  
 20 *retary of Health and Human Services, as appropriate, shall*  
 21 *require each Class I railroad carrier, each intercity pas-*  
 22 *senger railroad carrier, and each commuter railroad carrier*  
 23 *to develop and submit for approval to the Secretary a crit-*  
 24 *ical incident stress plan that provides for debriefing, coun-*

1 *seling, guidance, and other appropriate support services to*  
2 *be offered to an employee affected by a critical incident.*

3 (b) *PLAN REQUIREMENTS.—Each such plan shall in-*  
4 *clude provisions for—*

5 (1) *relieving an employee who was involved in a*  
6 *critical incident of his or her duties for the balance*  
7 *of the duty tour, following any actions necessary for*  
8 *the safety of persons and contemporaneous docu-*  
9 *mentation of the incident;*

10 (2) *upon the employee’s request, relieving an em-*  
11 *ployee who witnessed a critical incident of his or her*  
12 *duties following any actions necessary for the safety*  
13 *of persons and contemporaneous documentation of the*  
14 *incident; and*

15 (3) *providing such leave from normal duties as*  
16 *may be necessary and reasonable to receive preventive*  
17 *services, treatment, or both, related to the incident.*

18 (c) *SECRETARY TO DEFINE WHAT CONSTITUTES A*  
19 *CRITICAL INCIDENT.—Within 30 days after the date of en-*  
20 *actment of this Act, the Secretary shall initiate a rule-*  
21 *making proceeding to define the term “critical incident”*  
22 *for the purposes of this section.*

1 **SEC. 411. RAILROAD CARRIER EMPLOYEE EXPOSURE TO RA-**  
2 **DIATION STUDY.**

3 (a) *STUDY.*—*The Secretary of Transportation shall, in*  
4 *consultation with the Secretary of Energy, the Secretary of*  
5 *Labor, the Administrator of the Environmental Protection*  
6 *Agency, and the Chairman of the Nuclear Regulatory Com-*  
7 *mission, as appropriate, conduct a study of the potential*  
8 *hazards to which employees of railroad carriers and rail-*  
9 *road contractors or subcontractors are exposed during the*  
10 *transportation of high-level radioactive waste and spent nu-*  
11 *clear fuel (as defined in section 5101(a) of title 49, United*  
12 *States Code), supplementing the report submitted under sec-*  
13 *tion 5101(b) of that title, which may include—*

14 (1) *an analysis of the potential application of*  
15 *“as low as reasonably achievable” principles for expo-*  
16 *sure to radiation to such employees with an emphasis*  
17 *on the need for special protection from radiation ex-*  
18 *posure for such employees during the first trimester of*  
19 *pregnancy or who are undergoing or have recently*  
20 *undergone radiation therapy;*

21 (2) *the feasibility of requiring real-time dosim-*  
22 *etry monitoring for such employees;*

23 (3) *the feasibility of requiring routine radiation*  
24 *exposure monitoring in fixed railroad locations, such*  
25 *as yards and repair facilities; and*



1 *under section 20140 of title 49, United States Code, to cover*  
2 *all employees of railroad carriers and contractors or sub-*  
3 *contractors to railroad carriers who perform maintenance-*  
4 *of-way activities.*

5 **SEC. 413. EMERGENCY ESCAPE BREATHING APPARATUS.**

6 (a) *AMENDMENT.*—*Subchapter II of chapter 201, as*  
7 *amended by section 409 of this division, is further amended*  
8 *by adding at the end the following new section:*

9 **“§ 20166. Emergency escape breathing apparatus**

10 *“Not later than 18 months after the date of enactment*  
11 *of the Rail Safety Improvement Act of 2008, the Secretary*  
12 *of Transportation shall prescribe regulations that require*  
13 *railroad carriers—*

14 *“(1) to provide emergency escape breathing ap-*  
15 *paratus suitable to provide head and neck coverage*  
16 *with respiratory protection for all crewmembers in lo-*  
17 *comotive cabs on freight trains carrying hazardous*  
18 *materials that would pose an inhalation hazard in*  
19 *the event of release;*

20 *“(2) to provide convenient storage in each freight*  
21 *train locomotive to enable crewmembers to access such*  
22 *apparatus quickly;*

23 *“(3) to maintain such equipment in proper*  
24 *working condition; and*

1           “(4) to provide their crewmembers with appro-  
2           priate training for using the breathing apparatus.”.

3           (b) *CONFORMING AMENDMENT.*—The chapter analysis  
4 for chapter 201, as amended by section 409 of this division,  
5 is amended by inserting after the item relating to section  
6 20165 the following:

          “20166. *Emergency escape breathing apparatus.*”.

7 **SEC. 414. TUNNEL INFORMATION.**

8           Not later than 120 days after the date of enactment  
9 of this Act, each railroad carrier shall, with respect to each  
10 of its tunnels which—

11           (1) are longer than 1000 feet and located under  
12 a city with a population of 400,000 or greater; or

13           (2) carry 5 or more scheduled passenger trains  
14 per day, or 500 or more carloads of poison- or toxic-  
15 by-inhalation hazardous materials (as defined in  
16 parts 171.8, 173.115, and 173.132 of title 49, Code of  
17 Federal Regulations) per year,

18 maintain, for at least two years, historical documentation  
19 of structural inspection and maintenance activities for such  
20 tunnels, including information on the methods of ingress  
21 and egress into and out of the tunnel, the types of cargos  
22 typically transported through the tunnel, and schematics or  
23 blueprints for the tunnel, when available. Upon request, a  
24 railroad carrier shall provide periodic briefings on such in-  
25 formation to the governments of the local jurisdiction in

1 *which the tunnel is located, including updates whenever a*  
2 *repair or rehabilitation project substantially alters the*  
3 *methods of ingress and egress. Such governments shall use*  
4 *appropriate means to protect and restrict the distribution*  
5 *of any security sensitive information (as defined in part*  
6 *1520.5 of title 49, Code of Federal Regulations) provided*  
7 *by the railroad carrier under this section, consistent with*  
8 *national security interests.*

9 **SEC. 415. MUSEUM LOCOMOTIVE STUDY.**

10 (a) *STUDY.*—*The Secretary shall conduct a study of*  
11 *the requirements relating to safety inspections of diesel-elec-*  
12 *tric locomotives and equipment that are operated in limited*  
13 *service by railroad-related museums, historical societies,*  
14 *and tourist or scenic railroads. The study shall include an*  
15 *analysis of the safety consequences of requiring less frequent*  
16 *inspections of such locomotives and equipment, including*  
17 *periodic inspections or inspections based on service days*  
18 *and air brake inspections.*

19 (b) *REPORT.*—*Not later than 2 years after the date*  
20 *of enactment of this Act, the Secretary shall transmit a re-*  
21 *port on the results of the study conducted under subsection*  
22 *(a) to the Committee on Transportation and Infrastructure*  
23 *of the House of Representatives and the Committee on Com-*  
24 *merce, Science, and Transportation of the Senate.*

1 **SEC. 416. SAFETY INSPECTIONS IN MEXICO.**

2 *Mechanical and brake inspections of rail cars per-*  
3 *formed in Mexico shall not be treated as satisfying United*  
4 *States rail safety laws or regulations unless the Secretary*  
5 *of Transportation certifies that—*

6 (1) *such inspections are being performed under*  
7 *regulations and standards equivalent to those appli-*  
8 *cable in the United States;*

9 (2) *the inspections are being performed by em-*  
10 *ployees that have received training similar to the*  
11 *training received by similar railroad employees in the*  
12 *United States;*

13 (3) *inspection records that are required to be*  
14 *available to the crewmembers on board the train, in-*  
15 *cluding air slips and blue cards, are maintained in*  
16 *both English and Spanish, and such records are*  
17 *available to the Federal Railroad Administration for*  
18 *review; and*

19 (4) *the Federal Railroad Administration is per-*  
20 *mitted to perform onsite inspections for the purpose*  
21 *of ensuring compliance with the requirements of this*  
22 *subsection.*

23 **SEC. 417. RAILROAD BRIDGE SAFETY ASSURANCE.**

24 (a) *IN GENERAL.—Not later than 12 months after the*  
25 *date of enactment of this Act, the Secretary shall promul-*  
26 *gate a regulation requiring owners of track carried on one*

1 *or more railroad bridges to adopt a bridge safety manage-*  
2 *ment program to prevent the deterioration of railroad*  
3 *bridges and reduce the risk of human casualties, environ-*  
4 *mental damage, and disruption to the Nation's railroad*  
5 *transportation system that would result from a catastrophic*  
6 *bridge failure.*

7 (b) *REQUIREMENTS.—The regulations shall, at a min-*  
8 *imum, require each track owner to—*

9 (1) *to develop and maintain an accurate inven-*  
10 *tory of its railroad bridges, which shall identify the*  
11 *location of each bridge, its configuration, type of con-*  
12 *struction, number of spans, span lengths, and all*  
13 *other information necessary to provide for the safe*  
14 *management of the bridges;*

15 (2) *to ensure that a professional engineer com-*  
16 *petent in the field of railroad bridge engineering, or*  
17 *a qualified person under the supervision of the track*  
18 *owner, determines bridge capacity;*

19 (3) *to maintain, and update as appropriate, a*  
20 *record of the safe capacity of each bridge which car-*  
21 *ries its track and, if available, maintain the original*  
22 *design documents of each bridge and a documentation*  
23 *of all repairs, modifications, and inspections of the*  
24 *bridge;*

1           (4) to develop, maintain, and enforce a written  
2           procedure that will ensure that its bridges are not  
3           loaded beyond their capacities;

4           (5) to conduct regular comprehensive inspections  
5           of each bridge, at least once every year, and maintain  
6           records of those inspections that include the date on  
7           which the inspection was performed, the precise iden-  
8           tification of the bridge inspected, the items inspected,  
9           an accurate description of the condition of those  
10          items, and a narrative of any inspection item that is  
11          found by the inspector to be a potential problem;

12          (6) to ensure that the level of detail and the in-  
13          spection procedures are appropriate to the configura-  
14          tion of the bridge, conditions found during previous  
15          inspections, and the nature of the railroad traffic  
16          moved over the bridge, including car weights, train  
17          frequency and length, levels of passenger and haz-  
18          ardous materials traffic, and vulnerability of the  
19          bridge to damage;

20          (7) to ensure that an engineer who is competent  
21          in the field of railroad bridge engineering—

22                  (A) is responsible for the development of all  
23                  inspection procedures;

24                  (B) reviews all inspection reports; and

1           (C) determines whether bridges are being  
2           inspected according to the applicable procedures  
3           and frequency, and reviews any items noted by  
4           an inspector as exceptions; and

5           (8) to designate qualified bridge inspectors or  
6           maintenance personnel to authorize the operation of  
7           trains on bridges following repairs, damage, or indi-  
8           cations of potential structural problems.

9           (c) **USE OF BRIDGE MANAGEMENT PROGRAMS RE-**  
10 **QUIRED.**—The Secretary shall instruct bridge experts to ob-  
11 **tain copies of the most recent bridge management programs**  
12 **of each railroad within the expert’s areas of responsibility,**  
13 **and require that experts use those programs when con-**  
14 **ducting bridge observations.**

15          (d) **REVIEW OF DATA.**—The Secretary shall establish  
16 **a program to periodically review bridge inspection and**  
17 **maintenance data from railroad carrier bridge inspectors**  
18 **and Federal Railroad Administration bridge experts.**

19 **SEC. 418. RAILROAD SAFETY INFRASTRUCTURE IMPROVE-**  
20 **MENT GRANTS.**

21          (a) **IN GENERAL.**—Subchapter II of chapter 201, as  
22 **amended by section 413 of this division, is further amended**  
23 **by adding at the end thereof the following:**

1 **“§20167. Railroad safety infrastructure improvement**  
2 **grants**

3 “(a) *GRANT PROGRAM.*—*The Secretary of Transpor-*  
4 *tation shall establish a grant program for safety improve-*  
5 *ments to railroad infrastructure, including the acquisition,*  
6 *improvement, or rehabilitation of intermodal or rail equip-*  
7 *ment or facilities, including track, bridges, tunnels, yards,*  
8 *buildings, passenger stations, facilities, and maintenance*  
9 *and repair shops.*

10 “(b) *ELIGIBILITY.*—*Grants shall be made under this*  
11 *section to eligible passenger and freight railroad carriers,*  
12 *and State and local governments for projects described in*  
13 *subsection (a). Grants shall also be made available to assist*  
14 *a State or political subdivision thereof in establishing a*  
15 *quiet zone pursuant to part 222 of title 49, Code of Federal*  
16 *Regulations.*

17 “(c) *CONSIDERATIONS.*—*In awarding grants, the Sec-*  
18 *retary shall consider, at a minimum—*

19 “(1) *the age and condition of the rail infrastruc-*  
20 *ture of the applicant;*

21 “(2) *the railroad carrier’s safety record, includ-*  
22 *ing accident and incident numbers and rates;*

23 “(3) *the volume of hazardous materials trans-*  
24 *ported by the railroad;*

25 “(4) *the operation of passenger trains over the*  
26 *railroad; and*

1           “(5) whether the railroad carrier has submitted  
2           a railroad safety risk reduction program, as required  
3           by section 20156.

4           “(d) *MATCHING REQUIREMENTS.*—Federal funds for  
5           any eligible project under this section shall not exceed 50  
6           percent of the total cost of such project.

7           “(e) *AUTHORIZATION OF APPROPRIATIONS.*—There are  
8           authorized to be appropriated to the Secretary of Transpor-  
9           tation \$5,000,000 for each of fiscal years 2010 through 2013  
10          to carry out this section. Amounts appropriated pursuant  
11          to this subsection shall remain available until expended.”.

12          (b) *CONFORMING AMENDMENT.*—The chapter analysis  
13          for chapter 201, as amended by section 413 of this division,  
14          is amended by inserting after the item relating to section  
15          20166 the following:

          “20167. Railroad safety infrastructure improvement grants.”.

16       **SEC. 419. PROMPT MEDICAL ATTENTION.**

17          (a) *IN GENERAL.*—Section 20109 is amended—

18               (1) by redesignating subsections (c) through (i)  
19               as subsections (d) through (j), respectively; and

20               (2) by inserting after subsection (b) the fol-  
21               lowing:

22               “(c) *PROMPT MEDICAL ATTENTION.*—

23                       “(1) *PROHIBITION.*—A railroad carrier or per-  
24                       son covered under this section may not deny, delay,  
25                       or interfere with the medical or first aid treatment of

1     *an employee who is injured during the course of em-*  
2     *ployment. If transportation to a hospital is requested*  
3     *by an employee who is injured during the course of*  
4     *employment, the railroad shall promptly arrange to*  
5     *have the injured employee transported to the nearest*  
6     *hospital where the employee can receive safe and ap-*  
7     *propriate medical care.*

8             “(2) *DISCIPLINE.*—*A railroad carrier or person*  
9     *covered under this section may not discipline, or*  
10    *threaten discipline to, an employee for requesting*  
11    *medical or first aid treatment, or for following orders*  
12    *or a treatment plan of a treating physician, except*  
13    *that a railroad carrier’s refusal to permit an em-*  
14    *ployee to return to work following medical treatment*  
15    *shall not be considered a violation of this section if*  
16    *the refusal is pursuant to Federal Railroad Adminis-*  
17    *tration medical standards for fitness of duty or, if*  
18    *there are no pertinent Federal Railroad Administra-*  
19    *tion standards, a carrier’s medical standards for fit-*  
20    *ness for duty. For purposes of this paragraph, the*  
21    *term ‘discipline’ means to bring charges against a*  
22    *person in a disciplinary proceeding, suspend, termi-*  
23    *nate, place on probation, or make note of reprimand*  
24    *on an employee’s record.”.*

1       (b) *CONFORMING AMENDMENTS.*—Section 20109 is  
2 amended—

3           (1) in subsection (d), as redesignated by sub-  
4 section (a) of this section—

5                   (A) by striking “(a) or (b)” in paragraph  
6 (1) and inserting “(a), (b), or (c)”;

7                   (B) by striking “(c)(1)” in paragraph  
8 (2)(A)(i) and inserting “(d)(1)”;

9                   (C) by striking “(a) or (b)” in paragraph  
10 (2)(A)(ii) and inserting “(a), (b), or (c)”;

11 (2) in subsection (e), as so redesignated—

12                           (A) by striking “(c)” in paragraph (1) and  
13 inserting “(d)”;

14                           (B) by striking “(c)” in paragraph (2) and  
15 inserting “(d)”;

16                           (C) by striking “(c)(3)” in paragraph (2)  
17 and inserting “(d)(3)”;

18                           (D) by striking “(c)” in paragraph (3) and  
19 inserting “(d)”.

20 **SEC. 420. EMPLOYEE SLEEPING QUARTERS.**

21 Section 21106 is amended—

22           (1) by inserting “(a) *IN GENERAL.*—” before “A  
23 railroad carrier”;

24           (2) by striking “sanitary and give those employ-  
25 ees and individuals an opportunity for rest free from

1        *the interruptions caused by noise under the control of*  
2        *the carrier;” in paragraph (1) and inserting “sani-*  
3        *tary, give those employees and individuals an oppor-*  
4        *tunity for rest free from the interruptions caused by*  
5        *noise under the control of the carrier, and provide in-*  
6        *door toilet facilities, potable water, and other features*  
7        *to protect the health of employees;”; and*

8                *(3) by adding at the end the following:*

9                *“(b) CAMP CARS.—Not later than December 31, 2009,*  
10        *any railroad carrier that uses camp cars shall fully retrofit*  
11        *or replace such cars in compliance with subsection (a).*

12                *“(c) REGULATIONS.—Not later than April 1, 2010, the*  
13        *Secretary of Transportation, in coordination with the Sec-*  
14        *retary of Labor, shall prescribe regulations to implement*  
15        *subsection (a)(1) to protect the safety and health of any em-*  
16        *ployees and individuals employed to maintain the right of*  
17        *way of a railroad carrier that uses camp cars, which shall*  
18        *require that all camp cars comply with those regulations*  
19        *by December 31, 2010. In prescribing the regulations, the*  
20        *Secretary shall assess the action taken by any railroad car-*  
21        *rier to fully retrofit or replace its camp cars pursuant to*  
22        *this section.*

23                *“(d) COMPLIANCE AND ENFORCEMENT.—The Sec-*  
24        *retary shall determine whether a railroad carrier has fully*  
25        *retrofitted or replaced a camp car pursuant to subsection*

1 *(b) and shall prohibit the use of any non-compliant camp*  
 2 *car. The Secretary may assess civil penalties pursuant to*  
 3 *chapter 213 for violations of this section.”.*

4       **TITLE V—RAIL PASSENGER**  
 5       **DISASTER FAMILY ASSISTANCE**

6       **SEC. 501. ASSISTANCE BY NATIONAL TRANSPORTATION**

7                       **SAFETY BOARD TO FAMILIES OF PASSENGERS**

8                       **INVOLVED IN RAIL PASSENGER ACCIDENTS.**

9           *(a) IN GENERAL.—Chapter 11 is amended by adding*  
 10 *at the end of subchapter III the following:*

11       **“§ 1139. Assistance to families of passengers involved**  
 12                       **in rail passenger accidents**

13           *“(a) IN GENERAL.—As soon as practicable after being*  
 14 *notified of a rail passenger accident within the United*  
 15 *States involving a rail passenger carrier and resulting in*  
 16 *a major loss of life, the Chairman of the National Transpor-*  
 17 *tation Safety Board shall—*

18                       *“(1) designate and publicize the name and phone*  
 19           *number of a director of family support services who*  
 20           *shall be an employee of the Board and shall be re-*  
 21           *sponsible for acting as a point of contact within the*  
 22           *Federal Government for the families of passengers in-*  
 23           *involved in the accident and a liaison between the rail*  
 24           *passenger carrier and the families; and*

1           “(2) designate an independent nonprofit organi-  
2           zation, with experience in disasters and post trauma  
3           communication with families, which shall have pri-  
4           mary responsibility for coordinating the emotional  
5           care and support of the families of passengers in-  
6           volved in the accident.

7           “(b) *RESPONSIBILITIES OF THE BOARD.*—The Board  
8           shall have primary Federal responsibility for—

9           “(1) facilitating the recovery and identification  
10          of fatally injured passengers involved in an accident  
11          described in subsection (a); and

12          “(2) communicating with the families of pas-  
13          sengers involved in the accident as to the roles, with  
14          respect to the accident and the post-accident activi-  
15          ties, of—

16                  “(A) the organization designated for an ac-  
17                  cident under subsection (a)(2);

18                  “(B) Government agencies; and

19                  “(C) the rail passenger carrier involved.

20          “(c) *RESPONSIBILITIES OF DESIGNATED ORGANIZA-*  
21          *TION.*—The organization designated for an accident under  
22          subsection (a)(2) shall have the following responsibilities  
23          with respect to the families of passengers involved in the  
24          accident:

1           “(1) *To provide mental health and counseling*  
2           *services, in coordination with the disaster response*  
3           *team of the rail passenger carrier involved.*

4           “(2) *To take such actions as may be necessary*  
5           *to provide an environment in which the families may*  
6           *grieve in private.*

7           “(3) *To meet with the families who have traveled*  
8           *to the location of the accident, to contact the families*  
9           *unable to travel to such location, and to contact all*  
10           *affected families periodically thereafter until such*  
11           *time as the organization, in consultation with the di-*  
12           *rector of family support services designated for the ac-*  
13           *cident under subsection (a)(1), determines that fur-*  
14           *ther assistance is no longer needed.*

15           “(4) *To arrange a suitable memorial service, in*  
16           *consultation with the families.*

17           “(d) *PASSENGER LISTS.—*

18           “(1) *REQUESTS FOR PASSENGER LISTS.—*

19           “(A) *REQUESTS BY DIRECTOR OF FAMILY*  
20           *SUPPORT SERVICES.—It shall be the responsi-*  
21           *bility of the director of family support services*  
22           *designated for an accident under subsection*  
23           *(a)(1) to request, as soon as practicable, from the*  
24           *rail passenger carrier involved in the accident a*  
25           *list, which is based on the best available infor-*

1            *mation at the time of the request, of the names*  
2            *of the passengers that were aboard the rail pas-*  
3            *senger carrier's train involved in the accident. A*  
4            *rail passenger carrier shall use reasonable efforts,*  
5            *with respect to its unreserved trains, and pas-*  
6            *sengers not holding reservations on its other*  
7            *trains, to ascertain the names of passengers*  
8            *aboard a train involved in an accident.*

9            *“(B) REQUESTS BY DESIGNATED ORGANIZA-*  
10           *TION.—The organization designated for an acci-*  
11           *dent under subsection (a)(2) may request from*  
12           *the rail passenger carrier involved in the acci-*  
13           *dent a list described in subparagraph (A).*

14           *“(2) USE OF INFORMATION.—Except as provided*  
15           *in subsection (k), the director of family support serv-*  
16           *ices and the organization may not release to any per-*  
17           *son information on a list obtained under paragraph*  
18           *(1) but may provide information on the list about a*  
19           *passenger to the family of the passenger to the extent*  
20           *that the director of family support services or the or-*  
21           *ganization considers appropriate.*

22           *“(e) CONTINUING RESPONSIBILITIES OF THE*  
23           *BOARD.—In the course of its investigation of an accident*  
24           *described in subsection (a), the Board shall, to the max-*

1 *imum extent practicable, ensure that the families of pas-*  
2 *sengers involved in the accident—*

3           “(1) *are briefed, prior to any public briefing,*  
4           *about the accident and any other findings from the*  
5           *investigation; and*

6           “(2) *are individually informed of and allowed to*  
7           *attend any public hearings and meetings of the Board*  
8           *about the accident.*

9           “(f) *USE OF RAIL PASSENGER CARRIER RE-*  
10 *SOURCES.—To the extent practicable, the organization des-*  
11 *ignated for an accident under subsection (a)(2) shall coordi-*  
12 *nate its activities with the rail passenger carrier involved*  
13 *in the accident to facilitate the reasonable use of the re-*  
14 *sources of the carrier.*

15           “(g) *PROHIBITED ACTIONS.—*

16           “(1) *ACTIONS TO IMPEDE THE BOARD.—No per-*  
17 *son (including a State or political subdivision there-*  
18 *of) may impede the ability of the Board (including*  
19 *the director of family support services designated for*  
20 *an accident under subsection (a)(1)), or an organiza-*  
21 *tion designated for an accident under subsection*  
22 *(a)(2), to carry out its responsibilities under this sec-*  
23 *tion or the ability of the families of passengers in-*  
24 *involved in the accident to have contact with one an-*  
25 *other.*

1           “(2) *UNSOLICITED COMMUNICATIONS.*—*No unsol-*  
2           *olicited communication concerning a potential action*  
3           *or settlement offer for personal injury or wrongful*  
4           *death may be made by an attorney (including any*  
5           *associate, agent, employee, or other representative of*  
6           *an attorney) or any potential party to the litigation,*  
7           *including the railroad carrier or rail passenger car-*  
8           *rier, to an individual (other than an employee of the*  
9           *rail passenger carrier) injured in the accident, or to*  
10          *a relative of an individual involved in the accident,*  
11          *before the 45th day following the date of the accident.*

12           “(3) *PROHIBITION ON ACTIONS TO PREVENT*  
13          *MENTAL HEALTH AND COUNSELING SERVICES.*—*No*  
14          *State or political subdivision thereof may prevent the*  
15          *employees, agents, or volunteers of an organization*  
16          *designated for an accident under subsection (a)(2)*  
17          *from providing mental health and counseling services*  
18          *under subsection (c)(1) in the 30-day period begin-*  
19          *ning on the date of the accident. The director of fam-*  
20          *ily support services designated for the accident under*  
21          *subsection (a)(1) may extend such period for not to*  
22          *exceed an additional 30 days if the director deter-*  
23          *mines that the extension is necessary to meet the*  
24          *needs of the families and if State and local authori-*  
25          *ties are notified of the determination.*

1       “(h) *DEFINITIONS.*—*In this section:*

2               “(1) *RAIL PASSENGER ACCIDENT.*—*The term*  
3       *‘rail passenger accident’ means any rail passenger*  
4       *disaster resulting in a major loss of life occurring in*  
5       *the provision of—*

6                       “(A) *interstate intercity rail passenger*  
7       *transportation (as such term is defined in sec-*  
8       *tion 24102); or*

9                       “(B) *interstate or intrastate high-speed rail*  
10       *(as such term is defined in section 26105) trans-*  
11       *portation,*  
12       *regardless of its cause or suspected cause.*

13               “(2) *RAIL PASSENGER CARRIER.*—*The term ‘rail*  
14       *passenger carrier’ means a rail carrier providing—*

15                       “(A) *interstate intercity rail passenger*  
16       *transportation (as such term is defined in sec-*  
17       *tion 24102); or*

18                       “(B) *interstate or intrastate high-speed rail*  
19       *(as such term is defined in section 26105) trans-*  
20       *portation,*

21       *except that such term does not include a tourist, his-*  
22       *toric, scenic, or excursion rail carrier.*

23               “(3) *PASSENGER.*—*The term ‘passenger’ in-*  
24       *cludes—*

1           “(A) an employee of a rail passenger car-  
2           rier aboard a train;

3           “(B) any other person aboard the train  
4           without regard to whether the person paid for the  
5           transportation, occupied a seat, or held a res-  
6           ervation for the rail transportation; and

7           “(C) any other person injured or killed in  
8           a rail passenger accident, as determined appro-  
9           priate by the Board.

10          “(i) *LIMITATION ON STATUTORY CONSTRUCTION.*—  
11          *Nothing in this section may be construed as limiting the*  
12          *actions that a rail passenger carrier may take, or the obli-*  
13          *gations that a rail passenger carrier may have, in pro-*  
14          *viding assistance to the families of passengers involved in*  
15          *a rail passenger accident.*

16          “(j) *RELINQUISHMENT OF INVESTIGATIVE PRI-*  
17          *ORITY.*—

18                 “(1) *GENERAL RULE.*—*This section (other than*  
19                 *subsection (g)) shall not apply to a railroad passenger*  
20                 *accident if the Board has relinquished investigative*  
21                 *priority under section 1131(a)(2)(B) and the Federal*  
22                 *agency to which the Board relinquished investigative*  
23                 *priority is willing and able to provide assistance to*  
24                 *the victims and families of the passengers involved in*  
25                 *the accident.*

1           “(2) *BOARD ASSISTANCE.*—*If this section does*  
 2           *not apply to a railroad passenger accident because the*  
 3           *Board has relinquished investigative priority with re-*  
 4           *spect to the accident, the Board shall assist, to the*  
 5           *maximum extent possible, the agency to which the*  
 6           *Board has relinquished investigative priority in as-*  
 7           *isting families with respect to the accident.*

8           “(k) *SAVINGS CLAUSE.*—*Nothing in this section shall*  
 9           *be construed to abridge the authority of the Board or the*  
 10           *Secretary of Transportation to investigate the causes or cir-*  
 11           *cumstances of any rail accident, including development of*  
 12           *information regarding the nature of injuries sustained and*  
 13           *the manner in which they were sustained for the purposes*  
 14           *of determining compliance with existing laws and regula-*  
 15           *tions or for identifying means of preventing similar inju-*  
 16           *ries in the future, or both.”.*

17           “(b) *CONFORMING AMENDMENT.*—*The chapter analysis*  
 18           *for chapter 11 is amended by inserting after the item relat-*  
 19           *ing to section 1138 the following:*

          “1139. *Assistance to families of passengers involved in rail passenger accidents.*”.

20           **SEC. 502. RAIL PASSENGER CARRIER PLAN TO ASSIST FAMI-**  
 21                                   **LIES OF PASSENGERS INVOLVED IN RAIL PAS-**  
 22                                   **SENGER ACCIDENTS.**

23           “(a) *IN GENERAL.*—*Chapter 243 is amended by adding*  
 24           *at the end the following:*

1 **“§24316. Plans to address needs of families of pas-**  
2 **sengers involved in rail passenger acci-**  
3 **dents**

4 “(a) *SUBMISSION OF PLAN.*—Not later than 6 months  
5 after the date of the enactment of the Rail Safety Improve-  
6 ment Act of 2008, a rail passenger carrier shall submit to  
7 the Chairman of the National Transportation Safety  
8 Board, the Secretary of Transportation, and the Secretary  
9 of Homeland Security a plan for addressing the needs of  
10 the families of passengers involved in any rail passenger  
11 accident involving a rail passenger carrier intercity train  
12 and resulting in a major loss of life.

13 “(b) *CONTENTS OF PLANS.*—A plan to be submitted  
14 by a rail passenger carrier under subsection (a) shall in-  
15 clude, at a minimum, the following:

16 “(1) A process by which a rail passenger carrier  
17 will maintain and provide to the National Transpor-  
18 tation Safety Board, the Secretary of Transportation,  
19 and the Secretary of Homeland Security immediately  
20 upon request, a list (which is based on the best avail-  
21 able information at the time of the request) of the  
22 names of the passengers aboard the train (whether or  
23 not such names have been verified), and will periodi-  
24 cally update the list. The plan shall include a proce-  
25 dure, with respect to unreserved trains and passengers  
26 not holding reservations on other trains, for the rail

1 *passenger carrier to use reasonable efforts to ascertain*  
2 *the names of passengers aboard a train involved in*  
3 *an accident.*

4 “(2) *A process for notifying the families of the*  
5 *passengers, before providing any public notice of the*  
6 *names of the passengers, either by utilizing the serv-*  
7 *ices of the organization designated for the accident*  
8 *under section 1139(a)(2) of this title or the services*  
9 *of other suitably trained individuals.*

10 “(3) *A plan for creating and publicizing a reli-*  
11 *able, toll-free telephone number within 4 hours after*  
12 *such an accident occurs, and for providing staff, to*  
13 *handle calls from the families of the passengers.*

14 “(4) *A process for providing the notice described*  
15 *in paragraph (2) to the family of a passenger as soon*  
16 *as the rail passenger carrier has verified that the pas-*  
17 *senger was aboard the train (whether or not the*  
18 *names of all of the passengers have been verified).*

19 “(5) *An assurance that, upon request of the fam-*  
20 *ily of a passenger, the rail passenger carrier will in-*  
21 *form the family of whether the passenger’s name ap-*  
22 *peared on any preliminary passenger manifest for the*  
23 *train involved in the accident.*

24 “(6) *A process by which the family of each pas-*  
25 *senger will be consulted about the disposition of all*

1 *remains and personal effects of the passenger within*  
2 *the control of the rail passenger carrier and by which*  
3 *any possession of the passenger within the control of*  
4 *the rail passenger carrier (regardless of its condi-*  
5 *tion)—*

6 *“(A) will be retained by the rail passenger*  
7 *carrier for at least 18 months; and*

8 *“(B) will be returned to the family unless*  
9 *the possession is needed for the accident inves-*  
10 *tigation or any criminal investigation.*

11 *“(7) A process by which the treatment of the*  
12 *families of nonrevenue passengers will be the same as*  
13 *the treatment of the families of revenue passengers.*

14 *“(8) An assurance that the rail passenger carrier*  
15 *will provide adequate training to the employees and*  
16 *agents of the carrier to meet the needs of survivors*  
17 *and family members following an accident.*

18 *“(9) An assurance that the family of each pas-*  
19 *senger or other person killed in the accident will be*  
20 *consulted about construction by the rail passenger*  
21 *carrier of any monument to the passengers, including*  
22 *any inscription on the monument.*

23 *“(10) An assurance that the rail passenger car-*  
24 *rier will work with any organization designated*  
25 *under section 1139(a)(2) of this title on an ongoing*

1       *basis to ensure that families of passengers receive an*  
2       *appropriate level of services and assistance following*  
3       *each accident.*

4               “(11) *An assurance that the rail passenger car-*  
5       *rier will provide reasonable compensation to any or-*  
6       *ganization designated under section 1139(a)(2) of this*  
7       *title for services provided by the organization.*

8               “(c) *USE OF INFORMATION.—Neither the National*  
9       *Transportation Safety Board, the Secretary of Transpor-*  
10       *tation, the Secretary of Homeland Security, nor a rail pas-*  
11       *senger carrier may release to the public any personal infor-*  
12       *mation on a list obtained under subsection (b)(1), but may*  
13       *provide information on the list about a passenger to the*  
14       *passenger’s family members to the extent that the Board or*  
15       *a rail passenger carrier considers appropriate.*

16               “(d) *LIMITATION ON STATUTORY CONSTRUCTION.—*

17                       “(1) *RAIL PASSENGER CARRIERS.—Nothing in*  
18       *this section may be construed as limiting the actions*  
19       *that a rail passenger carrier may take, or the obliga-*  
20       *tions that a rail passenger carrier may have, in pro-*  
21       *viding assistance to the families of passengers in-*  
22       *volved in a rail passenger accident.*

23                       “(2) *INVESTIGATIONAL AUTHORITY OF BOARD*  
24       *AND SECRETARY.—Nothing in this section shall be*  
25       *construed to abridge the authority of the Board or the*

1        *Secretary of Transportation to investigate the causes*  
2        *or circumstances of any rail accident, including the*  
3        *development of information regarding the nature of*  
4        *injuries sustained and the manner in which they were*  
5        *sustained, for the purpose of determining compliance*  
6        *with existing laws and regulations or identifying*  
7        *means of preventing similar injuries in the future.*

8        *“(e) LIMITATION ON LIABILITY.—A rail passenger car-*  
9        *rier shall not be liable for damages in any action brought*  
10       *in a Federal or State court arising out of the performance*  
11       *of the rail passenger carrier in preparing or providing a*  
12       *passenger list, or in providing information concerning a*  
13       *train reservation, pursuant to a plan submitted by the rail*  
14       *passenger carrier under subsection (b), unless such liability*  
15       *was caused by conduct of the rail passenger carrier which*  
16       *was grossly negligent or which constituted intentional mis-*  
17       *conduct.*

18       *“(f) DEFINITIONS.—In this section, the terms ‘pas-*  
19       *senger’ and ‘rail passenger accident’ have the meaning*  
20       *given those terms by section 1139 of this title.*

21       *“(g) FUNDING.—Out of funds appropriated pursuant*  
22       *to section 20117(a)(1)(A), there shall be made available to*  
23       *the Secretary of Transportation \$500,000 for fiscal year*  
24       *2010 to carry out this section. Amounts made available*

1 *pursuant to this subsection shall remain available until ex-*  
2 *ended.”.*

3 (b) *CONFORMING AMENDMENT.*—*The chapter analysis*  
4 *for chapter 243 is amended by inserting after the item relat-*  
5 *ing to section 24315 the following:*

*“24316. Plan to assist families of passengers involved in rail passenger accidents.”.*

6 **SEC. 503. ESTABLISHMENT OF TASK FORCE.**

7 (a) *ESTABLISHMENT.*—*The Secretary, in cooperation*  
8 *with the National Transportation Safety Board, organiza-*  
9 *tions potentially designated under section 1139(a)(2) of*  
10 *title 49, United States Code, rail passenger carriers (as de-*  
11 *finied in section 1139(h)(2) of title 49, United States Code),*  
12 *and families which have been involved in rail accidents,*  
13 *shall establish a task force consisting of representatives of*  
14 *such entities and families, representatives of rail passenger*  
15 *carrier employees, and representatives of such other entities*  
16 *as the Secretary considers appropriate.*

17 (b) *MODEL PLAN AND RECOMMENDATIONS.*—*The task*  
18 *force established pursuant to subsection (a) shall develop—*

19 (1) *a model plan to assist rail passenger carriers*  
20 *in responding to passenger rail accidents;*

21 (2) *recommendations on methods to improve the*  
22 *timeliness of the notification provided by passenger*  
23 *rail carriers to the families of passengers involved in*  
24 *a passenger rail accident;*

1           (3) *recommendations on methods to ensure that*  
 2           *the families of passengers involved in a passenger rail*  
 3           *accident who are not citizens of the United States re-*  
 4           *ceive appropriate assistance; and*

5           (4) *recommendations on methods to ensure that*  
 6           *emergency services personnel have as immediate and*  
 7           *accurate a count of the number of passengers onboard*  
 8           *the train as possible.*

9           (c) *REPORT.*—*Not later than 1 year after the date of*  
 10          *the enactment of this Act, the Secretary shall transmit a*  
 11          *report to the House of Representatives Committee on Trans-*  
 12          *portation and Infrastructure and the Senate Committee on*  
 13          *Commerce, Science, and Transportation containing the*  
 14          *model plan and recommendations developed by the task*  
 15          *force under subsection (b).*

16          **TITLE VI—CLARIFICATION OF**  
 17                 **FEDERAL JURISDICTION**  
 18                 **OVER SOLID WASTE FACILI-**  
 19                 **TIES**

20          **SEC. 601. SHORT TITLE.**

21                 *This title may be cited as the “Clean Railroads Act*  
 22                 *of 2008”.*

23          **SEC. 602. CLARIFICATION OF GENERAL JURISDICTION**  
 24                         **OVER SOLID WASTE TRANSFER FACILITIES.**

25                 *Section 10501(c)(2) is amended to read as follows:*

1       “(2) *Except as provided in paragraph (3), the Board*  
2 *does not have jurisdiction under this part over—*

3               “(A) *mass transportation provided by a local*  
4 *government authority; or*

5               “(B) *a solid waste rail transfer facility as de-*  
6 *defined in section 10908 of this title, except as provided*  
7 *under sections 10908 and 10909 of this title.”.*

8 **SEC. 603. REGULATION OF SOLID WASTE RAIL TRANSFER**  
9 **FACILITIES.**

10       (a) *IN GENERAL.—Chapter 109 is amended by adding*  
11 *at the end thereof the following:*

12 **“§ 10908. Regulation of solid waste rail transfer facili-**  
13 **ties**

14       “(a) *IN GENERAL.—Each solid waste rail transfer fa-*  
15 *cility shall be subject to and shall comply with all applica-*  
16 *ble Federal and State requirements, both substantive and*  
17 *procedural, including judicial and administrative orders*  
18 *and fines, respecting the prevention and abatement of pollu-*  
19 *tion, the protection and restoration of the environment, and*  
20 *the protection of public health and safety, including laws*  
21 *governing solid waste, to the same extent as required for*  
22 *any similar solid waste management facility, as defined in*  
23 *section 1004(29) of the Solid Waste Disposal Act (42 U.S.C.*  
24 *6903(29)) that is not owned or operated by or on behalf*

1 of a rail carrier, except as provided for in section 10909  
2 of this chapter.

3 “(b) *EXISTING FACILITIES.*—

4 “(1) *STATE LAWS AND STANDARDS.*—Not later  
5 than 90 days after the date of enactment of the Clean  
6 Railroads Act of 2008, a solid waste rail transfer fa-  
7 cility operating as of such date of enactment shall  
8 comply with all Federal and State requirements pur-  
9 suant to subsection (a) other than those provisions re-  
10 quiring permits.

11 “(2) *PERMIT REQUIREMENTS.*—

12 “(A) *STATE NON-SITING PERMITS.*—Any  
13 solid waste rail transfer facility operating as of  
14 the date of enactment of the Clean Railroads Act  
15 of 2008 that does not possess a permit required  
16 pursuant to subsection (a), other than a siting  
17 permit for the facility, as of the date of enact-  
18 ment of the Clean Railroads Act of 2008 shall  
19 not be required to possess any such permits in  
20 order to operate the facility—

21 “(i) if, within 180 days after such date  
22 of enactment, the solid waste rail transfer  
23 facility has submitted, in good faith, a com-  
24 plete application for all permits, except  
25 siting permits, required pursuant to sub-

1            *section (a) to the appropriate permitting*  
2            *agency authorized to grant such permits;*  
3            *and*

4            *“(i) until the permitting agency has*  
5            *either approved or denied the solid waste*  
6            *rail transfer facility’s application for each*  
7            *permit.*

8            *“(B) SITING PERMITS AND REQUIRE-*  
9            *MENTS.—A solid waste rail transfer facility op-*  
10           *erating as of the date of enactment of the Clean*  
11           *Railroads Act of 2008 that does not possess a*  
12           *State siting permit required pursuant to sub-*  
13           *section (a) as of such date of enactment shall not*  
14           *be required to possess any siting permit to con-*  
15           *tinue to operate or comply with any State land*  
16           *use requirements. The Governor of a State in*  
17           *which the facility is located, or his or her des-*  
18           *ignee, may petition the Board to require the fa-*  
19           *cility to apply for a land-use exemption pursu-*  
20           *ant to section 10909 of this chapter. The Board*  
21           *shall accept the petition, and the facility shall be*  
22           *required to have a Board-issued land-use exemp-*  
23           *tion in order to continue to operate, pursuant to*  
24           *section 10909 of this chapter.*

1       “(c) *COMMON CARRIER OBLIGATION.*—No prospective  
2 or current rail carrier customer may demand solid waste  
3 rail transfer service from a rail carrier at a solid waste  
4 rail transfer facility that does not already possess the nec-  
5 essary Federal land-use exemption and State permits at the  
6 location where service is requested.

7       “(d) *NON-WASTE COMMODITIES.*—Nothing in this sec-  
8 tion or section 10909 of this chapter shall affect a rail car-  
9 rier’s ability to conduct transportation-related activities  
10 with respect to commodities other than solid waste.

11       “(e) *DEFINITIONS.*—

12               “(1) *IN GENERAL.*—In this section:

13                       “(A) *COMMERCIAL AND RETAIL WASTE.*—  
14                       The term ‘commercial and retail waste’ means  
15                       material discarded by stores, offices, restaurants,  
16                       warehouses, nonmanufacturing activities at in-  
17                       dustrial facilities, and other similar establish-  
18                       ments or facilities.

19                       “(B) *CONSTRUCTION AND DEMOLITION DE-*  
20                       *BRIS.*—The term ‘construction and demolition  
21                       debris’ means waste building materials, pack-  
22                       aging, and rubble resulting from construction,  
23                       remodeling, repair, and demolition operations on  
24                       pavements, houses, commercial buildings, and  
25                       other structures.

1           “(C) *HOUSEHOLD WASTE*.—*The term*  
2           *‘household waste’ means material discarded by*  
3           *residential dwellings, hotels, motels, and other*  
4           *similar permanent or temporary housing estab-*  
5           *lishments or facilities.*

6           “(D) *INDUSTRIAL WASTE*.—*The term ‘in-*  
7           *dustrial waste’ means the solid waste generated*  
8           *by manufacturing and industrial and research*  
9           *and development processes and operations, in-*  
10           *cluding contaminated soil, nonhazardous oil spill*  
11           *cleanup waste and dry nonhazardous pesticides*  
12           *and chemical waste, but does not include haz-*  
13           *ardous waste regulated under subtitle C of the*  
14           *Solid Waste Disposal Act (42 U.S.C. 6921 et*  
15           *seq.), mining or oil and gas waste.*

16           “(E) *INSTITUTIONAL WASTE*.—*The term ‘in-*  
17           *stitutional waste’ means material discarded by*  
18           *schools, nonmedical waste discarded by hospitals,*  
19           *material discarded by nonmanufacturing activi-*  
20           *ties at prisons and government facilities, and*  
21           *material discarded by other similar establish-*  
22           *ments or facilities.*

23           “(F) *MUNICIPAL SOLID WASTE*.—*The term*  
24           *‘municipal solid waste’ means—*

25                   “(i) *household waste;*

1                   “(ii) commercial and retail waste; and

2                   “(iii) institutional waste.

3                   “(G) *SOLID WASTE*.—With the exception of  
4 waste generated by a rail carrier during track,  
5 track structure, or right-of-way construction,  
6 maintenance, or repair (including railroad ties  
7 and line-side poles) or waste generated as a re-  
8 sult of a railroad accident, incident, or derail-  
9 ment, the term ‘solid waste’ means—

10                   “(i) construction and demolition de-  
11 bris;

12                   “(ii) municipal solid waste;

13                   “(iii) household waste;

14                   “(iv) commercial and retail waste;

15                   “(v) institutional waste;

16                   “(vi) sludge;

17                   “(vii) industrial waste; and

18                   “(viii) other solid waste, as determined  
19 appropriate by the Board.

20                   “(H) *SOLID WASTE RAIL TRANSFER FACIL-*  
21 *ITY*.—The term ‘solid waste rail transfer facil-

22 *ity*’—  
23                   “(i) means the portion of a facility  
24 owned or operated by or on behalf of a rail  
25 carrier (as defined in section 10102 of this

1           *title) where solid waste, as a commodity to*  
2           *be transported for a charge, is collected,*  
3           *stored, separated, processed, treated, man-*  
4           *aged, disposed of, or transferred, when the*  
5           *activity takes place outside of original ship-*  
6           *ping containers; but*

7           “(ii) does not include—

8                   “(I) the portion of a facility to the  
9                   extent that activities taking place at  
10                   such portion are comprised solely of  
11                   the railroad transportation of solid  
12                   waste after the solid waste is loaded for  
13                   shipment on or in a rail car, including  
14                   railroad transportation for the purpose  
15                   of interchanging railroad cars con-  
16                   taining solid waste shipments; or

17                   “(II) a facility where solid waste  
18                   is solely transferred or transloaded  
19                   from a tank truck directly to a rail  
20                   tank car.

21           “(I) *SLUDGE.*—The term ‘sludge’ means  
22           *any solid, semi-solid or liquid waste generated*  
23           *from a municipal, commercial, or industrial*  
24           *wastewater treatment plant, water supply treat-*  
25           *ment plant, or air pollution control facility ex-*

1           *clusive of the treated effluent from a wastewater*  
 2           *treatment plant.*

3           “(2) *EXCEPTIONS.*—*Notwithstanding paragraph*  
 4           *(1), the terms ‘household waste’, ‘commercial and re-*  
 5           *tail waste’, and ‘institutional waste’ do not include—*  
 6                   “(A) *yard waste and refuse-derived fuel;*  
 7                   “(B) *used oil;*  
 8                   “(C) *wood pallets;*  
 9                   “(D) *clean wood;*  
 10                  “(E) *medical or infectious waste; or*  
 11                  “(F) *motor vehicles (including motor vehicle*  
 12                  *parts or vehicle fluff).*”

13           “(3) *STATE REQUIREMENTS.*—*In this section the*  
 14           *term ‘State requirements’ does not include the laws,*  
 15           *regulations, ordinances, orders, or other requirements*  
 16           *of a political subdivision of a State, including a lo-*  
 17           *cality or municipality, unless a State expressly dele-*  
 18           *gates such authority to such political subdivision.”.*

19           “(b) *CONFORMING AMENDMENT.*—*The chapter analysis*  
 20           *for chapter 109 is amended by inserting after the item relat-*  
 21           *ing to section 10907 the following:*

          “10908. *Regulation of solid waste rail transfer facilities.*”.

22           **SEC. 604. SOLID WASTE RAIL TRANSFER FACILITY LAND-**  
 23                   **USE EXEMPTION AUTHORITY.**

24           “(a) *IN GENERAL.*—*Chapter 109 is further amended by*  
 25           *adding at the end thereof the following:*

1 **“§ 10909. Solid waste rail transfer facility land-use ex-**  
2 **emption**

3 “(a) *AUTHORITY.*—*The Board may issue a land-use*  
4 *exemption for a solid waste rail transfer facility that is or*  
5 *is proposed to be operated by or on behalf of a rail carrier*  
6 *if—*

7 “(1) *the Board finds that a State, local, or mu-*  
8 *nicipal law, regulation, order, or other requirement*  
9 *affecting the siting of such facility unreasonably bur-*  
10 *dens the interstate transportation of solid waste by*  
11 *railroad, discriminates against the railroad transpor-*  
12 *tation of solid waste and a solid waste rail transfer*  
13 *facility, or a rail carrier that owns or operates such*  
14 *a facility petitions the Board for such an exemption;*  
15 *or*

16 “(2) *the Governor of a State in which a facility*  
17 *that is operating as of the date of enactment of the*  
18 *Clean Railroads Act of 2008 is located, or his or her*  
19 *designee, petitions the Board to initiate a permit pro-*  
20 *ceeding for that particular facility.*

21 “(b) *LAND-USE EXEMPTION PROCEDURES.*—*Not later*  
22 *than 90 days after the date of enactment of the Clean Rail-*  
23 *road Act of 2008, the Board shall publish procedures gov-*  
24 *erning the submission and review of applications for solid*  
25 *waste rail transfer facility land-use exemptions. At a min-*  
26 *imum, the procedures shall address—*

1           “(1) the information that each application  
2           should contain to explain how the solid waste rail  
3           transfer facility will not pose an unreasonable risk to  
4           public health, safety, or the environment;

5           “(2) the opportunity for public notice and com-  
6           ment including notification of the municipality, the  
7           State, and any relevant Federal or State regional  
8           planning entity in the jurisdiction of which the solid  
9           waste rail transfer facility is proposed to be located;

10          “(3) the timeline for Board review, including a  
11          requirement that the Board approve or deny an ex-  
12          emption within 90 days after the full record for the  
13          application is developed;

14          “(4) the expedited review timelines for petitions  
15          for modifications, amendments, or revocations of  
16          granted exemptions;

17          “(5) the process for a State to petition the Board  
18          to require a solid waste transfer facility or a rail car-  
19          rier that owns or operates such a facility to apply for  
20          a siting permit; and

21          “(6) the process for a solid waste transfer facility  
22          or a rail carrier that owns or operates such a facility  
23          to petition the Board for a land-use exemption.

24          “(c) STANDARD FOR REVIEW.—

1           “(1) *The Board may only issue a land-use ex-*  
2 *emption if it determines that the facility at the exist-*  
3 *ing or proposed location does not pose an unreason-*  
4 *able risk to public health, safety, or the environment.*  
5 *In deciding whether a solid waste rail transfer facil-*  
6 *ity that is or proposed to be constructed or operated*  
7 *by or on behalf of a rail carrier poses an unreason-*  
8 *able risk to public health, safety, or the environment,*  
9 *the Board shall weigh the particular facility’s poten-*  
10 *tial benefits to and the adverse impacts on public*  
11 *health, public safety, the environment, interstate com-*  
12 *merce, and transportation of solid waste by rail.*

13           “(2) *The Board may not grant a land-use ex-*  
14 *emption for a solid waste rail transfer facility pro-*  
15 *posed to be located on land within any unit of or*  
16 *land affiliated with the National Park System, the*  
17 *National Wildlife Refuge System, the National Wil-*  
18 *derness Preservation System, the National Trails Sys-*  
19 *tem, the National Wild and Scenic Rivers System, a*  
20 *National Reserve, a National Monument, or lands ref-*  
21 *erenced in Public Law 108–421 for which a State has*  
22 *implemented a conservation management plan, if op-*  
23 *eration of the facility would be inconsistent with re-*  
24 *strictions placed on such land.*

1       “(d) *CONSIDERATIONS.*—When evaluating an applica-  
2 *tion under this section, the Board shall consider and give*  
3 *due weight to the following, as applicable:*

4           “(1) *the land-use, zoning, and siting regulations*  
5 *or solid waste planning requirements of the State or*  
6 *State subdivision in which the facility is or will be*  
7 *located that are applicable to solid waste transfer fa-*  
8 *cilities, including those that are not owned or oper-*  
9 *ated by or on behalf of a rail carrier;*

10          “(2) *the land-use, zoning, and siting regulations*  
11 *or solid waste planning requirements applicable to*  
12 *the property where the solid waste rail transfer facil-*  
13 *ity is proposed to be located;*

14          “(3) *regional transportation planning require-*  
15 *ments developed pursuant to Federal and State law;*

16          “(4) *regional solid waste disposal plans devel-*  
17 *oped pursuant to State or Federal law;*

18          “(5) *any Federal and State environmental pro-*  
19 *tection laws or regulations applicable to the site;*

20          “(6) *any unreasonable burdens imposed on the*  
21 *interstate transportation of solid waste by railroad,*  
22 *or the potential for discrimination against the rail-*  
23 *road transportation of solid waste, a solid waste rail*  
24 *transfer facility, or a rail carrier that owns or oper-*  
25 *ates such a facility; and*

1           “(7) any other relevant factors, as determined by  
2           the Board.

3           “(e) *EXISTING FACILITIES*.—Upon the granting of pe-  
4           tition from the State in which a solid waste rail transfer  
5           facility is operating as of the date of enactment of the Clean  
6           Railroads Act of 2008 by the Board, the facility shall sub-  
7           mit a complete application for a siting permit to the Board  
8           pursuant to the procedures issued pursuant to subsection  
9           (b). No State may enforce a law, regulation, order, or other  
10          requirement affecting the siting of a facility that is oper-  
11          ating as of the date of enactment of the Clean Railroads  
12          Act of 2008 until the Board has approved or denied a per-  
13          mit pursuant to subsection (c).

14          “(f) *EFFECT OF LAND-USE EXEMPTION*.—If the Board  
15          grants a land-use exemption to a solid waste rail transfer  
16          facility, all State laws, regulations, orders, or other require-  
17          ments affecting the siting of a facility are preempted with  
18          regard to that facility. An exemption may require compli-  
19          ance with such State laws, regulations, orders, or other re-  
20          quirements.

21          “(g) *INJUNCTIVE RELIEF*.—Nothing in this section  
22          precludes a person from seeking an injunction to enjoin a  
23          solid waste rail transfer facility from being constructed or  
24          operated by or on behalf of a rail carrier if that facility  
25          has materially violated, or will materially violate, its land-

1 *use exemption or if it failed to receive a valid land-use ex-*  
 2 *emption under this section.*

3       “(h) *FEES.*—*The Board may charge permit applicants*  
 4 *reasonable fees to implement this section, including the costs*  
 5 *of third-party consultants.*

6       “(i) *DEFINITIONS.*—*In this section the terms ‘solid*  
 7 *waste’, ‘solid waste rail transfer facility’, and ‘State re-*  
 8 *quirements’ have the meaning given such terms in section*  
 9 *10908(e).”.*

10       “(b) *CONFORMING AMENDMENT.*—*The chapter analysis*  
 11 *for chapter 109, as amended by section 603 of this division,*  
 12 *is amended by inserting after the item relating to section*  
 13 *10908 the following:*

*“10909. Solid waste rail transfer facility land-use exemption.”.*

14 **SEC. 605. EFFECT ON OTHER STATUTES AND AUTHORITIES.**

15       “(a) *IN GENERAL.*—*Chapter 109, as amended by sec-*  
 16 *tion 604, is further amended by adding at the end thereof*  
 17 *the following:*

18 **“§ 10910. Effect on other statutes and authorities**

19       “*Nothing in section 10908 or 10909 is intended to af-*  
 20 *fect the traditional police powers of the State to require a*  
 21 *rail carrier to comply with State and local environmental,*  
 22 *public health, and public safety standards that are not un-*  
 23 *reasonably burdensome to interstate commerce and do not*  
 24 *discriminate against rail carriers.”.*

1           (b) *CONFORMING AMENDMENT.*—*The chapter analysis*  
 2 *for chapter 109, as amended by section 604 of this division,*  
 3 *is amended by inserting after the item relating to section*  
 4 *10909 the following:*

“10910. *Effect on other statutes and authorities.*”.

5                           **TITLE VII—TECHNICAL**  
 6   **CORRECTIONS**

7 **SEC. 701. TECHNICAL CORRECTIONS.**

8           (a) *LIMITATIONS ON FINANCIAL ASSISTANCE.*—*Section*  
 9 *22106 is amended—*

10                   (1) *by striking the second sentence of subsection*

11           (i);

12                   (2) *by striking subsection (b) and inserting the*  
 13 *following:*

14           “(b) *STATE USE OF REPAID FUNDS AND CONTINGENT*  
 15 *INTEREST RECOVERIES.*—*The State shall place the United*  
 16 *States Government’s share of money that is repaid and any*  
 17 *contingent interest that is recovered in an interest-bearing*  
 18 *account. The repaid money, contingent interest, and any*  
 19 *interest thereof shall be considered to be State funds. The*  
 20 *State shall use such funds to make other grants and loans,*  
 21 *consistent with the purposes for which financial assistance*  
 22 *may be used under subsection (a), as the State considers*  
 23 *to be appropriate.”; and*

24                   (3) *by striking subsections (c) and (e) and redес-*  
 25           *ignating subsection (d) as subsection (c).*

1           (b) *GRANTS FOR CLASS II AND III RAILROADS.*—*Sec-*  
2 *tion 22301(a)(1)(A)(iii) is amended by striking “and” and*  
3 *inserting “or”.*

4           (c) *RAIL TRANSPORTATION OF RENEWABLE FUEL*  
5 *STUDY.*—*Section 245(a)(1) of the Energy Independence*  
6 *and Security Act of 2007 is amended by striking “Sec-*  
7 *retary, in coordination with the Secretary of Transpor-*  
8 *tation,” and inserting “Secretary and the Secretary of*  
9 *Transportation”.*

10          (d) *MOTOR CARRIER DEFINITION.*—

11                 *Section 14504a is amended—*

12                 (1) *in subsection (a)—*

13                         (A) *in the matter preceding paragraph (1),*  
14 *by inserting “(except as provided in paragraph*  
15 *(5))” after “14506”;*

16                         (B) *in paragraph (1), by striking subpara-*  
17 *graph (A) and inserting the following:*

18                                 “(A) *IN GENERAL.*—*Except as provided in*  
19 *subparagraph (B), the term ‘commercial motor*  
20 *vehicle’—*

21   “(i) *for calendar years 2008 and 2009,*  
22 *has the meaning given the term in section*  
23 *31101; and*

1           “(ii) for years beginning after Decem-  
2           ber 31, 2009, means a self-propelled vehicle  
3           described in section 31101.”; and

4           (C) by striking paragraph (5) and inserting  
5           the following:

6           “(5) *MOTOR CARRIER*.—

7           “(A) *THIS SECTION*.—In this section:

8           “(i) *IN GENERAL*.—The term ‘motor  
9           carrier’ includes all carriers that are other-  
10          wise exempt from this part—

11           “(I) under subchapter I of chapter  
12          135; or

13           “(II) through exemption actions  
14          by the former Interstate Commerce  
15          Commission under this title.

16          “(ii) *EXCLUSIONS*.—In this section, the  
17          term ‘motor carrier’ does not include—

18           “(I) any carrier subject to section  
19          13504; or

20           “(II) any other carrier that the  
21          board of directors of the unified carrier  
22          registration plan determines to be ap-  
23          propriate pursuant to subsection  
24          (d)(4)(C).

1           “(B) SECTION 14506.—In section 14506,  
2           the term ‘motor carrier’ includes all carriers that  
3           are otherwise exempt from this part—

4                     “(i) under subchapter I of chapter 135;

5                     or

6                     “(ii) through exemption actions by the  
7           former Interstate Commerce Commission  
8           under this title.”; and

9           (2) in subsection (d)(4)(C), by inserting before  
10          the period at the end the following: “, except that a  
11          decision to approve the exclusion of carriers from the  
12          definition of the term ‘motor carrier’ under subsection  
13          (a)(5) shall require an affirmative vote of  $\frac{3}{4}$  of all  
14          such directors.”.

15          (e) EXTENSION OF LOAN PERIOD.—Section 502(g)(1)  
16          of the Railroad Revitalization and Regulatory Reform Act  
17          of 1976 (45 U.S.C. 822(g)(1)) is amended by striking “25  
18          years” and inserting “35 years”.

## 19                     ***DIVISION B—AMTRAK***

### 20          ***SEC. 1. SHORT TITLE; TABLE OF CONTENTS.***

21          (a) SHORT TITLE.—This division may be cited as the  
22          “Passenger Rail Investment and Improvement Act of  
23          2008”.

24          (b) TABLE OF CONTENTS.—The table of contents for  
25          this division is as follows:

*Sec. 1. Short title; table of contents.*

*Sec. 2. Amendment of title 49, United States Code.*

*Sec. 3. Definition.*

#### TITLE I—AUTHORIZATIONS

*Sec. 101. Authorization for Amtrak capital and operating expenses.*

*Sec. 102. Repayment of long-term debt and capital leases.*

*Sec. 103. Authorization for the Federal Railroad Administration.*

#### TITLE II—AMTRAK REFORM AND OPERATIONAL IMPROVEMENTS

*Sec. 201. National railroad passenger transportation system defined.*

*Sec. 202. Amtrak board of directors.*

*Sec. 203. Establishment of improved financial accounting system.*

*Sec. 204. Development of 5-year financial plan.*

*Sec. 205. Restructuring long-term debt and capital leases.*

*Sec. 206. Establishment of grant process.*

*Sec. 207. Metrics and standards.*

*Sec. 208. Methodologies for Amtrak route and service planning decisions.*

*Sec. 209. State-supported routes.*

*Sec. 210. Long-distance routes.*

*Sec. 211. Northeast Corridor state-of-good-repair plan.*

*Sec. 212. Northeast Corridor infrastructure and operations improvements.*

*Sec. 213. Passenger train performance.*

*Sec. 214. Alternate passenger rail service pilot program.*

*Sec. 215. Employee transition assistance.*

*Sec. 216. Special passenger trains.*

*Sec. 217. Access to Amtrak equipment and services.*

*Sec. 218. General Amtrak provisions.*

*Sec. 219. Study of compliance requirements at existing intercity rail stations.*

*Sec. 220. Oversight of Amtrak's compliance with accessibility requirements.*

*Sec. 221. Amtrak management accountability.*

*Sec. 222. On-board service improvements.*

*Sec. 223. Incentive pay.*

*Sec. 224. Passenger rail service studies.*

*Sec. 225. Report on service delays on certain passenger rail routes.*

*Sec. 226. Plan for restoration of service.*

*Sec. 227. Maintenance and repair facility utilization study.*

*Sec. 228. Sense of the Congress regarding the need to maintain Amtrak as a national passenger rail system.*

#### TITLE III—INTERCITY PASSENGER RAIL POLICY

*Sec. 301. Capital assistance for intercity passenger rail service.*

*Sec. 302. Congestion grants.*

*Sec. 303. State rail plans.*

*Sec. 304. Tunnel project.*

*Sec. 305. Next generation corridor train equipment pool.*

*Sec. 306. Rail cooperative research program.*

*Sec. 307. Federal rail policy.*

#### TITLE IV—MISCELLANEOUS PROVISIONS

*Sec. 401. Commuter rail mediation.*

*Sec. 402. Routing efficiency discussions with Amtrak.*

*Sec. 403. Sense of Congress regarding commuter rail expansion.*

*Sec. 404. Locomotive biofuel study.*

Sec. 405. *Study of the use of biobased technologies.*

Sec. 406. *Cross-border passenger rail service.*

Sec. 407. *Historic preservation of railroads.*

**TITLE V—HIGH-SPEED RAIL**

Sec. 501. *High-speed rail corridor program.*

Sec. 502. *Additional high-speed rail projects.*

**TITLE VI—CAPITAL AND PREVENTIVE MAINTENANCE PROJECTS  
FOR WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY**

Sec. 601. *Authorization for capital and preventive maintenance projects for  
Washington Metropolitan Area Transit Authority.*

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

2       *Except as otherwise specifically provided, whenever in*  
3 *this division an amendment is expressed in terms of an*  
4 *amendment to a section or other provision of law, the ref-*  
5 *erence shall be considered to be made to a section or other*  
6 *provision of title 49, United States Code.*

7 **SEC. 3. DEFINITION.**

8       *In this division, the term “Secretary” means the Sec-*  
9 *retary of Transportation.*

10       **TITLE I—AUTHORIZATIONS**

11 **SEC. 101. AUTHORIZATION FOR AMTRAK CAPITAL AND OP-**  
12 **ERATING EXPENSES.**

13       *(a) OPERATING GRANTS.—There are authorized to be*  
14 *appropriated to the Secretary for the use of Amtrak for op-*  
15 *erating costs the following amounts:*

16               *(1) For fiscal year 2009, \$530,000,000.*

17               *(2) For fiscal year 2010, \$580,000,000.*

18               *(3) For fiscal year 2011, \$592,000,000.*

19               *(4) For fiscal year 2012, \$616,000,000.*

1           (5) *For fiscal year 2013, \$631,000,000.*

2           (b) *INSPECTOR GENERAL.—There are authorized to be*  
3 *appropriated to the Secretary for the Office of the Inspector*  
4 *General of Amtrak the following amounts:*

5           (1) *For fiscal year 2009, \$20,000,000.*

6           (2) *For fiscal year 2010, \$21,000,000.*

7           (3) *For fiscal year 2011, \$22,000,000.*

8           (4) *For fiscal year 2012, \$22,000,000.*

9           (5) *For fiscal year 2013, \$23,000,000.*

10          (c) *CAPITAL GRANTS.—There are authorized to be ap-*  
11 *propriated to the Secretary for the use of Amtrak for capital*  
12 *projects (as defined in subparagraphs (A) and (B) of section*  
13 *24401(2) of title 49, United States Code) to bring the North-*  
14 *east Corridor (as defined in section 24102 of such title) to*  
15 *a state-of-good-repair and for capital expenses of the na-*  
16 *tional rail passenger transportation system the following*  
17 *amounts:*

18          (1) *For fiscal year 2009, \$715,000,000.*

19          (2) *For fiscal year 2010, \$975,000,000.*

20          (3) *For fiscal year 2011, \$1,025,000,000.*

21          (4) *For fiscal year 2012, \$1,275,000,000.*

22          (5) *For fiscal year 2013, \$1,325,000,000.*

23          (d) *PROJECT MANAGEMENT OVERSIGHT.—The Sec-*  
24 *retary may withhold up to 1/2 of 1 percent of amounts ap-*  
25 *propriated pursuant to subsection (c) for the costs of project*

1 *management oversight of capital projects carried out by*  
2 *Amtrak.*

3 **SEC. 102. REPAYMENT OF LONG-TERM DEBT AND CAPITAL**  
4 **LEASES.**

5 (a) *PRINCIPAL AND INTEREST ON DEBT SERVICE.*—  
6 *There are authorized to be appropriated to the Secretary*  
7 *for the use of Amtrak for retirement of principal and pay-*  
8 *ment of interest on loans for capital equipment, or capital*  
9 *leases, not more than the following amounts:*

10 (1) *For fiscal year 2009, \$285,000,000.*

11 (2) *For fiscal year 2010, \$264,000,000.*

12 (3) *For fiscal year 2011, \$288,000,000.*

13 (4) *For fiscal year 2012, \$290,000,000.*

14 (5) *For fiscal year 2013, \$277,000,000.*

15 (b) *EARLY BUYOUT OPTION.*—*There are authorized to*  
16 *be appropriated to the Secretary such sums as may be nec-*  
17 *essary for the use of Amtrak for the payment of costs associ-*  
18 *ated with early buyout options if the exercise of those op-*  
19 *tions is determined to be advantageous to Amtrak.*

20 (c) *LEGAL EFFECT OF PAYMENTS UNDER THIS SEC-*  
21 *TION.*—*The payment of principal and interest on secured*  
22 *debt, with the proceeds of grants authorized by this section*  
23 *shall not—*

1           (1) *modify the extent or nature of any indebted-*  
2           *ness of Amtrak to the United States in existence as*  
3           *of the date of enactment of this Act;*

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

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

8   **SEC. 103. AUTHORIZATION FOR THE FEDERAL RAILROAD**  
9                           **ADMINISTRATION.**

10        *There are authorized to be appropriated to the Sec-*  
11        *retary for the use of the Federal Railroad Administration*  
12        *such sums as necessary to implement the provisions re-*  
13        *quired under this division for fiscal years 2009 through*  
14        *2013.*

15   **TITLE II—AMTRAK REFORM AND**  
16   **OPERATIONAL IMPROVEMENTS**

17   **SEC. 201. NATIONAL RAILROAD PASSENGER TRANSPOR-**  
18                           **TATION SYSTEM DEFINED.**

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

20           (1) *by striking paragraph (2);*

21           (2) *by redesignating paragraphs (3), (4), and (5)*  
22        *as paragraphs (2), (3), and (4), respectively; and*

23           (3) *by inserting after paragraph (4) as so redes-*  
24        *ignated the following:*

1           “(5) ‘national rail passenger transportation sys-  
2       tem’ means—

3           “(A) the segment of the continuous North-  
4       east Corridor railroad line between Boston, Mas-  
5       sachusetts, and Washington, District of Colum-  
6       bia;

7           “(B) rail corridors that have been des-  
8       ignated by the Secretary of Transportation as  
9       high-speed rail corridors (other than corridors  
10      described in subparagraph (A)), but only after  
11      regularly scheduled intercity service over a cor-  
12      ridor has been established;

13          “(C) long-distance routes of more than 750  
14      miles between endpoints operated by Amtrak as  
15      of the date of enactment of the Passenger Rail  
16      Investment and Improvement Act of 2008; and

17          “(D) short-distance corridors, or routes of  
18      not more than 750 miles between endpoints, op-  
19      erated by—

20           “(i) Amtrak; or

21           “(ii) another rail carrier that receives  
22      funds under chapter 244.”.

23       (b) *AMTRAK ROUTES WITH STATE FUNDING.*—

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

1 **“§ 24702. *Transportation requested by States, authori-***  
 2 ***ties, and other persons***

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

9 “(b) *DISCONTINUANCE.—Upon termination of a con-*  
 10 *tract entered into under this section, or the cessation of fi-*  
 11 *nancial support under such a contract by either party, Am-*  
 12 *trak may discontinue such service or route, notwithstanding*  
 13 *any other provision of law.”.*

14 (2) *CONFORMING AMENDMENT.—The chapter*  
 15 *analysis for chapter 247 is amended by inserting*  
 16 *after the item relating to section 24701 the following:*  
 “24702. *Transportation requested by States, authorities, and other persons”.*

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

21 (d) *APPLICABILITY OF SECTION 24706.—Section*  
 22 *24706 is amended by adding at the end the following:*

23 “(c) *APPLICABILITY.—This section applies to all serv-*  
 24 *ice over routes provided by Amtrak, notwithstanding any*

1 *provision of section 24701 of this title or any other provi-*  
2 *sion of this title except section 24702(b).”.*

3 *(e) AMTRAK’S MISSION.—*

4 *(1) AMENDMENTS.—Section 24101 is amended—*

5 *(A) by striking “purpose” in the section*  
6 *heading and inserting “mission”;*

7 *(B) by striking subsection (b) and inserting*  
8 *the following:*

9 *“(b) MISSION.—The mission of Amtrak is to provide*  
10 *efficient and effective intercity passenger rail mobility con-*  
11 *sisting of high quality service that is trip-time competitive*  
12 *with other intercity travel options and that is consistent*  
13 *with the goals of subsection (d).”;*

14 *(C) by redesignating paragraphs (9)*  
15 *through (11) in subsection (c) as paragraphs*  
16 *(10) through (12), respectively, and inserting*  
17 *after paragraph (8) the following:*

18 *“(9) provide additional or complementary inter-*  
19 *city transportation service to ensure mobility in times*  
20 *of national disaster or other instances where other*  
21 *travel options are not adequately available;”;* and

22 *(D) in subsection (d), by striking “sub-*  
23 *section (c)(11)” and inserting “subsection*  
24 *(c)(12)”.*

1           (2) *CONFORMING AMENDMENT.*—*The chapter analysis*  
2 *for chapter 241 is amended by striking the item relating*  
3 *to section 24101 and inserting the following:*

          “24101. *Findings, mission, and goals.*”.

4 **SEC. 202. AMTRAK BOARD OF DIRECTORS.**

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

7 **“§ 24302. Board of directors**

8           “(a) *COMPOSITION AND TERMS.*—

9                   “(1) *The Amtrak Board of Directors (referred to*  
10 *in this section as the ‘Board’)* *is composed of the fol-*  
11 *lowing 9 directors, each of whom must be a citizen of*  
12 *the United States:*

13                           “(A) *The Secretary of Transportation.*

14                           “(B) *The President of Amtrak.*

15                           “(C) *7 individuals appointed by the Presi-*  
16 *dent of the United States, by and with the advice*  
17 *and consent of the Senate, with general business*  
18 *and financial experience, experience or qualifica-*  
19 *tions in transportation, freight and passenger*  
20 *rail transportation, travel, hospitality, cruise*  
21 *line, or passenger air transportation businesses,*  
22 *or representatives of employees or users of pas-*  
23 *senger rail transportation or a State govern-*  
24 *ment.*

1           “(2) *In selecting individuals described in para-*  
2 *graph (1) for nominations for appointments to the*  
3 *Board, the President shall consult with the Speaker of*  
4 *the House of Representatives, the minority leader of*  
5 *the House of Representatives, the majority leader of*  
6 *the Senate, and the minority leader of the Senate and*  
7 *try to provide adequate and balanced representation*  
8 *of the major geographic regions of the United States*  
9 *served by Amtrak.*

10           “(3) *An individual appointed under paragraph*  
11 *(1)(C) of this subsection shall be appointed for a term*  
12 *of 5 years. Such term may be extended until the indi-*  
13 *vidual’s successor is appointed and qualified. Not*  
14 *more than 5 individuals appointed under paragraph*  
15 *(1)(C) may be members of the same political party.*

16           “(4) *The Board shall elect a chairman and a*  
17 *vice chairman, other than the President of Amtrak,*  
18 *from among its membership. The vice chairman shall*  
19 *serve as chairman in the absence of the chairman.*

20           “(5) *The Secretary may be represented at Board*  
21 *meetings by the Secretary’s designee.*

22           “(b) *PAY AND EXPENSES.—Each director not em-*  
23 *ployed by the United States Government or Amtrak is enti-*  
24 *tled to reasonable pay when performing Board duties. Each*  
25 *director not employed by the United States Government is*

1 *entitled to reimbursement from Amtrak for necessary travel,*  
2 *reasonable secretarial and professional staff support, and*  
3 *subsistence expenses incurred in attending Board meetings.*

4       “(c) TRAVEL.—(1) *Each director not employed by the*  
5 *United States Government shall be subject to the same trav-*  
6 *el and reimbursable business travel expense policies and*  
7 *guidelines that apply to Amtrak’s executive management*  
8 *when performing Board duties.*

9       “(2) *Not later than 60 days after the end of each fiscal*  
10 *year, the Board shall submit a report describing all travel*  
11 *and reimbursable business travel expenses paid to each di-*  
12 *rector when performing Board duties to the Committee on*  
13 *Transportation and Infrastructure of the House of Rep-*  
14 *resentatives and the Committee on Commerce, Science, and*  
15 *Transportation of the Senate.*

16       “(3) *The report submitted under paragraph (2) shall*  
17 *include a detailed justification for any travel or reimburs-*  
18 *able business travel expense that deviates from Amtrak’s*  
19 *travel and reimbursable business travel expense policies and*  
20 *guidelines.*

21       “(d) VACANCIES.—*A vacancy on the Board is filled in*  
22 *the same way as the original selection, except that an indi-*  
23 *vidual appointed by the President of the United States*  
24 *under subsection (a)(1)(C) of this section to fill a vacancy*  
25 *occurring before the end of the term for which the prede-*

1 cessor of that individual was appointed is appointed for  
2 the remainder of that term. A vacancy required to be filled  
3 by appointment under subsection (a)(1)(C) must be filled  
4 not later than 120 days after the vacancy occurs.

5 “(e) *QUORUM*.—A majority of the members serving  
6 shall constitute a quorum for doing business.

7 “(f) *BYLAWS*.—The Board may adopt and amend by-  
8 laws governing the operation of Amtrak. The bylaws shall  
9 be consistent with this part and the articles of incorpora-  
10 tion.”.

11 (b) *EFFECTIVE DATE FOR DIRECTORS’ PROVISION*.—  
12 The amendment made by subsection (a) shall take effect 6  
13 months after the date of enactment of this Act. The members  
14 of the Amtrak Board of Directors serving as of the date of  
15 enactment of this Act may continue to serve for the remain-  
16 der of the term to which they were appointed.

17 **SEC. 203. ESTABLISHMENT OF IMPROVED FINANCIAL AC-**  
18 **COUNTING SYSTEM.**

19 (a) *IN GENERAL*.—The Amtrak Board of Directors—  
20 (1) may employ an independent financial con-  
21 sultant with experience in railroad accounting to as-  
22 sist Amtrak in improving Amtrak’s financial ac-  
23 counting and reporting system and practices;

1           (2) *shall implement a modern financial account-*  
2 *ing and reporting system not later than 3 years after*  
3 *the date of enactment of this Act; and*

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

6           (A) *submit to the Committee on Transpor-*  
7 *tation and Infrastructure of the House of Rep-*  
8 *resentatives and the Committee on Commerce,*  
9 *Science, and Transportation of the Senate a*  
10 *comprehensive report that allocates all of Am-*  
11 *trak's revenues and costs to each of its routes,*  
12 *each of its lines of business, and each major ac-*  
13 *tivity within each route and line of business ac-*  
14 *tivity, including—*

15                   (i) *train operations;*

16                   (ii) *equipment maintenance;*

17                   (iii) *food service;*

18                   (iv) *sleeping cars;*

19                   (v) *ticketing;*

20                   (vi) *reservations; and*

21                   (vii) *unallocated fixed overhead costs;*

22           (B) *include the report described in subpara-*  
23 *graph (A) in Amtrak's annual report; and*

24           (C) *post such report on Amtrak's website.*

1           (b) *VERIFICATION OF SYSTEM; REPORT.*—*The Inspec-*  
2 *tor General of the Department of Transportation shall re-*  
3 *view the accounting system designed and implemented*  
4 *under subsection (a) to ensure that it accomplishes the pur-*  
5 *poses for which it is intended. The Inspector General shall*  
6 *report his or her findings and conclusions, together with*  
7 *any recommendations, to the Committee on Transportation*  
8 *and Infrastructure of the House of Representatives and the*  
9 *Committee on Commerce, Science, and Transportation of*  
10 *the Senate.*

11           (c) *CATEGORIZATION OF REVENUES AND EXPENSES.*—  
12 *In carrying out subsection (a), the Amtrak Board of Direc-*  
13 *tors shall separately categorize assigned revenues and at-*  
14 *tributable expenses by type of service, including long-dis-*  
15 *tance routes, State-sponsored routes, commuter contract*  
16 *routes, and Northeast Corridor routes.*

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

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

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

3           (2) *the date that is 60 days after the date of en-*  
4 *actment of an appropriations Act for the fiscal year,*  
5 *if later.*

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

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

11           (2) *projected ridership levels for all Amtrak pas-*  
12 *senger operations;*

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

15           (4) *capital funding requirements and expendi-*  
16 *tures necessary to maintain passenger service in order*  
17 *to accommodate predicted ridership levels and pre-*  
18 *dicted sources of capital funding;*

19           (5) *operational funding needs, if any, to main-*  
20 *tain current and projected levels of passenger service,*  
21 *including State-supported routes and predicted fund-*  
22 *ing sources;*

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

1           (7) *an assessment of the continuing financial*  
2           *stability of Amtrak, as indicated by factors such as*  
3           *anticipated Federal funding of capital and operating*  
4           *costs, Amtrak's ability to efficiently recruit, retain,*  
5           *and manage its workforce, and Amtrak's ability to ef-*  
6           *fectively provide passenger rail service;*

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

10          (9) *annual cash flow forecasts;*

11          (10) *a statement describing methods of esti-*  
12          *mation and significant assumptions;*

13          (11) *specific measures that demonstrate measur-*  
14          *able improvement year over year in the financial re-*  
15          *sults of Amtrak's operations;*

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

20          (13) *prior fiscal year and projected specific costs*  
21          *and savings estimates resulting from reform initia-*  
22          *tives;*

23          (14) *prior fiscal year and projected labor pro-*  
24          *ductivity statistics on a route, business line, and cor-*  
25          *porate basis;*

1           (15) *prior fiscal year and projected equipment*  
2           *reliability statistics; and*

3           (16) *capital and operating expenditures for an-*  
4           *ticipated security needs.*

5           (c) *STANDARDS TO PROMOTE FINANCIAL STA-*  
6           *BILITY.—In meeting the requirements of subsection (b), Am-*  
7           *trak shall—*

8           (1) *apply sound budgetary practices, including*  
9           *reducing costs and other expenditures, improving pro-*  
10           *ductivity, increasing revenues, or combinations of*  
11           *such practices;*

12           (2) *use the categories specified in the financial*  
13           *accounting and reporting system developed under sec-*  
14           *tion 203 when preparing its 5-year financial plan;*  
15           *and*

16           (3) *ensure that the plan is consistent with the*  
17           *authorizations of appropriations under title I of this*  
18           *division.*

19           (d) *REVIEW BY DOT INSPECTOR GENERAL.—Within*  
20           *60 days after their submission by Amtrak, the Inspector*  
21           *General of the Department of Transportation shall review*  
22           *the annual budget and the 5-year financial plans prepared*  
23           *by Amtrak under this section to determine whether they*  
24           *meet the requirements of subsection (b) and shall furnish*  
25           *any relevant findings to the Committee on Transportation*

1 *and Infrastructure of the House of Representatives, the*  
2 *Committee on Appropriations of the House of Representa-*  
3 *tives, the Committee on Commerce, Science, and Transpor-*  
4 *tation of the Senate, and the Committee on Appropriations*  
5 *of the Senate.*

6 **SEC. 205. RESTRUCTURING LONG-TERM DEBT AND CAPITAL**  
7 **LEASES.**

8 (a) *IN GENERAL.*—*The Secretary of the Treasury, in*  
9 *consultation with the Secretary and Amtrak, may make*  
10 *agreements to restructure Amtrak’s indebtedness as of the*  
11 *date of enactment of this Act. This authorization expires*  
12 *2 years after the date of enactment of this Act.*

13 (b) *DEBT RESTRUCTURING.*—*The Secretary of the*  
14 *Treasury, in consultation with the Secretary and Amtrak,*  
15 *shall enter into negotiations with the holders of Amtrak*  
16 *debt, including leases, outstanding as of the date of enact-*  
17 *ment of this Act for the purpose of restructuring (including*  
18 *repayment) and repaying that debt. The Secretary of the*  
19 *Treasury may secure agreements for restructuring or repay-*  
20 *ment on such terms as the Secretary of the Treasury deems*  
21 *favorable to the interests of the United States Government.*

22 (c) *CRITERIA.*—*In restructuring Amtrak’s indebted-*  
23 *ness, the Secretary of the Treasury and Amtrak—*

1           (1) *shall take into consideration repayment costs,*  
2           *the term of any loan or loans, and market conditions;*  
3           *and*

4           (2) *shall ensure that the restructuring results in*  
5           *significant savings to Amtrak and the United States*  
6           *Government.*

7           (d) *PAYMENT OF RENEGOTIATED DEBT.—If the cri-*  
8           *teria under subsection (c) are met, the Secretary of the*  
9           *Treasury may assume or repay the restructured debt, as*  
10          *appropriate.*

11          (e) *AMTRAK PRINCIPAL AND INTEREST PAYMENTS.—*

12           (1) *PRINCIPAL ON DEBT SERVICE.—Unless the*  
13           *Secretary of the Treasury makes sufficient payments*  
14           *to creditors under subsection (d) so that Amtrak is re-*  
15           *quired to make no payments to creditors in a fiscal*  
16           *year, the Secretary shall use funds authorized by sec-*  
17           *tion 102 of this division for the use of Amtrak for re-*  
18           *tirement of principal or payment of interest on loans*  
19           *for capital equipment, or capital leases.*

20           (2) *REDUCTIONS IN AUTHORIZATION LEVELS.—*

21           *Whenever action taken by the Secretary of the Treas-*  
22           *ury under subsection (a) results in reductions in*  
23           *amounts of principal or interest that Amtrak must*  
24           *service on existing debt, the corresponding amounts*

1        *authorized by section 102 shall be reduced accord-*  
2        *ingly.*

3        *(f) LEGAL EFFECT OF PAYMENTS UNDER THIS SEC-*  
4        *TION.—The payment of principal and interest on secured*  
5        *debt, other than debt assumed under subsection (d), with*  
6        *the proceeds of grants under subsection (e) shall not—*

7                *(1) modify the extent or nature of any indebted-*  
8                *ness of Amtrak to the United States in existence as*  
9                *of the date of enactment of this Act;*

10               *(2) change the private nature of Amtrak’s or its*  
11               *successors’ liabilities; or*

12               *(3) imply any Federal guarantee or commitment*  
13               *to amortize Amtrak’s outstanding indebtedness.*

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

17        *(h) REPORT.—The Secretary of the Treasury shall*  
18        *transmit a report to the Committee on Transportation and*  
19        *Infrastructure of the House of Representatives, the Com-*  
20        *mittee on Appropriations of the House of Representatives,*  
21        *the Committee on Commerce, Science, and Transportation*  
22        *of the Senate, and the Committee on Appropriations of the*  
23        *Senate, by June 1, 2010—*

24               *(1) describing in detail any agreements to re-*  
25               *structure the Amtrak debt; and*

1           (2) *providing an estimate of the savings to Am-*  
2           *trak and the United States Government.*

3 **SEC. 206. ESTABLISHMENT OF GRANT PROCESS.**

4           (a) *GRANT REQUESTS.*—*Amtrak shall submit grant*  
5 *requests (including a schedule for the disbursement of*  
6 *funds), consistent with the requirements of this division, to*  
7 *the Secretary for funds authorized to be appropriated to the*  
8 *Secretary for the use of Amtrak under sections 101(a), (b),*  
9 *and (c), 102, 219(b), and 302.*

10          (b) *PROCEDURES FOR GRANT REQUESTS.*—*The Sec-*  
11 *retary shall establish substantive and procedural require-*  
12 *ments, including schedules, for grant requests under this*  
13 *section not later than 30 days after the date of enactment*  
14 *of this Act and shall transmit copies of such requirements*  
15 *and schedules to the Committee on Transportation and In-*  
16 *frastructure of the House of Representatives and the Com-*  
17 *mittee on Commerce, Science, and Transportation of the*  
18 *Senate. As part of those requirements, the Secretary shall*  
19 *require, at a minimum, that Amtrak deposit grant funds,*  
20 *consistent with the appropriated amounts for each area of*  
21 *expenditure in a given fiscal year, in the following 2 ac-*  
22 *counts:*

23           (1) *The Amtrak Operating account.*

24           (2) *The Amtrak General Capital account.*

1 *Amtrak may not transfer such funds to another account or*  
2 *expend such funds for any purpose other than the purposes*  
3 *covered by the account in which the funds are deposited*  
4 *without approval by the Secretary.*

5 (c) *REVIEW AND APPROVAL.—*

6 (1) *30-DAY APPROVAL PROCESS.—The Secretary*  
7 *shall complete the review of a grant request (includ-*  
8 *ing the disbursement schedule) and approve or dis-*  
9 *approve the request within 30 days after the date on*  
10 *which Amtrak submits the grant request. If the Sec-*  
11 *retary disapproves the request or determines that the*  
12 *request is incomplete or deficient, the Secretary shall*  
13 *include the reason for disapproval or the incomplete*  
14 *items or deficiencies in a notice to Amtrak.*

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

19 (3) *REVISED REQUESTS.—Within 15 days after*  
20 *receiving a modified request from Amtrak, the Sec-*  
21 *retary shall either approve the modified request, or, if*  
22 *the Secretary finds that the request is still incomplete*  
23 *or deficient, the Secretary shall identify in writing to*  
24 *the Committee on Transportation and Infrastructure*  
25 *of the House of Representatives and the Committee on*

1        *Commerce, Science, and Transportation of the Senate*  
2        *the remaining deficiencies and recommend a process*  
3        *for resolving the outstanding portions of the request.*

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

5        *(a) IN GENERAL.—Within 180 days after the date of*  
6        *enactment of this Act, the Federal Railroad Administration*  
7        *and Amtrak shall jointly, in consultation with the Surface*  
8        *Transportation Board, rail carriers over whose rail lines*  
9        *Amtrak trains operate, States, Amtrak employees, nonprofit*  
10       *employee organizations representing Amtrak employees,*  
11       *and groups representing Amtrak passengers, as appro-*  
12       *priate, develop new or improve existing metrics and min-*  
13       *imum standards for measuring the performance and service*  
14       *quality of intercity passenger train operations, including*  
15       *cost recovery, on-time performance and minutes of delay,*  
16       *ridership, on-board services, stations, facilities, equipment,*  
17       *and other services. Such metrics, at a minimum, shall in-*  
18       *clude the percentage of avoidable and fully allocated oper-*  
19       *ating costs covered by passenger revenues on each route, rid-*  
20       *ership per train mile operated, measures of on-time per-*  
21       *formance and delays incurred by intercity passenger trains*  
22       *on the rail lines of each rail carrier and, for long-distance*  
23       *routes, measures of connectivity with other routes in all re-*  
24       *gions currently receiving Amtrak service and the transpor-*  
25       *tation needs of communities and populations that are not*

1 *well-served by other forms of intercity transportation. Am-*  
2 *trak shall provide reasonable access to the Federal Railroad*  
3 *Administration in order to enable the Administration to*  
4 *carry out its duty under this section.*

5       **(b) QUARTERLY REPORTS.**—*The Administrator of the*  
6 *Federal Railroad Administration shall collect the necessary*  
7 *data and publish a quarterly report on the performance and*  
8 *service quality of intercity passenger train operations, in-*  
9 *cluding Amtrak’s cost recovery, ridership, on-time perform-*  
10 *ance and minutes of delay, causes of delay, on-board serv-*  
11 *ices, stations, facilities, equipment, and other services.*

12       **(c) CONTRACTS WITH HOST RAIL CARRIERS.**—*To the*  
13 *extent practicable, Amtrak and its host rail carriers shall*  
14 *incorporate the metrics and standards developed under sub-*  
15 *section (a) into their access and service agreements.*

16       **(d) ARBITRATION.**—*If the development of the metrics*  
17 *and standards is not completed within the 180-day period*  
18 *required by subsection (a), any party involved in the devel-*  
19 *opment of those standards may petition the Surface Trans-*  
20 *portation Board to appoint an arbitrator to assist the par-*  
21 *ties in resolving their disputes through binding arbitration.*

22 **SEC. 208. METHODOLOGIES FOR AMTRAK ROUTE AND SERV-**  
23 **ICE PLANNING DECISIONS.**

24       **(a) METHODOLOGY DEVELOPMENT.**—*Within 180 days*  
25 *after the date of enactment of this Act, the Federal Railroad*

1 *Administration shall obtain the services of a qualified inde-*  
2 *pendent entity to develop and recommend objective meth-*  
3 *odologies for Amtrak to use in determining what intercity*  
4 *passenger routes and services it will provide, including the*  
5 *establishment of new routes, the elimination of existing*  
6 *routes, and the contraction or expansion of services or fre-*  
7 *quencies over such routes. In developing such methodologies,*  
8 *the entity shall consider—*

9           (1) *the current or expected performance and*  
10 *service quality of intercity passenger train operations,*  
11 *including cost recovery, on-time performance and*  
12 *minutes of delay, ridership, on-board services, sta-*  
13 *tions, facilities, equipment, and other services;*

14           (2) *connectivity of a route with other routes;*

15           (3) *the transportation needs of communities and*  
16 *populations that are not well served by intercity pas-*  
17 *senger rail service or by other forms of intercity*  
18 *transportation;*

19           (4) *Amtrak's and other major intercity passenger*  
20 *rail service providers in other countries' methodologies*  
21 *for determining intercity passenger rail routes and*  
22 *services; and*

23           (5) *the views of the States and other interested*  
24 *parties.*

1       (b) *SUBMITTAL TO CONGRESS.*—*Within 1 year after*  
2 *the date of enactment of this Act, the entity shall submit*  
3 *recommendations developed under subsection (a) to Amtrak,*  
4 *the Committee on Transportation and Infrastructure of the*  
5 *House of Representatives, and the Committee on Commerce,*  
6 *Science, and Transportation of the Senate.*

7       (c) *CONSIDERATION OF RECOMMENDATIONS.*—*Within*  
8 *90 days after receiving the recommendations developed*  
9 *under subsection (a) by the entity, the Amtrak Board of*  
10 *Directors shall consider the adoption of those recommenda-*  
11 *tions. The Board shall transmit a report to the Committee*  
12 *on Transportation and Infrastructure of the House of Rep-*  
13 *resentatives and the Committee on Commerce, Science, and*  
14 *Transportation of the Senate explaining its reasons for*  
15 *adopting or not adopting the recommendations.*

16 **SEC. 209. STATE-SUPPORTED ROUTES.**

17       (a) *IN GENERAL.*—*Within 2 years after the date of en-*  
18 *actment of this Act, the Amtrak Board of Directors, in con-*  
19 *sultation with the Secretary, the governors of each relevant*  
20 *State, and the Mayor of the District of Columbia, or entities*  
21 *representing those officials, shall develop and implement a*  
22 *single, nationwide standardized methodology for estab-*  
23 *lishing and allocating the operating and capital costs*  
24 *among the States and Amtrak associated with trains oper-*

1 *ated on each of the routes described in section 24102(5)(B)*  
2 *and (D) and section 24702 that—*

3 *(1) ensures, within 5 years after the date of en-*  
4 *actment of this Act, equal treatment in the provision*  
5 *of like services of all States and groups of States (in-*  
6 *cluding the District of Columbia); and*

7 *(2) allocates to each route the costs incurred only*  
8 *for the benefit of that route and a proportionate*  
9 *share, based upon factors that reasonably reflect rel-*  
10 *ative use, of costs incurred for the common benefit of*  
11 *more than 1 route.*

12 *(b) REVISIONS.—The Amtrak Board of Directors, in*  
13 *consultation with the Secretary, the governors of each rel-*  
14 *evant State, and the Mayor of the District of Columbia,*  
15 *or entities representing those officials, may revise or amend*  
16 *the methodology established under subsection (a) as nec-*  
17 *essary, consistent with the intent of this section, including*  
18 *revisions or modifications based on Amtrak's financial ac-*  
19 *counting system developed pursuant to section 203 of this*  
20 *division.*

21 *(c) REVIEW.—If Amtrak and the States (including the*  
22 *District of Columbia) in which Amtrak operates such routes*  
23 *do not voluntarily adopt and implement the methodology*  
24 *developed under subsection (a) in allocating costs and deter-*  
25 *mining compensation for the provision of service in accord-*

1 *ance with the date established therein, the Surface Trans-*  
 2 *portation Board shall determine the appropriate method-*  
 3 *ology required under subsection (a) for such services in ac-*  
 4 *cordance with the procedures and procedural schedule ap-*  
 5 *plicable to a proceeding under section 24904(c) of title 49,*  
 6 *United States Code, and require the full implementation*  
 7 *of this methodology with regards to the provision of such*  
 8 *service within 1 year after the Board’s determination of the*  
 9 *appropriate methodology.*

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

14 **SEC. 210. LONG-DISTANCE ROUTES.**

15 *(a) IN GENERAL.—Chapter 247 is amended by adding*  
 16 *at the end thereof the following:*

17 **“§24710. Long-distance routes**

18 *“(a) ANNUAL EVALUATION.—Using the financial and*  
 19 *performance metrics developed under section 207 of the Pas-*  
 20 *senger Rail Investment and Improvement Act of 2008, Am-*  
 21 *trak shall—*

22 *“(1) evaluate annually the financial and oper-*  
 23 *ating performance of each long-distance passenger*  
 24 *rail route operated by Amtrak; and*

1           “(2) rank the overall performance of such routes  
2           for 2008 and identify each long-distance passenger  
3           rail route operated by Amtrak in 2008 according to  
4           its overall performance as belonging to the best per-  
5           forming third of such routes, the second best per-  
6           forming third of such routes, or the worst performing  
7           third of such routes.

8           “(b) *PERFORMANCE IMPROVEMENT PLAN.*—Amtrak  
9           shall develop and post on its website a performance im-  
10          provement plan for its long-distance passenger rail routes  
11          to achieve financial and operating improvements based on  
12          the data collected through the application of the financial  
13          and performance metrics developed under section 207 of  
14          that Act. The plan shall address—

15               “(1) on-time performance;

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

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

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

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

23               “(6) State or other non-Federal financial con-  
24          tributions;

25               “(7) improving financial performance;

1           “(8) *anticipated Federal funding of operating*  
2           *and capital costs; and*

3           “(9) *other aspects of Amtrak’s long-distance pas-*  
4           *senger rail routes that affect the financial, competi-*  
5           *tive, and functional performance of service on Am-*  
6           *trak’s long-distance passenger rail routes.*

7           “(c) *IMPLEMENTATION.—Amtrak shall implement the*  
8           *performance improvement plan developed under subsection*  
9           *(b)—*

10           “(1) *beginning in fiscal year 2010 for those*  
11           *routes identified as being in the worst performing*  
12           *third under subsection (a)(2);*

13           “(2) *beginning in fiscal year 2011 for those*  
14           *routes identified as being in the second best per-*  
15           *forming third under subsection (a)(2); and*

16           “(3) *beginning in fiscal year 2012 for those*  
17           *routes identified as being in the best performing third*  
18           *under subsection (a)(2).*

19           “(d) *ENFORCEMENT.—The Federal Railroad Adminis-*  
20           *tration shall monitor the development, implementation, and*  
21           *outcome of improvement plans under this section. If the*  
22           *Federal Railroad Administration determines that Amtrak*  
23           *is not making reasonable progress in implementing its per-*  
24           *formance improvement plan or, after the performance im-*  
25           *provement plan is implemented under subsection (c)(1) in*

1 *accordance with the terms of that plan, Amtrak has not*  
2 *achieved the outcomes it has established for such routes,*  
3 *under the plan for any calendar year, the Federal Railroad*  
4 *Administration—*

5           “(1) shall notify Amtrak, the Inspector General  
6           of the Department of Transportation, the Committee  
7           on Transportation and Infrastructure of the House of  
8           Representatives, and the Committee on Commerce,  
9           Science, and Transportation of the Senate of its de-  
10          termination under this subsection;

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

13           “(3) may withhold appropriated funds otherwise  
14          available to Amtrak for the operation of a route or  
15          routes from among the worst performing third of  
16          routes currently served by Amtrak on which Amtrak  
17          is not making reasonable progress, other than funds  
18          made available for passenger safety or security meas-  
19          ures.”.

20          (b) *CONFORMING AMENDMENT.*—*The chapter analysis*  
21 *for chapter 247 is amended by inserting after the item relat-*  
22 *ing to section 24709 the following:*

“24710. Long distance routes.”.

1 **SEC. 211. NORTHEAST CORRIDOR STATE-OF-GOOD-REPAIR**  
2 **PLAN.**

3 (a) *IN GENERAL.*—Within 6 months after the date of  
4 enactment of this Act, Amtrak, in consultation with the Sec-  
5 retary and the States (including the District of Columbia)  
6 that make up the Northeast Corridor (as defined in section  
7 24102 of title 49, United States Code), shall prepare a cap-  
8 ital spending plan for capital projects required to return  
9 the railroad right-of-way (including track, signals, and  
10 auxiliary structures), facilities, stations, and equipment, of  
11 the Northeast Corridor main line to a state-of-good-repair  
12 by the end of fiscal year 2018, consistent with the funding  
13 levels authorized in this division, and shall submit the plan  
14 to the Secretary.

15 (b) *REVIEW AND APPROVAL BY THE SECRETARY.*—

16 (1) *60-DAY APPROVAL PROCESS.*—The Secretary  
17 shall complete the review of the capital spending plan  
18 and approve or disapprove the plan within 60 days  
19 after the date on which Amtrak submits the plan.  
20 During review, the Secretary may seek comments  
21 from the Commission established under section 24905  
22 of title 49, United States Code, and other Northeast  
23 Corridor users regarding the plan. If the Secretary  
24 disapproves the plan or determines that the plan is  
25 incomplete or deficient, the Secretary shall include the

1       *reason for disapproval or the incomplete items or de-*  
2       *ficiencies in a notice to Amtrak.*

3               (2) *15-DAY MODIFICATION PERIOD.*—*Within 15*  
4       *days after receiving notification from the Secretary*  
5       *under paragraph (1), Amtrak shall submit a modified*  
6       *plan for the Secretary’s review.*

7               (3) *REVISED REQUESTS.*—*Within 15 days after*  
8       *receiving a modified plan from Amtrak, the Secretary*  
9       *shall either approve the modified plan, or, if the Sec-*  
10       *retary finds that the plan is still incomplete or defi-*  
11       *cient, the Secretary shall identify in writing to the*  
12       *Committee on Transportation and Infrastructure of*  
13       *the House of Representatives and the Committee on*  
14       *Commerce, Science, and Transportation of the Senate*  
15       *the remaining deficiencies and recommend a process*  
16       *for resolving the outstanding portions of the plan.*

17              (c) *PLAN UPDATES.*—*The plan shall be updated at*  
18       *least annually and the Secretary shall review and approve*  
19       *such updates, in accordance with the procedures described*  
20       *in subsection (b).*

21              (d) *GRANTS.*—*The Secretary shall make grants to Am-*  
22       *trak with funds authorized by section 101(c) for Northeast*  
23       *Corridor capital investments contained within the capital*  
24       *spending plan prepared by Amtrak and approved by the*  
25       *Secretary.*



1 *and related activities of the Northeast Corridor. The*  
2 *Commission shall be made up of—*

3 *“(A) members representing Amtrak;*

4 *“(B) members representing the Department*  
5 *of Transportation, including the Federal Rail-*  
6 *road Administration;*

7 *“(C) 1 member from each of the States (in-*  
8 *cluding the District of Columbia) that constitute*  
9 *the Northeast Corridor as defined in section*  
10 *24102, designated by, and serving at the pleasure*  
11 *of, the chief executive officer thereof; and*

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

15 *“(2) The Secretary shall ensure that the member-*  
16 *ship belonging to any of the groups enumerated under*  
17 *paragraph (1) shall not constitute a majority of the*  
18 *Commission’s memberships.*

19 *“(3) The Commission shall establish a schedule*  
20 *and location for convening meetings, but shall meet*  
21 *no less than four times per fiscal year, and the Com-*  
22 *mission shall develop rules and procedures to govern*  
23 *the Commission’s proceedings.*

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

4           “(5) Members shall serve without pay but shall  
5           receive travel expenses, including per diem in lieu of  
6           subsistence, in accordance with sections 5702 and  
7           5703 of title 5.

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

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

12          “(8) Upon request of the Commission, the head  
13          of any department or agency of the United States  
14          may detail, on a reimbursable basis, any of the per-  
15          sonnel of that department or agency to the Commis-  
16          sion to assist it in carrying out its duties under this  
17          section.

18          “(9) Upon the request of the Commission, the  
19          Administrator of General Services shall provide to the  
20          Commission, on a reimbursable basis, the administra-  
21          tive support services necessary for the Commission to  
22          carry out its responsibilities under this section.

23          “(10) The Commission shall consult with other  
24          entities as appropriate.

1       “(b) *STATEMENT OF GOALS AND RECOMMENDA-*  
2 *TIONS.—*

3               “(1) *STATEMENT OF GOALS.—The Commission*  
4 *shall develop a statement of goals concerning the fu-*  
5 *ture of Northeast Corridor rail infrastructure and op-*  
6 *erations based on achieving expanded and improved*  
7 *intercity, commuter, and freight rail services oper-*  
8 *ating with greater safety and reliability, reduced*  
9 *travel times, increased frequencies and enhanced*  
10 *intermodal connections designed to address airport*  
11 *and highway congestion, reduce transportation energy*  
12 *consumption, improve air quality, and increase eco-*  
13 *nomi c development of the Northeast Corridor region.*

14               “(2) *RECOMMENDATIONS.—The Commission*  
15 *shall develop recommendations based on the statement*  
16 *developed under this section addressing, as appro-*  
17 *priate—*

18                       “(A) *short-term and long-term capital in-*  
19 *vestment needs beyond those specified in the*  
20 *state-of-good-repair plan under section 211 of the*  
21 *Passenger Rail Investment and Improvement Act*  
22 *of 2008;*

23                       “(B) *future funding requirements for cap-*  
24 *ital improvements and maintenance;*

1           “(C) *operational improvements of intercity*  
2           *passenger rail, commuter rail, and freight rail*  
3           *services;*

4           “(D) *opportunities for additional non-rail*  
5           *uses of the Northeast Corridor;*

6           “(E) *scheduling and dispatching;*

7           “(F) *safety and security enhancements;*

8           “(G) *equipment design;*

9           “(H) *marketing of rail services;*

10          “(I) *future capacity requirements; and*

11          “(J) *potential funding and financing mech-*  
12          *anisms for projects of corridor-wide significance.*

13          “(c) *ACCESS COSTS.—*

14                 “(1) *DEVELOPMENT OF FORMULA.—Within 2*  
15                 *years after the date of enactment of the Passenger*  
16                 *Rail Investment and Improvement Act of 2008, the*  
17                 *Commission shall—*

18                         “(A) *develop a standardized formula for de-*  
19                         *termining and allocating costs, revenues, and*  
20                         *compensation for Northeast Corridor commuter*  
21                         *rail passenger transportation, as defined in sec-*  
22                         *tion 24102 of this title, on the Northeast Cor-*  
23                         *ridor main line between Boston, Massachusetts,*  
24                         *and Washington, District of Columbia, and the*  
25                         *Northeast Corridor branch lines connecting to*

1           *Harrisburg, Pennsylvania, Springfield, Massa-*  
2           *chusetts, and Spuyten Duyvil, New York, that*  
3           *use Amtrak facilities or services or that provide*  
4           *such facilities or services to Amtrak that ensures*  
5           *that—*

6                     “(i) *there is no cross-subsidization of*  
7                     *commuter rail passenger, intercity rail pas-*  
8                     *senger, or freight rail transportation;*

9                     “(ii) *each service is assigned the costs*  
10                    *incurred only for the benefit of that service,*  
11                    *and a proportionate share, based upon fac-*  
12                    *tors that reasonably reflect relative use, of*  
13                    *costs incurred for the common benefit of*  
14                    *more than 1 service; and*

15                    “(iii) *all financial contributions made*  
16                    *by an operator of a service that benefit an*  
17                    *infrastructure owner other than the operator*  
18                    *are considered, including but not limited to,*  
19                    *any capital infrastructure investments and*  
20                    *in-kind services;*

21                    “(B) *develop a proposed timetable for im-*  
22                    *plementing the formula before the end of the 6th*  
23                    *year following the date of enactment of that Act;*

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

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

6           “(2) IMPLEMENTATION.—Amtrak and public au-  
7           thorities providing commuter rail passenger transpor-  
8           tation on the Northeast Corridor shall implement new  
9           agreements for usage of facilities or services based on  
10          the formula proposed in paragraph (1) in accordance  
11          with the timetable established therein. If the entities  
12          fail to implement such new agreements in accordance  
13          with the timetable, the Commission shall petition the  
14          Surface Transportation Board to determine the ap-  
15          propriate compensation amounts for such services in  
16          accordance with section 24904(c) of this title. The  
17          Surface Transportation Board shall enforce its deter-  
18          mination on the party or parties involved.

19          “(3) REVISIONS.—The Commission may make  
20          necessary revisions to the formula developed under  
21          paragraph (1), including revisions based on Amtrak’s  
22          financial accounting system developed pursuant to  
23          section 203 of the Passenger Rail Investment and Im-  
24          provement Act of 2008.

1       “(d) *TRANSMISSION OF STATEMENT OF GOALS AND*  
2 *RECOMMENDATIONS.—The Commission shall transmit to*  
3 *the Committee on Commerce, Science, and Transportation*  
4 *of the Senate and the Committee on Transportation and*  
5 *Infrastructure of the House of Representatives—*

6               “(1) *the statement of goals developed under sub-*  
7 *section (b) within 1 year after the date of enactment*  
8 *of the Passenger Rail Investment and Improvement*  
9 *Act of 2008; and*

10              “(2) *the recommendations developed under sub-*  
11 *section (b) and the formula and timetable developed*  
12 *under subsection (c)(1) annually.*

13       “(e) *AUTHORIZATION OF APPROPRIATIONS.—There are*  
14 *authorized to be appropriated to the Commission such sums*  
15 *as may be necessary for the period encompassing fiscal*  
16 *years 2009 through 2013 to carry out this section.*

17       “(f) *NORTHEAST CORRIDOR SAFETY COMMITTEE.—*

18              “(1) *IN GENERAL.—The Secretary shall establish*  
19 *a Northeast Corridor Safety Committee composed of*  
20 *members appointed by the Secretary. The members*  
21 *shall be representatives of—*

22                      “(A) *the Department of Transportation, in-*  
23 *cluding the Federal Railroad Administration;*

24                      “(B) *Amtrak;*

1           “(C) freight carriers operating more than  
2           150,000 train miles a year on the main line of  
3           the Northeast Corridor;

4           “(D) commuter rail agencies;

5           “(E) rail passengers;

6           “(F) rail labor; and

7           “(G) other individuals and organizations  
8           the Secretary decides have a significant interest  
9           in rail safety or security.

10          “(2) *FUNCTION; MEETINGS.*—The Secretary shall  
11          consult with the Committee about safety and security  
12          improvements on the Northeast Corridor main line.  
13          The Committee shall meet at least two times per year  
14          to consider safety and security matters on the main  
15          line.

16          “(3) *REPORT.*—At the beginning of the first ses-  
17          sion of each Congress, the Secretary shall submit a re-  
18          port to the Commission and to the Committee on  
19          Transportation and Infrastructure of the House of  
20          Representatives and the Committee on Commerce,  
21          Science, and Transportation of the Senate on the sta-  
22          tus of efforts to improve safety and security on the  
23          Northeast Corridor main line. The report shall in-  
24          clude the safety and security recommendations of the

1        *Committee and the comments of the Secretary on*  
2        *those recommendations.”.*

3        (b) *CONFORMING AMENDMENTS.—(1) The item relat-*  
4        *ing to section 24905 in the table of sections of chapter 249*  
5        *is amended to read as follows:*

      “24905. *Northeast Corridor Infrastructure and Operations Advisory Commission;*  
      *Safety Committee.”.*

6        (2) *Section 24904(c)(2) is amended by—*

7            (A) *inserting “commuter rail passenger and”*  
8        *after “between”; and*

9            (B) *striking “freight” in the second sentence.*

10        (c) *RIDOT ACCESS AGREEMENT.—*

11            (1) *IN GENERAL.—Not later than July 1, 2009,*  
12        *Amtrak and the Rhode Island Department of Trans-*  
13        *portation shall enter into an agreement governing ac-*  
14        *cess fees and other costs or charges related to the oper-*  
15        *ation of the South County commuter rail service on*  
16        *the Northeast Corridor between Providence and*  
17        *Wickford Junction, Rhode Island.*

18            (2) *FAILURE TO REACH AGREEMENT.—If Am-*  
19        *trak and the Rhode Island Department of Transpor-*  
20        *tation fail to reach the agreement specified under*  
21        *paragraph (1), the Administrator of the Federal Rail-*  
22        *road Administration shall, after consultation with*  
23        *both parties, resolve any outstanding disagreements*  
24        *between the parties, including setting access fees and*

1     *other costs or charges related to the operation of the*  
2     *South County commuter rail service that do not allow*  
3     *for the cross-subsidization of intercity rail passenger*  
4     *and commuter rail passenger service, not later than*  
5     *January 1, 2010.*

6             (3) *INTERIM ACCESS COSTS.*—*Any agreement be-*  
7     *tween Amtrak and the Rhode Island Department of*  
8     *Transportation relating to access costs made under*  
9     *this subsection shall be superseded by any access cost*  
10    *formula developed by the Northeast Corridor Infra-*  
11    *structure and Operations Advisory Commission under*  
12    *section 24905(c)(1) of title 49, United States Code, as*  
13    *amended by subsection (a) of this section.*

14    (d) *HIGH-SPEED SERVICE STUDY.*—

15             (1) *IN GENERAL.*—*Amtrak shall submit a report*  
16    *detailing the infrastructure and equipment improve-*  
17    *ments necessary to provide regular high-speed serv-*  
18    *ice—*

19                 (A) *between Washington, District of Colum-*  
20    *bia, and New York, New York, in 2 hours and*  
21    *30 minutes; and*

22                 (B) *between New York, New York, and Bos-*  
23    *ton, Massachusetts, in 3 hours and 15 minutes.*

24             (2) *ISSUES.*—*The report shall include—*

1           (A) *an estimated time frame for achieving*  
2 *the trip time described in paragraph (1);*

3           (B) *an analysis of any significant obstacles*  
4 *that would hinder such an achievement;*

5           (C) *a detailed description and cost estimate*  
6 *of the specific infrastructure and equipment im-*  
7 *provements necessary for such an achievement;*  
8 *and*

9           (D) *an initial assessment of the infrastruc-*  
10 *ture and equipment improvements, including an*  
11 *order of magnitude cost estimate of such im-*  
12 *provements, that would be necessary to provide*  
13 *regular high-speed service—*

14           (i) *between Washington, District of Co-*  
15 *lumbia, and New York, New York, in 2*  
16 *hours and 15 minutes; and*

17           (ii) *between New York, New York, and*  
18 *Boston, Massachusetts, in 3 hours.*

19           (3) *REPORT.—Within 1 year after the date of*  
20 *enactment of this Act, Amtrak shall submit the report*  
21 *required under this subsection to—*

22           (A) *the Committee on Commerce, Science,*  
23 *and Transportation of the Senate;*

24           (B) *the Committee on Appropriations of the*  
25 *Senate;*

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

3                   (D) the Committee on Appropriations of the  
4                   House of Representatives; and

5                   (E) the Federal Railroad Administration.

6           (e) **REPORT ON NORTHEAST CORRIDOR ECONOMIC DE-**  
7 **VELOPMENT.**—Within 2 years after the date of enactment  
8 of this Act, the Northeast Corridor Infrastructure and Oper-  
9 ations Advisory Commission shall transmit to the Com-  
10 mittee on Transportation and Infrastructure of the House  
11 of Representatives and the Committee on Commerce,  
12 Science, and Transportation of the Senate a report on the  
13 role of Amtrak’s Northeast Corridor service between Wash-  
14 ington, District of Columbia, and New York, New York, in  
15 the economic development of the Northeast Corridor region.  
16 The report shall examine how to enhance the utilization of  
17 the Northeast Corridor for greater economic development,  
18 including improving—

19                   (1) real estate utilization;

20                   (2) improved intercity, commuter, and freight  
21                   services; and

22                   (3) optimum utility utilization.

23 **SEC. 213. PASSENGER TRAIN PERFORMANCE.**

24           (a) **IN GENERAL.**—Section 24308 is amended by add-  
25 ing at the end the following:

1       “(f) *PASSENGER TRAIN PERFORMANCE AND OTHER*  
2 *STANDARDS.—*

3               “(1) *INVESTIGATION OF SUBSTANDARD PER-*  
4 *FORMANCE.—If the on-time performance of any inter-*  
5 *city passenger train averages less than 80 percent for*  
6 *any 2 consecutive calendar quarters, or the service*  
7 *quality of intercity passenger train operations for*  
8 *which minimum standards are established under sec-*  
9 *tion 207 of the Passenger Rail Investment and Im-*  
10 *provement Act of 2008 fails to meet those standards*  
11 *for 2 consecutive calendar quarters, the Surface*  
12 *Transportation Board (referred to in this section as*  
13 *the ‘Board’) may initiate an investigation, or upon*  
14 *the filing of a complaint by Amtrak, an intercity pas-*  
15 *senger rail operator, a host freight railroad over*  
16 *which Amtrak operates, or an entity for which Am-*  
17 *trak operates intercity passenger rail service, the*  
18 *Board shall initiate such an investigation, to deter-*  
19 *mine whether and to what extent delays or failure to*  
20 *achieve minimum standards are due to causes that*  
21 *could reasonably be addressed by a rail carrier over*  
22 *whose tracks the intercity passenger train operates or*  
23 *reasonably addressed by Amtrak or other intercity*  
24 *passenger rail operators. As part of its investigation,*  
25 *the Board has authority to review the accuracy of the*

1 *train performance data and the extent to which sched-*  
2 *uling and congestion contribute to delays. In making*  
3 *its determination or carrying out such an investiga-*  
4 *tion, the Board shall obtain information from all par-*  
5 *ties involved and identify reasonable measures and*  
6 *make recommendations to improve the service, qual-*  
7 *ity, and on-time performance of the train.*

8 *“(2) PROBLEMS CAUSED BY HOST RAIL CAR-*  
9 *RIER.—If the Board determines that delays or fail-*  
10 *ures to achieve minimum standards investigated*  
11 *under paragraph (1) are attributable to a rail car-*  
12 *rier’s failure to provide preference to Amtrak over*  
13 *freight transportation as required under subsection*  
14 *(c), the Board may award damages against the host*  
15 *rail carrier, including prescribing such other relief to*  
16 *Amtrak as it determines to be reasonable and appro-*  
17 *priate pursuant to paragraph (3) of this subsection.*

18 *“(3) DAMAGES AND RELIEF.—In awarding dam-*  
19 *ages and prescribing other relief under this subsection*  
20 *the Board shall consider such factors as—*

21 *“(A) the extent to which Amtrak suffers fi-*  
22 *nancial loss as a result of host rail carrier delays*  
23 *or failure to achieve minimum standards; and*

24 *“(B) what reasonable measures would ade-*  
25 *quately deter future actions which may reason-*

1           ably be expected to be likely to result in delays  
2           to Amtrak on the route involved.

3           “(4) *USE OF DAMAGES.*—*The Board shall, as it*  
4           *deems appropriate, order the host rail carrier to*  
5           *remit the damages awarded under this subsection to*  
6           *Amtrak or to an entity for which Amtrak operates*  
7           *intercity passenger rail service. Such damages shall*  
8           *be used for capital or operating expenditures on the*  
9           *routes over which delays or failures to achieve min-*  
10          *imum standards were the result of a rail carrier’s*  
11          *failure to provide preference to Amtrak over freight*  
12          *transportation as determined in accordance with*  
13          *paragraph (2).”.*

14          (b) *FEEES.*—*The Surface Transportation Board may*  
15          *establish and collect filing fees from any entity that files*  
16          *a complaint under section 24308(f)(1) of title 49, United*  
17          *States Code, or otherwise requests or requires the Board’s*  
18          *services pursuant to this division. The Board shall establish*  
19          *such fees at levels that will fully or partially, as the Board*  
20          *determines to be appropriate, offset the costs of adjudicating*  
21          *complaints under that section and other requests or require-*  
22          *ments for Board action under this division. The Board may*  
23          *waive any fee established under this subsection for any gov-*  
24          *ernmental entity as determined appropriate by the Board.*

1       (c) *AUTHORIZATION OF ADDITIONAL STAFF.*—The  
 2 *Surface Transportation Board may increase the number of*  
 3 *Board employees by up to 15 for the 5 fiscal year period*  
 4 *beginning with fiscal year 2009 to carry out its responsibil-*  
 5 *ities under section 24308 of title 49, United States Code,*  
 6 *and this division.*

7       (d) *CHANGE OF REFERENCE.*—Section 24308 is  
 8 *amended—*

9           (1) *by striking “Interstate Commerce Commis-*  
 10 *sion” in subsection (a)(2)(A) and inserting “Surface*  
 11 *Transportation Board”;*

12           (2) *by striking “Commission” each place it ap-*  
 13 *pears and inserting “Board”;*

14           (3) *by striking “Secretary of Transportation” in*  
 15 *subsection (c) and inserting “Board”; and*

16           (4) *by striking “Secretary” the last 3 places it*  
 17 *appears in subsection (c) and each place it appears*  
 18 *in subsections (d) and (e) and inserting “Board”.*

19 **SEC. 214. ALTERNATE PASSENGER RAIL SERVICE PILOT**  
 20 **PROGRAM.**

21       (a) *IN GENERAL.*—Chapter 247, as amended by sec-  
 22 *tion 210, is amended by adding at the end thereof the fol-*  
 23 *lowing:*

1 **“§24711. Alternate passenger rail service pilot pro-**  
2 **gram**

3 “(a) *IN GENERAL.*—*Within 1 year after the date of*  
4 *enactment of the Passenger Rail Investment and Improve-*  
5 *ment Act of 2008, the Federal Railroad Administration*  
6 *shall complete a rulemaking proceeding to develop a pilot*  
7 *program that—*

8 “(1) *permits a rail carrier or rail carriers that*  
9 *own infrastructure over which Amtrak operates a pas-*  
10 *senger rail service route described in subparagraph*  
11 *(B), (C), or (D) of section 24102(5) or in section*  
12 *24702 to petition the Administration to be considered*  
13 *as a passenger rail service provider over that route in*  
14 *lieu of Amtrak for a period not to exceed 5 years after*  
15 *the date of enactment of the Passenger Rail Invest-*  
16 *ment and Improvement Act of 2008;*

17 “(2) *requires the Administration to notify Am-*  
18 *trak within 30 days after receiving a petition under*  
19 *paragraph (1) and establish a deadline by which both*  
20 *the petitioner and Amtrak would be required to sub-*  
21 *mit a bid to provide passenger rail service over the*  
22 *route to which the petition relates;*

23 “(3) *requires that each bid describe how the bid-*  
24 *der would operate the route, what Amtrak passenger*  
25 *equipment would be needed, if any, what sources of*

1       *non-Federal funding the bidder would use, including*  
2       *any State subsidy, among other things;*

3               “(4) requires the Administration to select win-  
4       *ning bidders by evaluating the bids against the finan-*  
5       *cial and performance metrics developed under section*  
6       *207 of the Passenger Rail Investment and Improve-*  
7       *ment Act of 2008 and to give preference in awarding*  
8       *contracts to bidders seeking to operate routes that*  
9       *have been identified as one of the five worst per-*  
10       *forming Amtrak routes under section 24710;*

11               “(5) requires the Administration to execute a  
12       *contract within a specified, limited time after the*  
13       *deadline established under paragraph (2) and award*  
14       *to the winning bidder—*

15                       “(A) the right and obligation to provide  
16       *passenger rail service over that route subject to*  
17       *such performance standards as the Administra-*  
18       *tion may require, consistent with the standards*  
19       *developed under section 207 of the Passenger*  
20       *Rail Investment and Improvement Act of 2008;*  
21       *and*

22                       “(B) an operating subsidy—

23                               “(i) for the first year at a level not in  
24       *excess of the level in effect during the fiscal*

1                    *year preceding the fiscal year in which the*  
2                    *petition was received, adjusted for inflation;*

3                    *“(ii) for any subsequent years at such*  
4                    *level, adjusted for inflation; and*

5                    *“(6) requires that each bid contain a staffing*  
6                    *plan describing the number of employees needed to op-*  
7                    *erate the service, the job assignments and require-*  
8                    *ments, and the terms of work for prospective and cur-*  
9                    *rent employees of the bidder for the service outlined*  
10                   *in the bid, and such staffing plan be made available*  
11                   *by the winning bidder to the public after the bid*  
12                   *award.*

13                   *“(b) ROUTE LIMITATIONS.—The Administration may*  
14                   *not make the program available with respect to more than*  
15                   *2 Amtrak intercity passenger rail routes.*

16                   *“(c) PERFORMANCE STANDARDS; ACCESS TO FACILI-*  
17                   *TIES; EMPLOYEES.—If the Administration awards the right*  
18                   *and obligation to provide passenger rail service over a route*  
19                   *under the program to a rail carrier or rail carriers—*

20                   *“(1) it shall execute a contract with the rail car-*  
21                   *rier or rail carriers for rail passenger operations on*  
22                   *that route that conditions the operating and subsidy*  
23                   *rights upon—*

24                   *“(A) the service provider continuing to pro-*  
25                   *vide passenger rail service on the route that is no*

1           *less frequent, nor over a shorter distance, than*  
2           *Amtrak provided on that route before the award;*  
3           *and*

4           *“(B) the service provider’s compliance with*  
5           *the minimum standards established under sec-*  
6           *tion 207 of the Passenger Rail Investment and*  
7           *Improvement Act of 2008 and such additional*  
8           *performance standards as the Administration*  
9           *may establish;*

10          *“(2) it shall, if the award is made to a rail car-*  
11          *rier other than Amtrak, require Amtrak to provide*  
12          *access to its reservation system, stations, and facili-*  
13          *ties directly related to operations to any rail carrier*  
14          *or rail carriers awarded a contract under this section,*  
15          *in accordance with section 217 of that Act, necessary*  
16          *to carry out the purposes of this section;*

17          *“(3) the employees of any person used by a rail*  
18          *carrier or rail carriers (as defined in section*  
19          *10102(5) of this title) in the operation of a route*  
20          *under this section shall be considered an employee of*  
21          *that carrier or carriers and subject to the applicable*  
22          *Federal laws and regulations governing similar crafts*  
23          *or classes of employees of Amtrak, including provi-*  
24          *sions under section 121 of the Amtrak Reform and*

1       *Accountability Act of 1997 relating to employees that*  
2       *provide food and beverage service; and*

3               “(4) *the winning bidder shall provide hiring*  
4       *preference to qualified Amtrak employees displaced by*  
5       *the award of the bid, consistent with the staffing plan*  
6       *submitted by the bidder and shall be subject to the*  
7       *grant conditions under section 24405 of this title.*

8               “(d) *CESSATION OF SERVICE.—If a rail carrier or rail*  
9       *carriers awarded a route under this section cease to operate*  
10       *the service or fail to fulfill their obligations under the con-*  
11       *tract required under subsection (c), the Administrator, in*  
12       *collaboration with the Surface Transportation Board, shall*  
13       *take any necessary action consistent with this title to en-*  
14       *force the contract and ensure the continued provision of*  
15       *service, including the installment of an interim service pro-*  
16       *vider and re-bidding the contract to operate the service. The*  
17       *entity providing service shall either be Amtrak or a rail*  
18       *carrier defined in subsection (a)(1).*

19               “(e) *ADEQUATE RESOURCES.—Before taking any ac-*  
20       *tion allowed under this section, the Secretary shall certify*  
21       *that the Administrator has sufficient resources that are ade-*  
22       *quate to undertake the program established under this sec-*  
23       *tion.”.*

24               “(b) *REPORT.—Within 1 year after the conclusion of*  
25       *the pilot program established under subsection (a), the Fed-*

1 *eral Railroad Administration shall submit to the Com-*  
2 *mittee on Transportation and Infrastructure of the House*  
3 *of Representatives and the Committee on Commerce,*  
4 *Science, and Transportation of the Senate a report on the*  
5 *results on the pilot program established under section*  
6 *24711, and any recommendations for further action.*

7 (c) *CONFORMING AMENDMENT.—The chapter analysis*  
8 *for chapter 247, as amended by section 210, is amended*  
9 *by inserting after the item relating to section 24710 the fol-*  
10 *lowing:*

*“24711. Alternate passenger rail service pilot program.”.*

11 **SEC. 215. EMPLOYEE TRANSITION ASSISTANCE.**

12 (a) *PROVISION OF FINANCIAL INCENTIVES.—For Am-*  
13 *trak employees who are adversely affected by the cessation*  
14 *of the operation of a long-distance route or any other route*  
15 *under section 24711 of title 49, United States Code, pre-*  
16 *viously operated by Amtrak, the Secretary shall develop a*  
17 *program under which the Secretary may, at the Secretary’s*  
18 *discretion, provide grants for financial incentives to be pro-*  
19 *vided to Amtrak employees who voluntarily terminate their*  
20 *employment with Amtrak and relinquish any legal rights*  
21 *to receive termination-related payments under any contrac-*  
22 *tual agreement with Amtrak.*

23 (b) *CONDITIONS FOR FINANCIAL INCENTIVES.—As a*  
24 *condition for receiving financial assistance grants under*  
25 *this section, Amtrak must certify that—*

1           (1) *a reasonable attempt was made to reassign*  
2 *an employee adversely affected under section 24711 of*  
3 *title 49, United States Code, or by the elimination of*  
4 *any route, to other positions within Amtrak in ac-*  
5 *cordance with any contractual agreements;*

6           (2) *the financial assistance results in a net re-*  
7 *duction in the total number of employees equal to the*  
8 *number receiving financial incentives;*

9           (3) *the financial assistance results in a net re-*  
10 *duction in total employment expense equivalent to the*  
11 *total employment expenses associated with the em-*  
12 *ployees receiving financial incentives; and*

13           (4) *the total number of employees eligible for ter-*  
14 *mination-related payments will not be increased*  
15 *without the express written consent of the Secretary.*

16       (c) *AMOUNT OF FINANCIAL INCENTIVES.—The finan-*  
17 *cial incentives authorized under this section may be no*  
18 *greater than \$100,000 per employee.*

19       (d) *AUTHORIZATION OF APPROPRIATIONS.—There are*  
20 *hereby authorized to be appropriated to the Secretary such*  
21 *sums as may be necessary to make grants to Amtrak to pro-*  
22 *vide financial incentives under subsection (a).*

23       (e) *TERMINATION-RELATED PAYMENTS.—If Amtrak*  
24 *employees adversely affected by the cessation of Amtrak*  
25 *service resulting from the awarding of a grant to an oper-*

1 ator other than Amtrak for the operation of a route under  
2 section 24711 of title 49, United States Code, or any other  
3 route, previously operated by Amtrak do not receive finan-  
4 cial incentives under subsection (a), then the Secretary shall  
5 make grants to Amtrak from funds authorized by section  
6 101 of this division for termination-related payments to  
7 employees under existing contractual agreements.

8 **SEC. 216. SPECIAL PASSENGER TRAINS.**

9 Amtrak is encouraged to increase the operation of spe-  
10 cial trains funded by, or in partnership with, private sector  
11 operators through competitive contracting to minimize the  
12 need for Federal subsidies. Amtrak shall utilize the provi-  
13 sions of section 24308 of title 49, United States Code, when  
14 necessary to obtain access to facilities, train and engine  
15 crews, or services of a rail carrier or regional transpor-  
16 tation authority that are required to operate such trains.

17 **SEC. 217. ACCESS TO AMTRAK EQUIPMENT AND SERVICES.**

18 If a State desires to select or selects an entity other  
19 than Amtrak to provide services required for the operation  
20 of an intercity passenger train route described in section  
21 24102(5)(D) or 24702 of title 49, United States Code, the  
22 State may make an agreement with Amtrak to use facilities  
23 and equipment of, or have services provided by, Amtrak  
24 under terms agreed to by the State and Amtrak to enable  
25 the State to utilize an entity other than Amtrak to provide

1 *services required for operation of the route. If the parties*  
2 *cannot agree upon terms, and the Surface Transportation*  
3 *Board finds that access to Amtrak’s facilities or equipment,*  
4 *or the provision of services by Amtrak, is necessary to carry*  
5 *out this provision and that the operation of Amtrak’s other*  
6 *services will not be impaired thereby, the Surface Transpor-*  
7 *tation Board shall, within 120 days after submission of the*  
8 *dispute, issue an order that the facilities and equipment*  
9 *be made available, and that services be provided, by Am-*  
10 *trak, and shall determine reasonable compensation, liabil-*  
11 *ity, and other terms for use of the facilities and equipment*  
12 *and provision of the services. Compensation shall be deter-*  
13 *mined, as appropriate, in accordance with the methodology*  
14 *established pursuant to section 209 of this division, if avail-*  
15 *able.*

16 **SEC. 218. GENERAL AMTRAK PROVISIONS.**

17 (a) *CONFORMING CHANGES.*—

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

20 (A) by striking “plan to operate within the  
21 funding levels authorized by section 24104 of this  
22 chapter, including the budgetary goals for fiscal  
23 years 1998 through 2002.” and inserting “plan,  
24 consistent with section 204 of the Passenger Rail  
25 Investment and Improvement Act of 2008, in-



1 *ments required to bring it into compliance with the appli-*  
2 *cable parts of such section 242(e)(2), any potential barriers*  
3 *to achieving compliance, including issues related to pas-*  
4 *senger rail station platforms, the estimated cost of the im-*  
5 *provements necessary, the identification of the responsible*  
6 *person (as defined in section 241(5) of that Act (42 U.S.C.*  
7 *12161(5))), and the earliest practicable date when such im-*  
8 *provements can be made. The evaluation shall also include*  
9 *a detailed plan and schedule for bringing all applicable sta-*  
10 *tions into compliance with the applicable parts of section*  
11 *242(e)(2) by the 2010 statutory deadline for station accessi-*  
12 *bility. Amtrak shall submit the evaluation to the Committee*  
13 *on Transportation and Infrastructure of the House of Rep-*  
14 *resentatives; the Committee on Commerce, Science, and*  
15 *Transportation of the Senate; the Department of Transpor-*  
16 *tation; and the National Council on Disability by February*  
17 *1, 2009, along with recommendations for funding the nec-*  
18 *essary improvements. Should the Department of Transpor-*  
19 *tation issue any rule related to transportation for individ-*  
20 *uals with disabilities by intercity passenger rail after Am-*  
21 *trak submits its evaluation, Amtrak shall, within 120 days*  
22 *after the date that such rule is published, submit to the*  
23 *above parties a supplemental evaluation on any impact of*  
24 *the rule on its cost and schedule for achieving full compli-*  
25 *ance.*

1           (b) *ACCESSIBILITY IMPROVEMENTS AND BARRIER RE-*  
2 *MOVAL FOR PEOPLE WITH DISABILITIES.*—*There are au-*  
3 *thorized to be appropriated to the Secretary for the use of*  
4 *Amtrak such sums as may be necessary to improve the ac-*  
5 *cessibility of facilities, including rail platforms, and serv-*  
6 *ices.*

7 **SEC. 220. OVERSIGHT OF AMTRAK’S COMPLIANCE WITH AC-**  
8 **CESSIBILITY REQUIREMENTS.**

9           *Using the funds authorized by section 103 of this divi-*  
10 *sion, the Federal Railroad Administration shall monitor*  
11 *and conduct periodic reviews of Amtrak’s compliance with*  
12 *applicable sections of the Americans with Disabilities Act*  
13 *of 1990 and the Rehabilitation Act of 1974 to ensure that*  
14 *Amtrak’s services and facilities are accessible to individuals*  
15 *with disabilities to the extent required by law.*

16 **SEC. 221. AMTRAK MANAGEMENT ACCOUNTABILITY.**

17           (a) *IN GENERAL.*—*Chapter 243 is amended by insert-*  
18 *ing after section 24309 the following:*

19 **“§24310. Management accountability**

20           “(a) *IN GENERAL.*—*Within 3 years after the date of*  
21 *enactment of the Passenger Rail Investment and Improve-*  
22 *ment Act of 2008, and 2 years thereafter, the Inspector Gen-*  
23 *eral of the Department of Transportation shall complete an*  
24 *overall assessment of the progress made by Amtrak manage-*

1 *ment and the Department of Transportation in imple-*  
2 *menting the provisions of that Act.*

3 “(b) *ASSESSMENT.*—*The management assessment un-*  
4 *dertaken by the Inspector General may include a review*  
5 *of—*

6 “(1) *effectiveness in improving annual financial*  
7 *planning;*

8 “(2) *effectiveness in implementing improved fi-*  
9 *nancial accounting;*

10 “(3) *efforts to implement minimum train per-*  
11 *formance standards;*

12 “(4) *progress maximizing revenues, minimizing*  
13 *Federal subsidies, and improving financial results;*  
14 *and*

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

17 (b) *CONFORMING AMENDMENT.*—*The chapter analysis*  
18 *for chapter 243 is amended by inserting after the item relat-*  
19 *ing to section 24309 the following:*

“24310. *Management accountability.*”.

20 **SEC. 222. ON-BOARD SERVICE IMPROVEMENTS.**

21 (a) *IN GENERAL.*—*Within 1 year after metrics and*  
22 *standards are established under section 207 of this division,*  
23 *Amtrak shall develop and implement a plan to improve on-*  
24 *board service pursuant to the metrics and standards for*  
25 *such service developed under that section.*

1       (b) *REPORT.*—*Amtrak shall provide a report to the*  
2 *Committee on Transportation and Infrastructure of the*  
3 *House of Representatives and the Committee on Commerce,*  
4 *Science, and Transportation of the Senate on the on-board*  
5 *service improvements proscribed in the plan and the*  
6 *timeline for implementing such improvements.*

7 **SEC. 223. INCENTIVE PAY.**

8       *The Amtrak Board of Directors is encouraged to de-*  
9 *velop an incentive pay program for Amtrak management*  
10 *employees.*

11 **SEC. 224. PASSENGER RAIL SERVICE STUDIES.**

12       (a) *INTERCITY RAIL SERVICE STUDIES.*—*Within 1*  
13 *year after the date of enactment of this Act, Amtrak shall*  
14 *conduct studies of the following routes:*

15           (1) *The Pioneer Route between Seattle and Chi-*  
16 *cago, which was operated by Amtrak until 1997, to*  
17 *determine whether to reinstate passenger rail service*  
18 *along the route or along segments of the route.*

19           (2) *The North Coast Hiawatha Route between*  
20 *Chicago and Seattle, through southern Montana,*  
21 *which was operated by Amtrak until 1979, to deter-*  
22 *mine whether to reinstate passenger rail service along*  
23 *the route or along segments of the route, provided that*  
24 *such service will not negatively impact existing Am-*  
25 *trak routes.*

1           (3) *Between Cornwells Heights, Pennsylvania,*  
2           *and New York, New York, to determine whether to ex-*  
3           *pend passenger rail service by increasing the fre-*  
4           *quency of stops or reducing commuter ticket prices for*  
5           *this route.*

6           (4) *Between Princeton Junction, New Jersey,*  
7           *and Philadelphia, Pennsylvania, to determine wheth-*  
8           *er to expand passenger rail service along the route.*

9           (5) *Between Harrisburg and Pittsburgh, Penn-*  
10          *sylvania, to determine whether to increase frequency*  
11          *of passenger rail service along the route or along seg-*  
12          *ments of the route.*

13          (6) *The Capitol Limited Route between Cum-*  
14          *berland, Maryland, and Pittsburgh, Pennsylvania, to*  
15          *determine whether to reinstate a station stop at Rock-*  
16          *wood, Pennsylvania.*

17          (b) *ASSISTANCE.*—*The Comptroller General of the*  
18          *General Accountability Office shall, upon request by Am-*  
19          *trak, assist Amtrak in conducting the studies under sub-*  
20          *section (a).*

21          (c) *HIGH-SPEED RAIL CORRIDOR STUDIES.*—(1) *The*  
22          *Secretary shall conduct—*

23                 (A) *an analysis of the Secretary's December 1,*  
24                 *1998, extension of the designation of the Southeast*  
25                 *High-Speed Rail Corridor as authorized under section*

1       104(d)(2) of title 23, United States Code, including  
2       an analysis of alternative routings for the corridor;

3               (B) a feasibility analysis regarding the expan-  
4       sion of the South Central High-Speed Rail Cor-  
5       ridor—

6                       (i) to Memphis, Tennessee;

7                       (ii) to the Port of Houston, Texas;

8                       (iii) through Killeen, Texas; and

9                       (iv) south of San Antonio, Texas, to a loca-  
10       tion in far south Texas to be chosen at the dis-  
11       cretion of the Secretary; and

12               (C) a feasibility analysis regarding the expan-  
13       sion of the Keystone Corridor to Cleveland, Ohio.

14       These analyses shall consider changes that have occurred in  
15       the region's population, anticipated patterns of population  
16       growth, connectivity with other modes of transportation, the  
17       ability of the proposed corridor to reduce regional traffic  
18       congestion, and the ability of current and proposed routings  
19       to enhance tourism. Within 1 year after the date of enact-  
20       ment of this Act, the Secretary shall submit a report on  
21       these analyses to the Committee on Transportation and In-  
22       frastructure of the House of Representatives and the Com-  
23       mittee on Commerce, Science, and Transportation of the  
24       Senate, and shall redesignate or modify corridor designa-  
25       tions based on these analyses, if necessary.

1           (2) *The Secretary shall establish a process for a State*  
2 *or group of States to petition the Secretary to redesignate*  
3 *or modify any designated high-speed rail corridors.*

4 **SEC. 225. REPORT ON SERVICE DELAYS ON CERTAIN PAS-**  
5 **SENGER RAIL ROUTES.**

6           *Within 6 months after the date of the enactment of this*  
7 *Act, the Inspector General of the Department of Transpor-*  
8 *tation shall submit to the Committee on Transportation*  
9 *and Infrastructure of the House of Representatives and the*  
10 *Committee on Commerce, Science, and Transportation of*  
11 *the Senate a report that—*

12                   (1) *describes service delays and the sources of*  
13 *such delays on—*

14                           (A) *the Amtrak passenger rail route between*  
15 *Seattle, Washington, and Los Angeles, California*  
16 *(commonly known as the “Coast Starlight”); and*

17                           (B) *the Amtrak passenger rail route between*  
18 *Vancouver, British Columbia, Canada, and Eu-*  
19 *gene, Oregon (commonly known as “Amtrak Cas-*  
20 *cades”); and*

21                   (2) *contains recommendations for improving the*  
22 *on-time performance of such routes.*

23 **SEC. 226. PLAN FOR RESTORATION OF SERVICE.**

24           *Within 9 months after the date of enactment of this*  
25 *Act, Amtrak shall transmit to the Committee on Transpor-*

1 *tation and Infrastructure of the House of Representatives*  
2 *and the Committee on Commerce, Science, and Transpor-*  
3 *tation of the Senate a plan for restoring passenger rail serv-*  
4 *ice between New Orleans, Louisiana, and Sanford, Florida.*  
5 *The plan shall include a projected timeline for restoring*  
6 *such service, the costs associated with restoring such service,*  
7 *and any proposals for legislation necessary to support such*  
8 *restoration of service. In developing the plan, Amtrak shall*  
9 *consult with representatives from the States of Louisiana,*  
10 *Alabama, Mississippi, and Florida, railroad carriers whose*  
11 *tracks may be used for such service, rail passengers, rail*  
12 *labor, and other entities as appropriate.*

13 **SEC. 227. MAINTENANCE AND REPAIR FACILITY UTILIZA-**  
14 **TION STUDY.**

15 *Within 9 months after the date of enactment of this*  
16 *Act, the Inspector General of the Department of Transpor-*  
17 *tation shall transmit to the Committee on Transportation*  
18 *and Infrastructure of the House of Representatives and the*  
19 *Committee on Commerce, Science, and Transportation of*  
20 *the Senate a report on Amtrak's utilization of its equipment*  
21 *maintenance and repair facilities, including the Beech*  
22 *Grove Mechanical Facility in Indiana. The report shall in-*  
23 *clude an examination of Amtrak's utilization of its existing*  
24 *equipment maintenance and repair facilities, the produc-*  
25 *tivity of such facilities, and the extent to which Amtrak is*

1 *maximizing opportunities for utilizing each facility, in-*  
2 *cluding the provision of maintenance and repair to other*  
3 *rail carriers. In developing this report, the Inspector Gen-*  
4 *eral shall consult with the Inspector General of Amtrak,*  
5 *Amtrak management, rail labor, and other railroad car-*  
6 *riers, as it deems appropriate.*

7 **SEC. 228. SENSE OF THE CONGRESS REGARDING THE NEED**  
8 **TO MAINTAIN AMTRAK AS A NATIONAL PAS-**  
9 **SENGER RAIL SYSTEM.**

10 (a) *FINDINGS.—The Congress makes the following*  
11 *findings:*

12 (1) *In fiscal year 2007, 3,800,000 passengers*  
13 *traveled on Amtrak’s long-distance trains, an increase*  
14 *of 2.4 percent over fiscal year 2006.*

15 (2) *Amtrak long-distance routes generated*  
16 *\$376,000,000 in revenue in fiscal year 2007, an in-*  
17 *crease of 5 percent over fiscal year 2006.*

18 (3) *Amtrak operates 15 long-distance trains over*  
19 *18,500 route miles that serve 39 States and the Dis-*  
20 *trict of Columbia. These trains provide the only rail*  
21 *passenger service to 23 States.*

22 (4) *Amtrak’s long-distance trains provide an es-*  
23 *sential transportation service for many communities*  
24 *and to a significant percentage of the general public.*

1           (5) *Many long-distance trains serve small com-*  
2           *munities with limited or no significant air or bus*  
3           *service, especially in remote or isolated areas in the*  
4           *United States.*

5           (6) *As a result of airline deregulation and deci-*  
6           *sions by national bus carriers to leave many commu-*  
7           *nities, rail transportation may provide the only fea-*  
8           *sible common carrier transportation option for a*  
9           *growing number of areas.*

10          (7) *If long-distance trains were eliminated, 23*  
11          *States and 243 communities would be left with no*  
12          *intercity passenger rail service and 16 other States*  
13          *would lose some rail service. These trains provide a*  
14          *strong economic benefit for the States and commu-*  
15          *nities that they serve.*

16          (8) *Long-distance trains also provide transpor-*  
17          *tation during periods of severe weather or emergencies*  
18          *that stall other modes of transportation.*

19          (9) *Amtrak provided the only reliable long-dis-*  
20          *tance transportation following the September 11,*  
21          *2001, terrorist attacks that grounded air travel.*

22          (10) *The majority of passengers on long-distance*  
23          *trains do not travel between the endpoints, but rather*  
24          *between any combination of cities along the route.*

1           (11) *Passenger trains provide transportation op-*  
2           *tions, mobility for underserved populations, conges-*  
3           *tion mitigation, and jobs in the areas they serve.*

4           (12) *Passenger rail has a positive impact on the*  
5           *environment compared to other modes of transpor-*  
6           *tation by conserving energy, reducing greenhouse gas*  
7           *emissions, and cutting down on other airborne partic-*  
8           *ulate and toxic emissions.*

9           (13) *Amtrak communities that are served use*  
10          *passenger rail and passenger rail stations as a sig-*  
11          *nificant source of economic development.*

12          (14) *This division makes meaningful and impor-*  
13          *tant reforms to increase the efficiency, profitability*  
14          *and on-time performance of Amtrak's long-distance*  
15          *routes.*

16          (b) *SENSE OF THE CONGRESS.—It is the sense of the*  
17          *Congress that—*

18               (1) *long-distance passenger rail is a vital and*  
19               *necessary part of our national transportation system*  
20               *and economy; and*

21               (2) *Amtrak should maintain a national pas-*  
22               *senger rail system, including long-distance routes,*  
23               *that connects the continental United States from coast*  
24               *to coast and from border to border.*

1                   **TITLE III—INTERCITY**  
 2                   **PASSENGER RAIL POLICY**

3 **SEC. 301. CAPITAL ASSISTANCE FOR INTERCITY PAS-**  
 4                   **SENGER RAIL SERVICE.**

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

7 **“CHAPTER 244—INTERCITY PASSENGER**  
 8                   **RAIL SERVICE CORRIDOR CAPITAL AS-**  
 9                   **SISTANCE**

“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.*

10 **“§ 24401. Definitions**

11           *“In this chapter:*

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

17                   “(2) *CAPITAL PROJECT.*—The term ‘capital  
 18                   project’ means a project or program in a State rail  
 19                   plan developed under chapter 227 of this title for—

20                           “(A) *acquiring, constructing, improving, or*  
 21                           *inspecting equipment, track and track structures,*  
 22                           *or a facility for use in or for the primary benefit*

1           *of intercity passenger rail service, expenses inci-*  
2           *dental to the acquisition or construction (includ-*  
3           *ing designing, engineering, location surveying,*  
4           *mapping, environmental studies, and acquiring*  
5           *rights-of-way), payments for the capital portions*  
6           *of rail trackage rights agreements, highway-rail*  
7           *grade crossing improvements related to intercity*  
8           *passenger rail service, mitigating environmental*  
9           *impacts, communication and signalization im-*  
10           *provements, relocation assistance, acquiring re-*  
11           *placement housing sites, and acquiring, con-*  
12           *structing, relocating, and rehabilitating replace-*  
13           *ment housing;*

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

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

19           *“(D) the first-dollar liability costs for insur-*  
20           *ance related to the provision of intercity pas-*  
21           *senger rail service under section 24404.*

22           *“(3) INTERCITY PASSENGER RAIL SERVICE.—The*  
23           *term ‘intercity passenger rail service’ means intercity*  
24           *rail passenger transportation, as defined in section*  
25           *24102 of this title.*

1 **“§24402. Capital investment grants to support inter-**  
2 **city passenger rail service**

3 “(a) *GENERAL AUTHORITY.*—

4 “(1) *The Secretary of Transportation may make*  
5 *grants under this section to an applicant to assist in*  
6 *financing the capital costs of facilities, infrastructure,*  
7 *and equipment necessary to provide or improve inter-*  
8 *city passenger rail transportation.*

9 “(2) *Consistent with the requirements of this*  
10 *chapter, the Secretary shall require that a grant*  
11 *under this section be subject to the terms, conditions,*  
12 *requirements, and provisions the Secretary decides*  
13 *are necessary or appropriate for the purposes of this*  
14 *section, including requirements for the disposition of*  
15 *net increases in value of real property resulting from*  
16 *the project assisted under this section and shall pre-*  
17 *scribe procedures and schedules for the awarding of*  
18 *grants under this title, including application and*  
19 *qualification procedures and a record of decision on*  
20 *applicant eligibility. The Secretary shall issue a final*  
21 *rule establishing such procedures not later than 2*  
22 *years after the date of enactment of the Passenger*  
23 *Rail Investment and Improvement Act of 2008. For*  
24 *the period prior to the earlier of the issuance of such*  
25 *a rule or 2 years after the date of enactment of such*  
26 *Act, the Secretary shall issue interim guidance to ap-*

1        *plicants covering such procedures, and administer the*  
2        *grant program authorized under this section pursuant*  
3        *to such guidance.*

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

5            *“(1) The Secretary may not approve a grant for*  
6            *a project under this section unless the Secretary finds*  
7            *that the project is part of a State rail plan developed*  
8            *under chapter 227 of this title, or under the plan re-*  
9            *quired by section 211 of the Passenger Rail Invest-*  
10           *ment and Improvement Act of 2008, and that the ap-*  
11           *plicant or recipient has or will have the legal, finan-*  
12           *cial, and technical capacity to carry out the project,*  
13           *satisfactory continuing control over the use of the*  
14           *equipment or facilities, and the capability and will-*  
15           *ingness to maintain the equipment or facilities.*

16           *“(2) An applicant shall provide sufficient infor-*  
17           *mation upon which the Secretary can make the find-*  
18           *ings required by this subsection.*

19           *“(3) If an applicant has not selected the pro-*  
20           *posed operator of its service competitively, the appli-*  
21           *cant shall provide written justification to the Sec-*  
22           *retary showing why the proposed operator is the best,*  
23           *taking into account price and other factors, and that*  
24           *use of the proposed operator will not unnecessarily in-*  
25           *crease the cost of the project.*

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

4           “(1) *require—*

5                   “(A) *that the project be part of a State rail*  
6 *plan developed under chapter 227 of this title, or*  
7 *under the plan required by section 211 of the*  
8 *Passenger Rail Investment and Improvement Act*  
9 *of 2008;*

10                   “(B) *that the applicant or recipient has or*  
11 *will have the legal, financial, and technical ca-*  
12 *capacity to carry out the project, satisfactory con-*  
13 *tinuing control over the use of the equipment or*  
14 *facilities, and the capability and willingness to*  
15 *maintain the equipment or facilities;*

16                   “(C) *that the applicant provides sufficient*  
17 *information upon which the Secretary can make*  
18 *the findings required by this subsection;*

19                   “(D) *that if an applicant has selected the*  
20 *proposed operator of its service competitively,*  
21 *that the applicant provide written justification*  
22 *to the Secretary showing why the proposed oper-*  
23 *ator is the best, taking into account costs and*  
24 *other factors;*

1           “(E) that each proposed project meet all  
2 safety and security requirements that are appli-  
3 cable to the project under law; and

4           “(F) that each project be compatible with,  
5 and operated in conformance with—

6           “(i) plans developed pursuant to the  
7 requirements of section 135 of title 23,  
8 United States Code; and

9           “(ii) the national rail plan (if it is  
10 available);

11          “(2) select projects—

12           “(A) that are anticipated to result in sig-  
13 nificant improvements to intercity rail passenger  
14 service, including, but not limited to, consider-  
15 ation of—

16           “(i) the project’s levels of estimated  
17 ridership, increased on-time performance,  
18 reduced trip time, additional service fre-  
19 quency to meet anticipated or existing de-  
20 mand, or other significant service enhance-  
21 ments as measured against minimum  
22 standards developed under section 207 of  
23 the Passenger Rail Investment and Im-  
24 provement Act of 2008;

1           “(ii) the project’s anticipated favorable  
2           impact on air or highway traffic congestion,  
3           capacity, or safety; and

4           “(iii) identification of the project by  
5           the Surface Transportation Board as nec-  
6           essary to improve the on-time performance  
7           and reliability of intercity passenger rail  
8           under section 24308(f);

9           “(B) for which there is a high degree of con-  
10          fidence that the proposed project is feasible and  
11          will result in the anticipated benefits, as indi-  
12          cated by—

13           “(i) the project’s precommencement  
14           compliance with environmental protection  
15           requirements;

16           “(ii) the readiness of the project to be  
17           commenced;

18           “(iii) the timing and amount of the  
19           project’s future noncommitted investments;

20           “(iv) the commitment of any affected  
21           host rail carrier to ensure the realization of  
22           the anticipated benefits; and

23           “(v) other relevant factors as deter-  
24           mined by the Secretary; and

1           “(C) for which the level of the anticipated  
2           benefits compares favorably to the amount of  
3           Federal funding requested under this chapter;  
4           and

5           “(3) give greater consideration to projects—

6           “(A) that are anticipated to result in bene-  
7           fits to other modes transportation and to the  
8           public at large, including, but not limited to,  
9           consideration of the project’s—

10           “(i) encouragement of intermodal  
11           connectivity through provision of direct con-  
12           nections between train stations, airports,  
13           bus terminals, subway stations, ferry ports,  
14           and other modes of transportation;

15           “(ii) anticipated improvement of  
16           freight or commuter rail operations;

17           “(iii) encouragement of the use of posi-  
18           tive train control technologies;

19           “(iv) environmental benefits, including  
20           projects that involve the purchase of envi-  
21           ronmentally sensitive, fuel-efficient, and  
22           cost-effective passenger rail equipment;

23           “(v) anticipated positive economic and  
24           employment impacts;

1           “(vi) encouragement of State and pri-  
2           vate contributions toward station develop-  
3           ment, energy and environmentally effi-  
4           ciency, and economic benefits; and

5           “(vii) falling under the description in  
6           section 5302(a)(1)(G) of this title as defined  
7           to support intercity passenger rail service;  
8           and

9           “(B) that incorporate equitable financial  
10          participation in the project’s financing, includ-  
11          ing, but not limited to, consideration of—

12           “(i) donated property interests or serv-  
13           ices;

14           “(ii) financial contributions by freight  
15           and commuter rail carriers commensurate  
16           with the benefit expected to their operations;  
17           and

18           “(iii) financial commitments from host  
19           railroads, non-Federal governmental enti-  
20           ties, nongovernmental entities, and others.

21          “(d) *STATE RAIL PLANS*.—State rail plans completed  
22          before the date of enactment of the Passenger Rail Invest-  
23          ment and Improvement Act of 2008 that substantially meet  
24          the requirements of chapter 227 of this title, as determined  
25          by the Secretary pursuant to section 22506 of this title,

1 *shall be deemed by the Secretary to have met the require-*  
2 *ments of subsection (c)(1)(A) of this section.*

3       “(e) *AMTRAK ELIGIBILITY.*—*To receive a grant under*  
4 *this section, Amtrak may enter into a cooperative agree-*  
5 *ment with 1 or more States to carry out 1 or more projects*  
6 *on a State rail plan’s ranked list of rail capital projects*  
7 *developed under section 22504(a)(5) of this title. For such*  
8 *a grant, Amtrak may not use Federal funds authorized*  
9 *under section 101(a) or (c) of the Passenger Rail Investment*  
10 *and Improvement Act of 2008 to fulfill the non-Federal*  
11 *share requirements under subsection (g) of this section.*

12       “(f) *LETTERS OF INTENT AND EARLY SYSTEMS WORK*  
13 *AGREEMENTS.*—

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

21               “(2) *At least 30 days before issuing a letter*  
22 *under paragraph (1) of this subsection, the Secretary*  
23 *shall notify in writing the Committee on Transpor-*  
24 *tation and Infrastructure of the House of Representa-*  
25 *tives, the Committee on Commerce, Science, and*

1       *Transportation of the Senate, and the House and*  
2       *Senate Committees on Appropriations of the proposed*  
3       *letter or agreement. The Secretary shall include with*  
4       *the notification a copy of the proposed letter or agree-*  
5       *ment, the criteria used in subsection (c) for selecting*  
6       *the project for a grant award, and a description of*  
7       *how the project meets such criteria.*

8               *“(3) An obligation or administrative commit-*  
9       *ment may be made only when amounts are appro-*  
10       *riated. The letter of intent shall state that the con-*  
11       *tingent commitment is not an obligation of the Fed-*  
12       *eral Government, and is subject to the availability of*  
13       *appropriations under Federal law and to Federal*  
14       *laws in force or enacted after the date of the contin-*  
15       *gent commitment.*

16       *“(g) FEDERAL SHARE OF NET PROJECT COST.—*

17               *“(1)(A) Based on engineering studies, studies of*  
18       *economic feasibility, and information on the expected*  
19       *use of equipment or facilities, the Secretary shall esti-*  
20       *mate the net project cost.*

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

23               *“(C) The Secretary shall give priority in allo-*  
24       *cating future obligations and contingent commitments*

1 *to incur obligations to grant requests seeking a lower*  
2 *Federal share of the project net capital cost.*

3 *“(2) Up to an additional 20 percent of the re-*  
4 *quired non-Federal funds may be funded from*  
5 *amounts appropriated to or made available to a de-*  
6 *partment or agency of the Federal Government that*  
7 *are eligible to be expended for transportation.*

8 *“(3) The following amounts, not to exceed*  
9 *\$15,000,000 per fiscal year, shall be available to each*  
10 *applicant as a credit toward an applicant’s matching*  
11 *requirement for a grant awarded under this section—*

12 *“(A) in each of fiscal years 2009, 2010, and*  
13 *2011—*

14 *“(i) 50 percent of the average of*  
15 *amounts expended in fiscal years 2002*  
16 *through 2008 by an applicant for capital*  
17 *projects related to intercity passenger rail*  
18 *service; and*

19 *“(ii) 50 percent of the average of*  
20 *amounts expended in fiscal years 2002*  
21 *through 2008 by an applicant for operating*  
22 *costs of such service; and*

23 *“(B) in each of fiscal years 2010, 2011 and*  
24 *2012, 50 percent of the amount by which the*  
25 *amounts expended for capital projects and oper-*

1            *ating costs related to intercity passenger rail*  
2            *service by an applicant in the prior fiscal year*  
3            *exceed the average capital and operating expend-*  
4            *itures made for such service in fiscal years 2006,*  
5            *2007, and 2008.*

6            *The Secretary may require such information as nec-*  
7            *essary to verify such expenditures. Credits made*  
8            *available to an applicant in a fiscal year under this*  
9            *paragraph may only be applied towards grants*  
10           *awarded in that fiscal year.*

11           *“(4) The Federal share of expenditures for cap-*  
12           *ital improvements under this chapter may not exceed*  
13           *100 percent.*

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

22           *“(i) COOPERATIVE AGREEMENTS.—*

23           *“(1) IN GENERAL.—A metropolitan planning or-*  
24           *ganization, State transportation department, or other*  
25           *project sponsor may enter into an agreement with*

1        *any public, private, or nonprofit entity to coopera-*  
2        *tively implement any project funded with a grant*  
3        *under this chapter.*

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

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

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

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

14                      “(D) *any other form of participation ap-*  
15                      *proved by the Secretary.*

16                “(3) *SUBALLOCATION.—A State may allocate*  
17        *funds under this section to any entity described in*  
18        *paragraph (1).*

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

23                      “(1) *in which there is no intercity passenger rail*  
24                      *service for the purpose of funding freight rail capital*  
25                      *projects that are on a State rail plan developed under*

1 *chapter 227 of this title that provide public benefits*  
2 *(as defined in chapter 227) as determined by the Sec-*  
3 *retary; or*

4 *“(2) in which the rail transportation system is*  
5 *not physically connected to rail systems in the conti-*  
6 *ental United States or may not otherwise qualify for*  
7 *a grant under this section due to the unique charac-*  
8 *teristics of the geography of that State or other rel-*  
9 *evant considerations, for the purpose of funding*  
10 *transportation-related capital projects.*

11 *“(k) SMALL CAPITAL PROJECTS.—The Secretary shall*  
12 *make not less than 5 percent annually available from the*  
13 *amounts authorized under section 101(c) of the Passenger*  
14 *Rail Investment and Improvement Act of 2008 beginning*  
15 *in fiscal year 2009 for grants for capital projects eligible*  
16 *under this section not exceeding \$2,000,000, including costs*  
17 *eligible under section 209(d) of that Act. For grants award-*  
18 *ed under this subsection, the Secretary may waive require-*  
19 *ments of this section, including state rail plan require-*  
20 *ments, as appropriate.*

21 *“(l) NONMOTORIZED TRANSPORTATION ACCESS AND*  
22 *STORAGE.—Grants under this chapter may be used to pro-*  
23 *vide access to rolling stock for nonmotorized transportation,*  
24 *including bicycles, and recreational equipment, and to pro-*

1 *vide storage capacity in trains for such transportation,*  
2 *equipment, and other luggage, to ensure passenger safety.*

3 **“§24403. Project management oversight**

4       “(a) *PROJECT MANAGEMENT PLAN REQUIREMENTS.—*  
5 *To receive Federal financial assistance for a major capital*  
6 *project under this chapter, an applicant must prepare and*  
7 *carry out a project management plan approved by the Sec-*  
8 *retary of Transportation. The plan shall provide for—*

9               “(1) *adequate recipient staff organization with*  
10 *well-defined reporting relationships, statements of*  
11 *functional responsibilities, job descriptions, and job*  
12 *qualifications;*

13               “(2) *a budget covering the project management*  
14 *organization, appropriate consultants, property ac-*  
15 *quisition, utility relocation, systems demonstration*  
16 *staff, audits, and miscellaneous payments the recipi-*  
17 *ent may be prepared to justify;*

18               “(3) *a construction schedule for the project;*

19               “(4) *a document control procedure and record-*  
20 *keeping system;*

21               “(5) *a change order procedure that includes a*  
22 *documented, systematic approach to handling the con-*  
23 *struction change orders;*

1           “(6) *organizational structures, management*  
2           *skills, and staffing levels required throughout the con-*  
3           *struction phase;*

4           “(7) *quality control and quality assurance func-*  
5           *tions, procedures, and responsibilities for construc-*  
6           *tion, system installation, and integration of system*  
7           *components;*

8           “(8) *material testing policies and procedures;*

9           “(9) *internal plan implementation and reporting*  
10          *requirements;*

11          “(10) *criteria and procedures to be used for test-*  
12          *ing the operational system or its major components;*

13          “(11) *periodic updates of the plan, especially re-*  
14          *lated to project budget and project schedule, financ-*  
15          *ing, and ridership estimates; and*

16          “(12) *the recipient’s commitment to submit peri-*  
17          *odically a project budget and project schedule to the*  
18          *Secretary.*

19          “(b) *SECRETARIAL OVERSIGHT.—*

20                 “(1) *The Secretary may use no more than 1 per-*  
21                 *cent of amounts made available in a fiscal year for*  
22                 *capital projects under this chapter to enter into con-*  
23                 *tracts to oversee the construction of such projects.*

24                 “(2) *The Secretary may use amounts available*  
25                 *under paragraph (1) of this subsection to make con-*

1        *tracts for safety, procurement, management, and fi-*  
2        *nancial compliance reviews and audits of a recipient*  
3        *of amounts under paragraph (1).*

4            *“(3) The Federal Government shall pay the en-*  
5        *tire cost of carrying out a contract under this sub-*  
6        *section.*

7            *“(c) ACCESS TO SITES AND RECORDS.—Each recipi-*  
8        *ent of assistance under this chapter shall provide the Sec-*  
9        *retary and a contractor the Secretary chooses under sub-*  
10       *section (b) of this section with access to the construction*  
11       *sites and records of the recipient when reasonably necessary.*

12       **“§24404. Use of capital grants to finance first-dollar**  
13                            ***liability of grant project***

14            *“Notwithstanding the requirements of section 24402 of*  
15        *this chapter, the Secretary of Transportation may approve*  
16        *the use of a capital assistance grant under this chapter to*  
17        *fund self-insured retention of risk for the first tier of liabil-*  
18        *ity insurance coverage for rail passenger service associated*  
19        *with the grant, but the coverage may not exceed \$20,000,000*  
20        *per occurrence or \$20,000,000 in aggregate per year.*

21       **“§24405. Grant conditions**

22            *“(a) BUY AMERICA.—(1) The Secretary of Transpor-*  
23        *tation may obligate an amount that may be appropriated*  
24        *to carry out this chapter for a project only if the steel, iron,*

1 *and manufactured goods used in the project are produced*  
2 *in the United States.*

3       “(2) *The Secretary of Transportation may waive para-*  
4 *graph (1) of this subsection if the Secretary finds that—*

5               “(A) *applying paragraph (1) would be incon-*  
6 *sistent with the public interest;*

7               “(B) *the steel, iron, and goods produced in the*  
8 *United States are not produced in a sufficient and*  
9 *reasonably available amount or are not of a satisfac-*  
10 *tory quality;*

11               “(C) *rolling stock or power train equipment can-*  
12 *not be bought and delivered in the United States*  
13 *within a reasonable time; or*

14               “(D) *including domestic material will increase*  
15 *the cost of the overall project by more than 25 percent.*

16       “(3) *For purposes of this subsection, in calculating the*  
17 *components’ costs, labor costs involved in final assembly*  
18 *shall not be included in the calculation.*

19       “(4) *If the Secretary determines that it is necessary*  
20 *to waive the application of paragraph (1) based on a find-*  
21 *ing under paragraph (2), the Secretary shall, before the date*  
22 *on which such finding takes effect—*

23               “(A) *publish in the Federal Register a detailed*  
24 *written justification as to why the waiver is needed;*  
25 *and*

1           “(B) provide notice of such finding and an op-  
2           portunity for public comment on such finding for a  
3           reasonable period of time not to exceed 15 days.

4           “(5) Not later than December 31, 2012, the Secretary  
5           shall submit to the Committee on Transportation and In-  
6           frastructure of the House of Representatives and the Com-  
7           mittee on Commerce, Science, and Transportation of the  
8           Senate a report on any waivers granted under paragraph  
9           (2).

10          “(6) The Secretary of Transportation may not make  
11          a waiver under paragraph (2) of this subsection for goods  
12          produced in a foreign country if the Secretary, in consulta-  
13          tion with the United States Trade Representative, decides  
14          that the government of that foreign country—

15                 “(A) has an agreement with the United States  
16          Government under which the Secretary has waived  
17          the requirement of this subsection; and

18                 “(B) has violated the agreement by discrimi-  
19          nating against goods to which this subsection applies  
20          that are produced in the United States and to which  
21          the agreement applies.

22          “(7) A person is ineligible to receive a contract or sub-  
23          contract made with amounts authorized under this chapter  
24          if a court or department, agency, or instrumentality of the  
25          Government decides the person intentionally—

1           “(A) affixed a ‘Made in America’ label, or a  
2           label with an inscription having the same meaning,  
3           to goods sold in or shipped to the United States that  
4           are used in a project to which this subsection applies  
5           but not produced in the United States; or

6           “(B) represented that goods described in sub-  
7           paragraph (A) of this paragraph were produced in  
8           the United States.

9           “(8) The Secretary may not impose any limitation on  
10          assistance provided under this chapter that restricts a State  
11          from imposing more stringent requirements than this sub-  
12          section on the use of articles, materials, and supplies mined,  
13          produced, or manufactured in foreign countries in projects  
14          carried out with that assistance or restricts a recipient of  
15          that assistance from complying with those State-imposed  
16          requirements.

17          “(9) The Secretary may allow a manufacturer or sup-  
18          plier of steel, iron, or manufactured goods to correct after  
19          bid opening any certification of noncompliance or failure  
20          to properly complete the certification (but not including  
21          failure to sign the certification) under this subsection if  
22          such manufacturer or supplier attests under penalty of per-  
23          jury that such manufacturer or supplier submitted an in-  
24          correct certification as a result of an inadvertent or clerical

1 *error. The burden of establishing inadvertent or clerical*  
2 *error is on the manufacturer or supplier.*

3       “(10) *A party adversely affected by an agency action*  
4 *under this subsection shall have the right to seek review*  
5 *under section 702 of title 5.*

6       “(11) *The requirements of this subsection shall only*  
7 *apply to projects for which the costs exceed \$100,000.*

8       “(b) *OPERATORS DEEMED RAIL CARRIERS AND EM-*  
9 *PLOYERS FOR CERTAIN PURPOSES.—A person that con-*  
10 *ducts rail operations over rail infrastructure constructed or*  
11 *improved with funding provided in whole or in part in a*  
12 *grant made under this chapter shall be considered a rail*  
13 *carrier as defined in section 10102(5) of this title for pur-*  
14 *poses of this title and any other statute that adopts that*  
15 *definition or in which that definition applies, including—*

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

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

20               “(3) *the Railroad Unemployment Insurance Act*  
21 *(45 U.S.C. 351 et seq.).*

22       “(c) *GRANT CONDITIONS.—The Secretary shall require*  
23 *as a condition of making any grant under this chapter for*  
24 *a project that uses rights-of-way owned by a railroad that—*

1           “(1) a written agreement exist between the appli-  
2           cant and the railroad regarding such use and owner-  
3           ship, including—

4                   “(A) any compensation for such use;

5                   “(B) assurances regarding the adequacy of  
6           infrastructure capacity to accommodate both ex-  
7           isting and future freight and passenger oper-  
8           ations;

9                   “(C) an assurance by the railroad that col-  
10          lective bargaining agreements with the railroad’s  
11          employees (including terms regulating the con-  
12          tracting of work) will remain in full force and  
13          effect according to their terms for work per-  
14          formed by the railroad on the railroad transpor-  
15          tation corridor; and

16                  “(D) an assurance that an applicant com-  
17          plies with liability requirements consistent with  
18          section 28103 of this title; and

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

20                  “(A) the standards of section 24312 of this  
21          title, as such section was in effect on September  
22          1, 2003, with respect to the project in the same  
23          manner that Amtrak is required to comply with  
24          those standards for construction work financed

1           *under an agreement made under section*  
2           *24308(a) of this title; and*

3           *“(B) the protective arrangements established*  
4           *under section 504 of the Railroad Revitalization*  
5           *and Regulatory Reform Act of 1976 (45 U.S.C.*  
6           *836) with respect to employees affected by ac-*  
7           *tions taken in connection with the project to be*  
8           *financed in whole or in part by grants under*  
9           *this chapter.*

10          *“(d) REPLACEMENT OF EXISTING INTERCITY PAS-*  
11          *SENGER RAIL SERVICE.—*

12           *“(1) COLLECTIVE BARGAINING AGREEMENT FOR*  
13          *INTERCITY PASSENGER RAIL PROJECTS.—Any entity*  
14          *providing intercity passenger railroad transportation*  
15          *that begins operations after the date of enactment of*  
16          *this Act on a project funded in whole or in part by*  
17          *grants made under this chapter and replaces intercity*  
18          *rail passenger service that was provided by Amtrak,*  
19          *unless such service was provided solely by Amtrak to*  
20          *another entity, as of such date shall enter into an*  
21          *agreement with the authorized bargaining agent or*  
22          *agents for adversely affected employees of the prede-*  
23          *cessor provider that—*

24            *“(A) gives each such qualified employee of*  
25            *the predecessor provider priority in hiring ac-*

1           *ording to the employee’s seniority on the prede-*  
2           *cessor provider for each position with the replac-*  
3           *ing entity that is in the employee’s craft or class*  
4           *and is available within 3 years after the termi-*  
5           *nation of the service being replaced;*

6           *“(B) establishes a procedure for notifying*  
7           *such an employee of such positions;*

8           *“(C) establishes a procedure for such an em-*  
9           *ployee to apply for such positions; and*

10          *“(D) establishes rates of pay, rules, and*  
11          *working conditions.*

12          *“(2) IMMEDIATE REPLACEMENT SERVICE.—*

13            *“(A) NEGOTIATIONS.—If the replacement of*  
14            *preexisting intercity rail passenger service occurs*  
15            *concurrent with or within a reasonable time be-*  
16            *fore the commencement of the replacing entity’s*  
17            *rail passenger service, the replacing entity shall*  
18            *give written notice of its plan to replace existing*  
19            *rail passenger service to the authorized collective*  
20            *bargaining agent or agents for the potentially*  
21            *adversely affected employees of the predecessor*  
22            *provider at least 90 days before the date on*  
23            *which it plans to commence service. Within 5*  
24            *days after the date of receipt of such written no-*  
25            *tice, negotiations between the replacing entity*

1           *and the collective bargaining agent or agents for*  
2           *the employees of the predecessor provider shall*  
3           *commence for the purpose of reaching agreement*  
4           *with respect to all matters set forth in subpara-*  
5           *graphs (A) through (D) of paragraph (1). The*  
6           *negotiations shall continue for 30 days or until*  
7           *an agreement is reached, whichever is sooner. If*  
8           *at the end of 30 days the parties have not en-*  
9           *tered into an agreement with respect to all such*  
10          *matters, the unresolved issues shall be submitted*  
11          *for arbitration in accordance with the procedure*  
12          *set forth in subparagraph (B).*

13                 “(B) *ARBITRATION.*—*If an agreement has*  
14                 *not been entered into with respect to all matters*  
15                 *set forth in subparagraphs (A) through (D) of*  
16                 *paragraph (1) as described in subparagraph (A)*  
17                 *of this paragraph, the parties shall select an ar-*  
18                 *bitrator. If the parties are unable to agree upon*  
19                 *the selection of such arbitrator within 5 days, ei-*  
20                 *ther or both parties shall notify the National Me-*  
21                 *diation Board, which shall provide a list of seven*  
22                 *arbitrators with experience in arbitrating rail*  
23                 *labor protection disputes. Within 5 days after*  
24                 *such notification, the parties shall alternately*  
25                 *strike names from the list until only 1 name re-*

1           *mains, and that person shall serve as the neutral*  
2           *arbitrator. Within 45 days after selection of the*  
3           *arbitrator, the arbitrator shall conduct a hearing*  
4           *on the dispute and shall render a decision with*  
5           *respect to the unresolved issues among the mat-*  
6           *ters set forth in subparagraphs (A) through (D)*  
7           *of paragraph (1). The arbitrator shall be guided*  
8           *by prevailing national standard rates of pay,*  
9           *benefits, and working conditions for comparable*  
10          *work. This decision shall be final, binding, and*  
11          *conclusive upon the parties. The salary and ex-*  
12          *penses of the arbitrator shall be borne equally by*  
13          *the parties; all other expenses shall be paid by*  
14          *the party incurring them.*

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

21           “(4) *SUBSEQUENT REPLACEMENT OF SERVICE.*—  
22          *If the replacement of existing rail passenger service*  
23          *takes place within 3 years after the replacing entity*  
24          *commences intercity passenger rail service, the replac-*  
25          *ing entity and the collective bargaining agent or*

1        *agents for the adversely affected employees of the pred-*  
2        *ecessor provider shall enter into an agreement with*  
3        *respect to the matters set forth in subparagraphs (A)*  
4        *through (D) of paragraph (1). If the parties have not*  
5        *entered into an agreement with respect to all such*  
6        *matters within 60 days after the date on which the*  
7        *replacing entity replaces the predecessor provider, the*  
8        *parties shall select an arbitrator using the procedures*  
9        *set forth in paragraph (2)(B), who shall, within 20*  
10       *days after the commencement of the arbitration, con-*  
11       *duct a hearing and decide all unresolved issues. This*  
12       *decision shall be final, binding, and conclusive upon*  
13       *the parties.*

14       “(e) *INAPPLICABILITY TO CERTAIN RAIL OPER-*  
15       *ATIONS.—Nothing in this section applies to—*

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

24                “(2) *the Alaska Railroad or its contractors; or*

1           “(3) *Amtrak’s access rights to railroad rights of*  
2           *way and facilities under current law.*

3           “(f) *LIMITATION.—No grants shall be provided under*  
4           *this chapter for commuter rail passenger transportation, as*  
5           *defined in section 24102(4) of this title.*

6           **“§ 24406. Authorization of appropriations**

7           *“There are authorized to be appropriated to the Sec-*  
8           *retary of Transportation for capital grants under this chap-*  
9           *ter the following amounts:*

10           *“(1) For fiscal year 2009, \$100,000,000.*

11           *“(2) For fiscal year 2010, \$300,000,000.*

12           *“(3) For fiscal year 2011, \$400,000,000.*

13           *“(4) For fiscal year 2012, \$500,000,000.*

14           *“(5) For fiscal year 2013, \$600,000,000.”.*

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

*“244. INTERCITY PASSENGER RAIL SERVICE CORRIDOR CAP-*  
*ITAL ASSISTANCE ..... 24401”.*

18           (c) *ASSISTANCE.—In implementing section 24405(a)*  
19           *of title 49, United States Code, the Federal Highway Ad-*  
20           *ministration shall, upon request by the Federal Railroad*  
21           *Administration, assist the Federal Railroad Administra-*  
22           *tion in developing a process for posting on its website or*  
23           *distributing via email notices of waiver requests received*  
24           *pursuant to such subsection and soliciting public comments*

1 *on the intent to issue a waiver. The Federal Railroad Ad-*  
2 *ministration's development of such a process does not relieve*  
3 *the Federal Railroad Administration of the requirements*  
4 *under paragraph (4) of such subsection.*

5 **SEC. 302. CONGESTION GRANTS.**

6       (a) *AMENDMENT.*—Chapter 241 of title 49, United  
7 States Code, is amended by adding at the end the following  
8 new section:

9 **“§24105. Congestion grants**

10       “(a) *AUTHORITY.*—The Secretary of Transportation  
11 may make grants to States, or to Amtrak in cooperation  
12 with States, for financing the capital costs of facilities, in-  
13 frastructure, and equipment for high priority rail corridor  
14 projects necessary to reduce congestion or facilitate rider-  
15 ship growth in intercity rail passenger transportation.

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

18               “(1) *identified by Amtrak as necessary to reduce*  
19 *congestion or facilitate ridership growth in intercity*  
20 *rail passenger transportation along heavily traveled*  
21 *rail corridors;*

22               “(2) *identified by the Surface Transportation*  
23 *Board as necessary to improve the on time perform-*  
24 *ance and reliability of intercity rail passenger trans-*  
25 *portation under section 24308(f); and*

1           “(3) *designated by the Secretary as being suffi-*  
2           *ciently advanced in development to be capable of serv-*  
3           *ing the purposes described in subsection (a) on an ex-*  
4           *pedited schedule.*

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

8           “(d) *GRANT CONDITIONS.—The Secretary of Transpor-*  
9           *tation shall require each recipient of a grant under this*  
10          *section to comply with the grant requirements of section*  
11          *24405 of this title.*

12          “(e) *AUTHORIZATION OF APPROPRIATIONS.—There are*  
13          *authorized to be appropriated, from amounts made avail-*  
14          *able under section 301 of the Passenger Rail Investment*  
15          *and Improvement Act of 2008, to the Secretary to carry*  
16          *out this section—*

17                  “(1) *\$50,000,000 for fiscal year 2010;*

18                  “(2) *\$75,000,000 for fiscal year 2011;*

19                  “(3) *\$100,000,000 for fiscal year 2012; and*

20                  “(4) *\$100,000,000 for fiscal year 2013.”.*

21          “(b) *TABLE OF SECTIONS AMENDMENT.—The table of*  
22          *sections for such chapter 241 is amended by adding at the*  
23          *end the following new item:*

                “24105. *Congestion grants.”.*

1 **SEC. 303. STATE RAIL PLANS.**

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

4       **“CHAPTER 227—STATE RAIL PLANS**

“Sec.

“22701. *Definitions.*

“22702. *Authority.*

“22703. *Purposes.*

“22704. *Transparency; coordination; review.*

“22705. *Content.*

“22706. *Review.*

5       **“§ 22701. Definitions**

6       *“In this subchapter:*

7               “(1) *PRIVATE BENEFIT.*—

8                       “(A) *IN GENERAL.*—The term ‘private ben-  
9                       *efit’—*

10                               “(i) *means a benefit accrued to a per-*  
11                               *son or private entity, other than Amtrak,*  
12                               *that directly improves the economic and*  
13                               *competitive condition of that person or enti-*  
14                               *ty through improved assets, cost reductions,*  
15                               *service improvements, or any other means*  
16                               *as defined by the Secretary; and*

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

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

1           “(2) *PUBLIC BENEFIT.*—

2                   “(A) *IN GENERAL.*—*The term ‘public ben-*  
3 *efit’—*

4                           “(i) *means a benefit accrued to the*  
5 *public, including Amtrak, in the form of en-*  
6 *hanced mobility of people or goods, environ-*  
7 *mental protection or enhancement, conges-*  
8 *tion mitigation, enhanced trade and eco-*  
9 *nomi c development, improved air quality or*  
10 *land use, more efficient energy use, en-*  
11 *hanced public safety or security, reduction*  
12 *of public expenditures due to improved*  
13 *transportation efficiency or infrastructure*  
14 *preservation, and any other positive com-*  
15 *munity effects as defined by the Secretary;*  
16 *and*

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

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

23                   “(3) *STATE.*—*The term ‘State’ means any of the*  
24 *50 States and the District of Columbia.*

1           “(4) *STATE RAIL TRANSPORTATION AUTHOR-*  
2           *ITY.*—*The term ‘State rail transportation authority’*  
3           *means the State agency or official responsible under*  
4           *the direction of the Governor of the State or a State*  
5           *law for preparation, maintenance, coordination, and*  
6           *administration of the State rail plan.*

7   **“§ 22702. Authority**

8           “(a) *IN GENERAL.*—*Each State may prepare and*  
9           *maintain a State rail plan in accordance with the provi-*  
10          *sions of this chapter.*

11          “(b) *REQUIREMENTS.*—*The Secretary shall establish*  
12          *the minimum requirements for the preparation and peri-*  
13          *odic revision of a State rail plan, including that a State*  
14          *shall—*

15                 “(1) *establish or designate a State rail transpor-*  
16                 *tation authority to prepare, maintain, coordinate,*  
17                 *and administer the plan;*

18                 “(2) *establish or designate a State rail plan ap-*  
19                 *proval authority to approve the plan;*

20                 “(3) *submit the State’s approved plan to the Sec-*  
21                 *retary of Transportation for review; and*

22                 “(4) *revise and resubmit a State-approved plan*  
23                 *no less frequently than once every 5 years for re-*  
24                 *approval by the Secretary.*

1 **“§ 22703. Purposes**

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

4               “(1) *To set forth State policy involving freight*  
5 *and passenger rail transportation, including com-*  
6 *muter rail operations, in the State.*

7               “(2) *To establish the period covered by the State*  
8 *rail plan.*

9               “(3) *To present priorities and strategies to en-*  
10 *hance rail service in the State that benefits the public.*

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

13       “(b) *COORDINATION.*—*A State rail plan shall be co-*  
14 *ordinated with other State transportation planning goals*  
15 *and programs, including the plan required under section*  
16 *135 of title 23, and set forth rail transportation’s role with-*  
17 *in the State transportation system.*

18 **“§ 22704. Transparency; coordination; review**

19       “(a) *PREPARATION.*—*A State shall provide adequate*  
20 *and reasonable notice and opportunity for comment and*  
21 *other input to the public, rail carriers, commuter and tran-*  
22 *sit authorities operating in, or affected by rail operations*  
23 *within the State, units of local government, and other inter-*  
24 *ested parties in the preparation and review of its State rail*  
25 *plan.*

1       “(b) *INTERGOVERNMENTAL COORDINATION.*—A State  
2 shall review the freight and passenger rail service activities  
3 and initiatives by regional planning agencies, regional  
4 transportation authorities, and municipalities within the  
5 State, or in the region in which the State is located, while  
6 preparing the plan, and shall include any recommendations  
7 made by such agencies, authorities, and municipalities as  
8 deemed appropriate by the State.

9       **“§22705. Content**

10       “(a) *IN GENERAL.*—Each State rail plan shall, at a  
11 minimum, contain the following:

12               “(1) An inventory of the existing overall rail  
13 transportation system and rail services and facilities  
14 within the State and an analysis of the role of rail  
15 transportation within the State’s surface transpor-  
16 tation system.

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

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

23               “(4) A general analysis of rail’s transportation,  
24 economic, and environmental impacts in the State,  
25 including congestion mitigation, trade and economic

1       *development, air quality, land-use, energy-use, and*  
2       *community impacts.*

3               “(5) *A long-range rail investment program for*  
4       *current and future freight and passenger infrastruc-*  
5       *ture in the State that meets the requirements of sub-*  
6       *section (b).*

7               “(6) *A statement of public financing issues for*  
8       *rail projects and service in the State, including a list*  
9       *of current and prospective public capital and oper-*  
10       *ating funding resources, public subsidies, State tax-*  
11       *ation, and other financial policies relating to rail in-*  
12       *frastructure development.*

13               “(7) *An identification of rail infrastructure*  
14       *issues within the State that reflects consultation with*  
15       *all relevant stakeholders.*

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

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

1           “(10) *A performance evaluation of passenger rail*  
2           *services operating in the State, including possible im-*  
3           *provements in those services, and a description of*  
4           *strategies to achieve those improvements.*

5           “(11) *A compilation of studies and reports on*  
6           *high-speed rail corridor development within the State*  
7           *not included in a previous plan under this sub-*  
8           *chapter, and a plan for funding any recommended de-*  
9           *velopment of such corridors in the State.*

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

12           “(b) *LONG-RANGE SERVICE AND INVESTMENT PRO-*  
13           *GRAM.—*

14           “(1) *PROGRAM CONTENT.—A long-range rail in-*  
15           *vestment program included in a State rail plan*  
16           *under subsection (a)(5) shall, at a minimum, include*  
17           *the following matters:*

18                   “(A) *A list of any rail capital projects ex-*  
19                   *pected to be undertaken or supported in whole or*  
20                   *in part by the State.*

21                   “(B) *A detailed funding plan for those*  
22                   *projects.*

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

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

3           “(B) a statement of the correlation be-  
4           tween—

5                   “(i) public funding contributions for  
6                   the projects; and

7                   “(ii) the public benefits.

8           “(3) CONSIDERATIONS FOR PROJECT LIST.—In  
9           preparing the list of freight and intercity passenger  
10          rail capital projects, a State rail transportation au-  
11          thority should take into consideration the following  
12          matters:

13                   “(A) Contributions made by non-Federal  
14                   and non-State sources through user fees, match-  
15                   ing funds, or other private capital involvement.

16                   “(B) Rail capacity and congestion effects.

17                   “(C) Effects on highway, aviation, and  
18                   maritime capacity, congestion, or safety.

19                   “(D) Regional balance.

20                   “(E) Environmental impact.

21                   “(F) Economic and employment impacts.

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

1 **“§22706. Review**

2       *“The Secretary shall prescribe procedures for States to*  
 3 *submit State rail plans for review under this title, includ-*  
 4 *ing standardized format and data requirements. State rail*  
 5 *plans completed before the date of enactment of the Pas-*  
 6 *senger Rail Investment and Improvement Act of 2008 that*  
 7 *substantially meet the requirements of this chapter, as de-*  
 8 *termined by the Secretary, shall be deemed by the Secretary*  
 9 *to have met the requirements of this chapter.”.*

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

**“227. State rail plans .....22701”.**

13 **SEC. 304. TUNNEL PROJECT.**

14       **(a) NEW TUNNEL ALIGNMENT AND ENVIRONMENTAL**  
 15 **REVIEW.**—*Not later than September 30, 2013, the Federal*  
 16 *Railroad Administration, working with Amtrak, the Sur-*  
 17 *face Transportation Board, the City of Baltimore, the State*  
 18 *of Maryland, and rail operators described in subsection (b),*  
 19 *as appropriate, shall—*

20               **(1)** *select and approve, as applicable, a new rail*  
 21 *tunnel alignment in Baltimore that will permit an*  
 22 *increase in train speed and service reliability; and*

23               **(2)** *ensure completion of the related environ-*  
 24 *mental review process.*

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

6       (c) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*  
7 *authorized to be appropriated to the Secretary for carrying*  
8 *out this section \$60,000,000 for the period encompassing*  
9 *fiscal years 2009 through 2013.*

10 **SEC. 305. NEXT GENERATION CORRIDOR TRAIN EQUIPMENT**

11                   **POOL.**

12       (a) *IN GENERAL.*—*Within 180 days after the date of*  
13 *enactment of this Act, Amtrak shall establish a Next Gen-*  
14 *eration Corridor Equipment Pool Committee, comprised of*  
15 *representatives of Amtrak, the Federal Railroad Adminis-*  
16 *tration, host freight railroad companies, passenger railroad*  
17 *equipment manufacturers, interested States, and, as appro-*  
18 *priate, other passenger railroad operators. The purpose of*  
19 *the Committee shall be to design, develop specifications for,*  
20 *and procure standardized next-generation corridor equip-*  
21 *ment.*

22       (b) *FUNCTIONS.*—*The Committee may—*

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

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

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

6           (c) *COOPERATIVE AGREEMENTS.—Amtrak and States*  
7           *participating in the Committee may enter into agreements*  
8           *for the funding, procurement, remanufacture, ownership,*  
9           *and management of corridor equipment, including equip-*  
10           *ment currently owned or leased by Amtrak and next-genera-*  
11           *tion corridor equipment acquired as a result of the Commit-*  
12           *tee's actions, and may establish a corporation, which may*  
13           *be owned or jointly-owned by Amtrak, participating States,*  
14           *or other entities, to perform these functions.*

15           (d) *FUNDING.—In addition to the authorizations pro-*  
16           *vided in this section, capital projects to carry out the pur-*  
17           *poses of this section shall be eligible for grants made pursu-*  
18           *ant to chapter 244 of title 49, United States Code.*

19           (e) *AUTHORIZATION OF APPROPRIATIONS.—There are*  
20           *authorized to be appropriated to the Secretary \$5,000,000*  
21           *for fiscal year 2010, to remain available until expended,*  
22           *for grants to Amtrak and States participating in the Next*  
23           *Generation Corridor Train Equipment Pool Committee es-*  
24           *tablished under this section for the purpose of designing,*  
25           *developing specifications for, and initiating the procure-*

1 *ment of an initial order of 1 or more types of standardized*  
2 *next-generation corridor train equipment and establishing*  
3 *a jointly-owned corporation to manage that equipment.*

4 **SEC. 306. RAIL COOPERATIVE RESEARCH PROGRAM.**

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

7 **“§ 24910. Rail cooperative research program**

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

11 *“(1) address, among other matters, intercity rail*  
12 *passenger and freight rail services, including existing*  
13 *rail passenger and freight technologies and speeds, in-*  
14 *crementally enhanced rail systems and infrastructure,*  
15 *and new high-speed wheel-on-rail systems;*

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

21 *“(3) consider research on the interconnectedness*  
22 *of commuter rail, passenger rail, freight rail, and*  
23 *other rail networks; and*

24 *“(4) give consideration to regional concerns re-*  
25 *garding rail passenger and freight transportation, in-*

1 *cluding meeting research needs common to designated*  
2 *high-speed corridors, long-distance rail services, and*  
3 *regional intercity rail corridors, projects, and entities.*

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

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

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

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

17 *“(4) to recommend priorities for technology dem-*  
18 *onstration and development;*

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

23 *“(6) to explore improvements in management, fi-*  
24 *nancing, and institutional structures;*

1           “(7) to address rail capacity constraints that af-  
2           fect passenger and freight rail service through a wide  
3           variety of options, ranging from operating improve-  
4           ments to dedicated new infrastructure, taking into ac-  
5           count the impact of such options on operations;

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

9           “(9) to recommend objective methodologies for de-  
10          termining intercity passenger rail routes and services,  
11          including the establishment of new routes, the elimi-  
12          nation of existing routes, and the contraction or ex-  
13          pansion of services or frequencies over such 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 or  
18          passenger rail operations;

19          “(11) to recommend any legislative or regulatory  
20          changes necessary to foster further development and  
21          implementation of high-speed passenger rail oper-  
22          ations while ensuring the safety of such operations  
23          that are connected to or integrated with non-high-  
24          speed freight or passenger rail operations;

1           “(12) to review rail crossing safety improve-  
2           ments, including improvements using new safety tech-  
3           nology; and

4           “(13) to review and develop technology designed  
5           to reduce train horn noise and its effect on commu-  
6           nities, including broadband horn technology.

7           “(c) *ADVISORY BOARD.*—

8           “(1) *ESTABLISHMENT.*—*In consultation with the*  
9           *heads of appropriate Federal departments and agen-*  
10          *cies, the Secretary shall establish an advisory board*  
11          *to recommend research, technology, and technology*  
12          *transfer activities related to rail passenger and freight*  
13          *transportation.*

14          “(2) *MEMBERSHIP.*—*The advisory board shall*  
15          *include—*

16                 “(A) *representatives of State transportation*  
17                 *agencies;*

18                 “(B) *transportation and environmental*  
19                 *economists, scientists, and engineers; and*

20                 “(C) *representatives of Amtrak, the Alaska*  
21                 *Railroad, freight railroads, transit operating*  
22                 *agencies, intercity rail passenger agencies, rail-*  
23                 *way labor organizations, and environmental or-*  
24                 *ganizations.*

1       “(d) *NATIONAL ACADEMY OF SCIENCES.*—*The Sec-*  
2 *retary may make grants to, and enter into cooperative*  
3 *agreements with, the National Academy of Sciences to carry*  
4 *out such activities relating to the research, technology, and*  
5 *technology transfer activities described in subsection (b) as*  
6 *the Secretary deems appropriate.*

7       “(e) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*  
8 *authorized to be appropriated to the Secretary of Transpor-*  
9 *tation \$5,000,000 for each of fiscal years 2010 through 2013*  
10 *for carrying out this section.”.*

11       “(b) *CLERICAL AMENDMENT.*—*The chapter analysis for*  
12 *chapter 249 is amended by adding at the end the following:*  
13 *“24910. Rail cooperative research program.”.*

13       **SEC. 307. FEDERAL RAIL POLICY.**

14       *Section 103 is amended—*

15               (1) *by inserting “IN GENERAL.—” before “The*  
16 *Federal” in subsection (a);*

17               (2) *by striking the second and third sentences of*  
18 *subsection (a);*

19               (3) *by inserting after subsection (a) the fol-*  
20 *lowing:*

21       “(b) *SAFETY.*—*To carry out all railroad safety laws*  
22 *of the United States, the Administration is divided on a*  
23 *geographical basis into at least 8 safety offices. The Sec-*  
24 *retary of Transportation is responsible for all acts taken*  
25 *under those laws and for ensuring that the laws are uni-*

1 *formly administered and enforced among the safety of*  
2 *fices.”; and*

3 *(4) by adding at the end the following:*

4 *“(j) ADDITIONAL DUTIES OF THE ADMINISTRATOR.—*

5 *The Administrator shall—*

6 *“(1) provide assistance to States in developing*  
7 *State rail plans prepared under chapter 227 and re-*  
8 *view all State rail plans submitted under that sec-*  
9 *tion;*

10 *“(2) develop a long-range national rail plan that*  
11 *is consistent with approved State rail plans and the*  
12 *rail needs of the Nation, as determined by the Sec-*  
13 *retary in order to promote an integrated, cohesive, ef-*  
14 *ficent, and optimized national rail system for the*  
15 *movement of goods and people;*

16 *“(3) develop a preliminary national rail plan*  
17 *within a year after the date of enactment of the Pas-*  
18 *senger Rail Investment and Improvement Act of 2008;*

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

22 *“(5) support rail intermodal development and*  
23 *high-speed rail development, including high speed rail*  
24 *planning;*

1           “(6) ensure that programs and initiatives devel-  
2           oped under this section benefit the public and work  
3           toward achieving regional and national transpor-  
4           tation goals; and

5           “(7) facilitate and coordinate efforts to assist  
6           freight and passenger rail carriers, transit agencies  
7           and authorities, municipalities, and States in pas-  
8           senger-freight service integration on shared rights of  
9           way by providing neutral assistance at the joint re-  
10          quest of affected rail service providers and infrastruc-  
11          ture owners relating to operations and capacity anal-  
12          ysis, capital requirements, operating costs, and other  
13          research and planning related to corridors shared by  
14          passenger or commuter rail service and freight rail  
15          operations.

16          “(k) *PERFORMANCE GOALS AND REPORTS.*—

17                 “(1) *PERFORMANCE GOALS.*—In conjunction  
18                 with the objectives established and activities under-  
19                 taken under subsection (j) of this section, the Admin-  
20                 istrator shall develop a schedule for achieving specific,  
21                 measurable performance goals.

22                 “(2) *RESOURCE NEEDS.*—The strategy and an-  
23                 nual plans shall include estimates of the funds and  
24                 staff resources needed to accomplish each goal and the  
25                 additional duties required under subsection (j).

1           “(3) *SUBMISSION WITH PRESIDENT’S BUDGET.*—  
 2           *Beginning with fiscal year 2010 and each fiscal year*  
 3           *thereafter, the Secretary shall submit to the Com-*  
 4           *mittee on Transportation and Infrastructure of the*  
 5           *House of Representatives and the Committee on Com-*  
 6           *merce, Science, and Transportation of the Senate, at*  
 7           *the same time as the President’s budget submission,*  
 8           *the Administration’s performance goals and schedule*  
 9           *developed under paragraph (1), including an assess-*  
 10           *ment of the progress of the Administration toward*  
 11           *achieving its performance goals.”.*

12           ***TITLE IV—MISCELLANEOUS***  
 13                           ***PROVISIONS***

14           ***SEC. 401. COMMUTER RAIL MEDIATION.***

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

17                           ***“CHAPTER 285—COMMUTER RAIL***  
 18   ***MEDIATION***

          “Sec.

          “28501. *Definitions*

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

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

          “28504. *Applicability of other laws.*

          “28505. *Rules and regulations.*

19           ***“§ 28501. Definitions***

20           *“In this chapter—*

21                           *“(1) the term ‘Board’ means the Surface Trans-*  
 22           *portation Board;*

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

6           “(3) the term ‘commuter rail passenger transpor-  
7           tation’ has the meaning given that term in section  
8           24102;

9           “(4) the term ‘public transportation authority’  
10          means a local governmental authority (as defined in  
11          section 5302(a)(6)) established to provide, or make a  
12          contract providing for, commuter rail passenger  
13          transportation;

14          “(5) the term ‘rail carrier’ means a person, other  
15          than a governmental authority, providing common  
16          carrier railroad transportation for compensation sub-  
17          ject to the jurisdiction of the Board under chapter  
18          105;

19          “(6) the term ‘segregated fixed guideway facility’  
20          means a fixed guideway facility constructed within  
21          the railroad right-of-way of a rail carrier but phys-  
22          ically separate from trackage, including relocated  
23          trackage, within the right-of-way used by a rail car-  
24          rier for freight transportation purposes; and

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

5           **“§28502. Surface Transportation Board mediation of**  
6                                   **trackage use requests**

7           “*If, after a reasonable period of negotiation, a public*  
8           *transportation authority cannot reach agreement with a*  
9           *rail carrier to use trackage of, and have related services pro-*  
10           *vided by, the rail carrier for purposes of commuter rail pas-*  
11           *senger transportation, the public transportation authority*  
12           *or the rail carrier may apply to the Board for nonbinding*  
13           *mediation. The Board shall conduct the nonbinding medi-*  
14           *ation in accordance with the mediation process of section*  
15           *1109.4 of title 49, Code of Federal Regulations, as in effect*  
16           *on the date of enactment of this section.*

17           **“§28503. Surface Transportation Board mediation of**  
18                                   **rights-of-way use requests**

19           “*If, after a reasonable period of negotiation, a public*  
20           *transportation authority cannot reach agreement with a*  
21           *rail carrier to acquire an interest in a railroad right-of-*  
22           *way for the construction and operation of a segregated fixed*  
23           *guideway facility to provide commuter rail passenger*  
24           *transportation, the public transportation authority or the*  
25           *rail carrier may apply to the Board for nonbinding medi-*

1 *ation. The Board shall conduct the nonbinding mediation*  
 2 *in accordance with the mediation process of section 1109.4*  
 3 *of title 49, Code of Federal Regulations, as in effect on the*  
 4 *date of enactment of this section.*

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

6 *“Nothing in this chapter shall be construed to limit*  
 7 *a rail transportation provider’s right under section*  
 8 *28103(b) to enter into contracts that allocate financial re-*  
 9 *sponsibility for claims.*

10 **“§ 28505. Rules and regulations**

11 *“Within 1 year after the date of enactment of this sec-*  
 12 *tion, the Board shall issue such rules and regulations as*  
 13 *may be necessary to carry out this chapter.”.*

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

*“285. COMMUTER RAIL MEDIATION ..... 28501”.*

17 **SEC. 402. ROUTING EFFICIENCY DISCUSSIONS WITH AM-**  
 18 **TRAK.**

19 *Amtrak, commuter rail entities, regional and State*  
 20 *public transportation authorities, and freight railroad car-*  
 21 *riers are encouraged to engage in good faith discussions*  
 22 *with respect to the routing and timing of trains to effi-*  
 23 *ciently move a maximum number of commuter, intercity,*  
 24 *and regional rail passengers, particularly during the peak*  
 25 *times of commuter usage.*

1 **SEC. 403. SENSE OF CONGRESS REGARDING COMMUTER**  
2 **RAIL EXPANSION.**

3 (a) *FINDINGS.—The Congress find the following:*

4 (1) *In 2006, Americans took 10.1 billion trips on*  
5 *public transportation for the first time since 1949.*

6 (2) *The Northeast region is one of the Nation’s*  
7 *largest emerging transportation “megaregions” where*  
8 *infrastructure expansion and improvements are most*  
9 *needed.*

10 (3) *New England’s road traffic has increased two*  
11 *to three times faster than its population since 1990.*

12 (4) *Connecticut has one of the Nation’s longest*  
13 *average commute times according to the United States*  
14 *Census Bureau, and 80 percent of Connecticut com-*  
15 *muters drive by themselves to work, demonstrating the*  
16 *need for expanded commuter rail access.*

17 (5) *The Connecticut Department of Transpor-*  
18 *tation has pledged to modernize, repair, and strength-*  
19 *en the rail line infrastructure to provide for increased*  
20 *safety and security along a crucial transportation*  
21 *corridor in the Northeast.*

22 (6) *Expanded New Haven-Springfield rail serv-*  
23 *ice would improve access to Bradley International*  
24 *Airport, one the region’s busiest airports, as well as*  
25 *to Hartford, Connecticut, and Springfield, Massachu-*

1        *setts, two of the region's commercial, residential, and*  
2        *industrial centers.*

3            *(7) Expanded commuter rail service on the New*  
4        *Haven-Springfield line could result in an estimated*  
5        *630,000 additional trips per year and 2,215,384 pas-*  
6        *senger miles per year, helping to curb pollution and*  
7        *greenhouse gas emissions from road vehicle traffic.*

8            *(8) The MetroNorth New Haven Line and Shore*  
9        *Line East railways saw respective 3.43 percent and*  
10       *4.93 percent increases in ridership over the course of*  
11       *2007, demonstrating the need for expanded commuter*  
12       *rail service in Connecticut.*

13           *(9) Expanded New Haven-Springfield commuter*  
14       *rail service could provide transportation nearly 17*  
15       *times more efficient in terms of average mileage*  
16       *versus road vehicles, alleviating road congestion and*  
17       *providing a significant savings to consumers during*  
18       *a time of high gas prices.*

19        *(b) SENSE OF CONGRESS.—It is the sense of the Con-*  
20       *gress that expanded commuter rail service on the rail line*  
21       *between New Haven, Connecticut, and Springfield, Massa-*  
22       *chusetts, is an important transportation priority, and Am-*  
23       *trak should work cooperatively with the States of Con-*  
24       *necticut and Massachusetts to enable expanded commuter*  
25       *rail service on such line.*

1           (c) *INFRASTRUCTURE MAINTENANCE REPORT.*—Am-  
2 *trak shall submit a report to the Committee on Transpor-*  
3 *tation and Infrastructure of the House of Representatives*  
4 *and the Committee on Commerce, Science, and Transpor-*  
5 *tation of the Senate, and to the State Departments of*  
6 *Transportation of Connecticut and Massachusetts, on the*  
7 *total cost of uncompleted infrastructure maintenance on the*  
8 *rail line between New Haven, Connecticut, and Springfield,*  
9 *Massachusetts.*

10 **SEC. 404. LOCOMOTIVE BIOFUEL STUDY.**

11           (a) *IN GENERAL.*—*The Secretary, in consultation with*  
12 *the Secretary of Energy and the Administrator of the Envi-*  
13 *ronmental Protection Agency, shall conduct a study to de-*  
14 *termine the extent to which freight railroads, Amtrak, and*  
15 *other passenger rail operators could use biofuel blends to*  
16 *power locomotives and other vehicles that can operate on*  
17 *diesel fuel, as appropriate.*

18           (b) *DEFINITION.*—*In this section, the term “biofuel”*  
19 *has the meaning given such term by section 9001 of the*  
20 *Farm Security and Rural Investment Act of 2002 (7 U.S.C.*  
21 *8101).*

22           (c) *FACTORS.*—*In conducting the study, the Secretary*  
23 *shall consider—*

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



1 tation of the Senate a report containing the results of a  
2 study of the feasibility of using readily biodegradable lubri-  
3 cants for freight and passenger railroad locomotives, rolling  
4 stock, or other equipment. The Secretary shall work with  
5 an agricultural-based lubricant testing facility or facilities  
6 to complete this study. The study shall include—

7           (1) an analysis of the potential use of soy-based  
8 grease and soy-based hydraulic fluids to perform ac-  
9 cording to railroad industry standards;

10           (2) an analysis of the potential use of other read-  
11 ily biodegradable lubricants to perform according to  
12 railroad industry standards;

13           (3) a comparison of the health and safety of pe-  
14 troleum-based lubricants with biobased lubricants,  
15 which shall include an analysis of fire safety; and

16           (4) a comparison of the environmental impact of  
17 petroleum-based lubricants with biobased lubricants,  
18 which shall include the rate and effects of  
19 biodegradability.

20 **SEC. 406. CROSS-BORDER PASSENGER RAIL SERVICE.**

21           (a) *PLAN*.—Not later than 1 year after the date of the  
22 enactment of this Act, Amtrak shall, in consultation with  
23 the Secretary, the Secretary of Homeland Security, the  
24 Washington State Department of Transportation, and the  
25 owners of the relevant railroad infrastructure—

1           (1) *develop a strategic plan to facilitate ex-*  
2           *panded passenger rail service across the international*  
3           *border between the United States and Canada during*  
4           *the 2010 Olympic Games on the Amtrak passenger*  
5           *rail route between Vancouver, British Columbia, Can-*  
6           *ada, and Eugene, Oregon (commonly known as “Am-*  
7           *trak Cascades”);*

8           (2) *develop recommendations for the Department*  
9           *of Homeland Security to process efficiently rail pas-*  
10          *sengers traveling on Amtrak Cascades across such*  
11          *international border during the 2010 Olympic Games;*  
12          *and*

13          (3) *submit to Congress a report containing the*  
14          *strategic plan described in paragraph (1) and the rec-*  
15          *ommendations described in paragraph (2).*

16          (b) *TRAVEL FACILITATION.—Using existing authority*  
17          *or agreements, or upon reaching additional agreements*  
18          *with Canada, the Secretary and other Federal agencies, as*  
19          *appropriate, are authorized to establish facilities and proce-*  
20          *dures to conduct preclearance of passengers traveling on*  
21          *Amtrak trains from Canada to the United States. The Sec-*  
22          *retary shall seek to establish such facilities and proce-*  
23          *dures—*

24                 (1) *in Vancouver, Canada, no later than June 1,*  
25                 *2009; and*

1           (2) *in other areas as determined appropriate by*  
2       *the Secretary.*

3 **SEC. 407. HISTORIC PRESERVATION OF RAILROADS.**

4       (a) *STUDY; OTHER ACTIONS.*—*The Secretary of*  
5 *Transportation shall—*

6           (1) *conduct a study, in consultation with the Ad-*  
7 *visory Council on Historic Preservation, the National*  
8 *Conference of State Historic Preservation Officers, the*  
9 *Department of the Interior, appropriate representa-*  
10 *tives of the railroad industry, and representative*  
11 *stakeholders, on ways to streamline compliance with*  
12 *the requirements of section 303 of title 49, United*  
13 *States Code, and section 106 of the National Historic*  
14 *Preservation Act (16 U.S.C. 470f) for federally funded*  
15 *railroad infrastructure repair and improvement*  
16 *projects;*

17           (2) *take immediate action to cooperate with the*  
18 *Alaska Railroad, the Alaska State Historic Preserva-*  
19 *tion Office, the Advisory Council on Historic Preser-*  
20 *vation, and the Department of the Interior, in expe-*  
21 *ditating the decisionmaking process for safety-related*  
22 *projects of the railroad involving property and facili-*  
23 *ties that have disputed historic significance; and*

24           (3) *take immediate action to cooperate with the*  
25 *North Carolina Department of Transportation, the*

1       *North Carolina State Historic Preservation Office, the*  
2       *Virginia State Historic Preservation Office, the Advi-*  
3       *sory Council on Historic Preservation, and the De-*  
4       *partment of the Interior, in expediting the decision-*  
5       *making process for safety-related railroad projects of*  
6       *the North Carolina Department of Transportation*  
7       *and the Southeast High Speed Rail Corridor involv-*  
8       *ing property and facilities that have disputed historic*  
9       *significance.*

10       *(b) REPORT.—Not later than 1 year after the date of*  
11       *enactment of this Act, the Secretary shall submit, to the*  
12       *Committee on Transportation and Infrastructure of the*  
13       *House of Representatives and the Committee on Commerce,*  
14       *Science, and Transportation of the Senate, a report on the*  
15       *results of the study conducted under subsection (a)(1) and*  
16       *the actions directed under subsection (a)(2) and (3). The*  
17       *report shall include recommendations for any regulatory or*  
18       *legislative amendments that may streamline compliance*  
19       *with the requirements described in subsection (a)(1) in a*  
20       *manner consistent with railroad safety and the policies and*  
21       *purposes of section 106 of the National Historic Preserva-*  
22       *tion Act (16 U.S.C. 470f), section 303 of title 49, United*  
23       *States Code, and section 8(d) of Public Law 90–543 (16*  
24       *U.S.C. 1247(d)).*

1       **TITLE V—HIGH-SPEED RAIL**

2       **SEC. 501. HIGH-SPEED RAIL CORRIDOR PROGRAM.**

3       (a) *CORRIDOR PLANNING.*—Section 26101 is amend-  
4 *ed—*

5           (1) *in the section heading, by striking “Cor-*  
6 *ridor development” and inserting “High-*  
7 *speed rail corridor planning”;*

8           (2) *in the heading of subsection (a), by striking*  
9 *“CORRIDOR DEVELOPMENT” and inserting “COR-*  
10 *RIDOR PLANNING”;*

11          (3) *by striking “corridor development” each*  
12 *place it appears and inserting “corridor planning”;*  
13 *and*

14          (4) *in subsection (c)(2), by striking “develop-*  
15 *ment” and inserting “planning”.*

16       (b) *AUTHORIZATION OF APPROPRIATIONS.*—Section  
17 *26104 is amended in paragraph (1) of subsection (a) by*  
18 *striking “\$70,000,000” and inserting “\$30,000,000”.*

19       (c) *CONFORMING AMENDMENT.*—The item relating to  
20 *section 26101 in the table of sections of chapter 261 is*  
21 *amended by striking “Corridor development” and inserting*  
22 *“High-speed rail corridor planning”.*

23       (d) *HIGH-SPEED RAIL CORRIDOR DEVELOPMENT.*—  
24 *Chapter 261 is amended by adding at the end thereof the*  
25 *following:*

1 **“§ 26106. High-speed rail corridor development**

2       “(a) *IN GENERAL.*—*The Secretary of Transportation*  
3 *shall establish and implement a high-speed rail corridor de-*  
4 *velopment program.*

5       “(b) *DEFINITIONS.*—*In this section, the following defi-*  
6 *nitions apply:*

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

12               “(2) *CORRIDOR.*—*The term ‘corridor’ means a*  
13 *corridor designated by the Secretary pursuant to sec-*  
14 *tion 104(d)(2) of title 23.*

15               “(3) *CAPITAL PROJECT.*—*The term ‘capital*  
16 *project’ means a project or program in a State rail*  
17 *plan developed under chapter 227 of this title for ac-*  
18 *quiring, constructing, improving, or inspecting equip-*  
19 *ment, track, and track structures, or a facility of use*  
20 *in or for the primary benefit of high-speed rail serv-*  
21 *ice, expenses incidental to the acquisition or construc-*  
22 *tion (including designing, engineering, location sur-*  
23 *veying, mapping, environmental studies, and acquir-*  
24 *ing rights-of-way), payments for the capital portions*  
25 *of rail trackage rights agreements, highway-rail grade*  
26 *crossing improvements related to high-speed rail serv-*

1        *ice, mitigating environmental impacts, communica-*  
2        *tion and signalization improvements, relocation as-*  
3        *sistance, acquiring replacement housing sites, and ac-*  
4        *quiring, constructing, relocating, and rehabilitating*  
5        *replacement housing.*

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

10           “(5) *INTERCITY PASSENGER RAIL SERVICE.*—*The*  
11        *term ‘intercity passenger rail service’ has the mean-*  
12        *ing given the term ‘intercity rail passenger transpor-*  
13        *tation’ in section 24102 of this title.*

14           “(6) *STATE.*—*The term ‘State’ means any of the*  
15        *50 States or the District of Columbia.*

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

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

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

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

2                   “(A) *establish criteria for selecting among*  
3 *projects that meet the criteria specified in para-*  
4 *graph (2);*

5                   “(B) *conduct a national solicitation for ap-*  
6 *plications; and*

7                   “(C) *award grants on a competitive basis.*

8           “(2) *GRANT CRITERIA.*—*The Secretary, in select-*  
9 *ing the recipients of high-speed rail development*  
10 *grants to be provided under subsection (c), shall—*

11                   “(A) *require—*

12                           “(i) *that the project be part of a State*  
13 *rail plan developed under chapter 227 of*  
14 *this title, or under the plan required by sec-*  
15 *tion 211 of the Passenger Rail Investment*  
16 *and Improvement Act of 2008;*

17                           “(ii) *that the applicant or recipient*  
18 *has or will have the legal, financial, and*  
19 *technical capacity to carry out the project,*  
20 *satisfactory continuing control over the use*  
21 *of the equipment or facilities, and the capa-*  
22 *bility and willingness to maintain the*  
23 *equipment or facilities;*

24                           “(iii) *that the project be based on the*  
25 *results of preliminary engineering studies*

1            *or other planning, including corridor plan-*  
2            *ning activities funded under section 26101*  
3            *of this title;*

4            *“(iv) that the applicant provides suffi-*  
5            *cient information upon which the Secretary*  
6            *can make the findings required by this sub-*  
7            *section;*

8            *“(v) that if an applicant has selected*  
9            *the proposed operator of its service, that the*  
10           *applicant provide written justification to*  
11           *the Secretary showing why the proposed op-*  
12           *erator is the best, taking into account costs*  
13           *and other factors;*

14           *“(vi) that each proposed project meet*  
15           *all safety and security requirements that*  
16           *are applicable to the project under law; and*

17           *“(vii) that each project be compatible*  
18           *with, and operated in conformance with—*

19                    *“(I) plans developed pursuant to*  
20                    *the requirements of section 135 of title*  
21                    *23; and*

22                    *“(II) the national rail plan (if it*  
23                    *is available);*

24            *“(B) select high-speed rail projects—*

1           “(i) that are anticipated to result in  
2           *significant improvements to intercity rail*  
3           *passenger service, including, but not limited*  
4           *to, consideration of the project’s—*

5                       “(I) *levels of estimated ridership,*  
6                       *increased on-time performance, reduced*  
7                       *trip time, additional service frequency*  
8                       *to meet anticipated or existing de-*  
9                       *mand, or other significant service en-*  
10                      *hancements as measured against min-*  
11                      *imum standards developed under sec-*  
12                      *tion 207 of the Passenger Rail Invest-*  
13                      *ment and Improvement Act of 2008;*

14                      “(II) *anticipated favorable impact*  
15                      *on air or highway traffic congestion,*  
16                      *capacity, or safety; and*

17                      “(ii) *for which there is a high degree of*  
18                      *confidence that the proposed project is fea-*  
19                      *sible and will result in the anticipated bene-*  
20                      *fits, as indicated by—*

21                               “(I)           *the           project’s*  
22                               *precommencement compliance with en-*  
23                               *vironmental protection requirements;*

24                               “(II) *the readiness of the project*  
25                               *to be commenced;*

1           “(III) the commitment of any af-  
2           fected host rail carrier to ensure the re-  
3           alization of the anticipated benefits;  
4           and

5           “(IV) other relevant factors as de-  
6           termined by the Secretary;

7           “(iii) for which the level of the antici-  
8           pated benefits compares favorably to the  
9           amount of Federal funding requested under  
10          this section; and

11          “(C) give greater consideration to projects—

12               “(i) that are anticipated to result in  
13               benefits to other modes of transportation  
14               and to the public at large, including, but  
15               not limited to, consideration of the  
16               project’s—

17                       “(I) encouragement of intermodal  
18                       connectivity through provision of direct  
19                       connections between train stations, air-  
20                       ports, bus terminals, subway stations,  
21                       ferry ports, and other modes of trans-  
22                       portation;

23                       “(II) anticipated improvement of  
24                       conventional intercity passenger,  
25                       freight, or commuter rail operations;

1                   “(III) use of positive train control  
2 technologies;

3                   “(IV) environmental benefits, in-  
4 cluding projects that involve the pur-  
5 chase of environmentally sensitive,  
6 fuel-efficient, and cost-effective pas-  
7 senger rail equipment;

8                   “(V) anticipated positive eco-  
9 nomic and employment impacts;

10                  “(VI) encouragement of State and  
11 private contributions toward station  
12 development, energy and environ-  
13 mental efficiency, and economic bene-  
14 fits; and

15                  “(VII) falling under the descrip-  
16 tion in section 5302(a)(1)(G) of this  
17 title as defined to support intercity  
18 passenger rail service; and

19                  “(ii) that incorporate equitable finan-  
20 cial participation in the project’s financing,  
21 including, but not limited to, consideration  
22 of—

23                   “(I) donated property interests or  
24 services;

1                   “(II) *financial contributions by*  
2                   *intercity passenger, freight, and com-*  
3                   *muter rail carriers commensurate with*  
4                   *the benefit expected to their operations;*  
5                   *and*

6                   “(III) *financial commitments*  
7                   *from host railroads, non-Federal gov-*  
8                   *ernmental entities, non-governmental*  
9                   *entities, and others.*

10                   “(3) *GRANT CONDITIONS.—The Secretary shall*  
11                   *require each recipient of a grant under this chapter*  
12                   *to comply with the grant requirements of section*  
13                   *24405 of this title.*

14                   “(4) *STATE RAIL PLANS.—State rail plans com-*  
15                   *pleted before the date of enactment of the Passenger*  
16                   *Rail Investment and Improvement Act of 2008 that*  
17                   *substantially meet the requirements of chapter 227 of*  
18                   *this title, as determined by the Secretary pursuant to*  
19                   *section 22506 of this title, shall be deemed by the Sec-*  
20                   *retary to have met the requirements of paragraph*  
21                   *(2)(A)(i) of this subsection.*

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

1       “(g) *ISSUANCE OF REGULATIONS.*—*Within 1 year*  
 2 *after the date of enactment of this section, the Secretary*  
 3 *shall issue regulations to carry out this section.*

4       “(h) *AUTHORIZATION OF APPROPRIATIONS.*—*There*  
 5 *are authorized to be appropriated to the Secretary to carry*  
 6 *out this section—*

7               “(1) \$150,000,000 for fiscal year 2009;

8               “(2) \$300,000,000 for fiscal year 2010;

9               “(3) \$350,000,000 for fiscal year 2011;

10              “(4) \$350,000,000 for fiscal year 2012; and

11              “(5) \$350,000,000 for fiscal year 2013.”.

12       “(e) *TABLE OF SECTIONS AMENDMENT.*—*The table of*  
 13 *sections for chapter 261 is amended by adding after the*  
 14 *item relating to section 26105 the following new item:*

      “26106. *High-speed rail corridor development.*”.

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

16       “(a) *SOLICITATION OF PROPOSALS.*—

17               “(1) *IN GENERAL.*—*Not later than 60 days after*  
 18 *the date of enactment of this Act, the Secretary shall*  
 19 *issue a request for proposals for projects for the fi-*  
 20 *nancing, design, construction, operation, and mainte-*  
 21 *nance of a high-speed intercity passenger rail system*  
 22 *operating within a high-speed rail corridor, includ-*  
 23 *ing—*

24                       “(A) *the Northeast Corridor;*

25                       “(B) *the California Corridor;*

- 1                   (C) *the Empire Corridor;*  
2                   (D) *the Pacific Northwest Corridor;*  
3                   (E) *the South Central Corridor;*  
4                   (F) *the Gulf Coast Corridor;*  
5                   (G) *the Chicago Hub Network;*  
6                   (H) *the Florida Corridor;*  
7                   (I) *the Keystone Corridor;*  
8                   (J) *the Northern New England Corridor;*  
9                   and  
10                  (K) *the Southeast Corridor.*

11                  (2) *SUBMISSION.*—*Proposals shall be submitted*  
12 *to the Secretary not later than 270 days after the*  
13 *publication of such request for proposals under para-*  
14 *graph (1).*

15                  (3) *PERFORMANCE STANDARD.*—*Proposals sub-*  
16 *mitted under paragraph (2) must meet any standards*  
17 *established by the Secretary. For corridors with exist-*  
18 *ing intercity passenger rail service, proposals shall*  
19 *also be designed to achieve a reduction of existing*  
20 *minimum intercity rail service trip times between the*  
21 *main corridor city pairs by a minimum of 25 per-*  
22 *cent. In the case of a proposal submitted with respect*  
23 *to paragraph (1)(A), the proposal must be designed to*  
24 *achieve a 2-hour or less express service between Wash-*

1        *ington, District of Columbia, and New York City,*  
2        *New York.*

3            (4) *CONTENTS.—A proposal submitted under*  
4        *this subsection shall include—*

5            (A) *the names and qualifications of the per-*  
6        *sons submitting the proposal and the entities*  
7        *proposed to finance, design, construct, operate,*  
8        *and maintain the railroad, railroad equipment,*  
9        *and related facilities, stations, and infrastruc-*  
10       *ture;*

11          (B) *a detailed description of the proposed*  
12       *rail service, including possible routes, required*  
13       *infrastructure investments and improvements,*  
14       *equipment needs and type, train frequencies,*  
15       *peak and average operating speeds, and trip*  
16       *times;*

17          (C) *a description of how the project would*  
18       *comply with Federal rail safety and security*  
19       *laws, orders, and regulations governing high-*  
20       *speed rail operations;*

21          (D) *the locations of proposed stations, which*  
22       *maximize the usage of existing infrastructure to*  
23       *the extent possible, and the populations such sta-*  
24       *tions are intended to serve;*

1           (E) the type of equipment to be used, in-  
2           cluding any technologies, to achieve trip time  
3           goals;

4           (F) a description of any proposed legisla-  
5           tion needed to facilitate all aspects of the project;

6           (G) a financing plan identifying—

7                 (i) projected revenue, and sources  
8                 thereof;

9                 (ii) the amount of any requested public  
10                contribution toward the project, and pro-  
11                posed sources;

12               (iii) projected annual ridership projec-  
13                tions for the first 10 years of operations;

14               (iv) annual operations and capital  
15                costs;

16               (v) the projected levels of capital in-  
17                vestments required both initially and in  
18                subsequent years to maintain a state-of-  
19                good-repair necessary to provide the ini-  
20                tially proposed level of service or higher lev-  
21                els of service;

22               (vi) projected levels of private invest-  
23                ment and sources thereof, including the  
24                identity of any person or entity that has  
25                made or is expected to make a commitment

1           to provide or secure funding and the  
2           amount of such commitment; and

3                   (vii) projected funding for the full fair  
4           market compensation for any asset, prop-  
5           erty right or interest, or service acquired  
6           from, owned, or held by a private person or  
7           Federal entity that would be acquired, im-  
8           paired, or diminished in value as a result  
9           of a project, except as otherwise agreed to by  
10          the private person or entity;

11                   (H) a description of how the project would  
12          contribute to the development of a national high-  
13          speed rail system and an intermodal plan de-  
14          scribing how the system will facilitate convenient  
15          travel connections with other transportation  
16          services;

17                   (I) a description of how the project will en-  
18          sure compliance with Federal laws governing the  
19          rights and status of employees associated with  
20          the route and service, including those specified in  
21          section 24405 of title 49, United States Code;

22                   (J) a description of how the design, con-  
23          struction, implementation, and operation of the  
24          project will accommodate and allow for future

1           *growth of existing and projected intercity, com-*  
2           *muter, and freight rail service;*

3           *(K) a description of how the project would*  
4           *comply with Federal and State environmental*  
5           *laws and regulations, of what the environmental*  
6           *impacts would result from the project, and how*  
7           *any adverse impacts would be mitigated; and*

8           *(L) a description of the project's impacts on*  
9           *highway and aviation congestion, energy con-*  
10          *sumption, land use, and economic development*  
11          *in the service area.*

12          ***(b) DETERMINATION AND ESTABLISHMENT OF COM-***  
13          ***MISSIONS.—Not later than 60 days after receipt of the pro-***  
14          ***posals under subsection (a), the Secretary shall—***

15                ***(1) make a determination as to whether any such***  
16                ***proposals—***

17                        ***(A) contain the information required under***  
18                        ***subsection (a)(3) and (4);***

19                        ***(B) are sufficiently credible to warrant fur-***  
20                        ***ther consideration;***

21                        ***(C) are likely to result in a positive impact***  
22                        ***on the Nation's transportation system; and***

23                        ***(D) are cost-effective and in the public in-***  
24                        ***terest; and***

1           (2) *establish a commission under subsection (c)*  
2 *for each corridor with one or more proposals that the*  
3 *Secretary determines satisfies the requirements of*  
4 *paragraph (1), and forward to each commission such*  
5 *proposals for review and consideration.*

6           (c) *COMMISSIONS.—*

7           (1) *MEMBERS.—Each commission referred to in*  
8 *subsection (b)(2) shall include—*

9           (A) *the governors of the affected States, or*  
10 *their respective designees;*

11           (B) *mayors of appropriate municipalities*  
12 *along the proposed corridor, or their respective*  
13 *designees;*

14           (C) *a representative from each freight rail-*  
15 *road carrier using the relevant corridor, if appli-*  
16 *cable;*

17           (D) *a representative from each transit au-*  
18 *thority using the relevant corridor, if applicable;*

19           (E) *representatives of nonprofit employee*  
20 *labor organizations representing affected railroad*  
21 *employees; and*

22           (D) *the President of Amtrak or his or her*  
23 *designee.*

24           (2) *APPOINTMENT AND SELECTION.—The Sec-*  
25 *retary shall appoint the members under paragraph*

1       (1). *In selecting each commission's members to fulfill*  
2       *the requirements under paragraph (1)(B) and (E),*  
3       *the Secretary shall consult with the Chairmen and*  
4       *Ranking Members of the Senate Committee on Com-*  
5       *merce, Science, and Transportation and the House of*  
6       *Representatives Committee on Transportation and*  
7       *Infrastructure.*

8               (3) *CHAIRPERSON AND VICE-CHAIRPERSON SE-*  
9       *LECTION.—The Chairperson and Vice-Chairperson*  
10       *shall be elected from among members of each commis-*  
11       *sion.*

12               (4) *QUORUM AND VACANCY.—*

13               (A) *QUORUM.—A majority of the members*  
14       *of each commission shall constitute a quorum.*

15               (B) *VACANCY.—Any vacancy in each com-*  
16       *mission shall not affect its powers and shall be*  
17       *filled in the same manner in which the original*  
18       *appointment was made.*

19               (5) *APPLICATION OF LAW.—Except where other-*  
20       *wise provided by this section, the Federal Advisory*  
21       *Committee Act (P.L. 92-463) shall apply to each*  
22       *commission created under this section.*

23               (d) *COMMISSION CONSIDERATION.—*

24               (1) *IN GENERAL.—Each commission established*  
25       *under subsection (b)(2) shall be responsible for review-*

1        *ing the proposal or proposals forwarded to it under*  
2        *that subsection and not later than 90 days after the*  
3        *establishment of the commission, shall transmit to the*  
4        *Secretary a report which includes—*

5                *(A) a summary of each proposal received;*

6                *(B) services to be provided under each pro-*  
7        *posal, including projected ridership, revenues,*  
8        *and costs;*

9                *(C) proposed public and private contribu-*  
10        *tions for each proposal;*

11                *(D) the advantages offered by the proposal*  
12        *over existing intercity passenger rail services;*

13                *(E) public operating subsidies or assets*  
14        *needed for the proposed project;*

15                *(F) possible risks to the public associated*  
16        *with the proposal, including risks associated*  
17        *with project financing, implementation, comple-*  
18        *tion, safety, and security;*

19                *(G) a ranked list of the proposals rec-*  
20        *ommended for further consideration under sub-*  
21        *section (e) in accordance with each proposal's*  
22        *projected positive impact on the Nation's trans-*  
23        *portation system;*

24                *(H) an identification of any proposed Fed-*  
25        *eral legislation that would facilitate implementa-*

1            *tion of the projects and Federal legislation that*  
2            *would be required to implement the projects; and*

3            *(I) any other recommendations by the com-*  
4            *mission concerning the proposed projects.*

5            *(2) VERBAL PRESENTATION.—Proposers shall be*  
6            *given an opportunity to make a verbal presentation*  
7            *to the commission to explain their proposals.*

8            *(3) AUTHORIZATION OF APPROPRIATIONS.—*  
9            *There are authorized to be appropriated to the Sec-*  
10           *retary for the use of each commission established*  
11           *under subsection (b)(2) such sums as are necessary to*  
12           *carry out this section.*

13           *(e) SELECTION BY SECRETARY.—*

14           *(1) Not later than 60 days after receiving the*  
15           *recommended proposals of the commissions established*  
16           *under subsection (b)(2), the Secretary shall—*

17           *(A) review such proposals and select any*  
18           *proposal which provides substantial benefits to*  
19           *the public and the national transportation sys-*  
20           *tem, is cost-effective, offers significant advantages*  
21           *over existing services, and meets other relevant*  
22           *factors determined appropriate by the Secretary;*  
23           *and*

24           *(B) issue a report to the Committee on*  
25           *Transportation and Infrastructure of the House*

1           *of Representatives and the Committee on Com-*  
2           *merce, Science, and Transportation of the Senate*  
3           *containing any proposal with respect to sub-*  
4           *section (a)(1)(A) that is selected by the Secretary*  
5           *under subparagraph (A) of this paragraph, all*  
6           *the information regarding the proposal provided*  
7           *to the Secretary under subsection (d), and any*  
8           *other relevant information deemed appropriate.*

9           *(2) Following the submission of the report under*  
10          *paragraph (1)(B), the Secretary shall transmit to the*  
11          *Committee on Transportation and Infrastructure of*  
12          *the House of Representatives and the Committee on*  
13          *Commerce, Science, and Transportation of the Senate*  
14          *a report containing any proposal with respect to sub-*  
15          *paragraphs (B) through (K) of subsection (a)(1) that*  
16          *are selected by the Secretary under paragraph (1) of*  
17          *this subsection, all the information regarding the pro-*  
18          *posal provided to the Secretary under subsection (d),*  
19          *and any other relevant information deemed appro-*  
20          *priate.*

21          *(3) The report required under paragraph (2)*  
22          *shall not be submitted by the Secretary until the re-*  
23          *port submitted under paragraph (1) has been consid-*  
24          *ered through a hearing by the Committee on Trans-*  
25          *portation and Infrastructure of the House of Rep-*

1        *representatives and the Committee on Commerce,*  
2        *Science, and Transportation of the Senate on the re-*  
3        *port submitted under paragraph (1)(B).*

4        *(f) PRELIMINARY ENGINEERING.—For planning and*  
5        *preliminary engineering activities that meet the criteria of*  
6        *section 26101 of title 49, United States Code, (other than*  
7        *subsections (a) and (b)(2)) that are undertaken after the*  
8        *Secretary submits reports to the Committee on Transpor-*  
9        *tation and Infrastructure of the House of Representatives*  
10       *and the Committee on Commerce, Science, and Transpor-*  
11       *tation of the Senate as required under subsection (e), not*  
12       *to exceed \$5,000,000 is authorized to be appropriated from*  
13       *funds made available under section 26104(a) of such title.*  
14       *Only 1 proposal for each corridor under subsection (a) shall*  
15       *be eligible for such funds.*

16       *(g) NO ACTIONS WITHOUT ADDITIONAL AUTHORITY.—*  
17       *No Federal agency may take any action to implement, es-*  
18       *tablish, facilitate, or otherwise act upon any proposal sub-*  
19       *mitted under this section, other than those actions specifi-*  
20       *cally authorized by this section, without explicit statutory*  
21       *authority enacted after the date of enactment of this Act.*

22       *(h) DEFINITIONS.—In this section, the following defi-*  
23       *nitions apply:*

24                *(1) INTERCITY PASSENGER RAIL.—The term*  
25        *“intercity passenger rail” means intercity rail pas-*

1 *senger transportation as defined in section 24102 of*  
 2 *title 49, United States Code.*

3 (2) *STATE.*—*The term “State” means any of the*  
 4 *50 States or the District of Columbia.*

5 (3) *NORTHEAST CORRIDOR.*—*The term “North-*  
 6 *east Corridor” has the meaning given under section*  
 7 *24102 of title 49, United States Code.*

8 (4) *HIGH-SPEED RAIL CORRIDOR.*—*The terms*  
 9 *“high-speed rail corridor” and “corridor” mean a*  
 10 *corridor designated by the Secretary pursuant to sec-*  
 11 *tion 104(d)(2) of title 23, United States Code, and the*  
 12 *Northeast Corridor.*

13 ***TITLE VI—CAPITAL AND PRE-***  
 14 ***VENTIVE MAINTENANCE***  
 15 ***PROJECTS FOR WASHINGTON***  
 16 ***METROPOLITAN AREA TRAN-***  
 17 ***SIT AUTHORITY***

18 ***SEC. 601. AUTHORIZATION FOR CAPITAL AND PREVENTIVE***  
 19 ***MAINTENANCE PROJECTS FOR WASHINGTON***  
 20 ***METROPOLITAN AREA TRANSIT AUTHORITY.***

21 (a) *AUTHORIZATION.*—

22 (1) *IN GENERAL.*—*Subject to the succeeding pro-*  
 23 *visions of this section, the Secretary of Transpor-*  
 24 *tation is authorized to make grants to the Transit*  
 25 *Authority, in addition to the contributions authorized*

1        *under sections 3, 14, and 17 of the National Capital*  
2        *Transportation Act of 1969 (sec. 9–1101.01 et seq.,*  
3        *D.C. Official Code), for the purpose of financing in*  
4        *part the capital and preventive maintenance projects*  
5        *included in the Capital Improvement Program ap-*  
6        *proved by the Board of Directors of the Transit Au-*  
7        *thority.*

8                (2) *DEFINITIONS.—In this section—*

9                        (A) *the term “Transit Authority” means the*  
10                      *Washington Metropolitan Area Transit Author-*  
11                      *ity established under Article III of the Compact;*  
12                      *and*

13                      (B) *the term “Compact” means the Wash-*  
14                      *ington Metropolitan Area Transit Authority*  
15                      *Compact (80 Stat. 1324; Public Law 89–774).*

16        (b) *USE OF FUNDS.—The Federal grants made pursu-*  
17        *ant to the authorization under this section shall be subject*  
18        *to the following limitations and conditions:*

19                      (1) *The work for which such Federal grants are*  
20                      *authorized shall be subject to the provisions of the*  
21                      *Compact (consistent with the amendments to the*  
22                      *Compact described in subsection (d)).*

23                      (2) *Each such Federal grant shall be for 50 per-*  
24                      *cent of the net project cost of the project involved, and*  
25                      *shall be provided in cash from sources other than Fed-*

1        *eral funds or revenues from the operation of public*  
2        *mass transportation systems. Consistent with the*  
3        *terms of the amendment to the Compact described in*  
4        *subsection (d)(1), any funds so provided shall be sole-*  
5        *ly from undistributed cash surpluses, replacement or*  
6        *depreciation funds or reserves available in cash, or*  
7        *new capital.*

8                *(3) Such Federal grants may be used only for the*  
9        *maintenance and upkeep of the systems of the Transit*  
10       *Authority as of the date of the enactment of this Act*  
11       *and may not be used to increase the mileage of the*  
12       *rail system.*

13        *(c) APPLICABILITY OF REQUIREMENTS FOR MASS*  
14       *TRANSPORTATION CAPITAL PROJECTS RECEIVING FUNDS*  
15       *UNDER FEDERAL TRANSPORTATION LAW.—Except as spe-*  
16       *cifically provided in this section, the use of any amounts*  
17       *appropriated pursuant to the authorization under this sec-*  
18       *tion shall be subject to the requirements applicable to cap-*  
19       *ital projects for which funds are provided under chapter*  
20       *53 of title 49, United States Code, except to the extent that*  
21       *the Secretary of Transportation determines that the require-*  
22       *ments are inconsistent with the purposes of this section.*

23        *(d) AMENDMENTS TO COMPACT.—No amounts may be*  
24       *provided to the Transit Authority pursuant to the author-*  
25       *ization under this section until the Transit Authority noti-*

1 *fies the Secretary of Transportation that each of the fol-*  
2 *lowing amendments to the Compact (and any further*  
3 *amendments which may be required to implement such*  
4 *amendments) have taken effect:*

5           (1)(A) *An amendment requiring that all pay-*  
6 *ments by the local signatory governments for the*  
7 *Transit Authority for the purpose of matching any*  
8 *Federal funds appropriated in any given year au-*  
9 *thorized under subsection (a) for the cost of operating*  
10 *and maintaining the adopted regional system are*  
11 *made from amounts derived from dedicated funding*  
12 *sources.*

13           (B) *For purposes of this paragraph, the term*  
14 *“dedicated funding source” means any source of fund-*  
15 *ing which is earmarked or required under State or*  
16 *local law to be used to match Federal appropriations*  
17 *authorized under this division for payments to the*  
18 *Transit Authority.*

19           (2) *An amendment establishing an Office of the*  
20 *Inspector General of the Transit Authority.*

21           (3) *An amendment expanding the Board of Di-*  
22 *rectors of the Transit Authority to include 4 addi-*  
23 *tional Directors appointed by the Administrator of*  
24 *General Services, of whom 2 shall be nonvoting and*  
25 *2 shall be voting, and requiring one of the voting*

1        *members so appointed to be a regular passenger and*  
2        *customer of the bus or rail service of the Transit Au-*  
3        *thority.*

4        *(e) ACCESS TO WIRELESS SERVICE IN METRORAIL*  
5        *SYSTEM.—*

6                *(1) REQUIRING TRANSIT AUTHORITY TO PROVIDE*  
7        *ACCESS TO SERVICE.—No amounts may be provided*  
8        *to the Transit Authority pursuant to the authoriza-*  
9        *tion under this section unless the Transit Authority*  
10       *ensures that customers of the rail service of the Tran-*  
11       *sit Authority have access within the rail system to*  
12       *services provided by any licensed wireless provider*  
13       *that notifies the Transit Authority (in accordance*  
14       *with such procedures as the Transit Authority may*  
15       *adopt) of its intent to offer service to the public, in*  
16       *accordance with the following timetable:*

17                *(A) Not later than 1 year after the date of*  
18        *the enactment of this Act, in the 20 underground*  
19        *rail station platforms with the highest volume of*  
20        *passenger traffic.*

21                *(B) Not later than 4 years after such date,*  
22        *throughout the rail system.*

23                *(2) ACCESS OF WIRELESS PROVIDERS TO SYSTEM*  
24        *FOR UPGRADES AND MAINTENANCE.—No amounts*  
25        *may be provided to the Transit Authority pursuant*

1       to the authorization under this section unless the  
2       Transit Authority ensures that each licensed wireless  
3       provider who provides service to the public within the  
4       rail system pursuant to paragraph (1) has access to  
5       the system on an ongoing basis (subject to such re-  
6       strictions as the Transit Authority may impose to en-  
7       sure that such access will not unduly impact rail op-  
8       erations or threaten the safety of customers or employ-  
9       ees of the rail system) to carry out emergency repairs,  
10      routine maintenance, and upgrades to the service.

11           (3) *PERMITTING REASONABLE AND CUSTOMARY*  
12      *CHARGES.*—Nothing in this subsection may be con-  
13      strued to prohibit the Transit Authority from requir-  
14      ing a licensed wireless provider to pay reasonable and  
15      customary charges for access granted under this sub-  
16      section.

17           (4) *REPORTS.*—Not later than 1 year after the  
18      date of the enactment of this Act, and each of the 3  
19      years thereafter, the Transit Authority shall submit to  
20      the Committee on Oversight and Government Reform  
21      of the House of Representatives and the Committee on  
22      Homeland Security and Governmental Affairs of the  
23      Senate a report on the implementation of this sub-  
24      section.

1           (5) *DEFINITION.*—*In this subsection, the term*  
2           *“licensed wireless provider” means any provider of*  
3           *wireless services who is operating pursuant to a Fed-*  
4           *eral license to offer such services to the public for*  
5           *profit.*

6           (f) *AMOUNT.*—*There are authorized to be appropriated*  
7           *to the Secretary of Transportation for grants under this sec-*  
8           *tion an aggregate amount not to exceed \$1,500,000,000 to*  
9           *be available in increments over 10 fiscal years beginning*  
10          *in fiscal year 2009, or until expended.*

11          (g) *AVAILABILITY.*—*Amounts appropriated pursuant*  
12          *to the authorization under this section shall remain avail-*  
13          *able until expended.*

Attest:

*Clerk.*

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H.R. 2095**

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**HOUSE AMENDMENT  
TO SENATE  
AMENDMENT**