

116TH CONGRESS
2D SESSION

S. 3794

To expedite transportation project delivery, facilitate infrastructure improvement, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 21, 2020

Mr. THUNE (for himself and Ms. HASSAN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To expedite transportation project delivery, facilitate infrastructure improvement, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Railroad Rehabilitation and Financing Innovation Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Railroad Rehabilitation and Improvement Financing Program.
- Sec. 3. Conforming amendments.
- Sec. 4. Transitional and savings provisions.
- Sec. 5. Repeals.

1 **SEC. 2. RAILROAD REHABILITATION AND IMPROVEMENT**
 2 **FINANCING PROGRAM.**

3 (a) AMENDMENT TO TITLE 49, UNITED STATES
 4 CODE.—Part B of subtitle V of title 49, United States
 5 Code, is amended by inserting after chapter 223 the fol-
 6 lowing:

7 **“CHAPTER 224—RAILROAD REHABILITA-**
 8 **TION AND IMPROVEMENT FINANCING**
 9 **PROGRAM**

“22401. Definitions.

“22402. Direct loans and loan guarantees.

“22403. Administration of direct loans and loan guarantees.

“22404. Employee protection.

“22405. Substantive criteria and standards.

“22406. Funding.

10 **“§ 22401. Definitions**

11 “In this chapter:

12 “(1) COST.—

13 “(A) IN GENERAL.—The term ‘cost’ means
 14 the estimated long-term cost to the Government
 15 of a direct loan or loan guarantee, or modifica-
 16 tion of the direct loan or loan guarantee, cal-
 17 culated on a net present value basis, excluding
 18 administrative costs and any incidental effects
 19 on governmental receipts or outlays.

20 “(B) COST OF DIRECT LOANS.—

21 “(i) IN GENERAL.—The cost of a di-
 22 rect loan shall be the net present value, at

1 the time when the direct loan is disbursed,
2 of the following estimated cash flows:

3 “(I) Loan disbursements.

4 “(II) Repayments of principal.

5 “(III) Payments of interest and
6 other payments by or to the Govern-
7 ment over the life of the loan.

8 “(ii) CALCULATION.—Calculation of
9 the cost of a direct loan shall include the
10 effects of changes in loan terms resulting
11 from the exercise by the borrower of an op-
12 tion included in the loan contract.

13 “(C) COST OF LOAN GUARANTEE.—

14 “(i) IN GENERAL.—The cost of a loan
15 guarantee shall be the net present value, at
16 the time when the guaranteed loan is dis-
17 bursed, of the following estimated cash
18 flows:

19 “(I) Payments by the Govern-
20 ment to cover defaults and delin-
21 quencies, interest subsidies, or other
22 payments.

23 “(II) Payments to the Govern-
24 ment, including origination and other
25 fees, penalties, and recoveries.

1 “(ii) CALCULATION.—Calculation of
2 the cost of a loan guarantee shall include
3 the effects of changes in loan terms result-
4 ing from the exercise by the guaranteed
5 lender of an option included in the loan
6 guarantee, or by the borrower of an option
7 included in the guaranteed loan contract.

8 “(D) COST OF MODIFICATION.—The cost
9 of a modification is the difference between the
10 current estimate of the net present value of the
11 remaining cash flows under the terms of a di-
12 rect loan or loan guarantee contract, and the
13 current estimate of the net present value of the
14 remaining cash flows under the terms of the
15 contract, as modified.

16 “(E) ESTIMATION OF NET PRESENT VAL-
17 UES; DISCOUNT RATE.—In estimating net
18 present values, the discount rate shall be the
19 average interest rate on marketable Treasury
20 securities of similar maturity to the cash flows
21 of the direct loan or loan guarantee for which
22 the estimate is being made.

23 “(F) ESTIMATED COST; BASIS.—When
24 funds are obligated for a direct loan or loan
25 guarantee, the estimated cost shall be based on

1 the current assumptions, adjusted to incor-
2 porate the terms of the loan contract, for the
3 fiscal year in which the funds are obligated.

4 “(2) CURRENT.—The term ‘current’ has the
5 same meaning given the term in section 250(c)(9) of
6 the Balanced Budget and Emergency Deficit Control
7 Act of 1985 (2 U.S.C. 900(c)(9)).

8 “(3) DIRECT LOAN.—

9 “(A) IN GENERAL.—The term ‘direct loan’
10 means a disbursement of funds by the Govern-
11 ment to a non-Federal borrower under a con-
12 tract that requires the repayment of the funds.

13 “(B) INCLUSIONS.—The term ‘direct loan’
14 includes the purchase of, or participation in, a
15 loan made by another lender and financing ar-
16 rangements that defer payment for more than
17 90 days, including the sale of a Government
18 asset on credit terms.

19 “(C) EXCLUSION.—The term ‘direct loan’
20 does not include the acquisition of a federally
21 guaranteed loan in satisfaction of default
22 claims.

23 “(4) DIRECT LOAN OBLIGATION.—The term ‘di-
24 rect loan obligation’ means a binding agreement by

1 the Secretary to make a direct loan when specified
2 conditions are fulfilled by the borrower.

3 “(5) INTERMODAL.—The term ‘intermodal’
4 means of or relating to the connection between rail
5 service and other modes of transportation, including
6 all parts of facilities at which the connection is
7 made.

8 “(6) INVESTMENT-GRADE RATING.—The term
9 ‘investment-grade rating’ means a rating of BBB
10 minus, Baa3, bbb minus, BBB(low), or higher as-
11 signed by a rating agency.

12 “(7) LOAN GUARANTEE.—The term ‘loan guar-
13 antee’ means any guarantee, insurance, or other
14 pledge with respect to the payment of all or a part
15 of the principal or interest on any debt obligation of
16 a non-Federal borrower to a non-Federal lender, but
17 does not include the insurance of deposits, shares, or
18 other withdrawable accounts in financial institutions.

19 “(8) LOAN GUARANTEE COMMITMENT.—The
20 term ‘loan guarantee commitment’ means a binding
21 agreement by the Secretary to make a loan guar-
22 antee when specified conditions are fulfilled by the
23 borrower, the lender, or any other party to the guar-
24 antee agreement.

1 “(9) MASTER CREDIT AGREEMENT.—The term
2 ‘master credit agreement’ means an agreement to
3 make 1 or more direct loans or loan guarantees at
4 future dates for a program of related projects on
5 terms acceptable to the Secretary.

6 “(10) MODIFICATION.—

7 “(A) IN GENERAL.—The term ‘modifica-
8 tion’ means any Government action that alters
9 the estimated cost of an outstanding direct loan
10 (or direct loan obligation) or an outstanding
11 loan guarantee (or loan guarantee commitment)
12 from the current estimate of cash flows.

13 “(B) INCLUSIONS.—The term ‘modifica-
14 tion’ includes—

15 “(i) the sale of loan assets, with or
16 without recourse, and the purchase of
17 guaranteed loans; and

18 “(ii) any action resulting from new
19 legislation, or from the exercise of adminis-
20 trative discretion under existing law, that
21 directly or indirectly alters the estimated
22 cost of outstanding direct loans (or direct
23 loan obligations) or loan guarantee (or
24 loan guarantee commitment), such as a
25 change in collection procedures.

1 “(11) PROJECT OBLIGATION.—The term
2 ‘project obligation’ means a note, bond, debenture,
3 or other debt obligation issued by a borrower in con-
4 nection with the financing of a project, other than
5 a direct loan or loan guarantee under this chapter.

6 “(12) RAILROAD.—The term ‘railroad’ has the
7 meaning given the term ‘railroad carrier’ in section
8 20102.

9 “(13) RATING AGENCY.—The term ‘rating
10 agency’ means a credit rating agency registered with
11 the Securities and Exchange Commission as a na-
12 tionally recognized statistical rating organization (as
13 defined in section 3(a) of the Securities Exchange
14 Act of 1934 (15 U.S.C. 78c(a))).

15 “(14) SECRETARY.—The term ‘Secretary’
16 means the Secretary of Transportation.

17 “(15) SUBSTANTIAL COMPLETION.—The term
18 ‘substantial completion’ means—

19 “(A) the opening of a project to passenger
20 or freight traffic; or

21 “(B) a comparable event, as determined by
22 the Secretary and specified in the terms of the
23 direct loan or loan guarantee.

1 **“§ 22402. Direct loans and loan guarantees**

2 “(a) GENERAL AUTHORITY.—The Secretary shall
3 provide direct loans and loan guarantees—

4 “(1) to State and local governments;

5 “(2) to interstate compacts consented to by
6 Congress under section 410(a) of the Amtrak Re-
7 form and Accountability Act of 1997 (Public Law
8 105–134; 49 U.S.C. 24101 note);

9 “(3) to government-sponsored authorities and
10 corporations;

11 “(4) to railroads;

12 “(5) to joint ventures that include at least 1 of
13 the entities described in paragraph (1), (2), (3), (4),
14 or (6);

15 “(6) to private entities with controlling owner-
16 ship in 1 or more freight railroads other than Class
17 1 carriers; and

18 “(7) solely for the purpose of constructing a
19 rail connection between a plant or facility and a rail-
20 road, limited option freight shippers that own or op-
21 erate a plant or other facility.

22 “(b) ELIGIBLE PURPOSES.—

23 “(1) IN GENERAL.—Direct loans and loan guar-
24 antees provided under this section shall be used to—

25 “(A)(i) acquire, improve, or rehabilitate
26 intermodal or rail equipment or facilities, in-

1 including track, components of track, civil works
2 such as cuts and fills, bridges, yards, buildings,
3 and shops; and

4 “(ii) finance costs related to the activities
5 described in clause (i), including preconstruction
6 costs;

7 “(B) develop or establish new intermodal
8 or railroad facilities;

9 “(C) refinance outstanding debt incurred
10 for the purposes described in subparagraph (A)
11 or (B);

12 “(D) reimburse planning, permitting, and
13 design expenses relating to activities described
14 in subparagraph (A) or (B); or

15 “(E) finance economic development, including
16 commercial and residential development,
17 and related infrastructure and activities that—

18 “(i) incorporates private investment;

19 “(ii) is physically or functionally related
20 to a passenger rail station or
21 multimodal station that includes rail service;
22

23 “(iii) has a high probability of the applicant
24 commencing the contracting process for construction
25 not later than 90 days

1 after the date on which the direct loan or
2 loan guarantee is obligated for the project
3 under this chapter; and

4 “(iv) has a high probability of reduc-
5 ing the need for financial assistance under
6 any other Federal program for the relevant
7 passenger rail station or service by increas-
8 ing ridership, tenant lease payments, or
9 other activities that generate revenue ex-
10 ceeding costs.

11 “(2) OPERATING EXPENSES NOT ELIGIBLE.—
12 Direct loans and loan guarantees under this section
13 shall not be used for railroad operating expenses.

14 “(3) SUNSET.—The Secretary may provide a
15 direct loan or loan guarantee under this section for
16 a project described in paragraph (1)(E) only during
17 the 4-year period beginning on December 4, 2015.

18 “(c) PRIORITY PROJECTS.—In granting applications
19 for direct loans or guaranteed loans under this section,
20 the Secretary shall give priority to projects that—

21 “(1) enhance public safety, including projects
22 for the installation of a positive train control system
23 (as defined in section 20157(i));

24 “(2) promote economic development;

25 “(3) enhance the environment;

1 “(4) enable United States companies to be more
2 competitive in international markets;

3 “(5) are endorsed by the plans prepared under
4 chapter 227 of this title or section 135 of title 23
5 by the State or States in which the projects are lo-
6 cated;

7 “(6) improve railroad stations and passenger
8 facilities and increase transit-oriented development;

9 “(7) preserve or enhance rail or intermodal
10 service to small communities or rural areas;

11 “(8) enhance service and capacity in the na-
12 tional rail system; or

13 “(9)(A) would materially alleviate rail capacity
14 problems that degrade the provision of service to
15 shippers; and

16 “(B) would fulfill a need in the national trans-
17 portation system.

18 “(d) EXTENT OF AUTHORITY.—

19 “(1) LIMITATION ON AGGREGATE UNPAID PRIN-
20 CIPAL AMOUNTS OF OBLIGATIONS.—The aggregate
21 unpaid principal amounts of obligations under direct
22 loans and loan guarantees made under this section
23 may not exceed \$35,000,000,000 at any time.

24 “(2) MINIMUM AMOUNT FOR FREIGHT RAIL-
25 ROADS.—Of the amount under paragraph (1), not

1 less than \$7,000,000,000 shall be available solely for
2 projects primarily benefitting freight railroads other
3 than Class I carriers.

4 “(3) PROPORTION OF UNUSED AMOUNT.—The
5 Secretary shall not establish any limit on the propor-
6 tion of the unused amount authorized under this
7 subsection that may be used for 1 loan or loan guar-
8 antee.

9 “(e) RATES OF INTEREST.—

10 “(1) DIRECT LOANS.—The interest rate on a
11 direct loan under this section shall be not less than
12 the yield on United States Treasury securities of a
13 similar maturity to the maturity of the secured loan
14 on the date of execution of the loan agreement.

15 “(2) LOAN GUARANTEES.—The Secretary shall
16 not make a loan guarantee under this section if the
17 interest rate for the loan exceeds that which the Sec-
18 retary determines to be reasonable, taking into con-
19 sideration the prevailing interest rates and cus-
20 tomary fees incurred under similar obligations in the
21 private capital market.

22 “(f) INFRASTRUCTURE PARTNERS.—

23 “(1) AUTHORITY OF SECRETARY.—

24 “(A) IN GENERAL.—In lieu of or in com-
25 bination with appropriations of budget author-

1 ity to cover the costs of direct loans and loan
2 guarantees as required under section 504(b)(1)
3 of the Federal Credit Reform Act of 1990 (2
4 U.S.C. 661c(b)(1)), including the cost of a
5 modification of a direct loan or loan guarantee,
6 the Secretary may accept on behalf of an appli-
7 cant for assistance under this section a commit-
8 ment from a non-Federal source, including a
9 State or local government or agency, or public
10 benefit corporation or public authority of a
11 State or local government, to fund, in whole or
12 in part, credit risk premiums and modification
13 costs with respect to the loan that is the subject
14 of the application or modification.

15 “(B) LIMITATION.—The aggregate of ap-
16 propriations of budget authority and credit risk
17 premiums described in this paragraph with re-
18 spect to a direct loan or loan guarantee shall
19 not be less than the cost of that direct loan or
20 loan guarantee.

21 “(2) CREDIT RISK PREMIUM AMOUNT.—The
22 Secretary shall determine the amount required for
23 credit risk premiums under this subsection on the
24 basis of—

1 “(A) the circumstances of the applicant,
2 including the amount of collateral offered, if
3 any;

4 “(B) the proposed schedule of loan dis-
5 bursements;

6 “(C) historical data on the repayment his-
7 tory of similar borrowers;

8 “(D) consultation with the Congressional
9 Budget Office; and

10 “(E) any other factors the Secretary con-
11 siders relevant.

12 “(3) CREDITWORTHINESS.—Upon receipt of a
13 proposal from an applicant for assistance under this
14 section, the Secretary shall accept, as a basis for de-
15 termining the amount of the credit risk premium
16 under paragraph (2), in addition to the value of any
17 collateral described in paragraph (5), any of the fol-
18 lowing:

19 “(A) The net present value of a future
20 stream of State or local subsidy income or other
21 dedicated revenues to secure the direct loan or
22 loan guarantee.

23 “(B) Adequate coverage requirements to
24 ensure repayment, on a nonrecourse basis, from

1 cash flows generated by the project or any other
2 dedicated revenue source, including—

3 “(i) tolls;

4 “(ii) user fees, including operating or
5 tenant charges, facility rents, or other fees
6 paid by transportation service providers or
7 operators for access to, or the use of, in-
8 frastructure, including rail lines, bridges,
9 tunnels, yards, or stations; and

10 “(iii) payments owing to the obligor
11 under a public-private partnership.

12 “(C) An investment-grade rating on the di-
13 rect loan or loan guarantee, as applicable, un-
14 less the total amount of the direct loan or loan
15 guarantee is greater than \$150,000,000, in
16 which case the applicant shall have an invest-
17 ment-grade rating from not fewer than 2 rating
18 agencies regarding the direct loan or loan guar-
19 antee.

20 “(D) A projection of freight or passenger
21 demand for the project based on regionally de-
22 veloped economic forecasts, including projec-
23 tions of any modal diversion resulting from the
24 project.

1 “(4) PAYMENT OF PREMIUMS.—Credit risk pre-
2 miums under this subsection shall be paid to the
3 Secretary before the disbursement of loan amounts
4 (and in the case of a modification, before the modi-
5 fication is executed), to the extent appropriations
6 are not available to the Secretary to meet the costs
7 of direct loans and loan guarantees, including costs
8 of modifications of direct loans and loan guarantees.

9 “(5) COLLATERAL.—

10 “(A) TYPES OF COLLATERAL.—An appli-
11 cant or infrastructure partner may propose tan-
12 gible and intangible assets as collateral, exclu-
13 sive of goodwill. The Secretary, after evaluating
14 each such asset—

15 “(i) shall accept a net liquidation
16 value of collateral; and

17 “(ii) shall consider and may accept—

18 “(I) the market value of collat-
19 eral; or

20 “(II) in the case of a blanket
21 pledge or assignment of an entire op-
22 erating asset or basket of assets as
23 collateral, the net liquidation value,
24 the market value of assets, or, the

1 market value of the going concern,
2 considering—

3 “(aa) inclusion in the pledge
4 of all the assets necessary for
5 independent operational utility of
6 the collateral, including tangible
7 assets such as real property,
8 track and structure, equipment
9 and rolling stock, stations, sys-
10 tems and maintenance facilities
11 and intangible assets such as
12 long-term shipping agreements,
13 easements, leases and access
14 rights such as for trackage and
15 haulage;

16 “(bb) interchange commit-
17 ments; and

18 “(cc) the value of the asset
19 as determined through the cost
20 or market approaches, or the
21 market value of the going con-
22 cern, with the latter considering
23 discounted cash flows for a pe-
24 riod not to exceed the term of the
25 direct loan or loan guarantee.

1 “(B) APPRAISAL STANDARDS.—In evalu-
 2 ating appraisals of collateral under subpara-
 3 graph (A), the Secretary shall consider—

4 “(i) adherence to the substance and
 5 principles of the Uniform Standards of
 6 Professional Appraisal Practice, as devel-
 7 oped by the Appraisal Standards Board of
 8 the Appraisal Foundation;

9 “(ii) performance of the appraisal by
 10 licensed or certified appraisers as may be
 11 required by the State of jurisdiction for the
 12 type of asset being appraised; and

13 “(iii) the qualifications of the apprais-
 14 ers to value the type of collateral offered.

15 “(g) PREREQUISITES FOR ASSISTANCE.—The Sec-
 16 retary shall not make a direct loan or loan guarantee
 17 under this section unless the Secretary has made a written
 18 finding that—

19 “(1) repayment of the obligation is required to
 20 be made within a term of the lesser of—

21 “(A) 35 years after the date of substantial
 22 completion of the project; or

23 “(B) with regard to rail equipment or fa-
 24 cilities with estimated useful lives that exceed
 25 the term described in subparagraph (A)—

1 “(i) 50 years after the date of sub-
2 stantial completion of the project; or

3 “(ii) the estimated useful life of the
4 rail equipment or facilities to be acquired,
5 rehabilitated, improved, developed, or es-
6 tablished, subject to an adequate deter-
7 mination of long-term risk;

8 “(2) the direct loan or loan guarantee is justi-
9 fied by the present and probable future demand for
10 rail services or intermodal facilities;

11 “(3) the applicant has given reasonable assur-
12 ances that the facilities or equipment to be acquired,
13 rehabilitated, improved, developed, or established
14 with the proceeds of the obligation will be economi-
15 cally and efficiently utilized;

16 “(4) the obligation can reasonably be repaid,
17 using an appropriate combination of credit risk pre-
18 miums and collateral offered by the applicant to pro-
19 tect the Federal Government; and

20 “(5) the purposes of the direct loan or loan
21 guarantee are consistent with subsection (b).

22 “(h) CONDITIONS OF ASSISTANCE.—

23 “(1) IN GENERAL.—The Secretary, before
24 granting assistance under this section, shall require
25 the applicant to agree to such terms and conditions

1 as are sufficient, in the judgment of the Secretary,
2 to ensure that, as long as any principal or interest
3 is due and payable on the obligation, the applicant,
4 and any railroad or railroad partner for whose ben-
5 efit the assistance is intended—

6 “(A) will not use any funds or assets from
7 railroad or intermodal operations for purposes
8 not related to the operations, if the use—

9 “(i) would impair the ability of the
10 applicant, railroad, or railroad partner to
11 provide rail or intermodal services in an ef-
12 ficient and economic manner; or

13 “(ii) would adversely affect the ability
14 of the applicant, railroad, or railroad part-
15 ner to perform any obligation entered into
16 by the applicant under this section;

17 “(B) will, consistent with its capital re-
18 sources, maintain its capital program, equip-
19 ment, facilities, and operations on a continuing
20 basis; and

21 “(C) will not make any discretionary divi-
22 dend payments that unreasonably conflict with
23 the purposes stated in subsection (b).

24 “(2) COLLATERAL AND REQUEST FOR ASSIST-
25 ANCE FROM ANOTHER SOURCE NOT REQUIRED.—

1 “(A) COLLATERAL.—

2 “(i) IN GENERAL.—The Secretary
3 shall not require an applicant for a direct
4 loan or loan guarantee under this section
5 to provide collateral.

6 “(ii) VALUATION.—Any collateral pro-
7 vided or enhanced after being provided
8 shall be valued as a going concern after
9 giving effect to the present value of im-
10 provements contemplated by the comple-
11 tion and operation of the project, if appli-
12 cable.

13 “(B) REQUEST FOR ASSISTANCE FROM AN-
14 OTHER SOURCE.—The Secretary shall not re-
15 quire an applicant for a direct loan or loan
16 guarantee under this section to have previously
17 sought the financial assistance requested from
18 another source.

19 “(3) REQUIRED COMPLIANCE.—The Secretary
20 shall require recipients of direct loans or loan guar-
21 antees under this section to comply with—

22 “(A) the standards of section 24312, as in
23 effect on September 1, 2002, with respect to
24 the project in the same manner that Amtrak is
25 required to comply with the standards for con-

1 struction work financed under an agreement
2 made under section 24308(a); and

3 “(B) the protective arrangements estab-
4 lished under section 22404, with respect to em-
5 ployees affected by actions taken in connection
6 with the project to be financed by the direct
7 loan or loan guarantee.

8 “(4) MATCHING FUNDS.—The Secretary shall
9 require each recipient of a direct loan or loan guar-
10 antee under this section, for a project described in
11 subsection (b)(1)(E), to provide a non-Federal
12 match of not less than 25 percent of the total
13 amount expended by the recipient for the project.

14 “(i) APPLICATION PROCESSING PROCEDURES.—

15 “(1) APPLICATION STATUS NOTICES.—Not later
16 than 30 days after the date on which the Secretary
17 receives an application under this section, or addi-
18 tional information and material under paragraph
19 (2)(B), the Secretary shall provide the applicant
20 written notice as to whether the application is com-
21 plete or incomplete.

22 “(2) INCOMPLETE APPLICATIONS.—If the Sec-
23 retary determines that an application is incomplete,
24 the Secretary shall—

1 “(A) provide the applicant with a descrip-
2 tion of all of the specific information or mate-
3 rial that is needed to complete the application,
4 including any information required by an inde-
5 pendent financial analyst; and

6 “(B) allow the applicant to resubmit the
7 application with the information and material
8 described under subparagraph (A) to complete
9 the application.

10 “(3) APPLICATION APPROVALS AND DIS-
11 APPROVALS.—

12 “(A) IN GENERAL.—Not later than 45
13 days after the date on which the Secretary noti-
14 fies an applicant that an application is complete
15 under paragraph (1), the Secretary shall pro-
16 vide the applicant written notice as to whether
17 the Secretary has approved or disapproved the
18 application.

19 “(B) ACTIONS BY THE OFFICE OF MAN-
20 AGEMENT AND BUDGET.—In order to enable
21 compliance with the time limit under subpara-
22 graph (A), the Office of Management and
23 Budget shall take any action required with re-
24 spect to the application within that 60-day pe-
25 riod.

1 “(4) STREAMLINED APPLICATION REVIEW
2 PROCESS.—

3 “(A) IN GENERAL.—Consistent with sec-
4 tion 116, and not later than 180 days after
5 date of the enactment of the Railroad Rehabili-
6 tation and Financing Innovation Act, the Sec-
7 retary shall make available an expedited appli-
8 cation process or processes at the request of ap-
9 plicants seeking loans or loan guarantees.

10 “(B) CRITERIA.—Applicants seeking loans
11 and loan guarantees issued under this sub-
12 section shall—

13 “(i) seek a total loan or loan guar-
14 antee value not exceeding \$100,000,000;

15 “(ii) meet eligible project purposes in-
16 cluded in subparagraphs (A)(i), (A)(ii),
17 and (B) of subsection (b)(1); and

18 “(iii) meet other criteria considered
19 appropriate by the Secretary, in consulta-
20 tion with the Department of Transpor-
21 tation Council on Credit and Finance.

22 “(C) EXPEDITED CREDIT REVIEW.—The
23 total time between the submission of a draft ap-
24 plication and the approval or disapproval of a
25 loan or loan guarantee for an applicant under

1 this paragraph shall not exceed 90 days. If an
2 application review conducted under this para-
3 graph exceeds 90 days, the Secretary shall—

4 “(i) provide written notice to the ap-
5 plicant, including a justification for the
6 delay and updated estimate of the time
7 needed for approval or disapproval; and

8 “(ii) publish the notice on the dash-
9 board described in paragraph (5).

10 “(5) DASHBOARD.—The Secretary shall post,
11 on the Department of Transportation’s internet
12 website, a monthly report that includes, for each ap-
13 plication—

14 “(A) the applicant type;

15 “(B) the location of the project;

16 “(C) a brief description of the project, in-
17 cluding its purpose;

18 “(D) the requested direct loan or loan
19 guarantee amount;

20 “(E) the date on which the Secretary pro-
21 vided application status notice under paragraph
22 (1);

23 “(F) the date that the Secretary provided
24 notice of approval or disapproval under para-
25 graph (3); and

1 “(G) whether the project utilized the expedited application process under paragraph (4).

2
3 “(6) REGULAR CREDITWORTHINESS REVIEW
4 STATUS REPORTS.—

5 “(A) IN GENERAL.—The Secretary shall
6 provide to the applicant a regular report containing information related to the application
7 for a loan or loan guarantee, including—

8 “(i) a summary of the proposed transaction, including—

9 “(I) the total value of the proposed loan or loan guarantee;

10 “(II) the name of the applicant or applicants submitting an application;

11 “(III) the proposed capital structure of the project to which the loan or loan guarantee would be applied, including the proposed Federal and non-Federal shares of the total project cost;

12 “(IV) the type of activity to receive credit assistance, including whether the project—

1 “(aa) is new construction or
2 rehabilitation of existing rail
3 equipment or facilities;

4 “(bb) is a refinancing of an
5 existing loan or loan guarantee;
6 and

7 “(V) if a deferred payment is
8 proposed, the length of such defer-
9 ment;

10 “(VI) the credit rating or ratings
11 provided for the applicant;

12 “(VII) if other credit instruments
13 are involved, the proposed subordina-
14 tion relationship and a description of
15 such other credit instruments;

16 “(VIII) a schedule for the readi-
17 ness of proposed investments for fi-
18 nancing;

19 “(IX) a description of any Fed-
20 eral permits required, including under
21 the National Environmental Policy
22 Act of 1969 (42 U.S.C. 4321 et seq.)
23 and any waivers under section 5323(j)
24 of title 49, United States Code (com-

1 monly referred to as the ‘Buy America
2 Act’); and

3 “(X) other characteristics of the
4 proposed activity to be financed, bor-
5 rower, key agreements, or the nature
6 of the credit that the Secretary con-
7 siders to be fundamental to the credit-
8 worthiness review;

9 “(ii) the status of the application in
10 the pre-application review and selection
11 process;

12 “(iii) the cumulative amounts paid by
13 the Secretary to outside advisors related to
14 the application, including financial and
15 legal advisors;

16 “(iv) a description of the key rating
17 factors used by the Secretary to determine
18 credit risk, including—

19 “(I) the qualitative and quan-
20 titative factors used to determine risk
21 for the proposed application;

22 “(II) an adjectival risk rating for
23 each identified factor, ranked as ei-
24 ther low, moderate, or high; and

1 “(v) a nonbinding estimate of the
2 credit risk premium, which may be in the
3 form of—

4 “(I) a range, based on the assess-
5 ment of risk factors described in
6 clause (iv); or

7 “(II) a justification for why the
8 estimate of the credit risk premium
9 cannot be determined based on avail-
10 able information; and

11 “(vi) a description of key information
12 the Secretary needs from the applicant to
13 complete the credit review process and
14 make a final determination of the credit
15 risk premium.

16 “(B) REPORT.—The Secretary shall sub-
17 mit the report described in subparagraph (A)
18 not less frequently than every 45 days after the
19 date on which the Secretary presents the first
20 request to the applicant for funding to pay fees
21 for advisors described in subparagraph (A)(iii).

22 “(C) EXCEPTION.—The report required
23 under this paragraph shall not be applied to ap-
24 plications processed using the expedited credit
25 review process under paragraph (5)(B).

1 “(j) REPAYMENT SCHEDULES.—

2 “(1) IN GENERAL.—The Secretary shall estab-
3 lish a repayment schedule requiring payments to
4 commence not later than 5 years after the date of
5 substantial completion.

6 “(2) ACCRUAL.—Interest shall accrue as of the
7 date of disbursement, and shall be amortized over
8 the remaining term of the loan, beginning at the
9 time the payments begin.

10 “(3) DEFERRED PAYMENTS.—

11 “(A) IN GENERAL.—If, at any time the
12 date of substantial completion, the obligor is
13 unable to pay the scheduled loan repayments of
14 principal and interest on a direct loan provided
15 under this section, the Secretary, subject to
16 subparagraph (B), may allow, for a maximum
17 aggregate time of 1 year over the duration of
18 the direct loan, the obligor to add unpaid prin-
19 cipal and interest to the outstanding balance of
20 the direct loan.

21 “(B) INTEREST.—A payment deferred
22 under subparagraph (A) shall—

23 “(i) continue to accrue interest under
24 paragraph (2) until the loan is fully repaid;
25 and

1 “(ii) be scheduled to be amortized
2 over the remaining term of the loan.

3 “(4) PREPAYMENTS.—

4 “(A) USE OF EXCESS REVENUES.—With
5 respect to a direct loan provided by the Sec-
6 retary under this section, any excess revenues
7 that remain after satisfying scheduled debt
8 service requirements on the project obligations
9 and direct loan and all deposit requirements
10 under the terms of any trust agreement, bond
11 resolution, or similar agreement securing
12 project obligations may be applied annually to
13 prepay the direct loan without penalty.

14 “(B) USE OF PROCEEDS OF REFI-
15 NANCING.—The direct loan may be prepaid at
16 any time without penalty from the proceeds of
17 refinancing from non-Federal funding sources.

18 “(k) SALE OF DIRECT LOANS.—

19 “(1) IN GENERAL.—Subject to paragraph (2)
20 and as soon as practicable after substantial comple-
21 tion of a project, the Secretary, after notifying the
22 obligor, may sell to another entity or reoffer into the
23 capital markets a direct loan for the project if the
24 Secretary determines that the sale or reoffering has
25 a high probability of being made on favorable terms.

1 “(2) CONSENT OF OBLIGOR.—In making a sale
2 or reoffering under paragraph (1), the Secretary
3 shall not change the original terms and conditions of
4 the secured loan without the prior written consent of
5 the obligor.

6 “(1) NONSUBORDINATION.—

7 “(1) IN GENERAL.—Except as provided in para-
8 graph (2), a direct loan provided by the Secretary
9 under this section shall not be subordinated to the
10 claims of any holder of project obligations in the
11 event of bankruptcy, insolvency, or liquidation of the
12 obligor.

13 “(2) PREEXISTING INDENTURES.—

14 “(A) IN GENERAL.—The Secretary may
15 waive the requirement under paragraph (1) for
16 a public agency borrower that is financing on-
17 going capital programs and has outstanding
18 senior bonds under a preexisting indenture if—

19 “(i) the direct loan is rated in the A
20 category or higher;

21 “(ii) the direct loan is secured and
22 payable from pledged revenues not affected
23 by project performance, such as a tax-
24 based revenue pledge or a system-backed
25 pledge of project revenues; and

1 “(iii) the program share, under this
2 chapter, of eligible project costs is 50 per-
3 cent or less.

4 “(B) LIMITATION.—The Secretary may
5 impose limitations for the waiver of the non-
6 subordination requirement under this para-
7 graph if the Secretary determines that the limi-
8 tations would be in the financial interest of the
9 Federal Government.

10 “(m) MASTER CREDIT AGREEMENTS.—

11 “(1) IN GENERAL.—Subject to paragraph (2)
12 and to subsection (d), the Secretary may enter into
13 a master credit agreement that is contingent on all
14 of the conditions for the provision of a direct loan
15 or loan guarantee, as applicable, under this chapter
16 and other applicable requirements being satisfied
17 prior to the issuance of the direct loan or loan guar-
18 antee.

19 “(2) CONDITIONS.—Each master credit agree-
20 ment shall—

21 “(A) establish the maximum amount and
22 general terms and conditions of each applicable
23 direct loan or loan guarantee;

24 “(B) identify 1 or more dedicated non-
25 Federal revenue sources that will secure the re-

1 payment of each applicable direct loan or loan
2 guarantee;

3 “(C) provide for the obligation of funds—

4 “(i) for the direct loans or loan guar-
5 antees contingent on the meeting of all ap-
6 plicable requirements and after all require-
7 ments have been met, for the projects sub-
8 ject to the master credit agreement; and

9 “(D) provide 1 or more dates, as deter-
10 mined by the Secretary, before which the mas-
11 ter credit agreement results in the disbursement
12 issuance of each of the direct loans or loan
13 guarantees or in the release of the master cred-
14 it agreement.

15 **“§ 22403. Administration of direct loans and loan**
16 **guarantees**

17 “(a) APPLICATIONS.—

18 “(1) IN GENERAL.—The Secretary shall pre-
19 scribe the form and contents required of applications
20 for assistance under section 22402, to enable the
21 Secretary to determine the eligibility of the appli-
22 cant’s proposal, and shall establish terms and condi-
23 tions for direct loans and loan guarantees made
24 under that section, including a program guide, a
25 standard term sheet, and specific timetables.

1 “(2) DOCUMENTATION.—An applicant meeting
2 the size standard for small business concerns estab-
3 lished under section 3(a)(2) of the Small Business
4 Act (15 U.S.C. 632(a)(2)) may provide unaudited fi-
5 nancial statements as documentation of historical fi-
6 nancial information if such statements are accom-
7 panied by the applicant’s Federal tax returns and
8 Internal Revenue Service tax verifications for the
9 corresponding years.

10 “(b) FULL FAITH AND CREDIT.—All guarantees en-
11 tered into by the Secretary under section 22402 shall con-
12 stitute general obligations of the United States of America
13 and shall be backed by the full faith and credit of the
14 United States of America.

15 “(c) ASSIGNMENT OF LOAN GUARANTEES.—The
16 holder of a loan guarantee made under section 22402 may
17 assign the loan guarantee in whole or in part, subject to
18 such requirements as the Secretary may prescribe.

19 “(d) MODIFICATIONS.—The Secretary may approve
20 the modification of any term or condition of a direct loan,
21 loan guarantee, direct loan obligation, or loan guarantee
22 commitment, including the rate of interest, time of pay-
23 ment of interest or principal, or security requirements, if
24 the Secretary finds in writing that—

1 “(1) the modification is equitable and is in the
2 overall best interests of the United States;

3 “(2) consent has been obtained from the appli-
4 cant and in the case of a loan guarantee or loan
5 guarantee commitment, the holder of the obligation;
6 and

7 “(3) the modification cost has been covered
8 under section 22402(f).

9 “(e) COMPLIANCE.—The Secretary shall ensure com-
10 pliance by an applicant, any other party to the loan, and
11 any railroad or railroad partner for whose benefit assist-
12 ance is intended, with the provisions of this chapter, regu-
13 lations issued under this chapter, and the terms and con-
14 ditions of the direct loan or loan guarantee, including
15 through regular periodic inspections.

16 “(f) COMMERCIAL VALIDITY.—

17 “(1) IN GENERAL.—For purposes of claims by
18 any party other than the Secretary, a loan guarantee
19 or loan guarantee commitment shall be conclusive
20 evidence that the underlying obligation is in compli-
21 ance with the provisions of this chapter, and that
22 the obligation has been approved and is legal as to
23 principal, interest, and other terms.

24 “(2) VALID AND INCONTESTABLE.—A guar-
25 antee or commitment under paragraph (1) shall be

1 valid and incontestable in the hands of a holder of
2 the guarantee or commitment, including the original
3 lender or any other holder, as of the date when the
4 Secretary granted the application for the guarantee
5 or commitment, except as to fraud or material mis-
6 representation by the holder.

7 “(g) DEFAULT.—

8 “(1) IN GENERAL.—The Secretary shall pre-
9 scribe regulations setting forth procedures in the
10 event of default on a loan made or guaranteed under
11 section 22402.

12 “(2) LOAN GUARANTEES.—The Secretary shall
13 ensure that each loan guarantee made under section
14 22402 contains terms and conditions that provide
15 that—

16 “(A) if a payment of principal or interest
17 under the loan is in default for more than 30
18 days, the Secretary shall pay to the holder of
19 the obligation, or the holder’s agent, the
20 amount of unpaid guaranteed interest;

21 “(B) if the default has continued for more
22 than 90 days, the Secretary shall pay to the
23 holder of the obligation, or the holder’s agent,
24 90 percent of the unpaid guaranteed principal;

1 “(C) after final resolution of the default,
2 through liquidation or otherwise, the Secretary
3 shall pay to the holder of the obligation, or the
4 holder’s agent, any remaining amounts guaran-
5 teed but that were not recovered through the
6 default’s resolution;

7 “(D) the Secretary shall not be required to
8 make any payment under subparagraphs (A)
9 through (C) if the Secretary finds, before the
10 expiration of the periods described in such sub-
11 paragraphs, that the default has been remedied;
12 and

13 “(E) the holder of the obligation shall not
14 receive payment or be entitled to retain pay-
15 ment in a total amount that, together with all
16 other recoveries (including any recovery based
17 upon a security interest in equipment or facili-
18 ties) exceeds the actual loss of the holder.

19 “(h) RIGHTS OF THE SECRETARY.—

20 “(1) SUBROGATION.—If the Secretary makes
21 payment to a holder, or a holder’s agent, under sub-
22 section (g) in connection with a loan guarantee made
23 under section 22402, the Secretary shall be sub-
24 rogated to all of the rights of the holder with respect
25 to the obligor under the loan.

1 “(2) DISPOSITION OF PROPERTY.—The Sec-
2 retary may complete, recondition, reconstruct, ren-
3 ovate, repair, maintain, operate, charter, rent, sell,
4 or otherwise dispose of any property or other inter-
5 ests obtained pursuant to this section. The Secretary
6 shall not be subject to any Federal or State regu-
7 latory requirements when carrying out this para-
8 graph.

9 “(i) ACTION AGAINST OBLIGOR.—

10 “(1) IN GENERAL.—The Secretary may bring a
11 civil action in an appropriate Federal court in the
12 name of the United States in the event of a default
13 on a direct loan made under section 22402 or in the
14 name of the United States or of the holder of the
15 obligation in the event of a default on a loan guar-
16 anteed under section 22402.

17 “(2) RECORDS AND EVIDENCE.—The holder of
18 a guarantee shall make available to the Secretary all
19 records and evidence necessary to prosecute the civil
20 action.

21 “(3) PROPERTY AS SATISFACTION OF SUMS
22 OWED.—The Secretary may accept property in full
23 or partial satisfaction of any sums owed as a result
24 of a default.

25 “(4) EXCESS AMOUNT.—

1 “(A) PAYMENT TO OBLIGOR.—If the Sec-
2 retary receives, through the sale or other dis-
3 position of the property described in paragraph
4 (3), an excess amount described in subpara-
5 graph (B), the Secretary shall pay to the obli-
6 gor the excess amount.

7 “(B) AMOUNT.—An excess amount under
8 this subparagraph is an amount the exceeds the
9 aggregate of—

10 “(i) the amount paid to the holder of
11 a guarantee under subsection (g); and

12 “(ii) any other cost to the United
13 States of remedying the default.

14 “(j) BREACH OF CONDITIONS.—The Attorney Gen-
15 eral shall commence a civil action in an appropriate Fed-
16 eral court to enjoin any activity that the Secretary finds
17 is in violation of this chapter, regulations issued under this
18 chapter, or any conditions that were agreed to, and to se-
19 cure any other appropriate relief.

20 “(k) ATTACHMENT.—No attachment or execution
21 may be issued against the Secretary, or any property in
22 the control of the Secretary, prior to the entry of final
23 judgment to that effect in any Federal, State, or other
24 court.

25 “(l) CHARGES AND LOAN SERVICING.—

1 “(1) PURPOSES.—The Secretary may collect
2 from each applicant, obligor, or loan party a reason-
3 able charge for—

4 “(A) the cost of evaluating the application,
5 amendments, modifications, and waivers, in-
6 cluding for evaluating project viability, appli-
7 cant creditworthiness, and the appraisal of the
8 value of the equipment or facilities for which
9 the direct loan or loan guarantee is sought, and
10 for making necessary determinations and find-
11 ings;

12 “(B) to cost of award management and
13 project management oversight;

14 “(C) the cost of services from expert firms,
15 including counsel, and independent financial ad-
16 visors to assist in the underwriting, auditing,
17 servicing, and exercise of rights with respect to
18 direct loans and loan guarantees; and

19 “(D) the cost of all other expenses in-
20 curred as a result of a breach of any term or
21 condition or any event of default on a direct
22 loan or loan guarantee.

23 “(2) CHARGE DIFFERENT AMOUNTS.—The Sec-
24 retary may charge different amounts under this sub-

1 section based on the different costs incurred under
2 paragraph (1).

3 “(3) SERVICER.—

4 “(A) IN GENERAL.—The Secretary may
5 appoint a financial entity to assist the Secretary
6 in servicing a direct loan or loan guarantee
7 under this chapter.

8 “(B) DUTIES.—A servicer appointed under
9 subparagraph (A) shall act as the agent of the
10 Secretary in servicing a direct loan or loan
11 guarantee under this chapter.

12 “(C) FEES.—A servicer appointed under
13 subparagraph (A) shall receive a servicing fee
14 from the obligor or other loan party, subject to
15 approval by the Secretary.

16 “(4) NATIONAL SURFACE TRANSPORTATION
17 AND INNOVATIVE FINANCE BUREAU ACCOUNT.—
18 Amounts collected under this subsection shall—

19 “(A) be credited directly to the National
20 Surface Transportation and Innovative Finance
21 Bureau Account; and

22 “(B) remain available until expended to
23 pay for the costs described in this subsection.

24 “(m) FEES AND CHARGES.—Except as provided in
25 this chapter, the Secretary may not assess fees, including

1 user fees, or charges in connection with a direct loan or
2 loan guarantee provided under section 22402.

3 **“§ 22404. Employee protection**

4 “(a) IN GENERAL.—

5 “(1) FAIR AND EQUITABLE ARRANGEMENTS.—

6 Fair and equitable arrangements shall be provided,
7 in accordance with this section, to protect the inter-
8 ests of any employees who may be affected by ac-
9 tions taken pursuant to authorizations or approval
10 obtained under this chapter.

11 “(2) ARRANGEMENTS BY AGREEMENTS.—The
12 arrangements under paragraph (1) shall be deter-
13 mined by the execution of an agreement between the
14 representatives of the railroads and the representa-
15 tives of their employees not later than June 4, 1976.

16 “(3) PRESCRIBED ARRANGEMENTS.—In the ab-
17 sence of an executed agreement under paragraph
18 (2), the Secretary of Labor shall prescribe the appli-
19 cable protective arrangements not later than July 4,
20 1976.

21 “(b) TERMS.—

22 “(1) APPLICABILITY TO EXISTING EMPLOY-
23 EES.—The arrangements required under subsection
24 (a) shall apply to each employee who has an employ-
25 ment relationship with a railroad on the date on

1 which the railroad first applies for financial assist-
2 ance under this chapter.

3 “(2) INCLUSIONS.—Such arrangements shall
4 include such provisions as may be necessary for the
5 negotiation and execution of agreements as to the
6 manner in which the protective arrangements shall
7 be applied, including notice requirements.

8 “(3) EXECUTION PRIOR TO IMPLEMENTATION
9 OF WORK.—The agreements shall be executed prior
10 to implementation of work funded from financial as-
11 sistance under this chapter.

12 “(4) ARBITRATION.—

13 “(A) IN GENERAL.—If an agreement de-
14 scribed in subsection (a)(2) is not reached with-
15 in 30 days after the date on which an applica-
16 tion for the assistance is approved, either party
17 to the dispute may submit the issue for final
18 and binding arbitration.

19 “(B) DECISION.—

20 “(i) WHEN DECISION IS TO BE REN-
21 DERED.—The decision on any arbitration
22 under this paragraph shall be rendered
23 within 30 days after the submission.

24 “(ii) EFFECT.—The arbitration deci-
25 sion—

1 “(I) shall not modify the protec-
2 tion afforded in the protective ar-
3 rangements established pursuant to
4 this section;

5 “(II) shall be final and binding
6 on the parties to the arbitration; and

7 “(III) shall become a part of the
8 agreement.

9 “(5) OTHER INCLUSIONS.—The arrangements
10 shall also include such provisions as may be nec-
11 essary—

12 “(A) for the preservation of compensation
13 (including subsequent general wage increases,
14 vacation allowances, and monthly compensation
15 guarantees), right, privileges, and benefits (in-
16 cluding fringe benefits such as pensions, hos-
17 pitalization, and vacations, under the same con-
18 ditions and so long as the benefits continue to
19 be accorded to other employees of the employ-
20 ing railroad in active service or on furlough, as
21 the case may be) to the employees under exist-
22 ing collective-bargaining agreements or other-
23 wise;

24 “(B) to provide for final and binding arbi-
25 tration of any dispute that cannot be settled by

1 the parties with respect to the interpretation,
2 application, or enforcement of the provisions of
3 the protective arrangements;

4 “(C) to provide that an employee who is
5 unable to secure employment by the exercise of
6 the employee’s seniority rights, as a result of
7 actions taken with financial assistance obtained
8 under this chapter, shall be offered reassign-
9 ment and, where necessary, retraining to fill a
10 position comparable to the position held at the
11 time of the adverse effect and for which the em-
12 ployee is, or by training and retraining can be-
13 come, physically and mentally qualified, so long
14 as the offer is not in contravention of collective
15 bargaining agreements relating to the provi-
16 sions in this paragraph; and

17 “(D) to provide that the protection af-
18 farded pursuant to this section shall not be ap-
19 plicable to employees benefitted solely as a re-
20 sult of the work that is financed by funds pro-
21 vided pursuant to this chapter.

22 “(c) SUBCONTRACTING.—The arrangements that are
23 required to be negotiated by the parties or prescribed by
24 the Secretary of Labor, pursuant to subsections (a) and
25 (b), shall include provisions regulating subcontracting by

1 the railroads of work that is financed by funds provided
2 pursuant to this chapter.

3 **“§ 22405. Substantive criteria and standards**

4 “The Secretary shall publish in the Federal Register
5 and post on the Department of Transportation website the
6 substantive criteria and standards used by the Secretary
7 to determine whether to approve or disapprove applica-
8 tions submitted under section 22404. The Secretary shall
9 ensure adequate procedures and guidelines are in place to
10 permit the filing of complete applications within 30 days
11 of the publication.

12 **“§ 22406. Funding**

13 “(a) AUTHORIZATION OF APPROPRIATIONS.—

14 “(1) IN GENERAL.—There are authorized to be
15 appropriated out of the General Fund for credit as-
16 sistance under this chapter—

17 “(A) \$30,000,000 for fiscal year 2021;

18 “(B) \$31,000,000 for fiscal year 2022;

19 “(C) \$32,000,000 for fiscal year 2023;

20 “(D) \$33,000,000 for fiscal year 2024;

21 and

22 “(E) \$34,000,000 for fiscal year 2025.

23 “(2) AVAILABILITY.—Amounts appropriated
24 pursuant to this subsection shall remain available
25 until expended.

1 “(b) USE OF FUNDS.—

2 “(1) IN GENERAL.—Except as provided in para-
3 graph (2), amounts appropriated pursuant to this
4 section shall be used for loans and loan guarantees
5 with a total value of not more than \$200,000,000.

6 “(2) ADMINISTRATIVE COSTS.—In each fiscal
7 year, not less than \$3,000,000 of the amounts ap-
8 propriated pursuant to subsection (a) shall be made
9 available for the Secretary for use in lieu of charges
10 collected under section 22403(l)(1) for freight rail-
11 roads other than Class I carriers and passenger rail-
12 roads.

13 “(3) SHORT LINE SET-ASIDE.—In each fiscal
14 year, not less than 50 percent of the amounts appro-
15 priated pursuant to subsection (a) that remain avail-
16 able after the set aside described in paragraph (2)
17 shall be set aside for freight railroads other than
18 Class I carriers.

19 “(4) PASSENGER RAIL SET-ASIDE.—Any
20 amounts appropriated pursuant to subsection (a)
21 that remain available after the set-asides described
22 in paragraphs (2) and (3) shall be set aside for pas-
23 senger railroads.”.

1 (b) CLERICAL AMENDMENT.—The table of chapters
 2 for title 49, United States Code, is amended by inserting
 3 after the item relating to chapter 223 the following:

“CHAPTER 224—RAILROAD REHABILITATION AND IMPROVEMENT FINANCING
 PROGRAM”.

4 **SEC. 3. CONFORMING AMENDMENTS.**

5 (a) NATIONAL TRAILS SYSTEM ACT.—Section 8(d)
 6 of the National Trails System Act (16 U.S.C. 1247(d))
 7 is amended by inserting “(45 U.S.C. 801 et seq.) and
 8 chapter 224 of title 49, United States Code” after
 9 “1976”.

10 (b) PASSENGER RAIL REFORM AND INVESTMENT
 11 ACT.—Section 11315(c) of the Passenger Rail Reform
 12 and Investment Act of 2015 (23 U.S.C. 322 note; Public
 13 Law 114–94) is amended by striking “sections 502 and
 14 503 of the Railroad Revitalization and Regulatory Reform
 15 Act of 1976” and inserting “sections 22402 and 22403
 16 of title 49, United States Code”.

17 (c) PROVISIONS CLASSIFIED IN TITLE 45, UNITED
 18 STATES CODE.—

19 (1) Section 101 of the Railroad Revitalization
 20 and Regulatory Reform Act of 1976 (45 U.S.C.
 21 801) is amended—

22 (A) in subsection (a), in the matter pre-
 23 ceding paragraph (1), by striking “It is the
 24 purpose of the Congress in this Act to” and in-

1 serting “The purpose of this Act and chapter
2 224 of subtitle V of title 49, United States
3 Code, is to”; and

4 (B) in subsection (b), in the matter pre-
5 ceding paragraph (1), by striking “It is de-
6 clared to be the policy of the Congress in this
7 Act” and inserting “The policy of this Act and
8 chapter 224 of title 49, United States Code,
9 is”.

10 (2) Section 11607(b) of the Railroad Infra-
11 structure Financing Improvement Act (Public Law
12 114–94; 45 U.S.C. 821 note) is amended by striking
13 “All provisions under sections 502 through 504 of
14 the Railroad Revitalization and Regulatory Reform
15 Act of 1976 (45 U.S.C. 8301 et seq.)” and inserting
16 “All provisions under section 22404 through 22404
17 of title 49, United States Code,”.

18 (3) Section 11610(b) of the Railroad Infra-
19 structure Financing Improvement Act (Public Law
20 114–94; 45 U.S.C. 821 note) is amended by striking
21 “section 502(f) of the Railroad Revitalization and
22 Regulatory Reform Act of 1976 (45 U.S.C. 822(f)),
23 as amended by section 11607 of this Act” and in-
24 serting “section 22402(f) of title 49, United States
25 Code”.

1 (4) Section 7203(b)(2) of the Transportation
2 Equity Act for the 21st Century (Public Law 105–
3 178; 45 U.S.C. 821 note) is amended by striking
4 “title V of the Railroad Revitalization and Regu-
5 latory Reform Act of 1976 (45 U.S.C. 821 et seq.)”
6 and inserting “chapter 224 of title 49, United States
7 Code,”.

8 (5) Section 212(d)(1) of Hamm Alert Maritime
9 Safety Act of 2018 (title II of Public Law 115–265;
10 45 U.S.C. 822 note) is amended, in the matter pre-
11 ceding subparagraph (A), by striking “for purposes
12 of section 502(f)(4) of the Railroad Revitalization
13 and Regulatory Reform Act of 1976 (45 U.S.C.
14 822(f)(4))” and inserting “for purposes of section
15 22402 of title 49, United States Code”.

16 (6) Section 15(f) of the Milwaukee Railroad Re-
17 structuring Act (45 U.S.C. 914(f)) is amended by
18 striking “Section 516 of the Railroad Revitalization
19 and Regulatory Reform Act of 1976 (45 U.S.C.
20 836)” and inserting “Section 22404 of title 49,
21 United States Code,”.

22 (7) Section 104(b) of the Rock Island Railroad
23 Transition and Employee Assistance Act (45 U.S.C.
24 1003(b)) is amended—

1 (A) in paragraph (1), by striking “title V
2 of the Railroad Revitalization and Regulatory
3 Reform Act of 1976 (45 U.S.C. 821 et seq.)”
4 and inserting “chapter 224 of title 49, United
5 States Code,”; and

6 (B) in paragraph (2), by striking “title V
7 of the Railroad Revitalization and Regulatory
8 Reform Act of 1976, and section 516 of such
9 Act (45 U.S.C. 836)” and inserting “chapter
10 224 of title 49, United States Code, and section
11 22404 of title 49, United States Code,”.

12 (8) Section 104(b)(2) of the Rock Island Rail-
13 road Transition and Employee Assistance Act (45
14 U.S.C. 1003(b)(2)) is amended by striking “title V
15 of the Railroad Revitalization and Regulatory Re-
16 form Act of 1976, and section 516 of such Act (45
17 U.S.C. 836)” and inserting “chapter 224 of title 49,
18 United States Code, and section 22404 of such title
19 49,”.

20 (d) TITLE 49.—

21 (1) Section 116(d)(1)(B) of title 49, United
22 States Code, is amended by striking “sections 501
23 through 503 of the Railroad Revitalization and Reg-
24 ulatory Reform Act of 1976 (45 U.S.C. 821–823)”

1 and inserting “sections 22401 through 22403 of this
2 title”.

3 (2) Section 306(b) of title 49, United States
4 Code, is amended—

5 (A) by striking “chapter 221 or 249 of this
6 title,” and inserting “chapter 221, 224, or 249
7 of this title,”; and

8 (B) by striking “, or title V of the Railroad
9 Revitalization and Regulatory Reform Act of
10 1976 (45 U.S.C. 821 et seq.)”.

11 (3) Section 11311(d) of the Passenger Rail Re-
12 form and Investment Act of 2015 (Public Law 114-
13 94; 49 U.S.C. 20101 note) is amended by striking
14 “, and section 502 of the Railroad Revitalization
15 and Regulatory Reform Act of 1976 (45 U.S.C.
16 822)”.

17 (4) Section 205(g) of the Passenger Rail In-
18 vestment and Improvement Act of 2008 (division B
19 of Public Law 110-432; 49 U.S.C. 24101 note) is
20 amended by striking “title V of the Railroad Revital-
21 ization and Regulatory Reform Act of 1976 (45
22 U.S.C. 821 et seq.)” and inserting “chapter 224 of
23 title 49, United States Code”.

24 (5) Section 22905(e)(2)(B) of title 49, United
25 States Code, is amended by striking “section 504 of

1 the Railroad Revitalization and Regulatory Reform
2 Act of 1976 (45 U.S.C. 836)” and inserting “section
3 22404 of this title”.

4 (6) Section 24903 of title 49, United States
5 Code, is amended—

6 (A) in subsection (a)(6), by striking “and
7 the Railroad Revitalization and Regulatory Re-
8 form Act of 1976 (45 U.S.C. 801 et seq.)” and
9 inserting “, the Railroad Revitalization and
10 Regulatory Reform Act of 1976 (45 U.S.C. 801
11 et seq.), and chapter 224 of this title”; and

12 (B) in subsection (c)(2), by striking “and
13 the Railroad Revitalization and Regulatory Re-
14 form Act of 1976 (45 U.S.C. 801 et seq.)” and
15 inserting “, the Railroad Revitalization and
16 Regulatory Reform Act of 1976 (45 U.S.C. 801
17 et seq.), and chapter 224 of this title”.

18 **SEC. 4. TRANSITIONAL AND SAVINGS PROVISIONS.**

19 (a) DEFINITIONS.—In this section:

20 (1) RESTATED PROVISION.—The term “restated
21 provision” means a provision of chapter 224 of title
22 49, United States Code, as added by section 2.

23 (2) SOURCE PROVISION.—The term “source
24 provision” means a provision of law that is replaced
25 by a restated provision.

1 (b) CUTOFF DATE.—

2 (1) IN GENERAL.—The restated provisions re-
3 place certain source provisions enacted on or before
4 March 12, 2019.

5 (2) SUBSEQUENT AMENDMENTS AND RE-
6 PEALS.—If a law enacted after March 12, 2019,
7 amends or repeals a source provision, that law is
8 deemed to amend or repeal, as the case may be, the
9 corresponding restated provision. If a law enacted
10 after March 12, 2019, is otherwise inconsistent with
11 a restated provision of this Act, that law supersedes
12 the restated provision of this Act to the extent of the
13 inconsistency.

14 (c) ORIGINAL DATE OF ENACTMENT UNCHANGED.—
15 A restated provision is deemed to have been enacted on
16 the date of enactment of the corresponding source provi-
17 sion.

18 (d) REFERENCES TO RESTATED PROVISIONS.—A
19 reference to a restated provision is deemed to refer to the
20 corresponding source provision.

21 (e) REFERENCES TO SOURCE PROVISIONS.—A ref-
22 erence to a source provision, including a reference in a
23 regulation, order, or other law, is deemed to refer to the
24 corresponding restated provision.

1 (f) REGULATIONS, ORDERS, AND OTHER ADMINIS-
 2 TRATIVE ACTIONS.—A regulation, order, or other admin-
 3 istrative action in effect under a source provision con-
 4 tinues in effect under the corresponding restated provi-
 5 sion.

6 (g) ACTIONS TAKEN AND OFFENSES COMMITTED.—
 7 An action taken or an offense committed under a source
 8 provision is deemed to have been taken or committed
 9 under the corresponding restated provision.

10 **SEC. 5. REPEALS.**

11 The following provisions of law are repealed, except
 12 with respect to rights and duties that matured, penalties
 13 that were incurred, or proceedings that were begun before
 14 the date of enactment of this Act:

Schedule of Laws Repealed

| Act | Section | United States Code Former Classification |
|---|---------------|---|
| Railroad Revitalization and Regu- latory Reform Act of 1976 (Public Law 94–210) | 501 | 45 U.S.C. 821. |
| | 502 | 45 U.S.C. 822. |
| | 503 | 45 U.S.C. 823. |
| | 504 | 45 U.S.C. 836. |
| Safe, Accountable, Flexible, Effi- cient Transportation Equity Act: A Legacy for Users or SAFETEA-LU (Public Law 109– 59) | 9003(j) | 45 U.S.C. 822 note. |

