

Calendar No. 158110TH CONGRESS
1ST SESSION**S. 294****[Report No. 110-67]**

To reauthorize Amtrak, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 16, 2007

Mr. LAUTENBERG (for himself, Mr. LOTT, Mr. INOUE, Mr. STEVENS, Mr. SPECTER, Mr. CARPER, Mrs. HUTCHISON, Mrs. BOXER, Ms. SNOWE, Mr. DORGAN, Mr. BURR, Mrs. CLINTON, Mr. DURBIN, Mr. BIDEN, Mr. MENENDEZ, Mr. KERRY, Mr. KENNEDY, Mr. SCHUMER, Mr. PRYOR, Mr. CARDIN, Mr. CASEY, Mr. LIEBERMAN, Ms. COLLINS, Mr. LEVIN, Mr. BROWN, Ms. MIKULSKI, Mr. SMITH, Mr. TESTER, Mr. CONRAD, Mr. COCHRAN, Mr. DODD, Mr. BAUCUS, Mr. ROCKEFELLER, Mr. OBAMA, Mrs. McCASKILL, Mr. WARNER, Ms. STABENOW, Ms. KOLBUCHAR, and Mr. WEBB) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

MAY 22, 2007

Reported by Mr. INOUE, with amendments

[Omit the part struck through and insert the part printed in italics]

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Passenger Rail Invest-
3 ment and Improvement Act of 2007”.

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

5 Except as otherwise specifically provided, whenever in
6 this Act an amendment is expressed in terms of an amend-
7 ment to a section or other provision of law, the reference
8 shall be considered to be made to a section or other provi-
9 sion of title 49, United States Code.

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

11 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. Authorization for the Federal Railroad Administration.
- Sec. 103. Repayment of long-term debt and capital leases.
- Sec. 104. Excess railroad retirement.
- Sec. 105. Other authorizations.

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. Independent auditor to establish methodologies for Amtrak route and service planning decisions.
- Sec. 208. Metrics and standards.
- Sec. 209. Passenger train performance.
- Sec. 210. Long distance routes.
- Sec. 211. Alternate passenger rail service program.
- Sec. 212. Employee transition assistance.
- Sec. 213. Northeast Corridor state-of-good-repair plan.
- Sec. 214. Northeast Corridor infrastructure and operations improvements.
- Sec. 215. Restructuring long-term debt and capital leases.
- Sec. 216. Study of compliance requirements at existing intercity rail stations.

- Sec. 217. Incentive pay.
- Sec. 218. Access to Amtrak equipment and services.
- Sec. 219. General Amtrak provisions.
- Sec. 220. Private sector funding of passenger trains.
- Sec. 221. On-board service improvements.
- Sec. 222. Management accountability.
- Sec. 223. *Locomotive biodiesel fuel use study.*

TITLE III—INTERCITY PASSENGER RAIL POLICY

- Sec. 301. Capital assistance for intercity passenger rail service.
- Sec. 302. State rail plans.
- Sec. 303. Next generation corridor train equipment pool.
- Sec. 304. Federal rail policy.
- Sec. 305. Rail cooperative research program.

TITLE IV—PASSENGER RAIL SECURITY AND SAFETY

- Sec. 400. ~~Short title.~~
- Sec. 401. ~~Rail transportation security risk assessment.~~
- Sec. 402. ~~Systemwide Amtrak security upgrades.~~
- Sec. 403. ~~Fire and life-safety improvements.~~
- Sec. 404. ~~Freight and passenger rail security upgrades.~~
- Sec. 405. ~~Rail security research and development.~~
- Sec. 406. ~~Oversight and grant procedures.~~
- Sec. 407. ~~Amtrak plan to assist families of passengers involved in rail passenger accidents.~~
- Sec. 408. ~~Northern border rail passenger report.~~
- Sec. 409. ~~Rail worker security training program.~~
- Sec. 410. ~~Whistleblower protection program.~~
- Sec. 411. ~~High hazard material security threat mitigation plans.~~
- Sec. 412. ~~Memorandum of agreement.~~
- Sec. 413. ~~Rail security enhancements.~~
- Sec. 414. ~~Public awareness.~~
- Sec. 415. ~~Railroad high hazard material tracking.~~
- Sec. 416. ~~Authorization of appropriations.~~

TITLE IV—IMPROVED RAIL SECURITY

- Sec. 401. *Definitions.*
- Sec. 402. *Rail transportation security risk assessment.*
- Sec. 403. *Systemwide Amtrak security upgrades.*
- Sec. 404. *Fire and life-safety improvements.*
- Sec. 405. *Freight and passenger rail security upgrades.*
- Sec. 406. *Rail security research and development.*
- Sec. 407. *Oversight and grant procedures.*
- Sec. 408. *Amtrak plan to assist families of passengers involved in rail passenger accidents.*
- Sec. 409. *Northern border rail passenger report.*
- Sec. 410. *Rail worker security training program.*
- Sec. 411. *Whistleblower protection program.*
- Sec. 412. *High hazard material security risk mitigation plans.*
- Sec. 413. *Enforcement authority.*
- Sec. 414. *Rail security enhancements.*
- Sec. 415. *Public awareness.*
- Sec. 416. *Railroad high hazard material tracking.*

Sec. 417. Certain reports submitted to Senate Committee on Homeland Security and Governmental Affairs.

Sec. 418. Authorization of appropriations.

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 2007, \$580,000,000.

9 (2) For fiscal year 2008, \$590,000,000.

10 (3) For fiscal year 2009, \$600,000,000.

11 (4) For fiscal year 2010, \$575,000,000.

12 (5) For fiscal year 2011, \$535,000,000.

13 (6) For fiscal year 2012, \$455,000,000.

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

24 (1) For fiscal year 2007, \$813,000,000.

1 (2) For fiscal year 2008, \$910,000,000.

2 (3) For fiscal year 2009, \$1,071,000,000.

3 (4) For fiscal year 2010, \$1,096,000,000.

4 (5) For fiscal year 2011, \$1,191,000,000.

5 (6) For fiscal year 2012, \$1,231,000,000.

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

12 (1) 3 percent for fiscal year 2007.

13 (2) 11 percent for fiscal year 2008.

14 (3) 23 percent for fiscal year 2009.

15 (4) 25 percent for fiscal year 2010.

16 (5) 31 percent for fiscal year 2011.

17 (6) 33 percent for fiscal year 2012.

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

1 **SEC. 102. AUTHORIZATION FOR THE FEDERAL RAILROAD**
 2 **ADMINISTRATION.**

3 There are authorized to be appropriated to the Sec-
 4 retary of Transportation for the use of the Federal Rail-
 5 road Administration such sums as necessary to implement
 6 the provisions required under this Act for fiscal years
 7 2007 through 2012.

8 **SEC. 103. REPAYMENT OF LONG-TERM DEBT AND CAPITAL**
 9 **LEASES.**

10 (a) **AMTRAK PRINCIPAL AND INTEREST PAY-**
 11 **MENTS.—**

12 (1) **PRINCIPAL ON DEBT SERVICE.—**There are
 13 authorized to be appropriated to the Secretary of
 14 Transportation for the use of Amtrak for retirement
 15 of principal on loans for capital equipment, or cap-
 16 ital leases, not more than the following amounts:

17 (A) For fiscal year 2007, \$153,900,000.

18 (B) For fiscal year 2008, \$153,400,000.

19 (C) For fiscal year 2009, \$180,600,000.

20 (D) For fiscal year 2010, \$182,800,000.

21 (E) For fiscal year 2011, \$189,400,000.

22 (F) For fiscal year 2012, \$202,600,000.

23 (2) **INTEREST ON DEBT.—**There are authorized
 24 to be appropriated to the Secretary of Transpor-
 25 tation for the use of Amtrak for the payment of in-

1 terest on loans for capital equipment, or capital
2 leases, the following amounts:

3 (A) For fiscal year 2007, \$139,600,000.

4 (B) For fiscal year 2008, \$131,300,000.

5 (C) For fiscal year 2009, \$121,700,000.

6 (D) For fiscal year 2010, \$111,900,000.

7 (E) For fiscal year 2011, \$101,900,000.

8 (F) For fiscal year 2012, \$90,200,000.

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

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

20 (A) modify the extent or nature of any in-
21 debtedness of the National Railroad Passenger
22 Corporation to the United States in existence of
23 the date of enactment of this Act;

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

1 (C) imply any Federal guarantee or com-
2 mitment to amortize Amtrak's outstanding in-
3 debtedness.

4 **SEC. 104. EXCESS RAILROAD RETIREMENT.**

5 There are authorized to be appropriated to the Sec-
6 retary of Transportation, beginning with fiscal year 2007,
7 such sums as may be necessary to pay to the Railroad
8 Retirement Account an amount equal to the amount Am-
9 trak must pay under section 3221 of the Internal Revenue
10 Code of 1986 in such fiscal years that is more than the
11 amount needed for benefits for individuals who retire from
12 Amtrak and for their beneficiaries. For each fiscal year
13 in which the Secretary makes such a payment, the
14 amounts authorized by section 101(a) shall be reduced by
15 an amount equal to such payment.

16 **SEC. 105. OTHER AUTHORIZATIONS.**

17 There are authorized to be appropriated to the Sec-
18 retary of Transportation—

19 (1) \$5,000,000 for each of fiscal years 2007
20 through 2012 to carry out the rail cooperative re-
21 search program under section 24910 of title 49,
22 United States Code;

23 (2) \$5,000,000 for fiscal year 2008, to remain
24 available until expended, for grants to Amtrak and
25 States participating in the Next Generation Corridor

1 Train Equipment Pool Committee established under
 2 section 303 of this Act for the purpose of designing,
 3 developing specifications for, and initiating the pro-
 4 curement of an initial order of 1 or more types of
 5 standardized next-generation corridor train equip-
 6 ment and establishing a jointly-owned corporation to
 7 manage that equipment; and

8 (3) \$2,000,000 for fiscal year 2008, for the use
 9 of Amtrak in conducting the evaluation required by
 10 section 216 of this Act.

11 **TITLE II—AMTRAK REFORM AND**
 12 **OPERATIONAL IMPROVEMENTS**

13 **SEC. 201. NATIONAL RAILROAD PASSENGER TRANSPOR-**
 14 **TATION SYSTEM DEFINED.**

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

16 (1) by striking paragraph (2);

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

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

21 “(5) ‘national rail passenger transportation sys-
 22 tem’ means—

23 “(A) the segment of the Northeast Cor-
 24 ridor between Boston, Massachusetts and
 25 Washington, DC;

1 “(B) rail corridors that have been des-
 2 gnated by the Secretary of Transportation as
 3 high-speed corridors (other than corridors de-
 4 scribed in subparagraph (A)), but only after
 5 they have been improved to permit operation of
 6 high-speed service;

7 “(C) long distance routes of more than
 8 750 miles between endpoints operated by Am-
 9 trak as of the date of enactment of the Pas-
 10 senger Rail Investment and Improvement Act of
 11 2007; and

12 “(D) short-distance corridors, or routes of
 13 not more than 750 miles between endpoints, op-
 14 erated by—

15 “(i) Amtrak; or

16 “(ii) another rail carrier that receives
 17 funds under chapter 244.”.

18 (b) AMTRAK ROUTES WITH STATE FUNDING.—

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

21 **“§ 24702. Transportation requested by States, au-**
 22 **thorities, and other persons**

23 “(a) CONTRACTS FOR TRANSPORTATION.—Amtrak
 24 may enter into a contract with a State, a regional or local
 25 authority, or another person for Amtrak to operate an

1 intercity rail service or route not included in the national
 2 rail passenger transportation system upon such terms as
 3 the parties thereto may agree.

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

9 (2) CONFORMING AMENDMENT.—The chapter
 10 analysis for chapter 247 is amended by inserting
 11 after the item relating to section 24701 the fol-
 12 lowing:

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

13 (c) AMTRAK TO CONTINUE TO PROVIDE NON-HIGH-
 14 SPEED SERVICES.—Nothing in this Act is intended to pre-
 15 clude Amtrak from restoring, improving, or developing
 16 non-high-speed intercity passenger rail service.

17 (d) APPLICABILITY OF SECTION 24706.—Section
 18 24706 is amended by adding at the end the following:

19 “(e) APPLICABILITY.—This section applies to all
 20 service over routes provided by Amtrak, notwithstanding
 21 any provision of section 24701 of this title or any other
 22 provision of this title except section 24702(b).”.

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

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

1 **“§ 24302. Board of directors**

2 “(a) COMPOSITION AND TERMS.—

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

6 “(A) The Secretary of Transportation.

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

9 “(C) 8 individuals appointed by the Presi-
10 dent of the United States, by and with the ad-
11 vice and consent of the Senate, with general
12 business and financial experience, experience or
13 qualifications in transportation, freight and
14 passenger rail transportation, travel, hospi-
15 tality, cruise line, and passenger air transpor-
16 tation businesses, or representatives of employ-
17 ees or users of passenger rail transportation or
18 a State government.

19 “(2) In selecting individuals described in para-
20 graph (1) for nominations for appointments to the
21 Board, the President shall consult with the Speaker
22 of the House of Representatives, the minority leader
23 of the House of Representatives, the majority leader
24 of the Senate, and the minority leader of the Senate
25 and try to provide adequate and balanced represen-

1 tation of the major geographic regions of the United
2 States served by Amtrak.

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

9 “(4) The Board shall elect a chairman and a
10 vice chairman from among its membership. The vice
11 chairman shall serve as chairman in the absence of
12 the chairman.

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

15 “(6) The voting privileges of the President can
16 be changed by a unanimous decision of the Board.

17 “(b) PAY AND EXPENSES.—Each director not em-
18 ployed by the United States Government is entitled to
19 \$300 a day when performing Board duties. Each Director
20 is entitled to reimbursement for necessary travel, reason-
21 able secretarial and professional staff support, and sub-
22 sistence expenses incurred in attending Board meetings.

23 “(c) VACANCIES.—A vacancy on the Board is filled
24 in the same way as the original selection, except that an
25 individual appointed by the President of the United States

1 under subsection (a)(1)(C) of this section to fill a vacancy
 2 occurring before the end of the term for which the prede-
 3 cessor of that individual was appointed is appointed for
 4 the remainder of that term. A vacancy required to be filled
 5 by appointment under subsection (a)(1)(C) must be filled
 6 not later than 120 days after the vacancy occurs.

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

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

13 (b) EFFECTIVE DATE FOR DIRECTORS’ PROVI-
 14 SION.—The amendment made by subsection (a) shall take
 15 effect on October 1, 2007. The members of the Amtrak
 16 Board serving on the date of enactment of this Act may
 17 continue to serve for the remainder of the term to which
 18 they were appointed.

19 **SEC. 203. ESTABLISHMENT OF IMPROVED FINANCIAL AC-**
 20 **COUNTING SYSTEM.**

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

22 (1) may employ an independent financial con-
 23 sultant with experience in railroad accounting to as-
 24 sist Amtrak in improving Amtrak’s financial ac-
 25 counting and reporting system and practices; and

1 (2) shall implement a modern financial account-
2 ing and reporting system that will produce accurate
3 and timely financial information in sufficient de-
4 tail—

5 (A) to enable Amtrak to assign revenues
6 and expenses appropriately to each of its lines
7 of business and to each major activity within
8 each line of business activity, including train
9 operations, equipment maintenance, ticketing,
10 and reservations;

11 (B) to aggregate expenses and revenues re-
12 lated to infrastructure and distinguish them
13 from expenses and revenues related to rail oper-
14 ations;

15 (C) to allow the analysis of ticketing and
16 reservation information on a real-time basis;

17 (D) to provide Amtrak cost accounting
18 data; and

19 (E) to allow financial analysis by route and
20 service.

21 (b) VERIFICATION OF SYSTEM; REPORT.—The In-
22 specter General of the Department of Transportation shall
23 review the accounting system designed and implemented
24 under subsection (a) to ensure that it accomplishes the
25 purposes for which it is intended. The Inspector General

1 shall report his findings and conclusions, together with
2 any recommendations, to the Senate Committee on Com-
3 merce, Science, and Transportation and the House of Rep-
4 resentatives Committee on Transportation and Infrastruc-
5 ture.

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

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

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

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

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

23 (1) all projected revenues and expenditures for
24 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, as indicated by factors such as
18 the ability of the Federal government to fund capital
19 and operating requirements adequately, Amtrak's
20 ability to efficiently manage its workforce, and Am-
21 trak's ability to effectively provide passenger train
22 service;

23 (8) estimates of long-term and short-term debt
24 and associated principal and interest payments (both
25 current and anticipated);

1 (9) annual cash flow forecasts;

2 (10) a statement describing methods of esti-
3 mation and significant assumptions;

4 (11) specific measures that demonstrate meas-
5 urable improvement year over year in Amtrak's abil-
6 ity to operate with reduced Federal operating assist-
7 ance; and

8 (12) capital and operating expenditures for an-
9 ticipated security needs.

10 (c) STANDARDS TO PROMOTE FINANCIAL STA-
11 BILITY.—In meeting the requirements of subsection (b),
12 Amtrak shall—

13 (1) apply sound budgetary practices, including
14 reducing costs and other expenditures, improving
15 productivity, increasing revenues, or combinations of
16 such practices;

17 (2) use the categories specified in the financial
18 accounting and reporting system developed under
19 section 203 when preparing its 5-year financial plan;
20 and

21 (3) ensure that the plan is consistent with the
22 authorizations of appropriations under title I of this
23 Act.

24 (d) ASSESSMENT BY DOT INSPECTOR GENERAL.—

1 (1) IN GENERAL.—The Inspector General of
2 the Department of Transportation shall assess the
3 5-year financial plans prepared by Amtrak under
4 this section to determine whether they meet the re-
5 quirements of subsection (b), and may suggest revi-
6 sions to any components thereof that do not meet
7 those requirements.

8 (2) ASSESSMENT TO BE FURNISHED TO THE
9 CONGRESS.—The Inspector General shall furnish to
10 the House of Representatives Committee on Appro-
11 priations, the Senate Committee on Appropriations,
12 the House of Representatives Committee on Trans-
13 portation and Infrastructure, and the Senate Com-
14 mittee on Commerce, Science, and Transportation—

15 (A) an assessment of the annual budget
16 within 90 days after receiving it from Amtrak;
17 and

18 (B) an assessment of the remaining 4
19 years of the 5-year financial plan within 180
20 days after receiving it from Amtrak.

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

22 (a) GRANT REQUESTS.—Amtrak shall submit grant
23 requests (including a schedule for the disbursement of
24 funds), consistent with the requirements of this Act, to
25 the Secretary of Transportation for funds authorized to

1 be appropriated to the Secretary for the use of Amtrak
2 under sections 101(a) and (b), 103, and 105.

3 (b) PROCEDURES FOR GRANT REQUESTS.—The Sec-
4 retary shall establish substantive and procedural require-
5 ments, including schedules, for grant requests under this
6 section not later than 30 days after the date of enactment
7 of this Act and shall transmit copies to the Senate Com-
8 mittee on Commerce, Science, and Transportation and the
9 House of Representatives Committee on Transportation
10 and Infrastructure. As part of those requirements, the
11 Secretary shall require, at a minimum, that Amtrak de-
12 posit grant funds, consistent with the appropriated
13 amounts for each area of expenditure in a given fiscal
14 year, in the following 3 accounts:

15 (1) The Amtrak Operating account.

16 (2) The Amtrak General Capital account.

17 (3) The Northeast Corridor Improvement funds
18 account.

19 Amtrak may not transfer such funds to another account
20 or expend such funds for any purpose other than the pur-
21 poses covered by the account in which the funds are depos-
22 ited without approval by the Secretary.

23 (c) REVIEW AND APPROVAL.—

24 (1) 30-DAY APPROVAL PROCESS.—The Sec-
25 retary shall complete the review of a complete grant

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

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

13 (3) REVISED REQUESTS.—Within 15 days after
14 receiving a modified request from Amtrak, the Sec-
15 retary shall either approve the modified request, or,
16 if the Secretary finds that the request is still incom-
17 plete or deficient, the Secretary shall identify in writ-
18 ing to the Senate Committee on Commerce, Science,
19 and Transportation and the House of Representatives
20 Committee on Transportation and Infrastructure the
21 remaining deficiencies and recommend a process for
22 resolving the outstanding portions of 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 State and the Mayor of the District
3 of Columbia or groups representing those officials, shall
4 develop and implement a standardized methodology for es-
5 tablishing and allocating the operating and capital costs
6 among the States and Amtrak associated with trains oper-
7 ated on routes described in section 24102(5)(B) or (D)
8 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. INDEPENDENT AUDITOR TO ESTABLISH METH-**
 12 **ODOLOGIES FOR AMTRAK ROUTE AND SERV-**
 13 **ICE PLANNING DECISIONS.**

14 (a) METHODOLOGY DEVELOPMENT.—The Federal
 15 Railroad Administration shall obtain the services of an
 16 independent auditor or consultant to develop and rec-
 17 ommend objective methodologies for determining intercity
 18 passenger routes and services, including the establishment
 19 of new routes, the elimination of existing routes, and the
 20 contraction or expansion of services or frequencies over
 21 such routes. In developing such methodologies, the auditor
 22 or consultant shall consider—

23 (1) the current or expected performance and
 24 service quality of intercity passenger train oper-
 25 ations, including cost recovery, on-time performance

1 and minutes of delay, ridership, on-board services,
2 stations, facilities, equipment, and other services;

3 (2) connectivity of a route with other routes;

4 (3) the transportation needs of communities
5 and populations that are not well served by other
6 forms of public transportation;

7 (4) Amtrak's and other major intercity pas-
8 senger rail service providers in other countries'
9 methodologies for determining intercity passenger
10 rail routes and services; and

11 (5) the views of the States and other interested
12 parties.

13 (b) SUBMITTAL TO CONGRESS.—The auditor or con-
14 sultant shall submit recommendations developed under
15 subsection (a) to Amtrak, the House of Representatives
16 Committee on Transportation and Infrastructure, and the
17 Senate Committee on Commerce, Science, and Transpor-
18 tation.

19 (c) CONSIDERATION OF RECOMMENDATIONS.—With-
20 in 90 days after receiving the recommendations developed
21 under subsection (a) by the independent auditor or con-
22 sultant, the Amtrak Board shall consider the adoption of
23 those recommendations. The Board shall transmit a report
24 to the Senate Committee on Commerce, Science, and
25 Transportation and the House of Representatives Com-

1 mittee on Transportation and Infrastructure explaining its
2 action in adopting or failing to adopt any of the rec-
3 ommendations.

4 (d) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be made available to the Secretary of
6 Transportation, out of any amounts authorized by this Act
7 to be appropriated for the benefit of Amtrak and not oth-
8 erwise obligated or expended, such sums as may be nec-
9 essary to carry out this section.

10 (e) PIONEER ROUTE.—Within 2 years after the date
11 of enactment of this Act, Amtrak shall conduct a 1-time
12 evaluation of the Pioneer Route formerly operated by Am-
13 trak to determine, using methodologies adopted under
14 subsection (c), whether a level of passenger demand exists
15 that would warrant consideration of reinstating the entire
16 Pioneer Route service or segments of that service.

17 **SEC. 208. METRICS AND STANDARDS.**

18 (a) IN GENERAL.—Within 180 days after the date
19 of enactment of this Act, the Administrator of the Federal
20 Railroad Administration and Amtrak shall jointly, in con-
21 sultation with the Surface Transportation Board, rail car-
22 riers over whose rail lines Amtrak trains operate, States,
23 Amtrak employees, and groups representing Amtrak pas-
24 sengers, as appropriate, develop new or improve existing
25 metrics and minimum standards for measuring the per-

1 formance and service quality of intercity passenger train
2 operations, including cost recovery, on-time performance
3 and minutes of delay, ridership, on-board services, sta-
4 tions, facilities, equipment, and other services. Such
5 metrics, at a minimum, shall include the percentage of
6 avoidable and fully allocated operating costs covered by
7 passenger revenues on each route, ridership per train mile
8 operated, measures of on-time performance and delays in-
9 curred by intercity passenger trains on the rail lines of
10 each rail carrier and, for long distance routes, measures
11 of connectivity with other routes in all regions currently
12 receiving Amtrak service and the transportation needs of
13 communities and populations that are not well-served by
14 other forms of public transportation. Amtrak shall provide
15 reasonable access to the Federal Railroad Administration
16 in order to enable the Administration to carry out its duty
17 under this section.

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

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

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

12 **SEC. 209. PASSENGER TRAIN PERFORMANCE.**

13 (a) IN GENERAL.—Section 24308 is amended by
14 adding at the end the following:

15 “(f) PASSENGER TRAIN PERFORMANCE AND OTHER
16 STANDARDS.—

17 “(1) INVESTIGATION OF SUBSTANDARD PER-
18 FORMANCE.—If the on-time performance of any
19 intercity passenger train averages less than 80 per-
20 cent for any 2 consecutive calendar quarters, or the
21 service quality of intercity passenger train operations
22 for which minimum standards are established under
23 section 208 of the Passenger Rail Investment and
24 Improvement Act of 2007 fails to meet those stand-
25 ards for 2 consecutive calendar quarters, the Surface

1 Transportation Board may initiate an investigation,
2 or upon the filing of a complaint by Amtrak, an
3 intercity passenger rail operator, *a host freight rail-*
4 *road over which Amtrak operates*, or an entity for
5 which Amtrak operates intercity passenger rail serv-
6 ice, the Board shall initiate an investigation to de-
7 termine whether, and to what extent, delays or fail-
8 ure to achieve minimum standards are due to causes
9 that could reasonably be addressed by a rail carrier
10 over tracks of which the intercity passenger train op-
11 erates or reasonably addressed by Amtrak or other
12 intercity passenger rail operator. In making its de-
13 termination or carrying out such an investigation,
14 the Board shall obtain information from all parties
15 involved and identify reasonable measures and make
16 recommendations to improve the service, quality,
17 and on-time performance of the train.

18 “(2) PROBLEMS CAUSED BY HOST RAIL CAR-
19 RIER.—If the Board determines that delays or fail-
20 ures to achieve minimum standards investigated
21 under paragraph (1) are attributable to a rail car-
22 rier’s failure to provide preference to Amtrak over
23 freight transportation as required under subsection
24 (c), the Board may award damages against the host
25 rail carrier, including prescribing such other relief to

1 Amtrak as it determines to be reasonable and appro-
2 priate pursuant to paragraph (3) of this subsection.

3 “(3) DAMAGES AND RELIEF.—In awarding
4 damages and prescribing other relief under this sub-
5 section the Board shall consider such factors as—

6 “(A) the extent to which Amtrak suffers fi-
7 nancial loss as a result of host rail carrier
8 delays or failure to achieve minimum standards;
9 and

10 “(B) what reasonable measures would ade-
11 quately deter future actions which may reason-
12 ably be expected to be likely to result in delays
13 to Amtrak on the route involved.

14 “(4) USE OF DAMAGES.—The Board shall, as it
15 deems appropriate, remit the damages awarded
16 under this subsection to Amtrak or to an entity for
17 which Amtrak operates intercity passenger rail serv-
18 ice. Such damages shall be used for capital or oper-
19 ating expenditures on the routes over which delays
20 or failures to achieve minimum standards were the
21 result of a rail carrier’s failure to provide preference
22 to Amtrak over freight transportation as determined
23 in accordance with paragraph (2).”.

24 (b) CHANGE OF REFERENCE.—Section 24308 is
25 amended—

1 (1) by striking “Interstate Commerce Commis-
2 sion” in subsection (a)(2)(A) and inserting “Surface
3 Transportation Board”;

4 (2) by striking “Commission” each place it ap-
5 pears and inserting “Board”;

6 (3) by striking “Secretary of Transportation”
7 in subsection (c) and inserting “Board”; and

8 (4) by striking “Secretary” the last 3 places it
9 appears in subsection (c) and each place it appears
10 in subsections (d) and (e) and inserting “Board”.

11 **SEC. 210. LONG DISTANCE ROUTES.**

12 (a) IN GENERAL.—Chapter 247 is amended by add-
13 ing at the end thereof the following:

14 **“§ 24710. Long distance routes**

15 “(a) ANNUAL EVALUATION.—Using the financial and
16 performance metrics developed under section 208 of the
17 Passenger Rail Investment and Improvement Act of 2007,
18 Amtrak shall—

19 “(1) evaluate annually the financial and oper-
20 ating performance of each long distance passenger
21 rail route operated by Amtrak; and

22 “(2) rank the overall performance of such
23 routes for 2006 and identify each long distance pas-
24 senger rail route operated by Amtrak in 2006 ac-
25 cording to its overall performance as belonging to

1 the best performing third of such routes, the second
2 best performing third of such routes, or the worst
3 performing third of such routes.

4 “(b) PERFORMANCE IMPROVEMENT PLAN.—Amtrak
5 shall develop and publish a performance improvement plan
6 for its long distance passenger rail routes to achieve finan-
7 cial and operating improvements based on the data col-
8 lected through the application of the financial and per-
9 formance metrics developed under section 208 of that Act.
10 The plan shall address—

11 “(1) on-time performance;

12 “(2) scheduling, frequency, routes, and stops;

13 “(3) the feasibility of restructuring service into
14 connected corridor service;

15 “(4) performance-related equipment changes
16 and capital improvements;

17 “(5) on-board amenities and service, including
18 food, first class, and sleeping car service;

19 “(6) State or other non-Federal financial con-
20 tributions;

21 “(7) improving financial performance; and

22 “(8) other aspects of Amtrak’s long distance
23 passenger rail routes that affect the financial, com-
24 petitive, and functional performance of service on
25 Amtrak’s long distance passenger rail routes.

1 “(c) IMPLEMENTATION.—Amtrak shall implement
2 the performance improvement plan developed under sub-
3 section (b)—

4 “(1) beginning in fiscal year 2008 for those
5 routes identified as being in the worst performing
6 third under subsection (a)(2);

7 “(2) beginning in fiscal year 2009 for those
8 routes identified as being in the second best per-
9 forming third under subsection (a)(2); and

10 “(3) beginning in fiscal year 2010 for those
11 routes identified as being in the best performing
12 third under subsection (a)(2).

13 “(d) ENFORCEMENT.—The Federal Railroad Admin-
14 istration shall monitor the development, implementation,
15 and outcome of improvement plans under this section. If,
16 for any year, it determines that Amtrak is not making
17 reasonable progress in implementing its performance im-
18 provement plan or in achieving the expected outcome of
19 the plan for any calendar year, the Federal Railroad Ad-
20 ministration—

21 “(1) shall notify Amtrak, the Inspector General
22 of the Department of Transportation, and appro-
23 priate Congressional committees of its determination
24 under this subsection;

1 “(2) shall provide an opportunity for a hearing
2 with respect to that determination; and

3 “(3) may withhold any appropriated funds oth-
4 erwise available to Amtrak for the operation of a
5 route or routes on which it is not making progress,
6 other than funds made available for passenger safety
7 or security measures.”.

8 (b) CONFORMING AMENDMENT.—The chapter anal-
9 ysis for chapter 247 is amended by inserting after the item
10 relating to section 24709 the following:

“24710. Long distance routes.”.

11 **SEC. 211. ALTERNATE PASSENGER RAIL SERVICE PRO-**
12 **GRAM.**

13 (a) IN GENERAL.—Chapter 247, as amended by sec-
14 tion 209, is amended by adding at the end thereof the
15 following:

16 **“§ 24711. Alternate passenger rail service program**

17 “(a) IN GENERAL.—Within 1 year after the date of
18 enactment of the Passenger Rail Investment and Improve-
19 ment Act of 2007, the Federal Railroad Administration
20 shall initiate a rulemaking proceeding to develop a pro-
21 gram under which—

22 “(1) a rail carrier or rail carriers that own in-
23 frastructure over which Amtrak operates a pas-
24 senger rail service route described in subparagraph
25 (B), (C), or (D) of section 24102(5) or in section

1 24702 of title 49, United States ~~Code~~ *Code*, or any
2 *entity operating as a rail carrier that has negotiated*
3 *a contingent agreement to lease necessary rights-of-*
4 *way from a rail carrier or rail carriers that own the*
5 *infrastructure on which Amtrak operates such routes,*
6 may petition the Federal Railroad Administration to
7 be considered as a passenger rail service provider
8 over that route in lieu of Amtrak;

9 “(2) the Administration would notify Amtrak
10 within 30 days after receiving a petition under para-
11 graph (1) and establish a deadline by which both the
12 petitioner and Amtrak would be required to submit
13 a bid to provide passenger rail service over the route
14 to which the petition relates;

15 “(3) each bid would describe how the bidder
16 would operate the route, what Amtrak passenger
17 equipment would be needed, if any, what sources of
18 non-Federal funding the bidder would use, including
19 any State subsidy, among other things;

20 “(4) the Administration would make a decision
21 and execute a contract within a specified, limited
22 time after that deadline awarding to the winning
23 bidder—

24 “(A) the right and obligation to provide
25 passenger rail service over that route subject to

1 such performance standards as the Administra-
2 tion may require, consistent with the standards
3 developed under section 208 of this Act; and

4 “(B) an operating subsidy—

5 “(i) for the first year at a level not in
6 excess of the level in effect during the fis-
7 cal year preceding the fiscal year in which
8 the petition was received, adjusted for in-
9 flation;

10 “(ii) for any subsequent years at such
11 level, adjusted for inflation; and

12 “(5) each bid would contain a staffing plan de-
13 scribing the number of employees needed to operate
14 the service, the job assignments and requirements,
15 and the terms of work for prospective and current
16 employees of the bidder for the service outlined in
17 the bid, and such staffing plan would be made avail-
18 able by the winning bidder to the public after the bid
19 award.

20 “(b) IMPLEMENTATION.—

21 “(1) INITIAL PETITIONS.—Pursuant to any
22 rules or regulations promulgated under subsection
23 (A), the Administration shall establish a deadline for
24 the submission of a petition under subsection (a)—

1 “(A) during fiscal year 2008 for operations
2 commencing in fiscal year 2009; and

3 “(B) during the immediately preceding fis-
4 cal year for operations commencing in subse-
5 quent fiscal years.

6 “(2) ROUTE LIMITATIONS.—The Administra-
7 tion may not make the program available with re-
8 spect to more than 1 Amtrak passenger rail route
9 for operations beginning in fiscal year 2009 nor to
10 more than 2 such routes for operations beginning in
11 fiscal year 2011 and subsequent fiscal years.

12 “(c) PERFORMANCE STANDARDS; ACCESS TO FACILI-
13 TIES; EMPLOYEES.—If the Administration awards the
14 right and obligation to provide passenger rail service over
15 a route under the program to a rail carrier or rail car-
16 riers—

17 “(1) it shall execute a contract with the rail
18 carrier or rail carriers for rail passenger operations
19 on that route that conditions the operating and sub-
20 sidy rights upon—

21 “(A) the service provider continuing to
22 provide passenger rail service on the route that
23 is no less frequent, nor over a shorter distance,
24 than Amtrak provided on that route before the
25 award; and

1 “(B) the service provider’s compliance with
2 the minimum standards established under sec-
3 tion 208 of the Passenger Rail Investment and
4 Improvement Act of 2007 and such additional
5 performance standards as the Administration
6 may establish;

7 “(2) it shall, if the award is made to a rail car-
8 rier other than Amtrak, require Amtrak to provide
9 access to its reservation system, stations, and facili-
10 ties to any rail carrier or rail carriers awarded a
11 contract under this section, in accordance with sec-
12 tion 218 of that Act, necessary to carry out the pur-
13 poses of this section;

14 “(3) the employees of any person used by a rail
15 carrier or rail carriers (as defined in section
16 10102(5) of this title) in the operation of a route
17 under this section shall be considered an employee of
18 that carrier or carriers and subject to the applicable
19 Federal laws and regulations governing similar
20 crafts or classes of employees of Amtrak, including
21 provisions under section 121 of the Amtrak Reform
22 and Accountability Act of 1997 relating to employ-
23 ees that provide food and beverage service; and

24 “(4) the winning bidder shall provide preference
25 in hiring to qualified Amtrak employees displaced by

1 the award of the bid, consistent with the staffing
2 plan submitted by the bidder.

3 “(d) CESSATION OF SERVICE.—If a rail carrier or
4 rail carriers awarded a route under this section cease to
5 operate the service or fail to fulfill their obligations under
6 the contract required under subsection (c), the Adminis-
7 trator, in collaboration with the Surface Transportation
8 Board shall take any necessary action consistent with this
9 title to enforce the contract and ensure the continued pro-
10 vision of service, including the installment of an interim
11 service provider and re-bidding the contract to operate the
12 service. The entity providing service shall either be Am-
13 trak or a rail carrier defined in section 24711(a)(1).

14 “(e) ADEQUATE RESOURCES.—Before taking any ac-
15 tion allowed under this section, the Secretary shall certify
16 that the Administrator has sufficient resources that are
17 adequate to undertake the program established under this
18 section.”.

19 (b) CONFORMING AMENDMENT.—The chapter anal-
20 ysis for chapter 247, as amended by section 209, is
21 amended by inserting after the item relating to section
22 24710 the following:

“24711. Alternate passenger rail service program.”.

23 **SEC. 212. EMPLOYEE TRANSITION ASSISTANCE.**

24 (a) PROVISION OF FINANCIAL INCENTIVES.—For
25 Amtrak employees who are adversely affected by the ces-

1 sation of the operation of a long distance route or any
2 other route under section 24711 of title 49, United States
3 Code, previously operated by Amtrak, the Secretary shall
4 develop a program under which the Secretary may, in the
5 Secretary's discretion, provide grants for financial incen-
6 tives to be provided to employees of the National Railroad
7 Passenger Corporation who voluntarily terminate their
8 employment with the Corporation and relinquish any legal
9 rights to receive termination-related payments under any
10 contractual agreement with the Corporation.

11 (b) CONDITIONS FOR FINANCIAL INCENTIVES.—As a
12 condition for receiving financial assistance grants under
13 this section, the Corporation must certify that—

14 (1) a reasonable attempt was made to reassign
15 an employee adversely affected under section 24711
16 of title 49, United States Code, or by the elimination
17 of any route, to other positions within the Corpora-
18 tion in accordance with any contractual agreements;

19 (2) the financial assistance results in a net re-
20 duction in the total number of employees equal to
21 the number receiving financial incentives;

22 (3) the financial assistance results in a net re-
23 duction in total employment expense equivalent to
24 the total employment expenses associated with the
25 employees receiving financial incentives; and

1 (4) the total number of employees eligible for
2 termination-related payments will not be increased
3 without the express written consent of the Secretary.

4 (c) AMOUNT OF FINANCIAL INCENTIVES.—The fi-
5 nancial incentives authorized under this section may be
6 no greater than \$50,000 per employee.

7 (d) AUTHORIZATION OF APPROPRIATIONS.—There
8 are hereby authorized to be appropriated to the Secretary
9 such sums as may be necessary to make grants to the Na-
10 tional Railroad Passenger Corporation to provide financial
11 incentives under subsection (a).

12 (e) TERMINATION-RELATED PAYMENTS.—If Amtrak
13 employees adversely affected by the cessation of Amtrak
14 service resulting from the awarding of a grant to an oper-
15 ator other than Amtrak for the operation of a route under
16 section 24711 of title 49, United States Code, or any other
17 route, previously operated by Amtrak do not receive finan-
18 cial incentives under subsection (a), then the Secretary
19 shall make grants to the National Railroad Passenger Cor-
20 poration from funds authorized by section 102 of this Act
21 for termination-related payments to employees under ex-
22 isting contractual agreements.

1 **SEC. 213. NORTHEAST CORRIDOR STATE-OF-GOOD-REPAIR**
2 **PLAN.**

3 (a) IN GENERAL.—Within 6 months after the date
4 of enactment of this Act, the National Railroad Passenger
5 Corporation, in consultation with the Secretary and the
6 States (including the District of Columbia) that make up
7 the Northeast Corridor (as defined in section 24102 of
8 title 49, United States Code), shall prepare a capital
9 spending plan for capital projects required to return the
10 *railroad right-of-way (including track, signals, and auxil-*
11 *iary structures), facilities, stations, and equipment, of the*
12 Northeast Corridor to a state of good repair by the end
13 of fiscal year 2012, consistent with the funding levels au-
14 thorized in this Act and shall submit the plan to the Sec-
15 retary.

16 (b) APPROVAL BY THE SECRETARY.—

17 (1) The Corporation shall submit the capital
18 spending plan prepared under this section to the
19 Secretary of Transportation for review and approval
20 pursuant to the procedures developed under section
21 205 of this Act.

22 (2) The Secretary of Transportation shall re-
23 quire that the plan be updated at least annually and
24 shall review and approve such updates. During re-
25 view, the Secretary shall seek comments and review
26 from the commission established under section

1 24905 of title 49, United States Code, and other
2 Northeast Corridor users regarding the plan.

3 (3) The Secretary shall make grants to the Cor-
4 poration with funds authorized by section 101(b) for
5 Northeast Corridor capital investments contained
6 within the capital spending plan prepared by the
7 Corporation and approved by the Secretary.

8 (4) Using the funds authorized by section
9 101(d), the Secretary shall review Amtrak's capital
10 expenditures funded by this section to ensure that
11 such expenditures are consistent with the capital
12 spending plan and that Amtrak is providing ade-
13 quate project management oversight and fiscal con-
14 trols.

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

18 **SEC. 214. NORTHEAST CORRIDOR INFRASTRUCTURE AND**
19 **OPERATIONS IMPROVEMENTS.**

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

1 **“§ 24905. Northeast Corridor Infrastructure and Op-**
2 **erations Advisory Commission; Safety**
3 **and Security Committee**

4 “(a) NORTHEAST CORRIDOR INFRASTRUCTURE AND
5 OPERATIONS ADVISORY COMMISSION.—

6 “(1) Within 180 days after the date of enact-
7 ment of the Passenger Rail Investment and Im-
8 provement Act of 2007, the Secretary of Transpor-
9 tation shall establish a Northeast Corridor Infra-
10 structure and Operations Advisory Commission
11 (hereinafter referred to in this section as the ‘Com-
12 mission’) to promote mutual cooperation and plan-
13 ning pertaining to the rail operations and related ac-
14 tivities of the Northeast Corridor. The Commission
15 shall be made up of—

16 “(A) members representing the National
17 Railroad Passenger Corporation;

18 “(B) members representing the Secretary
19 of Transportation and the Federal Railroad Ad-
20 ministration;

21 “(C) 1 member from each of the States
22 (including the District of Columbia) that con-
23 stitute the Northeast Corridor as defined in sec-
24 tion 24102, designated by, and serving at the
25 pleasure of, the chief executive officer thereof;
26 and

1 “(D) non-voting representatives of freight
2 railroad carriers using the Northeast Corridor
3 selected by the Secretary.

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

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

13 “(4) A vacancy in the Commission shall be
14 filled in the manner in which the original appoint-
15 ment was made.

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

20 “(6) The Chairman of the Commission shall be
21 elected by the members.

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

24 “(8) Upon request of the Commission, the head
25 of any department or agency of the United States

1 may detail, on a reimbursable basis, any of the per-
2 sonnel of that department or agency to the Commis-
3 sion to assist it in carrying out its duties under this
4 section.

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

11 “(10) The commission shall consult with other
12 entities as appropriate.

13 “(b) GENERAL RECOMMENDATIONS.—The Commis-
14 sion shall develop recommendations concerning Northeast
15 Corridor rail infrastructure and operations including pro-
16 posals addressing, as appropriate—

17 “(1) short-term and long term capital invest-
18 ment needs beyond the state-of-good-repair under
19 section 213;

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

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

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

- 1 “(5) scheduling and dispatching;
2 “(6) safety and security enhancements;
3 “(7) equipment design;
4 “(8) marketing of rail services; and
5 “(9) future capacity requirements.

6 “(c) ACCESS COSTS.—

7 “(1) DEVELOPMENT OF FORMULA.—Within 1
8 year after verification of Amtrak’s new financial ac-
9 counting system pursuant to section 203(b) of the
10 Passenger Rail Investment and Improvement Act of
11 2007, the Commission shall—

12 “(A) develop a standardized formula for
13 determining and allocating costs, revenues, and
14 compensation for Northeast Corridor commuter
15 rail passenger transportation, as defined in sec-
16 tion 24102 of this title, that use National Rail-
17 road Passenger Corporation facilities or services
18 or that provide such facilities or services to the
19 National Railroad Passenger Corporation that
20 ensure that—

21 “(i) there is no cross-subsidization of
22 commuter rail passenger, intercity rail pas-
23 senger, or freight rail transportation; and

24 “(ii) each service is assigned the costs
25 incurred only for the benefit of that serv-

1 ice, and a proportionate share, based upon
2 factors that reasonably reflect relative use,
3 of costs incurred for the common benefit of
4 more than 1 service;

5 “(B) develop a proposed timetable for im-
6 plementing the formula before the end of the
7 6th year following the date of enactment of that
8 Act;

9 “(C) transmit the proposed timetable to
10 the Surface Transportation Board; and

11 “(D) at the request of a Commission mem-
12 ber, petition the Surface Transportation Board
13 to appoint a mediator to assist the Commission
14 members through non-binding mediation to
15 reach an agreement under this section.

16 “(2) IMPLEMENTATION.—The National Rail-
17 road Passenger Corporation and the commuter au-
18 thorities providing commuter rail passenger trans-
19 portation on the Northeast Corridor shall implement
20 new agreements for usage of facilities or services
21 based on the formula proposed in paragraph (1) in
22 accordance with the timetable established therein. If
23 the entities fail to implement such new agreements
24 in accordance with the timetable, the Commission
25 shall petition the Surface Transportation Board to

1 determine the appropriate compensation amounts for
2 such services in accordance with section 24904(e) of
3 this title. The Surface Transportation Board shall
4 enforce its determination on the party or parties in-
5 volved.

6 “(d) TRANSMISSION OF RECOMMENDATIONS.—The
7 commission shall annually transmit the recommendations
8 developed under subsection (b) and the formula and time-
9 table developed under subsection (c)(1) to the Senate
10 Committee on Commerce, Science, and Transportation
11 and the House of Representatives Committee on Trans-
12 portation and Infrastructure.

13 “(e) NORTHEAST CORRIDOR SAFETY AND SECURITY
14 COMMITTEE.—

15 “(1) IN GENERAL.—The Secretary shall estab-
16 lish a Northeast Corridor Safety and Security Com-
17 mittee composed of members appointed by the Sec-
18 retary. The members shall be representatives of—

19 “(A) the Secretary;

20 “(B) Amtrak;

21 “(C) freight carriers operating more than
22 150,000 train miles a year on the main line of
23 the Northeast Corridor;

24 “(D) commuter agencies;

25 “(E) rail passengers;

1 “(F) rail labor;

2 “(G) the Transportation Security Adminis-
3 tration; and

4 “(H) other individuals and organizations
5 the Secretary decides have a significant interest
6 in rail safety or security.

7 “(2) FUNCTION; MEETINGS.—The Secretary
8 shall consult with the Committee about safety and
9 security improvements on the Northeast Corridor
10 main line. The Committee shall meet at least once
11 every 2 years to consider safety matters on the main
12 line.

13 “(3) REPORT.—At the beginning of the first
14 session of each Congress, the Secretary shall submit
15 a report to the Commission and to Congress on the
16 status of efforts to improve safety and security on
17 the Northeast Corridor main line. The report shall
18 include the safety recommendations of the Com-
19 mittee and the comments of the Secretary on those
20 recommendations.”.

21 (b) CONFORMING AMENDMENTS.—Section
22 24904(c)(2) is amended by—

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

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

1 (c) RIDOT ACCESS AGREEMENT.—

2 (1) IN GENERAL.—Not later than December 15,
3 2007, Amtrak and the Rhode Island Department of
4 Transportation shall enter into an agreement gov-
5 erning access fees and other costs or charges related
6 to the operation of the South County commuter rail
7 service on the Northeast Corridor between Provi-
8 dence and Wickford Junction, Rhode Island.

9 (2) FAILURE TO REACH AGREEMENT.—If Am-
10 trak and the Rhode Island Department of Transpor-
11 tation fail to reach the agreement specified under
12 paragraph (1), the Administrator of the Federal
13 Railroad Administration shall, after consultation
14 with both parties, resolve any outstanding disagree-
15 ments between the parties, including setting access
16 fees and other costs or charges related to the oper-
17 ation of the South County commuter rail service
18 that do not allow for the cross-subsidization of inter-
19 city rail passenger and commuter rail passenger
20 service, not later than ~~January 30, 2008~~. *October 31,*
21 *2007*.

22 (3) INTERIM AGREEMENT.—Any agreement be-
23 tween Amtrak and the Rhode Island Department of
24 Transportation relating to access costs made under
25 this subsection shall be superseded by any access

1 cost formula developed by the Northeast Corridor
2 Infrastructure and Operations Advisory Commission
3 under section 24905(c)(1) of title 49, United States
4 Code, as amended by section 214(a) of this Act.

5 **SEC. 215. RESTRUCTURING LONG-TERM DEBT AND CAP-**
6 **ITAL LEASES.**

7 (a) IN GENERAL.—The Secretary of the Treasury, in
8 consultation with the Secretary of Transportation and
9 Amtrak, may make agreements to restructure Amtrak’s
10 indebtedness as of the date of enactment of this Act. This
11 authorization expires on October 1, 2008.

12 (b) DEBT RESTRUCTURING.—The Secretary of
13 Treasury, in consultation with the Secretary of the Trans-
14 portation and Amtrak, shall enter into negotiations with
15 the holders of Amtrak debt, including leases, outstanding
16 on the date of enactment of this Act for the purpose of
17 restructuring (including repayment) and repaying that
18 debt. The Secretary of the Treasury may secure agree-
19 ments for restructuring or repayment on such terms as
20 the Secretary of the Treasury deems favorable to the in-
21 terests of the Government.

22 (c) CRITERIA.—In restructuring Amtrak’s indebted-
23 ness, the Secretary and Amtrak—

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

4 (2) shall ensure that the restructuring results
5 in significant savings to Amtrak and the United
6 States Government.

7 (d) PAYMENT OF RENEGOTIATED DEBT.—If the cri-
8 teria under subsection (c) are met, the Secretary of Treas-
9 ury may assume or repay the restructured debt, as appro-
10 prium.

11 (e) AMTRAK PRINCIPAL AND INTEREST PAY-
12 MENTS.—

13 (1) PRINCIPAL ON DEBT SERVICE.—Unless the
14 Secretary of Treasury makes sufficient payments to
15 creditors under subsection (d) so that Amtrak is re-
16 quired to make no payments to creditors in a fiscal
17 year, the Secretary of Transportation shall use
18 funds authorized by section 103(a)(1) for the use of
19 Amtrak for retirement of principal on loans for cap-
20 ital equipment, or capital leases.

21 (2) INTEREST ON DEBT.—Unless the Secretary
22 of Treasury makes sufficient payments to creditors
23 under subsection (d) so that Amtrak is required to
24 make no payments to creditors in a fiscal year, the
25 Secretary of Transportation shall use funds author-

1 ized by section 103(a)(2) for the use of Amtrak for
2 the payment of interest on loans for capital equip-
3 ment, or capital leases.

4 (3) REDUCTIONS IN AUTHORIZATION LEVELS.—

5 Whenever action taken by the Secretary of the
6 Treasury under subsection (a) results in reductions
7 in amounts of principal or interest that Amtrak
8 must service on existing debt, the corresponding
9 amounts authorized by section 103(a)(1) or (2) shall
10 be reduced accordingly.

11 (f) LEGAL EFFECT OF PAYMENTS UNDER THIS SEC-

12 TION.—The payment of principal and interest on secured
13 debt, other than debt assumed under subsection (d), with
14 the proceeds of grants under subsection (e) shall not—

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

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

21 (3) imply any Federal guarantee or commit-
22 ment to amortize Amtrak's outstanding indebted-
23 ness.

24 (g) SECRETARY APPROVAL.—Amtrak may not incur
25 more debt after the date of enactment of this Act without

1 the express advance approval of the Secretary of Trans-
2 portation.

3 (h) REPORT.—The Secretary of the Treasury shall
4 transmit a report to the Senate Committee on Commerce,
5 Science, and Transportation, the Senate Committee on
6 Appropriations, the House of Representatives Committee
7 on Transportation and Infrastructure, and the House of
8 Representatives Committee on Appropriations by Novem-
9 ber 1, 2008—

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

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

14 **SEC. 216. STUDY OF COMPLIANCE REQUIREMENTS AT EX-**
15 **ISTING INTERCITY RAIL STATIONS.**

16 Amtrak, in consultation with station owners, shall
17 evaluate the improvements necessary to make all existing
18 stations it serves readily accessible to and usable by indi-
19 viduals with disabilities, as required by section 242(e)(2)
20 of the Americans with Disabilities Act of 1990 (42 U.S.C.
21 12162(e)(2)). The evaluation shall include the estimated
22 cost of the improvements necessary, the identification of
23 the responsible person (as defined in section 241(5) of
24 that Act (42 U.S.C. 12161(5))), and the earliest prac-
25 ticable date when such improvements can be made. Am-

1 trak shall submit the evaluation to the Senate Committee
2 on Commerce, Science, and Transportation, the House of
3 Representatives Committee on Transportation and Infra-
4 structure, and the National Council on Disability by Sep-
5 tember 30, 2008, along with recommendations for funding
6 the necessary improvements.

7 **SEC. 217. INCENTIVE PAY.**

8 The Amtrak Board of Directors is encouraged to de-
9 velop an incentive pay program for Amtrak management
10 employees.

11 **SEC. 218. ACCESS TO AMTRAK EQUIPMENT AND SERVICES.**

12 If a State desires to select or selects an entity other
13 than Amtrak to provide services required for the operation
14 of an intercity passenger train route described in section
15 24102(5)(D) or 24702 of title 49, United States Code,
16 the State may make an agreement with Amtrak to use
17 facilities and equipment of, or have services provided by,
18 Amtrak under terms agreed to by the State and Amtrak
19 to enable the State to utilize an entity other than Amtrak
20 to provide services required for operation of the route. If
21 the parties cannot agree upon terms, and the Surface
22 Transportation Board finds that access to Amtrak's facili-
23 ties or equipment, or the provision of services by Amtrak,
24 is necessary to carry out this provision and that the oper-
25 ation of Amtrak's other services will not be impaired

1 thereby, the Surface Transportation Board shall, within
2 120 days after submission of the dispute, issue an order
3 that the facilities and equipment be made available, and
4 that services be provided, by Amtrak, and shall determine
5 reasonable compensation, liability and other terms for use
6 of the facilities and equipment and provision of the serv-
7 ices. Compensation shall be determined in accord with the
8 methodology established pursuant to section 206 of this
9 Act.

10 **SEC. 219. GENERAL AMTRAK PROVISIONS.**

11 (a) REPEAL OF SELF-SUFFICIENCY REQUIREMENTS.

12 (1) TITLE 49 AMENDMENTS.—Chapter 241 is
13 amended—

14 (A) by striking the last sentence of section
15 24101(d); and

16 (B) by striking the last sentence of section
17 24104(a).

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

22 (b) LEASE ARRANGEMENTS.—Amtrak may obtain
23 services from the Administrator of General Services, and
24 the Administrator may provide services to Amtrak, under
25 section 201(b) and 211(b) of the Federal Property and

1 Administrative Service Act of 1949 (40 U.S.C. 481(b) and
2 491(b)) for each of fiscal years 2007 through 2012.

3 (c) *APPLICABILITY OF DISTRICT OF COLUMBIA LAW TO*
4 *CERTAIN AMTRAK CONTRACTS.*—*Section 24301 is amended*
5 *by adding at the end the following:*

6 “(o) *APPLICABILITY OF DISTRICT OF COLUMBIA*
7 *LAW.*—*Any lease or contract entered into between the Na-*
8 *tional Railroad Passenger Corporation and the State of*
9 *Maryland, or any department or agency of the State of*
10 *Maryland, after the date of the enactment of this subsection*
11 *shall be governed by the laws of the District of Columbia.”.*

12 (d) *TRAVEL FACILITATION.*—*Using existing authority*
13 *or agreements, or upon reaching additional agreements*
14 *with Canada, the Secretary of Transportation and other*
15 *Federal agencies, as appropriate, are authorized to establish*
16 *facilities and procedures to conduct preclearance of pas-*
17 *sengers traveling on Amtrak trains from Canada to the*
18 *United States. The Secretary shall seek to establish such fa-*
19 *cilities and procedures—*

20 (1) *in Vancouver, Canada, no later than June 1,*
21 2008; and

22 (2) *in other areas as determined appropriate by*
23 *the Secretary.*

1 **SEC. 220. PRIVATE SECTOR FUNDING OF PASSENGER**
2 **TRAINS.**

3 Amtrak is encouraged to increase its operation of
4 trains funded by the private sector in order to minimize
5 its need for Federal subsidies. Amtrak shall utilize the
6 provisions of section 24308 of title 49, United States
7 Code, when necessary to obtain access to facilities, train
8 and engine crews, or services of a rail carrier or regional
9 transportation authority that are required to operate such
10 trains.

11 **SEC. 221. ON-BOARD SERVICE IMPROVEMENTS.**

12 (a) IN GENERAL.—Within 1 year after metrics and
13 standards are established under section 208 of this Act,
14 Amtrak shall develop and implement a plan to improve
15 on-board service pursuant to the metrics and standards
16 for such service developed under that section.

17 (b) REPORT.—Amtrak shall provide a report to the
18 Senate Committee on Commerce, Science, and Transpor-
19 tation and the House of Representatives Committee on
20 Transportation and Infrastructure on the on-board service
21 improvements proscribed in the plan and the timeline for
22 implementing such improvements.

23 **SEC. 222. AMTRAK MANAGEMENT ACCOUNTABILITY.**

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

1 **“§ 24310. Management accountability**

2 “(a) IN GENERAL.—Three years after the date of en-
3 actment of the Passenger Rail Investment and Improve-
4 ment Act of 2007, and two years thereafter, the Inspector
5 General of the Department of Transportation shall com-
6 plete an overall assessment of the progress made by Am-
7 trak management and the Department of Transportation
8 in implementing the provisions of that Act.

9 “(b) ASSESSMENT.—The management assessment
10 undertaken by the Inspector General may include a review
11 of—

12 “(1) effectiveness improving annual financial
13 planning;

14 “(2) effectiveness in implementing improved fi-
15 nancial accounting;

16 “(3) efforts to implement minimum train per-
17 formance standards;

18 “(4) progress maximizing revenues and mini-
19 mizing Federal subsidies; and

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

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

“24310. Management accountability.”.

1 **SEC. 223. LOCOMOTIVE BIODIESEL FUEL USE STUDY.**

2 (a) *IN GENERAL.*—*The Federal Railroad Administra-*
3 *tion, in consultation with the Secretary of Energy and the*
4 *Administrator of the Environmental Protection Agency,*
5 *shall conduct a study to determine the extent to which Am-*
6 *trak could use biodiesel fuel blends to power its fleet of loco-*
7 *motives and any of its other motor vehicles that can operate*
8 *on diesel fuel.*

9 (b) *FACTORS.*—*In conducting the study, the Federal*
10 *Railroad Administration shall consider—*

11 (1) *environmental and energy security effects of*
12 *biodiesel fuel use;*

13 (2) *the cost of purchasing biodiesel fuel blends for*
14 *such purposes;*

15 (3) *whether sufficient biodiesel fuel is readily*
16 *available; and*

17 (4) *the effect of biodiesel fuel use on relevant per-*
18 *formance or warranty specifications.*

19 (c) *REPORT.*—*Not later than April 1, 2008, the Fed-*
20 *eral Railroad Administration shall report the results of its*
21 *study to the Congress together with such findings, conclu-*
22 *sions, and recommendations as it deems appropriate.*

1 **TITLE III—INTERCITY**
 2 **PASSENGER RAIL POLICY**

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

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

7 **“CHAPTER 244. INTERCITY PASSENGER RAIL**
 8 **SERVICE CORRIDOR CAPITAL ASSISTANCE**

“Sec.

“24401. Definitions.

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

“24403. Project management oversight.

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

“24405. Grant conditions.

9 **“§ 24401. Definitions**

10 “In this subchapter:

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

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

20 “(A) acquiring, constructing, improving, or
 21 inspecting equipment, track and track struc-
 22 tures, or a facility for use in or for the primary

1 benefit of intercity passenger rail service, ex-
2 penses incidental to the acquisition or construc-
3 tion (including designing, engineering, location
4 surveying, mapping, environmental studies, and
5 acquiring rights-of-way), payments for the cap-
6 ital portions of rail trackage rights agreements,
7 highway-rail grade crossing improvements re-
8 lated to intercity passenger rail service, secu-
9 rity, mitigating environmental impacts, commu-
10 nication and signalization improvements, reloca-
11 tion assistance, acquiring replacement housing
12 sites, and acquiring, constructing, relocating,
13 and rehabilitating replacement housing;

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

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

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

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

1 metropolitan areas by rail, including high-speed rail,
2 as defined in section 24102 of title 49, United
3 States Code.

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

6 “(a) GENERAL AUTHORITY.—

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

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

1 the Passenger Rail Investment and Improvement
2 Act of 2007.

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

4 “(1) The Secretary may not approve a grant for
5 a project under this section unless the Secretary
6 finds that the project is part of a State rail plan de-
7 veloped under chapter 225 of this title, or under the
8 plan required by section 203 of the Passenger Rail
9 Investment and Improvement Act of 2007, and that
10 the applicant or recipient has or will have the legal,
11 financial, and technical capacity to carry out the
12 project, satisfactory continuing control over the use
13 of the equipment or facilities, and the capability and
14 willingness to maintain the equipment or facilities.

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

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

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

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

7 “(2) give preference to projects with high levels
8 of estimated ridership, increased on-time perform-
9 ance, reduced trip time, additional service frequency
10 to meet anticipated or existing demand, or other sig-
11 nificant service enhancements as measured against
12 minimum standards developed under section 208 of
13 the Passenger Rail Investment and Improvement
14 Act of 2007;

15 “(3) encourage intermodal connectivity through
16 projects that provide direct connections between
17 train stations, airports, bus terminals, subway sta-
18 tions, ferry ports, and other modes of transpor-
19 tation;

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

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

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

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

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

7 “(B) Projects that also improve freight or
8 commuter rail operations.

9 “(C) Projects that have significant envi-
10 ronmental benefits.

11 “(D) Projects that are—

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

16 “(ii) ready to be commenced.

17 “(E) Projects with positive economic and
18 employment impacts.

19 “(F) Projects that encourage the use of
20 positive train control technologies.

21 “(G) Projects that have commitments of
22 funding from non-Federal Government sources
23 in a total amount that exceeds the minimum
24 amount of the non-Federal contribution re-
25 quired for the project.

1 “(H) Projects that involve donated prop-
2 erty interests or services.

3 “(I) Projects that are identified by the
4 Surface Transportation Board as necessary to
5 improve the on time performance and reliability
6 of intercity passenger rail under section
7 24308(f).

8 “(J) Projects described in section
9 5302(a)(1)(G) of this title that are designed to
10 support intercity passenger rail service.

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

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

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

1 stipulated as the financial participation of the Sec-
2 retary in the project.

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

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

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

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

24 “(ii) establish the maximum amount of
25 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(c) of
22 Passenger Rail Investment and Improvement Act of
23 2007, less an amount the Secretary reasonably esti-
24 mates is necessary for grants under this section not
25 covered by a letter. The total amount covered by

1 new letters and contingent commitments included in
2 full funding grant agreements and early systems
3 work agreements may be not more than a limitation
4 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 of*
25 *up to \$5,000,000 per fiscal year of such service* in fis-

1 cal years 2004, 2005, and 2006 shall be credited to-
2 wards the matching requirements for grants award-
3 ed *in fiscal years 2007, 2008, and 2009* under this
4 section. The Secretary may require such information
5 as necessary to verify 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 ~~2007~~ *fiscal year, beginning in fiscal year 2007*, for
10 capital projects to benefit intercity passenger rail
11 service or for the operating costs of such service
12 above the average ~~of~~ *capital and operating* expendi-
13 tures made for such service in fiscal years 2004,
14 2005, and 2006 shall be credited towards the match-
15 ing requirements for grants awarded under this sec-
16 tion. The Secretary may require such information as
17 necessary to verify 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) PUBLIC-PRIVATE PARTNERSHIPS.—

6 “(1) IN GENERAL.—A metropolitan planning
7 organization, State transportation department, or
8 other project sponsor may enter into an agreement
9 with any public, private, or nonprofit entity to coop-
10 eratively implement any project funded with a grant
11 under this title.

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

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

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

18 “(C) carrying out administration, construc-
19 tion management, project management, project
20 operation, or any other management or oper-
21 ational duty associated with the project; and

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

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

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

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

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

21 “(k) SMALL CAPITAL PROJECTS.—The Secretary
22 shall make available \$10,000,000 annually from the
23 amounts authorized under section 101(c) of the Passenger
24 Rail Investment and Improvement Act of 2007 beginning
25 in fiscal year 2008 for grants for capital projects eligible

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

5 **“§ 24403. Project management oversight**

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

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

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

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

22 “(4) a document control procedure and record-
23 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 subchapter to enter
2 into 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 subchapter shall provide the
14 Secretary and a contractor the Secretary chooses under
15 subsection (c) of this section with access to the construc-
16 tion sites and records of the recipient when reasonably
17 necessary.

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 subchapter, the Secretary of Transportation may
22 approve the use of capital assistance under this sub-
23 chapter to fund self-insured retention of risk for the first
24 tier of liability insurance coverage for rail passenger serv-
25 ice associated with the capital assistance grant, but the

1 coverage 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 (1) 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 the
22 that definition or in which that definition applies, includ-
23 ing—

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

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

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

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

10 “(A) any compensation for such use;

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

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

22 “(D) an assurance that an applicant com-
23 plies with liability requirements consistent with
24 section 28103 of this title; and

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

1 “(A) the standards of section 24312 of this
2 title, as such section was in effect on September
3 1, 2003, with respect to the project in the same
4 manner that the National Railroad Passenger
5 Corporation is required to comply with those
6 standards for construction work financed under
7 an agreement made under section 24308(a) of
8 this title; and

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

16 “(d) REPLACEMENT OF EXISTING INTERCITY PAS-
17 Senger Rail Service.—

18 “(1) COLLECTIVE BARGAINING AGREEMENT
19 FOR INTERCITY PASSENGER RAIL PROJECTS.—Any
20 entity providing intercity passenger railroad trans-
21 portation that begins operations after the date of en-
22 actment of this Act on a project funded in whole or
23 in part by grants made under this title and replaces
24 intercity rail passenger service that was provided by
25 Amtrak, unless such service was provided solely by

1 Amtrak to another entity, as of such date shall enter
2 into an agreement with the authorized bargaining
3 agent or agents for adversely affected employees of
4 the predecessor provider that—

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

12 “(B) establishes a procedure for notifying
13 such an employee of such positions;

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

16 “(D) establishes rates of pay, rules, and
17 working conditions.

18 “(2) IMMEDIATE REPLACEMENT SERVICE.—

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

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

20 “(B) ARBITRATION.—If an agreement has
21 not been entered into with respect to all mat-
22 ters set forth in subparagraphs (A) through (D)
23 of paragraph (1) as described in subparagraph
24 (A) of this paragraph, the parties shall select
25 an arbitrator. If the parties are unable to agree

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

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

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

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

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

1 assistance under section 5307 of this title, or to its
2 contractor performing services in connection with
3 commuter rail passenger operations (as so defined);

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

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

8 (b) CONFORMING AMENDMENTS.—

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

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

12 “(2) The chapter analysis for subtitle V is
13 amended by inserting the following after the item re-
14 lating to chapter 243:

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

15 **SEC. 302. STATE RAIL PLANS.**

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

18 **“CHAPTER 225. STATE RAIL PLANS AND HIGH**
19 **PRIORITY PROJECTS**

“Sec.

“22501. Definitions.

“22502. Authority.

“22503. Purposes.

“22504. Transparency; coordination; review.

“22505. Content.

“22506. Review.

1 **“§ 22501. Definitions**

2 “In this subchapter:

3 “(1) PRIVATE BENEFIT.—

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

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

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

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

20 “(2) PUBLIC BENEFIT.—

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

23 “(i) means a benefit accrued to the
24 public in the form of enhanced mobility of
25 people or goods, environmental protection
26 or enhancement, congestion mitigation, en-

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

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

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

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

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

1 **“§ 22502. Authority**

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

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

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

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

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

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

17 **“§ 22503. Purposes**

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

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

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

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

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

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

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

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

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

1 **“§ 22505. Content**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 “(ii) the public benefits.

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

1 thority should take into consideration the following
2 matters:

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

7 “(B) Rail capacity and congestion effects.

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

10 “(D) Regional balance.

11 “(E) Environmental impact.

12 “(F) Economic and employment impacts.

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

15 **“§ 22506. Review**

16 The Secretary shall prescribe procedures for States
17 to submit State rail plans for review under this title, in-
18 cluding standardized format and data requirements. State
19 rail plans completed before the date of enactment of the
20 Passenger Rail Investment and Improvement Act of 2007
21 that substantially meet the requirements of this chapter,
22 as determined by the Secretary, shall be deemed by the
23 Secretary to have met the requirements of this chapter”.

24 (b) CONFORMING AMENDMENTS.—

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

“225. State rail plans 22501”.

4 “(2) The chapter analysis for subtitle V is
 5 amended by inserting the following after the item re-
 6 lating to chapter 223:

“225. State rail plans 24401”.

7 **SEC. 303. NEXT GENERATION CORRIDOR TRAIN EQUIP-**
 8 **MENT POOL.**

9 (a) **IN GENERAL.**—Within 180 days after the date
 10 of enactment of this Act, Amtrak shall establish a Next
 11 Generation Corridor Equipment Pool Committee, com-
 12 prised of representatives of Amtrak, the Federal Railroad
 13 Administration, and interested States. The purpose of the
 14 Committee shall be to design, develop specifications for,
 15 and procure standardized next-generation corridor equip-
 16 ment.

17 (b) **FUNCTIONS.**—The Committee may—

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

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

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

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

14 (d) FUNDING.—In addition to the authorization pro-
15 vided in section 105 of this Act, capital projects to carry
16 out the purposes of this section shall be eligible for grants
17 made pursuant to chapter 244 of title 49, United States
18 Code.

19 **SEC. 304. FEDERAL RAIL POLICY.**

20 Section 103 is amended—

21 (1) by inserting “IN GENERAL.—” before “The
22 Federal” in subsection (a);

23 (2) by striking the second and third sentences
24 of subsection (a);

1 (3) by inserting “ADMINISTRATOR.—” before
2 “The head” in subsection (b);

3 (4) by redesignating subsections (c), (d), and
4 (e) as subsections (d), (e), and (f), respectively and
5 by inserting after subsection (b) the following:

6 “(c) SAFETY.—To carry out all railroad safety laws
7 of the United States, the Administration is divided on a
8 geographical basis into at least 8 safety offices. The Sec-
9 retary of Transportation is responsible for all acts taken
10 under those laws and for ensuring that the laws are uni-
11 formly administered and enforced among the safety of-
12 fices.”;

13 (5) by inserting “POWERS AND DUTIES.—” be-
14 fore “The” in subsection (d), as redesignated;

15 (6) by striking “and” after the semicolon in
16 paragraph (1) of subsection (d), as redesignated;

17 (7) by redesignating paragraph (2) of sub-
18 section (d), as redesignated, as paragraph (3) and
19 inserting after paragraph (1) the following:

20 “(2) the duties and powers related to railroad
21 policy and development under subsection (e); and”;

22 (8) by inserting “TRANSFERS OF DUTY.—” be-
23 fore “A duty” in subsection (e), as redesignated;

24 (9) by inserting “CONTRACTS, GRANTS, LEASES,
25 COOPERATIVE AGREEMENTS, AND SIMILAR TRANS-

1 ACTIONS.—” before “Subject” in subsection (f), as
2 redesignated;

3 (10) by striking the last sentence in subsection
4 (f), as redesignated; and

5 (11) by adding at the end the following:

6 “(g) ADDITIONAL DUTIES OF THE ADMINIS-
7 TRATOR.—The Administrator shall—

8 “(1) provide assistance to States in developing
9 State rail plans prepared under chapter 225 and re-
10 view all State rail plans submitted under that sec-
11 tion;

12 “(2) develop a long range national rail plan
13 that is consistent with approved State rail plans and
14 the rail needs of the Nation, as determined by the
15 Secretary in order to promote an integrated, cohe-
16 sive, efficient, and optimized national rail system for
17 the movement of goods and people;

18 “(3) develop a preliminary national rail plan
19 within a year after the date of enactment of the Pas-
20 senger Rail Investment and Improvement Act of
21 2007;

22 “(4) develop and enhance partnerships with the
23 freight and passenger railroad industry, States, and
24 the public concerning rail development;

1 “(5) support rail intermodal development and
2 high-speed rail development, including high speed
3 rail planning;

4 “(6) ensure that programs and initiatives devel-
5 oped under this section benefit the public and work
6 toward achieving regional and national transpor-
7 tation goals; and

8 “(7) facilitate and coordinate efforts to assist
9 freight and passenger rail carriers, transit agencies
10 and authorities, municipalities, and States in pas-
11 senger-freight service integration on shared rights of
12 way by providing neutral assistance at the joint re-
13 quest of affected rail service providers and infra-
14 structure owners relating to operations and capacity
15 analysis, capital requirements, operating costs, and
16 other research and planning related to corridors
17 shared by passenger or commuter rail service and
18 freight rail operations.

19 “(h) PERFORMANCE GOALS AND REPORTS.—

20 “(1) PERFORMANCE GOALS.—In conjunction
21 with the objectives established and activities under-
22 taken under section 103(e) of this title, the Adminis-
23 trator shall develop a schedule for achieving specific,
24 measurable performance goals.

1 “(2) RESOURCE NEEDS.—The strategy and an-
 2 nual plans shall include estimates of the funds and
 3 staff resources needed to accomplish each goal and
 4 the additional duties required under section 103(e).

5 “(3) SUBMISSION WITH PRESIDENT’S BUDG-
 6 ET.—Beginning with fiscal year 2009 and each fis-
 7 cal year thereafter, the Secretary shall submit to
 8 Congress, at the same time as the President’s budg-
 9 et submission, the Administration’s performance
 10 goals and schedule developed under paragraph (1),
 11 including an assessment of the progress of the Ad-
 12 ministration toward achieving its performance
 13 goals.”.

14 **SEC. 305. RAIL COOPERATIVE RESEARCH PROGRAM.**

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

17 **“§ 24910. Rail cooperative research program**

18 “(a) IN GENERAL.—The Secretary shall establish
 19 and carry out a rail cooperative research program. The
 20 program shall—

21 “(1) address, among other matters, intercity
 22 rail passenger and freight rail services, including ex-
 23 isting rail passenger and freight technologies and
 24 speeds, incrementally enhanced rail systems and in-

1 frastructure, and new high-speed wheel-on-rail sys-
2 tems and rail security;

3 “(2) address ways to expand the transportation
4 of international trade traffic by rail, enhance the ef-
5 ficiency of intermodal interchange at ports and other
6 intermodal terminals, and increase capacity and
7 availability of rail service for seasonal freight needs;

8 “(3) consider research on the interconnected-
9 ness of commuter rail, passenger rail, freight rail,
10 and other rail networks; and

11 “(4) give consideration to regional concerns re-
12 garding rail passenger and freight transportation,
13 including meeting research needs common to des-
14 ignated high-speed corridors, long-distance rail serv-
15 ices, and regional intercity rail corridors, projects,
16 and entities.

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

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

21 “(2) to develop more accurate models for evalu-
22 ating the impact of rail passenger and freight serv-
23 ice, including the effects on highway and airport and
24 airway congestion, environmental quality, and energy
25 consumption;

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

5 “(4) to recommend priorities for technology
6 demonstration and development;

7 “(5) to meet additional priorities as determined
8 by the advisory board established under subsection
9 (c), including any recommendations made by the Na-
10 tional Research Council;

11 “(6) to explore improvements in management,
12 financing, and institutional structures;

13 “(7) to address rail capacity constraints that
14 affect passenger and freight rail service through a
15 wide variety of options, ranging from operating im-
16 provements to dedicated new infrastructure, taking
17 into account the impact of such options on oper-
18 ations;

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

22 “(9) to recommend objective methodologies for
23 determining intercity passenger rail routes and serv-
24 ices, including the establishment of new routes, the
25 elimination of existing routes, and the contraction or

1 expansion of services or frequencies over such
2 routes;

3 “(10) to review the impact of equipment and
4 operational safety standards on the further develop-
5 ment of high speed passenger rail operations con-
6 nected to or integrated with non-high speed freight
7 or passenger rail operations; and

8 “(11) to recommend any legislative or regu-
9 latory changes necessary to foster further develop-
10 ment and implementation of high speed passenger
11 rail operations while ensuring the safety of such op-
12 erations that are connected to or integrated with
13 non-high speed freight or passenger rail operations.

14 “(c) ADVISORY BOARD.—

15 “(1) ESTABLISHMENT.—In consultation with
16 the heads of appropriate Federal departments and
17 agencies, the Secretary shall establish an advisory
18 board to recommend research, technology, and tech-
19 nology transfer activities related to rail passenger
20 and freight transportation.

21 “(2) MEMBERSHIP.—The advisory board shall
22 include—

23 “(A) representatives of State transpor-
24 tation agencies;

1 “(B) transportation and environmental
2 economists, scientists, and engineers; and

3 “(C) representatives of Amtrak, the Alaska
4 Railroad, freight railroads, transit operating
5 agencies, intercity rail passenger agencies, rail-
6 way labor organizations, and environmental or-
7 ganizations.

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

14 (b) CLERICAL AMENDMENT.—The chapter analysis
15 for chapter 249 is amended by adding at the end the fol-
16 lowing:

“24910. Rail cooperative research program.”.

17 **TITLE IV—PASSENGER RAIL**
18 **SECURITY AND SAFETY**

19 **SEC. 400. SHORT TITLE.**

20 This title may be cited as the “Surface Transpor-
21 tation and Rail Security Act of 2007”.

22 **SEC. 401. RAIL TRANSPORTATION SECURITY RISK ASSESS-**
23 **MENT.**

24 (a) IN GENERAL.—

1 (1) ~~VULNERABILITY AND RISK ASSESSMENT.—~~

2 The Secretary of Homeland Security shall establish
3 a task force, including the Transportation Security
4 Administration, the Department of Transportation,
5 and other appropriate agencies, to complete a vul-
6 nerability and risk assessment of freight and pas-
7 senger rail transportation (encompassing railroads,
8 as that term is defined in section 20102(1) of title
9 49, United States Code). The assessment shall in-
10 clude—

11 (A) a methodology for conducting the risk
12 assessment, including timelines, that addresses
13 how the Department of Homeland Security will
14 work with the entities describe in subsection (b)
15 and make use of existing Federal expertise
16 within the Department of Homeland Security,
17 the Department of Transportation, and other
18 appropriate agencies;

19 (B) identification and evaluation of critical
20 assets and infrastructures;

21 (C) identification of vulnerabilities and
22 risks to those assets and infrastructures;

23 (D) identification of vulnerabilities and
24 risks that are specific to the transportation of
25 hazardous materials via railroad;

1 (~~E~~) identification of security weaknesses in
2 passenger and cargo security, transportation in-
3 frastructure, protection systems, procedural
4 policies, communications systems, employee
5 training, emergency response planning, and any
6 other area identified by the assessment; and

7 (~~F~~) an account of actions taken or planned by
8 both public and private entities to address identified
9 rail security issues and assess the effective integra-
10 tion of such actions.

11 (2) RECOMMENDATIONS.—Based on the assess-
12 ment conducted under paragraph (1), the Secretary,
13 in consultation with the Secretary of Transportation,
14 shall develop prioritized recommendations for im-
15 proving rail security, including any recommendations
16 the Secretary has for—

17 (A) improving the security of rail tunnels,
18 rail bridges, rail switching and car storage
19 areas, other rail infrastructure and facilities, in-
20 formation systems, and other areas identified
21 by the Secretary as posing significant rail-re-
22 lated risks to public safety and the movement
23 of interstate commerce, taking into account the
24 impact that any proposed security measure
25 might have on the provision of rail service;

1 (B) deploying equipment to detect explo-
2 sives and hazardous chemical, biological, and
3 radioactive substances, and any appropriate
4 countermeasures;

5 (C) training appropriate railroad or rail-
6 road shipper employees in terrorism prevention,
7 passenger evacuation, and response activities;

8 (D) conducting public outreach campaigns
9 on passenger railroads;

10 (E) deploying surveillance equipment; and

11 (F) identifying the immediate and long-
12 term costs of measures that may be required to
13 address those risks.

14 (3) PLANS.—The report required by subsection
15 (c) shall include—

16 (A) a plan, developed in consultation with
17 the freight and intercity passenger railroads,
18 and State and local governments, for the Fed-
19 eral government to provide increased security
20 support at high or severe threat levels of alert;

21 (B) a plan for coordinating existing and
22 planned rail security initiatives undertaken by
23 the public and private sectors; and

24 (C) a contingency plan, developed in con-
25 junction with freight and intercity and com-

1 muter passenger railroads, to ensure the contin-
 2 ued movement of freight and passengers in the
 3 event of an attack affecting the railroad system,
 4 which shall contemplate—

5 (i) the possibility of rerouting traffic
 6 due to the loss of critical infrastructure,
 7 such as a bridge, tunnel, yard, or station;
 8 and

9 (ii) methods of continuing railroad
 10 service in the Northeast Corridor in the
 11 event of a commercial power loss, or eatas-
 12 trophe affecting a critical bridge, tunnel,
 13 yard, or station.

14 (b) CONSULTATION; USE OF EXISTING RE-
 15 SOURCES.—In carrying out the assessment and developing
 16 the recommendations and plans required by subsection
 17 (a), the Secretary of Homeland Security shall consult with
 18 rail management, rail labor, owners or lessors of rail cars
 19 used to transport hazardous materials, first responders,
 20 shippers of hazardous materials, public safety officials,
 21 and other relevant parties.

22 (c) REPORT.—

23 (1) CONTENTS.—Within 180 days after the
 24 date of enactment of this Act, the Secretary shall
 25 transmit to the Senate Committee on Commerce,

1 Science, and Transportation, the House of Rep-
2 resentatives Committee on Transportation and In-
3 frastructure, and the House of Representatives Com-
4 mittee on Homeland Security a report containing the
5 assessment, prioritized recommendations, and plans
6 required by subsection (a) and an estimate of the
7 cost to implement such recommendations.

8 (2) **FORMAT.**—The Secretary may submit the
9 report in both classified and redacted formats if the
10 Secretary determines that such action is appropriate
11 or necessary.

12 (d) **ANNUAL UPDATES.**—The Secretary, in consulta-
13 tion with the Secretary of Transportation, shall update the
14 assessment and recommendations each year and transmit
15 a report, which may be submitted in both classified and
16 redacted formats, to the Committees named in subsection
17 (e)(1), containing the updated assessment and rec-
18 ommendations.

19 (e) **FUNDING.**—Out of funds appropriated pursuant
20 to section 114(u) of title 49, United States Code, as
21 amended by section 416 of this title, there shall be made
22 available to the Secretary of Homeland Security to carry
23 out this section \$5,000,000 for fiscal year 2008.

1 **SEC. 402. SYSTEMWIDE AMTRAK SECURITY UPGRADES.**

2 (a) **IN GENERAL.**—Subject to subsection (e) the Sec-
3 retary of Homeland Security, in consultation with the As-
4 sistant Secretary of Homeland Security (Transportation
5 Security Administration), is authorized to make grants to
6 Amtrak—

7 (1) to secure major tunnel access points and en-
8 sure tunnel integrity in New York, Baltimore, and
9 Washington, DC;

10 (2) to secure Amtrak trains;

11 (3) to secure Amtrak stations;

12 (4) to obtain a watch list identification system
13 approved by the Secretary;

14 (5) to obtain train tracking and interoperable
15 communications systems that are coordinated to the
16 maximum extent possible;

17 (6) to hire additional police and security offi-
18 cers, including canine units;

19 (7) to expand emergency preparedness efforts;
20 and

21 (8) for employee security training.

22 (b) **CONDITIONS.**—The Secretary of Transportation
23 shall disburse funds to Amtrak provided under subsection
24 (a) for projects contained in a systemwide security plan
25 approved by the Secretary of Homeland Security. The
26 plan shall include appropriate measures to address secu-

1 rity awareness, emergency response, and passenger evacu-
 2 ation training.

3 (c) **EQUITABLE GEOGRAPHIC ALLOCATION.**—The
 4 Secretary shall ensure that, subject to meeting the highest
 5 security needs on Amtrak’s entire system and consistent
 6 with the risk assessment required under section 401, sta-
 7 tions and facilities located outside of the Northeast Cor-
 8 ridor receive an equitable share of the security funds au-
 9 thorized by this section.

10 (d) **AVAILABILITY OF FUNDS.**—Out of funds appro-
 11 priated pursuant to section 114(u) of title 49, United
 12 States Code, as amended by section 416 of this title, there
 13 shall be made available to the Secretary of Homeland Se-
 14 curity and the Assistant Secretary of Homeland Security
 15 (Transportation Security Administration) to carry out this
 16 section—

- 17 (1) \$63,500,000 for fiscal year 2008;
 18 (2) \$30,000,000 for fiscal year 2009; and
 19 (3) \$30,000,000 for fiscal year 2010.

20 Amounts appropriated pursuant to this subsection shall
 21 remain available until expended.

22 **SEC. 403. FIRE AND LIFE-SAFETY IMPROVEMENTS.**

23 (a) **LIFE-SAFETY NEEDS.**—The Secretary of Trans-
 24 portation, in consultation with the Secretary of Homeland
 25 Security, is authorized to make grants to Amtrak for the

1 purpose of making fire and life-safety improvements to
2 Amtrak tunnels on the Northeast Corridor in New York,
3 NY, Baltimore, MD, and Washington, DC.

4 (b) AUTHORIZATION OF APPROPRIATIONS.—Out of
5 funds appropriated pursuant to section 416(b) of this title,
6 there shall be made available to the Secretary of Transpor-
7 tation for the purposes of carrying out subsection (a) the
8 following amounts:

9 (1) For the 6 New York tunnels to provide ven-
10 tilation, electrical, and fire safety technology up-
11 grades, emergency communication and lighting sys-
12 tems, and emergency access and egress for pas-
13 sengers—

14 (A) \$100,000,000 for fiscal year 2008;
15 (B) \$100,000,000 for fiscal year 2009;
16 (C) \$100,000,000 for fiscal year 2010; and
17 (D) \$100,000,000 for fiscal year 2011.

18 (2) For the Baltimore & Potomac tunnel and
19 the Union tunnel, together, to provide adequate
20 drainage, ventilation, communication, lighting, and
21 passenger egress upgrades—

22 (A) \$10,000,000 for fiscal year 2008;
23 (B) \$10,000,000 for fiscal year 2009;
24 (C) \$10,000,000 for fiscal year 2010; and
25 (D) \$10,000,000 for fiscal year 2011.

1 (3) For the Washington, DC, Union Station
2 tunnels to improve ventilation, communication, light-
3 ing, and passenger egress upgrades—

4 (A) \$8,000,000 for fiscal year 2008;

5 (B) \$8,000,000 for fiscal year 2009;

6 (C) \$8,000,000 for fiscal year 2010; and

7 (D) \$8,000,000 for fiscal year 2011.

8 (e) INFRASTRUCTURE UPGRADES.—Out of funds ap-
9 propriated pursuant to section 416(b) of this title, there
10 shall be made available to the Secretary of Transportation
11 for fiscal year 2008 \$3,000,000 for the preliminary design
12 of options for a new tunnel on a different alignment to
13 augment the capacity of the existing Baltimore tunnels.

14 (d) AVAILABILITY OF APPROPRIATED FUNDS.—
15 Amounts made available pursuant to this section shall re-
16 main available until expended.

17 (e) PLANS REQUIRED.—The Secretary of Transpor-
18 tation may not make amounts available to Amtrak for ob-
19 ligation or expenditure under subsection (a)—

20 (1) until Amtrak has submitted to the See-
21 retary, and the Secretary has approved, an engineer-
22 ing and financial plan for such projects; and

23 (2) unless, for each project funded pursuant to
24 this section, the Secretary has approved a project
25 management plan prepared by Amtrak addressing

1 appropriate project budget, construction schedule,
2 recipient staff organization, document control and
3 record keeping, change order procedure, quality con-
4 trol and assurance, periodic plan updates, and peri-
5 odic status reports.

6 (f) REVIEW OF PLANS.—The Secretary of Transpor-
7 tation shall complete the review of the plans required by
8 paragraphs (1) and (2) of subsection (e) and approve or
9 disapprove the plans within 45 days after the date on
10 which each such plan is submitted by Amtrak. If the Sec-
11 retary determines that a plan is incomplete or deficient,
12 the Secretary shall notify Amtrak of the incomplete items
13 or deficiencies and Amtrak shall, within 30 days after re-
14 ceiving the Secretary's notification, submit a modified
15 plan for the Secretary's review. Within 15 days after re-
16 ceiving additional information on items previously included
17 in the plan, and within 45 days after receiving items newly
18 included in a modified plan, the Secretary shall either ap-
19 prove the modified plan, or, if the Secretary finds the plan
20 is still incomplete or deficient, the Secretary shall identify
21 in writing to the Senate Committee on Commerce, Science,
22 and Transportation, the House of Representatives Com-
23 mittee on Transportation and Infrastructure, and the
24 House of Representatives Committee on Homeland Secu-
25 rity the portions of the plan the Secretary finds incomplete

1 or deficient, approve all other portions of the plan; obligate
 2 the funds associated with those other portions; and exe-
 3 cute an agreement with Amtrak within 15 days thereafter
 4 on a process for resolving the remaining portions of the
 5 plan.

6 ~~(g) FINANCIAL CONTRIBUTION FROM OTHER TUN-~~
 7 ~~NEL USERS.~~—The Secretary shall, taking into account the
 8 need for the timely completion of all portions of the tunnel
 9 projects described in subsection (a)—

10 (1) consider the extent to which rail carriers
 11 other than Amtrak use or plan to use the tunnels;

12 (2) consider the feasibility of seeking a financial
 13 contribution from those other rail carriers toward
 14 the costs of the projects; and

15 (3) obtain financial contributions or commit-
 16 ments from such other rail carriers at levels reflect-
 17 ing the extent of their use or planned use of the tun-
 18 nels, if feasible.

19 **SEC. 404. FREIGHT AND PASSENGER RAIL SECURITY UP-**
 20 **GRADES.**

21 (a) **SECURITY IMPROVEMENT GRANTS.**—The Sec-
 22 retary of Homeland Security, through the Assistant Sec-
 23 retary of Homeland Security (Transportation Security Ad-
 24 ministration) and other appropriate agencies, is author-
 25 ized to make grants to freight railroads, the Alaska Rail-

1 road; hazardous materials shippers; owners of rail cars
2 used in the transportation of hazardous materials; univer-
3 sities; colleges and research centers; State and local gov-
4 ernments (for rail passenger facilities and infrastructure
5 not owned by Amtrak); and, through the Secretary of
6 Transportation, to Amtrak, for full or partial reimburse-
7 ment of costs incurred in the conduct of activities to pre-
8 vent or respond to acts of terrorism; sabotage; or other
9 intercity passenger rail and freight rail security
10 vulnerabilities and risks identified under section 401, in-
11 cluding—

12 (1) security and redundancy for critical commu-
13 nications; computer, and train control systems essen-
14 tial for secure rail operations;

15 (2) accommodation of rail cargo or passenger
16 screening equipment at the United States-Mexico
17 border; the United States-Canada border; or other
18 ports of entry;

19 (3) the security of hazardous material transpor-
20 tation by rail;

21 (4) secure intercity passenger rail stations;
22 trains; and infrastructure;

23 (5) structural modification or replacement of
24 rail cars transporting high hazard materials to im-
25 prove their resistance to acts of terrorism;

1 (6) employee security awareness, preparedness,
2 passenger evacuation, and emergency response train-
3 ing;

4 (7) public security awareness campaigns for
5 passenger train operations;

6 (8) the sharing of intelligence and information
7 about security threats;

8 (9) to obtain train tracking and interoperable
9 communications systems that are coordinated to the
10 maximum extent possible;

11 (10) to hire additional police and security offi-
12 cers, including canine units; and

13 (11) other improvements recommended by the
14 report required by section 401, including infrastruc-
15 ture, facilities, and equipment upgrades.

16 (b) ACCOUNTABILITY.—The Secretary shall adopt
17 necessary procedures, including audits, to ensure that
18 grants made under this section are expended in accord-
19 ance with the purposes of this title and the priorities and
20 other criteria developed by the Secretary.

21 (c) ALLOCATION.—The Secretary shall distribute the
22 funds authorized by this section based on risk and vulner-
23 ability as determined under section 401, and shall encour-
24 age non-Federal financial participation in awarding
25 grants. With respect to grants for intercity passenger rail

1 security, the Secretary shall also take into account pas-
 2 senger volume and whether a station is used by commuter
 3 rail passengers as well as intercity rail passengers.

4 (d) CONDITIONS.—The Secretary of Transportation
 5 may not disburse funds to Amtrak under subsection (a)
 6 unless Amtrak meets the conditions set forth in section
 7 402(b) of this title.

8 (e) ALLOCATION BETWEEN RAILROADS AND OTH-
 9 ERS.—Unless as a result of the assessment required by
 10 section 401 the Secretary of Homeland Security deter-
 11 mines that critical rail transportation security needs re-
 12 quire reimbursement in greater amounts to any eligible
 13 entity, no grants under this section may be made—

14 (1) in excess of \$45,000,000 to Amtrak; or
 15 (2) in excess of \$80,000,000 for the purposes
 16 described in paragraphs (3) and (5) of subsection
 17 (a).

18 (f) AUTHORIZATION OF APPROPRIATIONS.—Out of
 19 funds appropriated pursuant to section 114(u) of title 49,
 20 United States Code, as amended by section 416 of this
 21 title,, there shall be made available to the Secretary of
 22 Homeland Security to carry out this section—

23 (1) \$100,000,000 for fiscal year 2008;
 24 (2) \$100,000,000 for fiscal year 2009; and
 25 (3) \$100,000,000 for fiscal year 2010.

1 Amounts made available pursuant to this subsection shall
2 remain available until expended.

3 (g) **HIGH HAZARD MATERIALS DEFINED.**—In this
4 section, the term “high hazard materials” means quan-
5 tities of poison inhalation hazard materials, Class 2.3
6 gases, Class 6.1 materials, and anhydrous ammonia that
7 the Secretary, in consultation with the Secretary of Trans-
8 portation, determines pose a security risk.

9 **SEC. 405. RAIL SECURITY RESEARCH AND DEVELOPMENT.**

10 (a) **ESTABLISHMENT OF RESEARCH AND DEVELOP-**
11 **MENT PROGRAM.**—The Secretary of Homeland Security,
12 through the Under Secretary for Science and Technology
13 and the Assistant Secretary of Homeland Security (Trans-
14 portation Security Administration), in consultation with
15 the Secretary of Transportation shall carry out a research
16 and development program for the purpose of improving
17 freight and intercity passenger rail security that may in-
18 clude research and development projects to—

19 (1) reduce the vulnerability of passenger trains,
20 stations, and equipment to explosives and hazardous
21 chemical, biological, and radioactive substances;

22 (2) test new emergency response techniques and
23 technologies;

24 (3) develop improved freight technologies, in-
25 cluding—

- 1 (A) technologies for sealing rail cars;
- 2 (B) automatic inspection of rail cars;
- 3 (C) communication-based train controls;
- 4 and
- 5 (D) emergency response training;
- 6 (4) test wayside detectors that can detect tam-
- 7 pering with railroad equipment;
- 8 (5) support enhanced security for the transpor-
- 9 tation of hazardous materials by rail, including—
- 10 (A) technologies to detect a breach in a
- 11 tank car or other rail car used to transport haz-
- 12 ardous materials and transmit information
- 13 about the integrity of cars to the train crew or
- 14 dispatcher;
- 15 (B) research to improve tank car integrity,
- 16 with a focus on tank cars that carry high haz-
- 17 ard materials (as defined in section 404(g) of
- 18 this title); and
- 19 (C) techniques to transfer hazardous mate-
- 20 rials from rail cars that are damaged or other-
- 21 wise represent an unreasonable risk to human
- 22 life or public safety; and
- 23 (6) other projects that address vulnerabilities
- 24 and risks identified under section 401.

1 (b) **COORDINATION WITH OTHER RESEARCH INITIA-**
2 **TIVES.**—The Secretary of Homeland Security shall ensure
3 that the research and development program authorized by
4 this section is coordinated with other research and devel-
5 opment initiatives at the Department of Homeland Secu-
6 rity and the Department of Transportation. The Secretary
7 shall carry out any research and development project au-
8 thorized by this section through a reimbursable agreement
9 with the Secretary of Transportation, if the Secretary of
10 Transportation—

11 (1) is already sponsoring a research and devel-
12 opment project in a similar area; or

13 (2) has a unique facility or capability that
14 would be useful in carrying out the project.

15 (c) **GRANTS AND ACCOUNTABILITY.**—To carry out
16 the research and development program, the Secretary may
17 award grants to the entities described in section 404(a)
18 and shall adopt necessary procedures, including audits, to
19 ensure that grants made under this section are expended
20 in accordance with the purposes of this title and the prior-
21 ities and other criteria developed by the Secretary.

22 (d) **AUTHORIZATION OF APPROPRIATIONS.**—Out of
23 funds appropriated pursuant to section 114(u) of title 49,
24 United States Code, as amended by section 416 of this

1 title, there shall be made available to the Secretary of
2 Homeland Security to carry out this section—

3 (1) \$33,000,000 for fiscal year 2008;

4 (2) \$33,000,000 for fiscal year 2009; and

5 (3) \$33,000,000 for fiscal year 2010.

6 Amounts made available pursuant to this subsection shall
7 remain available until expended.

8 **SEC. 406. OVERSIGHT AND GRANT PROCEDURES.**

9 (a) **SECRETARIAL OVERSIGHT.**—The Secretary of
10 Homeland Security may use up to 0.5 percent of amounts
11 made available for capital projects under this title to enter
12 into contracts for the review of proposed capital projects
13 and related program management plans and to oversee
14 construction of such projects.

15 (b) **USE OF FUNDS.**—The Secretary may use
16 amounts available under subsection (a) of this subsection
17 to make contracts to audit and review the safety, procure-
18 ment, management, and financial compliance of a recipi-
19 ent of amounts under this title.

20 (c) **PROCEDURES FOR GRANT AWARD.**—The Sec-
21 retary shall, within 90 days after the date of enactment
22 of this Act, prescribe procedures and schedules for the
23 awarding of grants under this title, including application
24 and qualification procedures (including a requirement that
25 the applicant have a security plan), and a record of deci-

1 sion on applicant eligibility. The procedures shall include
 2 the execution of a grant agreement between the grant re-
 3 cipient and the Secretary and shall be consistent, to the
 4 extent practicable, with the grant procedures established
 5 under section 70107 of title 46, United States Code.

6 **SEC. 407. AMTRAK PLAN TO ASSIST FAMILIES OF PAS-**
 7 **SENGERS INVOLVED IN RAIL PASSENGER AC-**
 8 **CIDENTS.**

9 (a) IN GENERAL.—Chapter 243 of title 49, United
 10 States Code, is amended by adding at the end the fol-
 11 lowing:

12 **“§ 24316. Plans to address needs of families of pas-**
 13 **sengers involved in rail passenger acci-**
 14 **dents**

15 “(a) SUBMISSION OF PLAN.—Not later than 6
 16 months after the date of the enactment of the Surface
 17 Transportation and Rail Security Act of 2007 Amtrak
 18 shall submit to the Chairman of the National Transpor-
 19 tation Safety Board, the Secretary of Transportation, and
 20 the Secretary of Homeland Security a plan for addressing
 21 the needs of the families of passengers involved in any rail
 22 passenger accident involving an Amtrak intercity train
 23 and resulting in a loss of life.

1 “(b) CONTENTS OF PLANS.—The plan to be sub-
2 mitted by Amtrak under subsection (a) shall include, at
3 a minimum, the following:

4 “(1) A process by which Amtrak will maintain
5 and provide to the National Transportation Safety
6 Board and the Secretary of Transportation, imme-
7 diately upon request, a list (which is based on the
8 best available information at the time of the request)
9 of the names of the passengers aboard the train
10 (whether or not such names have been verified), and
11 will periodically update the list. The plan shall in-
12 clude a procedure, with respect to unreserved trains
13 and passengers not holding reservations on other
14 trains, for Amtrak to use reasonable efforts to ascer-
15 tain the number and names of passengers aboard a
16 train involved in an accident.

17 “(2) A plan for creating and publicizing a reli-
18 able, toll-free telephone number within 4 hours after
19 such an accident occurs, and for providing staff, to
20 handle calls from the families of the passengers.

21 “(3) A process for notifying the families of the
22 passengers, before providing any public notice of the
23 names of the passengers, by suitably trained individ-
24 uals.

1 “(4) A process for providing the notice de-
2 scribed in paragraph (2) to the family of a pas-
3 senger as soon as Amtrak has verified that the pas-
4 senger was aboard the train (whether or not the
5 names of all of the passengers have been verified).

6 “(5) A process by which the family of each pas-
7 senger will be consulted about the disposition of all
8 remains and personal effects of the passenger within
9 Amtrak’s control; that any possession of the pas-
10 senger within Amtrak’s control will be returned to
11 the family unless the possession is needed for the ac-
12 cident investigation or any criminal investigation;
13 and that any unclaimed possession of a passenger
14 within Amtrak’s control will be retained by the rail
15 passenger carrier for at least 18 months.

16 “(6) A process by which the treatment of the
17 families of nonrevenue passengers will be the same
18 as the treatment of the families of revenue pas-
19 sengers.

20 “(7) An assurance that Amtrak will provide
21 adequate training to its employees and agents to
22 meet the needs of survivors and family members fol-
23 lowing an accident.

24 “(e) USE OF INFORMATION.—The National Trans-
25 portation Safety Board, the Secretary of Transportation,

1 and Amtrak may not release any personal information on
2 a list obtained under subsection (b)(1) but may provide
3 information on the list about a passenger to the family
4 of the passenger to the extent that the Board or Amtrak
5 considers appropriate.

6 “(d) LIMITATION ON LIABILITY.—Amtrak shall not
7 be liable for damages in any action brought in a Federal
8 or State court arising out of the performance of Amtrak
9 in preparing or providing a passenger list, or in providing
10 information concerning a train reservation, pursuant to a
11 plan submitted by Amtrak under subsection (b), unless
12 such liability was caused by Amtrak’s conduct.

13 “(e) LIMITATION ON STATUTORY CONSTRUCTION.—
14 Nothing in this section may be construed as limiting the
15 actions that Amtrak may take, or the obligations that Am-
16 trak may have, in providing assistance to the families of
17 passengers involved in a rail passenger accident.

18 “(f) FUNDING.—Out of funds appropriated pursuant
19 to section 416(b) of the Surface Transportation and Rail
20 Security Act of 2007, there shall be made available to the
21 Secretary of Transportation for the use of Amtrak
22 \$500,000 for fiscal year 2007 to carry out this section.
23 Amounts made available pursuant to this subsection shall
24 remain available until expended.”.

1 (b) CONFORMING AMENDMENT.—The chapter anal-
2 ysis for chapter 243 of title 49, United States Code, is
3 amended by adding at the end the following:

“24316. Plan to assist families of passengers involved in rail passenger acci-
dents.”.

4 **SEC. 408. NORTHERN BORDER RAIL PASSENGER REPORT.**

5 Within 180 days after the date of enactment of this
6 Act, the Secretary of Homeland Security, in consultation
7 with the Assistant Secretary of Homeland Security
8 (Transportation Security Administration), the Secretary
9 of Transportation, heads of other appropriate Federal de-
10 partments, and agencies and the National Railroad Pas-
11 senger Corporation, shall transmit a report to the Senate
12 Committee on Commerce, Science, and Transportation,
13 the House of Representatives Committee on Transpor-
14 tation and Infrastructure, and the House of Representa-
15 tives Committee on Homeland Security that contains—

16 (1) a description of the current system for
17 screening passengers and baggage on passenger rail
18 service between the United States and Canada;

19 (2) an assessment of the current program to
20 provide preclearance of airline passengers between
21 the United States and Canada as outlined in “The
22 Agreement on Air Transport Preclearance between
23 the Government of Canada and the Government of

1 the United States of America”, dated January 18,
2 2001;

3 (3) an assessment of the current program to
4 provide preclearance of freight railroad traffic be-
5 tween the United States and Canada as outlined in
6 the “Declaration of Principle for the Improved Secu-
7 rity of Rail Shipments by Canadian National Rail-
8 way and Canadian Pacific Railway from Canada to
9 the United States”, dated April 2, 2003;

10 (4) information on progress by the Department
11 of Homeland Security and other Federal agencies to-
12 wards finalizing a bilateral protocol with Canada
13 that would provide for preclearance of passengers on
14 trains operating between the United States and Can-
15 ada;

16 (5) a description of legislative, regulatory,
17 budgetary, or policy barriers within the United
18 States Government to providing pre-screened pas-
19 senger lists for rail passengers traveling between the
20 United States and Canada to the Department of
21 Homeland Security;

22 (6) a description of the position of the Govern-
23 ment of Canada and relevant Canadian agencies
24 with respect to preclearance of such passengers;

1 (7) a draft of any changes in existing Federal
2 law necessary to provide for pre-screening of such
3 passengers and providing pre-screened passenger
4 lists to the Department of Homeland Security; and

5 (8) an analysis of the feasibility of reinstating
6 in-transit inspections onboard international Amtrak
7 trains.

8 **SEC. 409. RAIL WORKER SECURITY TRAINING PROGRAM.**

9 (a) **IN GENERAL.**—Not later than 180 days after the
10 date of enactment of this Act, the Secretary of Homeland
11 Security and the Secretary of Transportation, in consulta-
12 tion with appropriate law enforcement, security, and ter-
13 rorism experts, representatives of railroad carriers, and
14 nonprofit employee organizations that represent rail work-
15 ers, shall develop and issue detailed guidance for a rail
16 worker security training program to prepare front-line
17 workers for potential threat conditions. The guidance shall
18 take into consideration any current security training re-
19 quirements or best practices.

20 (b) **PROGRAM ELEMENTS.**—The guidance developed
21 under subsection (a) shall include elements, as appropriate
22 to passenger and freight rail service, that address the fol-
23 lowing:

24 (1) Determination of the seriousness of any oc-
25 currence.

- 1 (2) Crew communication and coordination.
- 2 (3) Appropriate responses to defend or protect
3 oneself.
- 4 (4) Use of protective devices.
- 5 (5) Evacuation procedures.
- 6 (6) Psychology of terrorists to cope with hi-
7 jacker behavior and passenger responses.
- 8 (7) Situational training exercises regarding var-
9 ious threat conditions.
- 10 (8) Any other subject the Secretary considers
11 appropriate.
- 12 (c) RAILROAD CARRIER PROGRAMS.—Not later than
13 90 days after the Secretary of Homeland Security issues
14 guidance under subsection (a) in final form, each railroad
15 carrier shall develop a rail worker security training pro-
16 gram in accordance with that guidance and submit it to
17 the Secretary for review. Not later than 30 days after re-
18 ceiving a railroad carrier's program under this subsection,
19 the Secretary shall review the program and transmit com-
20 ments to the railroad carrier concerning any revisions the
21 Secretary considers necessary for the program to meet the
22 guidance requirements. A railroad carrier shall respond to
23 the Secretary's comments within 30 days after receiving
24 them.

1 (d) TRAINING.—Not later than 1 year after the Sec-
2 retary reviews the training program developed by a rail-
3 road carrier under this section, the railroad carrier shall
4 complete the training of all front-line workers in accord-
5 ance with that program. The Secretary shall review imple-
6 mentation of the training program of a representative
7 sample of railroad carriers and report to the Senate Com-
8 mittee on Commerce, Science, and Transportation, the
9 House of Representatives Committee on Transportation
10 and Infrastructure, and the House of Representatives
11 Committee on Homeland Security on the number of re-
12 views conducted and the results. The Secretary may sub-
13 mit the report in both classified and redacted formats as
14 necessary.

15 (e) UPDATES.—The Secretary shall update the train-
16 ing guidance issued under subsection (a) as appropriate
17 to reflect new or different security threats. Railroad ear-
18 riers shall revise their programs accordingly and provide
19 additional training to their front-line workers within a rea-
20 sonable time after the guidance is updated.

21 (f) FRONT-LINE WORKERS DEFINED.—In this sec-
22 tion, the term “front-line workers” means security per-
23 sonnel, dispatchers, train operators, other onboard em-
24 ployees, maintenance and maintenance support personnel,

1 bridge tenders, as well as other appropriate employees of
 2 railroad carriers, as defined by the Secretary.

3 (g) OTHER EMPLOYEES.—The Secretary of Home-
 4 land Security shall issue guidance and best practices for
 5 a rail shipper employee security program containing the
 6 elements listed under subsection (b) as appropriate.

7 **SEC. 410. WHISTLEBLOWER PROTECTION PROGRAM.**

8 (a) IN GENERAL.—Subchapter A of chapter 201 of
 9 title 49, United States Code, is amended by inserting after
 10 section 20117 the following:

11 **“§ 20118. Whistleblower protection for rail security**
 12 **matters**

13 “(a) DISCRIMINATION AGAINST EMPLOYEE.—No rail
 14 carrier engaged in interstate or foreign commerce may dis-
 15 charge a railroad employee or otherwise discriminate
 16 against a railroad employee because the employee (or any
 17 person acting pursuant to a request of the employee)—

18 “(1) provided, caused to be provided, or is
 19 about to provide or cause to be provided, to the em-
 20 ployer or the Federal Government information relat-
 21 ing to a reasonably perceived threat, in good faith,
 22 to security; or

23 “(2) provided, caused to be provided, or is
 24 about to provide or cause to be provided, testimony
 25 before Congress or at any Federal or State pro-

1 ceeding regarding a reasonably perceived threat, in
2 good faith, to security; or

3 “(3) refused to violate or assist in the violation
4 of any law, rule or regulation related to rail security.

5 “(b) DISPUTE RESOLUTION.—A dispute, grievance,
6 or claim arising under this section is subject to resolution
7 under section 3 of the Railway Labor Act (45 U.S.C. 153).
8 In a proceeding by the National Railroad Adjustment
9 Board, a division or delegate of the Board, or another
10 board of adjustment established under section 3 to resolve
11 the dispute, grievance, or claim the proceeding shall be
12 expedited and the dispute, grievance, or claim shall be re-
13 solved not later than 180 days after it is filed. If the viola-
14 tion is a form of discrimination that does not involve dis-
15 charge, suspension, or another action affecting pay, and
16 no other remedy is available under this subsection, the
17 Board, division, delegate, or other board of adjustment
18 may award the employee reasonable damages, including
19 punitive damages, of not more than \$20,000.

20 “(c) PROCEDURAL REQUIREMENTS.—Except as pro-
21 vided in subsection (b), the procedure set forth in section
22 42121(b)(2)(B) of this subtitle, including the burdens of
23 proof, applies to any complaint brought under this section.

24 “(d) ELECTION OF REMEDIES.—An employee of a
25 railroad carrier may not seek protection under both this

1 section and another provision of law for the same allegedly
2 unlawful act of the carrier.

3 “(e) DISCLOSURE OF IDENTITY.—

4 “(1) Except as provided in paragraph (2) of
5 this subsection, or with the written consent of the
6 employee, the Secretary of Transportation may not
7 disclose the name of an employee of a railroad car-
8 rier who has provided information about an alleged
9 violation of this section.

10 “(2) The Secretary shall disclose to the Attor-
11 ney General the name of an employee described in
12 paragraph (1) of this subsection if the matter is re-
13 ferred to the Attorney General for enforcement.”

14 (b) CONFORMING AMENDMENT.—The chapter anal-
15 ysis for chapter 201 of title 49, United States Code, is
16 amended by inserting after the item relating to section
17 20117 the following:

“20118. Whistleblower protection for rail security matters.”

18 **SEC. 411. HIGH HAZARD MATERIAL SECURITY THREAT**
19 **MITIGATION PLANS.**

20 (a) IN GENERAL.—The Secretary of Homeland Secu-
21 rity, in consultation with the Assistant Secretary of Home-
22 land Security (Transportation Security Administration)
23 and the Secretary of Transportation, shall require rail car-
24 riers transporting a high hazard material, as defined in
25 section 404(g) of this title to develop a high hazard mate-

1 rial security threat mitigation plan containing appropriate
 2 measures, including alternative routing and temporary
 3 shipment suspension options, to address assessed risks to
 4 high consequence targets. The plan, and any information
 5 submitted to the Secretary under this section shall be pro-
 6 tected as sensitive security information under the regula-
 7 tions prescribed under section 114(s) of title 49, United
 8 States Code.

9 (b) IMPLEMENTATION.—A high hazard material se-
 10 curity threat mitigation plan shall be put into effect by
 11 a rail carrier for the shipment of high hazardous materials
 12 by rail on the rail carrier's right-of-way when the threat
 13 levels of the Homeland Security Advisory System are high
 14 or severe and specific intelligence of probable or imminent
 15 threat exists towards—

16 (1) a high-consequence target that is within the
 17 catastrophic impact zone of a railroad right-of-way
 18 used to transport high hazardous material; or

19 (2) rail infrastructure or operations within the
 20 immediate vicinity of a high-consequence target.

21 (c) COMPLETION AND REVIEW OF PLANS.—

22 (1) PLANS REQUIRED.—Each rail carrier
 23 shall—

24 (A) submit a list of routes used to trans-
 25 port high hazard materials to the Secretary of

1 Homeland Security within 60 days after the
2 date of enactment of this Act;

3 (B) develop and submit a high hazard ma-
4 terial security threat mitigation plan to the Sec-
5 retary within 180 days after it receives the no-
6 tice of high consequence targets on such routes
7 by the Secretary; and

8 (C) submit any subsequent revisions to the
9 plan to the Secretary within 30 days after mak-
10 ing the revisions.

11 (2) REVIEW AND UPDATES.—The Secretary,
12 with assistance of the Secretary of Transportation,
13 shall review the plans and transmit comments to the
14 railroad carrier concerning any revisions the Sec-
15 retary considers necessary. A railroad carrier shall
16 respond to the Secretary’s comments within 30 days
17 after receiving them. Each rail carrier shall update
18 and resubmit its plan for review not less than every
19 2 years.

20 (d) DEFINITIONS.—In this section:

21 (1) The term “high-consequence target” means
22 a building, buildings, infrastructure, public space, or
23 natural resource designated by the Secretary of
24 Homeland Security that is viable terrorist target of

1 national significance, the attack of which could re-
2 sult in—

3 (A) catastrophic loss of life; and

4 (B) significantly damaged national security
5 and defense capabilities; or

6 (C) national economic harm.

7 (2) The term “catastrophic impact zone” means
8 the area immediately adjacent to, under, or above an
9 active railroad right-of-way used to ship high hazard
10 materials in which the potential release or explosion
11 of the high hazard material being transported would
12 likely cause—

13 (A) loss of life; or

14 (B) significant damage to property or
15 structures.

16 (3) The term “rail carrier” has the meaning
17 given that term by section 10102(5) of title 49,
18 United States Code.

19 **SEC. 412. MEMORANDUM OF AGREEMENT.**

20 (a) MEMORANDUM OF AGREEMENT.—Similar to the
21 public transportation security annex between the two de-
22 partments signed on September 8, 2005, within 1 year
23 after the date of enactment of this Act, the Secretary of
24 Transportation and the Secretary of Homeland Security
25 shall execute and develop an annex to the memorandum

1 of agreement between the two departments signed on Sep-
2 tember 28, 2004, governing the specific roles, delineations
3 of responsibilities, resources and commitments of the De-
4 partment of Transportation and the Department of Home-
5 land Security, respectively, in addressing railroad trans-
6 portation security matters, including the processes the de-
7 partments will follow to promote communications, effi-
8 ciency, and nonduplication of effort.

9 (b) RAIL SAFETY REGULATIONS.—Section 20103(a)
10 of title 49, United States Code, is amended by striking
11 “safety” the first place it appears, and inserting “safety,
12 including security,”.

13 **SEC. 413. RAIL SECURITY ENHANCEMENTS.**

14 (a) RAIL POLICE OFFICERS.—Section 28101 of title
15 49, United States Code, is amended—

16 (1) by inserting “(a) IN GENERAL.—” before
17 “Under”; and

18 (2) by striking “the rail carrier” each place it
19 appears and inserting “any rail carrier”.

20 (b) REVIEW OF RAIL REGULATIONS.—Within 1 year
21 after the date of enactment of this Act, the Secretary of
22 Transportation, in consultation with the Secretary of
23 Homeland Security and the Assistant Secretary of Home-
24 land Security (Transportation Security Administration),
25 shall review existing rail regulations of the Department

1 of Transportation for the purpose of identifying areas in
2 which those regulations need to be revised to improve rail
3 security.

4 **SEC. 414. PUBLIC AWARENESS.**

5 Not later than 90 days after the date of enactment
6 of this Act, the Secretary of Homeland Security, in con-
7 sultation with the Secretary of Transportation, shall de-
8 velop a national plan for public outreach and awareness.
9 Such plan shall be designed to increase awareness of
10 measures that the general public, railroad passengers, and
11 railroad employees can take to increase railroad system
12 security. Such plan shall also provide outreach to railroad
13 carriers and their employees to improve their awareness
14 of available technologies, ongoing research and develop-
15 ment efforts, and available Federal funding sources to im-
16 prove railroad security. Not later than 9 months after the
17 date of enactment of this Act, the Secretary of Homeland
18 Security shall implement the plan developed under this
19 section.

20 **SEC. 415. RAILROAD HIGH HAZARD MATERIAL TRACKING.**

21 (a) WIRELESS COMMUNICATIONS.—

22 (1) IN GENERAL.—In conjunction with the re-
23 search and development program established under
24 section 405 and consistent with the results of re-
25 search relating to wireless tracking technologies, the

1 Secretary of Homeland Security, in consultation
2 with the Assistant Secretary of Homeland Security
3 (Transportation Security Administration), shall de-
4 velop a program that will encourage the equipping of
5 rail cars transporting high hazard materials (as de-
6 fined in section 404(g) of this title) with wireless
7 terrestrial or satellite communications technology
8 that provides—

9 (A) ear position location and tracking ca-
10 pabilities;

11 (B) notification of rail car depressuriza-
12 tion, breach, or unsafe temperature; and

13 (C) notification of hazardous material re-
14 lease.

15 (2) COORDINATION.—In developing the pro-
16 gram required by paragraph (1), the Secretary
17 shall—

18 (A) consult with the Secretary of Trans-
19 portation to coordinate the program with any
20 ongoing or planned efforts for rail car tracking
21 at the Department of Transportation; and

22 (B) ensure that the program is consistent
23 with recommendations and findings of the De-
24 partment of Homeland Security's hazardous
25 material tank rail car tracking pilot programs.

1 (b) FUNDING.—Out of funds appropriated pursuant
 2 to section 114(u) of title 49, United States Code, as
 3 amended by section 416 of this title, there shall be made
 4 available to the Secretary of Homeland Security to carry
 5 out this section \$3,000,000 for each of fiscal years 2008,
 6 2009, and 2010.

7 **SEC. 416. AUTHORIZATION OF APPROPRIATIONS.**

8 (a) TRANSPORTATION SECURITY ADMINISTRATION
 9 AUTHORIZATION.—Section 114 of title 49, United States
 10 Code, is amended by adding at the end thereof the fol-
 11 lowing:

12 “(u) AUTHORIZATION OF APPROPRIATIONS.—There
 13 are authorized to be appropriated to the Secretary of
 14 Homeland Security for rail security—

15 “(1) \$205,000,000 for fiscal year 2008;

16 “(2) \$166,000,000 for fiscal year 2009; and

17 “(3) \$166,000,000 for fiscal year 2010.”.

18 (b) DEPARTMENT OF TRANSPORTATION.—There are
 19 authorized to be appropriated to the Secretary of Trans-
 20 portation to carry out this title and sections 20118 and
 21 24316 of title 49, United States Code, as added by this
 22 title—

23 (1) \$121,000,000 for fiscal year 2008;

24 (2) \$118,000,000 for fiscal year 2009;

25 (3) \$118,000,000 for fiscal year 2010; and

1 (4) \$118,000,000 for fiscal year 2011.

2 **TITLE IV—IMPROVED RAIL**
3 **SECURITY**

4 **SEC. 401. DEFINITIONS.**

5 *In this title:*

6 (1) *HIGH HAZARD MATERIALS.*—*The term “high*
7 *hazard materials” means quantities of poison inhala-*
8 *tion hazard materials, Class 2.3 gases, Class 6.1 ma-*
9 *terials, anhydrous ammonia, and other hazardous*
10 *materials that the Secretary, in consultation with the*
11 *Secretary of Transportation, determines pose a secu-*
12 *rity risk.*

13 (2) *SECRETARY.*—*The term “Secretary” refers to*
14 *the Secretary of Homeland Security unless otherwise*
15 *noted.*

16 **SEC. 402. RAIL TRANSPORTATION SECURITY RISK ASSESS-**
17 **MENT.**

18 (a) *IN GENERAL.*—

19 (1) *RISK ASSESSMENT.*—*The Secretary shall es-*
20 *tablish a task force, including the Transportation Se-*
21 *curity Administration and other agencies within the*
22 *Department, the Department of Transportation, and*
23 *other appropriate Federal agencies, to complete a risk*
24 *assessment of freight and passenger rail transpor-*
25 *tation (encompassing railroads, as that term is de-*

1 *fined in section 20102(1) of title 49, United States*
2 *Code). The assessment shall include—*

3 *(A) a methodology for conducting the risk*
4 *assessment, including timelines, that addresses*
5 *how the Department of Homeland Security will*
6 *work with the entities described in subsection (b)*
7 *and make use of existing Federal expertise with-*
8 *in the Department of Homeland Security, the*
9 *Department of Transportation, and other appro-*
10 *priate agencies;*

11 *(B) identification and evaluation of critical*
12 *assets and infrastructures;*

13 *(C) identification of risks to those assets*
14 *and infrastructures;*

15 *(D) identification of risks that are specific*
16 *to the transportation of hazardous materials via*
17 *railroad;*

18 *(E) identification of risks to passenger and*
19 *cargo security, transportation infrastructure (in-*
20 *cluding rail tunnels used by passenger and*
21 *freight railroads in high threat urban areas),*
22 *protection systems, operations, communications*
23 *systems, employee training, emergency response*
24 *planning, and any other area identified by the*
25 *assessment;*

1 (F) an assessment of public and private
2 operational recovery plans to expedite, to the
3 maximum extent practicable, the return of an
4 adversely affected freight or passenger rail trans-
5 portation system or facility to its normal per-
6 formance level after a major terrorist attack or
7 other security event on that system or facility;
8 and

9 (G) an account of actions taken or planned
10 by both public and private entities to address
11 identified rail security issues and assess the effec-
12 tive integration of such actions.

13 (2) *RECOMMENDATIONS.*—Based on the assess-
14 ment conducted under paragraph (1), the Secretary,
15 in consultation with the Secretary of Transportation,
16 shall develop prioritized recommendations for improv-
17 ing rail security, including any recommendations the
18 Secretary has for—

19 (A) improving the security of rail tunnels,
20 rail bridges, rail switching and car storage
21 areas, other rail infrastructure and facilities, in-
22 formation systems, and other areas identified by
23 the Secretary as posing significant rail-related
24 risks to public safety and the movement of inter-
25 state commerce, taking into account the impact

1 that any proposed security measure might have
2 on the provision of rail service or on operations
3 served or otherwise affected by rail service;

4 (B) deploying equipment and personnel to
5 detect security threats, including those posed by
6 explosives and hazardous chemical, biological,
7 and radioactive substances, and any appropriate
8 countermeasures;

9 (C) training appropriate railroad or rail-
10 road shipper employees in terrorism prevention,
11 preparedness, passenger evacuation, and response
12 activities;

13 (D) conducting public outreach campaigns
14 on passenger railroads regarding security;

15 (E) deploying surveillance equipment;

16 (F) identifying the immediate and long-
17 term costs of measures that may be required to
18 address those risks; and

19 (G) public and private sector sources to
20 fund such measures.

21 (3) *PLANS*.—The report required by subsection
22 (c) shall include—

23 (A) a plan, developed in consultation with
24 the freight and intercity passenger railroads, and
25 State and local governments, for the Federal

1 *Government to provide adequate security support*
2 *at high or severe threat levels of alert;*

3 *(B) a plan for coordinating existing and*
4 *planned rail security initiatives undertaken by*
5 *the public and private sectors; and*

6 *(C) a contingency plan, developed in coordi-*
7 *nation with freight and intercity and commuter*
8 *passenger railroads, to ensure the continued*
9 *movement of freight and passengers in the event*
10 *of an attack affecting the railroad system, which*
11 *shall contemplate—*

12 *(i) the possibility of rerouting traffic*
13 *due to the loss of critical infrastructure,*
14 *such as a bridge, tunnel, yard, or station;*
15 *and*

16 *(ii) methods of continuing railroad*
17 *service in the Northeast Corridor in the*
18 *event of a commercial power loss, or catas-*
19 *trophe affecting a critical bridge, tunnel,*
20 *yard, or station.*

21 *(b) CONSULTATION; USE OF EXISTING RESOURCES.—*

22 *In carrying out the assessment and developing the rec-*
23 *ommendations and plans required by subsection (a), the*
24 *Secretary shall consult with rail management, rail labor,*
25 *owners or lessors of rail cars used to transport hazardous*

1 *materials, first responders, offerers of hazardous materials,*
2 *public safety officials, and other relevant parties. In devel-*
3 *oping the risk assessment required under this section, the*
4 *Secretary shall utilize relevant existing risk assessments de-*
5 *veloped by the Department or other Federal agencies, and,*
6 *as appropriate, assessments developed by other public and*
7 *private stakeholders.*

8 *(c) REPORT.—*

9 *(1) CONTENTS.—Within 1 year after the date of*
10 *enactment of this Act, the Secretary shall transmit to*
11 *the Committee on Commerce, Science, and Transpor-*
12 *tation of the Senate, and the Committee on Transpor-*
13 *tation and Infrastructure and the Committee on*
14 *Homeland Security of the House of Representatives a*
15 *report containing—*

16 *(A) the assessment, prioritized recommenda-*
17 *tions, and plans required by subsection (a); and*

18 *(B) an estimate of the cost to implement*
19 *such recommendations.*

20 *(2) FORMAT.—The Secretary may submit the re-*
21 *port in both classified and redacted formats if the*
22 *Secretary determines that such action is appropriate*
23 *or necessary.*

24 *(d) ANNUAL UPDATES.—The Secretary, in consulta-*
25 *tion with the Secretary of Transportation, shall update the*

1 *assessment and recommendations each year and transmit*
2 *a report, which may be submitted in both classified and*
3 *redacted formats, to the Committees named in subsection*
4 *(c)(1), containing the updated assessment and recommenda-*
5 *tions.*

6 *(e) FUNDING.—Out of funds appropriated pursuant to*
7 *section 114(v) of title 49, United States Code, as amended*
8 *by section 418 of this title, there shall be made available*
9 *to the Secretary to carry out this section \$5,000,000 for fis-*
10 *cal year 2008.*

11 **SEC. 403. SYSTEMWIDE AMTRAK SECURITY UPGRADES.**

12 *(a) IN GENERAL.—*

13 *(1) GRANTS.—Subject to subsection (c) the Sec-*
14 *retary, in consultation with the Assistant Secretary of*
15 *Homeland Security (Transportation Security Admin-*
16 *istration), is authorized to make grants to Amtrak in*
17 *accordance with the provisions of this section.*

18 *(2) GENERAL PURPOSES.—The Secretary may*
19 *make such grants for the purposes of—*

20 *(A) protecting underwater and underground*
21 *assets and systems;*

22 *(B) protecting high risk and high con-*
23 *sequence assets identified through system-wide*
24 *risk assessments;*

25 *(C) providing counter-terrorism training;*

1 (D) providing both visible and unpredict-
2 able deterrence; and

3 (E) conducting emergency preparedness
4 drills and exercises.

5 (3) *SPECIFIC PROJECTS.*—*The Secretary shall*
6 *make such grants—*

7 (A) to secure major tunnel access points
8 and ensure tunnel integrity in New York, New
9 Jersey, Maryland, and Washington, DC;

10 (B) to secure Amtrak trains;

11 (C) to secure Amtrak stations;

12 (D) to obtain a watch list identification
13 system approved by the Secretary;

14 (E) to obtain train tracking and interoper-
15 able communications systems that are coordi-
16 nated to the maximum extent possible;

17 (F) to hire additional police officers, special
18 agents, security officers, including canine units,
19 and to pay for other labor costs directly associ-
20 ated with security and terrorism prevention ac-
21 tivities;

22 (G) to expand emergency preparedness ef-
23 forts; and

24 (H) for employee security training.

1 (b) *CONDITIONS.*—*The Secretary of Transportation*
2 *shall disburse funds to Amtrak provided under subsection*
3 *(a) for projects contained in a systemwide security plan*
4 *approved by the Secretary. Amtrak shall develop the secu-*
5 *rity plan in consultation with constituent States and other*
6 *relevant parties. The plan shall include appropriate meas-*
7 *ures to address security awareness, emergency response, and*
8 *passenger evacuation training and shall be consistent with*
9 *State security plans to the maximum extent practicable.*

10 (c) *EQUITABLE GEOGRAPHIC ALLOCATION.*—*The Sec-*
11 *retary shall ensure that, subject to meeting the highest secu-*
12 *rity needs on Amtrak’s entire system and consistent with*
13 *the risk assessment required under section 403, stations and*
14 *facilities located outside of the Northeast Corridor receive*
15 *an equitable share of the security funds authorized by this*
16 *section.*

17 (d) *AVAILABILITY OF FUNDS.*—

18 (1) *IN GENERAL.*—*Out of funds appropriated*
19 *pursuant to section 114(v) of title 49, United States*
20 *Code, as amended by section 418 of this title, there*
21 *shall be made available to the Secretary and the As-*
22 *stant Secretary of Homeland Security (Transportation Security Administration) to carry out this sec-*
23 *tion—*
24 *tion—*

25 (A) \$63,500,000 for fiscal year 2008;

1 (B) \$30,000,000 for fiscal year 2009; and

2 (C) \$30,000,000 for fiscal year 2010.

3 (2) *AVAILABILITY OF APPROPRIATED FUNDS.*—

4 *Amounts appropriated pursuant to paragraph (1)*
 5 *shall remain available until expended.*

6 **SEC. 404. FIRE AND LIFE-SAFETY IMPROVEMENTS.**

7 (a) *LIFE-SAFETY NEEDS.*—*The Secretary of Trans-*
 8 *portation, in consultation with the Secretary, is authorized*
 9 *to make grants to Amtrak for the purpose of making fire*
 10 *and life-safety improvements to Amtrak tunnels on the*
 11 *Northeast Corridor in New York, New Jersey, Maryland,*
 12 *and Washington, DC.*

13 (b) *AUTHORIZATION OF APPROPRIATIONS.*—*Out of*
 14 *funds appropriated pursuant to section 418(b) of this title,*
 15 *there shall be made available to the Secretary of Transpor-*
 16 *tation for the purposes of carrying out subsection (a) the*
 17 *following amounts:*

18 (1) *For the 6 New York and New Jersey tunnels*
 19 *to provide ventilation, electrical, and fire safety tech-*
 20 *nology upgrades, emergency communication and*
 21 *lighting systems, and emergency access and egress for*
 22 *passengers—*

23 (A) \$100,000,000 for fiscal year 2008;

24 (B) \$100,000,000 for fiscal year 2009;

25 (C) \$100,000,000 for fiscal year 2010; and

1 (D) \$100,000,000 for fiscal year 2011.

2 (2) For the Baltimore & Potomac tunnel and the
3 Union tunnel, together, to provide adequate drainage,
4 ventilation, communication, lighting, and passenger
5 egress upgrades—

6 (A) \$10,000,000 for fiscal year 2008;

7 (B) \$10,000,000 for fiscal year 2009;

8 (C) \$10,000,000 for fiscal year 2010; and

9 (D) \$10,000,000 for fiscal year 2011.

10 (3) For the Washington, DC, Union Station tun-
11 nels to improve ventilation, communication, lighting,
12 and passenger egress upgrades—

13 (A) \$8,000,000 for fiscal year 2008;

14 (B) \$8,000,000 for fiscal year 2009;

15 (C) \$8,000,000 for fiscal year 2010; and

16 (D) \$8,000,000 for fiscal year 2011.

17 (c) *INFRASTRUCTURE UPGRADES.*—Out of funds ap-
18 propriated pursuant to section 418(b) of this title, there
19 shall be made available to the Secretary of Transportation
20 for fiscal year 2008 \$3,000,000 for the preliminary design
21 of options for a new tunnel on a different alignment to aug-
22 ment the capacity of the existing Baltimore tunnels.

23 (d) *AVAILABILITY OF APPROPRIATED FUNDS.*—
24 Amounts made available pursuant to this section shall re-
25 main available until expended.

1 (e) *PLANS REQUIRED.*—*The Secretary of Transpor-*
2 *tation may not make amounts available to Amtrak for obli-*
3 *gation or expenditure under subsection (a)—*

4 (1) *until Amtrak has submitted to the Secretary,*
5 *and the Secretary has approved, an engineering and*
6 *financial plan for such projects; and*

7 (2) *unless, for each project funded pursuant to*
8 *this section, the Secretary has approved a project*
9 *management plan prepared by Amtrak addressing*
10 *appropriate project budget, construction schedule, re-*
11 *ipient staff organization, document control and*
12 *record keeping, change order procedure, quality con-*
13 *trol and assurance, periodic plan updates, and peri-*
14 *odic status reports.*

15 (f) *REVIEW OF PLANS.*—

16 (1) *IN GENERAL.*—*The Secretary of Transpor-*
17 *tation shall complete the review of the plans required*
18 *by paragraphs (1) and (2) of subsection (e) and ap-*
19 *prove or disapprove the plans within 45 days after*
20 *the date on which each such plan is submitted by Am-*
21 *trak.*

22 (2) *INCOMPLETE OR DEFICIENT PLAN.*—*If the*
23 *Secretary determines that a plan is incomplete or de-*
24 *ficient, the Secretary shall notify Amtrak of the in-*
25 *complete items or deficiencies and Amtrak shall, with-*

1 *in 30 days after receiving the Secretary's notification,*
2 *submit a modified plan for the Secretary's review.*

3 (3) *APPROVAL OF PLAN.*—*Within 15 days after*
4 *receiving additional information on items previously*
5 *included in the plan, and within 45 days after receiv-*
6 *ing items newly included in a modified plan, the Sec-*
7 *retary shall either approve the modified plan, or, if*
8 *the Secretary finds the plan is still incomplete or de-*
9 *ficient, the Secretary shall—*

10 (A) *identify in writing to the Committee on*
11 *Commerce, Science, and Transportation of the*
12 *Senate, and the Committee on Transportation*
13 *and Infrastructure and the Committee on Home-*
14 *land Security of the House of Representatives the*
15 *portions of the plan the Secretary finds incom-*
16 *plete or deficient;*

17 (B) *approve all other portions of the plan;*

18 (C) *obligate the funds associated with those*
19 *other portions; and*

20 (D) *execute an agreement with Amtrak*
21 *within 15 days thereafter on a process for resolv-*
22 *ing the remaining portions of the plan.*

23 (g) *FINANCIAL CONTRIBUTION FROM OTHER TUNNEL*
24 *USERS.*—*The Secretary shall, taking into account the need*

1 *for the timely completion of all portions of the tunnel*
 2 *projects described in subsection (a)—*

3 *(1) consider the extent to which rail carriers*
 4 *other than Amtrak use or plan to use the tunnels;*

5 *(2) consider the feasibility of seeking a financial*
 6 *contribution from those other rail carriers toward the*
 7 *costs of the projects; and*

8 *(3) obtain financial contributions or commit-*
 9 *ments from such other rail carriers at levels reflecting*
 10 *the extent of their use or planned use of the tunnels,*
 11 *if feasible.*

12 **SEC. 405. FREIGHT AND PASSENGER RAIL SECURITY UP-**
 13 **GRADES.**

14 *(a) SECURITY IMPROVEMENT GRANTS.—The Sec-*
 15 *retary, in consultation with Assistant Secretary of Home-*
 16 *land Security (Transportation Security Administration)*
 17 *and other appropriate agencies or officials, is authorized*
 18 *to make grants to freight railroads, the Alaska Railroad,*
 19 *hazardous materials offerers, owners of rail cars used in*
 20 *the transportation of hazardous materials, universities, col-*
 21 *leges and research centers, State and local governments (for*
 22 *rail passenger facilities and infrastructure not owned by*
 23 *Amtrak), and to Amtrak for full or partial reimbursement*
 24 *of costs incurred in the conduct of activities to prevent or*
 25 *respond to acts of terrorism, sabotage, or other intercity*

1 *passenger rail and freight rail security risks identified*
2 *under section 402, including—*

3 (1) *security and redundancy for critical commu-*
4 *nications, computer, and train control systems essen-*
5 *tial for secure rail operations;*

6 (2) *accommodation of rail cargo or passenger*
7 *screening equipment at the United States-Mexico bor-*
8 *der, the United States-Canada border, or other ports*
9 *of entry;*

10 (3) *the security of hazardous material transpor-*
11 *tation by rail;*

12 (4) *secure intercity passenger rail stations,*
13 *trains, and infrastructure;*

14 (5) *structural modification or replacement of*
15 *rail cars transporting high hazard materials to im-*
16 *prove their resistance to acts of terrorism;*

17 (6) *employee security awareness, preparedness,*
18 *passenger evacuation, and emergency response train-*
19 *ing;*

20 (7) *public security awareness campaigns for pas-*
21 *senger train operations;*

22 (8) *the sharing of intelligence and information*
23 *about security threats;*

1 (9) to obtain train tracking and interoperable
2 communications systems that are coordinated to the
3 maximum extent possible;

4 (10) to hire additional police and security offi-
5 cers, including canine units; and

6 (11) other improvements recommended by the re-
7 port required by section 402, including infrastructure,
8 facilities, and equipment upgrades.

9 (b) *ACCOUNTABILITY.*—The Secretary shall adopt nec-
10 essary procedures, including audits, to ensure that grants
11 made under this section are expended in accordance with
12 the purposes of this title and the priorities and other cri-
13 teria developed by the Secretary.

14 (c) *ALLOCATION.*—The Secretary shall distribute the
15 funds authorized by this section based on risk as determined
16 under section 402, and shall encourage non-Federal finan-
17 cial participation in projects funded by grants awarded
18 under this section. With respect to grants for intercity pas-
19 senger rail security, the Secretary shall also take into ac-
20 count passenger volume and whether stations or facilities
21 are used by commuter rail passengers as well as intercity
22 rail passengers. Not later than 240 days after the date of
23 enactment of this Act, the Secretary shall provide a report
24 to the Committees on Commerce, Science and Transpor-
25 tation and Homeland Security and Governmental Affairs

1 *in the Senate and the Committee on Homeland Security*
 2 *in the House on the feasibility and appropriateness of re-*
 3 *quiring a non-Federal match for the grants authorized in*
 4 *subsection (a).*

5 (d) *CONDITIONS.—Grants awarded by the Secretary to*
 6 *Amtrak under subsection (a) shall be disbursed to Amtrak*
 7 *through the Secretary of Transportation. The Secretary of*
 8 *Transportation may not disburse such funds unless Amtrak*
 9 *meets the conditions set forth in section 403(b) of this title.*

10 (e) *ALLOCATION BETWEEN RAILROADS AND OTH-*
 11 *ERS.—Unless as a result of the assessment required by sec-*
 12 *tion 402 the Secretary determines that critical rail trans-*
 13 *portation security needs require reimbursement in greater*
 14 *amounts to any eligible entity, no grants under this section*
 15 *may be made cumulatively over the period authorized by*
 16 *this title—*

17 (1) *in excess of \$45,000,000 to Amtrak; or*

18 (2) *in excess of \$80,000,000 for the purposes de-*
 19 *scribed in paragraphs (3) and (5) of subsection (a).*

20 (f) *AUTHORIZATION OF APPROPRIATIONS.—*

21 (1) *IN GENERAL.—Out of funds appropriated*
 22 *pursuant to section 114(v) of title 49, United States*
 23 *Code, as amended by section 418 of this title, there*
 24 *shall be made available to the Secretary to carry out*
 25 *this section—*

1 (A) \$100,000,000 for fiscal year 2008;

2 (B) \$100,000,000 for fiscal year 2009; and

3 (C) \$100,000,000 for fiscal year 2010.

4 (2) *AVAILABILITY OF APPROPRIATED FUNDS.*—
5 Amounts appropriated pursuant to paragraph (1)
6 shall remain available until expended.

7 **SEC. 406. RAIL SECURITY RESEARCH AND DEVELOPMENT.**

8 (a) *ESTABLISHMENT OF RESEARCH AND DEVELOP-*
9 *MENT PROGRAM.*—The Secretary, through the Under Sec-
10 *retary for Science and Technology and the Assistant Sec-*
11 *retary of Homeland Security (Transportation Security Ad-*
12 *ministration), in consultation with the Secretary of Trans-*
13 *portation shall carry out a research and development pro-*
14 *gram for the purpose of improving freight and intercity*
15 *passenger rail security that may include research and devel-*
16 *opment projects to—*

17 (1) *reduce the risk of terrorist attacks on rail*
18 *transportation, including risks posed by explosives*
19 *and hazardous chemical, biological, and radioactive*
20 *substances to intercity rail passengers, facilities, and*
21 *equipment;*

22 (2) *test new emergency response techniques and*
23 *technologies;*

24 (3) *develop improved freight rail security tech-*
25 *nologies, including—*

1 (A) technologies for sealing rail cars;

2 (B) automatic inspection of rail cars;

3 (C) communication-based train controls;

4 and

5 (D) emergency response training;

6 (4) test wayside detectors that can detect tam-
7 pering with railroad equipment;

8 (5) support enhanced security for the transpor-
9 tation of hazardous materials by rail, including—

10 (A) technologies to detect a breach in a tank
11 car or other rail car used to transport hazardous
12 materials and transmit information about the
13 integrity of cars to the train crew or dispatcher;

14 (B) research to improve tank car integrity,
15 with a focus on tank cars that carry high hazard
16 materials (as defined in section 401 of this title);

17 and

18 (C) techniques to transfer hazardous mate-
19 rials from rail cars that are damaged or other-
20 wise represent an unreasonable risk to human
21 life or public safety; and

22 (6) other projects that address risks identified
23 under section 402.

24 (b) COORDINATION WITH OTHER RESEARCH INITIA-
25 TIVES.—The Secretary shall ensure that the research and

1 *development program authorized by this section is coordi-*
2 *nated with other research and development initiatives at*
3 *the Department of Homeland Security and the Department*
4 *of Transportation. The Secretary shall carry out any re-*
5 *search and development project authorized by this section*
6 *through a reimbursable agreement with the Secretary of*
7 *Transportation, if the Secretary of Transportation—*

8 (1) *is already sponsoring a research and develop-*
9 *ment project in a similar area; or*

10 (2) *has a unique facility or capability that*
11 *would be useful in carrying out the project.*

12 (c) *GRANTS AND ACCOUNTABILITY.—To carry out the*
13 *research and development program, the Secretary may*
14 *award grants to the entities described in section 405(a) and*
15 *shall adopt necessary procedures, including audits, to en-*
16 *sure that grants made under this section are expended in*
17 *accordance with the purposes of this title and the priorities*
18 *and other criteria developed by the Secretary.*

19 (d) *AUTHORIZATION OF APPROPRIATIONS.—*

20 (1) *IN GENERAL.—Out of funds appropriated*
21 *pursuant to section 114(v) of title 49, United States*
22 *Code, as amended by section 418 of this title, there*
23 *shall be made available to the Secretary to carry out*
24 *this section—*

25 (A) *\$33,000,000 for fiscal year 2008;*

1 (B) \$33,000,000 for fiscal year 2009; and

2 (C) \$33,000,000 for fiscal year 2010.

3 (2) *AVAILABILITY OF APPROPRIATED FUNDS.*—

4 Amounts appropriated pursuant to paragraph (1)
5 shall remain available until expended.

6 **SEC. 407. OVERSIGHT AND GRANT PROCEDURES.**

7 (a) *SECRETARIAL OVERSIGHT.*—The Secretary may
8 award contracts to audit and review the safety, security,
9 procurement, management, and financial compliance of a
10 recipient of amounts under this title.

11 (b) *PROCEDURES FOR GRANT AWARD.*—The Secretary
12 shall, within 180 days after the date of enactment of this
13 Act, prescribe procedures and schedules for the awarding
14 of grants under this title, including application and quali-
15 fication procedures (including a requirement that the appli-
16 cant have a security plan), and a record of decision on ap-
17 plicant eligibility. The procedures shall include the execu-
18 tion of a grant agreement between the grant recipient and
19 the Secretary and shall be consistent, to the extent prac-
20 ticable, with the grant procedures established under section
21 70107 of title 46, United States Code.

22 (c) *ADDITIONAL AUTHORITY.*—The Secretary may
23 issue nonbinding letters under similar terms to those issued
24 pursuant to section 47110(e) of title 49, United States Code,
25 to sponsors of rail projects funded under this title.

1 **SEC. 408. AMTRAK PLAN TO ASSIST FAMILIES OF PAS-**
 2 **SENGERS INVOLVED IN RAIL PASSENGER AC-**
 3 **CIDENTS.**

4 (a) *IN GENERAL.*—Chapter 243 of title 49, United
 5 States Code, is amended by adding at the end the following:

6 **“§24316. Plans to address needs of families of pas-**
 7 **sengers involved in rail passenger acci-**
 8 **dents**

9 “(a) *SUBMISSION OF PLAN.*—Not later than 6 months
 10 after the date of the enactment of the Transportation Secu-
 11 rity and Interoperable Communication Capabilities Act,
 12 Amtrak shall submit to the Chairman of the National
 13 Transportation Safety Board, the Secretary of Transpor-
 14 tation, and the Secretary of Homeland Security a plan for
 15 addressing the needs of the families of passengers involved
 16 in any rail passenger accident involving an Amtrak inter-
 17 city train and resulting in a loss of life.

18 “(b) *CONTENTS OF PLANS.*—The plan to be submitted
 19 by Amtrak under subsection (a) shall include, at a min-
 20 imum, the following:

21 “(1) A process by which Amtrak will maintain
 22 and provide to the National Transportation Safety
 23 Board, the Secretary of Transportation, and the Sec-
 24 retary of Homeland Security, immediately upon re-
 25 quest, a list (which is based on the best available in-
 26 formation at the time of the request) of the names of

1 *the passengers aboard the train (whether or not such*
2 *names have been verified), and will periodically up-*
3 *date the list. The plan shall include a procedure, with*
4 *respect to unreserved trains and passengers not hold-*
5 *ing reservations on other trains, for Amtrak to use*
6 *reasonable efforts to ascertain the number and names*
7 *of passengers aboard a train involved in an accident.*

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

12 *“(3) A process for notifying the families of the*
13 *passengers, before providing any public notice of the*
14 *names of the passengers, by suitably trained individ-*
15 *uals.*

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

21 *“(5) A process by which the family of each pas-*
22 *senger will be consulted about the disposition of all*
23 *remains and personal effects of the passenger within*
24 *Amtrak’s control; that any possession of the passenger*
25 *within Amtrak’s control will be returned to the family*

1 *unless the possession is needed for the accident inves-*
2 *tigation or any criminal investigation; and that any*
3 *unclaimed possession of a passenger within Amtrak's*
4 *control will be retained by the rail passenger carrier*
5 *for at least 18 months.*

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

9 *“(7) An assurance that Amtrak will provide ade-*
10 *quate training to its employees and agents to meet the*
11 *needs of survivors and family members following an*
12 *accident.*

13 *“(c) USE OF INFORMATION.—Neither the National*
14 *Transportation Safety Board, the Secretary of Transpor-*
15 *tation, the Secretary of Homeland Security, nor Amtrak*
16 *may release any personal information on a list obtained*
17 *under subsection (b)(1) but may provide information on the*
18 *list about a passenger to the family of the passenger to the*
19 *extent that the Board or Amtrak considers appropriate.*

20 *“(d) LIMITATION ON LIABILITY.—Amtrak shall not be*
21 *liable for damages in any action brought in a Federal or*
22 *State court arising out of the performance of Amtrak under*
23 *this section in preparing or providing a passenger list, or*
24 *in providing information concerning a train reservation,*

1 *pursuant to a plan submitted by Amtrak under subsection*
 2 *(b), unless such liability was caused by Amtrak’s conduct.*

3 “(e) *LIMITATION ON STATUTORY CONSTRUCTION.—*
 4 *Nothing in this section may be construed as limiting the*
 5 *actions that Amtrak may take, or the obligations that Am-*
 6 *trak may have, in providing assistance to the families of*
 7 *passengers involved in a rail passenger accident.*

8 “(f) *FUNDING.—Out of funds appropriated pursuant*
 9 *to section 418(b) of the Passenger Rail Investment and Im-*
 10 *provement Act of 2007, there shall be made available to the*
 11 *Secretary of Transportation for the use of Amtrak \$500,000*
 12 *for fiscal year 2008 to carry out this section. Amounts made*
 13 *available pursuant to this subsection shall remain available*
 14 *until expended.”.*

15 (b) *CONFORMING AMENDMENT.—The chapter analysis*
 16 *for chapter 243 of title 49, United States Code, is amended*
 17 *by adding at the end the following:*

“24316. Plan to assist families of passengers involved in rail passenger acci-
dents.”.

18 **SEC. 409. NORTHERN BORDER RAIL PASSENGER REPORT.**

19 *Within 1 year after the date of enactment of this Act,*
 20 *the Secretary, in consultation with the Assistant Secretary*
 21 *of Homeland Security (Transportation Security Adminis-*
 22 *tration), the Secretary of Transportation, heads of other ap-*
 23 *propriate Federal departments, and agencies and the Na-*
 24 *tional Railroad Passenger Corporation, shall transmit a re-*

1 *port to the Senate Committee on Commerce, Science, and*
2 *Transportation, the House of Representatives Committee on*
3 *Transportation and Infrastructure, and the House of Rep-*
4 *resentatives Committee on Homeland Security that con-*
5 *tains—*

6 (1) *a description of the current system for*
7 *screening passengers and baggage on passenger rail*
8 *service between the United States and Canada;*

9 (2) *an assessment of the current program to pro-*
10 *vide preclearance of airline passengers between the*
11 *United States and Canada as outlined in “The Agree-*
12 *ment on Air Transport Preclearance between the Gov-*
13 *ernment of Canada and the Government of the United*
14 *States of America”, dated January 18, 2001;*

15 (3) *an assessment of the current program to pro-*
16 *vide preclearance of freight railroad traffic between*
17 *the United States and Canada as outlined in the*
18 *“Declaration of Principle for the Improved Security*
19 *of Rail Shipments by Canadian National Railway*
20 *and Canadian Pacific Railway from Canada to the*
21 *United States”, dated April 2, 2003;*

22 (4) *information on progress by the Department*
23 *of Homeland Security and other Federal agencies to-*
24 *wards finalizing a bilateral protocol with Canada*
25 *that would provide for preclearance of passengers on*

1 *trains operating between the United States and Can-*
2 *ada;*

3 *(5) a description of legislative, regulatory, budg-*
4 *etary, or policy barriers within the United States*
5 *Government to providing pre-screened passenger lists*
6 *for rail passengers traveling between the United*
7 *States and Canada to the Department of Homeland*
8 *Security;*

9 *(6) a description of the position of the Govern-*
10 *ment of Canada and relevant Canadian agencies with*
11 *respect to preclearance of such passengers;*

12 *(7) a draft of any changes in existing Federal*
13 *law necessary to provide for pre-screening of such*
14 *passengers and providing pre-screened passenger lists*
15 *to the Department of Homeland Security; and*

16 *(8) an analysis of the feasibility of reinstating*
17 *in-transit inspections onboard international Amtrak*
18 *trains.*

19 **SEC. 410. RAIL WORKER SECURITY TRAINING PROGRAM.**

20 *(a) IN GENERAL.—Not later than 1 year after the date*
21 *of enactment of this Act, the Secretary, in consultation with*
22 *the Secretary of Transportation, appropriate law enforce-*
23 *ment, security, and terrorism experts, representatives of*
24 *railroad carriers and shippers, and nonprofit employee or-*
25 *ganizations that represent rail workers, shall develop and*

1 *issue detailed guidance for a rail worker security training*
2 *program to prepare front-line workers for potential threat*
3 *conditions. The guidance shall take into consideration any*
4 *current security training requirements or best practices.*

5 (b) *PROGRAM ELEMENTS.—The guidance developed*
6 *under subsection (a) shall include elements appropriate to*
7 *passenger and freight rail service that address the following:*

8 (1) *Determination of the seriousness of any oc-*
9 *currence.*

10 (2) *Crew communication and coordination.*

11 (3) *Appropriate responses to defend or protect*
12 *oneself.*

13 (4) *Use of protective devices.*

14 (5) *Evacuation procedures.*

15 (6) *Psychology, behavior, and methods of terror-*
16 *ists, including observation and analysis.*

17 (7) *Situational training exercises regarding var-*
18 *ious threat conditions.*

19 (8) *Any other subject the Secretary considers ap-*
20 *propriate.*

21 (c) *RAILROAD CARRIER PROGRAMS.—Not later than*
22 *90 days after the Secretary issues guidance under subsection*
23 *(a) in final form, each railroad carrier shall develop a rail*
24 *worker security training program in accordance with that*
25 *guidance and submit it to the Secretary for review. Not*

1 *later than 90 days after receiving a railroad carrier's pro-*
2 *gram under this subsection, the Secretary shall review the*
3 *program and transmit comments to the railroad carrier*
4 *concerning any revisions the Secretary considers necessary*
5 *for the program to meet the guidance requirements. A rail-*
6 *road carrier shall respond to the Secretary's comments*
7 *within 90 days after receiving them.*

8 (d) *TRAINING.*—*Not later than 1 year after the Sec-*
9 *retary reviews the training program developed by a rail-*
10 *road carrier under this section, the railroad carrier shall*
11 *complete the training of all front-line workers in accordance*
12 *with that program. The Secretary shall review implementa-*
13 *tion of the training program of a representative sample of*
14 *railroad carriers and report to the Senate Committee on*
15 *Commerce, Science, and Transportation, the House of Rep-*
16 *resentatives Committee on Transportation and Infrastruc-*
17 *ture, and the House of Representatives Committee on*
18 *Homeland Security on the number of reviews conducted and*
19 *the results. The Secretary may submit the report in both*
20 *classified and redacted formats as necessary.*

21 (e) *UPDATES.*—*The Secretary shall update the train-*
22 *ing guidance issued under subsection (a) as appropriate to*
23 *reflect new or different security threats. Railroad carriers*
24 *shall revise their programs accordingly and provide addi-*

1 tional training to their front-line workers within a reason-
2 able time after the guidance is updated.

3 (f) *FRONT-LINE WORKERS DEFINED.*—In this section,
4 the term “front-line workers” means security personnel, dis-
5 patchers, locomotive engineers, conductors, trainmen, other
6 onboard employees, maintenance and maintenance support
7 personnel, bridge tenders, as well as other appropriate em-
8 ployees of railroad carriers, as defined by the Secretary.

9 (g) *OTHER EMPLOYEES.*—The Secretary shall issue
10 guidance and best practices for a rail shipper employee se-
11 curity program containing the elements listed under sub-
12 section (b) as appropriate.

13 **SEC. 411. WHISTLEBLOWER PROTECTION PROGRAM.**

14 (a) *IN GENERAL.*—Subchapter A of chapter 201 of title
15 49, United States Code, is amended by inserting after sec-
16 tion 20117 the following:

17 **“§20118. Whistleblower protection for rail security**
18 **matters**

19 “(a) *DISCRIMINATION AGAINST EMPLOYEE.*—A rail-
20 road carrier engaged in interstate or foreign commerce may
21 not discharge or in any way discriminate against an em-
22 ployee because the employee, whether acting for the em-
23 ployee or as a representative, has—

24 “(1) provided, caused to be provided, or is about
25 to provide or cause to be provided, to the employer or

1 *the Federal Government information relating to a*
2 *reasonably perceived threat, in good faith, to security;*

3 *“(2) provided, caused to be provided, or is about*
4 *to provide or cause to be provided, testimony before*
5 *Congress or at any Federal or State proceeding re-*
6 *garding a reasonably perceived threat, in good faith,*
7 *to security; or*

8 *“(3) refused to violate or assist in the violation*
9 *of any law, rule or regulation related to rail security.*

10 *“(b) DISPUTE RESOLUTION.—A dispute, grievance, or*
11 *claim arising under this section is subject to resolution*
12 *under section 3 of the Railway Labor Act (45 U.S.C. 153).*
13 *In a proceeding by the National Railroad Adjustment*
14 *Board, a division or delegate of the Board, or another board*
15 *of adjustment established under section 3 to resolve the dis-*
16 *pute, grievance, or claim the proceeding shall be expedited*
17 *and the dispute, grievance, or claim shall be resolved not*
18 *later than 180 days after it is filed. If the violation is a*
19 *form of discrimination that does not involve discharge, sus-*
20 *pension, or another action affecting pay, and no other rem-*
21 *edy is available under this subsection, the Board, division,*
22 *delegate, or other board of adjustment may award the em-*
23 *ployee reasonable damages, including punitive damages, of*
24 *not more than \$20,000.*

1 “(c) *PROCEDURAL REQUIREMENTS.*—*Except as pro-*
2 *vided in subsection (b), the procedure set forth in section*
3 *42121(b)(2)(B) of this subtitle, including the burdens of*
4 *proof, applies to any complaint brought under this section.*

5 “(d) *ELECTION OF REMEDIES.*—*An employee of a*
6 *railroad carrier may not seek protection under both this*
7 *section and another provision of law for the same allegedly*
8 *unlawful act of the carrier.*

9 “(e) *DISCLOSURE OF IDENTITY.*—

10 “(1) *Except as provided in paragraph (2) of this*
11 *subsection, or with the written consent of the em-*
12 *ployee, the Secretary of Transportation or Secretary*
13 *of Homeland Security may not disclose the name of*
14 *an employee of a railroad carrier who has provided*
15 *information about an alleged violation of this section.*

16 “(2) *The Secretary shall disclose to the Attorney*
17 *General the name of an employee described in para-*
18 *graph (1) of this subsection if the matter is referred*
19 *to the Attorney General for enforcement.*

20 “(f) *PROCESS FOR REPORTING PROBLEMS.*—

21 “(1) *ESTABLISHMENT OF REPORTING PROC-*
22 *ESS.*—*The Secretary shall establish, and provide in-*
23 *formation to the public regarding, a process by which*
24 *any person may submit a report to the Secretary re-*

1 *garding railroad security problems, deficiencies, or*
2 *vulnerabilities.*

3 “(2) *CONFIDENTIALITY.*—*The Secretary shall*
4 *keep confidential the identity of a person who submits*
5 *a report under paragraph (1) and any such report*
6 *shall be treated as a record containing protected in-*
7 *formation to the extent that it does not consist of pub-*
8 *licly available information.*

9 “(3) *ACKNOWLEDGMENT OF RECEIPT.*—*If a re-*
10 *port submitted under paragraph (1) identifies the*
11 *person making the report, the Secretary shall respond*
12 *promptly to such person and acknowledge receipt of*
13 *the report.*

14 “(4) *STEPS TO ADDRESS PROBLEMS.*—*The Sec-*
15 *retary shall review and consider the information pro-*
16 *vided in any report submitted under paragraph (1)*
17 *and shall take appropriate steps under this title to*
18 *address any problems or deficiencies identified.*

19 “(5) *RETALIATION PROHIBITED.*—*No employer*
20 *may discharge any employee or otherwise discrimi-*
21 *nate against any employee with respect to the com-*
22 *ensation to, or terms, conditions, or privileges of the*
23 *employment of, such employee because the employee*
24 *(or a person acting pursuant to a request of the em-*
25 *ployee) made a report under paragraph (1).”.*

1 (b) *CONFORMING AMENDMENT.*—*The chapter analysis*
 2 *for chapter 201 of title 49, United States Code, is amended*
 3 *by inserting after the item relating to section 20117 the fol-*
 4 *lowing:*

“20118. *Whistleblower protection for rail security matters.*”.

5 **SEC. 412. HIGH HAZARD MATERIAL SECURITY RISK MITIGA-**
 6 **TION PLANS.**

7 (a) *IN GENERAL.*—*The Secretary, in consultation with*
 8 *the Assistant Secretary of Homeland Security (Transpor-*
 9 *tation Security Administration) and the Secretary of*
 10 *Transportation, shall require rail carriers transporting a*
 11 *high hazard material, as defined in section 402 of this title,*
 12 *to develop a high hazard material security risk mitigation*
 13 *plan containing appropriate measures, including alter-*
 14 *native routing and temporary shipment suspension options,*
 15 *to address assessed risks to high consequence targets. The*
 16 *plan, and any information submitted to the Secretary*
 17 *under this section shall be protected as sensitive security*
 18 *information under the regulations prescribed under section*
 19 *114(s) of title 49, United States Code.*

20 (b) *IMPLEMENTATION.*—*A high hazard material secu-*
 21 *rity risk mitigation plan shall be put into effect by a rail*
 22 *carrier for the shipment of high hazardous materials by rail*
 23 *on the rail carrier’s right-of-way when the threat levels of*
 24 *the Homeland Security Advisory System are high or severe*

1 *or specific intelligence of probable or imminent threat exists*
2 *towards—*

3 *(1) a high-consequence target that is within the*
4 *catastrophic impact zone of a railroad right-of-way*
5 *used to transport high hazardous material; or*

6 *(2) rail infrastructure or operations within the*
7 *immediate vicinity of a high-consequence target.*

8 *(c) COMPLETION AND REVIEW OF PLANS.—*

9 *(1) PLANS REQUIRED.—Each rail carrier*
10 *shall—*

11 *(A) submit a list of routes used to transport*
12 *high hazard materials to the Secretary within 60*
13 *days after the date of enactment of this Act;*

14 *(B) develop and submit a high hazard ma-*
15 *terial security risk mitigation plan to the Sec-*
16 *retary within 180 days after it receives the no-*
17 *tice of high consequence targets on such routes by*
18 *the Secretary that includes an operational recov-*
19 *ery plan to expedite, to the maximum extent*
20 *practicable, the return of an adversely affected*
21 *rail system or facility to its normal performance*
22 *level following a major terrorist attack or other*
23 *security incident; and*

1 (C) submit any subsequent revisions to the
2 plan to the Secretary within 30 days after mak-
3 ing the revisions.

4 (2) *REVIEW AND UPDATES.*—The Secretary, with
5 assistance of the Secretary of Transportation, shall
6 review the plans and transmit comments to the rail-
7 road carrier concerning any revisions the Secretary
8 considers necessary. A railroad carrier shall respond
9 to the Secretary’s comments within 30 days after re-
10 ceiving them. Each rail carrier shall update and re-
11 submit its plan for review not less than every 2 years.

12 (d) *DEFINITIONS.*—In this section:

13 (1) The term “high-consequence target” means
14 property, infrastructure, public space, or natural re-
15 source designated by the Secretary that is a viable
16 terrorist target of national significance, the attack of
17 which could result in—

18 (A) catastrophic loss of life;

19 (B) significant damage to national security
20 or defense capabilities; or

21 (C) national economic harm.

22 (2) The term “catastrophic impact zone” means
23 the area immediately adjacent to, under, or above an
24 active railroad right-of-way used to ship high hazard
25 materials in which the potential release or explosion

1 of the high hazard material being transported would
2 likely cause—

3 (A) loss of life; or

4 (B) significant damage to property or
5 structures.

6 (3) The term “rail carrier” has the meaning
7 given that term by section 10102(5) of title 49,
8 United States Code.

9 **SEC. 413. ENFORCEMENT AUTHORITY.**

10 (a) *IN GENERAL.*—Section 114 of title 49, United
11 States Code, is amended by adding at the end the following:

12 “(u) *ENFORCEMENT OF REGULATIONS AND ORDERS*
13 *OF THE SECRETARY OF HOMELAND SECURITY ISSUED*
14 *UNDER THIS TITLE.*—

15 “(1) *APPLICATION OF SUBSECTION.*—

16 “(A) *IN GENERAL.*—This subsection applies
17 to the enforcement of regulations prescribed, and
18 orders issued, by the Secretary of Homeland Se-
19 curity under a provision of this title other than
20 a provision of chapter 449.

21 “(B) *VIOLATIONS OF CHAPTER 449.*—The
22 penalties for violations of regulations prescribed,
23 and orders issued, by the Secretary of Homeland
24 Security under chapter 449 of this title are pro-
25 vided under chapter 463 of this title.

1 “(C) *NONAPPLICATION TO CERTAIN VIOLA-*
2 *TIONS.—*

3 “(i) *Paragraphs (2) through (5) of this*
4 *subsection do not apply to violations of reg-*
5 *ulations prescribed, and orders issued, by*
6 *the Secretary of Homeland Security under*
7 *a provision of this title—*

8 “(I) *involving the transportation*
9 *of personnel or shipments of materials*
10 *by contractors where the Department of*
11 *Defense has assumed control and re-*
12 *sponsibility;*

13 “(II) *by a member of the armed*
14 *forces of the United States when per-*
15 *forming official duties; or*

16 “(III) *by a civilian employee of*
17 *the Department of Defense when per-*
18 *forming official duties.*

19 “(ii) *Violations described in subclause*
20 *(I), (II), or (III) of clause (i) shall be sub-*
21 *ject to penalties as determined by the Sec-*
22 *retary of Defense or the Secretary’s des-*
23 *ignee.*

24 “(2) *CIVIL PENALTY.—*

1 “(A) *IN GENERAL.*—A person is liable to the
2 United States Government for a civil penalty of
3 not more than \$10,000 for a violation of a regu-
4 lation prescribed, or order issued, by the Sec-
5 retary of Homeland Security under this title.

6 “(B) *REPEAT VIOLATIONS.*—A separate vio-
7 lation occurs under this paragraph for each day
8 the violation continues.

9 “(3) *ADMINISTRATIVE IMPOSITION OF CIVIL PEN-*
10 *ALTIES.*—

11 “(A) *IN GENERAL.*—The Secretary of Home-
12 land Security may impose a civil penalty for a
13 violation of a regulation prescribed, or order
14 issued, under this title. The Secretary shall give
15 written notice of the finding of a violation and
16 the penalty.

17 “(B) *SCOPE OF CIVIL ACTION.*—In a civil
18 action to collect a civil penalty imposed by the
19 Secretary under this subsection, the court may
20 not re-examine issues of liability or the amount
21 of the penalty.

22 “(C) *JURISDICTION.*—The district courts of
23 the United States have exclusive jurisdiction of
24 civil actions to collect a civil penalty imposed by
25 the Secretary under this subsection if—

1 “(i) *the amount in controversy is more*
2 *than—*

3 “(I) *\$400,000, if the violation was*
4 *committed by a person other than an*
5 *individual or small business concern;*
6 *or*

7 “(II) *\$50,000, if the violation was*
8 *committed by an individual or small*
9 *business concern;*

10 “(ii) *the action is in rem or another*
11 *action in rem based on the same violation*
12 *has been brought; or*

13 “(iii) *another action has been brought*
14 *for an injunction based on the same viola-*
15 *tion.*

16 “(D) *MAXIMUM PENALTY.—The maximum*
17 *penalty the Secretary may impose under this*
18 *paragraph is—*

19 “(i) *\$400,000, if the violation was*
20 *committed by a person other than an indi-*
21 *vidual or small business concern; or*

22 “(ii) *\$50,000, if the violation was com-*
23 *mitted by an individual or small business*
24 *concern.*

25 “(4) *COMPROMISE AND SETOFF.—*

1 “(A) *The Secretary may compromise the*
2 *amount of a civil penalty imposed under this*
3 *subsection. If the Secretary compromises the*
4 *amount of a civil penalty under this subpara-*
5 *graph, the Secretary shall—*

6 “(i) *notify the Senate Committee on*
7 *Commerce, Science, and Transportation*
8 *and the House of Representatives Committee*
9 *on Homeland Security of the compromised*
10 *penalty and explain the rationale therefor;*
11 *and*

12 “(ii) *make the explanation available to*
13 *the public to the extent feasible without*
14 *compromising security.*

15 “(B) *The Government may deduct the*
16 *amount of a civil penalty imposed or com-*
17 *promised under this subsection from amounts it*
18 *owes the person liable for the penalty.*

19 “(5) *INVESTIGATIONS AND PROCEEDINGS.—*
20 *Chapter 461 of this title shall apply to investigations*
21 *and proceedings brought under this subsection to the*
22 *same extent that it applies to investigations and pro-*
23 *ceedings brought with respect to aviation security du-*
24 *ties designated to be carried out by the Secretary.*

25 “(6) *DEFINITIONS.—In this subsection:*

1 “(A) *PERSON*.—The term ‘person’ does not
2 include—

3 “(i) the United States Postal Service;

4 or

5 “(ii) the Department of Defense.

6 “(B) *SMALL BUSINESS CONCERN*.—The
7 term ‘small business concern’ has the meaning
8 given that term in section 3 of the Small Busi-
9 ness Act (15 U.S.C. 632).”.

10 (b) *CONFORMING AMENDMENT*.—Section 46301(a)(4)
11 of title 49, United States Code is amended by striking “or
12 another requirement under this title administered by the
13 Under Secretary of Transportation for Security”.

14 (c) *RAIL SAFETY REGULATIONS*.—Section 20103(a) of
15 title 49, United States Code, is amended by striking “safe-
16 ty” the first place it appears, and inserting “safety, includ-
17 ing security,”.

18 **SEC. 414. RAIL SECURITY ENHANCEMENTS.**

19 (a) *RAIL POLICE OFFICERS*.—Section 28101 of title
20 49, United States Code, is amended—

21 (1) by inserting “(a) *IN GENERAL*.—” before

22 “Under”; and

23 (2) by adding at the end the following:

24 “(b) *ASSIGNMENT*.—A rail police officer employed by
25 a rail carrier and certified or commissioned as a police offi-

1 *cer under the laws of a State may be temporarily assigned*
2 *to assist a second rail carrier in carrying out law enforce-*
3 *ment duties upon the request of the second rail carrier, at*
4 *which time the police officer shall be considered to be an*
5 *employee of the second rail carrier and shall have authority*
6 *to enforce the laws of any jurisdiction in which the second*
7 *rail carrier owns property to the same extent as provided*
8 *in subsection (a).”.*

9 **(b) MODEL STATE LEGISLATION.**—*By no later than*
10 *September 7, 2007, the Secretary of Transportation shall*
11 *develop model State legislation to address the problem of*
12 *entities that claim to be rail carriers in order to establish*
13 *and run a police force when the entities do not in fact pro-*
14 *vide rail transportation and shall make it available to State*
15 *governments. In developing the model State legislation the*
16 *Secretary shall solicit the input of the States, railroads*
17 *companies, and railroad employees. The Secretary shall re-*
18 *view and, if necessary, revise such model State legislation*
19 *periodically.*

20 **SEC. 415. PUBLIC AWARENESS.**

21 *Not later than 90 days after the date of enactment of*
22 *this Act, the Secretary, in consultation with the Secretary*
23 *of Transportation, shall develop a national plan for public*
24 *outreach and awareness. Such plan shall be designed to in-*
25 *crease awareness of measures that the general public, rail-*

1 road passengers, and railroad employees can take to in-
2 crease railroad system security. Such plan shall also pro-
3 vide outreach to railroad carriers and their employees to
4 improve their awareness of available technologies, ongoing
5 research and development efforts, and available Federal
6 funding sources to improve railroad security. Not later than
7 9 months after the date of enactment of this Act, the Sec-
8 retary shall implement the plan developed under this sec-
9 tion.

10 **SEC. 416. RAILROAD HIGH HAZARD MATERIAL TRACKING.**

11 (a) *WIRELESS COMMUNICATIONS.*—

12 (1) *IN GENERAL.*—In conjunction with the re-
13 search and development program established under
14 section 406 and consistent with the results of research
15 relating to wireless tracking technologies, the Sec-
16 retary, in consultation with the Assistant Secretary of
17 Homeland Security (Transportation Security Admin-
18 istration), shall develop a program that will encour-
19 age the equipping of rail cars transporting high haz-
20 ard materials (as defined in section 402 of this title)
21 with technology that provides—

22 (A) car position location and tracking ca-
23 pabilities; and

1 (B) notification of rail car depressurization,
2 breach, unsafe temperature, or release of haz-
3 ardous materials.

4 (2) COORDINATION.—In developing the program
5 required by paragraph (1), the Secretary shall—

6 (A) consult with the Secretary of Transpor-
7 tation to coordinate the program with any ongo-
8 ing or planned efforts for rail car tracking at the
9 Department of Transportation; and

10 (B) ensure that the program is consistent
11 with recommendations and findings of the De-
12 partment of Homeland Security’s hazardous ma-
13 terial tank rail car tracking pilot programs.

14 (b) FUNDING.—Out of funds appropriated pursuant to
15 section 114(v) of title 49, United States Code, as amended
16 by section 418 of this title, there shall be made available
17 to the Secretary to carry out this section \$3,000,000 for each
18 of fiscal years 2008, 2009, and 2010.

19 **SEC. 417. CERTAIN REPORTS SUBMITTED TO SENATE COM-**
20 **MITTEE ON HOMELAND SECURITY AND GOV-**
21 **ERNMENTAL AFFAIRS.**

22 *The Senate Committee on Homeland Security and*
23 *Governmental Affairs shall receive the reports required by*
24 *the following provisions of law in the same manner and*
25 *to the same extent that the reports are to be received by*

1 *the Senate Committee on Commerce, Science, and Trans-*
 2 *portation:*

3 (1) *Section 402(c) of this title.*

4 (2) *Section 404(f)(3)(A) of this title.*

5 (3) *Section 409 of this title.*

6 (4) *Section 410(d) of this title.*

7 **SEC. 418. AUTHORIZATION OF APPROPRIATIONS.**

8 (a) *TRANSPORTATION SECURITY ADMINISTRATION AU-*
 9 *THORIZATION.—Section 114 of title 49, United States Code,*
 10 *as amended by section 413, is amended by adding at the*
 11 *end thereof the following:*

12 “(v) *AUTHORIZATION OF APPROPRIATIONS.—There*
 13 *are authorized to be appropriated to the Secretary of Home-*
 14 *land Security for rail security—*

15 “(1) \$205,000,000 for fiscal year 2008;

16 “(2) \$166,000,000 for fiscal year 2009; and

17 “(3) \$166,000,000 for fiscal year 2010.”.

18 (b) *DEPARTMENT OF TRANSPORTATION.—There are*
 19 *authorized to be appropriated to the Secretary of Transpor-*
 20 *tation to carry out this title and sections 20118 and 24316*
 21 *of title 49, United States Code, as added by this title—*

22 (1) \$121,000,000 for fiscal year 2008;

23 (2) \$118,000,000 for fiscal year 2009;

24 (3) \$118,000,000 for fiscal year 2010; and

25 (4) \$118,000,000 for fiscal year 2011.

Calendar No. 158

110TH CONGRESS
1ST SESSION

S. 294

[Report No. 110-67]

A BILL

To reauthorize Amtrak, and for other purposes.

MAY 22, 2007

Reported with amendments