

110TH CONGRESS
2D SESSION

H. R. 6003

To reauthorize Amtrak, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 8, 2008

Mr. OBERSTAR (for himself, Mr. MICA, Ms. CORRINE BROWN of Florida, Mr. SHUSTER, Mr. NADLER, Mr. COSTELLO, Mr. LIPINSKI, Mr. SIRES, Mr. DEFazio, Mr. CUMMINGS, Mrs. NAPOLITANO, Ms. NORTON, Mrs. TAUSCHER, Mr. ARCURI, Mr. SPACE, Mr. SALAZAR, Mr. BRALEY of Iowa, Mr. FILNER, Mr. RAHALL, Mr. BOSWELL, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. TAYLOR, Mr. WALZ of Minnesota, Mr. CARNEY, Ms. HIRONO, Mr. HIGGINS, Mr. BISHOP of New York, Mr. CARNAHAN, Mr. LARSEN of Washington, Mr. MICHAUD, Ms. MATSUI, Mr. HALL of New York, Mr. COHEN, Mr. MCNERNEY, Mr. ALTMIRE, Mr. CAPUANO, Mr. HOLDEN, and Mr. KAGEN) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To reauthorize Amtrak, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Passenger Rail Invest-
5 ment and Improvement Act of 2008”.

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

2 Except as otherwise specifically provided, whenever in
 3 this Act an amendment is expressed in terms of an amend-
 4 ment to a section or other provision of law, 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. 3. TABLE OF CONTENTS.**

8 The table of contents for this Act is as follows:

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

TITLE I—AUTHORIZATIONS

- Sec. 101. Authorization for Amtrak capital and operating expenses and State capital grants.
- Sec. 102. Repayment of long-term debt and capital leases.
- Sec. 103. Other authorizations.
- Sec. 104. Tunnel project.

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. Establishment of grant process.
- Sec. 206. State-supported routes.
- Sec. 207. Metrics and standards.
- Sec. 208. Northeast Corridor state-of-good-repair plan.
- Sec. 209. Northeast Corridor infrastructure and operations improvements.
- Sec. 210. Restructuring long-term debt and capital leases.
- Sec. 211. Study of compliance requirements at existing intercity rail stations.
- Sec. 212. Oversight of Amtrak's compliance with accessibility requirements.
- Sec. 213. Access to Amtrak equipment and services.
- Sec. 214. General Amtrak provisions.
- Sec. 215. Amtrak management accountability.
- Sec. 216. Passenger rail study.
- Sec. 217. Congestion grants.
- Sec. 218. Plan for restoration of service.
- Sec. 219. Locomotive biofuel study.
- Sec. 220. Study of the use of biobased lubricants.
- Sec. 221. Applicability of Buy American Act.
- Sec. 222. Intercity passenger rail service performance.

TITLE III—INTERCITY PASSENGER RAIL POLICY

- Sec. 301. Capital assistance for intercity passenger rail service; State rail plans.
 Sec. 302. State rail plans.
 Sec. 303. Next generation corridor train equipment pool.
 Sec. 304. Rail cooperative research program.
 Sec. 305. Passenger rail system comparison study.

TITLE IV—COMMUTER RAIL TRANSIT ENHANCEMENT

- Sec. 401. Commuter rail transit enhancement.

TITLE V—HIGH-SPEED RAIL

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

1 **TITLE I—AUTHORIZATIONS**

2 **SEC. 101. AUTHORIZATION FOR AMTRAK CAPITAL AND OP-**
 3 **ERATING EXPENSES AND STATE CAPITAL**
 4 **GRANTS.**

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

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

13 (b) INSPECTOR GENERAL.—Out of the amounts au-
 14 thorized under subsection (a), there are authorized to be
 15 appropriated to the Secretary of Transportation for the
 16 Office of the Inspector General of Amtrak the following
 17 amounts:

- 18 (1) For fiscal year 2009, \$20,368,900.

1 (2) For fiscal year 2010, \$22,586,000.

2 (3) For fiscal year 2011, \$24,337,000.

3 (4) For fiscal year 2012, \$26,236,000.

4 (5) For fiscal year 2013, \$28,287,000.

5 (c) AMERICANS WITH DISABILITIES ACT COMPLI-
6 ANCE.—There are authorized to be appropriated to the
7 Secretary of Transportation for the use of Amtrak for
8 compliance with the requirements of the Americans With
9 Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) the fol-
10 lowing amounts:

11 (1) For fiscal year 2009, \$68,500,000.

12 (2) For fiscal year 2010, \$240,000,000.

13 (3) For fiscal year 2011, \$240,000,000.

14 (4) For fiscal year 2012, \$240,000,000.

15 (5) For fiscal year 2013, \$240,000,000.

16 (d) CAPITAL GRANTS.—There are authorized to be
17 appropriated to the Secretary of Transportation for the
18 use of Amtrak for capital projects (as defined in subpara-
19 graphs (A) and (B) of section 24401(2) of title 49, United
20 States Code) to bring the Northeast Corridor (as defined
21 in section 24102(a)) to a state-of-good-repair, for capital
22 expenses of the national rail passenger transportation sys-
23 tem, and for purposes of making capital grants under sec-
24 tion 24402 of that title to States, the following amounts:

25 (1) For fiscal year 2009, \$1,202,000,000.

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

2 (3) For fiscal year 2011, \$1,321,000,000.

3 (4) For fiscal year 2012, \$1,427,000,000.

4 (5) For fiscal year 2013, \$1,427,000,000.

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

11 (1) 41.60 percent for fiscal year 2009.

12 (2) 38 percent for fiscal year 2010.

13 (3) 38 percent for fiscal year 2011.

14 (4) 35 percent for fiscal year 2012.

15 (5) 35 percent for fiscal year 2013.

16 (f) PROJECT MANAGEMENT OVERSIGHT.—The Sec-
17 retary may withhold up to $\frac{1}{2}$ of 1 percent of amounts
18 appropriated pursuant to subsection (d) for the costs of
19 project management oversight of capital projects carried
20 out by Amtrak.

21 **SEC. 102. REPAYMENT OF LONG-TERM DEBT AND CAPITAL**
22 **LEASES.**

23 (a) AMTRAK PRINCIPAL AND INTEREST PAY-
24 MENTS.—

1 (1) PRINCIPAL AND INTEREST ON DEBT SERV-
2 ICE.—There are authorized to be appropriated to
3 the Secretary of Transportation for the use of Am-
4 trak for retirement of principal and payment of in-
5 terest on loans for capital equipment, or capital
6 leases, not more than the following amounts:

7 (A) For fiscal year 2009, \$345,000,000.

8 (B) For fiscal year 2010, \$345,000,000.

9 (C) For fiscal year 2011, \$345,000,000.

10 (D) For fiscal year 2012, \$345,000,000.

11 (E) For fiscal year 2013, \$345,000,000.

12 (2) EARLY BUYOUT OPTION.—There are au-
13 thorized to be appropriated to the Secretary of
14 Transportation such sums as may be necessary for
15 the use of Amtrak for the payment of costs associ-
16 ated with early buyout options if the exercise of
17 those options is determined to be advantageous to
18 Amtrak.

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

23 (A) modify the extent or nature of any in-
24 debtedness of the National Railroad Passenger

1 Corporation to the United States in existence of
2 the date of enactment of this Act;

3 (B) change the private nature of Amtrak's
4 or its successors' liabilities; or

5 (C) imply any Federal guarantee or com-
6 mitment to amortize Amtrak's outstanding in-
7 debtedness.

8 **SEC. 103. OTHER AUTHORIZATIONS.**

9 There are authorized to be appropriated to the Sec-
10 retary of Transportation—

11 (1) \$5,000,000 for each of fiscal years 2009
12 through 2013 to carry out the rail cooperative re-
13 search program under section 24910 of title 49,
14 United States Code; and

15 (2) \$5,000,000 for fiscal year 2009, to remain
16 available until expended, for grants to Amtrak and
17 States participating in the Next Generation Corridor
18 Train Equipment Pool Committee established under
19 section 303 of this Act for the purpose of designing,
20 developing specifications for, and initiating the pro-
21 curement of an initial order of 1 or more types of
22 standardized next-generation corridor train equip-
23 ment and establishing a jointly owned corporation to
24 manage that equipment.

1 **SEC. 104. TUNNEL PROJECT.**

2 (a) NEW TUNNEL ALIGNMENT AND ENVIRON-
3 MENTAL REVIEW.—Not later than September 30, 2013,
4 the Federal Railroad Administration, working with Am-
5 trak, the City of Baltimore, State of Maryland, and rail
6 operators described in subsection (b), shall—

7 (1) approve a new rail tunnel alignment in Bal-
8 timore that will permit an increase in train speed
9 and service reliability; and

10 (2) ensure completion of the related environ-
11 mental review process.

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

17 (c) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated to the Federal Railroad
19 Administration for carrying out this section \$60,000,000
20 for the period encompassing fiscal years 2009 through
21 2013.

22 **TITLE II—AMTRAK REFORM AND**
23 **OPERATIONAL IMPROVEMENTS**

24 **SEC. 201. NATIONAL RAILROAD PASSENGER TRANSPOR-**
25 **TATION SYSTEM DEFINED.**

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

1 (1) by striking paragraph (2);

2 (2) by redesignating paragraphs (3), (4), and
3 (5) as paragraphs (2), (3), and (4), respectively; and

4 (3) by inserting after paragraph (4) as so re-
5 designated the following:

6 “(5) ‘national rail passenger transportation sys-
7 tem’ means—

8 “(A) the segment of the Northeast Cor-
9 ridor between Boston, Massachusetts and
10 Washington, DC;

11 “(B) rail corridors that have been des-
12 ignated by the Secretary of Transportation as
13 high-speed corridors (other than corridors de-
14 scribed in subparagraph (A)), but only after
15 they have been improved to permit operation of
16 high-speed service;

17 “(C) long distance routes of more than
18 750 miles between endpoints operated by Am-
19 trak as of the date of enactment of the Pas-
20 senger Rail Investment and Improvement Act of
21 2008; and

22 “(D) short-distance corridors, or routes of
23 not more than 750 miles between endpoints, op-
24 erated by—

25 “(i) Amtrak; or

1 “(ii) another rail carrier that receives
2 funds under chapter 244.”.

3 (b) AMTRAK ROUTES WITH STATE FUNDING.—

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

6 **“§ 24702. Transportation requested by States, au-**
7 **thorities, and other persons**

8 “(a) CONTRACTS FOR TRANSPORTATION.—Amtrak
9 may enter into a contract with a State, a regional or local
10 authority, or another person for Amtrak to operate an
11 intercity rail service or route not included in the national
12 rail passenger transportation system upon such terms as
13 the parties thereto may agree.

14 “(b) DISCONTINUANCE.—Upon termination of a con-
15 tract entered into under this section, or the cessation of
16 financial support under such a contract by either party,
17 Amtrak may discontinue such service or route, notwith-
18 standing any other provision of law.”.

19 (2) CONFORMING AMENDMENT.—The chapter
20 analysis for chapter 247 is amended by inserting
21 after the item relating to section 24701 the fol-
22 lowing:

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

23 (c) AMTRAK TO CONTINUE TO PROVIDE NON-HIGH-
24 SPEED SERVICES.—Nothing in this Act is intended to pre-

1 clude Amtrak from restoring, improving, or developing
2 non-high-speed intercity passenger rail service.

3 (d) APPLICABILITY OF SECTION 24706.—Section
4 24706 is amended by adding at the end the following:

5 “(c) APPLICABILITY.—This section applies to all
6 service over routes provided by Amtrak, notwithstanding
7 any provision of section 24701 of this title or any other
8 provision of this title except section 24702(b).”.

9 **SEC. 202. AMTRAK BOARD OF DIRECTORS.**

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

12 **“§ 24302. Board of directors**

13 “(a) COMPOSITION AND TERMS.—

14 “(1) The Board of Directors of Amtrak is com-
15 posed of the following 10 directors, each of whom
16 must be a citizen of the United States:

17 “(A) The Secretary of Transportation.

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

20 “(C) 8 individuals appointed by the Presi-
21 dent of the United States, by and with the ad-
22 vice and consent of the Senate, with general
23 business and financial experience, experience or
24 qualifications in transportation, freight and
25 passenger rail transportation, travel, hospi-

1 tality, cruise line, and passenger air transpor-
2 tation businesses, or representatives of employ-
3 ees or users of passenger rail transportation or
4 a State government.

5 “(2) In selecting individuals described in para-
6 graph (1) for nominations for appointments to the
7 Board, the President shall consult with the Speaker
8 of the House of Representatives, the minority leader
9 of the House of Representatives, the majority leader
10 of the Senate, and the minority leader of the Senate
11 and try to provide adequate and balanced represen-
12 tation of the major geographic regions of the United
13 States served by Amtrak.

14 “(3) An individual appointed under paragraph
15 (1)(C) of this subsection serves for 5 years or until
16 the individual’s successor is appointed and qualified.
17 Not more than 5 individuals appointed under para-
18 graph (1)(C) may be members of the same political
19 party.

20 “(4) The Board shall elect a chairman and a
21 vice chairman from among its membership. The vice
22 chairman shall serve as chairman in the absence of
23 the chairman.

24 “(5) The Secretary may be represented at
25 board meetings by the Secretary’s designee.

1 “(b) PAY AND EXPENSES.—Each director not em-
2 ployed by the United States Government is entitled to
3 \$300 a day when performing Board duties. Each Director
4 is entitled to reimbursement for necessary travel, reason-
5 able secretarial and professional staff support, and sub-
6 sistence expenses incurred in attending Board meetings.

7 “(c) VACANCIES.—A vacancy on the Board is filled
8 in the same way as the original selection, except that an
9 individual appointed by the President of the United States
10 under subsection (a)(1)(C) of this section to fill a vacancy
11 occurring before the end of the term for which the prede-
12 cessor of that individual was appointed is appointed for
13 the remainder of that term. A vacancy required to be filled
14 by appointment under subsection (a)(1)(C) must be filled
15 not later than 120 days after the vacancy occurs.

16 “(d) QUORUM.—A majority of the members serving
17 shall constitute a quorum for doing business.

18 “(e) BYLAWS.—The Board may adopt and amend by-
19 laws governing the operation of Amtrak. The bylaws shall
20 be consistent with this part and the articles of incorpora-
21 tion.”.

22 (b) EFFECTIVE DATE FOR DIRECTORS’ PROVI-
23 SION.—The amendment made by subsection (a) shall take
24 effect 6 months after the date of enactment of this Act.
25 The members of the Amtrak Board serving on the date

1 of enactment of this Act may continue to serve for the
2 remainder of the term to which they were appointed.

3 **SEC. 203. ESTABLISHMENT OF IMPROVED FINANCIAL AC-**
4 **COUNTING SYSTEM.**

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

6 (1) may employ an independent financial con-
7 sultant with experience in railroad accounting to as-
8 sist Amtrak in improving Amtrak’s financial ac-
9 counting and reporting system and practices;

10 (2) shall implement a modern financial account-
11 ing and reporting system not later than 1 year after
12 the date of enactment of this Act; and

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

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

20 (i) train operations;

21 (ii) equipment maintenance;

22 (iii) food service;

23 (iv) sleeping cars;

24 (v) ticketing; and

25 (vi) reservations;

1 (B) include the report described in sub-
2 paragraph (A) in Amtrak's annual report; and

3 (C) post such report on Amtrak's website.

4 (b) VERIFICATION OF SYSTEM; REPORT.—The In-
5 spector General of the Department of Transportation shall
6 review the accounting system designed and implemented
7 under subsection (a) to ensure that it accomplishes the
8 purposes for which it is intended. The Inspector General
9 shall report his findings and conclusions, together with
10 any recommendations, to the House of Representatives
11 Committee on Transportation and Infrastructure and the
12 Senate Committee on Commerce, Science, and Transpor-
13 tation.

14 (c) CATEGORIZATION OF REVENUES AND EX-
15 PENSES.—

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

22 (2) NORTHEAST CORRIDOR.—Amtrak revenues
23 generated by freight and commuter railroads oper-
24 ating on the Northeast Corridor shall be separately
25 listed to include the charges per car mile assessed by

1 Amtrak to other freight and commuter railroad enti-
2 ties.

3 (3) FIXED OVERHEAD EXPENSES.—Fixed over-
4 head expenses that are not directly assigned or at-
5 tributed to any route (or group of routes) shall be
6 listed separately by line item and expense category.

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

8 (a) DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.—
9 The Amtrak Board of Directors shall submit an annual
10 budget and business plan for Amtrak, and a 5-year finan-
11 cial plan for the fiscal year to which that budget and busi-
12 ness plan relate and the subsequent 4 years, prepared in
13 accordance with this section, to the Secretary of Transpor-
14 tation and the Inspector General of the Department of
15 Transportation no later than—

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

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

21 (b) CONTENTS OF 5-YEAR FINANCIAL PLAN.—The
22 5-year financial plan for Amtrak shall include, at a min-
23 imum—

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

- 1 (2) projected ridership levels for all Amtrak
2 passenger operations;
- 3 (3) revenue and expenditure forecasts for non-
4 passenger operations;
- 5 (4) capital funding requirements and expendi-
6 tures necessary to maintain passenger service which
7 will accommodate predicted ridership levels and pre-
8 dicted sources of capital funding;
- 9 (5) operational funding needs, if any, to main-
10 tain current and projected levels of passenger serv-
11 ice, including state-supported routes and predicted
12 funding sources;
- 13 (6) projected capital and operating require-
14 ments, ridership, and revenue for any new passenger
15 service operations or service expansions;
- 16 (7) an assessment of the continuing financial
17 stability of Amtrak, such as Amtrak's ability to effi-
18 ciently manage its workforce, and Amtrak's ability
19 to effectively provide passenger train service;
- 20 (8) estimates of long-term and short-term debt
21 and associated principal and interest payments (both
22 current and anticipated);
- 23 (9) annual cash flow forecasts;
- 24 (10) a statement describing methods of esti-
25 mation and significant assumptions;

1 (11) specific measures that demonstrate meas-
2 urable improvement year over year in the financial
3 results of Amtrak's operations;

4 (12) prior fiscal year and projected operating
5 ratio, cash operating loss, and cash operating loss
6 per passenger on a route, business line, and cor-
7 porate basis;

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

11 (14) prior fiscal year and projected labor pro-
12 ductivity statistics on a route, business line, and cor-
13 porate basis; and

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

16 (c) STANDARDS TO PROMOTE FINANCIAL STA-
17 BILITY.—In meeting the requirements of subsection (b),
18 Amtrak shall—

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

23 (2) use the categories specified in the financial
24 accounting and reporting system developed under

1 section 203 when preparing its 5-year financial plan;
2 and

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

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

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

14 (b) PROCEDURES FOR GRANT REQUESTS.—The Sec-
15 retary shall establish substantive and procedural require-
16 ments, including schedules, for grant requests under this
17 section not later than 30 days after the date of enactment
18 of this Act and shall transmit copies to the Committee
19 on Transportation and Infrastructure of the House of
20 Representatives and the Committee on Commerce,
21 Science, and Transportation of the Senate.

22 (c) REVIEW AND APPROVAL.—

23 (1) 30-DAY APPROVAL PROCESS.—The Sec-
24 retary shall complete the review of a complete grant
25 request (including the disbursement schedule) and

1 approve or disapprove the request within 30 days
2 after the date on which Amtrak submits the grant
3 request. If the Secretary disapproves the request or
4 determines that the request is incomplete or defi-
5 cient, the Secretary shall include the reason for dis-
6 approval or the incomplete items or deficiencies in
7 the notice to Amtrak.

8 (2) 15-DAY MODIFICATION PERIOD.—Within 15
9 days after receiving notification from the Secretary
10 under the preceding sentence, Amtrak shall submit
11 a modified request for the Secretary’s review.

12 (3) REVISED REQUESTS.—Within 15 days after
13 receiving a modified request from Amtrak, the Sec-
14 retary shall either approve the modified request, or,
15 if the Secretary finds that the request is still incom-
16 plete or deficient, the Secretary shall identify in
17 writing to the House of Representatives Committee
18 on Transportation and Infrastructure and the Sen-
19 ate Committee on Commerce, Science, and Trans-
20 portation the remaining deficiencies and recommend
21 a process for resolving the outstanding portions of
22 the request.

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

24 (a) IN GENERAL.—Within 2 years after the date of
25 enactment of this Act, the Board of Directors of Amtrak,

1 in consultation with the Secretary of Transportation and
2 the governors of each relevant State and the Mayor of the
3 District of Columbia or groups representing those officials,
4 shall develop and implement a single, Nationwide stand-
5 ardized methodology for establishing and allocating the
6 operating and capital costs among the States and Amtrak
7 associated with trains operated on routes described in sec-
8 tion 24102(5)(B) or (D) or section 24702 that—

9 (1) ensures, within 5 years after the date of en-
10 actment of this Act, equal treatment in the provision
11 of like services of all States and groups of States
12 (including the District of Columbia); and

13 (2) allocates to each route the costs incurred
14 only for the benefit of that route and a propor-
15 tionate share, based upon factors that reasonably re-
16 flect relative use, of costs incurred for the common
17 benefit of more than 1 route.

18 (b) REVIEW.—If Amtrak and the States (including
19 the District of Columbia) in which Amtrak operates such
20 routes do not voluntarily adopt and implement the meth-
21 odology developed under subsection (a) in allocating costs
22 and determining compensation for the provision of service
23 in accordance with the date established therein, the Sur-
24 face Transportation Board shall determine the appro-
25 priate methodology required under subsection (a) for such

1 services in accordance with the procedures and procedural
2 schedule applicable to a proceeding under section 24904(c)
3 of title 49, United States Code, and require the full imple-
4 mentation of this methodology with regards to the provi-
5 sion of such service within 1 year after the Board's deter-
6 mination of the appropriate methodology.

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

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

12 (a) IN GENERAL.—Within 180 days after the date
13 of enactment of this Act, the Administrator of the Federal
14 Railroad Administration and Amtrak shall jointly, in con-
15 sultation with the Surface Transportation Board, rail car-
16 riers over whose rail lines Amtrak trains operate, States,
17 Amtrak employees, nonprofit employee organizations rep-
18 resenting Amtrak employees, and groups representing
19 Amtrak passengers, as appropriate, develop new or im-
20 prove existing metrics and minimum standards for meas-
21 uring the performance and service quality of intercity pas-
22 senger train operations, including cost recovery, on-time
23 performance and minutes of delay, ridership, on-board
24 services, stations, facilities, equipment, and other services.
25 Such metrics, at a minimum, shall include the percentage

1 of avoidable and fully allocated operating costs covered by
2 passenger revenues on each route, ridership per train mile
3 operated, measures of on-time performance and delays in-
4 curred by intercity passenger trains on the rail lines of
5 each rail carrier and, for long distance routes, measures
6 of connectivity with other routes in all regions currently
7 receiving Amtrak service and the transportation needs of
8 communities and populations that are not well-served by
9 other forms of public transportation. Amtrak shall provide
10 reasonable access to the Federal Railroad Administration
11 in order to enable the Administration to carry out its duty
12 under this section.

13 (b) QUARTERLY REPORTS.—The Administrator of
14 the Federal Railroad Administration shall collect the nec-
15 essary data and publish a quarterly report on the perform-
16 ance and service quality of intercity passenger train oper-
17 ations, including Amtrak’s cost recovery, ridership, on-
18 time performance and minutes of delay, causes of delay,
19 on-board services, stations, facilities, equipment, and other
20 services.

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

1 (d) ARBITRATION.—If the development of the metrics
2 and standards is not completed within the 180-day period
3 required by subsection (a), any party involved in the devel-
4 opment of those standards may petition the Surface
5 Transportation Board to appoint an arbitrator to assist
6 the parties in resolving their disputes through binding ar-
7 bitration.

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

10 (a) IN GENERAL.—Within 9 months after the date
11 of enactment of this Act, the National Railroad Passenger
12 Corporation, in consultation with the Secretary and the
13 States (including the District of Columbia) that make up
14 the Northeast Corridor (as defined in section 24102 of
15 title 49, United States Code), shall prepare a capital
16 spending plan for capital projects required to return the
17 railroad right-of-way (including track, signals, and auxil-
18 iary structures), facilities, stations, and equipment, of the
19 Northeast Corridor to a state of good repair by the end
20 of fiscal year 2024, consistent with the funding levels au-
21 thorized in this Act and shall submit the plan to the Sec-
22 retary.

23 (b) APPROVAL BY THE SECRETARY.—

24 (1) The Corporation shall submit the capital
25 spending plan prepared under this section to the

1 Secretary of Transportation for review and approval
2 pursuant to the procedures developed under section
3 205 of this Act.

4 (2) The Secretary of Transportation shall re-
5 quire that the plan be updated at least annually and
6 shall review and approve such updates. During re-
7 view, the Secretary shall seek comments and review
8 from the commission established under section
9 24905 of title 49, United States Code, and other
10 Northeast Corridor users regarding the plan.

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

16 (4) Using the funds authorized by section
17 101(f) of this Act, the Secretary shall review Am-
18 trak's capital expenditures funded by this section to
19 ensure that such expenditures are consistent with
20 the capital spending plan and that Amtrak is pro-
21 viding adequate project management oversight and
22 fiscal controls.

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

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

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

5 **“§ 24905. Northeast Corridor Infrastructure and Op-**
6 **erations Advisory Commission**

7 “(a) NORTHEAST CORRIDOR INFRASTRUCTURE AND
8 OPERATIONS ADVISORY COMMISSION.—

9 “(1) Within 180 days after the date of enact-
10 ment of the Passenger Rail Investment and Im-
11 provement Act of 2008, the Secretary of Transpor-
12 tation shall establish a Northeast Corridor Infra-
13 structure and Operations Advisory Commission
14 (hereinafter referred to in this section as the ‘Com-
15 mission’) to promote mutual cooperation and plan-
16 ning pertaining to the rail operations and related ac-
17 tivities of the Northeast Corridor. The Commission
18 shall be made up of—

19 “(A) members representing the National
20 Railroad Passenger Corporation;

21 “(B) members representing the Secretary
22 of Transportation and the Federal Railroad Ad-
23 ministration;

24 “(C) 1 member from each of the States
25 (including the District of Columbia) that con-
26 stitute the Northeast Corridor as defined in sec-

1 tion 24102, designated by, and serving at the
2 pleasure of, the chief executive officer thereof;
3 and

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

7 “(2) The Secretary shall ensure that the mem-
8 bership belonging to any of the groups enumerated
9 under subparagraph (1) shall not constitute a major-
10 ity of the commission’s memberships.

11 “(3) The commission shall establish a schedule
12 and location for convening meetings, but shall meet
13 no less than four times per fiscal year, and the com-
14 mission shall develop rules and procedures to govern
15 the commission’s proceedings.

16 “(4) A vacancy in the Commission shall be
17 filled in the manner in which the original appoint-
18 ment was made.

19 “(5) Members shall serve without pay but shall
20 receive travel expenses, including per diem in lieu of
21 subsistence, in accordance with sections 5702 and
22 5703 of title 5, United States Code.

23 “(6) The Chairman of the Commission shall be
24 elected by the members.

1 “(7) The Commission may appoint and fix the
2 pay of such personnel as it considers appropriate.

3 “(8) Upon request of the Commission, the head
4 of any department or agency of the United States
5 may detail, on a reimbursable basis, any of the per-
6 sonnel of that department or agency to the Commis-
7 sion to assist it in carrying out its duties under this
8 section.

9 “(9) Upon the request of the Commission, the
10 Administrator of General Services shall provide to
11 the Commission, on a reimbursable basis, the admin-
12 istrative support services necessary for the Commis-
13 sion to carry out its responsibilities under this sec-
14 tion.

15 “(10) The commission shall consult with other
16 entities as appropriate.

17 “(b) GENERAL RECOMMENDATIONS.—The Commis-
18 sion shall develop recommendations concerning Northeast
19 Corridor rail infrastructure and operations including pro-
20 posals addressing, as appropriate—

21 “(1) short-term and long-term capital invest-
22 ment needs beyond the state-of-good-repair under
23 section 208 of the Passenger Rail Investment and
24 Improvement Act of 2008;

1 “(2) future funding requirements for capital
2 improvements and maintenance;

3 “(3) operational improvements of intercity pas-
4 senger rail, commuter rail, and freight rail services;

5 “(4) opportunities for additional non-rail uses
6 of the Northeast Corridor;

7 “(5) scheduling and dispatching;

8 “(6) safety enhancements;

9 “(7) equipment design;

10 “(8) marketing of rail services; and

11 “(9) future capacity requirements.

12 “(c) ACCESS COSTS.—

13 “(1) DEVELOPMENT OF FORMULA.—Within 1
14 year after verification of Amtrak’s new financial ac-
15 counting system pursuant to section 203(b) of the
16 Passenger Rail Investment and Improvement Act of
17 2008, the Commission shall—

18 “(A) develop a standardized formula for
19 determining 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, that use National Rail-
23 road Passenger Corporation facilities or services
24 or that provide such facilities or services to the

1 National Railroad Passenger Corporation that
2 ensure that—

3 “(i) there is no cross-subsidization of
4 commuter rail passenger, intercity rail pas-
5 senger, or freight rail transportation; and

6 “(ii) each service is assigned the costs
7 incurred only for the benefit of that serv-
8 ice, and a proportionate share, based upon
9 factors that reasonably reflect relative use,
10 of costs incurred for the common benefit of
11 more than 1 service;

12 “(B) develop a proposed timetable for im-
13 plementing the formula before the end of the
14 6th year following the date of enactment of that
15 Act;

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

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

23 “(2) IMPLEMENTATION.—The National Rail-
24 road Passenger Corporation and the commuter au-
25 thorities providing commuter rail passenger trans-

1 portation on the Northeast Corridor shall implement
2 new agreements for usage of facilities or services
3 based on the formula proposed in paragraph (1) in
4 accordance with the timetable established therein. If
5 the entities fail to implement such new agreements
6 in accordance with the timetable, the Commission
7 shall petition the Surface Transportation Board to
8 determine the appropriate compensation amounts for
9 such services in accordance with section 24904(c) of
10 this title. The Surface Transportation Board shall
11 enforce its determination on the party or parties in-
12 volved.

13 “(d) TRANSMISSION OF RECOMMENDATIONS.—The
14 commission shall annually transmit the recommendations
15 developed under subsection (b) and the formula and time-
16 table developed under subsection (c)(1) to the Committee
17 on Transportation and Infrastructure of the House of
18 Representatives and the Committee on Commerce,
19 Science, and Transportation of the Senate.”.

20 (b) CONFORMING AMENDMENTS.—Section
21 24904(c)(2) is amended by—

22 (1) inserting “commuter rail passenger and”
23 after “between”; and

24 (2) striking “freight” in the second sentence.

25 (c) ACELA SERVICE STUDY.—

1 (1) IN GENERAL.—Amtrak shall conduct a con-
2 duct a study to determine the infrastructure and
3 equipment improvements necessary to provide reg-
4 ular Acela service—

5 (A) between Washington, DC and New
6 York City—

7 (i) in 2 hours and 30 minutes;

8 (ii) in 2 hours and 15 minutes; and

9 (iii) in 2 hours; and

10 (B) between New York City and Boston—

11 (i) in 3 hours and 15 minutes;

12 (ii) in 3 hours; and

13 (iii) in 2 hours and 45 minutes.

14 (2) ISSUES.—The study conducted under para-
15 graph (1) shall include—

16 (A) an estimated time frame for achieving
17 the trip time described in paragraph (1);

18 (B) an analysis of any significant obstacles
19 that would hinder such an achievement; and

20 (C) a detailed description and cost esti-
21 mate of the specific infrastructure and equip-
22 ment improvements necessary for such an
23 achievement.

24 (3) REPORT.—Within 1 year after the date of
25 enactment of this Act, Amtrak shall submit a writ-

1 ten report containing the results of the study re-
2 quired under this subsection to—

3 (A) the Committee on Transportation and
4 Infrastructure of the House of Representatives;

5 (B) the Committee on Appropriations of
6 the House of Representatives;

7 (C) the Committee on Commerce, Science,
8 and Transportation of the Senate;

9 (D) the Committee on Appropriations of
10 the Senate; and

11 (E) the Federal Railroad Administration.

12 (4) AUTHORIZATION OF APPROPRIATIONS.—

13 There are authorized to be appropriated to the Sec-
14 retary of Transportation to enable Amtrak to con-
15 duct the study under this subsection \$5,000,000.

16 **SEC. 210. RESTRUCTURING LONG-TERM DEBT AND CAP-**
17 **ITAL LEASES.**

18 (a) IN GENERAL.—The Secretary of the Treasury, in
19 consultation with the Secretary of Transportation and
20 Amtrak, may make agreements to restructure Amtrak's
21 indebtedness as of the date of enactment of this Act. This
22 authorization expires 18 months after the date of enact-
23 ment of this Act.

24 (b) DEBT RESTRUCTURING.—The Secretary of the
25 Treasury, in consultation with the Secretary of Transpor-

1 tation and Amtrak, shall enter into negotiations with the
2 holders of Amtrak debt, including leases, outstanding on
3 the date of enactment of this Act for the purpose of re-
4 structuring (including repayment) and repaying that debt.
5 The Secretary of the Treasury may secure agreements for
6 restructuring or repayment on such terms as the Secretary
7 of the Treasury deems favorable to the interests of the
8 Government.

9 (c) CRITERIA.—In restructuring Amtrak’s indebted-
10 ness, the Secretary of the Treasury and Amtrak—

11 (1) shall take into consideration repayment
12 costs, the term of any loan or loans, and market
13 conditions; and

14 (2) shall ensure that the restructuring results
15 in significant savings to Amtrak and the United
16 States Government.

17 (d) PAYMENT OF RENEGOTIATED DEBT.—If the cri-
18 teria under subsection (c) are met, the Secretary of the
19 Treasury may assume or repay the restructured debt, as
20 appropriate.

21 (e) AMTRAK PRINCIPAL AND INTEREST PAY-
22 MENTS.—

23 (1) PRINCIPAL ON DEBT SERVICE.—Unless the
24 Secretary of the Treasury makes sufficient payments
25 to creditors under subsection (d) so that Amtrak is

1 required to make no payments to creditors in a fis-
2 cal year, the Secretary of Transportation shall use
3 funds authorized by section 102(a)(1) of this Act for
4 the use of Amtrak for retirement of principal on
5 loans for capital equipment, or capital leases.

6 (2) INTEREST ON DEBT.—Unless the Secretary
7 of the Treasury makes sufficient payments to credi-
8 tors under subsection (d) so that Amtrak is required
9 to make no payments to creditors in a fiscal year,
10 the Secretary of Transportation shall use funds au-
11 thorized by section 102(a)(1) of this Act for the use
12 of Amtrak for the payment of interest on loans for
13 capital equipment, or capital leases.

14 (3) REDUCTIONS IN AUTHORIZATION LEVELS.—
15 Whenever action taken by the Secretary of the
16 Treasury under subsection (a) results in reductions
17 in amounts of principal or interest that Amtrak
18 must service on existing debt, the corresponding
19 amounts authorized by section 102(a)(1) shall be re-
20 duced accordingly.

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

1 (1) modify the extent or nature of any indebt-
2 edness of the National Railroad Passenger Corpora-
3 tion to the United States in existence of the date of
4 enactment of this Act;

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

7 (3) imply any Federal guarantee or commit-
8 ment to amortize Amtrak's outstanding indebted-
9 ness.

10 (g) SECRETARY APPROVAL.—Amtrak may not incur
11 more debt after the date of enactment of this Act without
12 the express advance approval of the Secretary of Trans-
13 portation.

14 (h) REPORT.—The Secretary of the Treasury shall
15 transmit a report to the Committee on Transportation and
16 Infrastructure of the House of Representatives, the Com-
17 mittee on Appropriations of the House of Representatives,
18 the Committee on Commerce, Science, and Transportation
19 of the Senate, and the Committee on Appropriations of
20 the Senate, by November 1, 2009—

21 (1) describing in detail any agreements to re-
22 structure the Amtrak debt; and

23 (2) providing an estimate of the savings to Am-
24 trak and the United States Government.

1 **SEC. 211. STUDY OF COMPLIANCE REQUIREMENTS AT EX-**
2 **ISTING INTERCITY RAIL STATIONS.**

3 Amtrak, in consultation with station owners and
4 other railroads operating service through the existing sta-
5 tions that it serves, shall evaluate the improvements nec-
6 essary to make these stations readily accessible to and us-
7 able by individuals with disabilities, as required by such
8 section 242(e)(2) of the Americans with Disabilities Act
9 of 1990, as amended (42 U.S.C. 12162(e)(2)). The eval-
10 uation shall include, for each applicable station, improve-
11 ments required to bring it into compliance with the appli-
12 cable parts of such section 242(e)(2), any potential bar-
13 riers to achieving compliance, the estimated cost of the
14 improvements necessary, the identification of the respon-
15 sible person (as defined in section 241(5) of that Act (42
16 U.S.C. 12161(5))), and the earliest practicable date when
17 such improvements can be made. The evaluation shall also
18 include an overall schedule for bringing all applicable sta-
19 tions into compliance with the applicable parts of section
20 242(e)(2). Amtrak shall submit the evaluation to the Com-
21 mittee on Transportation and Infrastructure of the House
22 of Representatives; the Committee on Commerce, Science,
23 and Transportation of the Senate; the Department of
24 Transportation; and the National Council on Disability by
25 July 1, 2009, along with recommendations for funding the
26 necessary improvements. Should the Department of

1 Transportation issue the Final Rule to its Notice of Pro-
2 posed Rulemaking of February 27, 2006, on “Transportation
3 for Individuals with Disabilities,” after Amtrak sub-
4 mits its evaluation, Amtrak shall, not later than 120 days
5 after the date the Final Rule is published, submit to the
6 above parties a supplemental evaluation on the impact of
7 those changes on its cost and schedule for achieving full
8 compliance.

9 **SEC. 212. OVERSIGHT OF AMTRAK’S COMPLIANCE WITH AC-**
10 **CESSIBILITY REQUIREMENTS.**

11 Using the funds authorized by section 101(f) of this
12 Act, the Federal Railroad Administration shall monitor
13 and conduct periodic reviews of Amtrak’s compliance with
14 applicable sections of the Americans with Disabilities Act
15 of 1990 and the Rehabilitation Act of 1974 to ensure that
16 Amtrak’s services and facilities are accessible to individ-
17 uals with disabilities to the extent required by law.

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

19 If a State desires to select or selects an entity other
20 than Amtrak to provide services required for the operation
21 of an intercity passenger train route described in section
22 24102(5)(D) or 24702 of title 49, United States Code,
23 the State may make an agreement with Amtrak to use
24 facilities and equipment of, or have services provided by,
25 Amtrak under terms agreed to by the State and Amtrak

1 to enable the State to utilize an entity other than Amtrak
2 to provide services required for operation of the route. If
3 the parties cannot agree upon terms, and the Surface
4 Transportation Board finds that access to Amtrak's facili-
5 ties or equipment, or the provision of services by Amtrak,
6 is necessary to carry out this provision and that the oper-
7 ation of Amtrak's other services will not be impaired
8 thereby, the Surface Transportation Board shall, within
9 120 days after submission of the dispute, issue an order
10 that the facilities and equipment be made available, and
11 that services be provided, by Amtrak, and shall determine
12 reasonable compensation, liability and other terms for use
13 of the facilities and equipment and provision of the serv-
14 ices. Compensation shall be determined in accordance with
15 the methodology established pursuant to section 206 of
16 this Act.

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

18 (a) REPEAL OF SELF-SUFFICIENCY REQUIRE-
19 MENTS.—

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

22 (A) by striking “plan to operate within the
23 funding levels authorized by section 24104 of
24 this chapter, including the budgetary goals for
25 fiscal years 1998 through 2002.” and inserting

1 “plan, consistent with section 204 of the Pas-
2 senger Rail Investment and Improvement Act of
3 2008, including the budgetary goals for fiscal
4 years 2009 through 2013.”; and

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

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

13 (b) LEASE ARRANGEMENTS.—Amtrak may obtain
14 services from the Administrator of General Services, and
15 the Administrator may provide services to Amtrak, under
16 section 201(b) and 211(b) of the Federal Property and
17 Administrative Service Act of 1949 (40 U.S.C. 481(b) and
18 491(b)) for each of fiscal years 2009 through 2013.

19 (c) TRAVEL FACILITATION.—Using existing author-
20 ity or agreements, or upon reaching additional agreements
21 with Canada, the Secretary of Transportation and other
22 Federal agencies, as appropriate, are authorized to estab-
23 lish facilities and procedures to conduct preclearance of
24 passengers traveling on Amtrak trains from Canada to the
25 United States. The Secretary shall seek to establish such

1 facilities and procedures in areas determined appropriate
2 by the Secretary.

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

4 (a) IN GENERAL.—Chapter 243 is amended by in-
5 serting after section 24309 the following:

6 **“§ 24310. Management accountability**

7 “(a) IN GENERAL.—Three years after the date of en-
8 actment of the Passenger Rail Investment and Improve-
9 ment Act of 2008, and two years thereafter, the Inspector
10 General of the Department of Transportation shall com-
11 plete an overall assessment of the progress made by Am-
12 trak management and the Department of Transportation
13 in implementing the provisions of that Act.

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

17 “(1) effectiveness in improving annual financial
18 planning;

19 “(2) effectiveness in implementing improved fi-
20 nancial accounting;

21 “(3) efforts to implement minimum train per-
22 formance standards;

23 “(4) progress maximizing revenues and mini-
24 mizing Federal subsidies and improving financial re-
25 sults; and

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

3 (b) CONFORMING AMENDMENT.—The chapter anal-
4 ysis for chapter 243 is amended by inserting after the item
5 relating to section 24309 the following:

 “24310. Management accountability.”.

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

7 (a) IN GENERAL.—The Comptroller General of the
8 General Accountability Office shall conduct a study to de-
9 termine the potential cost and benefits of expanding pas-
10 senger rail service options in underserved communities.

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

15 (1) the Committee on Transportation and In-
16 frastructure of the House of Representatives; and

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

19 **SEC. 217. CONGESTION GRANTS.**

20 (a) AUTHORITY.—The Secretary of Transportation
21 may make grants to States, or to Amtrak in cooperation
22 with States, for financing the capital costs of facilities, in-
23 frastructure, and equipment for high priority rail corridor
24 projects necessary to reduce congestion or facilitate rider-
25 ship growth in intercity passenger rail transportation.

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

3 (1) to add a third track, crossovers, and Rich-
4 mond-area track improvements to bypass Acca Yard
5 and access the downtown Main St. Station on track
6 from Washington, DC, to Richmond, VA;

7 (2) to add sections of second track, extend sid-
8 ings, and add crossovers for Virginia and North
9 Carolina service between Richmond, VA, and Selma,
10 NC;

11 (3) to add a third track, crossovers, and sidings
12 from Seattle, WA, to Portland, OR;

13 (4) to add new signals, reconfigure the Porter
14 rail junction, add new siding, and construct flyovers
15 and a separate passenger line from Chicago, IL, to
16 Porter, IN; and

17 (5) designated by the Secretary as being suffi-
18 ciently advanced in development to be capable of
19 serving the purposes described in subsection (a) on
20 an expedited schedule.

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

1 (d) FEDERAL SHARE.—The Federal share of the cost
2 of a project financed under this section shall not exceed
3 80 percent.

4 (e) EMPLOYEE PROTECTION.—The recipient of a
5 grant under this section shall agree to comply with the
6 standards of section 24312 of title 49, United States
7 Code, as such section was in effect on September 1, 2003,
8 with respect to the project in the same manner that the
9 National Railroad Passenger Corporation is required to
10 comply with those standards for construction work fi-
11 nanced under an agreement made under section 24308(a)
12 of such title.

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

14 (a) IN GENERAL.—Not later than 9 months after the
15 date of enactment of this Act, Amtrak shall transmit to
16 the Committee on Transportation and Infrastructure of
17 the House of Representatives and the Committee on Com-
18 merce, Science, and Transportation of the Senate a plan
19 for restoring passenger rail service between New Orleans,
20 Louisiana, and Sanford, Florida. The plan shall include
21 a projected timeline for restoring such service, the costs
22 associated with restoring such service, and any proposals
23 for legislation necessary to support such restoration of
24 service. In developing the plan, Amtrak shall consult with
25 representatives from the States of Louisiana, Alabama,

1 Mississippi, and Florida, railroad carriers whose tracks
2 may be used for such service, rail passengers, rail labor,
3 and other entities as appropriate.

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

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

9 (a) IN GENERAL.—The Administrator of the Federal
10 Railroad Administration, in consultation with the Sec-
11 retary of Energy and the Administrator of the Environ-
12 mental Protection Agency, shall conduct a study to deter-
13 mine the extent to which freight and passenger rail opera-
14 tors could use biofuel blends to power its locomotive fleet
15 and other vehicles that operate on rail tracks.

16 (b) DEFINITION.—For purposes of this section, the
17 term “biofuel” means a fuel that utilizes renewable re-
18 sources and is composed substantially of a renewable re-
19 source blended with ethanol, methanol, or other additive.

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

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

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

1 (3) the cost of purchasing biofuel blends;

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

4 (5) the effect of biofuel use on relevant loco-
5 motive and other vehicle performance.

6 (d) LOCOMOTIVE TESTING.—As part of the study,
7 the Federal Railroad Administration shall test locomotive
8 engine performance and emissions using blends of biofuel
9 and diesel fuel in order to recommend a premium loco-
10 motive biofuel blend.

11 (e) REPORT.—Not later than 1 year after the date
12 of enactment of this Act, the Federal Railroad Adminis-
13 tration shall issue the results of this study to the Com-
14 mittee on Transportation and Infrastructure of the House
15 of Representatives and the Committee on Commerce,
16 Science, and Transportation of the Senate.

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

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

22 Not later than 180 days after the date of enactment
23 of this Act, the Federal Railroad Administration shall
24 transmit to the Committee on Transportation and Infra-
25 structure of the House of Representatives and the Com-

1 mittee on Commerce, Science, and Transportation of the
2 Senate a report containing the results of a study of the
3 feasibility of using readily biodegradable lubricants by
4 freight and passenger railroads. The Federal Railroad Ad-
5 ministration shall work with an agricultural-based lubri-
6 cant testing facility or facilities to complete this study.
7 The study shall include—

8 (1) an analysis of the potential use of soy-based
9 grease and soy-based hydraulic fluids to perform ac-
10 cording to railroad industry standards;

11 (2) an analysis of the potential use of other
12 readily biodegradable lubricants to perform accord-
13 ing to railroad industry standards;

14 (3) a comparison of the health and safety of pe-
15 troleum-based lubricants with biobased lubricants,
16 which shall include an analysis of fire safety; and

17 (4) a comparison of the environmental impact
18 of petroleum-based lubricants with biobased lubri-
19 cants, which shall include rate and effects of
20 biodegradability.

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

22 Section 24305(f) of title 49, United States Code, is
23 amended to read as follows:

24 “(f) APPLICABILITY OF BUY AMERICAN ACT.—Am-
25 trak shall be subject to the Buy American Act (41 U.S.C.

1 10a–d) and the regulations thereunder, for purchases of
2 \$100,000 or more.”.

3 **SEC. 222. INTERCITY PASSENGER RAIL SERVICE PERFORM-**
4 **ANCE.**

5 (a) DEVELOPMENT OF EVALUATION METRICS.—Not
6 later than 6 months after the date of enactment of this
7 Act, the Inspector General of the Department of Trans-
8 portation shall, using the financial and performance
9 metrics developed under section 207, develop metrics for
10 the evaluation of the performance and service quality of
11 intercity passenger rail services including cost recovery,
12 on-time performance and minutes of delay, ridership, on-
13 board services, maintenance of facilities and equipment,
14 and other services.

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

19 (c) ALTERNATIVE ROUTES.—The Inspector General
20 shall also establish criteria for evaluating routes not cur-
21 rently served by Amtrak which might be able to support
22 passenger rail service at a reasonable cost.

23 (d) REPORT TO CONGRESS.—The Inspector General
24 shall submit a report to the Committee on Transportation
25 and Infrastructure of the House of Representatives and

1 the Committee on Commerce, Science, and Transportation
 2 of the Senate recommending a process for the Department
 3 of Transportation to consider proposals by Amtrak and
 4 others to serve underperforming routes, and routes not
 5 currently served by Amtrak. The proposals shall require
 6 that applicants follow grant requirements of section 504.
 7 The Inspector General shall recommend one route not cur-
 8 rently served by Amtrak and two routes (from among the
 9 five worst routes identified under subsection (b)) currently
 10 served by Amtrak, for the Department of Transportation
 11 to consider under the selection process.

12 (e) IMPLEMENTATION.—The Secretary shall not im-
 13 plement the selection process recommended by the Inspec-
 14 tor General under subsection (d) until legislation has been
 15 enacted authorizing the Secretary to take such action.

16 **TITLE III—INTERCITY**
 17 **PASSENGER RAIL POLICY**

18 **SEC. 301. CAPITAL ASSISTANCE FOR INTERCITY PAS-**
 19 **SENGER RAIL SERVICE; STATE RAIL PLANS.**

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

22 **“CHAPTER 244—INTERCITY PASSENGER**
 23 **RAIL SERVICE CORRIDOR CAPITAL AS-**
 24 **SISTANCE**

“Sec. 24401. Definitions.

“Sec. 24402. Capital investment grants to support intercity passenger rail serv-
 ice.

“Sec. 24403. Project management oversight.

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

“Sec. 24405. Grant conditions.

1 **“§ 24401. Definitions**

2 “In this chapter:

3 “(1) **APPLICANT**.—The term ‘applicant’ means
4 a State (including the District of Columbia), a group
5 of States, an Interstate Compact, or a public agency
6 established by one or more States and having re-
7 sponsibility for providing intercity passenger rail
8 service.

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

12 “(A) acquiring, constructing, improving, or
13 inspecting equipment, track and track struc-
14 tures, or a facility for use in or for the primary
15 benefit of intercity passenger rail service, ex-
16 penses incidental to the acquisition or construc-
17 tion (including designing, engineering, location
18 surveying, mapping, environmental studies, and
19 acquiring rights-of-way), payments for the cap-
20 ital portions of rail trackage rights agreements,
21 highway-rail grade crossing improvements re-
22 lated to intercity passenger rail service, miti-
23 gating environmental impacts, communication

1 and signalization improvements, relocation as-
2 sistance, acquiring replacement housing sites,
3 and acquiring, constructing, relocating, and re-
4 habilitating replacement housing;

5 “(B) rehabilitating, remanufacturing or
6 overhauling rail rolling stock and facilities used
7 primarily in intercity passenger rail service;

8 “(C) costs associated with developing State
9 rail plans; and

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

13 “(3) INTERCITY PASSENGER RAIL SERVICE.—
14 The term ‘intercity passenger rail service’ means
15 transportation services with the primary purpose of
16 passenger transportation between towns, cities and
17 metropolitan areas by rail, including high-speed rail,
18 as defined in section 24102 of this title.

19 **“§ 24402. Capital investment grants to support inter-**
20 **city passenger rail service**

21 “(a) GENERAL AUTHORITY.—

22 “(1) The Secretary of Transportation may
23 make grants under this section to an applicant to
24 assist in financing the capital costs of facilities, in-

1 frastructure, and equipment necessary to provide or
2 improve intercity passenger rail transportation.

3 “(2) The Secretary shall require that a grant
4 under this section be subject to the terms, condi-
5 tions, requirements, and provisions the Secretary de-
6 cides are necessary or appropriate for the purposes
7 of this section, including requirements for the dis-
8 position of net increases in value of real property re-
9 sulting from the project assisted under this section
10 and shall prescribe procedures and schedules for the
11 awarding of grants under this title, including appli-
12 cation and qualification procedures and a record of
13 decision on applicant eligibility. The Secretary shall
14 issue a final rule establishing such procedures not
15 later than 90 days after the date of enactment of
16 the Passenger Rail Investment and Improvement
17 Act of 2008.

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

19 “(1) The Secretary may not approve a grant for
20 a project under this section unless the Secretary
21 finds that the project is part of a State rail plan de-
22 veloped under chapter 225 of this title, or under the
23 plan required by section 302 of the Passenger Rail
24 Investment and Improvement Act of 2008, and that
25 the applicant or recipient has or will have the legal,

1 financial, and technical capacity to carry out the
2 project, satisfactory continuing control over the use
3 of the equipment or facilities, and the capability and
4 willingness to maintain the equipment or facilities.

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

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

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

18 “(1) require that each proposed project meet all
19 safety requirements that are applicable to the
20 project under law;

21 “(2) give preference to projects with high levels
22 of estimated ridership, increased on-time perform-
23 ance, reduced trip time, additional service frequency
24 to meet anticipated or existing demand, or other sig-
25 nificant service enhancements as measured against

1 minimum standards developed under section 207 of
2 the Passenger Rail Investment and Improvement
3 Act of 2008;

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

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

11 “(A) plans developed pursuant to the re-
12 quirements of section 135 of title 23, United
13 States Code; and

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

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

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

20 “(B) Projects that improve freight or com-
21 muter rail operations.

22 “(C) Projects that have significant envi-
23 ronmental benefits, including projects that in-
24 volve the purchase of environmentally sensitive,

1 fuel-efficient, and cost-effective passenger rail
2 equipment.

3 “(D) Projects that are—

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

8 “(ii) ready to be commenced.

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

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

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

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

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

1 “(J) Projects described in section
2 5302(a)(1)(G) of this title that are designed to
3 support intercity passenger rail service.

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

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

15 “(e) LETTERS OF INTENT, FULL FUNDING GRANT
16 AGREEMENTS, AND EARLY SYSTEMS WORK AGREE-
17 MENTS.—

18 “(1)(A) The Secretary may issue a letter of in-
19 tent to an applicant announcing an intention to obli-
20 gate, for a major capital project under this section,
21 an amount from future available budget authority
22 specified in law that is not more than the amount
23 stipulated as the financial participation of the Sec-
24 retary in the project.

1 “(B) At least 30 days before issuing a letter
2 under subparagraph (A) of this paragraph or enter-
3 ing into a full funding grant agreement, the Sec-
4 retary shall notify in writing the Committee on
5 Transportation and Infrastructure of the House of
6 Representatives and the Committee on Commerce,
7 Science, and Transportation of the Senate and the
8 House and Senate Committees on Appropriations of
9 the proposed letter or agreement. The Secretary
10 shall include with the notification a copy of the pro-
11 posed letter or agreement as well as the evaluations
12 and ratings for the project.

13 “(C) An obligation or administrative commit-
14 ment may be made only when amounts are appro-
15 priated.

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

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

22 “(ii) establish the maximum amount of
23 Government financial assistance for the project;

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

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

7 “(B) An agreement under this paragraph obli-
8 gates an amount of available budget authority speci-
9 fied in law and may include a commitment, contin-
10 gent on amounts to be specified in law in advance
11 for commitments under this paragraph, to obligate
12 an additional amount from future available budget
13 authority specified in law. The agreement shall state
14 that the contingent commitment is not an obligation
15 of the Government and is subject to the availability
16 of appropriations made by Federal law and to Fed-
17 eral laws in force on or enacted after the date of the
18 contingent commitment. Interest and other financing
19 costs of efficiently carrying out a part of the project
20 within a reasonable time are a cost of carrying out
21 the project under a full funding grant agreement,
22 except that eligible costs may not be more than the
23 cost of the most favorable financing terms reason-
24 ably available for the project at the time of bor-
25 rowing. The applicant shall certify, in a way satis-

1 factory to the Secretary, that the applicant has
2 shown reasonable diligence in seeking the most fa-
3 vorable financing terms.

4 “(3)(A) The Secretary may make an early sys-
5 tems work agreement with an applicant if a record
6 of decision under the National Environmental Policy
7 Act of 1969 (42 U.S.C. 4321 et seq.) has been
8 issued on the project and the Secretary finds there
9 is reason to believe—

10 “(i) a full funding grant agreement for the
11 project will be made; and

12 “(ii) the terms of the work agreement will
13 promote ultimate completion of the project
14 more rapidly and at less cost.

15 “(B) A work agreement under this paragraph
16 obligates an amount of available budget authority
17 specified in law and shall provide for reimbursement
18 of preliminary costs of carrying out the project, in-
19 cluding land acquisition, timely procurement of sys-
20 tem elements for which specifications are decided,
21 and other activities the Secretary decides are appro-
22 priate to make efficient, long-term project manage-
23 ment easier. A work agreement shall cover the pe-
24 riod of time the Secretary considers appropriate.
25 The period may extend beyond the period of current

1 authorization. Interest and other financing costs of
2 efficiently carrying out the work agreement within a
3 reasonable time are a cost of carrying out the agree-
4 ment, except that eligible costs may not be more
5 than the cost of the most favorable financing terms
6 reasonably available for the project at the time of
7 borrowing. The applicant shall certify, in a way sat-
8 isfactory to the Secretary, that the applicant has
9 shown reasonable diligence in seeking the most fa-
10 vorable financing terms. If an applicant does not
11 carry out the project for reasons within the control
12 of the applicant, the applicant shall repay all Gov-
13 ernment payments made under the work agreement
14 plus reasonable interest and penalty charges the
15 Secretary establishes in the agreement.

16 “(4) The total estimated amount of future obli-
17 gations of the Government and contingent commit-
18 ments to incur obligations covered by all outstanding
19 letters of intent, full funding grant agreements, and
20 early systems work agreements may be not more
21 than the amount authorized under section 101(d) of
22 the Passenger Rail Investment and Improvement
23 Act of 2008, less an amount the Secretary reason-
24 ably estimates is necessary for grants under this sec-
25 tion not covered by a letter. The total amount cov-

1 ered by new letters and contingent commitments in-
2 cluded in full funding grant agreements and early
3 systems work agreements may be not more than a
4 limitation specified in law.

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

6 “(1)(A) Based on engineering studies, studies
7 of economic feasibility, and information on the ex-
8 pected use of equipment or facilities, the Secretary
9 shall estimate the net project cost.

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

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

16 “(2) Up to an additional 20 percent of the re-
17 quired non-Federal funds may be funded from
18 amounts appropriated to or made available to a de-
19 partment or agency of the Federal Government that
20 are eligible to be expended for transportation.

21 “(3) 50 percent of the average amounts ex-
22 pended by a State or group of States (including the
23 District of Columbia) for capital projects to benefit
24 intercity passenger rail service and operating costs
25 in fiscal years 2002, 2003, 2004, 2005, 2006, 2007,

1 and 2008 shall be credited towards the matching re-
2 quirements for grants awarded in fiscal years 2009,
3 2010, and 2011 under this section. The Secretary
4 may require such information as necessary to verify
5 such expenditures.

6 “(4) 50 percent of the average amounts ex-
7 pended by a State or group of States (including the
8 District of Columbia) in a fiscal year, beginning in
9 fiscal year 2007, for capital projects to benefit inter-
10 city passenger rail service or for the operating costs
11 of such service above the average capital and oper-
12 ating expenditures made for such service in fiscal
13 years 2004, 2005, 2006, 2007, and 2008 shall be
14 credited towards the matching requirements for
15 grants awarded under this section. The Secretary
16 may require such information as necessary to verify
17 such expenditures.

18 “(g) UNDERTAKING PROJECTS IN ADVANCE.—

19 “(1) The Secretary may pay the Federal share
20 of the net capital project cost to an applicant that
21 carries out any part of a project described in this
22 section according to all applicable procedures and re-
23 quirements if—

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

1 “(B) the Secretary approves the payment;
2 and

3 “(C) before carrying out the part of the
4 project, the Secretary approves the plans and
5 specifications for the part in the same way as
6 other projects under this section.

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

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

21 “(h) 2-YEAR AVAILABILITY.—Funds appropriated
22 under this section shall remain available until expended.
23 If any amount provided as a grant under this section is
24 not obligated or expended for the purposes described in
25 subsection (a) within 2 years after the date on which the

1 State received the grant, such sums shall be returned to
2 the Secretary for other intercity passenger rail develop-
3 ment projects under this section at the discretion of the
4 Secretary.

5 “(i) SPECIAL TRANSPORTATION CIRCUMSTANCES.—
6 In carrying out this section, the Secretary shall allocate
7 an appropriate portion of the amounts available under this
8 section to provide grants to States—

9 “(1) in which there is no intercity passenger
10 rail service for the purpose of funding freight rail
11 capital projects that are on a State rail plan devel-
12 oped under chapter 225 of this title that provide
13 public benefits (as defined in chapter 225) as deter-
14 mined by the Secretary; or

15 “(2) in which the rail transportation system is
16 not physically connected to rail systems in the conti-
17 nental United States or may not otherwise qualify
18 for a grant under this section due to the unique
19 characteristics of the geography of that State or
20 other relevant considerations, for the purpose of
21 funding transportation-related capital projects.

22 “(j) SMALL CAPITAL PROJECTS.—The Secretary
23 shall make available \$10,000,000 annually from the
24 amounts authorized under section 101(d) of the Passenger
25 Rail Investment and Improvement Act of 2008 beginning

1 in fiscal year 2009 for grants for capital projects eligible
2 under this section not exceeding \$2,000,000, including
3 costs eligible under section 206(c) of that Act. The Sec-
4 retary may wave requirements of this section, including
5 state rail plan requirements, as appropriate.

6 **“§ 24403. Project management oversight**

7 “(a) PROJECT MANAGEMENT PLAN REQUIRE-
8 MENTS.—To receive Federal financial assistance for a
9 major capital project under this chapter, an applicant
10 must prepare and carry out a project management plan
11 approved by the Secretary of Transportation. The plan
12 shall provide for—

13 “(1) adequate recipient staff organization with
14 well-defined reporting relationships, statements of
15 functional responsibilities, job descriptions, and job
16 qualifications;

17 “(2) a budget covering the project management
18 organization, appropriate consultants, property ac-
19 quisition, utility relocation, systems demonstration
20 staff, audits, and miscellaneous payments the recipi-
21 ent may be prepared to justify;

22 “(3) a construction schedule for the project;

23 “(4) a document control procedure and record-
24 keeping system;

1 “(5) a change order procedure that includes a
2 documented, systematic approach to handling the
3 construction change orders;

4 “(6) organizational structures, management
5 skills, and staffing levels required throughout the
6 construction phase;

7 “(7) quality control and quality assurance func-
8 tions, procedures, and responsibilities for construc-
9 tion, system installation, and integration of system
10 components;

11 “(8) material testing policies and procedures;

12 “(9) internal plan implementation and reporting
13 requirements;

14 “(10) criteria and procedures to be used for
15 testing the operational system or its major compo-
16 nents;

17 “(11) periodic updates of the plan, especially
18 related to project budget and project schedule, fi-
19 nancing, and ridership estimates; and

20 “(12) the recipient’s commitment to submit a
21 project budget and project schedule to the Secretary
22 each month.

23 “(b) SECRETARIAL OVERSIGHT.—

24 “(1) The Secretary may use no more than 0.5
25 percent of amounts made available in a fiscal year

1 for capital projects under this chapter to enter into
2 contracts to oversee the construction of such
3 projects.

4 “(2) The Secretary may use amounts available
5 under paragraph (1) of this subsection to make con-
6 tracts for safety, procurement, management, and fi-
7 nancial compliance reviews and audits of a recipient
8 of amounts under paragraph (1).

9 “(3) The Federal Government shall pay the en-
10 tire cost of carrying out a contract under this sub-
11 section.

12 “(c) ACCESS TO SITES AND RECORDS.—Each recipi-
13 ent of assistance under this chapter shall provide the Sec-
14 retary and a contractor the Secretary chooses under sub-
15 section (c) of this section with access to the construction
16 sites and records of the recipient when reasonably nec-
17 essary.

18 **“§ 24404. Use of capital grants to finance first-dollar**
19 **liability of grant project**

20 “Notwithstanding the requirements of section 24402
21 of this chapter, the Secretary of Transportation may ap-
22 prove the use of capital assistance under this chapter to
23 fund self-insured retention of risk for the first tier of li-
24 ability insurance coverage for rail passenger service associ-
25 ated with the capital assistance grant, but the coverage

1 may not exceed \$20,000,000 per occurrence or
2 \$20,000,000 in aggregate per year.

3 **“§ 24405. Grant conditions**

4 “(a) DOMESTIC BUYING PREFERENCE.—

5 “(1) REQUIREMENT.—

6 “(A) IN GENERAL.—In carrying out a
7 project funded in whole or in part with a grant
8 under this title, the grant recipient shall pur-
9 chase only—

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

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

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

21 “(2) EXEMPTIONS.—On application of a recipi-
22 ent, the Secretary may exempt a recipient from the
23 requirements of this subsection if the Secretary de-
24 cides that, for particular articles, material, or sup-
25 plies—

1 “(A) such requirements are inconsistent
2 with the public interest;

3 “(B) the cost of imposing the requirements
4 is unreasonable; or

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

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

15 “(b) OPERATORS DEEMED RAIL CARRIERS AND EM-
16 PLOYERS FOR CERTAIN PURPOSES.—A person that con-
17 ducts rail operations over rail infrastructure constructed
18 or improved with funding provided in whole or in part in
19 a grant made under this title shall be considered a rail
20 carrier as defined in section 10102(5) of this title for pur-
21 poses of this title and any other statute that adopts that
22 definition or in which that definition applies, including—

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

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

3 “(3) the Railroad Unemployment Insurance Act
4 (45 U.S.C. 351 et seq.).

5 “(c) GRANT CONDITIONS.—The Secretary shall re-
6 quire as a condition of making any grant under this title
7 for a project that uses rights-of-way owned by a railroad
8 that—

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

12 “(A) any compensation for such use;

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

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

1 “(D) an assurance that an applicant com-
2 plies with liability requirements consistent with
3 section 28103 of this title; and

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

5 “(A) the standards of section 24312 of this
6 title, as such section was in effect on September
7 1, 2003, with respect to the project in the same
8 manner that the National Railroad Passenger
9 Corporation is required to comply with those
10 standards for construction work financed under
11 an agreement made under section 24308(a) of
12 this title; and

13 “(B) the protective arrangements estab-
14 lished under section 504 of the Railroad Revi-
15 talization and Regulatory Reform Act of 1976
16 (45 U.S.C. 836) with respect to employees af-
17 fected by actions taken in connection with the
18 project to be financed in whole or in part by
19 grants under this chapter.

20 “(d) REPLACEMENT OF EXISTING INTERCITY PAS-
21 Senger Rail Service.—

22 “(1) COLLECTIVE BARGAINING AGREEMENT
23 FOR INTERCITY PASSENGER RAIL PROJECTS.—Any
24 entity providing intercity passenger railroad trans-
25 portation that begins operations after the date of en-

1 actment of this Act on a project funded in whole or
2 in part by grants made under this title and replaces
3 intercity rail passenger service that was provided by
4 Amtrak, unless such service was provided solely by
5 Amtrak to another entity, as of such date shall enter
6 into an agreement with the authorized bargaining
7 agent or agents for adversely affected employees of
8 the predecessor provider that—

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

16 “(B) establishes a procedure for notifying
17 such an employee of such positions;

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

20 “(D) establishes rates of pay, rules, and
21 working conditions.

22 “(2) IMMEDIATE REPLACEMENT SERVICE.—

23 “(A) NEGOTIATIONS.—If the replacement
24 of preexisting intercity rail passenger service oc-
25 curs concurrent with or within a reasonable

1 time before the commencement of the replacing
2 entity's rail passenger service, the replacing en-
3 tity shall give written notice of its plan to re-
4 place existing rail passenger service to the au-
5 thorized collective bargaining agent or agents
6 for the potentially adversely affected employees
7 of the predecessor provider at least 90 days be-
8 fore the date on which it plans to commence
9 service. Within 5 days after the date of receipt
10 of such written notice, negotiations between the
11 replacing entity and the collective bargaining
12 agent or agents for the employees of the prede-
13 cessor provider shall commence for the purpose
14 of reaching agreement with respect to all mat-
15 ters set forth in subparagraphs (A) through (D)
16 of paragraph (1). The negotiations shall con-
17 tinue for 30 days or until an agreement is
18 reached, whichever is sooner. If at the end of
19 30 days the parties have not entered into an
20 agreement with respect to all such matters, the
21 unresolved issues shall be submitted for arbitra-
22 tion in accordance with the procedure set forth
23 in subparagraph (B).

24 “(B) ARBITRATION.—If an agreement has
25 not been entered into with respect to all mat-

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

24 “(3) SERVICE COMMENCEMENT.—A replacing
25 entity under this subsection shall commence service

1 only after an agreement is entered into with respect
2 to the matters set forth in subparagraphs (A)
3 through (D) of paragraph (1) or the decision of the
4 arbitrator has been rendered.

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

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

1 “(1) commuter rail passenger transportation
 2 (as defined in section 24102(4) of this title) oper-
 3 ations of a State or local government authority (as
 4 those terms are defined in section 5302(11) and (6),
 5 respectively, of this title) eligible to receive financial
 6 assistance under section 5307 of this title, or to its
 7 contractor performing services in connection with
 8 commuter rail passenger operations (as so defined);

9 “(2) the Alaska Railroad or its contractors; or

10 “(3) the National Railroad Passenger Corpora-
 11 tion’s access rights to railroad rights of way and fa-
 12 cilities under current law”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) The table of chapters for the title is amend-
 15 ed by inserting the following after the item relating
 16 to chapter 243:

“244. Intercity passenger rail service capital assistance ...24401”.

17 (2) The chapter analysis for subtitle V is
 18 amended by inserting the following after the item re-
 19 lating to chapter 243:

“244. Intercity passenger rail service capital assistance ...24401”.

20 **SEC. 302. STATE RAIL PLANS.**

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

1 **“CHAPTER 225—STATE RAIL PLANS AND**
 2 **HIGH PRIORITY PROJECTS**

“Sec. 22501. Definitions.

“Sec. 22502. Authority.

“Sec. 22503. Purposes.

“Sec. 22504. Transparency; coordination; review.

“Sec. 22505. Content.

“Sec. 22506. Review.

3 **“§ 22501. Definitions**

4 “In this chapter:

5 “(1) PRIVATE BENEFIT.—

6 “(A) IN GENERAL.—The term ‘private
 7 benefit’—

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

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

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

22 “(2) PUBLIC BENEFIT.—

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

3 “(i) means a benefit accrued to the
4 public in the form of enhanced mobility of
5 people or goods, environmental protection
6 or enhancement, congestion mitigation, en-
7 hanced trade and economic development,
8 improved air quality or land use, more effi-
9 cient energy use, enhanced public safety,
10 reduction of public expenditures due to im-
11 proved transportation efficiency or infra-
12 structure preservation, and any other posi-
13 tive community effects as defined by the
14 Secretary; and

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

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

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

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

1 the direction of the Governor of the State or a State
2 law for preparation, maintenance, coordination, and
3 administration of the State rail plan.

4 **“§ 22502. Authority**

5 “(a) IN GENERAL.—Each State may prepare and
6 maintain a State rail plan in accordance with the provi-
7 sions of this chapter.

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

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

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

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

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

20 **“§ 22503. Purposes**

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

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

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

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

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

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

12 **“§ 22504. Transparency; coordination; review**

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

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

1 ommendations made by such agencies, authorities, and
2 municipalities as deemed appropriate by the State.

3 **“§ 22505. Content**

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

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

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

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

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

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

1 “(6) A statement of public financing issues for
2 rail projects and service in the State, including a list
3 of current and prospective public capital and oper-
4 ating funding resources, public subsidies, State tax-
5 ation, and other financial policies relating to rail in-
6 frastructure development.

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

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

16 “(9) A review of publicly funded projects within
17 the State to improve rail transportation safety, in-
18 cluding all major projects funded under section 130
19 of title 23.

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

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

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

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

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

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

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

15 “(B) A detailed funding plan for those
16 projects.

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

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

21 “(B) a statement of the correlation be-
22 tween—

23 “(i) public funding contributions for
24 the projects; and

25 “(ii) the public benefits.

1 “(3) CONSIDERATIONS FOR PROJECT LIST.—In
2 preparing the list of freight and intercity passenger
3 rail capital projects, a State rail transportation au-
4 thority should take into consideration the following
5 matters:

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

10 “(B) Rail capacity and congestion effects.

11 “(C) Effects on highway, aviation, and
12 maritime capacity, congestion, or safety.

13 “(D) Regional balance.

14 “(E) Environmental impact.

15 “(F) Economic and employment impacts.

16 “(G) Projected ridership and other service
17 measures for passenger rail projects.

18 **“§ 22506. Review**

19 “The Secretary shall prescribe procedures for States
20 to submit State rail plans for review under this title, in-
21 cluding standardized format and data requirements. State
22 rail plans completed before the date of enactment of the
23 Passenger Rail Investment and Improvement Act of 2008
24 that substantially meet the requirements of this chapter,

1 as determined by the Secretary, shall be deemed by the
2 Secretary to have met the requirements of this chapter.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) The table of chapters for the title is amend-
5 ed by inserting the following after the item relating
6 to chapter 223:

“225. State rail plans22501”.

7 (2) The chapter analysis for subtitle V is
8 amended by inserting the following after the item re-
9 lating to chapter 223:

“225. State rail plans22501”.

10 **SEC. 303. NEXT GENERATION CORRIDOR TRAIN EQUIP-**
11 **MENT POOL.**

12 (a) IN GENERAL.—Within 180 days after the date
13 of enactment of this Act, Amtrak shall establish a Next
14 Generation Corridor Equipment Pool Committee, com-
15 prised of representatives of Amtrak, the Federal Railroad
16 Administration, host freight railroad companies, passenger
17 railroad equipment manufacturers, and other passenger
18 railroad operators as appropriate and interested States.
19 The purpose of the Committee shall be to design, develop
20 specifications for, and procure standardized next-genera-
21 tion corridor equipment.

22 (b) FUNCTIONS.—The Committee may—

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

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

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

9 (c) COOPERATIVE AGREEMENTS.—Amtrak and
10 States participating in the Committee may enter into
11 agreements for the funding, procurement, remanufacture,
12 ownership and management of corridor equipment, includ-
13 ing equipment currently owned or leased by Amtrak and
14 next-generation corridor equipment acquired as a result
15 of the Committee’s actions, and may establish a corpora-
16 tion, which may be owned or jointly owned by Amtrak,
17 participating States or other entities, to perform these
18 functions.

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

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

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

4 **“§ 24910. Rail cooperative research program**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 “(12) to review rail crossing safety improve-
2 ments, including improvements using new safety
3 technology.

4 “(c) ADVISORY BOARD.—

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

11 “(2) MEMBERSHIP.—The advisory board shall
12 include—

13 “(A) representatives of State transpor-
14 tation agencies;

15 “(B) transportation and environmental
16 economists, scientists, and engineers; and

17 “(C) representatives of Amtrak, the Alaska
18 Railroad, freight railroads, transit operating
19 agencies, intercity rail passenger agencies, rail-
20 way labor organizations, and environmental or-
21 ganizations.

22 “(d) NATIONAL ACADEMY OF SCIENCES.—The Sec-
23 retary may make grants to, and enter into cooperative
24 agreements with, the National Academy of Sciences to
25 carry out such activities relating to the research, tech-

1 nology, and technology transfer activities described in sub-
2 section (b) as the Secretary deems appropriate”.

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

“24910. Rail cooperative research program.”.

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

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

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

16 (1) the development of high-speed rail;

17 (2) passenger rail operating costs;

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

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

22 (5) passenger rail debt service costs;

23 (6) passenger rail labor agreements and associ-
24 ated costs;

1 (7) the net profit realized by the major pas-
 2 senger rail service providers in each of the 4 most
 3 recent quarters;

4 (8) the percentage of the passenger rail sys-
 5 tem’s costs that are paid from general government
 6 revenues; and

7 (9) the method used by the government to pro-
 8 vide the subsidies described in paragraph (8).

9 (c) REPORT.—Not later than 180 days after the com-
 10 pletion of the study under subsection (a), the Comptroller
 11 General shall submit a report containing the findings of
 12 such study to—

13 (1) the Committee on Transportation and In-
 14 frastructure of the House of Representatives; and

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

17 **TITLE IV—COMMUTER RAIL**
 18 **TRANSIT ENHANCEMENT**

19 **SEC. 401. COMMUTER RAIL TRANSIT ENHANCEMENT.**

20 (a) AMENDMENT.—Part E of subtitle V of title 49,
 21 United States Code, is amended by adding at the end the
 22 following:

23 **“CHAPTER 285—COMMUTER RAIL**
 24 **TRANSIT ENHANCEMENT**

“Sec.

“28501. Definitions

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

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

“28504. Applicability of other laws.

“28505. Rules and regulations.

1 **“§ 28501. Definitions**

2 “In this chapter—

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

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

11 “(3) the term ‘fixed guideway transportation’
12 means public transportation (as defined in section
13 5302(a)(10)) provided on, by, or using a fixed guide-
14 way (as defined in section 5302(a)(4));

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

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

1 “(6) the term ‘segregated fixed guideway facil-
2 ity’ means a fixed guideway facility constructed
3 within the railroad right-of-way of a rail carrier but
4 physically separate from trackage, including relo-
5 cated trackage, within the right-of-way used by a
6 rail carrier for freight transportation purposes; and

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

11 **“§ 28502. Surface Transportation Board mediation of**
12 **trackage use requests**

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

1 **“§ 28503. Surface Transportation Board mediation of**
 2 **rights-of-way use requests**

3 “If, after a reasonable period of negotiation, a public
 4 transportation authority cannot reach agreement with a
 5 rail carrier to acquire an interest in a railroad right-of-
 6 way for the construction and operation of a segregated
 7 fixed guideway facility, the public transportation authority
 8 or the rail carrier may apply to the Board for nonbinding
 9 mediation. The Board shall conduct the nonbinding medi-
 10 ation in accordance with the mediation process of section
 11 1109.4 of title 49, Code of Federal Regulations, as in ef-
 12 fect on the date of enactment of this section.

13 **“§ 28504. Applicability of other laws**

14 “Nothing in this chapter shall be construed to limit
 15 a rail transportation provider’s right under section
 16 28103(b) to enter into contracts that allocate financial re-
 17 sponsibility for claims.

18 **“§ 28505. Rules and regulations**

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

22 (b) CLERICAL AMENDMENT.—The table of chapters
 23 of such subtitle is amended by adding after the item relat-
 24 ing to chapter 283 the following:

“285. COMMUTER RAIL TRANSIT ENHANCEMENT 28501”.

1 **TITLE V—HIGH-SPEED RAIL**

2 **SEC. 501. HIGH-SPEED RAIL CORRIDOR PROGRAM.**

3 (a) IN GENERAL.—Chapter 261 of title 49, United
4 States Code, is amended by adding at the end thereof the
5 following:

6 **“§ 26106. High-speed rail corridor program**

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

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

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

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

20 “(3) CAPITAL PROJECT.—The term ‘capital
21 project’ means a project or program in a State rail
22 plan developed under chapter 225 of this title for ac-
23 quiring, constructing, improving, or inspecting
24 equipment, track, and track structures, or a facility
25 of use in or for the primary benefit of high-speed

1 rail service, expenses incidental to the acquisition or
2 construction (including designing, engineering, loca-
3 tion surveying, mapping, environmental studies, and
4 acquiring rights-of-way), payments for the capital
5 portions of rail trackage rights agreements, highway-
6 rail grade crossing improvements related to high-
7 speed rail service, mitigating environmental impacts,
8 communication and signalization improvements, relo-
9 cation assistance, acquiring replacement housing
10 sites, and acquiring, constructing, relocating, and re-
11 habilitating replacement housing.

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

16 “(5) INTERCITY PASSENGER RAIL SERVICE.—
17 The term ‘intercity passenger rail service’ means
18 transportation services with the primary purpose of
19 passenger transportation between towns, cities, and
20 metropolitan areas by rail, including high-speed rail,
21 as defined in section 24102 of this title.

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

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

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

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

9 “(e) COMPETITIVE GRANT SELECTION AND CRI-
10 TERIA FOR GRANTS.—

11 “(1) IN GENERAL.—The Secretary shall—

12 “(A) establish criteria for selecting among
13 projects that meet the criteria specified in para-
14 graph (2);

15 “(B) conduct a national solicitation for ap-
16 plications; and

17 “(C) award grants on a competitive basis.

18 “(2) GRANT CRITERIA.—The Secretary may ap-
19 prove a grant under this section for a project only
20 if the Secretary determines that the project—

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

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

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

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

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

11 “(ii) to increase mobility of United
12 States citizens and reduce congestion, in-
13 cluding impacts in the State, region, and
14 Nation; and

15 “(iii) to otherwise enhance the na-
16 tional transportation system.

17 “(3) PROJECT SELECTION CRITERIA.—In se-
18 lecting a project under this section, the Secretary
19 shall consider the extent to which the project—

20 “(A) makes a substantial contribution to
21 providing the infrastructure and equipment re-
22 quired to complete a high-speed rail corridor;

23 “(B) leverages Federal investment by en-
24 couraging non-Federal financial commitments,
25 including evidence of stable and dependable fi-

1 nancing sources to construct, maintain, and op-
2 erate the high-speed rail corridor and service;
3 and

4 “(C) helps protect the environment.

5 “(f) FEDERAL SHARE.—The Federal share of the
6 cost of a project financed under this section shall not ex-
7 ceed 80 percent of the project net capital cost.

8 “(g) ISSUANCE OF REGULATIONS.—Not later than 1
9 year after the date of enactment of this section, the Sec-
10 retary shall issue regulations for carrying out this section.

11 “(h) AUTHORIZATION.—There are authorized to be
12 appropriated to the Secretary to carry out this section
13 \$350,000,000 for each of fiscal years 2009 through
14 2013.”.

15 (b) TABLE OF SECTIONS AMENDMENT.—The table of
16 sections for chapter 261 of title 49, United States Code,
17 is amended by adding after the item relating to section
18 26105 the following new item:

 “26106. High-speed rail corridor program.”.

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

20 (a) SOLICITATION OF PROPOSALS.—

21 (1) IN GENERAL.—

22 (A) NORTHEAST CORRIDOR.—Not later
23 than 60 days after the date of enactment of
24 this Act, the Secretary of Transportation shall
25 issue a request for proposals for projects for the

1 financing, design, construction, and operation
2 of an initial high-speed rail system operating
3 between Washington, DC, and New York City.
4 Such proposals shall be submitted to the Sec-
5 retary not later than 150 days after the publi-
6 cation of such request for proposals.

7 (B) OTHER PROJECTS.—After a report is
8 transmitted under subsection (e) with respect to
9 projects described in subparagraph (A), the
10 Secretary of Transportation may issue a re-
11 quest for proposals for additional projects for
12 the financing, design, construction, and oper-
13 ation of a high-speed rail system operating on
14 any other corridor in the United States. Such
15 proposals shall be submitted to the Secretary
16 not later than 150 days after the publication of
17 such request for proposals.

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

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

22 (B) a detailed description of the proposed
23 route and its engineering characteristics and of
24 all infrastructure improvements required to

1 achieve the planned operating speeds and trip
2 times;

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

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

9 (E) the type of equipment to be used, in-
10 cluding any technologies for—

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

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

17 (F) the locations of proposed stations;

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

20 (H) a financing plan identifying—

21 (i) sources of revenue;

22 (ii) the amount of any proposed public
23 contribution toward capital costs or oper-
24 ations;

25 (iii) ridership projections;

1 (iv) the amount of private investment;

2 (v) projected revenue;

3 (vi) annual operating and capital
4 costs;

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

9 (viii) the sources of the private invest-
10 ment required, including the identity of
11 any person or entity that has made or is
12 expected to make a commitment to provide
13 or secure funding and the amount of such
14 commitment;

15 (I) a description of how the project would
16 contribute to the development of a national
17 high-speed rail system, and an intermodal plan
18 describing how the system will connect with
19 other transportation links;

20 (J) labor protections that would comply
21 with the requirements of section 504;

22 (K) provisions to ensure that the proposal
23 will be designed to operate in harmony with ex-
24 isting and projected future intercity, commuter,
25 and freight service;

1 (L) provisions for full fair market com-
2 pensation for any asset, property right or inter-
3 est, or service acquired from, owned, or held by
4 a private person or non-Federal entity that
5 would be acquired, impaired, or diminished in
6 value as a result of a project, except as other-
7 wise agreed to by the private person or entity;
8 and

9 (M) a detailed description of the environ-
10 mental impacts of the project, and how any ad-
11 verse impacts would be mitigated.

12 (3) DOCUMENTS.—Documents submitted or de-
13 veloped pursuant to this subsection shall not be sub-
14 ject to section 552 of title 5, United States Code.

15 (b) DETERMINATION OF COST EFFECTIVENESS AND
16 ESTABLISHMENT OF COMMISSIONS.—Not later than 60
17 days after receipt of a proposal under subsection (a), the
18 Secretary of Transportation shall—

19 (1) make a determination as to whether the
20 proposal is cost effective; and

21 (2) for each corridor for which one or more cost
22 effective proposals are received, establish a commis-
23 sion under subsection (c).

24 (c) COMMISSIONS.—

1 (1) MEMBERS.—The commission referred to in
2 subsection (b)(2) shall consist of—

3 (A) the governor of the affected State or
4 States, or their respective designees;

5 (B) a rail labor representative, a represent-
6 ative from a rail freight carrier using the rel-
7 evant corridor, and a commuter authority using
8 the relevant corridor, appointed by the Sec-
9 retary of Transportation, in consultation with
10 the chairman and ranking minority member of
11 the Committee on Transportation and Infra-
12 structure of the House of Representatives and
13 the Committee on Commerce, Science, and
14 Transportation of the Senate;

15 (C) the Secretary of Transportation or his
16 designee;

17 (D) the president of Amtrak or his des-
18 ignee; and

19 (E) the mayors of the three largest munici-
20 palities serviced by the proposed high-speed rail
21 corridor.

22 (2) CHAIRPERSON AND VICE-CHAIRPERSON SE-
23 LECTION.—The Chairperson and Vice Chairperson
24 shall be elected from among members of the Com-
25 mission.

1 (3) QUORUM AND VACANCY.—

2 (A) QUORUM.—A majority of the members
3 of the Commission shall constitute a quorum.

4 (B) VACANCY.—Any vacancy in the Com-
5 mission shall not affect its powers and shall be
6 filled in the same manner in which the original
7 appointment was made.

8 (d) COMMISSION CONSIDERATION.—

9 (1) IN GENERAL.—Each commission established
10 under subsection (b)(2) shall be responsible for re-
11 viewing the proposal or proposals with respect to
12 which the commission was established, and not later
13 than 90 days after the establishment of the commis-
14 sion, shall transmit to the Secretary, and to the
15 chairman and ranking minority member of the Com-
16 mittee on Transportation and Infrastructure of the
17 House of Representatives and the Committee on
18 Commerce, Science, and Transportation of the Sen-
19 ate, a report which includes—

20 (A) a summary of each proposal received;

21 (B) a ranking of the order of the proposals
22 according to cost effectiveness, advantages over
23 existing services, projected revenue, and cost
24 and benefit to the public and private parties;

1 (C) an indication of which proposal or pro-
2 posals are recommended by the commission;
3 and

4 (D) an identification of any proposed legis-
5 lative provisions which would facilitate imple-
6 mentation of the recommended project.

7 (2) VERBAL PRESENTATION.—Proposers shall
8 be given an opportunity to make a verbal presen-
9 tation to the commission to explain their proposals.

10 (e) SELECTION BY SECRETARY.—Not later than 60
11 days after receiving a report from a commission under
12 subsection (d)(1), the Secretary of Transportation shall
13 transmit to the Congress a report that ranks all of the
14 recommended proposals according to cost effectiveness,
15 advantages over existing services, projected revenue, and
16 cost and benefit to the public and private parties.

17 (f) NORTHEAST CORRIDOR ECONOMIC DEVELOP-
18 MENT STUDY.—Not later than 9 months after the date
19 of enactment of this Act, the Secretary of Transportation
20 shall transmit to the Committee on Transportation and
21 Infrastructure of the House of Representatives and the
22 Committee on Commerce, Science, and Transportation of
23 the Senate the results of an economic development study
24 of Amtrak's Northeast Corridor service between Wash-
25 ington, DC, and New York City. Such study shall examine

1 how to achieve maximum utilization of the Northeast Cor-
2 ridor as a transportation asset, including—

3 (1) maximizing the assets of the Northeast Cor-
4 ridor for potential economic development purposes;

5 (2) real estate improvement and financial re-
6 turn;

7 (3) improved intercity, commuter, and freight
8 services;

9 (4) optimum utility utilization in conjunction
10 with potential separated high-speed rail passenger
11 services; and

12 (5) any other means of maximizing the eco-
13 nomic potential of the Northeast Corridor.

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

15 Not later than 1 year after the date of enactment
16 of this Act, the Secretary of Transportation shall conduct
17 an alternatives analysis of the Secretary's December 1,
18 1998, extension of the designation of the Southeast High-
19 Speed Rail Corridor as authorized under section 104(d)(2)
20 of title 23, United States Code. This analysis shall con-
21 sider changes that have occurred in the region's popu-
22 lation, anticipated patterns of population growth,
23 connectivity with other modes of transportation, ability of
24 the designation to reduce regional traffic congestion, and
25 the ability of current and proposed routings to meet the

1 needs of tourists. The Secretary shall submit recommenda-
2 tions to the Committee on Transportation and Infrastruc-
3 ture of the House of Representatives and the Committee
4 on Commerce, Science, and Transportation of the Senate
5 and conduct a redesignation if necessary.

6 **SEC. 504. GRANT CONDITIONS.**

7 (a) DOMESTIC BUYING PREFERENCE.—

8 (1) REQUIREMENT.—

9 (A) IN GENERAL.—In carrying out a
10 project funded in whole or in part with a grant
11 under this title, or the amendments made by
12 this title, the grant recipient shall purchase
13 only—

14 (i) unmanufactured articles, material,
15 and supplies mined or produced in the
16 United States; or

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

22 (B) DE MINIMIS AMOUNT.—Subparagraph

23 (A) applies only to a purchase in an total
24 amount that is not less than \$1,000,000.

1 (2) EXEMPTIONS.—On application of a recipi-
2 ent, the Secretary may exempt a recipient from the
3 requirements of this subsection if the Secretary de-
4 cides that, for particular articles, material, or sup-
5 plies—

6 (A) such requirements are inconsistent
7 with the public interest;

8 (B) the cost of imposing the requirements
9 is unreasonable; or

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

16 (3) UNITED STATES DEFINED.—In this sub-
17 section, the term “the United States” means the
18 States, territories, and possessions of the United
19 States and the District of Columbia.

20 (b) OPERATORS DEEMED RAIL CARRIERS AND EM-
21 PLOYERS FOR CERTAIN PURPOSES.—A person that con-
22 ducts rail operations over rail infrastructure constructed
23 or improved with funding provided in whole or in part in
24 a grant made under this title, or the amendments made
25 by this title, shall be considered a rail carrier as defined

1 in section 10102(5) of title 49, United States Code, for
2 purposes of this title and any other statute that adopts
3 that definition or in which that definition applies, includ-
4 ing—

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

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

9 (3) the Railroad Unemployment Insurance Act
10 (45 U.S.C. 351 et seq.).

11 (c) GRANT CONDITIONS.—The Secretary shall re-
12 quire as a condition of making any grant under this title,
13 or the amendments made by this title, for a project that
14 uses rights-of-way owned by a railroad that—

15 (1) a written agreement exist between the appli-
16 cant and the railroad regarding such use and owner-
17 ship, including—

18 (A) any compensation for such use;

19 (B) assurances regarding the adequacy of
20 infrastructure capacity to accommodate both
21 existing and future freight and passenger oper-
22 ations;

23 (C) an assurance by the railroad that col-
24 lective bargaining agreements with the rail-
25 road's employees (including terms regulating

1 the contracting of work) will remain in full
2 force and effect according to their terms for
3 work performed by the railroad on the railroad
4 transportation corridor; and

5 (D) an assurance that an applicant com-
6 plies with liability requirements consistent with
7 section 28103 of title 49, United States Code;
8 and

9 (2) the applicant agrees to comply with—

10 (A) the standards of section 24312 of title
11 49, United States Code, as such section was in
12 effect on September 1, 2003, with respect to
13 the project in the same manner that the Na-
14 tional Railroad Passenger Corporation is re-
15 quired to comply with those standards for con-
16 struction work financed under an agreement
17 made under section 24308(a) of title 49, United
18 States Code; and

19 (B) the protective arrangements estab-
20 lished under section 504 of the Railroad Revi-
21 talization and Regulatory Reform Act of 1976
22 (45 U.S.C. 836) with respect to employees af-
23 fected by actions taken in connection with the
24 project to be financed in whole or in part by
25 grants under this chapter.

1 (d) REPLACEMENT OF EXISTING INTERCITY PAS-
2 Senger Rail Service.—

3 (1) COLLECTIVE BARGAINING AGREEMENT FOR
4 INTERCITY PASSENGER RAIL PROJECTS.—Any entity
5 providing intercity passenger railroad transportation
6 that begins operations after the date of enactment of
7 this Act on a project funded in whole or in part by
8 grants made under this title, or the amendments
9 made by this title, and replaces intercity rail pas-
10 senger service that was provided by Amtrak, unless
11 such service was provided solely by Amtrak to an-
12 other entity, as of such date shall enter into an
13 agreement with the authorized bargaining agent or
14 agents for adversely affected employees of the prede-
15 cessor provider that—

16 (A) gives each such qualified employee of
17 the predecessor provider priority in hiring ac-
18 cording to the employee's seniority on the pred-
19 ecessor provider for each position with the re-
20 placing entity that is in the employee's craft or
21 class and is available within 3 years after the
22 termination of the service being replaced;

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

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

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

5 (2) IMMEDIATE REPLACEMENT SERVICE.—

6 (A) NEGOTIATIONS.—If the replacement of
7 preexisting intercity rail passenger service oc-
8 curs concurrent with or within a reasonable
9 time before the commencement of the replacing
10 entity's rail passenger service, the replacing en-
11 tity shall give written notice of its plan to re-
12 place existing rail passenger service to the au-
13 thorized collective bargaining agent or agents
14 for the potentially adversely affected employees
15 of the predecessor provider at least 90 days be-
16 fore the date on which it plans to commence
17 service. Within 5 days after the date of receipt
18 of such written notice, negotiations between the
19 replacing entity and the collective bargaining
20 agent or agents for the employees of the prede-
21 cessor provider shall commence for the purpose
22 of reaching agreement with respect to all mat-
23 ters set forth in subparagraphs (A) through (D)
24 of paragraph (1). The negotiations shall con-
25 tinue for 30 days or until an agreement is

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

7 (B) ARBITRATION.—If an agreement has
8 not been entered into with respect to all mat-
9 ters set forth in subparagraphs (A) through (D)
10 of paragraph (1) as described in subparagraph
11 (A) of this paragraph, the parties shall select
12 an arbitrator. If the parties are unable to agree
13 upon the selection of such arbitrator within 5
14 days, either or both parties shall notify the Na-
15 tional Mediation Board, which shall provide a
16 list of seven arbitrators with experience in arbi-
17 trating rail labor protection disputes. Within 5
18 days after such notification, the parties shall al-
19 ternately strike names from the list until only
20 1 name remains, and that person shall serve as
21 the neutral arbitrator. Within 45 days after se-
22 lection of the arbitrator, the arbitrator shall
23 conduct a hearing on the dispute and shall
24 render a decision with respect to the unresolved
25 issues among the matters set forth in subpara-

1 graphs (A) through (D) of paragraph (1). This
2 decision shall be final, binding, and conclusive
3 upon the parties. The salary and expenses of
4 the arbitrator shall be borne equally by the par-
5 ties; all other expenses shall be paid by the
6 party incurring them.

7 (3) SERVICE COMMENCEMENT.—A replacing
8 entity under this subsection shall commence service
9 only after an agreement is entered into with respect
10 to the matters set forth in subparagraphs (A)
11 through (D) of paragraph (1) or the decision of the
12 arbitrator has been rendered.

13 (4) SUBSEQUENT REPLACEMENT OF SERV-
14 ICE.—If the replacement of existing rail passenger
15 service takes place within 3 years after the replacing
16 entity commences intercity passenger rail service,
17 the replacing entity and the collective bargaining
18 agent or agents for the adversely affected employees
19 of the predecessor provider shall enter into an agree-
20 ment with respect to the matters set forth in sub-
21 paragraphs (A) through (D) of paragraph (1). If the
22 parties have not entered into an agreement with re-
23 spect to all such matters within 60 days after the
24 date on which the replacing entity replaces the pred-
25 ecessor provider, the parties shall select an arbi-

1 trator using the procedures set forth in paragraph
2 (2)(B), who shall, within 20 days after the com-
3 mencement of the arbitration, conduct a hearing and
4 decide all unresolved issues. This decision shall be
5 final, binding, and conclusive upon the parties.

6 (e) INAPPLICABILITY TO CERTAIN RAIL OPER-
7 ATIONS.—Nothing in this section applies to—

8 (1) commuter rail passenger transportation (as
9 defined in section 24102(4) of title 49, United
10 States Code) operations of a State or local govern-
11 ment authority (as those terms are defined in sec-
12 tion 5302(11) and (6), respectively, of title 49,
13 United States Code) eligible to receive financial as-
14 sistance under section 5307 of title 49, United
15 States Code, or to its contractor performing services
16 in connection with commuter rail passenger oper-
17 ations (as so defined);

18 (2) the Alaska Railroad or its contractors; or

19 (3) the National Railroad Passenger Corpora-
20 tion's access rights to railroad rights of way and fa-
21 cilities under current law.

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