

.....
(Original Signature of Member)

110TH CONGRESS
2D SESSION

H. RES.

Providing for agreement by the House of Representatives to the Senate amendment to the bill, H.R. 2095, with an amendment.

IN THE HOUSE OF REPRESENTATIVES

Mr. OBERSTAR submitted the following resolution; which was referred to the Committee on _____

RESOLUTION

Providing for agreement by the House of Representatives to the Senate amendment to the bill, H.R. 2095, with an amendment.

1 *Resolved*, That upon the adoption of this resolution
2 the bill (H.R. 2095) entitled “An Act to amend title 49,
3 United States Code, to prevent railroad fatalities, injuries,
4 and hazardous materials releases, to authorize the Federal
5 Railroad Safety Administration, and for other purposes.”,
6 with the Senate amendment thereto, shall be considered
7 to have been taken from the Speaker’s table to the end
8 that the Senate amendment thereto be, and the same are

1 hereby, agreed to with the following amendment: Strike
2 all after the enacting clause and insert the following:

3 **DIVISION A—RAIL SAFETY**

4 **SEC. 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENT**
5 **OF TITLE 49.**

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

8 (b) TABLE OF CONTENTS.—The table of contents for
9 this division is as follows:

- Sec. 1. Short title; table of contents; amendment of title 49.
- Sec. 2. Definitions.
- Sec. 3. Authorization of appropriations.

TITLE I—RAILROAD SAFETY IMPROVEMENTS

- Sec. 101. Federal Railroad Administration officers and duties.
- Sec. 102. Railroad safety strategy.
- Sec. 103. Railroad safety risk reduction program.
- Sec. 104. Implementation of positive train control.
- Sec. 105. Railroad safety technology grants.
- Sec. 106. Reports on statutory mandates and recommendations.
- Sec. 107. Rulemaking process.
- Sec. 108. Hours-of-service reform.
- Sec. 109. Protection of railroad safety risk analyses information.
- Sec. 110. Pilot projects.

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

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

TITLE III—FEDERAL RAILROAD ADMINISTRATION

- Sec. 301. Human capital increases.
- Sec. 302. Civil penalty increases.
- Sec. 303. Enforcement report.

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

TITLE IV—RAILROAD SAFETY ENHANCEMENTS

- Sec. 401. Minimum training standards and plans.
- Sec. 402. Certification of certain crafts or classes of employees.
- Sec. 403. Track inspection time study.
- Sec. 404. Study of methods to improve or correct station platform gaps.
- Sec. 405. Locomotive cab studies.
- Sec. 406. Development and use of rail safety technology.
- Sec. 407. Unified treatment of families of railroad carriers.
- Sec. 408. Study of repeal of Conrail provision.
- Sec. 409. Limitations on non-Federal alcohol and drug testing by railroad carriers.
- Sec. 410. Critical incident stress plan.
- Sec. 411. Railroad carrier employee exposure to radiation study.
- Sec. 412. Alcohol and controlled substance testing for maintenance-of-way employees.
- Sec. 413. Emergency escape breathing apparatus.
- Sec. 414. Tunnel information.
- Sec. 415. Museum locomotive study.
- Sec. 416. Safety inspections in Mexico.
- Sec. 417. Railroad bridge safety assurance.
- Sec. 418. Railroad safety infrastructure improvement grants.
- Sec. 419. Prompt medical attention.
- Sec. 420. Employee sleeping quarters.

TITLE V—RAIL PASSENGER DISASTER FAMILY ASSISTANCE

- Sec. 501. Assistance by National Transportation Safety Board to families of passengers involved in rail passenger accidents.
- Sec. 502. Rail passenger carrier plan to assist families of passengers involved in rail passenger accidents.
- Sec. 503. Establishment of task force.

TITLE VI—CLARIFICATION OF FEDERAL JURISDICTION OVER SOLID WASTE FACILITIES

- Sec. 601. Short title.
- Sec. 602. Clarification of general jurisdiction over solid waste transfer facilities.
- Sec. 603. Regulation of solid waste rail transfer facilities.
- Sec. 604. Solid waste rail transfer facility land-use exemption authority.
- Sec. 605. Effect on other statutes and authorities.

TITLE VII—TECHNICAL CORRECTIONS

- Sec. 701. Technical corrections.

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

7 **SEC. 2. DEFINITIONS.**

8 (a) IN GENERAL.—In this division:

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

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

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

1 (2) DEPARTMENT.—The term “Department”
2 means the Department of Transportation.

3 (3) RAILROAD.—The term “railroad” has the
4 meaning given that term by section 20102 of title
5 49, United States Code.

6 (4) RAILROAD CARRIER.—The term “railroad
7 carrier” has the meaning given that term by section
8 20102 of title 49, United States Code.

9 (5) SECRETARY.—The term “Secretary” means
10 the Secretary of Transportation.

11 (6) STATE.—The term “State” means a State
12 of the United States, the District of Columbia, or
13 the Commonwealth of Puerto Rico.

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

15 (1) by redesignating paragraphs (1) and (2) as
16 paragraphs (2) and (3), respectively;

17 (2) by inserting before paragraph (2), as reded-
18 icated, the following:

19 “(1) ‘Class I railroad’, ‘Class II railroad’, and
20 ‘Class III railroad’ mean railroad carriers that have
21 annual carrier operating revenues that meet the
22 threshold amount for Class I carriers, Class II car-
23 riers, and Class III carriers, respectively, as deter-
24 mined by the Surface Transportation Board under

1 section 1201.1-1 of title 49, Code of Federal Regula-
2 tions.”; and

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

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

5 “(A) a railroad employee who is subject to
6 chapter 211;

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

9 “(C) an employee who maintains the right
10 of way of a railroad;

11 “(D) an employee of a railroad carrier who
12 is a hazmat employee as defined in section
13 5102(3) of this title;

14 “(E) an employee who inspects, repairs, or
15 maintains locomotives, passenger cars, or
16 freight cars; and

17 “(F) any other employee of a railroad car-
18 rier who directly affects railroad safety, as de-
19 termined by the Secretary.”.

20 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

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

23 “(a) IN GENERAL.—(1) There are authorized to be
24 appropriated to the Secretary of Transportation to carry

1 out this part and to carry out responsibilities under chap-
2 ter 51 as delegated or authorized by the Secretary—

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

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

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

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

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

8 “(2) With amounts appropriated pursuant to para-
9 graph (1), the Secretary shall purchase Gage Restraint
10 Measurement System vehicles and track geometry vehicles
11 or other comparable technology as needed to assess track
12 safety consistent with the results of the track inspection
13 study required by section 403 of the Rail Safety Improve-
14 ment Act of 2008.

15 “(3) There are authorized to be appropriated to the
16 Secretary \$18,000,000 for the period encompassing fiscal
17 years 2009 through 2013 to design, develop, and construct
18 the Facility for Underground Rail Station and Tunnel at
19 the Transportation Technology Center in Pueblo, Colo-
20 rado. The facility shall be used to test and evaluate the
21 vulnerabilities of above-ground and underground rail tun-
22 nels to prevent accidents and incidents in such tunnels,
23 to mitigate and remediate the consequences of any such
24 accidents or incidents, and to provide a realistic scenario
25 for training emergency responders.

1 “(4) Such sums as may be necessary from the
2 amount appropriated pursuant to paragraph (1) for each
3 of the fiscal years 2009 through 2013 shall be made avail-
4 able to the Secretary for personnel in regional offices and
5 in Washington, D.C., whose duties primarily involve rail
6 security.”.

7 **TITLE I—RAILROAD SAFETY** 8 **IMPROVEMENTS**

9 **SEC. 101. FEDERAL RAILROAD ADMINISTRATION OFFICERS** 10 **AND DUTIES.**

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

13 “(c) **SAFETY AS HIGHEST PRIORITY.**—In carrying
14 out its duties, the Administration shall consider the as-
15 signment and maintenance of safety as the highest pri-
16 ority, recognizing the clear intent, encouragement, and
17 dedication of Congress to the furtherance of the highest
18 degree of safety in railroad transportation.

19 “(d) **ADMINISTRATOR.**—The head of the Administra-
20 tion shall be the Administrator who shall be appointed by
21 the President, by and with the advice and consent of the
22 Senate, and shall be an individual with professional experi-
23 ence in railroad safety, hazardous materials safety, or
24 other transportation safety. The Administrator shall re-
25 port directly to the Secretary of Transportation.

1 “(e) DEPUTY ADMINISTRATOR.—The Administration
2 shall have a Deputy Administrator who shall be appointed
3 by the Secretary. The Deputy Administrator shall carry
4 out duties and powers prescribed by the Administrator.

5 “(f) CHIEF SAFETY OFFICER.—The Administration
6 shall have an Associate Administrator for Railroad Safety
7 appointed in the career service by the Secretary. The Asso-
8 ciate Administrator shall be the Chief Safety Officer of
9 the Administration. The Associate Administrator shall
10 carry out the duties and powers prescribed by the Admin-
11 istrator.

12 “(g) DUTIES AND POWERS OF THE ADMINIS-
13 TRATOR.—The Administrator shall carry out—

14 “(1) duties and powers related to railroad safe-
15 ty vested in the Secretary by section 20134(e) and
16 chapters 203 through 211 of this title, and by chap-
17 ter 213 of this title for carrying out chapters 203
18 through 211;

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

21 “(3) other duties and powers prescribed by the
22 Secretary.

23 “(h) LIMITATION.—A duty or power specified in sub-
24 section (g)(1) may be transferred to another part of the
25 Department of Transportation or another Federal Govern-

1 ment entity only when specifically provided by law. A deci-
2 sion of the Administrator in carrying out the duties or
3 powers of the Administration and involving notice and
4 hearing required by law is administratively final.

5 “(i) AUTHORITIES.—Subject to the provisions of sub-
6 title I of title 40 and title III of the Federal Property and
7 Administrative Services Act of 1949 (41 U.S.C. 251 et
8 seq.), the Secretary of Transportation may make, enter
9 into, and perform such contracts, grants, leases, coopera-
10 tive agreements, and other similar transactions with Fed-
11 eral or other public agencies (including State and local
12 governments) and private organizations and persons, and
13 make such payments, by way of advance or reimburse-
14 ment, as the Secretary may determine to be necessary or
15 appropriate to carry out functions at the Administration.
16 The authority of the Secretary granted by this subsection
17 shall be carried out by the Administrator. Notwith-
18 standing any other provision of this chapter, no authority
19 to enter into contracts or to make payments under this
20 subsection shall be effective, except as provided for in ap-
21 propriations Acts.”.

22 **SEC. 102. RAILROAD SAFETY STRATEGY.**

23 (a) SAFETY GOALS.—In conjunction with existing
24 federally-required and voluntary strategic planning efforts
25 ongoing at the Department and the Federal Railroad Ad-

1 ministration as of the date of enactment of this Act, the
2 Secretary shall develop a long-term strategy for improving
3 railroad safety to cover a period of not less than 5 years.
4 The strategy shall include an annual plan and schedule
5 for achieving, at a minimum, the following goals:

6 (1) Reducing the number and rates of acci-
7 dents, incidents, injuries, and fatalities involving
8 railroads including train collisions, derailments, and
9 human factors.

10 (2) Improving the consistency and effectiveness
11 of enforcement and compliance programs.

12 (3) Improving the identification of high-risk
13 highway-rail grade crossings and strengthening en-
14 forcement and other methods to increase grade
15 crossing safety.

16 (4) Improving research efforts to enhance and
17 promote railroad safety and performance.

18 (5) Preventing railroad trespasser accidents, in-
19 cidents, injuries, and fatalities.

20 (6) Improving the safety of railroad bridges,
21 tunnels, and related infrastructure to prevent acci-
22 dents, incidents, injuries, and fatalities caused by
23 catastrophic failures and other bridge and tunnel
24 failures.

1 (b) RESOURCE NEEDS.—The strategy and annual
2 plan shall include estimates of the funds and staff re-
3 sources needed to accomplish the goals established by sub-
4 section (a). Such estimates shall also include the staff
5 skills and training required for timely and effective accom-
6 plishment of each such goal.

7 (c) SUBMISSION WITH THE PRESIDENT'S BUDG-
8 ET.—The Secretary shall submit the strategy and annual
9 plan to the Senate Committee on Commerce, Science, and
10 Transportation and the House of Representatives Com-
11 mittee on Transportation and Infrastructure at the same
12 time as the President's budget submission.

13 (d) ACHIEVEMENT OF GOALS.—

14 (1) PROGRESS ASSESSMENT.—No less fre-
15 quently than annually, the Secretary shall assess the
16 progress of the Department toward achieving the
17 strategic goals described in subsection (a). The Sec-
18 retary shall identify any deficiencies in achieving the
19 goals within the strategy and develop and institute
20 measures to remediate such deficiencies. The Sec-
21 retary and the Administrator shall convey their as-
22 sessment to the employees of the Federal Railroad
23 Administration and shall identify any deficiencies
24 that should be remediated before the next progress
25 assessment.

1 (2) REPORT TO CONGRESS.—Beginning in
2 2009, not later than November 1 of each year, the
3 Secretary shall transmit a report to the Senate Com-
4 mittee on Commerce, Science, and Transportation
5 and the House of Representatives Committee on
6 Transportation and Infrastructure on the perform-
7 ance of the Federal Railroad Administration con-
8 taining the progress assessment required by para-
9 graph (1) toward achieving the goals of the railroad
10 safety strategy and annual plans under subsection
11 (a).

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

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

15 **“§ 20156. Railroad safety risk reduction program**

16 “(a) IN GENERAL.—

17 “(1) PROGRAM REQUIREMENT.—Not later than
18 4 years after the date of enactment of the Rail Safe-
19 ty Improvement Act of 2008, the Secretary of
20 Transportation, by regulation, shall require each
21 railroad carrier that is a Class I railroad, a railroad
22 carrier that has inadequate safety performance (as
23 determined by the Secretary), or a railroad carrier
24 that provides intercity rail passenger or commuter
25 rail passenger transportation—

1 “(A) to develop a railroad safety risk re-
2 duction program under subsection (d) that sys-
3 tematically evaluates railroad safety risks on its
4 system and manages those risks in order to re-
5 duce the numbers and rates of railroad acci-
6 dents, incidents, injuries, and fatalities;

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

10 “(C) to implement the program and plans
11 approved by the Secretary.

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

20 “(3) REVIEW AND APPROVAL.—The Secretary
21 shall review and approve or disapprove railroad safe-
22 ty risk reduction program plans within a reasonable
23 period of time. If the proposed plan is not approved,
24 the Secretary shall notify the affected railroad car-
25 rier as to the specific areas in which the proposed

1 plan is deficient, and the railroad carrier shall cor-
2 rect all deficiencies within a reasonable period of
3 time following receipt of written notice from the Sec-
4 retary. The Secretary shall annually conduct a re-
5 view to ensure that the railroad carriers are com-
6 plying with their plans.

7 “(4) VOLUNTARY COMPLIANCE.—A railroad
8 carrier that is not required to submit a railroad
9 safety risk reduction program under this section
10 may voluntarily submit a program that meets the re-
11 quirements of this section to the Secretary. The Sec-
12 retary shall approve or disapprove any program sub-
13 mitted under this paragraph.

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

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

1 structure, employee training, and other matters, including
2 those not covered by railroad safety regulations or other
3 Federal regulations, that impact railroad safety.

4 “(d) PROGRAM ELEMENTS.—

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

13 “(A) the mitigation of aspects that in-
14 crease risks to railroad safety; and

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

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

24 “(e) TECHNOLOGY IMPLEMENTATION PLAN.—

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

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

1 to railroad safety identified in the risk analysis re-
2 quired by subsection (c).

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

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

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

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

23 “(f) FATIGUE MANAGEMENT PLAN.—

24 “(1) IN GENERAL.—As part of its railroad safe-
25 ty risk reduction program, a railroad carrier re-

1 required to submit a railroad safety risk reduction
2 program under subsection (a) shall develop and up-
3 date at least once every 2 years a fatigue manage-
4 ment plan that is designed to reduce the fatigue ex-
5 perience by safety-related railroad employees and to
6 reduce the likelihood of accidents, incidents, injuries,
7 and fatalities caused by fatigue. Any such update
8 shall be subject to review and approval by the Sec-
9 retary.

10 “(2) TARGETED FATIGUE COUNTER-
11 MEASURES.—A railroad carrier’s fatigue manage-
12 ment plan shall take into account the varying cir-
13 cumstances of operations by the railroad on different
14 parts of its system, and shall prescribe appropriate
15 fatigue countermeasures to address those varying
16 circumstances.

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

21 “(A) Employee education and training on
22 the physiological and human factors that affect
23 fatigue, as well as strategies to reduce or miti-
24 gate the effects of fatigue, based on the most

1 current scientific and medical research and lit-
2 erature.

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

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

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

21 “(E) Methods to minimize accidents and
22 incidents that occur as a result of working at
23 times when scientific and medical research have
24 shown increased fatigue disrupts employees’ cir-
25 cadian rhythm.

1 “(F) Alertness strategies, such as policies
2 on napping, to address acute drowsiness and fa-
3 tigue while an employee is on duty.

4 “(G) Opportunities to obtain restful sleep
5 at lodging facilities, including employee sleeping
6 quarters provided by the railroad carrier.

7 “(H) The increase of the number of con-
8 secutive hours of off-duty rest, during which an
9 employee receives no communication from the
10 employing railroad carrier or its managers, su-
11 pervisors, officers, or agents.

12 “(I) Avoidance of abrupt changes in rest
13 cycles for employees.

14 “(J) Additional elements that the Sec-
15 retary considers appropriate.

16 “(g) CONSENSUS.—

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

1 “(2) STATEMENT.—If the railroad carrier and
2 its directly affected employees, including any non-
3 profit employee labor organization representing a
4 class or craft of directly affected employees of the
5 railroad carrier, cannot reach consensus on the pro-
6 posed contents of the plan, then directly affected
7 employees and such organization may file a state-
8 ment with the Secretary explaining their views on
9 the plan on which consensus was not reached. The
10 Secretary shall consider such views during review
11 and approval of the program.

12 “(h) ENFORCEMENT.—The Secretary shall have the
13 authority to assess civil penalties pursuant to chapter 213
14 for a violation of this section, including the failure to sub-
15 mit, certify, or comply with a safety risk reduction pro-
16 gram, risk mitigation plan, technology implementation
17 plan, or fatigue management plan.”.

18 (b) CONFORMING AMENDMENT.—The chapter anal-
19 ysis for chapter 201 is amended by inserting after the item
20 relating to section 20155 the following:

“20156. Railroad safety risk reduction program.”.

21 **SEC. 104. IMPLEMENTATION OF POSITIVE TRAIN CONTROL.**

22 (a) IN GENERAL.—Subchapter II of chapter 201, as
23 amended by section 103 of this division, is further amend-
24 ed by adding at the end thereof the following:

1 **“§ 20157. Implementation of positive train control**
2 **systems**

3 “(a) IN GENERAL.—

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

13 “(A) its main line over which intercity rail
14 passenger transportation or commuter rail pas-
15 senger transportation, as defined in section
16 24102, is regularly provided;

17 “(B) its main line over which poison- or
18 toxic-by-inhalation hazardous materials, as de-
19 fined in parts 171.8, 173.115, and 173.132 of
20 title 49, Code of Federal Regulations, are
21 transported; and

22 “(C) such other tracks as the Secretary
23 may prescribe by regulation or order.

24 “(2) IMPLEMENTATION.—The plan shall de-
25 scribe how it will provide for interoperability of the
26 system with movements of trains of other railroad

1 carriers over its lines and shall, to the extent prac-
2 tical, implement the system in a manner that ad-
3 dresses areas of greater risk before areas of lesser
4 risk. The railroad carrier shall implement a positive
5 train control system in accordance with the plan.

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

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

21 “(d) REPORT.—Not later than December 31, 2012,
22 the Secretary shall transmit a report to the Committee
23 on Transportation and Infrastructure of the House of
24 Representatives and the Committee on Commerce,
25 Science, and Transportation of the Senate on the progress

1 of the railroad carriers in implementing such positive train
2 control systems.

3 “(e) ENFORCEMENT.—The Secretary is authorized to
4 assess civil penalties pursuant to chapter 213 for a viola-
5 tion of this section, including the failure to submit or com-
6 ply with a plan for implementing positive train control
7 under subsection (a).

8 “(f) OTHER RAILROAD CARRIERS.—Nothing in this
9 section restricts the discretion of the Secretary to require
10 railroad carriers other than those specified in subsection
11 (a) to implement a positive train control system pursuant
12 to this section or section 20156, or to specify the period
13 by which implementation shall occur that does not exceed
14 the time limits established in this section or section 20156.
15 In exercising such discretion, the Secretary shall, at a
16 minimum, consider the risk to railroad employees and the
17 public associated with the operations of the railroad car-
18 rier.

19 “(g) REGULATIONS.—The Secretary shall prescribe
20 regulations or issue orders necessary to implement this
21 section, including regulations specifying in appropriate
22 technical detail the essential functionalities of positive
23 train control systems, and the means by which those sys-
24 tems will be qualified.

1 “(h) CERTIFICATION.—The Secretary shall not per-
2 mit the installation of any positive train control system
3 or component in revenue service unless the Secretary has
4 certified that any such system or component has been ap-
5 proved through the approval process set forth in part 236
6 of title 49, Code of Federal Regulations, and complies with
7 the requirements of that part.

8 “(i) DEFINITIONS.—In this section:

9 “(1) INTEROPERABILITY.—The term ‘interoper-
10 ability’ means the ability to control locomotives of
11 the host railroad and tenant railroad to commu-
12 nicate with and respond to the positive train control
13 system, including uninterrupted movements over
14 property boundaries.

15 “(2) MAIN LINE.—The term ‘main line’ means
16 a segment or route of railroad tracks over which
17 5,000,000 or more gross tons of railroad traffic is
18 transported annually, except that—

19 “(A) the Secretary may, through regula-
20 tions under subsection (g), designate additional
21 tracks as main line as appropriate for this sec-
22 tion; and

23 “(B) for intercity rail passenger transpor-
24 tation or commuter rail passenger transpor-
25 tation routes or segments over which limited or

1 no freight railroad operations occur, the Sec-
2 retary shall define the term ‘main line’ by regu-
3 lation.

4 “(3) POSITIVE TRAIN CONTROL SYSTEM.—The
5 term ‘positive train control system’ means a system
6 designed to prevent train-to-train collisions, over-
7 speed derailments, incursions into established work
8 zone limits, and the movement of a train through a
9 switch left in the wrong position.”.

10 (b) CONFORMING AMENDMENT.—The chapter anal-
11 ysis for chapter 201, as amended by section 103 of this
12 division, is amended by inserting after the item relating
13 to section 20156 the following:

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

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

15 (a) IN GENERAL.—Subchapter II of chapter 201, as
16 amended by section 104 of this division, is further amend-
17 ed by adding at the end thereof the following:

18 **“§ 20158. Railroad safety technology grants**

19 “(a) GRANT PROGRAM.—The Secretary of Transpor-
20 tation shall establish a grant program for the deployment
21 of train control technologies, train control component tech-
22 nologies, processor-based technologies, electronically con-
23 trolled pneumatic brakes, rail integrity inspection systems,
24 rail integrity warning systems, switch position indicators
25 and monitors, remote control power switch technologies,

1 track integrity circuit technologies, and other new or novel
2 railroad safety technology.

3 “(b) GRANT CRITERIA.—

4 “(1) ELIGIBILITY.—Grants shall be made under
5 this section to eligible passenger and freight railroad
6 carriers, railroad suppliers, and State and local gov-
7 ernments for projects described in subsection (a)
8 that have a public benefit of improved safety and
9 network efficiency.

10 “(2) CONSIDERATIONS.—Priority shall be given
11 to projects that—

12 “(A) focus on making technologies inter-
13 operable between railroad systems, such as
14 train control technologies;

15 “(B) accelerate train control technology
16 deployment on high-risk corridors, such as
17 those that have high volumes of hazardous ma-
18 terials shipments or over which commuter or
19 passenger trains operate; or

20 “(C) benefit both passenger and freight
21 safety and efficiency.

22 “(3) IMPLEMENTATION PLANS.—Grants may
23 not be awarded under this section to entities that
24 fail to develop and submit to the Secretary the plans
25 required by sections 20156(e)(2) and 20157.

1 “(4) MATCHING REQUIREMENTS.—Federal
2 funds for any eligible project under this section shall
3 not exceed 80 percent of the total cost of such
4 project.

5 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
6 are authorized to be appropriated to the Secretary of
7 Transportation \$50,000,000 for each of fiscal years 2009
8 through 2013 to carry out this section. Amounts appro-
9 priated pursuant to this section shall remain available
10 until expended.”.

11 (b) CONFORMING AMENDMENT.—The chapter anal-
12 ysis for chapter 201, as amended by section 104 of this
13 division, is further amended by inserting after the item
14 relating to section 20157 the following:

“20158. Railroad safety technology grants.”.

15 **SEC. 106. REPORTS ON STATUTORY MANDATES AND REC-**
16 **COMMENDATIONS.**

17 Not later than December 31, 2008, and annually
18 thereafter, the Secretary shall transmit a report to the
19 House of Representatives Committee on Transportation
20 and Infrastructure and the Senate Committee on Com-
21 merce, Science, and Transportation on the specific actions
22 taken to implement unmet statutory mandates regarding
23 railroad safety and each open railroad safety recommenda-
24 tion made by the National Transportation Safety Board
25 or the Department’s Inspector General.

1 **SEC. 107. RULEMAKING PROCESS.**

2 (a) AMENDMENT.—Subchapter I of chapter 201 is
3 amended by inserting after section 20115 the following
4 new section:

5 **“§ 20116. Rulemaking process**

6 “No rule or order issued by the Secretary under this
7 part shall be effective if it incorporates by reference a
8 code, rule, standard, requirement, or practice issued by an
9 association or other entity that is not an agency of the
10 Federal Government, unless the date on which the code,
11 rule, standard, requirement, or practice was adopted is
12 specifically cited in the rule or order, or the code, rule,
13 standard, requirement, or practice has been subject to no-
14 tice and comment under a rule or order issued under this
15 part.”.

16 (b) CONFORMING AMENDMENT.—The chapter anal-
17 ysis for chapter 201 is amended by inserting after the item
18 relating to section 20115 the following:

“20116. Rulemaking process.”.

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

20 (a) CHANGE IN DEFINITION OF SIGNAL EM-
21 PLOYEE.—Section 21101(4) is amended by striking “em-
22 ployed by a railroad carrier”.

23 (b) LIMITATION ON DUTY HOURS OF TRAIN EM-
24 PLOYEES.—Section 21103 is amended—

1 (1) by striking subsection (a) and inserting the
2 following:

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

6 “(1) remain on duty, go on duty, wait for
7 deadhead transportation, be in deadhead transpor-
8 tation from a duty assignment to the place of final
9 release, or be in any other mandatory service for the
10 carrier in any calendar month where the employee
11 has spent a total of 276 hours—

12 “(A) on duty;

13 “(B) waiting for deadhead transportation,
14 or in deadhead transportation from a duty as-
15 signment to the place of final release; or

16 “(C) in any other mandatory service for
17 the carrier;

18 “(2) remain or go on duty for a period in excess
19 of 12 consecutive hours;

20 “(3) remain or go on duty unless that employee
21 has had at least 10 consecutive hours off duty dur-
22 ing the prior 24 hours; or

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

1 “(A) 6 consecutive days, unless that em-
2 ployee has had at least 48 consecutive hours off
3 duty at the employee’s home terminal during
4 which time the employee is unavailable for any
5 service for any railroad carrier except that—

6 “(i) an employee may work a seventh
7 consecutive day if that employee completed
8 his or her final period of on-duty time on
9 his or her sixth consecutive day at a ter-
10 minal other than his or her home terminal;
11 and

12 “(ii) any employee who works a sev-
13 enth consecutive day pursuant to subpara-
14 graph (i) shall have at least 72 consecutive
15 hours off duty at the employee’s home ter-
16 minal during which time the employee is
17 unavailable for any service for any railroad
18 carrier; or

19 “(B) except as provided in subparagraph
20 (A), 7 consecutive days, unless that employee
21 has had at least 72 consecutive hours off duty
22 at the employee’s home terminal during which
23 time the employee is unavailable for any service
24 for any railroad carrier, if—

1 “(i) for a period of 18 months fol-
2 lowing the date of enactment of the Rail
3 Safety Improvement Act of 2008, an exist-
4 ing collective bargaining agreement ex-
5 pressly provides for such a schedule or, fol-
6 lowing the expiration of 18 months after
7 the date of enactment of the Rail Safety
8 Improvement Act of 2008, collective bar-
9 gaining agreements entered into during
10 such period expressly provide for such a
11 schedule;

12 “(ii) such a schedule is provided for
13 by a pilot program authorized by a collec-
14 tive bargaining agreement; or

15 “(iii) such a schedule is provided for
16 by a pilot program under section 21108 of
17 this chapter related to employees’ work
18 and rest cycles.

19 The Secretary may waive paragraph (4), consistent with
20 the procedural requirements of section 20103, if a collec-
21 tive bargaining agreement provides a different arrange-
22 ment and such an arrangement is in the public interest
23 and consistent with railroad safety.”;

1 (2) by redesignating subsection (c) as sub-
2 section (d) and inserting after subsection (b) the fol-
3 lowing:

4 “(c) LIMBO TIME LIMITATION AND ADDITIONAL
5 REST REQUIREMENT.—

6 “(1) A railroad carrier may not require or allow
7 an employee—

8 “(A) to exceed a total of 40 hours per cal-
9 endar month spent—

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

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

15 following a period of 12 consecutive hours on
16 duty that is neither time on duty nor time off
17 duty, not including interim rest periods, during
18 the period from the date of enactment of the
19 Rail Safety Improvement Act of 2008 to one
20 year after such date of enactment; and

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

23 “(i) waiting for deadhead transpor-
24 tation; or

1 “(ii) in deadhead transportation from
2 a duty assignment to the place of final re-
3 lease,
4 following a period of 12 consecutive hours on
5 duty that is neither time on duty nor time off
6 duty, not including interim rest periods, during
7 the period beginning one year after the date of
8 enactment of the Rail Safety Improvement Act
9 of 2008 except that the Secretary may further
10 limit the monthly limitation pursuant to regula-
11 tions prescribed under section 21109.

12 “(2) The limitations in paragraph (1) shall
13 apply unless the train carrying the employee is di-
14 rectly delayed by—

15 “(A) a casualty;

16 “(B) an accident;

17 “(C) an act of God;

18 “(D) a derailment;

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

21 “(F) a delay resulting from a cause un-
22 known and unforeseeable to a railroad carrier
23 or its officer or agent in charge of the employee
24 when the employee left a terminal.

1 “(3) Each railroad carrier shall report to the
2 Secretary, in accordance with procedures established
3 by the Secretary, each instance where an employee
4 subject to this section spends time waiting for
5 deadhead transportation or in deadhead transpor-
6 tation from a duty assignment to the place of final
7 release in excess of the requirements of paragraph
8 (1).

9 “(4) If—

10 “(A) the time spent waiting for deadhead
11 transportation or in deadhead transportation
12 from a duty assignment to the place of final re-
13 lease that is not time on duty, plus

14 “(B) the time on duty,
15 exceeds 12 consecutive hours, the railroad carrier
16 and its officers and agents shall provide the em-
17 ployee with additional time off duty equal to the
18 number of hours by which such sum exceeds 12
19 hours.”; and

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

21 “(e) COMMUNICATION DURING TIME OFF DUTY.—
22 During a train employee’s minimum off-duty period of 10
23 consecutive hours, as provided under subsection (a) or
24 during an interim period of at least 4 consecutive hours
25 available for rest under subsection (b)(7) or during addi-

1 tional off-duty hours under subsection (c)(4), a railroad
2 carrier, and its officers and agents, shall not communicate
3 with the train employee by telephone, by pager, or in any
4 other manner that could reasonably be expected to disrupt
5 the employee's rest. Nothing in this subsection shall pro-
6 hibit communication necessary to notify an employee of
7 an emergency situation, as defined by the Secretary. The
8 Secretary may waive the requirements of this paragraph
9 for commuter or intercity passenger railroads if the Sec-
10 retary determines that such a waiver will not reduce safety
11 and is necessary to maintain such railroads' efficient oper-
12 ations and on-time performance of its trains.”.

13 (c) LIMITATION ON DUTY HOURS OF SIGNAL EM-
14 PLOYEES.—Section 21104 is amended—

15 (1) by striking subsection (a) and inserting the
16 following:

17 “(a) IN GENERAL.—Except as provided in subsection
18 (c) of this section, a railroad carrier and its officers and
19 agents may not require or allow its signal employees to
20 remain or go on duty and a contractor or subcontractor
21 to a railroad carrier and its officers and agents may not
22 require or allow its signal employees to remain or go on
23 duty —

24 “(1) for a period in excess of 12 consecutive
25 hours; or

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

4 (2) by striking “duty, except that up to one
5 hour of that time spent returning from the final
6 trouble call of a period of continuous or broken serv-
7 ice is time off duty.” in subsection (b)(3) and insert-
8 ing “duty.”;

9 (3) by inserting “A signal employee may not be
10 allowed to remain or go on duty under the emer-
11 gency authority provided under this subsection to
12 conduct routine repairs, routine maintenance, or
13 routine inspection of signal systems.” after “serv-
14 ice.” in subsection (c); and

15 (4) by adding at the end the following:

16 “(d) COMMUNICATION DURING TIME OFF DUTY.—
17 During a signal employee’s minimum off-duty period of
18 10 consecutive hours, as provided under subsection (a),
19 a railroad carrier or a contractor or subcontractor to a
20 railroad carrier, and its officers and agents, shall not com-
21 municate with the signal employee by telephone, by pager,
22 or in any other manner that could reasonably be expected
23 to disrupt the employee’s rest. Nothing in this subsection
24 shall prohibit communication necessary to notify an em-

1 ployee of an emergency situation, as defined by the Sec-
2 retary.

3 “(e) EXCLUSIVITY.—The hours of service, duty
4 hours, and rest periods of signal employees shall be gov-
5 erned exclusively by this chapter. Signal employees oper-
6 ating motor vehicles shall not be subject to any hours of
7 service rules, duty hours or rest period rules promulgated
8 by any Federal authority, including the Federal Motor
9 Carrier Safety Administration, other than the Federal
10 Railroad Administration.”.

11 (d) ALTERNATE HOURS OF SERVICE REGIME.—

12 (1) APPLICATION OF HOURS OF SERVICE RE-
13 GIME.—Section 21102 is amended—

14 (A) by striking the section caption and in-
15 serting the following:

16 “§ 21102. **Nonapplication, exemption, and alternate**
17 **hours of service regime”; and**

18 (B) by adding at the end thereof the fol-
19 lowing:

20 “(c) APPLICATION OF HOURS OF SERVICE REGIME
21 TO COMMUTER AND INTERCITY PASSENGER RAILROAD
22 TRAIN EMPLOYEES.—

23 “(1) When providing commuter rail passenger
24 transportation or intercity rail passenger transpor-
25 tation, the limitations on duty hours for train em-

1 employees of railroad carriers, including public authori-
2 ties operating passenger service, shall be solely gov-
3 erned by old section 21103 until the earlier of—

4 “(A) the effective date of regulations pre-
5 scribed by the Secretary under section 21109(b)
6 of this chapter; or

7 “(B) the date that is 3 years following the
8 date of enactment of the Rail Safety Improve-
9 ment Act of 2008.

10 “(2) After the date on which old section 21103
11 ceases to apply, pursuant to paragraph (1), to the
12 limitations on duty hours for train employees of rail-
13 road carriers with respect to the provision of com-
14 muter rail passenger transportation or intercity rail
15 passenger transportation, the limitations on duty
16 hours for train employees of such railroad carriers
17 shall be governed by new section 21103, except as
18 provided in paragraph (3).

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

22 “(A) comply with the limitations on duty
23 hours for train employees with respect to the
24 provision of commuter rail passenger transpor-

1 tation or intercity rail passenger transportation
2 as prescribed by such regulations; and

3 “(B) be exempt from complying with the
4 provisions of old section 21103 and new section
5 21103 for such employees.

6 “(4) In this subsection:

7 “(A) The terms ‘commuter rail passenger
8 transportation’ and ‘intercity rail passenger
9 transportation’ have the meaning given those
10 terms in section 24102 of this title.

11 “(C) The term ‘new section 21103’ means
12 section 21103 of this chapter as amended by
13 the Rail Safety Improvement Act of 2008.

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

17 (2) CONFORMING AMENDMENT.—The chapter
18 analysis for chapter 211 is amended by striking the
19 item relating to section 21102 and inserting the fol-
20 lowing:

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

21 (e) REGULATORY AUTHORITY.—

22 (1) IN GENERAL.—Chapter 211 is amended by
23 adding at the end thereof the following:

1 **“§ 21109. Regulatory authority**

2 “(a) IN GENERAL.—In order to improve safety and
3 reduce employee fatigue, the Secretary may prescribe reg-
4 ulations—

5 “(1) to reduce the maximum hours an employee
6 may be required or allowed to go or remain on duty
7 to a level less than the level established under this
8 chapter;

9 “(2) to increase the minimum hours an em-
10 ployee may be required or allowed to rest to a level
11 greater than the level established under this chapter;

12 “(3) to limit or eliminate the amount of time an
13 employee spends waiting for deadhead transpor-
14 tation or in deadhead transportation from a duty as-
15 signment to the place of final release that is consid-
16 ered neither on duty nor off duty under this chapter;

17 “(4) for signal employees—

18 “(A) to limit or eliminate the amount of
19 time that is considered to be neither on duty
20 nor off duty under this chapter that an em-
21 ployee spends returning from an outlying work-
22 site after scheduled duty hours or returning
23 from a trouble call to the employee’s head-
24 quarters or directly to the employee’s residence;
25 and

1 “(B) to increase the amount of time that
2 constitutes a release period, that does not break
3 the continuity of service and is considered time
4 off duty; and

5 “(5) to require other changes to railroad oper-
6 ating and scheduling practices, including unsched-
7 uled duty calls, that could affect employee fatigue
8 and railroad safety.

9 “(b) REGULATIONS GOVERNING THE HOURS OF
10 SERVICE OF TRAIN EMPLOYEES OF COMMUTER AND
11 INTERCITY PASSENGER RAILROAD CARRIERS.—Within 3
12 years after the date of enactment of the Rail Safety Im-
13 provement Act of 2008, the Secretary shall prescribe regu-
14 lations and issue orders to establish hours of service re-
15 quirements for train employees engaged in commuter rail
16 passenger transportation and intercity rail passenger
17 transportation (as defined in section 24102 of this title)
18 that may differ from the requirements of this chapter.
19 Such regulations and orders may address railroad oper-
20 ating and scheduling practices, including unscheduled
21 duty calls, communications during time off duty, and time
22 spent waiting for deadhead transportation or in deadhead
23 transportation from a duty assignment to the place of
24 final release, that could affect employee fatigue and rail-
25 road safety.

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

13 “(d) TIME LIMITS.—

14 “(1) If the Secretary determines that regula-
15 tions are necessary under subsection (a), the Sec-
16 retary shall first request that the Railroad Safety
17 Advisory Committee develop proposed regulations
18 and, if the Committee accepts the task, provide the
19 Committee with a reasonable time period in which to
20 complete the task.

21 “(2) If the Secretary requests that the Railroad
22 Safety Advisory Committee accept the task of devel-
23 oping regulations under subsection (b) and the Com-
24 mittee accepts the task, the Committee shall reach
25 consensus on the rulemaking within 18 months after

1 accepting the task. If the Committee does not reach
2 consensus within 18 months after the Secretary
3 makes the request, the Secretary shall prescribe ap-
4 propriate regulations within 18 months.

5 “(3) If the Secretary does not request that the
6 Railroad Safety Advisory Committee accept the task
7 of developing regulations under subsection (b), the
8 Secretary shall prescribe regulations within 3 years
9 after the date of enactment of the Rail Safety Im-
10 provement Act of 2008.

11 “(e) PILOT PROJECTS.—

12 “(1) IN GENERAL.—Not later than 2 years
13 after the date of enactment of the Rail Safety Im-
14 provement Act of 2008, the Secretary shall conduct
15 at least 2 pilot projects of sufficient size and scope
16 to analyze specific practices which may be used to
17 reduce fatigue for train and engine and other rail-
18 road employees as follows:

19 “(A) A pilot project at a railroad or rail-
20 road facility to evaluate the efficacy of commu-
21 nicating to employees notice of their assigned
22 shift time 10 hours prior to the beginning of
23 their assigned shift as a method for reducing
24 employee fatigue.

1 “(B) A pilot project at a railroad or rail-
2 road facility to evaluate the efficacy of requiring
3 railroads who use employee scheduling practices
4 that subject employees to periods of unsched-
5 uled duty calls to assign employees to defined
6 or specific unscheduled call shifts that are fol-
7 lowed by shifts not subject to call, as a method
8 for reducing employee fatigue.

9 “(2) WAIVER.—The Secretary may temporarily
10 waive the requirements of this section, if necessary,
11 to complete a pilot project under this subsection.

12 “(f) DUTY CALL DEFINED.—In this section the term
13 ‘duty call’ means a telephone call that a railroad places
14 to an employee to notify the employee of his or her as-
15 signed shift time.”.

16 (2) CONFORMING AMENDMENTS.—

17 (A) The chapter analysis for chapter 211
18 is amended by adding at the end thereof the
19 following:

 “21109. Regulatory authority.”.

20 (B) The first sentence of section
21 21303(a)(1) is amended by inserting “including
22 section 21103 (as such section was in effect on
23 the day before the date of enactment of the Rail
24 Safety Improvement Act of 2008),” after “this
25 title,” the second place it appears.

1 (f) RECORD KEEPING AND REPORTING.—

2 (1) REGULATIONS.—Not later than 180 days
3 after the date of enactment of this Act, the Sec-
4 retary shall prescribe a regulation revising the re-
5 quirements for recordkeeping and reporting for
6 Hours of Service of Railroad Employees contained in
7 part 228 of title 49, Code of Federal Regulations—

8 (A) to adjust record keeping and reporting
9 requirements to support compliance with chap-
10 ter 211 of title 49, United States Code, as
11 amended by this Act;

12 (B) to authorize electronic record keeping,
13 and reporting of excess service, consistent with
14 appropriate considerations for user interface;
15 and

16 (C) to require training of affected employ-
17 ees and supervisors, including training of em-
18 ployees in the entry of hours of service data.

19 (2) PROCEDURE.—In lieu of issuing a notice of
20 proposed rulemaking as contemplated by section 553
21 of title 5, United States Code, the Secretary may
22 utilize the Railroad Safety Advisory Committee to
23 assist in development of the regulation. The Sec-
24 retary may propose and adopt amendments to the

1 revised regulations thereafter as may be necessary in
2 light of experience under the revised requirements.

3 (g) DELAY IN IMPLEMENTATION OF DUTY HOURS
4 LIMITATION CHANGES.—The amendments made by sub-
5 sections (a), (b), and (c) shall take effect 9 months after
6 the date of enactment of this Act.

7 **SEC. 109. PROTECTION OF RAILROAD SAFETY RISK ANAL-**
8 **YSES INFORMATION.**

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

11 **“§ 20118. Prohibition on public disclosure of railroad**
12 **safety analysis records**

13 “(a) IN GENERAL.—Except as necessary for the Sec-
14 retary of Transportation or another Federal agency to en-
15 force or carry out any provision of Federal law, any part
16 of any record (including, but not limited to, a railroad car-
17 rier’s analysis of its safety risks and its statement of the
18 mitigation measures it has identified with which to ad-
19 dress those risks) that the Secretary has obtained pursu-
20 ant to a provision of, or regulation or order under, this
21 chapter related to the establishment, implementation, or
22 modification of a railroad safety risk reduction program
23 or pilot program is exempt from the requirements of sec-
24 tion 552 of title 5 if the record is—

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

3 “(2) made available for inspection and copying
4 by an officer, employee, or agent of the Secretary
5 pursuant to that safety risk reduction program or
6 pilot program.

7 “(b) EXCEPTION.—Notwithstanding subsection (a),
8 the Secretary may disclose any part of any record com-
9 prised of facts otherwise available to the public if, in the
10 Secretary’s sole discretion, the Secretary determines that
11 disclosure would be consistent with the confidentiality
12 needed for that safety risk reduction program or pilot pro-
13 gram.

14 “(c) DISCRETIONARY PROHIBITION OF DISCLO-
15 SURE.—The Secretary may prohibit the public disclosure
16 of risk analyses or risk mitigation analyses that the Sec-
17 retary has obtained under other provisions of, or regula-
18 tions or orders under, this chapter if the Secretary deter-
19 mines that the prohibition of public disclosure is necessary
20 to promote railroad safety.

21 **“§ 20119. Study on use of certain reports and surveys**

22 “(a) STUDY.—The Federal Railroad Administration
23 shall complete a study to evaluate whether it is in the pub-
24 lic interest, including public safety and the legal rights of
25 persons injured in railroad accidents, to withhold from dis-

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

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

21 (b) CONFORMING AMENDMENT.—The chapter anal-
22 ysis for chapter 201 is amended by inserting after the item
23 relating to section 20117 the following:

“20118. Prohibition on public disclosure of railroad safety analysis records.
“20119. Study on use of certain reports and surveys.”.

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

2 Section 21108 is amended to read as follows:

3 **“§ 21108. Pilot projects**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 Not later than 1 year after the date of enactment
9 of this Act, the Secretary shall provide guidance to rail-
10 roads on strategies and methods to prevent pedestrian ac-
11 cidents, incidents, injuries, and fatalities at or near pas-
12 senger stations, including—

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

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

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

21 (4) installing fences to prohibit access to rail-
22 road tracks; and

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

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

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

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

1 the proposed plan is deficient, and the State shall correct
2 all deficiencies within 30 days following receipt of written
3 notice from the Secretary.

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

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

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

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

23 (b) CONFORMING AMENDMENT.—The chapter anal-
24 ysis for chapter 201, as amended by section 105 of this

1 division, is amended by inserting after the item relating
2 to section 20158 the following new item:

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

3 **SEC. 204. NATIONAL CROSSING INVENTORY.**

4 (a) IN GENERAL.—Subchapter II of chapter 201, as
5 amended by section 203 of this division, is further amend-
6 ed by adding at the end the following new section:

7 **“§ 20160. National crossing inventory**

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

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

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

23 “(b) UPDATING OF CROSSING INFORMATION.—

24 “(1) On a periodic basis beginning not later
25 than 2 years after the date of enactment of the Rail

1 Safety Improvement Act of 2008 and on or before
2 September 30 of every year thereafter, or as other-
3 wise specified by the Secretary, each railroad carrier
4 shall—

5 “(A) report to the Secretary current informa-
6 tion, including information about warning devices
7 and signage, as specified by the Secretary, con-
8 cerning each crossing through which it operates or
9 with respect to the trackage over which it operates;
10 or

11 “(B) ensure that the information has been re-
12 ported to the Secretary by another railroad carrier
13 that operates through the crossing.

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

23 “(c) RULEMAKING AUTHORITY.—The Secretary shall
24 prescribe the regulations necessary to implement this sec-
25 tion. The Secretary may enforce each provision of the De-

1 partment of Transportation’s statement of the national
2 highway-rail crossing inventory policy, procedures, and in-
3 struction for States and railroads that is in effect on the
4 date of enactment of the Rail Safety Improvement Act of
5 2008, until such provision is superseded by a regulation
6 issued under this section.

7 “(d) DEFINITIONS.—In this section:

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

13 “(A) a public highway, road, or street, or
14 a private roadway, including associated side-
15 walks and pathways, crosses one or more rail-
16 road tracks either at grade or grade-separated;
17 or

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

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

4 (b) CONFORMING AMENDMENT.—The chapter anal-
5 ysis for chapter 201, as amended by section 203 of this
6 division, is amended by inserting after the item relating
7 to section 20159 the following:

 “20160. National crossing inventory.”.

8 (c) REPORTING AND UPDATING.—Section 130 of title
9 23, United States Code, is amended by adding at the end
10 the following:

11 “(1) NATIONAL CROSSING INVENTORY.—

12 “(1) INITIAL REPORTING OF CROSSING INFOR-
13 MATION.—Not later than 1 year after the date of
14 enactment of the Rail Safety Improvement Act of
15 2008 or within 6 months of a new crossing becoming
16 operational, whichever occurs later, each State shall
17 report to the Secretary of Transportation current in-
18 formation, including information about warning de-
19 vices and signage, as specified by the Secretary, con-
20 cerning each previously unreported public crossing
21 located within its borders.

22 “(2) PERIODIC UPDATING OF CROSSING INFOR-
23 MATION.—On a periodic basis beginning not later
24 than 2 years after the date of enactment of the Rail
25 Safety Improvement Act of 2008 and on or before

1 September 30 of every year thereafter, or as other-
2 wise specified by the Secretary, each State shall re-
3 port to the Secretary current information, including
4 information about warning devices and signage, as
5 specified by the Secretary, concerning each public
6 crossing located within its borders.

7 “(3) RULEMAKING AUTHORITY.—The Secretary
8 shall prescribe the regulations necessary to imple-
9 ment this subsection. The Secretary may enforce
10 each provision of the Department of Transpor-
11 tation’s statement of the national highway-rail cross-
12 ing inventory policy, procedures, and instructions for
13 States and railroads that is in effect on the date of
14 enactment of the Rail Safety Improvement Act of
15 2008, until such provision is superseded by a regula-
16 tion issued under this subsection.

17 “(4) DEFINITIONS.—In this subsection—

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

23 “(i) a public highway, road, or street,
24 including associated sidewalks and path-

1 ways, crosses one or more railroad tracks
2 either at grade or grade-separated; or

3 “(ii) a publicly owned pathway explic-
4 itly authorized by a public authority or a
5 railroad carrier and dedicated for the use
6 of non-vehicular traffic, including pedes-
7 trians, bicyclists, and others, that is not
8 associated with a public highway, road, or
9 street, or a private roadway, crosses one or
10 more railroad tracks either at grade or
11 grade-separated; and

12 “(B) ‘State’ means a State of the United
13 States, the District of Columbia, or Puerto
14 Rico.”.

15 (d) CIVIL PENALTIES.—

16 (1) Section 21301(a)(1) is amended—

17 (A) by inserting “with section 20160 or”
18 after “comply” in the first sentence; and

19 (B) by inserting “section 20160 of this
20 title or” after “violating” in the second sen-
21 tence.

22 (2) Section 21301(a)(2) is amended by insert-
23 ing “The Secretary shall impose a civil penalty for
24 a violation of section 20160 of this title.” after the
25 first sentence.

1 **SEC. 205. TELEPHONE NUMBER TO REPORT GRADE CROSS-**
2 **ING PROBLEMS.**

3 (a) IN GENERAL.—Section 20152 is amended to read
4 as follows:

5 **“§ 20152. Notification of grade crossing problems**

6 “(a) IN GENERAL.—Not later than 18 months after
7 the date of enactment of the Rail Safety Improvement Act
8 of 2008, the Secretary of Transportation shall require
9 each railroad carrier to—

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

13 “(A) malfunctions of signals, crossing
14 gates, and other devices to promote safety at
15 the grade crossing of railroad tracks on those
16 rights-of-way and public or private roads;

17 “(B) disabled vehicles blocking railroad
18 tracks at such grade crossings;

19 “(C) obstructions to the view of a pedes-
20 trian or a vehicle operator for a reasonable dis-
21 tance in either direction of a train’s approach;
22 or

23 “(D) other safety information involving
24 such grade crossings;

25 “(2) upon receiving a report pursuant to para-
26 graph (1)(A) or (B), immediately contact trains op-

1 erating near the grade crossing to warn them of the
2 malfunction or disabled vehicle;

3 “(3) upon receiving a report pursuant to para-
4 graph (1)(A) or (B), and after contacting trains
5 pursuant to paragraph (2), contact, as necessary,
6 appropriate public safety officials having jurisdiction
7 over the grade crossing to provide them with the in-
8 formation necessary for them to direct traffic, assist
9 in the removal of the disabled vehicle, or carry out
10 other activities as appropriate;

11 “(4) upon receiving a report pursuant to para-
12 graph (1)(C) or (D), timely investigate the report,
13 remove the obstruction if possible, or correct the un-
14 safe circumstance; and

15 “(5) ensure the placement at each grade cross-
16 ing on rights-of-way that it owns of appropriately lo-
17 cated signs, on which shall appear, at a minimum—

18 “(A) a toll-free telephone number to be
19 used for placing calls described in paragraph
20 (1) to the railroad carrier dispatching trains on
21 that right-of-way;

22 “(B) an explanation of the purpose of that
23 toll-free telephone number; and

24 “(C) the grade crossing number assigned
25 for that crossing by the National Highway-Rail

1 Crossing Inventory established by the Depart-
2 ment of Transportation.

3 “(b) WAIVER.—The Secretary may waive the require-
4 ment that the telephone service be toll-free for Class II
5 and Class III rail carriers if the Secretary determines that
6 toll-free service would be cost prohibitive or unnecessary.”.

7 (b) CONFORMING AMENDMENT.—The chapter anal-
8 ysis for chapter 201 is amended by striking the item relat-
9 ing to section 20152 and inserting the following:

“20152. Notification of grade crossing problems.”.

10 **SEC. 206. OPERATION LIFESAVER.**

11 (a) GRANT.—The Federal Railroad Administration
12 shall make a grant or grants to Operation Lifesaver to
13 carry out a public information and education program to
14 help prevent and reduce pedestrian, motor vehicle, and
15 other accidents, incidents, injuries, and fatalities, and to
16 improve awareness along railroad rights-of-way and at
17 highway-rail grade crossings. The program shall include,
18 as appropriate, development, placement, and dissemina-
19 tion of Public Service Announcements in newspaper, radio,
20 television, and other media. The program shall also in-
21 clude, as appropriate, school presentations, brochures and
22 materials, support for public awareness campaigns, and
23 related support for the activities of Operation Lifesaver’s
24 member organizations. As part of an educational program
25 funded by grants awarded under this section, Operation

1 Lifesaver shall provide information to the public on how
2 to identify and report to the appropriate authorities un-
3 safe or malfunctioning highway-rail grade crossings.

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

18 (c) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated to the Federal Railroad
20 Administration for carrying out this section—

21 (1) \$2,000,000 for each of fiscal years 2010
22 and 2011; and

23 (2) \$1,500,000 for each of fiscal years 2012
24 and 2013.

1 **SEC. 207. FEDERAL GRANTS TO STATES FOR HIGHWAY-RAIL**
2 **GRADE CROSSING SAFETY.**

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

5 **“CHAPTER 225—FEDERAL GRANTS TO**
6 **STATES FOR HIGHWAY-RAIL GRADE**
7 **CROSSING SAFETY**

“Sec.

“22501. Financial assistance to States for certain projects.

“22502. Distribution.

“22503. Standards for awarding grants.

“22504. Use of funds.

“22505. Authorization of appropriations.

8 **“§ 22501. Financial assistance to States for certain**
9 **projects**

10 “The Secretary of Transportation shall make
11 grants—

12 “(1) to a maximum of 3 States per year for de-
13 velopment or continuance of enhanced public edu-
14 cation and awareness activities, in combination with
15 targeted law enforcement, to significantly reduce vio-
16 lations of traffic laws at highway-rail grade crossings
17 and to help prevent and reduce injuries and fatali-
18 ties along railroad rights-of-way; and

19 “(2) to provide for priority highway-rail grade
20 crossing safety improvements, including the installa-
21 tion, repair, or improvement of—

1 “(A) railroad crossing signals, gates, and
2 related technologies, including median barriers
3 and four quadrant gates;

4 “(B) highway traffic signalization, includ-
5 ing highway signals tied to railroad signal sys-
6 tems;

7 “(C) highway lighting and crossing ap-
8 proach signage;

9 “(D) roadway improvements, including
10 railroad crossing panels and surfaces; and

11 “(E) related work to mitigate dangerous
12 conditions.

13 **“§ 22502. Distribution**

14 “The Secretary shall provide the grants to the State
15 agency or agencies responsible for highway-rail grade
16 crossing safety.

17 **“§ 22503. Standards for awarding grants**

18 “(a) SECTION 22501(1) GRANTS.—The Secretary
19 shall provide grants under section 22501(1) based upon
20 the merits of the proposed program of activities provided
21 by the State and upon a determination of where the grants
22 will provide the greatest safety benefits. The Secretary
23 may give priority to States that have developed and imple-
24 mented a State grade crossing action plan, as described

1 under section 202 of the Rail Safety Improvement Act of
2 2008.

3 “(b) SECTION 22501(2) GRANTS.—The Secretary
4 shall provide grants to State and local governments under
5 section 22501(2) to provide priority grade crossing safety
6 improvements on an expedited basis at a location where
7 there has been a highway-rail grade crossing collision
8 within the previous two years involving major loss of life
9 or multiple serious bodily injuries.

10 **“§ 22504. Use of funds**

11 “(a) IN GENERAL.—Any State receiving a grant
12 under section 22501(1) shall use the funds to develop, im-
13 plement, and continue to measure the effectiveness of a
14 dedicated program of public education and enforcement of
15 highway-rail crossing safety laws and to prevent casualties
16 along railroad rights-of-way. The Secretary may not make
17 a grant under this chapter available to assist a State or
18 political subdivision thereof in establishing or continuing
19 a quiet zone pursuant to part 222 of title 49, Code of
20 Federal Regulations.

21 “(b) MAXIMUM GRANT AMOUNT UNDER SECTION
22 22501(2).—No grant awarded under section 22501(2)
23 may exceed \$250,000.

1 **“§ 22505. Authorization of appropriations**

2 “There are authorized to be appropriated to the Sec-
3 retary \$1,500,000 for each of fiscal years 2010 through
4 2013 to carry out the provisions of section 22501(1) of
5 this chapter. There are authorized to be appropriated to
6 the Secretary \$1,500,000 for each of fiscal years 2010
7 through 2013 to carry out the provisions of section
8 22501(2) of this chapter. Amounts appropriated pursuant
9 to this section shall remain available until expended.”.

10 (b) CONFORMING AMENDMENT.—The subtitle anal-
11 ysis for subtitle V is amended by inserting after the item
12 relating to chapter 223 the following:

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

13 **SEC. 208. TRESPASSER PREVENTION AND HIGHWAY-RAIL**
14 **GRADE CROSSING SAFETY.**

15 (a) TRESPASSER PREVENTION AND HIGHWAY-RAIL
16 GRADE CROSSING WARNING SIGN VIOLATIONS.—Section
17 20151 is amended—

18 (1) by striking the section heading and insert-
19 ing the following:

20 **“§ 20151. Railroad trespassing, vandalism, and high-**
21 **way-rail grade crossing warning sign vio-**
22 **lation prevention strategy”;**

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

1 “(a) EVALUATION OF EXISTING LAWS.—In consulta-
2 tion with affected parties, the Secretary of Transportation
3 shall evaluate and review current local, State, and Federal
4 laws regarding trespassing on railroad property, van-
5 dalism affecting railroad safety, and violations of highway-
6 rail grade crossing signs, signals, markings, or other warn-
7 ing devices and develop model prevention strategies and
8 enforcement laws to be used for the consideration of State
9 and local legislatures and governmental entities. The first
10 such evaluation and review shall be completed within 1
11 year after the date of enactment of the Rail Safety Im-
12 provement Act of 2008. The Secretary shall revise the
13 model prevention strategies and enforcement codes peri-
14 odically.”;

15 (3) by inserting “FOR TRESPASSING AND VAN-
16 DALISM PREVENTION” in the subsection heading of
17 subsection (b) after “OUTREACH PROGRAM”;

18 (4) in subsection (c)—

19 (A) by redesignating paragraphs (1) and
20 (2) as subparagraphs (A) and (B), respectively;

21 (B) by inserting “(1)” after “MODEL LEG-
22 ISLATION.—”; and

23 (C) by adding at the end the following new
24 paragraph:

1 “(2) Not later than 18 months after the date of en-
2 actment of the Rail Safety Improvement Act of 2008, the
3 Secretary, after consultation with State and local govern-
4 ments and railroad carriers, shall develop and make avail-
5 able to State and local governments model State legisla-
6 tion providing for civil or criminal penalties, or both, for
7 violations of highway-rail grade crossing signs, signals,
8 markings, or other warning devices.”; and

9 (5) by adding at the end the following new sub-
10 section:

11 “(d) DEFINITION.—In this section, the term ‘viola-
12 tion of highway-rail grade crossing signs, signals, mark-
13 ings, or other warning devices’ includes any action by a
14 motorist, unless directed by an authorized safety officer—

15 “(1) to drive around a grade crossing gate in
16 a position intended to block passage over railroad
17 tracks;

18 “(2) to drive through a flashing grade crossing
19 signal;

20 “(3) to drive through a grade crossing with pas-
21 sive warning signs without ensuring that the grade
22 crossing could be safely crossed before any train ar-
23 rived; and

1 “(4) in the vicinity of a grade crossing, who
2 creates a hazard of an accident involving injury or
3 property damage at the grade crossing.”.

4 (b) CONFORMING AMENDMENT.—The chapter anal-
5 ysis for chapter 201 is amended by striking the item relat-
6 ing to section 20151 and inserting the following:

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

7 (c) EDUCATIONAL OR AWARENESS PROGRAM ITEMS
8 FOR DISTRIBUTION.—Section 20134(a) is amended by
9 adding at the end the following: “The Secretary may pur-
10 chase items of nominal value and distribute them to the
11 public without charge as part of an educational or aware-
12 ness program to accomplish the purposes of this section
13 and of any other sections of this title related to improving
14 the safety of highway-rail crossings and to preventing tres-
15 pass on railroad rights of way, and the Secretary shall
16 prescribe guidelines for the administration of this author-
17 ity.”.

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

19 The Federal Railroad Administration shall conduct
20 an audit of each Class I railroad at least once every 2
21 years and conduct an audit of each non-Class I railroad
22 at least once every 5 years to ensure that all grade cross-
23 ing collisions and fatalities are reported to any Federal
24 national accident database.

1 **SEC. 210. FOSTERING INTRODUCTION OF NEW TECH-**
2 **NOLOGY TO IMPROVE SAFETY AT HIGHWAY-**
3 **RAIL GRADE CROSSINGS.**

4 (a) AMENDMENT.—Subchapter II of chapter 201, as
5 amended by section 204 of this division, is further amend-
6 ed by adding at the end the following:

7 **“§ 20161. Fostering introduction of new technology to**
8 **improve safety at highway-rail grade**
9 **crossings**

10 “(a) FINDINGS.—

11 “(1) Collisions between highway users and
12 trains at highway-rail grade crossings continue to
13 cause an unacceptable loss of life, serious personal
14 injury, and property damage.

15 “(2) While elimination of at-grade crossings
16 through consolidation of crossings and grade separa-
17 tions offers the greatest long-term promise for opti-
18 mizing the safety and efficiency of the two modes of
19 transportation, over 140,000 public grade crossings
20 remain on the general rail system—approximately
21 one for each route mile on the general rail system.

22 “(3) Conventional highway traffic control de-
23 vices such as flashing lights and gates are often ef-
24 fective in warning motorists of a train’s approach to
25 an equipped crossing.

1 “(4) Since enactment of the Highway Safety
2 Act of 1973, over \$4,200,000,000 of Federal fund-
3 ing has been invested in safety improvements at
4 highway-rail grade crossings, yet a majority of pub-
5 lic highway-rail grade crossings are not yet equipped
6 with active warning systems.

7 “(5) The emergence of new technologies pre-
8 sents opportunities for more effective and affordable
9 warnings and safer passage of highway users and
10 trains at remaining highway-rail grade crossings.

11 “(6) Implementation of new crossing safety
12 technology will require extensive cooperation between
13 highway authorities and railroad carriers.

14 “(7) Federal Railroad Administration regula-
15 tions establishing performance standards for proc-
16 essor-based signal and train control systems provide
17 a suitable framework for qualification of new or
18 novel technology at highway-rail grade crossings,
19 and the Federal Highway Administration’s Manual
20 on Uniform Traffic Control Devices provides an ap-
21 propriate means of determining highway user inter-
22 face with such new technology.

23 “(b) POLICY.—It is the policy of the United States
24 to encourage the development of new technology that can
25 prevent loss of life and injuries at highway-rail grade

1 crossings. The Secretary of Transportation is designated
2 to carry out this policy in consultation with States and
3 necessary public and private entities.

4 “(c) SUBMISSION OF NEW TECHNOLOGY PRO-
5 POSALS.—Railroad carriers and railroad suppliers may
6 submit for review and approval to the Secretary such new
7 technology designed to improve safety at highway-rail
8 grade crossings. The Secretary shall approve by order the
9 new technology designed to improve safety at highway-rail
10 grade crossings in accordance with Federal Railroad Ad-
11 ministration standards for the development and use of
12 processor-based signal and train control systems and shall
13 consider the effects on safety of highway-user interface
14 with the new technology.

15 “(d) EFFECT OF SECRETARIAL APPROVAL.—If the
16 Secretary approves by order new technology to provide
17 warning to highway users at a highway-rail grade crossing
18 and such technology is installed at a highway-rail grade
19 crossing in accordance with the conditions of the approval,
20 this determination preempts any State statute or regula-
21 tion concerning the adequacy of the technology in pro-
22 viding warning at the crossing.”.

23 (b) CONFORMING AMENDMENT.—The chapter anal-
24 ysis for chapter 201, as amended by section 204 of this

1 division, is further amended by inserting after the item
2 relating to section 20160, the following:

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

3 **TITLE III—FEDERAL RAILROAD**
4 **ADMINISTRATION**

5 **SEC. 301. HUMAN CAPITAL INCREASES.**

6 (a) IN GENERAL.—The Secretary shall increase the
7 number of Federal Railroad Administration employees
8 by—

- 9 (1) 50 employees in fiscal year 2009;
10 (2) 50 employees in fiscal year 2010;
11 (3) 50 employees in fiscal year 2011;
12 (4) 25 employees in fiscal year 2012; and
13 (5) 25 employees in fiscal year 2013.

14 (b) FUNCTIONS.—In increasing the number of em-
15 ployees pursuant to subsection (a), the Secretary shall
16 focus on hiring employees—

- 17 (1) specifically trained to conduct on-site rail-
18 road and highway-rail grade crossing accident inves-
19 tigation;
20 (2) to implement the Railroad Safety Strategy;
21 (3) to administer and implement section 20156
22 of title 49, United States Code, relating to the Rail-
23 road Safety Risk Reduction Program;

1 (4) to conduct routine inspections and audits of
2 railroad and hazardous materials facilities and
3 records for compliance with railroad safety laws and
4 regulations;

5 (5) to inspect railroad bridges, tunnels, and re-
6 lated infrastructure, and to review or analyze rail-
7 road bridge, tunnel, and related infrastructure in-
8 spection reports;

9 (6) to prevent or respond to natural or man-
10 made emergency situations or events involving rail
11 infrastructure or employees;

12 (7) to implement section 20157 of title 49,
13 United States Code, relating to positive train control
14 systems;

15 (8) to implement section 20164 of title 49,
16 United States Code, relating to the development and
17 use of rail safety technology; and

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

20 **SEC. 302. CIVIL PENALTY INCREASES.**

21 (a) GENERAL VIOLATIONS OF CHAPTER 201.—Sec-
22 tion 21301(a)(2) is amended—

23 (1) by striking “\$10,000.” and inserting
24 “\$25,000.”; and

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

3 (b) ACCIDENT AND INCIDENT VIOLATIONS OF CHAP-
4 TER 201; VIOLATIONS OF CHAPTERS 203 THROUGH
5 209.—Section 21302(a)(2) is amended—

6 (1) by striking “\$10,000.” and inserting
7 “\$25,000.”; and

8 (2) by striking “\$20,000.” and inserting
9 “\$100,000.”.

10 (c) VIOLATIONS OF CHAPTER 211.—Section
11 21303(a)(2) is amended—

12 (1) by striking “\$10,000.” and inserting
13 “\$25,000.”; and

14 (2) by striking “\$20,000.” and inserting
15 “\$100,000.”.

16 **SEC. 303. ENFORCEMENT REPORT.**

17 (a) IN GENERAL.—Subchapter I of chapter 201, as
18 amended by section 109 of this division, is amended by
19 adding at the end the following:

20 **“§ 20120. Enforcement report**

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

1 “(1) provides a summary of railroad safety and
2 hazardous materials compliance inspections and au-
3 dits that Federal or State inspectors conducted in
4 the prior fiscal year organized by type of alleged vio-
5 lation, including track, motive power and equipment,
6 signal, grade crossing, operating practices, accident
7 and incidence reporting, and hazardous materials;

8 “(2) provides a summary of all enforcement ac-
9 tions taken by the Secretary or the Federal Railroad
10 Administration during the prior fiscal year, includ-
11 ing—

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

13 “(B) the initial amount of civil penalties
14 assessed;

15 “(C) the number of civil penalty cases set-
16 tled;

17 “(D) the final amount of civil penalties as-
18 sessed;

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

21 “(F) the number of administrative hear-
22 ings requested and completed related to haz-
23 ardous materials transportation law violations
24 or enforcement actions against individuals;

1 “(G) the number of cases referred to the
2 Attorney General for civil or criminal prosecu-
3 tion;

4 “(H) the number and subject matter of all
5 compliance orders, emergency orders, or pre-
6 cursor agreements;

7 “(3) analyzes the effect of the number of in-
8 spections conducted and enforcement actions taken
9 on the number and rate of reported accidents and
10 incidents and railroad safety;

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

13 “(A) for each Class I railroad individually;

14 and

15 “(B) in the aggregate for—

16 “(i) Class II railroads;

17 “(ii) Class III railroads;

18 “(iii) hazardous materials shippers;

19 and

20 “(iv) individuals;

21 “(5) identifies the number of locomotive engi-
22 neer certification denial or revocation cases appealed
23 to and the average length of time it took to be de-
24 cided by—

1 “(A) the Locomotive Engineer Review
2 Board;

3 “(B) an Administrative Hearing Officer or
4 Administrative Law Judge; or

5 “(C) the Administrator of the Federal
6 Railroad Administration;

7 “(6) provides an explanation regarding any
8 changes in the Secretary’s or the Federal Railroad
9 Administration’s enforcement programs or policies
10 that may substantially affect the information re-
11 ported; and

12 “(7) includes any additional information that
13 the Secretary determines is useful to improve the
14 transparency of its enforcement program.”.

15 (b) CONFORMING AMENDMENT.—The chapter anal-
16 ysis for chapter 201, as amended by section 109 of this
17 division, is amended by inserting after the item relating
18 to section 20119 the following:

 “20120. Enforcement report.”.

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

20 Section 20104(a)(1) is amended by striking “death
21 or personal injury” and inserting “death, personal injury,
22 or significant harm to the environment”.

1 **SEC. 305. PROHIBITION OF INDIVIDUALS FROM PER-**
2 **FORMING SAFETY-SENSITIVE FUNCTIONS**
3 **FOR A VIOLATION OF HAZARDOUS MATE-**
4 **RIALS TRANSPORTATION LAW.**

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

6 “(c) ORDERS PROHIBITING INDIVIDUALS FROM PER-
7 FORMING SAFETY-SENSITIVE FUNCTIONS.—

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

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

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

23 Section 20107 is amended by inserting at the end the
24 following:

25 “(c) RAILROAD RADIO COMMUNICATIONS.—

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

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

13 “(i) authorized for use by one or more
14 railroad carriers by the Federal Commu-
15 nications Commission; and

16 “(ii) primarily used by such railroad
17 carriers for communications in connection
18 with railroad operations.

19 “(B) Communicating the existence, con-
20 tents, substance, purport, effect, or meaning of
21 the communication, subject to the restrictions
22 in paragraph (3).

23 “(C) Receiving or assisting in receiving the
24 communication (or any information therein con-
25 tained).

1 “(D) Disclosing the contents, substance,
2 purport, effect, or meaning of the communica-
3 tion (or any part thereof of such communica-
4 tion) or using the communication (or any infor-
5 mation contained therein), subject to the re-
6 strictions in paragraph (3), after having re-
7 ceived the communication or acquired knowl-
8 edge of the contents, substance, purport, effect,
9 or meaning of the communication (or any part
10 thereof).

11 “(E) Recording the communication by any
12 means, including writing and tape recording.

13 “(2) ACCIDENT AND INCIDENT PREVENTION
14 AND INVESTIGATION.—The Secretary, and officers,
15 employees, and agents of the Department of Trans-
16 portation authorized by the Secretary, may engage
17 in the activities authorized by paragraph (1) for the
18 purpose of accident and incident prevention and in-
19 vestigation.

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

24 “(i) in a prosecution of a felony under
25 Federal or State criminal law; or

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

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

19 “(C) No evidence shall be excluded in an ad-
20 ministrative or judicial proceeding solely because the
21 government would not have learned of the existence
22 of or obtained such evidence but for the interception
23 of information that is not admissible in such pro-
24 ceeding under subparagraph (A).

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

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

11 “(4) APPLICATION WITH OTHER LAW.—Section
12 705 of the Communications Act of 1934 (47 U.S.C.
13 605) and chapter 119 of title 18 shall not apply to
14 conduct authorized by and pursuant to this sub-
15 section.”.

16 **SEC. 307. UPDATE OF FEDERAL RAILROAD ADMINISTRA-**
17 **TION’S WEBSITE.**

18 (a) IN GENERAL.—The Secretary shall update the
19 Federal Railroad Administration’s public website to better
20 facilitate the ability of the public, including those individ-
21 uals who are not regular users of the public website, to
22 find current information regarding the Federal Railroad
23 Administration’s activities.

24 (b) PUBLIC REPORTING OF VIOLATIONS.—On the
25 Federal Railroad Administration’s public website’s home

1 page, the Secretary shall provide a mechanism for the pub-
2 lie to submit written reports of potential violations of Fed-
3 eral railroad safety and hazardous materials transpor-
4 tation laws, regulations, and orders to the Federal Rail-
5 road Administration.

6 **SEC. 308. EMERGENCY WAIVERS.**

7 Section 20103 is amended—

8 (1) by striking “WAIVERS.—” in subsection (d)
9 and inserting “NONEMERGENCY WAIVERS.—”;

10 (2) by striking subsection (e) and inserting the
11 following:

12 “(e) HEARINGS.—The Secretary shall conduct a
13 hearing as provided by section 553 of title 5 when pre-
14 scribing a regulation or issuing an order under this part,
15 including a regulation or order establishing, amending, or
16 providing a waiver, described in subsection (d), of compli-
17 ance with a railroad safety regulation prescribed or order
18 issued under this part. An opportunity for an oral presen-
19 tation shall be provided.”; and

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

21 “(g) EMERGENCY WAIVERS.—

22 “(1) IN GENERAL.—The Secretary may waive
23 compliance with any part of a regulation prescribed
24 or order issued under this part without prior notice
25 and comment if the Secretary determines that—

1 “(A) it is in the public interest to grant
2 the waiver;

3 “(B) the waiver is not inconsistent with
4 railroad safety; and

5 “(C) the waiver is necessary to address an
6 actual or impending emergency situation or
7 emergency event.

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

16 “(3) STATEMENT OF REASONS.—The Secretary
17 shall state in the decision issued under this sub-
18 section the reasons for granting the waiver.

19 “(4) CONSULTATION.—In granting a waiver
20 under this subsection, the Secretary shall consult
21 and coordinate with other Federal agencies, as ap-
22 propriate, for matters that may impact such agen-
23 cies.

24 “(5) EMERGENCY SITUATION; EMERGENCY
25 EVENT.—In this subsection, the terms ‘emergency

1 situation' and 'emergency event' mean a natural or
2 manmade disaster, such as a hurricane, flood, earth-
3 quake, mudslide, forest fire, snowstorm, terrorist
4 act, biological outbreak, release of a dangerous radi-
5 ological, chemical, explosive, or biological material,
6 or a war-related activity, that poses a risk of death,
7 serious illness, severe injury, or substantial property
8 damage. The disaster may be local, regional, or na-
9 tional in scope.”.

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

11 Section 20112(a) is amended—

12 (1) by inserting “this part, except for section
13 20109 of this title, or” in paragraph (1) after “en-
14 force,”;

15 (2) by striking “21301” in paragraph (2) and
16 inserting “21301, 21302, or 21303”;

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

21 (4) by striking “chapter.” in paragraph (3) and
22 inserting “part.”.

23 **SEC. 310. CRIMINAL PENALTIES.**

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

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

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

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

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

12 **“§ 20162. Minimum training standards and plans**

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

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

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

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

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

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

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

3 “(c) EXEMPTION.—The Secretary may exempt rail-
4 road carriers and railroad carrier contractors and sub-
5 contractors from submitting training plans for which the
6 Secretary has issued training regulations before the date
7 of enactment of the Rail Safety Improvement Act of
8 2008.”.

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

“20162. Minimum training standards and plans.”.

13 **SEC. 402. CERTIFICATION OF CERTAIN CRAFTS OR CLASS-**
14 **ES OF EMPLOYEES.**

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

18 **“§ 20163. Certification of train conductors**

19 “(a) REGULATIONS.—Not later than 18 months after
20 the date of enactment of the Rail Safety Improvement Act
21 of 2008, the Secretary of Transportation shall prescribe
22 regulations to establish a program requiring the certifi-
23 cation of train conductors. In prescribing such regulations,
24 the Secretary shall require that train conductors be

1 trained, in accordance with the training standards devel-
2 oped pursuant to section 20162.

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

7 (b) REPORT.—Not later than 6 months after promul-
8 gating regulations under section 20162 of title 49, United
9 States Code, the Secretary shall issue a report to the Sen-
10 ate Committee on Commerce, Science, and Transportation
11 and the House of Representatives Committee on Trans-
12 portation and Infrastructure about whether the certifi-
13 cation of certain crafts or classes of railroad carrier or
14 railroad carrier contractor or subcontractor employees is
15 necessary to reduce the number and rate of accidents and
16 incidents or to improve railroad safety.

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

- 19 (1) car repair and maintenance employees;
- 20 (2) onboard service workers;
- 21 (3) rail welders;
- 22 (4) dispatchers;
- 23 (5) signal repair and maintenance employees;
- 24 and

1 (6) any other craft or class of employees that
2 the Secretary determines appropriate.

3 (d) REGULATIONS.—The Secretary may prescribe
4 regulations requiring the certification of certain crafts or
5 classes of employees that the Secretary determines pursu-
6 ant to the report required by paragraph (1) are necessary
7 to reduce the number and rate of accidents and incidents
8 or to improve railroad safety.

9 (e) CONFORMING AMENDMENT.—The chapter anal-
10 ysis for chapter 201, as amended by section 401 of this
11 division, is amended by inserting after the item relating
12 to section 20162 the following:

“20163. Certification of train conductors.”.

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

14 (a) STUDY.—Not later than 2 years after the date
15 of enactment of this Act, the Secretary shall transmit to
16 the Committee on Transportation and Infrastructure of
17 the House of Representatives and the Committee on Com-
18 merce, Science, and Transportation of the Senate a report
19 containing the results of a study to determine whether—

20 (1) the required intervals of track inspections
21 for each class of track should be amended;

22 (2) track remedial action requirements should
23 be amended;

24 (3) different track inspection and repair prior-
25 ities or methods should be required; and

1 (4) the speed at which railroad track inspection
2 vehicles operate and the scope of the territory they
3 generally cover allow for proper inspection of the
4 track and whether such speed and appropriate scope
5 should be regulated by the Secretary.

6 (b) CONSIDERATIONS.—In conducting the study the
7 Secretary shall consider—

8 (1) the most current rail flaw, rail defect
9 growth, rail fatigue, and other relevant track- or
10 rail-related research and studies;

11 (2) the availability and feasibility of developing
12 and implementing new or novel rail inspection tech-
13 nology for routine track inspections;

14 (3) information from National Transportation
15 Safety Board or Federal Railroad Administration
16 accident investigations where track defects were the
17 cause or a contributing cause; and

18 (4) other relevant information, as determined
19 by the Secretary.

20 (c) UPDATE OF REGULATIONS.—Not later than 2
21 years after the completion of the study required by sub-
22 section (a), the Secretary shall prescribe regulations based
23 on the results of the study conducted under subsection (a).

24 (d) CONCRETE CROSS TIES.—Not later than 18
25 months after the date of enactment of this Act, the Sec-

1 retary shall promulgate regulations for concrete cross ties.

2 In developing the regulations for class 1 through 5 track,

3 the Secretary may address, as appropriate—

4 (1) limits for rail seat abrasion;

5 (2) concrete cross tie pad wear limits;

6 (3) missing or broken rail fasteners;

7 (4) loss of appropriate toeload pressure;

8 (5) improper fastener configurations; and

9 (6) excessive lateral rail movement.

10 **SEC. 404. STUDY OF METHODS TO IMPROVE OR CORRECT**
11 **STATION PLATFORM GAPS.**

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

22 **SEC. 405. LOCOMOTIVE CAB STUDIES.**

23 (a) IN GENERAL.—Not later than 1 year after the
24 date of enactment of this Act, the Secretary, through the
25 Railroad Safety Advisory Committee if the Secretary

1 makes such a request, shall complete a study on the safety
2 impact of the use of personal electronic devices, including
3 cell phones, video games, and other distracting devices, by
4 safety-related railroad employees (as defined in section
5 20102(4) of title 49, United States Code), during the per-
6 formance of such employees' duties. The study shall con-
7 sider the prevalence of the use of such devices.

8 (b) LOCOMOTIVE CAB ENVIRONMENT.—The Sec-
9 retary may also study other elements of the locomotive cab
10 environment and their effect on an employee's health and
11 safety.

12 (c) REPORT.—Not later than 6 months after the com-
13 pletion of any study under this section, the Secretary shall
14 issue a report on the study to the Senate Committee on
15 Commerce, Science, and Transportation and the House of
16 Representatives Committee on Transportation and Infra-
17 structure.

18 (d) AUTHORITY.—Based on the conclusions of the
19 study required under (a), the Secretary of Transportation
20 may prohibit the use of personal electronic devices, such
21 as cell phones, video games, or other electronic devices
22 that may distract employees from safely performing their
23 duties, unless those devices are being used according to
24 railroad operating rules or for other work purposes. Based
25 on the conclusions of other studies conducted under sub-

1 section (b), the Secretary may prescribe regulations to im-
2 prove elements of the cab environment to protect an em-
3 ployee's health and safety.

4 **SEC. 406. DEVELOPMENT AND USE OF RAIL SAFETY TECH-**
5 **NOLOGY.**

6 (a) IN GENERAL.—Subchapter II of chapter 201, as
7 amended by section 402 of this division, is further amend-
8 ed by adding at the end the following new section:

9 **“§ 20164. Development and use of rail safety tech-**
10 **nology**

11 “(a) IN GENERAL.—Not later than 1 year after en-
12 actment of the Railroad Safety Enhancement Act of 2008,
13 the Secretary of Transportation shall prescribe standards,
14 guidance, regulations, or orders governing the develop-
15 ment, use, and implementation of rail safety technology
16 in dark territory, in arrangements not defined in section
17 20501 or otherwise not covered by Federal standards,
18 guidance, regulations, or orders that ensure the safe oper-
19 ation of such technology, such as—

20 “(1) switch position monitoring devices or indi-
21 cators;

22 “(2) radio, remote control, or other power-as-
23 sisted switches;

24 “(3) hot box, high water, or earthquake detec-
25 tors;

1 “(4) remote control locomotive zone limiting de-
2 vices;

3 “(5) slide fences;

4 “(6) grade crossing video monitors;

5 “(7) track integrity warning systems; or

6 “(8) other similar rail safety technologies, as
7 determined by the Secretary.

8 “(b) DARK TERRITORY DEFINED.—In this section,
9 the term ‘dark territory’ means any territory in a railroad
10 system that does not have a signal or train control system
11 installed or operational.”.

12 (b) CONFORMING AMENDMENT.—The chapter anal-
13 ysis for chapter 201, as amended by section 402 of this
14 division, is amended by inserting after the item relating
15 to section 20163 the following:

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

16 **SEC. 407. UNIFIED TREATMENT OF FAMILIES OF RAILROAD**
17 **CARRIERS.**

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

20 “(3) ‘railroad carrier’ means a person providing
21 railroad transportation, except that, upon petition by
22 a group of commonly controlled railroad carriers
23 that the Secretary determines is operating within the
24 United States as a single, integrated rail system, the
25 Secretary may by order treat the group of railroad

1 carriers as a single railroad carrier for purposes of
2 one or more provisions of part A, subtitle V of this
3 title and implementing regulations and order, sub-
4 ject to any appropriate conditions that the Secretary
5 may impose.”.

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

7 Not later than 1 year after the date of enactment
8 of this Act, the Secretary shall complete a study of the
9 impacts of repealing section 711 of the Regional Rail Re-
10 organization Act of 1973 (45 U.S.C. 797j). Not later than
11 6 months after completing the study, the Secretary shall
12 transmit a report with the Secretary’s findings, conclu-
13 sions, and recommendations to the Senate Committee on
14 Commerce, Science, and Transportation and the House of
15 Representatives Committee on Transportation and Infra-
16 structure.

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

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

22 **“§ 20165. Limitations on non-Federal alcohol and**
23 **drug testing**

24 “(a) TESTING REQUIREMENTS.—Any non-Federal
25 alcohol and drug testing program of a railroad carrier

1 must provide that all post-employment tests of the speci-
2 mens of employees who are subject to both the program
3 and chapter 211 of this title be conducted using a scientif-
4 ically recognized method of testing capable of determining
5 the presence of the specific analyte at a level above the
6 cut-off level established by the carrier.

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

20 (b) CONFORMING AMENDMENT.—The chapter anal-
21 ysis for chapter 201, as amended by section 406 of this
22 division, is further amended by inserting after the item
23 relating to section 20164 the following:

“20165. Limitations on non-Federal alcohol and drug testing by railroad car-
riers.”.

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

2 (a) IN GENERAL.—The Secretary of Transportation,
3 in consultation with the Secretary of Labor and the Sec-
4 retary of Health and Human Services, as appropriate,
5 shall require each Class I railroad carrier, each intercity
6 passenger railroad carrier, and each commuter railroad
7 carrier to develop and submit for approval to the Secretary
8 a critical incident stress plan that provides for debriefing,
9 counseling, guidance, and other appropriate support serv-
10 ices to be offered to an employee affected by a critical inci-
11 dent.

12 (b) PLAN REQUIREMENTS.—Each such plan shall in-
13 clude provisions for—

14 (1) relieving an employee who was involved in
15 a critical incident of his or her duties for the balance
16 of the duty tour, following any actions necessary for
17 the safety of persons and contemporaneous docu-
18 mentation of the incident;

19 (2) upon the employee's request, relieving an
20 employee who witnessed a critical incident of his or
21 her duties following any actions necessary for the
22 safety of persons and contemporaneous documenta-
23 tion of the incident; and

24 (3) providing such leave from normal duties as
25 may be necessary and reasonable to receive preven-

1 tive services, treatment, or both, related to the inci-
2 dent.

3 (c) SECRETARY TO DEFINE WHAT CONSTITUTES A
4 CRITICAL INCIDENT.—Within 30 days after the date of
5 enactment of this Act, the Secretary shall initiate a rule-
6 making proceeding to define the term “critical incident”
7 for the purposes of this section.

8 **SEC. 411. RAILROAD CARRIER EMPLOYEE EXPOSURE TO**
9 **RADIATION STUDY.**

10 (a) STUDY.—The Secretary of Transportation shall,
11 in consultation with the Secretary of Energy, the Sec-
12 retary of Labor, the Administrator of the Environmental
13 Protection Agency, and the Chairman of the Nuclear Reg-
14 ulatory Commission, as appropriate, conduct a study of
15 the potential hazards to which employees of railroad car-
16 riers and railroad contractors or subcontractors are ex-
17 posed during the transportation of high-level radioactive
18 waste and spent nuclear fuel (as defined in section
19 5101(a) of title 49, United States Code), supplementing
20 the report submitted under section 5101(b) of that title,
21 which may include—

22 (1) an analysis of the potential application of
23 “as low as reasonably achievable” principles for ex-
24 posure to radiation to such employees with an em-
25 phasis on the need for special protection from radi-

1 ation exposure for such employees during the first
2 trimester of pregnancy or who are undergoing or
3 have recently undergone radiation therapy;

4 (2) the feasibility of requiring real-time dosim-
5 etry monitoring for such employees;

6 (3) the feasibility of requiring routine radiation
7 exposure monitoring in fixed railroad locations, such
8 as yards and repair facilities; and

9 (4) a review of the effectiveness of the Depart-
10 ment's packaging requirements for radioactive mate-
11 rials.

12 (b) REPORT.—Not later than 18 months after the
13 date of enactment of this Act, the Secretary of Transpor-
14 tation shall transmit a report on the results of the study
15 required by subsection (a) and any recommendations to
16 further protect employees of a railroad carrier or of a con-
17 tractor or subcontractor to a railroad carrier from unsafe
18 exposure to radiation during the transportation of high-
19 level radioactive waste and spent nuclear fuel to the Sen-
20 ate Committee on Commerce, Science, and Transportation
21 and the House of Representatives Committee on Trans-
22 portation and Infrastructure.

23 (c) REGULATORY AUTHORITY.—The Secretary of
24 Transportation may issue regulations that the Secretary
25 determines appropriate, pursuant to the report required

1 by subsection (b), to protect railroad employees from un-
2 safe exposure to radiation during the transportation of ra-
3 dioactive materials.

4 **SEC. 412. ALCOHOL AND CONTROLLED SUBSTANCE TEST-**
5 **ING FOR MAINTENANCE-OF-WAY EMPLOYEES.**

6 Not later than 2 years following the date of enact-
7 ment of this Act, the Secretary of Transportation shall
8 complete a rulemaking proceeding to revise the regulations
9 prescribed under section 20140 of title 49, United States
10 Code, to cover all employees of railroad carriers and con-
11 tractors or subcontractors to railroad carriers who per-
12 form maintenance-of-way activities.

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

14 (a) AMENDMENT.—Subchapter II of chapter 201, as
15 amended by section 409 of this division, is further amend-
16 ed by adding at the end the following new section:

17 **“§ 20166. Emergency escape breathing apparatus**

18 “Not later than 18 months after the date of enact-
19 ment of the Rail Safety Improvement Act of 2008, the
20 Secretary of Transportation shall prescribe regulations
21 that require railroad carriers—

22 “(1) to provide emergency escape breathing ap-
23 paratus suitable to provide head and neck coverage
24 with respiratory protection for all crewmembers in
25 locomotive cabs on freight trains carrying hazardous

1 materials that would pose an inhalation hazard in
2 the event of release;

3 “(2) to provide convenient storage in each
4 freight train locomotive to enable crewmembers to
5 access such apparatus quickly;

6 “(3) to maintain such equipment in proper
7 working condition; and

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

10 (b) CONFORMING AMENDMENT.—The chapter anal-
11 ysis for chapter 201, as amended by section 409 of this
12 division, is amended by inserting after the item relating
13 to section 20165 the following:

“20166. Emergency escape breathing apparatus.”.

14 **SEC. 414. TUNNEL INFORMATION.**

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

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

20 (2) carry 5 or more scheduled passenger trains
21 per day, or 500 or more carloads of poison- or toxic-
22 by-inhalation hazardous materials (as defined in
23 parts 171.8, 173.115, and 173.132 of title 49, Code
24 of Federal Regulations) per year,

1 maintain, for at least two years, historical documentation
2 of structural inspection and maintenance activities for
3 such tunnels, including information on the methods of in-
4 gress and egress into and out of the tunnel, the types of
5 cargos typically transported through the tunnel, and sche-
6 matics or blueprints for the tunnel, when available. Upon
7 request, a railroad carrier shall provide periodic briefings
8 on such information to the governments of the local juris-
9 diction in which the tunnel is located, including updates
10 whenever a repair or rehabilitation project substantially
11 alters the methods of ingress and egress. Such govern-
12 ments shall use appropriate means to protect and restrict
13 the distribution of any security sensitive information (as
14 defined in part 1520.5 of title 49, Code of Federal Regula-
15 tions) provided by the railroad carrier under this section,
16 consistent with national security interests.

17 **SEC. 415. MUSEUM LOCOMOTIVE STUDY.**

18 (a) STUDY.—The Secretary shall conduct a study of
19 the requirements relating to safety inspections of diesel-
20 electric locomotives and equipment that are operated in
21 limited service by railroad-related museums, historical so-
22 cieties, and tourist or scenic railroads. The study shall in-
23 clude an analysis of the safety consequences of requiring
24 less frequent inspections of such locomotives and equip-

1 ment, including periodic inspections or inspections based
2 on service days and air brake inspections.

3 (b) REPORT.—Not later than 2 years after the date
4 of enactment of this Act, the Secretary shall transmit a
5 report on the results of the study conducted under sub-
6 section (a) to the Committee on Transportation and Infra-
7 structure of the House of Representatives and the Com-
8 mittee on Commerce, Science, and Transportation of the
9 Senate.

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

11 Mechanical and brake inspections of rail cars per-
12 formed in Mexico shall not be treated as satisfying United
13 States rail safety laws or regulations unless the Secretary
14 of Transportation certifies that—

15 (1) such inspections are being performed under
16 regulations and standards equivalent to those appli-
17 cable in the United States;

18 (2) the inspections are being performed by em-
19 ployees that have received training similar to the
20 training received by similar railroad employees in the
21 United States;

22 (3) inspection records that are required to be
23 available to the crewmembers on board the train, in-
24 cluding air slips and blue cards, are maintained in
25 both English and Spanish, and such records are

1 available to the Federal Railroad Administration for
2 review; and

3 (4) the Federal Railroad Administration is per-
4 mitted to perform onsite inspections for the purpose
5 of ensuring compliance with the requirements of this
6 subsection.

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

8 (a) IN GENERAL.—Not later than 12 months after
9 the date of enactment of this Act, the Secretary shall pro-
10 mulgate a regulation requiring owners of track carried on
11 one or more railroad bridges to adopt a bridge safety man-
12 agement program to prevent the deterioration of railroad
13 bridges and reduce the risk of human casualties, environ-
14 mental damage, and disruption to the Nation’s railroad
15 transportation system that would result from a cata-
16 strophic bridge failure.

17 (b) REQUIREMENTS.—The regulations shall, at a
18 minimum, require each track owner to—

19 (1) to develop and maintain an accurate inven-
20 tory of its railroad bridges, which shall identify the
21 location of each bridge, its configuration, type of
22 construction, number of spans, span lengths, and all
23 other information necessary to provide for the safe
24 management of the bridges;

1 (2) to ensure that a professional engineer com-
2 petent in the field of railroad bridge engineering, or
3 a qualified person under the supervision of the track
4 owner, determines bridge capacity;

5 (3) to maintain, and update as appropriate, a
6 record of the safe capacity of each bridge which car-
7 ries its track and, if available, maintain the original
8 design documents of each bridge and a documenta-
9 tion of all repairs, modifications, and inspections of
10 the bridge;

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

14 (5) to conduct regular comprehensive inspec-
15 tions of each bridge, at least once every year, and
16 maintain records of those inspections that include
17 the date on which the inspection was performed, the
18 precise identification of the bridge inspected, the
19 items inspected, an accurate description of the con-
20 dition of those items, and a narrative of any inspec-
21 tion item that is found by the inspector to be a po-
22 tential problem;

23 (6) to ensure that the level of detail and the in-
24 spection procedures are appropriate to the configu-
25 ration of the bridge, conditions found during pre-

1 various inspections, and the nature of the railroad
2 traffic moved over the bridge, including car weights,
3 train frequency and length, levels of passenger and
4 hazardous materials traffic, and vulnerability of the
5 bridge to damage;

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

8 (A) is responsible for the development of
9 all inspection procedures;

10 (B) reviews all inspection reports; and

11 (C) determines whether bridges are being
12 inspected according to the applicable procedures
13 and frequency, and reviews any items noted by
14 an inspector as exceptions; and

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

19 (c) USE OF BRIDGE MANAGEMENT PROGRAMS RE-
20 QUIRED.—The Secretary shall instruct bridge experts to
21 obtain copies of the most recent bridge management pro-
22 grams of each railroad within the expert's areas of respon-
23 sibility, and require that experts use those programs when
24 conducting bridge observations.

1 (d) REVIEW OF DATA.—The Secretary shall establish
2 a program to periodically review bridge inspection and
3 maintenance data from railroad carrier bridge inspectors
4 and Federal Railroad Administration bridge experts.

5 **SEC. 418. RAILROAD SAFETY INFRASTRUCTURE IMPROVE-**
6 **MENT GRANTS.**

7 (a) IN GENERAL.—Subchapter II of chapter 201, as
8 amended by section 413 of this division, is further amend-
9 ed by adding at the end thereof the following:

10 **“§ 20167. Railroad safety infrastructure improvement**
11 **grants**

12 “(a) GRANT PROGRAM.—The Secretary of Transpor-
13 tation shall establish a grant program for safety improve-
14 ments to railroad infrastructure, including the acquisition,
15 improvement, or rehabilitation of intermodal or rail equip-
16 ment or facilities, including track, bridges, tunnels, yards,
17 buildings, passenger stations, facilities, and maintenance
18 and repair shops.

19 “(b) ELIGIBILITY.—Grants shall be made under this
20 section to eligible passenger and freight railroad carriers,
21 and State and local governments for projects described in
22 subsection (a). Grants shall also be made available to as-
23 sist a State or political subdivision thereof in establishing
24 a quiet zone pursuant to part 222 of title 49, Code of
25 Federal Regulations.

1 “(c) CONSIDERATIONS.—In awarding grants, the
2 Secretary shall consider, at a minimum—

3 “(1) the age and condition of the rail infra-
4 structure of the applicant;

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

7 “(3) the volume of hazardous materials trans-
8 ported by the railroad;

9 “(4) the operation of passenger trains over the
10 railroad; and

11 “(5) whether the railroad carrier has submitted
12 a railroad safety risk reduction program, as required
13 by section 20156.

14 “(d) MATCHING REQUIREMENTS.—Federal funds for
15 any eligible project under this section shall not exceed 50
16 percent of the total cost of such project.

17 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated to the Secretary of
19 Transportation \$5,000,000 for each of fiscal years 2010
20 through 2013 to carry out this section. Amounts appro-
21 priated pursuant to this subsection shall remain available
22 until expended.”.

23 (b) CONFORMING AMENDMENT.—The chapter anal-
24 ysis for chapter 201, as amended by section 413 of this

1 division, is amended by inserting after the item relating
2 to section 20166 the following:

“20167. Railroad safety infrastructure improvement grants.”.

3 **SEC. 419. PROMPT MEDICAL ATTENTION.**

4 (a) IN GENERAL.—Section 20109 is amended—

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

7 (2) by inserting after subsection (b) the fol-
8 lowing:

9 “(c) PROMPT MEDICAL ATTENTION.—

10 “(1) PROHIBITION.—A railroad carrier or per-
11 son covered under this section may not deny, delay,
12 or interfere with the medical or first aid treatment
13 of an employee who is injured during the course of
14 employment. If transportation to a hospital is re-
15 quested by an employee who is injured during the
16 course of employment, the railroad shall promptly
17 arrange to have the injured employee transported to
18 the nearest hospital where the employee can receive
19 safe and appropriate medical care.

20 “(2) DISCIPLINE.—A railroad carrier or person
21 covered under this section may not discipline, or
22 threaten discipline to, an employee for requesting
23 medical or first aid treatment, or for following or-
24 ders or a treatment plan of a treating physician, ex-
25 cept that a railroad carrier’s refusal to permit an

1 employee to return to work following medical treat-
2 ment shall not be considered a violation of this sec-
3 tion if the refusal is pursuant to Federal Railroad
4 Administration medical standards for fitness of duty
5 or, if there are no pertinent Federal Railroad Ad-
6 ministration standards, a carrier's medical standards
7 for fitness for duty. For purposes of this paragraph,
8 the term 'discipline' means to bring charges against
9 a person in a disciplinary proceeding, suspend, ter-
10minate, place on probation, or make note of rep-
11rimand on an employee's record."

12 (b) CONFORMING AMENDMENTS.—Section 20109 is
13 amended—

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

16 (A) by striking "(a) or (b)" in paragraph
17 (1) and inserting "(a), (b), or (c)";

18 (B) by striking "(c)(1)" in paragraph
19 (2)(A)(i) and inserting "(d)(1)";

20 (C) by striking "(a) or (b)" in paragraph
21 (2)(A)(ii) and inserting "(a), (b), or (c)"; and
22 (2) in subsection (e), as so redesignated—

23 (A) by striking "(c)" in paragraph (1) and
24 inserting "(d)";

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

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

5 (D) by striking “(c)” in paragraph (3) and
6 inserting “(d)”.

7 **SEC. 420. EMPLOYEE SLEEPING QUARTERS.**

8 Section 21106 is amended—

9 (1) by inserting “(a) IN GENERAL.—” before
10 “A railroad carrier”;

11 (2) by striking “sanitary and give those employ-
12 ees and individuals an opportunity for rest free from
13 the interruptions caused by noise under the control
14 of the carrier;” in paragraph (1) and inserting “san-
15 itary, give those employees and individuals an oppor-
16 tunity for rest free from the interruptions caused by
17 noise under the control of the carrier, and provide
18 indoor toilet facilities, potable water, and other fea-
19 tures to protect the health of employees;”;

20 (3) by adding at the end the following:

21 “(b) CAMP CARS.—Not later than December 31,
22 2009, any railroad carrier that uses camp cars shall fully
23 retrofit or replace such cars in compliance with subsection
24 (a).

1 “(c) REGULATIONS.—Not later than April 1, 2010,
2 the Secretary of Transportation, in coordination with the
3 Secretary of Labor, shall prescribe regulations to imple-
4 ment subsection (a)(1) to protect the safety and health
5 of any employees and individuals employed to maintain the
6 right of way of a railroad carrier that uses camp cars,
7 which shall require that all camp cars comply with those
8 regulations by December 31, 2010. In prescribing the reg-
9 ulations, the Secretary shall assess the action taken by any
10 railroad carrier to fully retrofit or replace its camp cars
11 pursuant to this section.

12 “(d) COMPLIANCE AND ENFORCEMENT.—The Sec-
13 retary shall determine whether a railroad carrier has fully
14 retrofitted or replaced a camp car pursuant to subsection
15 (b) and shall prohibit the use of any non-compliant camp
16 car. The Secretary may assess civil penalties pursuant to
17 chapter 213 for violations of this section.”.

18 **TITLE V—RAIL PASSENGER**
19 **DISASTER FAMILY ASSISTANCE**
20 **SEC. 501. ASSISTANCE BY NATIONAL TRANSPORTATION**
21 **SAFETY BOARD TO FAMILIES OF PAS-**
22 **SENGERS INVOLVED IN RAIL PASSENGER AC-**
23 **CIDENTS.**

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

1 **“§ 1139. Assistance to families of passengers involved**
2 **in rail passenger accidents**

3 “(a) IN GENERAL.—As soon as practicable after
4 being notified of a rail passenger accident within the
5 United States involving a rail passenger carrier and result-
6 ing in a major loss of life, the Chairman of the National
7 Transportation Safety Board shall—

8 “(1) designate and publicize the name and
9 phone number of a director of family support serv-
10 ices who shall be an employee of the Board and shall
11 be responsible for acting as a point of contact within
12 the Federal Government for the families of pas-
13 sengers involved in the accident and a liaison be-
14 tween the rail passenger carrier and the families;
15 and

16 “(2) designate an independent nonprofit organi-
17 zation, with experience in disasters and post trauma
18 communication with families, which shall have pri-
19 mary responsibility for coordinating the emotional
20 care and support of the families of passengers in-
21 volved in the accident.

22 “(b) RESPONSIBILITIES OF THE BOARD.—The Board
23 shall have primary Federal responsibility for—

24 “(1) facilitating the recovery and identification
25 of fatally injured passengers involved in an accident
26 described in subsection (a); and

1 “(2) communicating with the families of pas-
2 sengers involved in the accident as to the roles, with
3 respect to the accident and the post-accident activi-
4 ties, of—

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

7 “(B) Government agencies; and

8 “(C) the rail passenger carrier involved.

9 “(c) RESPONSIBILITIES OF DESIGNATED ORGANIZA-
10 TION.—The organization designated for an accident under
11 subsection (a)(2) shall have the following responsibilities
12 with respect to the families of passengers involved in the
13 accident:

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

17 “(2) To take such actions as may be necessary
18 to provide an environment in which the families may
19 grieve in private.

20 “(3) To meet with the families who have trav-
21 eled to the location of the accident, to contact the
22 families unable to travel to such location, and to
23 contact all affected families periodically thereafter
24 until such time as the organization, in consultation
25 with the director of family support services des-

1 ignated for the accident under subsection (a)(1), de-
2 termines that further assistance is no longer needed.

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

5 “(d) PASSENGER LISTS.—

6 “(1) REQUESTS FOR PASSENGER LISTS.—

7 “(A) REQUESTS BY DIRECTOR OF FAMILY
8 SUPPORT SERVICES.—It shall be the responsi-
9 bility of the director of family support services
10 designated for an accident under subsection
11 (a)(1) to request, as soon as practicable, from
12 the rail passenger carrier involved in the acci-
13 dent a list, which is based on the best available
14 information at the time of the request, of the
15 names of the passengers that were aboard the
16 rail passenger carrier’s train involved in the ac-
17 cident. A rail passenger carrier shall use rea-
18 sonable efforts, with respect to its unreserved
19 trains, and passengers not holding reservations
20 on its other trains, to ascertain the names of
21 passengers aboard a train involved in an acci-
22 dent.

23 “(B) REQUESTS BY DESIGNATED ORGANI-
24 ZATION.—The organization designated for an
25 accident under subsection (a)(2) may request

1 from the rail passenger carrier involved in the
2 accident a list described in subparagraph (A).

3 “(2) USE OF INFORMATION.—Except as pro-
4 vided in subsection (k), the director of family sup-
5 port services and the organization may not release to
6 any person information on a list obtained under
7 paragraph (1) but may provide information on the
8 list about a passenger to the family of the passenger
9 to the extent that the director of family support
10 services or the organization considers appropriate.

11 “(e) CONTINUING RESPONSIBILITIES OF THE
12 BOARD.—In the course of its investigation of an accident
13 described in subsection (a), the Board shall, to the max-
14 imum extent practicable, ensure that the families of pas-
15 sengers involved in the accident—

16 “(1) are briefed, prior to any public briefing,
17 about the accident and any other findings from the
18 investigation; and

19 “(2) are individually informed of and allowed to
20 attend any public hearings and meetings of the
21 Board about the accident.

22 “(f) USE OF RAIL PASSENGER CARRIER RE-
23 SOURCES.—To the extent practicable, the organization
24 designated for an accident under subsection (a)(2) shall
25 coordinate its activities with the rail passenger carrier in-

1 volved in the accident to facilitate the reasonable use of
2 the resources of the carrier.

3 “(g) PROHIBITED ACTIONS.—

4 “(1) ACTIONS TO IMPEDE THE BOARD.—No
5 person (including a State or political subdivision
6 thereof) may impede the ability of the Board (in-
7 cluding the director of family support services des-
8 ignated for an accident under subsection (a)(1)), or
9 an organization designated for an accident under
10 subsection (a)(2), to carry out its responsibilities
11 under this section or the ability of the families of
12 passengers involved in the accident to have contact
13 with one another.

14 “(2) UNSOLICITED COMMUNICATIONS.—No un-
15 solicited communication concerning a potential ac-
16 tion or settlement offer for personal injury or wrong-
17 ful death may be made by an attorney (including
18 any associate, agent, employee, or other representa-
19 tive of an attorney) or any potential party to the liti-
20 gation, including the railroad carrier or rail pas-
21 senger carrier, to an individual (other than an em-
22 ployee of the rail passenger carrier) injured in the
23 accident, or to a relative of an individual involved in
24 the accident, before the 45th day following the date
25 of the accident.

1 “(3) PROHIBITION ON ACTIONS TO PREVENT
2 MENTAL HEALTH AND COUNSELING SERVICES.—No
3 State or political subdivision thereof may prevent the
4 employees, agents, or volunteers of an organization
5 designated for an accident under subsection (a)(2)
6 from providing mental health and counseling services
7 under subsection (c)(1) in the 30-day period begin-
8 ning on the date of the accident. The director of
9 family support services designated for the accident
10 under subsection (a)(1) may extend such period for
11 not to exceed an additional 30 days if the director
12 determines that the extension is necessary to meet
13 the needs of the families and if State and local au-
14 thorities are notified of the determination.

15 “(h) DEFINITIONS.—In this section:

16 “(1) RAIL PASSENGER ACCIDENT.—The term
17 ‘rail passenger accident’ means any rail passenger
18 disaster resulting in a major loss of life occurring in
19 the provision of—

20 “(A) interstate intercity rail passenger
21 transportation (as such term is defined in sec-
22 tion 24102); or

23 “(B) interstate or intrastate high-speed
24 rail (as such term is defined in section 26105)
25 transportation,

1 regardless of its cause or suspected cause.

2 “(2) RAIL PASSENGER CARRIER.—The term
3 ‘rail passenger carrier’ means a rail carrier pro-
4 viding—

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

8 “(B) interstate or intrastate high-speed
9 rail (as such term is defined in section 26105)
10 transportation,

11 except that such term does not include a tourist, his-
12 toric, scenic, or excursion rail carrier.

13 “(3) PASSENGER.—The term ‘passenger’ in-
14 cludes—

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

17 “(B) any other person aboard the train
18 without regard to whether the person paid for
19 the transportation, occupied a seat, or held a
20 reservation for the rail transportation; and

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

24 “(i) LIMITATION ON STATUTORY CONSTRUCTION.—

25 Nothing in this section may be construed as limiting the

1 actions that a rail passenger carrier may take, or the obli-
2 gations that a rail passenger carrier may have, in pro-
3 viding assistance to the families of passengers involved in
4 a rail passenger accident.

5 “(j) RELINQUISHMENT OF INVESTIGATIVE PRI-
6 ORITY.—

7 “(1) GENERAL RULE.—This section (other than
8 subsection (g)) shall not apply to a railroad pas-
9 senger accident if the Board has relinquished inves-
10 tigative priority under section 1131(a)(2)(B) and the
11 Federal agency to which the Board relinquished in-
12 vestigative priority is willing and able to provide as-
13 sistance to the victims and families of the pas-
14 sengers involved in the accident.

15 “(2) BOARD ASSISTANCE.—If this section does
16 not apply to a railroad passenger accident because
17 the Board has relinquished investigative priority
18 with respect to the accident, the Board shall assist,
19 to the maximum extent possible, the agency to which
20 the Board has relinquished investigative priority in
21 assisting families with respect to the accident.

22 “(k) SAVINGS CLAUSE.—Nothing in this section shall
23 be construed to abridge the authority of the Board or the
24 Secretary of Transportation to investigate the causes or
25 circumstances of any rail accident, including development

1 of information regarding the nature of injuries sustained
2 and the manner in which they were sustained for the pur-
3 poses of determining compliance with existing laws and
4 regulations or for identifying means of preventing similar
5 injuries in the future, or both.”.

6 (b) CONFORMING AMENDMENT.—The chapter anal-
7 ysis for chapter 11 is amended by inserting after the item
8 relating to section 1138 the following:

“1139. Assistance to families of passengers involved in rail passenger acci-
dents.”.

9 **SEC. 502. RAIL PASSENGER CARRIER PLAN TO ASSIST FAM-**
10 **ILIES OF PASSENGERS INVOLVED IN RAIL**
11 **PASSENGER ACCIDENTS.**

12 (a) IN GENERAL.—Chapter 243 is amended by add-
13 ing at the end the following:

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

17 “(a) SUBMISSION OF PLAN.—Not later than 6
18 months after the date of the enactment of the Rail Safety
19 Improvement Act of 2008, a rail passenger carrier shall
20 submit to the Chairman of the National Transportation
21 Safety Board, the Secretary of Transportation, and the
22 Secretary of Homeland Security a plan for addressing the
23 needs of the families of passengers involved in any rail

1 passenger accident involving a rail passenger carrier inter-
2 city train and resulting in a major loss of life.

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

6 “(1) A process by which a rail passenger carrier
7 will maintain and provide to the National Transpor-
8 tation Safety Board, the Secretary of Transpor-
9 tation, and the Secretary of Homeland Security im-
10 mediately upon request, a list (which is based on the
11 best available information at the time of the request)
12 of the names of the passengers aboard the train
13 (whether or not such names have been verified), and
14 will periodically update the list. The plan shall in-
15 clude a procedure, with respect to unreserved trains
16 and passengers not holding reservations on other
17 trains, for the rail passenger carrier to use reason-
18 able efforts to ascertain the names of passengers
19 aboard a train involved in an accident.

20 “(2) A process for notifying the families of the
21 passengers, before providing any public notice of the
22 names of the passengers, either by utilizing the serv-
23 ices of the organization designated for the accident
24 under section 1139(a)(2) of this title or the services
25 of other suitably trained individuals.

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

5 “(4) A process for providing the notice de-
6 scribed in paragraph (2) to the family of a pas-
7 senger as soon as the rail passenger carrier has
8 verified that the passenger was aboard the train
9 (whether or not the names of all of the passengers
10 have been verified).

11 “(5) An assurance that, upon request of the
12 family of a passenger, the rail passenger carrier will
13 inform the family of whether the passenger’s name
14 appeared on any preliminary passenger manifest for
15 the train involved in the accident.

16 “(6) A process by which the family of each pas-
17 senger will be consulted about the disposition of all
18 remains and personal effects of the passenger within
19 the control of the rail passenger carrier and by
20 which any possession of the passenger within the
21 control of the rail passenger carrier (regardless of its
22 condition)—

23 “(A) will be retained by the rail passenger
24 carrier for at least 18 months; and

1 “(B) will be returned to the family unless
2 the possession is needed for the accident inves-
3 tigation or any criminal investigation.

4 “(7) A process by which the treatment of the
5 families of nonrevenue passengers will be the same
6 as the treatment of the families of revenue pas-
7 sengers.

8 “(8) An assurance that the rail passenger car-
9 rier will provide adequate training to the employees
10 and agents of the carrier to meet the needs of sur-
11 vivors and family members following an accident.

12 “(9) An assurance that the family of each pas-
13 senger or other person killed in the accident will be
14 consulted about construction by the rail passenger
15 carrier of any monument to the passengers, includ-
16 ing any inscription on the monument.

17 “(10) An assurance that the rail passenger car-
18 rier will work with any organization designated
19 under section 1139(a)(2) of this title on an ongoing
20 basis to ensure that families of passengers receive an
21 appropriate level of services and assistance following
22 each accident.

23 “(11) An assurance that the rail passenger car-
24 rier will provide reasonable compensation to any or-

1 organization designated under section 1139(a)(2) of
2 this title for services provided by the organization.

3 “(c) USE OF INFORMATION.—Neither the National
4 Transportation Safety Board, the Secretary of Transpor-
5 tation, the Secretary of Homeland Security, nor a rail pas-
6 senger carrier may release to the public any personal in-
7 formation on a list obtained under subsection (b)(1), but
8 may provide information on the list about a passenger to
9 the passenger’s family members to the extent that the
10 Board or a rail passenger carrier considers appropriate.

11 “(d) LIMITATION ON STATUTORY CONSTRUCTION.—

12 “(1) RAIL PASSENGER CARRIERS.—Nothing in
13 this section may be construed as limiting the actions
14 that a rail passenger carrier may take, or the obliga-
15 tions that a rail passenger carrier may have, in pro-
16 viding assistance to the families of passengers in-
17 volved in a rail passenger accident.

18 “(2) INVESTIGATIONAL AUTHORITY OF BOARD
19 AND SECRETARY.—Nothing in this section shall be
20 construed to abridge the authority of the Board or
21 the Secretary of Transportation to investigate the
22 causes or circumstances of any rail accident, includ-
23 ing the development of information regarding the
24 nature of injuries sustained and the manner in
25 which they were sustained, for the purpose of deter-

1 mining compliance with existing laws and regula-
2 tions or identifying means of preventing similar inju-
3 ries in the future.

4 “(e) LIMITATION ON LIABILITY.—A rail passenger
5 carrier shall not be liable for damages in any action
6 brought in a Federal or State court arising out of the per-
7 formance of the rail passenger carrier in preparing or pro-
8 viding a passenger list, or in providing information con-
9 cerning a train reservation, pursuant to a plan submitted
10 by the rail passenger carrier under subsection (b), unless
11 such liability was caused by conduct of the rail passenger
12 carrier which was grossly negligent or which constituted
13 intentional misconduct.

14 “(f) DEFINITIONS.—In this section, the terms ‘pas-
15 senger’ and ‘rail passenger accident’ have the meaning
16 given those terms by section 1139 of this title.

17 “(g) FUNDING.—Out of funds appropriated pursuant
18 to section 20117(a)(1)(A), there shall be made available
19 to the Secretary of Transportation \$500,000 for fiscal
20 year 2010 to carry out this section. Amounts made avail-
21 able pursuant to this subsection shall remain available
22 until expended.”.

23 (b) CONFORMING AMENDMENT.—The chapter anal-
24 ysis for chapter 243 is amended by inserting after the item
25 relating to section 24315 the following:

“24316.Plan to assist families of passengers involved in rail passenger accidents.”.

1 **SEC. 503. ESTABLISHMENT OF TASK FORCE.**

2 (a) ESTABLISHMENT.—The Secretary, in cooperation
3 with the National Transportation Safety Board, organiza-
4 tions potentially designated under section 1139(a)(2) of
5 title 49, United States Code, rail passenger carriers (as
6 defined in section 1139(h)(2) of title 49, United States
7 Code), and families which have been involved in rail acci-
8 dents, shall establish a task force consisting of representa-
9 tives of such entities and families, representatives of rail
10 passenger carrier employees, and representatives of such
11 other entities as the Secretary considers appropriate.

12 (b) MODEL PLAN AND RECOMMENDATIONS.—The
13 task force established pursuant to subsection (a) shall de-
14 velop—

15 (1) a model plan to assist rail passenger car-
16 riers in responding to passenger rail accidents;

17 (2) recommendations on methods to improve
18 the timeliness of the notification provided by pas-
19 senger rail carriers to the families of passengers in-
20 volved in a passenger rail accident;

21 (3) recommendations on methods to ensure that
22 the families of passengers involved in a passenger
23 rail accident who are not citizens of the United
24 States receive appropriate assistance; and

1 (4) recommendations on methods to ensure that
2 emergency services personnel have as immediate and
3 accurate a count of the number of passengers on-
4 board the train as possible.

5 (c) REPORT.—Not later than 1 year after the date
6 of the enactment of this Act, the Secretary shall transmit
7 a report to the House of Representatives Committee on
8 Transportation and Infrastructure and the Senate Com-
9 mittee on Commerce, Science, and Transportation con-
10 taining the model plan and recommendations developed by
11 the task force under subsection (b).

12 **TITLE VI—CLARIFICATION OF**
13 **FEDERAL JURISDICTION**
14 **OVER SOLID WASTE FACILI-**
15 **TIES**

16 **SEC. 601. SHORT TITLE.**

17 This title may be cited as the “Clean Railroads Act
18 of 2008”.

19 **SEC. 602. CLARIFICATION OF GENERAL JURISDICTION**
20 **OVER SOLID WASTE TRANSFER FACILITIES.**

21 Section 10501(c)(2) is amended to read as follows:

22 “(2) Except as provided in paragraph (3), the Board
23 does not have jurisdiction under this part over—

24 “(A) mass transportation provided by a local
25 government authority; or

1 “(B) a solid waste rail transfer facility as de-
2 fined in section 10908 of this title, except as pro-
3 vided under sections 10908 and 10909 of this
4 title.”.

5 **SEC. 603. REGULATION OF SOLID WASTE RAIL TRANSFER**
6 **FACILITIES.**

7 (a) IN GENERAL.—Chapter 109 is amended by add-
8 ing at the end thereof the following:

9 **“§ 10908. Regulation of solid waste rail transfer facili-**
10 **ties**

11 “(a) IN GENERAL.—Each solid waste rail transfer fa-
12 cility shall be subject to and shall comply with all applica-
13 ble Federal and State requirements, both substantive and
14 procedural, including judicial and administrative orders
15 and fines, respecting the prevention and abatement of pol-
16 lution, the protection and restoration of the environment,
17 and the protection of public health and safety, including
18 laws governing solid waste, to the same extent as required
19 for any similar solid waste management facility, as defined
20 in section 1004(29) of the Solid Waste Disposal Act (42
21 U.S.C. 6903(29)) that is not owned or operated by or on
22 behalf of a rail carrier, except as provided for in section
23 10909 of this chapter.

24 “(b) EXISTING FACILITIES.—

1 “(1) STATE LAWS AND STANDARDS.—Not later
2 than 90 days after the date of enactment of the
3 Clean Railroads Act of 2008, a solid waste rail
4 transfer facility operating as of such date of enact-
5 ment shall comply with all Federal and State re-
6 quirements pursuant to subsection (a) other than
7 those provisions requiring permits.

8 “(2) PERMIT REQUIREMENTS.—

9 “(A) STATE NON-SITING PERMITS.—Any
10 solid waste rail transfer facility operating as of
11 the date of enactment of the Clean Railroads
12 Act of 2008 that does not possess a permit re-
13 quired pursuant to subsection (a), other than a
14 siting permit for the facility, as of the date of
15 enactment of the Clean Railroads Act of 2008
16 shall not be required to possess any such per-
17 mits in order to operate the facility—

18 “(i) if, within 180 days after such
19 date of enactment, the solid waste rail
20 transfer facility has submitted, in good
21 faith, a complete application for all per-
22 mits, except siting permits, required pursu-
23 ant to subsection (a) to the appropriate
24 permitting agency authorized to grant such
25 permits; and

1 “(ii) until the permitting agency has
2 either approved or denied the solid waste
3 rail transfer facility’s application for each
4 permit.

5 “(B) SITING PERMITS AND REQUIRE-
6 MENTS.—A solid waste rail transfer facility op-
7 erating as of the date of enactment of the Clean
8 Railroads Act of 2008 that does not possess a
9 State siting permit required pursuant to sub-
10 section (a) as of such date of enactment shall
11 not be required to possess any siting permit to
12 continue to operate or comply with any State
13 land use requirements. The Governor of a State
14 in which the facility is located, or his or her
15 designee, may petition the Board to require the
16 facility to apply for a land-use exemption pursu-
17 ant to section 10909 of this chapter. The Board
18 shall accept the petition, and the facility shall
19 be required to have a Board-issued land-use ex-
20 emption in order to continue to operate, pursu-
21 ant to section 10909 of this chapter.

22 “(c) COMMON CARRIER OBLIGATION.—No prospec-
23 tive or current rail carrier customer may demand solid
24 waste rail transfer service from a rail carrier at a solid
25 waste rail transfer facility that does not already possess

1 the necessary Federal land-use exemption and State per-
2 mits at the location where service is requested.

3 “(d) NON-WASTE COMMODITIES.—Nothing in this
4 section or section 10909 of this chapter shall affect a rail
5 carrier’s ability to conduct transportation-related activities
6 with respect to commodities other than solid waste.

7 “(e) DEFINITIONS.—

8 “(1) IN GENERAL.—In this section:

9 “(A) COMMERCIAL AND RETAIL WASTE.—

10 The term ‘commercial and retail waste’ means
11 material discarded by stores, offices, res-
12 taurants, warehouses, nonmanufacturing activi-
13 ties at industrial facilities, and other similar es-
14 tablishments or facilities.

15 “(B) CONSTRUCTION AND DEMOLITION

16 DEBRIS.—The term ‘construction and demoli-
17 tion debris’ means waste building materials,
18 packaging, and rubble resulting from construc-
19 tion, remodeling, repair, and demolition oper-
20 ations on pavements, houses, commercial build-
21 ings, and other structures.

22 “(C) HOUSEHOLD WASTE.—The term

23 ‘household waste’ means material discarded by
24 residential dwellings, hotels, motels, and other

1 similar permanent or temporary housing estab-
2 lishments or facilities.

3 “(D) INDUSTRIAL WASTE.—The term ‘in-
4 dustrial waste’ means the solid waste generated
5 by manufacturing and industrial and research
6 and development processes and operations, in-
7 cluding contaminated soil, nonhazardous oil
8 spill cleanup waste and dry nonhazardous pes-
9 ticides and chemical waste, but does not include
10 hazardous waste regulated under subtitle C of
11 the Solid Waste Disposal Act (42 U.S.C. 6921
12 et seq.), mining or oil and gas waste.

13 “(E) INSTITUTIONAL WASTE.—The term
14 ‘institutional waste’ means material discarded
15 by schools, nonmedical waste discarded by hos-
16 pitals, material discarded by nonmanufacturing
17 activities at prisons and government facilities,
18 and material discarded by other similar estab-
19 lishments or facilities.

20 “(F) MUNICIPAL SOLID WASTE.—The term
21 ‘municipal solid waste’ means—

22 “(i) household waste;

23 “(ii) commercial and retail waste; and

24 “(iii) institutional waste.

1 “(G) SOLID WASTE.—With the exception
2 of waste generated by a rail carrier during
3 track, track structure, or right-of-way construc-
4 tion, maintenance, or repair (including railroad
5 ties and line-side poles) or waste generated as
6 a result of a railroad accident, incident, or de-
7 railment, the term ‘solid waste’ means—

8 “(i) construction and demolition de-
9 bris;

10 “(ii) municipal solid waste;

11 “(iii) household waste;

12 “(iv) commercial and retail waste;

13 “(v) institutional waste;

14 “(vi) sludge;

15 “(vii) industrial waste; and

16 “(viii) other solid waste, as deter-
17 mined appropriate by the Board.

18 “(H) SOLID WASTE RAIL TRANSFER FACIL-
19 ITY.—The term ‘solid waste rail transfer facil-
20 ity’—

21 “(i) means the portion of a facility
22 owned or operated by or on behalf of a rail
23 carrier (as defined in section 10102 of this
24 title) where solid waste, as a commodity to
25 be transported for a charge, is collected,

1 stored, separated, processed, treated, man-
2 aged, disposed of, or transferred, when the
3 activity takes place outside of original ship-
4 ping containers; but

5 “(ii) does not include—

6 “(I) the portion of a facility to
7 the extent that activities taking place
8 at such portion are comprised solely
9 of the railroad transportation of solid
10 waste after the solid waste is loaded
11 for shipment on or in a rail car, in-
12 cluding railroad transportation for the
13 purpose of interchanging railroad cars
14 containing solid waste shipments; or

15 “(II) a facility where solid waste
16 is solely transferred or transloaded
17 from a tank truck directly to a rail
18 tank car.

19 “(I) SLUDGE.—The term ‘sludge’ means
20 any solid, semi-solid or liquid waste generated
21 from a municipal, commercial, or industrial
22 wastewater treatment plant, water supply treat-
23 ment plant, or air pollution control facility ex-
24 clusive of the treated effluent from a waste-
25 water treatment plant.

1 “(2) EXCEPTIONS.—Notwithstanding para-
2 graph (1), the terms ‘household waste’, ‘commercial
3 and retail waste’, and ‘institutional waste’ do not in-
4 clude—

5 “(A) yard waste and refuse-derived fuel;

6 “(B) used oil;

7 “(C) wood pallets;

8 “(D) clean wood;

9 “(E) medical or infectious waste; or

10 “(F) motor vehicles (including motor vehi-
11 cle parts or vehicle fluff).

12 “(3) STATE REQUIREMENTS.—In this section
13 the term ‘State requirements’ does not include the
14 laws, regulations, ordinances, orders, or other re-
15 quirements of a political subdivision of a State, in-
16 cluding a locality or municipality, unless a State ex-
17 pressly delegates such authority to such political
18 subdivision.”.

19 (b) CONFORMING AMENDMENT.—The chapter anal-
20 ysis for chapter 109 is amended by inserting after the item
21 relating to section 10907 the following:

 “10908. Regulation of solid waste rail transfer facilities.”.

22 **SEC. 604. SOLID WASTE RAIL TRANSFER FACILITY LAND-**
23 **USE EXEMPTION AUTHORITY.**

24 (a) IN GENERAL.—Chapter 109 is further amended
25 by adding at the end thereof the following:

1 **“§ 10909. Solid waste rail transfer facility land-use ex-**
2 **emption**

3 “(a) **AUTHORITY.**—The Board may issue a land-use
4 exemption for a solid waste rail transfer facility that is
5 or is proposed to be operated by or on behalf of a rail
6 carrier if—

7 “(1) the Board finds that a State, local, or mu-
8 nicipal law, regulation, order, or other requirement
9 affecting the siting of such facility unreasonably bur-
10 dens the interstate transportation of solid waste by
11 railroad, discriminates against the railroad transpor-
12 tation of solid waste and a solid waste rail transfer
13 facility, or a rail carrier that owns or operates such
14 a facility petitions the Board for such an exemption;
15 or

16 “(2) the Governor of a State in which a facility
17 that is operating as of the date of enactment of the
18 Clean Railroads Act of 2008 is located, or his or her
19 designee, petitions the Board to initiate a permit
20 proceeding for that particular facility.

21 “(b) **LAND-USE EXEMPTION PROCEDURES.**—Not
22 later than 90 days after the date of enactment of the
23 Clean Railroad Act of 2008, the Board shall publish proce-
24 dures governing the submission and review of applications
25 for solid waste rail transfer facility land-use exemptions.
26 At a minimum, the procedures shall address—

1 “(1) the information that each application
2 should contain to explain how the solid waste rail
3 transfer facility will not pose an unreasonable risk to
4 public health, safety, or the environment;

5 “(2) the opportunity for public notice and com-
6 ment including notification of the municipality, the
7 State, and any relevant Federal or State regional
8 planning entity in the jurisdiction of which the solid
9 waste rail transfer facility is proposed to be located;

10 “(3) the timeline for Board review, including a
11 requirement that the Board approve or deny an ex-
12 emption within 90 days after the full record for the
13 application is developed;

14 “(4) the expedited review timelines for petitions
15 for modifications, amendments, or revocations of
16 granted exemptions;

17 “(5) the process for a State to petition the
18 Board to require a solid waste transfer facility or a
19 rail carrier that owns or operates such a facility to
20 apply for a siting permit; and

21 “(6) the process for a solid waste transfer facil-
22 ity or a rail carrier that owns or operates such a fa-
23 cility to petition the Board for a land-use exemption.

24 “(c) STANDARD FOR REVIEW.—

1 “(1) The Board may only issue a land-use ex-
2 emption if it determines that the facility at the exist-
3 ing or proposed location does not pose an unreason-
4 able risk to public health, safety, or the environ-
5 ment. In deciding whether a solid waste rail transfer
6 facility that is or proposed to be constructed or oper-
7 ated by or on behalf of a rail carrier poses an unrea-
8 sonable risk to public health, safety, or the environ-
9 ment, the Board shall weigh the particular facility’s
10 potential benefits to and the adverse impacts on
11 public health, public safety, the environment, inter-
12 state commerce, and transportation of solid waste by
13 rail.

14 “(2) The Board may not grant a land-use ex-
15 emption for a solid waste rail transfer facility pro-
16 posed to be located on land within any unit of or
17 land affiliated with the National Park System, the
18 National Wildlife Refuge System, the National Wil-
19 derness Preservation System, the National Trails
20 System, the National Wild and Scenic Rivers Sys-
21 tem, a National Reserve, a National Monument, or
22 lands referenced in Public Law 108–421 for which
23 a State has implemented a conservation manage-
24 ment plan, if operation of the facility would be in-
25 consistent with restrictions placed on such land.

1 “(d) CONSIDERATIONS.—When evaluating an appli-
2 cation under this section, the Board shall consider and
3 give due weight to the following, as applicable:

4 “(1) the land-use, zoning, and siting regulations
5 or solid waste planning requirements of the State or
6 State subdivision in which the facility is or will be
7 located that are applicable to solid waste transfer fa-
8 cilities, including those that are not owned or oper-
9 ated by or on behalf of a rail carrier;

10 “(2) the land-use, zoning, and siting regulations
11 or solid waste planning requirements applicable to
12 the property where the solid waste rail transfer facil-
13 ity is proposed to be located;

14 “(3) regional transportation planning require-
15 ments developed pursuant to Federal and State law;

16 “(4) regional solid waste disposal plans devel-
17 oped pursuant to State or Federal law;

18 “(5) any Federal and State environmental pro-
19 tection laws or regulations applicable to the site;

20 “(6) any unreasonable burdens imposed on the
21 interstate transportation of solid waste by railroad,
22 or the potential for discrimination against the rail-
23 road transportation of solid waste, a solid waste rail
24 transfer facility, or a rail carrier that owns or oper-
25 ates such a facility; and

1 “(7) any other relevant factors, as determined
2 by the Board.

3 “(e) EXISTING FACILITIES.—Upon the granting of
4 petition from the State in which a solid waste rail transfer
5 facility is operating as of the date of enactment of the
6 Clean Railroads Act of 2008 by the Board, the facility
7 shall submit a complete application for a siting permit to
8 the Board pursuant to the procedures issued pursuant to
9 subsection (b). No State may enforce a law, regulation,
10 order, or other requirement affecting the siting of a facil-
11 ity that is operating as of the date of enactment of the
12 Clean Railroads Act of 2008 until the Board has approved
13 or denied a permit pursuant to subsection (c).

14 “(f) EFFECT OF LAND-USE EXEMPTION.—If the
15 Board grants a land-use exemption to a solid waste rail
16 transfer facility, all State laws, regulations, orders, or
17 other requirements affecting the siting of a facility are
18 preempted with regard to that facility. An exemption may
19 require compliance with such State laws, regulations, or-
20 ders, or other requirements.

21 “(g) INJUNCTIVE RELIEF.—Nothing in this section
22 precludes a person from seeking an injunction to enjoin
23 a solid waste rail transfer facility from being constructed
24 or operated by or on behalf of a rail carrier if that facility
25 has materially violated, or will materially violate, its land-

1 use exemption or if it failed to receive a valid land-use
2 exemption under this section.

3 “(h) FEES.—The Board may charge permit appli-
4 cants reasonable fees to implement this section, including
5 the costs of third-party consultants.

6 “(i) DEFINITIONS.—In this section the terms ‘solid
7 waste’, ‘solid waste rail transfer facility’, and ‘State re-
8 quirements’ have the meaning given such terms in section
9 10908(e).”.

10 (b) CONFORMING AMENDMENT.—The chapter anal-
11 ysis for chapter 109, as amended by section 603 of this
12 division, is amended by inserting after the item relating
13 to section 10908 the following:

“10909. Solid waste rail transfer facility land-use exemption.”.

14 **SEC. 605. EFFECT ON OTHER STATUTES AND AUTHORITIES.**

15 (a) IN GENERAL.—Chapter 109, as amended by sec-
16 tion 604, is further amended by adding at the end thereof
17 the following:

18 **“§ 10910. Effect on other statutes and authorities**

19 “Nothing in section 10908 or 10909 is intended to
20 affect the traditional police powers of the State to require
21 a rail carrier to comply with State and local environ-
22 mental, public health, and public safety standards that are
23 not unreasonably burdensome to interstate commerce and
24 do not discriminate against rail carriers.”.

1 (b) CONFORMING AMENDMENT.—The chapter anal-
2 ysis for chapter 109, as amended by section 604 of this
3 division, is amended by inserting after the item relating
4 to section 10909 the following:

“10910. Effect on other statutes and authorities.”.

5 **TITLE VII—TECHNICAL**
6 **CORRECTIONS**

7 **SEC. 701. TECHNICAL CORRECTIONS.**

8 (a) LIMITATIONS ON FINANCIAL ASSISTANCE.—Sec-
9 tion 22106 is amended—

10 (1) by striking the second sentence of sub-
11 section (a);

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

14 “(b) STATE USE OF REPAID FUNDS AND CONTIN-
15 GENT INTEREST RECOVERIES.—The State shall place the
16 United States Government’s share of money that is repaid
17 and any contingent interest that is recovered in an inter-
18 est-bearing account. The repaid money, contingent inter-
19 est, and any interest thereof shall be considered to be
20 State funds. The State shall use such funds to make other
21 grants and loans, consistent with the purposes for which
22 financial assistance may be used under subsection (a), as
23 the State considers to be appropriate.”; and

24 (3) by striking subsections (c) and (e) and re-
25 designating subsection (d) as subsection (c).

1 (b) GRANTS FOR CLASS II AND III RAILROADS.—
2 Section 22301(a)(1)(A)(iii) is amended by striking “and”
3 and inserting “or”.

4 (c) RAIL TRANSPORTATION OF RENEWABLE FUEL
5 STUDY.—Section 245(a)(1) of the Energy Independence
6 and Security Act of 2007 is amended by striking “Sec-
7 retary, in coordination with the Secretary of Transpor-
8 tation,” and inserting “Secretary and the Secretary of
9 Transportation”.

10 (d) MOTOR CARRIER DEFINITION.—

11 Section 14504a is amended—

12 (1) in subsection (a)—

13 (A) in the matter preceding paragraph (1),
14 by inserting “(except as provided in paragraph
15 (5))” after “14506”;

16 (B) in paragraph (1), by striking subpara-
17 graph (A) and inserting the following:

18 “(A) IN GENERAL.—Except as provided in
19 subparagraph (B), the term ‘commercial motor
20 vehicle’—

21 “(i) for calendar years 2008 and
22 2009, has the meaning given the term in
23 section 31101; and

1 “(ii) for years beginning after Decem-
2 ber 31, 2009, means a self-propelled vehi-
3 cle described in section 31101.”; and

4 (C) by striking paragraph (5) and insert-
5 ing the following:

6 “(5) MOTOR CARRIER.—

7 “(A) THIS SECTION.—In this section:

8 “(i) IN GENERAL.—The term ‘motor
9 carrier’ includes all carriers that are other-
10 wise exempt from this part—

11 “(I) under subchapter I of chap-
12 ter 135; or

13 “(II) through exemption actions
14 by the former Interstate Commerce
15 Commission under this title.

16 “(ii) EXCLUSIONS.—In this section,
17 the term ‘motor carrier’ does not include—

18 “(I) any carrier subject to section
19 13504; or

20 “(II) any other carrier that the
21 board of directors of the unified car-
22 rier registration plan determines to be
23 appropriate pursuant to subsection
24 (d)(4)(C).

1 “(B) SECTION 14506.—In section 14506,
2 the term ‘motor carrier’ includes all carriers
3 that are otherwise exempt from this part—

4 “(i) under subchapter I of chapter
5 135; or

6 “(ii) through exemption actions by the
7 former Interstate Commerce Commission
8 under this title.”; and

9 (2) in subsection (d)(4)(C), by inserting before
10 the period at the end the following: “, except that
11 a decision to approve the exclusion of carriers from
12 the definition of the term ‘motor carrier’ under sub-
13 section (a)(5) shall require an affirmative vote of $\frac{3}{4}$
14 of all such directors.”.

15 (e) EXTENSION OF LOAN PERIOD.—Section
16 502(g)(1) of the Railroad Revitalization and Regulatory
17 Reform Act of 1976 (45 U.S.C. 822(g)(1)) is amended
18 by striking “25 years” and inserting “35 years”.

19 **DIVISION B—AMTRAK**

20 **SEC. 1. SHORT TITLE; TABLE OF CONTENTS.**

21 (a) SHORT TITLE.—This division may be cited as the
22 “Passenger Rail Investment and Improvement Act of
23 2008”.

24 (b) TABLE OF CONTENTS.—The table of contents for
25 this division is as follows:

 Sec. 1. Short title; table of contents.

- Sec. 2. Amendment of title 49, United States Code.
- Sec. 3. Definition.

TITLE I—AUTHORIZATIONS

- Sec. 101. Authorization for Amtrak capital and operating expenses.
- Sec. 102. Repayment of long-term debt and capital leases.
- Sec. 103. Authorization for the Federal Railroad Administration.

TITLE II—AMTRAK REFORM AND OPERATIONAL IMPROVEMENTS

- Sec. 201. National railroad passenger transportation system defined.
- Sec. 202. Amtrak board of directors.
- Sec. 203. Establishment of improved financial accounting system.
- Sec. 204. Development of 5-year financial plan.
- Sec. 205. Restructuring long-term debt and capital leases.
- Sec. 206. Establishment of grant process.
- Sec. 207. Metrics and standards.
- Sec. 208. Methodologies for Amtrak route and service planning decisions.
- Sec. 209. State-supported routes.
- Sec. 210. Long-distance routes.
- Sec. 211. Northeast Corridor state-of-good-repair plan.
- Sec. 212. Northeast Corridor infrastructure and operations improvements.
- Sec. 213. Passenger train performance.
- Sec. 214. Alternate passenger rail service pilot program.
- Sec. 215. Employee transition assistance.
- Sec. 216. Special passenger trains.
- Sec. 217. Access to Amtrak equipment and services.
- Sec. 218. General Amtrak provisions.
- Sec. 219. Study of compliance requirements at existing intercity rail stations.
- Sec. 220. Oversight of Amtrak's compliance with accessibility requirements.
- Sec. 221. Amtrak management accountability.
- Sec. 222. On-board service improvements.
- Sec. 223. Incentive pay.
- Sec. 224. Passenger rail service studies.
- Sec. 225. Report on service delays on certain passenger rail routes.
- Sec. 226. Plan for restoration of service.
- Sec. 227. Maintenance and repair facility utilization study.
- Sec. 228. Sense of the Congress regarding the need to maintain Amtrak as a national passenger rail system.

TITLE III—INTERCITY PASSENGER RAIL POLICY

- Sec. 301. Capital assistance for intercity passenger rail service.
- Sec. 302. Congestion grants.
- Sec. 303. State rail plans.
- Sec. 304. Tunnel project.
- Sec. 305. Next generation corridor train equipment pool.
- Sec. 306. Rail cooperative research program.
- Sec. 307. Federal rail policy.

TITLE IV—MISCELLANEOUS PROVISIONS

- Sec. 401. Commuter rail mediation.
- Sec. 402. Routing efficiency discussions with Amtrak.
- Sec. 403. Sense of Congress regarding commuter rail expansion.
- Sec. 404. Locomotive biofuel study.

- Sec. 405. Study of the use of biobased technologies.
- Sec. 406. Cross-border passenger rail service.
- Sec. 407. Historic preservation of railroads.

TITLE V—HIGH-SPEED RAIL

- Sec. 501. High-speed rail corridor program.
- Sec. 502. Additional high-speed rail projects.

TITLE VI—CAPITAL AND PREVENTIVE MAINTENANCE PROJECTS
FOR WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

- Sec. 601. Authorization for capital and preventive maintenance projects for Washington Metropolitan Area Transit Authority.

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

2 Except as otherwise specifically provided, whenever in
3 this division an amendment is expressed in terms of an
4 amendment to a section or other provision of law, the ref-
5 erence shall be considered to be made to a section or other
6 provision of title 49, United States Code.

7 **SEC. 3. DEFINITION.**

8 In this division, the term “Secretary” means the Sec-
9 retary of Transportation.

10 **TITLE I—AUTHORIZATIONS**

11 **SEC. 101. AUTHORIZATION FOR AMTRAK CAPITAL AND OP-**
12 **ERATING EXPENSES.**

13 (a) OPERATING GRANTS.—There are authorized to
14 be appropriated to the Secretary for the use of Amtrak
15 for operating costs the following amounts:

- 16 (1) For fiscal year 2009, \$530,000,000.
- 17 (2) For fiscal year 2010, \$580,000,000.
- 18 (3) For fiscal year 2011, \$592,000,000.
- 19 (4) For fiscal year 2012, \$616,000,000.

1 (5) For fiscal year 2013, \$631,000,000.

2 (b) INSPECTOR GENERAL.—There are authorized to
3 be appropriated to the Secretary for the Office of the In-
4 spector General of Amtrak the following amounts:

5 (1) For fiscal year 2009, \$20,000,000.

6 (2) For fiscal year 2010, \$21,000,000.

7 (3) For fiscal year 2011, \$22,000,000.

8 (4) For fiscal year 2012, \$22,000,000.

9 (5) For fiscal year 2013, \$23,000,000.

10 (c) CAPITAL GRANTS.—There are authorized to be
11 appropriated to the Secretary for the use of Amtrak for
12 capital projects (as defined in subparagraphs (A) and (B)
13 of section 24401(2) of title 49, United States Code) to
14 bring the Northeast Corridor (as defined in section 24102
15 of such title) to a state-of-good-repair and for capital ex-
16 penses of the national rail passenger transportation sys-
17 tem the following amounts:

18 (1) For fiscal year 2009, \$715,000,000.

19 (2) For fiscal year 2010, \$975,000,000.

20 (3) For fiscal year 2011, \$1,025,000,000.

21 (4) For fiscal year 2012, \$1,275,000,000.

22 (5) For fiscal year 2013, \$1,325,000,000.

23 (d) PROJECT MANAGEMENT OVERSIGHT.—The Sec-
24 retary may withhold up to $\frac{1}{2}$ of 1 percent of amounts
25 appropriated pursuant to subsection (c) for the costs of

1 project management oversight of capital projects carried
2 out by Amtrak.

3 **SEC. 102. REPAYMENT OF LONG-TERM DEBT AND CAPITAL**
4 **LEASES.**

5 (a) **PRINCIPAL AND INTEREST ON DEBT SERVICE.—**

6 There are authorized to be appropriated to the Secretary
7 for the use of Amtrak for retirement of principal and pay-
8 ment of interest on loans for capital equipment, or capital
9 leases, not more than the following amounts:

10 (1) For fiscal year 2009, \$285,000,000.

11 (2) For fiscal year 2010, \$264,000,000.

12 (3) For fiscal year 2011, \$288,000,000.

13 (4) For fiscal year 2012, \$290,000,000.

14 (5) For fiscal year 2013, \$277,000,000.

15 (b) **EARLY BUYOUT OPTION.—**There are authorized

16 to be appropriated to the Secretary such sums as may be
17 necessary for the use of Amtrak for the payment of costs
18 associated with early buyout options if the exercise of
19 those options is determined to be advantageous to Amtrak.

20 (c) **LEGAL EFFECT OF PAYMENTS UNDER THIS SEC-**

21 **TION.—**The payment of principal and interest on secured
22 debt, with the proceeds of grants authorized by this sec-
23 tion shall not—

1 (1) modify the extent or nature of any indebt-
2 edness of Amtrak to the United States in existence
3 as of the date of enactment of this Act;

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

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

9 **SEC. 103. AUTHORIZATION FOR THE FEDERAL RAILROAD**
10 **ADMINISTRATION.**

11 There are authorized to be appropriated to the Sec-
12 retary for the use of the Federal Railroad Administration
13 such sums as necessary to implement the provisions re-
14 quired under this division for fiscal years 2009 through
15 2013.

16 **TITLE II—AMTRAK REFORM AND**
17 **OPERATIONAL IMPROVEMENTS**

18 **SEC. 201. NATIONAL RAILROAD PASSENGER TRANSPOR-**
19 **TATION SYSTEM DEFINED.**

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

21 (1) by striking paragraph (2);

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

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

1 “(5) ‘national rail passenger transportation sys-
2 tem’ means—

3 “(A) the segment of the continuous North-
4 east Corridor railroad line between Boston,
5 Massachusetts, and Washington, District of Co-
6 lumbia;

7 “(B) rail corridors that have been des-
8 ignated by the Secretary of Transportation as
9 high-speed rail corridors (other than corridors
10 described in subparagraph (A)), but only after
11 regularly scheduled intercity service over a cor-
12 ridor has been established;

13 “(C) long-distance routes of more than
14 750 miles between endpoints operated by Am-
15 trak as of the date of enactment of the Pas-
16 senger Rail Investment and Improvement Act of
17 2008; and

18 “(D) short-distance corridors, or routes of
19 not more than 750 miles between endpoints, op-
20 erated by—

21 “(i) Amtrak; or

22 “(ii) another rail carrier that receives
23 funds under chapter 244.”.

24 (b) AMTRAK ROUTES WITH STATE FUNDING.—

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

3 **“§ 24702. Transportation requested by States, au-**
4 **thorities, and other persons**

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

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

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

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

20 (c) AMTRAK TO CONTINUE TO PROVIDE NON-HIGH-
21 SPEED SERVICES.—Nothing in this division is intended
22 to preclude Amtrak from restoring, improving, or devel-
23 oping non-high-speed intercity passenger rail service.

24 (d) APPLICABILITY OF SECTION 24706.—Section
25 24706 is amended by adding at the end the following:

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

5 (e) AMTRAK’S MISSION.—

6 (1) AMENDMENTS.—Section 24101 is amend-
7 ed—

8 (A) by striking “**purpose**” in the section
9 heading and inserting “**mission**”;

10 (B) by striking subsection (b) and insert-
11 ing the following:

12 “(b) MISSION.—The mission of Amtrak is to provide
13 efficient and effective intercity passenger rail mobility con-
14 sisting of high quality service that is trip-time competitive
15 with other intercity travel options and that is consistent
16 with the goals of subsection (d).”;

17 (C) by redesignating paragraphs (9)
18 through (11) in subsection (c) as paragraphs
19 (10) through (12), respectively, and inserting
20 after paragraph (8) the following:

21 “(9) provide additional or complementary inter-
22 city transportation service to ensure mobility in
23 times of national disaster or other instances where
24 other travel options are not adequately available;”;
25 and

1 (D) in subsection (d), by striking “sub-
2 section (c)(11)” and inserting “subsection
3 (c)(12)”.

4 (2) CONFORMING AMENDMENT.—The chapter anal-
5 ysis for chapter 241 is amended by striking the item relat-
6 ing to section 24101 and inserting the following:

“24101. Findings, mission, and goals.”.

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

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

10 **“§ 24302. Board of directors**

11 “(a) COMPOSITION AND TERMS.—

12 “(1) The Amtrak Board of Directors (referred
13 to in this section as the ‘Board’) is composed of the
14 following 9 directors, each of whom must be a cit-
15 izen of the United States:

16 “(A) The Secretary of Transportation.

17 “(B) The President of Amtrak.

18 “(C) 7 individuals appointed by the Presi-
19 dent of the United States, by and with the ad-
20 vice and consent of the Senate, with general
21 business and financial experience, experience or
22 qualifications in transportation, freight and
23 passenger rail transportation, travel, hospi-
24 tality, cruise line, or passenger air transpor-
25 tation businesses, or representatives of employ-

1 ees or users of passenger rail transportation or
2 a State government.

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

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

19 “(4) The Board shall elect a chairman and a
20 vice chairman, other than the President of Amtrak,
21 from among its membership. The vice chairman
22 shall serve as chairman in the absence of the chair-
23 man.

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

1 “(b) PAY AND EXPENSES.—Each director not em-
2 ployed by the United States Government or Amtrak is en-
3 titled to reasonable pay when performing Board duties.
4 Each director not employed by the United States Govern-
5 ment is entitled to reimbursement from Amtrak for nec-
6 essary travel, reasonable secretarial and professional staff
7 support, and subsistence expenses incurred in attending
8 Board meetings.

9 “(c) TRAVEL.—(1) Each director not employed by
10 the United States Government shall be subject to the same
11 travel and reimbursable business travel expense policies
12 and guidelines that apply to Amtrak’s executive manage-
13 ment when performing Board duties.

14 “(2) Not later than 60 days after the end of each
15 fiscal year, the Board shall submit a report describing all
16 travel and reimbursable business travel expenses paid to
17 each director when performing Board duties to the Com-
18 mittee on Transportation and Infrastructure of the House
19 of Representatives and the Committee on Commerce,
20 Science, and Transportation of the Senate.

21 “(3) The report submitted under paragraph (2) shall
22 include a detailed justification for any travel or reimburs-
23 able business travel expense that deviates from Amtrak’s
24 travel and reimbursable business travel expense policies
25 and guidelines.

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

10 “(e) QUORUM.—A majority of the members serving
11 shall constitute a quorum for doing business.

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

16 (b) EFFECTIVE DATE FOR DIRECTORS’ PROVI-
17 SION.—The amendment made by subsection (a) shall take
18 effect 6 months after the date of enactment of this Act.
19 The members of the Amtrak Board of Directors serving
20 as of the date of enactment of this Act may continue to
21 serve for the remainder of the term to which they were
22 appointed.

23 **SEC. 203. ESTABLISHMENT OF IMPROVED FINANCIAL AC-**
24 **COUNTING SYSTEM.**

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

1 (1) may employ an independent financial con-
2 sultant with experience in railroad accounting to as-
3 sist Amtrak in improving Amtrak's financial ac-
4 counting and reporting system and practices;

5 (2) shall implement a modern financial account-
6 ing and reporting system not later than 3 years
7 after the date of enactment of this Act; and

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

10 (A) submit to the Committee on Transpor-
11 tation and Infrastructure of the House of Rep-
12 resentatives and the Committee on Commerce,
13 Science, and Transportation of the Senate a
14 comprehensive report that allocates all of Am-
15 trak's revenues and costs to each of its routes,
16 each of its lines of business, and each major ac-
17 tivity within each route and line of business ac-
18 tivity, including—

19 (i) train operations;

20 (ii) equipment maintenance;

21 (iii) food service;

22 (iv) sleeping cars;

23 (v) ticketing;

24 (vi) reservations; and

25 (vii) unallocated fixed overhead costs;

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

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

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

14 (c) CATEGORIZATION OF REVENUES AND EX-
15 PENSES.—In carrying out subsection (a), the Amtrak
16 Board of Directors shall separately categorize assigned
17 revenues and attributable expenses by type of service, in-
18 cluding long-distance routes, State-sponsored routes, com-
19 muter contract routes, and Northeast Corridor routes.

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

21 (a) DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.—
22 The Amtrak Board of Directors shall submit an annual
23 budget and business plan for Amtrak, and a 5-year finan-
24 cial plan for the fiscal year to which that budget and busi-
25 ness plan relate and the subsequent 4 years, prepared in

1 accordance with this section, to the Secretary and the In-
2 spector General of the Department of Transportation no
3 later than—

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

6 (2) the date that is 60 days after the date of
7 enactment of an appropriations Act for the fiscal
8 year, if later.

9 (b) CONTENTS OF 5-YEAR FINANCIAL PLAN.—The
10 5-year financial plan for Amtrak shall include, at a min-
11 imum—

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

14 (2) projected ridership levels for all Amtrak
15 passenger operations;

16 (3) revenue and expenditure forecasts for non-
17 passenger operations;

18 (4) capital funding requirements and expendi-
19 tures necessary to maintain passenger service in
20 order to accommodate predicted ridership levels and
21 predicted sources of capital funding;

22 (5) operational funding needs, if any, to main-
23 tain current and projected levels of passenger serv-
24 ice, including State-supported routes and predicted
25 funding sources;

1 (6) projected capital and operating require-
2 ments, ridership, and revenue for any new passenger
3 service operations or service expansions;

4 (7) an assessment of the continuing financial
5 stability of Amtrak, as indicated by factors such as
6 anticipated Federal funding of capital and operating
7 costs, Amtrak's ability to efficiently recruit, retain,
8 and manage its workforce, and Amtrak's ability to
9 effectively provide passenger rail service;

10 (8) estimates of long-term and short-term debt
11 and associated principal and interest payments (both
12 current and anticipated);

13 (9) annual cash flow forecasts;

14 (10) a statement describing methods of esti-
15 mation and significant assumptions;

16 (11) specific measures that demonstrate meas-
17 urable improvement year over year in the financial
18 results of Amtrak's operations;

19 (12) prior fiscal year and projected operating
20 ratio, cash operating loss, and cash operating loss
21 per passenger on a route, business line, and cor-
22 porate basis;

23 (13) prior fiscal year and projected specific
24 costs and savings estimates resulting from reform
25 initiatives;

1 (14) prior fiscal year and projected labor pro-
2 ductivity statistics on a route, business line, and cor-
3 porate basis;

4 (15) prior fiscal year and projected equipment
5 reliability statistics; and

6 (16) capital and operating expenditures for an-
7 ticipated security needs.

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

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

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

19 (3) ensure that the plan is consistent with the
20 authorizations of appropriations under title I of this
21 division.

22 (d) REVIEW BY DOT INSPECTOR GENERAL.—Within
23 60 days after their submission by Amtrak, the Inspector
24 General of the Department of Transportation shall review
25 the annual budget and the 5-year financial plans prepared

1 by Amtrak under this section to determine whether they
2 meet the requirements of subsection (b) and shall furnish
3 any relevant findings to the Committee on Transportation
4 and Infrastructure of the House of Representatives, the
5 Committee on Appropriations of the House of Representa-
6 tives, the Committee on Commerce, Science, and Trans-
7 portation of the Senate, and the Committee on Appropria-
8 tions of the Senate.

9 **SEC. 205. RESTRUCTURING LONG-TERM DEBT AND CAP-**
10 **ITAL LEASES.**

11 (a) IN GENERAL.—The Secretary of the Treasury, in
12 consultation with the Secretary and Amtrak, may make
13 agreements to restructure Amtrak's indebtedness as of the
14 date of enactment of this Act. This authorization expires
15 2 years after the date of enactment of this Act.

16 (b) DEBT RESTRUCTURING.—The Secretary of the
17 Treasury, in consultation with the Secretary and Amtrak,
18 shall enter into negotiations with the holders of Amtrak
19 debt, including leases, outstanding as of the date of enact-
20 ment of this Act for the purpose of restructuring (includ-
21 ing repayment) and repaying that debt. The Secretary of
22 the Treasury may secure agreements for restructuring or
23 repayment on such terms as the Secretary of the Treasury
24 deems favorable to the interests of the United States Gov-
25 ernment.

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

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

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

9 (d) PAYMENT OF RENEGOTIATED DEBT.—If the cri-
10 teria under subsection (c) are met, the Secretary of the
11 Treasury may assume or repay the restructured debt, as
12 appropriate.

13 (e) AMTRAK PRINCIPAL AND INTEREST PAY-
14 MENTS.—

15 (1) PRINCIPAL ON DEBT SERVICE.—Unless the
16 Secretary of the Treasury makes sufficient payments
17 to creditors under subsection (d) so that Amtrak is
18 required to make no payments to creditors in a fis-
19 cal year, the Secretary shall use funds authorized by
20 section 102 of this division for the use of Amtrak for
21 retirement of principal or payment of interest on
22 loans for capital equipment, or capital leases.

23 (2) REDUCTIONS IN AUTHORIZATION LEVELS.—
24 Whenever action taken by the Secretary of the
25 Treasury under subsection (a) results in reductions

1 in amounts of principal or interest that Amtrak
2 must service on existing debt, the corresponding
3 amounts authorized by section 102 shall be reduced
4 accordingly.

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

9 (1) modify the extent or nature of any indebt-
10 edness of Amtrak to the United States in existence
11 as of the date of enactment of this Act;

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

14 (3) imply any Federal guarantee or commit-
15 ment to amortize Amtrak's outstanding indebted-
16 ness.

17 (g) SECRETARY APPROVAL.—Amtrak may not incur
18 more debt after the date of enactment of this Act without
19 the express advance approval of the Secretary.

20 (h) REPORT.—The Secretary of the Treasury shall
21 transmit a report to the Committee on Transportation and
22 Infrastructure of the House of Representatives, the Com-
23 mittee on Appropriations of the House of Representatives,
24 the Committee on Commerce, Science, and Transportation

1 of the Senate, and the Committee on Appropriations of
2 the Senate, by June 1, 2010—

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

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

7 **SEC. 206. ESTABLISHMENT OF GRANT PROCESS.**

8 (a) GRANT REQUESTS.—Amtrak shall submit grant
9 requests (including a schedule for the disbursement of
10 funds), consistent with the requirements of this division,
11 to the Secretary for funds authorized to be appropriated
12 to the Secretary for the use of Amtrak under sections
13 101(a), (b), and (c), 102, 219(b), and 302.

14 (b) PROCEDURES FOR GRANT REQUESTS.—The Sec-
15 retary shall establish substantive and procedural require-
16 ments, including schedules, for grant requests under this
17 section not later than 30 days after the date of enactment
18 of this Act and shall transmit copies of such requirements
19 and schedules to the Committee on Transportation and
20 Infrastructure of the House of Representatives and the
21 Committee on Commerce, Science, and Transportation of
22 the Senate. As part of those requirements, the Secretary
23 shall require, at a minimum, that Amtrak deposit grant
24 funds, consistent with the appropriated amounts for each

1 area of expenditure in a given fiscal year, in the following
2 2 accounts:

3 (1) The Amtrak Operating account.

4 (2) The Amtrak General Capital account.

5 Amtrak may not transfer such funds to another account
6 or expend such funds for any purpose other than the pur-
7 poses covered by the account in which the funds are depos-
8 ited without approval by the Secretary.

9 (c) REVIEW AND APPROVAL.—

10 (1) 30-DAY APPROVAL PROCESS.—The Sec-
11 retary shall complete the review of a grant request
12 (including the disbursement schedule) and approve
13 or disapprove the request within 30 days after the
14 date on which Amtrak submits the grant request. If
15 the Secretary disapproves the request or determines
16 that the request is incomplete or deficient, the Sec-
17 retary shall include the reason for disapproval or the
18 incomplete items or deficiencies in a notice to Am-
19 trak.

20 (2) 15-DAY MODIFICATION PERIOD.—Within 15
21 days after receiving notification from the Secretary
22 under the preceding sentence, Amtrak shall submit
23 a modified request for the Secretary's review.

24 (3) REVISED REQUESTS.—Within 15 days after
25 receiving a modified request from Amtrak, the Sec-

1 retary shall either approve the modified request, or,
2 if the Secretary finds that the request is still incom-
3 plete or deficient, the Secretary shall identify in
4 writing to the Committee on Transportation and In-
5 frastructure of the House of Representatives and the
6 Committee on Commerce, Science, and Transpor-
7 tation of the Senate the remaining deficiencies and
8 recommend a process for resolving the outstanding
9 portions of the request.

10 **SEC. 207. METRICS AND STANDARDS.**

11 (a) IN GENERAL.—Within 180 days after the date
12 of enactment of this Act, the Federal Railroad Adminis-
13 tration and Amtrak shall jointly, in consultation with the
14 Surface Transportation Board, rail carriers over whose
15 rail lines Amtrak trains operate, States, Amtrak employ-
16 ees, nonprofit employee organizations representing Am-
17 trak employees, and groups representing Amtrak pas-
18 sengers, as appropriate, develop new or improve existing
19 metrics and minimum standards for measuring the per-
20 formance and service quality of intercity passenger train
21 operations, including cost recovery, on-time performance
22 and minutes of delay, ridership, on-board services, sta-
23 tions, facilities, equipment, and other services. Such
24 metrics, at a minimum, shall include the percentage of
25 avoidable and fully allocated operating costs covered by

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

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

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

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

8 **SEC. 208. METHODOLOGIES FOR AMTRAK ROUTE AND**
9 **SERVICE PLANNING DECISIONS.**

10 (a) METHODOLOGY DEVELOPMENT.—Within 180
11 days after the date of enactment of this Act, the Federal
12 Railroad Administration shall obtain the services of a
13 qualified independent entity to develop and recommend ob-
14 jective methodologies for Amtrak to use in determining
15 what intercity passenger routes and services it will pro-
16 vide, including the establishment of new routes, the elimi-
17 nation of existing routes, and the contraction or expansion
18 of services or frequencies over such routes. In developing
19 such methodologies, the entity shall consider—

20 (1) the current or expected performance and
21 service quality of intercity passenger train oper-
22 ations, including cost recovery, on-time performance
23 and minutes of delay, ridership, on-board services,
24 stations, facilities, equipment, and other services;

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

1 (3) the transportation needs of communities
2 and populations that are not well served by intercity
3 passenger rail service or by other forms of intercity
4 transportation;

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

9 (5) the views of the States and other interested
10 parties.

11 (b) SUBMITTAL TO CONGRESS.—Within 1 year after
12 the date of enactment of this Act, the entity shall submit
13 recommendations developed under subsection (a) to Am-
14 trak, the Committee on Transportation and Infrastructure
15 of the House of Representatives, and the Committee on
16 Commerce, Science, and Transportation of the Senate.

17 (c) CONSIDERATION OF RECOMMENDATIONS.—With-
18 in 90 days after receiving the recommendations developed
19 under subsection (a) by the entity, the Amtrak Board of
20 Directors shall consider the adoption of those rec-
21 ommendations. The Board shall transmit a report to the
22 Committee on Transportation and Infrastructure of the
23 House of Representatives and the Committee on Com-
24 merce, Science, and Transportation of the Senate explain-

1 ing its reasons for adopting or not adopting the rec-
2 ommendations.

3 **SEC. 209. STATE-SUPPORTED ROUTES.**

4 (a) IN GENERAL.—Within 2 years after the date of
5 enactment of this Act, the Amtrak Board of Directors, in
6 consultation with the Secretary, the governors of each rel-
7 evant State, and the Mayor of the District of Columbia,
8 or entities representing those officials, shall develop and
9 implement a single, nationwide standardized methodology
10 for establishing and allocating the operating and capital
11 costs among the States and Amtrak associated with trains
12 operated on each of the routes described in section
13 24102(5)(B) and (D) and section 24702 that—

14 (1) ensures, within 5 years after the date of en-
15 actment of this Act, equal treatment in the provision
16 of like services of all States and groups of States
17 (including the District of Columbia); and

18 (2) allocates to each route the costs incurred
19 only for the benefit of that route and a propor-
20 tionate share, based upon factors that reasonably re-
21 flect relative use, of costs incurred for the common
22 benefit of more than 1 route.

23 (b) REVISIONS.—The Amtrak Board of Directors, in
24 consultation with the Secretary, the governors of each rel-
25 evant State, and the Mayor of the District of Columbia,

1 or entities representing those officials, may revise or
2 amend the methodology established under subsection (a)
3 as necessary, consistent with the intent of this section, in-
4 cluding revisions or modifications based on Amtrak's fi-
5 nancial accounting system developed pursuant to section
6 203 of this division.

7 (c) REVIEW.—If Amtrak and the States (including
8 the District of Columbia) in which Amtrak operates such
9 routes do not voluntarily adopt and implement the meth-
10 odology developed under subsection (a) in allocating costs
11 and determining compensation for the provision of service
12 in accordance with the date established therein, the Sur-
13 face Transportation Board shall determine the appro-
14 priate methodology required under subsection (a) for such
15 services in accordance with the procedures and procedural
16 schedule applicable to a proceeding under section 24904(c)
17 of title 49, United States Code, and require the full imple-
18 mentation of this methodology with regards to the provi-
19 sion of such service within 1 year after the Board's deter-
20 mination of the appropriate methodology.

21 (d) USE OF CHAPTER 244 FUNDS.—Funds provided
22 to a State under chapter 244 of title 49, United States
23 Code, may be used, as provided in that chapter, to pay
24 capital costs determined in accordance with this section.

1 **SEC. 210. LONG-DISTANCE ROUTES.**

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

4 **“§ 24710. Long-distance routes**

5 “(a) ANNUAL EVALUATION.—Using the financial and
6 performance metrics developed under section 207 of the
7 Passenger Rail Investment and Improvement Act of 2008,
8 Amtrak shall—

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

12 “(2) rank the overall performance of such
13 routes for 2008 and identify each long-distance pas-
14 senger rail route operated by Amtrak in 2008 ac-
15 cording to its overall performance as belonging to
16 the best performing third of such routes, the second
17 best performing third of such routes, or the worst
18 performing third of such routes.

19 “(b) PERFORMANCE IMPROVEMENT PLAN.—Amtrak
20 shall develop and post on its website a performance im-
21 provement plan for its long-distance passenger rail routes
22 to achieve financial and operating improvements based on
23 the data collected through the application of the financial
24 and performance metrics developed under section 207 of
25 that Act. The plan shall address—

26 “(1) on-time performance;

- 1 “(2) scheduling, frequency, routes, and stops;
- 2 “(3) the feasibility of restructuring service into
- 3 connected corridor service;
- 4 “(4) performance-related equipment changes
- 5 and capital improvements;
- 6 “(5) on-board amenities and service, including
- 7 food, first class, and sleeping car service;
- 8 “(6) State or other non-Federal financial con-
- 9 tributions;
- 10 “(7) improving financial performance;
- 11 “(8) anticipated Federal funding of operating
- 12 and capital costs; and
- 13 “(9) other aspects of Amtrak’s long-distance
- 14 passenger rail routes that affect the financial, com-
- 15 petitive, and functional performance of service on
- 16 Amtrak’s long-distance passenger rail routes.

17 “(c) IMPLEMENTATION.—Amtrak shall implement

18 the performance improvement plan developed under sub-

19 section (b)—

- 20 “(1) beginning in fiscal year 2010 for those
- 21 routes identified as being in the worst performing
- 22 third under subsection (a)(2);
- 23 “(2) beginning in fiscal year 2011 for those
- 24 routes identified as being in the second best per-
- 25 forming third under subsection (a)(2); and

1 “(3) beginning in fiscal year 2012 for those
2 routes identified as being in the best performing
3 third under subsection (a)(2).

4 “(d) ENFORCEMENT.—The Federal Railroad Admin-
5 istration shall monitor the development, implementation,
6 and outcome of improvement plans under this section. If
7 the Federal Railroad Administration determines that Am-
8 trak is not making reasonable progress in implementing
9 its performance improvement plan or, after the perform-
10 ance improvement plan is implemented under subsection
11 (c)(1) in accordance with the terms of that plan, Amtrak
12 has not achieved the outcomes it has established for such
13 routes, under the plan for any calendar year, the Federal
14 Railroad Administration—

15 “(1) shall notify Amtrak, the Inspector General
16 of the Department of Transportation, the Committee
17 on Transportation and Infrastructure of the House
18 of Representatives, and the Committee on Com-
19 merce, Science, and Transportation of the Senate of
20 its determination under this subsection;

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

23 “(3) may withhold appropriated funds otherwise
24 available to Amtrak for the operation of a route or
25 routes from among the worst performing third of

1 routes currently served by Amtrak on which Amtrak
2 is not making reasonable progress, other than funds
3 made available for passenger safety or security
4 measures.”.

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

“24710. Long distance routes.”.

8 **SEC. 211. NORTHEAST CORRIDOR STATE-OF-GOOD-REPAIR**
9 **PLAN.**

10 (a) IN GENERAL.—Within 6 months after the date
11 of enactment of this Act, Amtrak, in consultation with the
12 Secretary and the States (including the District of Colum-
13 bia) that make up the Northeast Corridor (as defined in
14 section 24102 of title 49, United States Code), shall pre-
15 pare a capital spending plan for capital projects required
16 to return the railroad right-of-way (including track, sig-
17 nals, and auxiliary structures), facilities, stations, and
18 equipment, of the Northeast Corridor main line to a state-
19 of-good-repair by the end of fiscal year 2018, consistent
20 with the funding levels authorized in this division, and
21 shall submit the plan to the Secretary.

22 (b) REVIEW AND APPROVAL BY THE SECRETARY.—

23 (1) 60-DAY APPROVAL PROCESS.—The Sec-
24 retary shall complete the review of the capital spend-
25 ing plan and approve or disapprove the plan within

1 60 days after the date on which Amtrak submits the
2 plan. During review, the Secretary may seek com-
3 ments from the Commission established under sec-
4 tion 24905 of title 49, United States Code, and
5 other Northeast Corridor users regarding the plan.
6 If the Secretary disapproves the plan or determines
7 that the plan is incomplete or deficient, the Sec-
8 retary shall include the reason for disapproval or the
9 incomplete items or deficiencies in a notice to Am-
10 trak.

11 (2) 15-DAY MODIFICATION PERIOD.—Within 15
12 days after receiving notification from the Secretary
13 under paragraph (1), Amtrak shall submit a modi-
14 fied plan for the Secretary's review.

15 (3) REVISED REQUESTS.—Within 15 days after
16 receiving a modified plan from Amtrak, the Sec-
17 retary shall either approve the modified plan, or, if
18 the Secretary finds that the plan is still incomplete
19 or deficient, the Secretary shall identify in writing to
20 the Committee on Transportation and Infrastructure
21 of the House of Representatives and the Committee
22 on Commerce, Science, and Transportation of the
23 Senate the remaining deficiencies and recommend a
24 process for resolving the outstanding portions of the
25 plan.

1 (c) PLAN UPDATES.—The plan shall be updated at
2 least annually and the Secretary shall review and approve
3 such updates, in accordance with the procedures described
4 in subsection (b).

5 (d) GRANTS.—The Secretary shall make grants to
6 Amtrak with funds authorized by section 101(c) for
7 Northeast Corridor capital investments contained within
8 the capital spending plan prepared by Amtrak and ap-
9 proved by the Secretary.

10 (e) OVERSIGHT.—Using the funds authorized by sec-
11 tion 101(d), the Secretary shall review Amtrak's capital
12 expenditures funded by this section to ensure that such
13 expenditures are consistent with the capital spending plan
14 and that Amtrak is providing adequate project manage-
15 ment oversight and fiscal controls.

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

19 **SEC. 212. NORTHEAST CORRIDOR INFRASTRUCTURE AND**
20 **OPERATIONS IMPROVEMENTS.**

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

1 **“§ 24905. Northeast Corridor Infrastructure and Op-**
2 **erations Advisory Commission; Safety**
3 **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 2008, the Secretary of Transpor-
9 tation shall establish a Northeast Corridor Infra-
10 structure and Operations Advisory Commission (re-
11 ferred to in this section as the ‘Commission’) to pro-
12 mote mutual cooperation and planning pertaining to
13 the rail operations and related activities of the
14 Northeast Corridor. The Commission shall be made
15 up of—

16 “(A) members representing Amtrak;

17 “(B) members representing the Depart-
18 ment of Transportation, including the Federal
19 Railroad Administration;

20 “(C) 1 member from each of the States
21 (including the District of Columbia) that con-
22 stitute the Northeast Corridor as defined in sec-
23 tion 24102, designated by, and serving at the
24 pleasure of, the chief executive officer thereof;
25 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 paragraph (1) shall not constitute a majority
7 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.

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) STATEMENT OF GOALS AND RECOMMENDA-
14 TIONS.—

15 “(1) STATEMENT OF GOALS.—The Commission
16 shall develop a statement of goals concerning the fu-
17 ture of Northeast Corridor rail infrastructure and
18 operations based on achieving expanded and im-
19 proved intercity, commuter, and freight rail services
20 operating with greater safety and reliability, reduced
21 travel times, increased frequencies and enhanced
22 intermodal connections designed to address airport
23 and highway congestion, reduce transportation en-
24 ergy consumption, improve air quality, and increase

1 economic development of the Northeast Corridor re-
2 gion.

3 “(2) RECOMMENDATIONS.—The Commission
4 shall develop recommendations based on the state-
5 ment developed under this section addressing, as ap-
6 propriate—

7 “(A) short-term and long-term capital in-
8 vestment needs beyond those specified in the
9 state-of-good-repair plan under section 211 of
10 the Passenger Rail Investment and Improve-
11 ment Act of 2008;

12 “(B) future funding requirements for cap-
13 ital improvements and maintenance;

14 “(C) operational improvements of intercity
15 passenger rail, commuter rail, and freight rail
16 services;

17 “(D) opportunities for additional non-rail
18 uses of the Northeast Corridor;

19 “(E) scheduling and dispatching;

20 “(F) safety and security enhancements;

21 “(G) equipment design;

22 “(H) marketing of rail services;

23 “(I) future capacity requirements; and

1 “(J) potential funding and financing mech-
2 anisms for projects of corridor-wide signifi-
3 cance.

4 “(c) ACCESS COSTS.—

5 “(1) DEVELOPMENT OF FORMULA.—Within 2
6 years after the date of enactment of the Passenger
7 Rail Investment and Improvement Act of 2008, the
8 Commission shall—

9 “(A) develop a standardized formula for
10 determining and allocating costs, revenues, and
11 compensation for Northeast Corridor commuter
12 rail passenger transportation, as defined in sec-
13 tion 24102 of this title, on the Northeast Cor-
14 ridor main line between Boston, Massachusetts,
15 and Washington, District of Columbia, and the
16 Northeast Corridor branch lines connecting to
17 Harrisburg, Pennsylvania, Springfield, Massa-
18 chusetts, and Spuyten Duyvil, New York, that
19 use Amtrak facilities or services or that provide
20 such facilities or services to Amtrak that en-
21 sures that—

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

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

7 “(iii) all financial contributions made
8 by an operator of a service that benefit an
9 infrastructure owner other than the oper-
10 ator are considered, including but not lim-
11 ited to, any capital infrastructure invest-
12 ments and in-kind services;

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

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

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

24 “(2) IMPLEMENTATION.—Amtrak and public
25 authorities providing commuter rail passenger trans-

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

13 “(3) REVISIONS.—The Commission may make
14 necessary revisions to the formula developed under
15 paragraph (1), including revisions based on Am-
16 trak’s financial accounting system developed pursu-
17 ant to section 203 of the Passenger Rail Investment
18 and Improvement Act of 2008.

19 “(d) TRANSMISSION OF STATEMENT OF GOALS AND
20 RECOMMENDATIONS.—The Commission shall transmit to
21 the Committee on Commerce, Science, and Transportation
22 of the Senate and the Committee on Transportation and
23 Infrastructure of the House of Representatives—

24 “(1) the statement of goals developed under
25 subsection (b) within 1 year after the date of enact-

1 ment of the Passenger Rail Investment and Im-
2 provement Act of 2008; and

3 “(2) the recommendations developed under sub-
4 section (b) and the formula and timetable developed
5 under subsection (c)(1) annually.

6 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
7 are authorized to be appropriated to the Commission such
8 sums as may be necessary for the period encompassing
9 fiscal years 2009 through 2013 to carry out this section.

10 “(f) NORTHEAST CORRIDOR SAFETY COMMITTEE.—

11 “(1) IN GENERAL.—The Secretary shall estab-
12 lish a Northeast Corridor Safety Committee com-
13 posed of members appointed by the Secretary. The
14 members shall be representatives of—

15 “(A) the Department of Transportation,
16 including the Federal Railroad Administration;

17 “(B) Amtrak;

18 “(C) freight carriers operating more than
19 150,000 train miles a year on the main line of
20 the Northeast Corridor;

21 “(D) commuter rail agencies;

22 “(E) rail passengers;

23 “(F) rail labor; and

1 “(G) other individuals and organizations
2 the Secretary decides have a significant interest
3 in rail safety or security.

4 “(2) FUNCTION; MEETINGS.—The Secretary
5 shall consult with the Committee about safety and
6 security improvements on the Northeast Corridor
7 main line. The Committee shall meet at least two
8 times per year to consider safety and security mat-
9 ters on the main line.

10 “(3) REPORT.—At the beginning of the first
11 session of each Congress, the Secretary shall submit
12 a report to the Commission and to the Committee on
13 Transportation and Infrastructure of the House of
14 Representatives and the Committee on Commerce,
15 Science, and Transportation of the Senate 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 and security recommendations of
19 the Committee and the comments of the Secretary
20 on those recommendations.”.

21 (b) CONFORMING AMENDMENTS.—(1) The item re-
22 lating to section 24905 in the table of sections of chapter
23 249 is amended to read as follows:

 “24905. Northeast Corridor Infrastructure and Operations Advisory Commis-
 sion; Safety Committee.”.

24 (2) Section 24904(c)(2) is amended by—

1 (A) inserting “commuter rail passenger and”
2 after “between”; and

3 (B) striking “freight” in the second sentence.

4 (c) RIDOT ACCESS AGREEMENT.—

5 (1) IN GENERAL.—Not later than July 1, 2009,
6 Amtrak and the Rhode Island Department of Trans-
7 portation shall enter into an agreement governing
8 access fees and other costs or charges related to the
9 operation of the South County commuter rail service
10 on the Northeast Corridor between Providence and
11 Wickford Junction, Rhode Island.

12 (2) FAILURE TO REACH AGREEMENT.—If Am-
13 trak and the Rhode Island Department of Transpor-
14 tation fail to reach the agreement specified under
15 paragraph (1), the Administrator of the Federal
16 Railroad Administration shall, after consultation
17 with both parties, resolve any outstanding disagree-
18 ments between the parties, including setting access
19 fees and other costs or charges related to the oper-
20 ation of the South County commuter rail service
21 that do not allow for the cross-subsidization of inter-
22 city rail passenger and commuter rail passenger
23 service, not later than January 1, 2010.

24 (3) INTERIM ACCESS COSTS.—Any agreement
25 between Amtrak and the Rhode Island Department

1 of Transportation relating to access costs made
2 under this subsection shall be superseded by any ac-
3 cess cost formula developed by the Northeast Cor-
4 ridor Infrastructure and Operations Advisory Com-
5 mission under section 24905(c)(1) of title 49,
6 United States Code, as amended by subsection (a) of
7 this section.

8 (d) HIGH-SPEED SERVICE STUDY.—

9 (1) IN GENERAL.—Amtrak shall submit a re-
10 port detailing the infrastructure and equipment im-
11 provements necessary to provide regular high-speed
12 service—

13 (A) between Washington, District of Co-
14 lumbia, and New York, New York, in 2 hours
15 and 30 minutes; and

16 (B) between New York, New York, and
17 Boston, Massachusetts, in 3 hours and 15 min-
18 utes.

19 (2) ISSUES.—The report shall include—

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

22 (B) an analysis of any significant obstacles
23 that would hinder such an achievement;

24 (C) a detailed description and cost esti-
25 mate of the specific infrastructure and equip-

1 ment improvements necessary for such an
2 achievement; and

3 (D) an initial assessment of the infrastruc-
4 ture and equipment improvements, including an
5 order of magnitude cost estimate of such im-
6 provements, that would be necessary to provide
7 regular high-speed service—

8 (i) between Washington, District of
9 Columbia, and New York, New York, in 2
10 hours and 15 minutes; and

11 (ii) between New York, New York,
12 and Boston, Massachusetts, in 3 hours.

13 (3) REPORT.—Within 1 year after the date of
14 enactment of this Act, Amtrak shall submit the re-
15 port required under this subsection to—

16 (A) the Committee on Commerce, Science,
17 and Transportation of the Senate;

18 (B) the Committee on Appropriations of
19 the Senate;

20 (C) the Committee on Transportation and
21 Infrastructure of the House of Representatives;

22 (D) the Committee on Appropriations of
23 the House of Representatives; and

24 (E) the Federal Railroad Administration.

1 (e) REPORT ON NORTHEAST CORRIDOR ECONOMIC
2 DEVELOPMENT.—Within 2 years after the date of enact-
3 ment of this Act, the Northeast Corridor Infrastructure
4 and Operations Advisory Commission shall transmit to the
5 Committee on Transportation and Infrastructure of the
6 House of Representatives and the Committee on Com-
7 merce, Science, and Transportation of the Senate a report
8 on the role of Amtrak’s Northeast Corridor service be-
9 tween Washington, District of Columbia, and New York,
10 New York, in the economic development of the Northeast
11 Corridor region. The report shall examine how to enhance
12 the utilization of the Northeast Corridor for greater eco-
13 nomic development, including improving—

14 (1) real estate utilization;

15 (2) improved intercity, commuter, and freight
16 services; and

17 (3) optimum utility utilization.

18 **SEC. 213. PASSENGER TRAIN PERFORMANCE.**

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

21 “(f) PASSENGER TRAIN PERFORMANCE AND OTHER
22 STANDARDS.—

23 “(1) INVESTIGATION OF SUBSTANDARD PER-
24 FORMANCE.—If the on-time performance of any
25 intercity passenger train averages less than 80 per-

1 cent for any 2 consecutive calendar quarters, or the
2 service quality of intercity passenger train operations
3 for which minimum standards are established under
4 section 207 of the Passenger Rail Investment and
5 Improvement Act of 2008 fails to meet those stand-
6 ards for 2 consecutive calendar quarters, the Surface
7 Transportation Board (referred to in this section as
8 the 'Board') may initiate an investigation, or upon
9 the filing of a complaint by Amtrak, an intercity
10 passenger rail operator, a host freight railroad over
11 which Amtrak operates, or an entity for which Am-
12 trak operates intercity passenger rail service, the
13 Board shall initiate such an investigation, to deter-
14 mine whether and to what extent delays or failure to
15 achieve minimum standards are due to causes that
16 could reasonably be addressed by a rail carrier over
17 whose tracks the intercity passenger train operates
18 or reasonably addressed by Amtrak or other inter-
19 city passenger rail operators. As part of its inves-
20 tigation, the Board has authority to review the accu-
21 racy of the train performance data and the extent to
22 which scheduling and congestion contribute to
23 delays. In making its determination or carrying out
24 such an investigation, the Board shall obtain infor-
25 mation from all parties involved and identify reason-

1 able measures and make recommendations to im-
2 prove the service, quality, and on-time performance
3 of the train.

4 “(2) PROBLEMS CAUSED BY HOST RAIL CAR-
5 RIER.—If the Board determines that delays or fail-
6 ures to achieve minimum standards investigated
7 under paragraph (1) are attributable to a rail car-
8 rier’s failure to provide preference to Amtrak over
9 freight transportation as required under subsection
10 (c), the Board may award damages against the host
11 rail carrier, including prescribing such other relief to
12 Amtrak as it determines to be reasonable and appro-
13 priate pursuant to paragraph (3) of this subsection.

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

17 “(A) the extent to which Amtrak suffers fi-
18 nancial loss as a result of host rail carrier
19 delays or failure to achieve minimum standards;
20 and

21 “(B) what reasonable measures would ade-
22 quately deter future actions which may reason-
23 ably be expected to be likely to result in delays
24 to Amtrak on the route involved.

1 “(4) USE OF DAMAGES.—The Board shall, as it
2 deems appropriate, order the host rail carrier to
3 remit the damages awarded under this subsection to
4 Amtrak or to an entity for which Amtrak operates
5 intercity passenger rail service. Such damages shall
6 be used for capital or operating expenditures on the
7 routes over which delays or failures to achieve min-
8 imum standards were the result of a rail carrier’s
9 failure to provide preference to Amtrak over freight
10 transportation as determined in accordance with
11 paragraph (2).”.

12 (b) FEES.—The Surface Transportation Board may
13 establish and collect filing fees from any entity that files
14 a complaint under section 24308(f)(1) of title 49, United
15 States Code, or otherwise requests or requires the Board’s
16 services pursuant to this division. The Board shall estab-
17 lish such fees at levels that will fully or partially, as the
18 Board determines to be appropriate, offset the costs of ad-
19 judicating complaints under that section and other re-
20 quests or requirements for Board action under this divi-
21 sion. The Board may waive any fee established under this
22 subsection for any governmental entity as determined ap-
23 propriate by the Board.

24 (c) AUTHORIZATION OF ADDITIONAL STAFF.—The
25 Surface Transportation Board may increase the number

1 of Board employees by up to 15 for the 5 fiscal year period
2 beginning with fiscal year 2009 to carry out its respon-
3 sibilities under section 24308 of title 49, United States
4 Code, and this division.

5 (d) CHANGE OF REFERENCE.—Section 24308 is
6 amended—

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

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

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

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

17 **SEC. 214. ALTERNATE PASSENGER RAIL SERVICE PILOT**
18 **PROGRAM.**

19 (a) IN GENERAL.—Chapter 247, as amended by sec-
20 tion 210, is amended by adding at the end thereof the
21 following:

22 **“§ 24711. Alternate passenger rail service pilot pro-**
23 **gram**

24 “(a) IN GENERAL.—Within 1 year after the date of
25 enactment of the Passenger Rail Investment and Improve-

1 ment Act of 2008, the Federal Railroad Administration
2 shall complete a rulemaking proceeding to develop a pilot
3 program that—

4 “(1) permits a rail carrier or rail carriers that
5 own infrastructure over which Amtrak operates a
6 passenger rail service route described in subpara-
7 graph (B), (C), or (D) of section 24102(5) or in sec-
8 tion 24702 to petition the Administration to be con-
9 sidered as a passenger rail service provider over that
10 route in lieu of Amtrak for a period not to exceed
11 5 years after the date of enactment of the Passenger
12 Rail Investment and Improvement Act of 2008;

13 “(2) requires the Administration to notify Am-
14 trak within 30 days after receiving a petition under
15 paragraph (1) and establish a deadline by which
16 both the petitioner and Amtrak would be required to
17 submit a bid to provide passenger rail service over
18 the route to which the petition relates;

19 “(3) requires that each bid describe how the
20 bidder would operate the route, what Amtrak pas-
21 senger equipment would be needed, if any, what
22 sources of non-Federal funding the bidder would
23 use, including any State subsidy, among other
24 things;

1 “(4) requires the Administration to select win-
2 ning bidders by evaluating the bids against the fi-
3 nancial and performance metrics developed under
4 section 207 of the Passenger Rail Investment and
5 Improvement Act of 2008 and to give preference in
6 awarding contracts to bidders seeking to operate
7 routes that have been identified as one of the five
8 worst performing Amtrak routes under section
9 24710;

10 “(5) requires the Administration to execute a
11 contract within a specified, limited time after the
12 deadline established under paragraph (2) and award
13 to the winning bidder—

14 “(A) the right and obligation to provide
15 passenger rail service over that route subject to
16 such performance standards as the Administra-
17 tion may require, consistent with the standards
18 developed under section 207 of the Passenger
19 Rail Investment and Improvement Act of 2008;
20 and

21 “(B) an operating subsidy—

22 “(i) for the first year at a level not in
23 excess of the level in effect during the fis-
24 cal year preceding the fiscal year in which

1 the petition was received, adjusted for in-
2 flation;

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

5 “(6) requires that each bid contain a staffing
6 plan describing the number of employees needed to
7 operate the service, the job assignments and require-
8 ments, and the terms of work for prospective and
9 current employees of the bidder for the service out-
10 lined in the bid, and such staffing plan be made
11 available by the winning bidder to the public after
12 the bid award.

13 “(b) ROUTE LIMITATIONS.—The Administration may
14 not make the program available with respect to more than
15 2 Amtrak intercity passenger rail routes.

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

21 “(1) it shall execute a contract with the rail
22 carrier or rail carriers for rail passenger operations
23 on that route that conditions the operating and sub-
24 sidy rights upon—

1 “(A) the service provider continuing to
2 provide passenger rail service on the route that
3 is no less frequent, nor over a shorter distance,
4 than Amtrak provided on that route before the
5 award; and

6 “(B) the service provider’s compliance with
7 the minimum standards established under sec-
8 tion 207 of the Passenger Rail Investment and
9 Improvement Act of 2008 and such additional
10 performance standards as the Administration
11 may establish;

12 “(2) it shall, if the award is made to a rail car-
13 rier other than Amtrak, require Amtrak to provide
14 access to its reservation system, stations, and facili-
15 ties directly related to operations to any rail carrier
16 or rail carriers awarded a contract under this sec-
17 tion, in accordance with section 217 of that Act,
18 necessary to carry out the purposes of this section;

19 “(3) the employees of any person used by a rail
20 carrier or rail carriers (as defined in section
21 10102(5) of this title) in the operation of a route
22 under this section shall be considered an employee of
23 that carrier or carriers and subject to the applicable
24 Federal laws and regulations governing similar
25 crafts or classes of employees of Amtrak, including

1 provisions under section 121 of the Amtrak Reform
2 and Accountability Act of 1997 relating to employ-
3 ees that provide food and beverage service; and

4 “(4) the winning bidder shall provide hiring
5 preference to qualified Amtrak employees displaced
6 by the award of the bid, consistent with the staffing
7 plan submitted by the bidder and shall be subject to
8 the grant conditions under section 24405 of this
9 title.

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

21 “(e) ADEQUATE RESOURCES.—Before taking any ac-
22 tion allowed under this section, the Secretary shall certify
23 that the Administrator has sufficient resources that are
24 adequate to undertake the program established under this
25 section.”.

1 (b) REPORT.—Within 1 year after the conclusion of
2 the pilot program established under subsection (a), the
3 Federal Railroad Administration shall submit to the Com-
4 mittee on Transportation and Infrastructure of the House
5 of Representatives and the Committee on Commerce,
6 Science, and Transportation of the Senate a report on the
7 results on the pilot program established under section
8 24711, and any recommendations for further action.

9 (c) CONFORMING AMENDMENT.—The chapter anal-
10 ysis for chapter 247, as amended by section 210, is
11 amended by inserting after the item relating to section
12 24710 the following:

“24711. Alternate passenger rail service pilot program.”.

13 **SEC. 215. EMPLOYEE TRANSITION ASSISTANCE.**

14 (a) PROVISION OF FINANCIAL INCENTIVES.—For
15 Amtrak employees who are adversely affected by the ces-
16 sation of the operation of a long-distance route or any
17 other route under section 24711 of title 49, United States
18 Code, previously operated by Amtrak, the Secretary shall
19 develop a program under which the Secretary may, at the
20 Secretary’s discretion, provide grants for financial incen-
21 tives to be provided to Amtrak employees who voluntarily
22 terminate their employment with Amtrak and relinquish
23 any legal rights to receive termination-related payments
24 under any contractual agreement with Amtrak.

1 (b) CONDITIONS FOR FINANCIAL INCENTIVES.—As a
2 condition for receiving financial assistance grants under
3 this section, Amtrak must certify that—

4 (1) a reasonable attempt was made to reassign
5 an employee adversely affected under section 24711
6 of title 49, United States Code, or by the elimination
7 of any route, to other positions within Amtrak in ac-
8 cordance with any contractual agreements;

9 (2) the financial assistance results in a net re-
10 duction in the total number of employees equal to
11 the number receiving financial incentives;

12 (3) the financial assistance results in a net re-
13 duction in total employment expense equivalent to
14 the total employment expenses associated with the
15 employees receiving financial incentives; and

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

19 (c) AMOUNT OF FINANCIAL INCENTIVES.—The fi-
20 nancial incentives authorized under this section may be
21 no greater than \$100,000 per employee.

22 (d) AUTHORIZATION OF APPROPRIATIONS.—There
23 are hereby authorized to be appropriated to the Secretary
24 such sums as may be necessary to make grants to Amtrak
25 to provide financial incentives under subsection (a).

1 (e) TERMINATION-RELATED PAYMENTS.—If Amtrak
2 employees adversely affected by the cessation of Amtrak
3 service resulting from the awarding of a grant to an oper-
4 ator other than Amtrak for the operation of a route under
5 section 24711 of title 49, United States Code, or any other
6 route, previously operated by Amtrak do not receive finan-
7 cial incentives under subsection (a), then the Secretary
8 shall make grants to Amtrak from funds authorized by
9 section 101 of this division for termination-related pay-
10 ments to employees under existing contractual agree-
11 ments.

12 **SEC. 216. SPECIAL PASSENGER TRAINS.**

13 Amtrak is encouraged to increase the operation of
14 special trains funded by, or in partnership with, private
15 sector operators through competitive contracting to mini-
16 mize the need for Federal subsidies. Amtrak shall utilize
17 the provisions of section 24308 of title 49, United States
18 Code, when necessary to obtain access to facilities, train
19 and engine crews, or services of a rail carrier or regional
20 transportation authority that are required to operate such
21 trains.

22 **SEC. 217. ACCESS TO AMTRAK EQUIPMENT AND SERVICES.**

23 If a State desires to select or selects an entity other
24 than Amtrak to provide services required for the operation
25 of an intercity passenger train route described in section

1 24102(5)(D) or 24702 of title 49, United States Code,
2 the State may make an agreement with Amtrak to use
3 facilities and equipment of, or have services provided by,
4 Amtrak under terms agreed to by the State and Amtrak
5 to enable the State to utilize an entity other than Amtrak
6 to provide services required for operation of the route. If
7 the parties cannot agree upon terms, and the Surface
8 Transportation Board finds that access to Amtrak's facili-
9 ties or equipment, or the provision of services by Amtrak,
10 is necessary to carry out this provision and that the oper-
11 ation of Amtrak's other services will not be impaired
12 thereby, the Surface Transportation Board shall, within
13 120 days after submission of the dispute, issue an order
14 that the facilities and equipment be made available, and
15 that services be provided, by Amtrak, and shall determine
16 reasonable compensation, liability, and other terms for use
17 of the facilities and equipment and provision of the serv-
18 ices. Compensation shall be determined, as appropriate,
19 in accordance with the methodology established pursuant
20 to section 209 of this division, if available.

21 **SEC. 218. GENERAL AMTRAK PROVISIONS.**

22 (a) CONFORMING CHANGES.—

23 (1) PLAN REQUIRED.—Section 24101(d) is
24 amended—

1 (A) by striking “plan to operate within the
2 funding levels authorized by section 24104 of
3 this chapter, including the budgetary goals for
4 fiscal years 1998 through 2002.” and inserting
5 “plan, consistent with section 204 of the Pas-
6 senger Rail Investment and Improvement Act of
7 2008, including the budgetary goals for fiscal
8 years 2009 through 2013.”; and

9 (B) by striking the last sentence and in-
10 sserting “Amtrak and its Board of Directors
11 shall adopt a long-term plan that minimizes the
12 need for Federal operating subsidies.”.

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

17 (b) LEASE ARRANGEMENTS AND OTHER PUR-
18 CHASES.—Amtrak may obtain from the Administrator of
19 General Services, and the Administrator may provide to
20 Amtrak, services under sections 502(a) and 602 of title
21 40, United States Code.

22 **SEC. 219. STUDY OF COMPLIANCE REQUIREMENTS AT EX-**
23 **ISTING INTERCITY RAIL STATIONS.**

24 (a) IN GENERAL.—Amtrak, in consultation with sta-
25 tion owners and other railroads operating service through

1 the existing stations that it serves, shall evaluate the im-
2 provements necessary to make these stations readily acces-
3 sible to and usable by individuals with disabilities, as re-
4 quired by such section 242(e)(2) of the Americans with
5 Disabilities Act of 1990 (42 U.S.C. 12162(e)(2)). The
6 evaluation shall include, for each applicable station, im-
7 provements required to bring it into compliance with the
8 applicable parts of such section 242(e)(2), any potential
9 barriers to achieving compliance, including issues related
10 to passenger rail station platforms, the estimated cost of
11 the improvements necessary, the identification of the re-
12 sponsible person (as defined in section 241(5) of that Act
13 (42 U.S.C. 12161(5))), and the earliest practicable date
14 when such improvements can be made. The evaluation
15 shall also include a detailed plan and schedule for bringing
16 all applicable stations into compliance with the applicable
17 parts of section 242(e)(2) by the 2010 statutory deadline
18 for station accessibility. Amtrak shall submit the evalua-
19 tion to the Committee on Transportation and Infrastruc-
20 ture of the House of Representatives; the Committee on
21 Commerce, Science, and Transportation of the Senate; the
22 Department of Transportation; and the National Council
23 on Disability by February 1, 2009, along with rec-
24 ommendations for funding the necessary improvements.
25 Should the Department of Transportation issue any rule

1 related to transportation for individuals with disabilities
2 by intercity passenger rail after Amtrak submits its eval-
3 uation, Amtrak shall, within 120 days after the date that
4 such rule is published, submit to the above parties a sup-
5 plemental evaluation on any impact of the rule on its cost
6 and schedule for achieving full compliance.

7 (b) ACCESSIBILITY IMPROVEMENTS AND BARRIER
8 REMOVAL FOR PEOPLE WITH DISABILITIES.—There are
9 authorized to be appropriated to the Secretary for the use
10 of Amtrak such sums as may be necessary to improve the
11 accessibility of facilities, including rail platforms, and
12 services.

13 **SEC. 220. OVERSIGHT OF AMTRAK'S COMPLIANCE WITH AC-**
14 **CESSIBILITY REQUIREMENTS.**

15 Using the funds authorized by section 103 of this di-
16 vision, the Federal Railroad Administration shall monitor
17 and conduct periodic reviews of Amtrak's compliance with
18 applicable sections of the Americans with Disabilities Act
19 of 1990 and the Rehabilitation Act of 1974 to ensure that
20 Amtrak's services and facilities are accessible to individ-
21 uals with disabilities to the extent required by law.

22 **SEC. 221. AMTRAK MANAGEMENT ACCOUNTABILITY.**

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

1 **“§ 24310. Management accountability**

2 “(a) IN GENERAL.—Within 3 years after the date of
3 enactment of the Passenger Rail Investment and Improve-
4 ment Act of 2008, and 2 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 in 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, minimizing
19 Federal subsidies, and improving financial results;
20 and

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

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

“24310. Management accountability.”.

1 **SEC. 222. ON-BOARD SERVICE IMPROVEMENTS.**

2 (a) IN GENERAL.—Within 1 year after metrics and
3 standards are established under section 207 of this divi-
4 sion, Amtrak shall develop and implement a plan to im-
5 prove on-board service pursuant to the metrics and stand-
6 ards for such service developed under that section.

7 (b) REPORT.—Amtrak shall provide a report to the
8 Committee on Transportation and Infrastructure of the
9 House of Representatives and the Committee on Com-
10 merce, Science, and Transportation of the Senate on the
11 on-board service improvements proscribed in the plan and
12 the timeline for implementing such improvements.

13 **SEC. 223. INCENTIVE PAY.**

14 The Amtrak Board of Directors is encouraged to de-
15 velop an incentive pay program for Amtrak management
16 employees.

17 **SEC. 224. PASSENGER RAIL SERVICE STUDIES.**

18 (a) INTERCITY RAIL SERVICE STUDIES.—Within 1
19 year after the date of enactment of this Act, Amtrak shall
20 conduct studies of the following routes:

21 (1) The Pioneer Route between Seattle and
22 Chicago, which was operated by Amtrak until 1997,
23 to determine whether to reinstate passenger rail
24 service along the route or along segments of the
25 route.

1 (2) The North Coast Hiawatha Route between
2 Chicago and Seattle, through southern Montana,
3 which was operated by Amtrak until 1979, to deter-
4 mine whether to reinstate passenger rail service
5 along the route or along segments of the route, pro-
6 vided that such service will not negatively impact ex-
7 isting Amtrak routes.

8 (3) Between Cornwells Heights, Pennsylvania,
9 and New York, New York, to determine whether to
10 expand passenger rail service by increasing the fre-
11 quency of stops or reducing commuter ticket prices
12 for this route.

13 (4) Between Princeton Junction, New Jersey,
14 and Philadelphia, Pennsylvania, to determine wheth-
15 er to expand passenger rail service along the route.

16 (5) Between Harrisburg and Pittsburgh, Penn-
17 sylvania, to determine whether to increase frequency
18 of passenger rail service along the route or along
19 segments of the route.

20 (6) The Capitol Limited Route between Cum-
21 berland, Maryland, and Pittsburgh, Pennsylvania, to
22 determine whether to reinstate a station stop at
23 Rockwood, Pennsylvania.

24 (b) ASSISTANCE.—The Comptroller General of the
25 General Accountability Office shall, upon request by Am-

1 trak, assist Amtrak in conducting the studies under sub-
2 section (a).

3 (c) HIGH-SPEED RAIL CORRIDOR STUDIES.—(1) The
4 Secretary shall conduct—

5 (A) an analysis of the Secretary's December 1,
6 1998, extension of the designation of the Southeast
7 High-Speed Rail Corridor as authorized under sec-
8 tion 104(d)(2) of title 23, United States Code, in-
9 cluding an analysis of alternative routings for the
10 corridor;

11 (B) a feasibility analysis regarding the expan-
12 sion of the South Central High-Speed Rail Cor-
13 ridor—

14 (i) to Memphis, Tennessee;

15 (ii) to the Port of Houston, Texas;

16 (iii) through Killeen, Texas; and

17 (iv) south of San Antonio, Texas, to a lo-
18 cation in far south Texas to be chosen at the
19 discretion of the Secretary; and

20 (C) a feasibility analysis regarding the expan-
21 sion of the Keystone Corridor to Cleveland, Ohio.

22 These analyses shall consider changes that have occurred
23 in the region's population, anticipated patterns of popu-
24 lation growth, connectivity with other modes of transpor-
25 tation, the ability of the proposed corridor to reduce re-

1 gional traffic congestion, and the ability of current and
2 proposed routings to enhance tourism. Within 1 year after
3 the date of enactment of this Act, the Secretary shall sub-
4 mit a report on these analyses to the Committee on Trans-
5 portation and Infrastructure of the House of Representa-
6 tives and the Committee on Commerce, Science, and
7 Transportation of the Senate, and shall redesignate or
8 modify corridor designations based on these analyses, if
9 necessary.

10 (2) The Secretary shall establish a process for a State
11 or group of States to petition the Secretary to redesignate
12 or modify any designated high-speed rail corridors.

13 **SEC. 225. REPORT ON SERVICE DELAYS ON CERTAIN PAS-**
14 **SENGER RAIL ROUTES.**

15 Within 6 months after the date of the enactment of
16 this Act, the Inspector General of the Department of
17 Transportation shall submit to the Committee on Trans-
18 portation and Infrastructure of the House of Representa-
19 tives and the Committee on Commerce, Science, and
20 Transportation of the Senate a report that—

21 (1) describes service delays and the sources of
22 such delays on—

23 (A) the Amtrak passenger rail route be-
24 tween Seattle, Washington, and Los Angeles,

1 California (commonly known as the “Coast
2 Starlight”); and

3 (B) the Amtrak passenger rail route be-
4 tween Vancouver, British Columbia, Canada,
5 and Eugene, Oregon (commonly known as
6 “Amtrak Cascades”); and

7 (2) contains recommendations for improving the
8 on-time performance of such routes.

9 **SEC. 226. PLAN FOR RESTORATION OF SERVICE.**

10 Within 9 months after the date of enactment of this
11 Act, Amtrak shall transmit to the Committee on Trans-
12 portation and Infrastructure of the House of Representa-
13 tives and the Committee on Commerce, Science, and
14 Transportation of the Senate a plan for restoring pas-
15 senger rail service between New Orleans, Louisiana, and
16 Sanford, Florida. The plan shall include a projected
17 timeline for restoring such service, the costs associated
18 with restoring such service, and any proposals for legisla-
19 tion necessary to support such restoration of service. In
20 developing the plan, Amtrak shall consult with representa-
21 tives from the States of Louisiana, Alabama, Mississippi,
22 and Florida, railroad carriers whose tracks may be used
23 for such service, rail passengers, rail labor, and other enti-
24 ties as appropriate.

1 **SEC. 227. MAINTENANCE AND REPAIR FACILITY UTILIZA-**
2 **TION STUDY.**

3 Within 9 months after the date of enactment of this
4 Act, the Inspector General of the Department of Trans-
5 portation shall transmit to the Committee on Transpor-
6 tation and Infrastructure of the House of Representatives
7 and the Committee on Commerce, Science, and Transpor-
8 tation of the Senate a report on Amtrak's utilization of
9 its equipment maintenance and repair facilities, including
10 the Beech Grove Mechanical Facility in Indiana. The re-
11 port shall include an examination of Amtrak's utilization
12 of its existing equipment maintenance and repair facilities,
13 the productivity of such facilities, and the extent to which
14 Amtrak is maximizing opportunities for utilizing each fa-
15 cility, including the provision of maintenance and repair
16 to other rail carriers. In developing this report, the Inspec-
17 tor General shall consult with the Inspector General of
18 Amtrak, Amtrak management, rail labor, and other rail-
19 road carriers, as it deems appropriate.

20 **SEC. 228. SENSE OF THE CONGRESS REGARDING THE NEED**
21 **TO MAINTAIN AMTRAK AS A NATIONAL PAS-**
22 **SENGER RAIL SYSTEM.**

23 (a) FINDINGS.—The Congress makes the following
24 findings:

1 (1) In fiscal year 2007, 3,800,000 passengers
2 traveled on Amtrak's long-distance trains, an in-
3 crease of 2.4 percent over fiscal year 2006.

4 (2) Amtrak long-distance routes generated
5 \$376,000,000 in revenue in fiscal year 2007, an in-
6 crease of 5 percent over fiscal year 2006.

7 (3) Amtrak operates 15 long-distance trains
8 over 18,500 route miles that serve 39 States and the
9 District of Columbia. These trains provide the only
10 rail passenger service to 23 States.

11 (4) Amtrak's long-distance trains provide an es-
12 sential transportation service for many communities
13 and to a significant percentage of the general public.

14 (5) Many long-distance trains serve small com-
15 munities with limited or no significant air or bus
16 service, especially in remote or isolated areas in the
17 United States.

18 (6) As a result of airline deregulation and deci-
19 sions by national bus carriers to leave many commu-
20 nities, rail transportation may provide the only fea-
21 sible common carrier transportation option for a
22 growing number of areas.

23 (7) If long-distance trains were eliminated, 23
24 States and 243 communities would be left with no
25 intercity passenger rail service and 16 other States

1 would lose some rail service. These trains provide a
2 strong economic benefit for the States and commu-
3 nities that they serve.

4 (8) Long-distance trains also provide transpor-
5 tation during periods of severe weather or emer-
6 gencies that stall other modes of transportation.

7 (9) Amtrak provided the only reliable long-dis-
8 tance transportation following the September 11,
9 2001, terrorist attacks that grounded air travel.

10 (10) The majority of passengers on long-dis-
11 tance trains do not travel between the endpoints, but
12 rather between any combination of cities along the
13 route.

14 (11) Passenger trains provide transportation
15 options, mobility for underserved populations, con-
16 gestion mitigation, and jobs in the areas they serve.

17 (12) Passenger rail has a positive impact on the
18 environment compared to other modes of transpor-
19 tation by conserving energy, reducing greenhouse
20 gas emissions, and cutting down on other airborne
21 particulate and toxic emissions.

22 (13) Amtrak communities that are served use
23 passenger rail and passenger rail stations as a sig-
24 nificant source of economic development.

1 (14) This division makes meaningful and im-
2 portant reforms to increase the efficiency, profit-
3 ability and on-time performance of Amtrak’s long-
4 distance routes.

5 (b) SENSE OF THE CONGRESS.—It is the sense of
6 the Congress that—

7 (1) long-distance passenger rail is a vital and
8 necessary part of our national transportation system
9 and economy; and

10 (2) Amtrak should maintain a national pas-
11 senger rail system, including long-distance routes,
12 that connects the continental United States from
13 coast to coast and from border to border.

14 **TITLE III—INTERCITY**
15 **PASSENGER RAIL POLICY**

16 **SEC. 301. CAPITAL ASSISTANCE FOR INTERCITY PAS-**
17 **SENGER RAIL SERVICE.**

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

20 **“CHAPTER 244—INTERCITY PASSENGER**
21 **RAIL SERVICE CORRIDOR CAPITAL AS-**
22 **SISTANCE**

“Sec.

“24401. Definitions.

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

“24403. Project management oversight.

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

“24405. Grant conditions.

“24406. Authorization of appropriations.

1 **“§ 24401. Definitions**

2 “In this chapter:

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

9 “(2) **CAPITAL PROJECT.**—The term ‘capital
10 project’ means a project or program in a State rail
11 plan developed under chapter 227 of this title for—

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

1 and acquiring, constructing, relocating, and re-
2 habilitating replacement housing;

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

6 “(C) costs associated with developing State
7 rail plans; and

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

11 “(3) INTERCITY PASSENGER RAIL SERVICE.—
12 The term ‘intercity passenger rail service’ means
13 intercity rail passenger transportation, as defined in
14 section 24102 of this title.

15 **“§ 24402. Capital investment grants to support inter-**
16 **city passenger rail service**

17 “(a) GENERAL AUTHORITY.—

18 “(1) The Secretary of Transportation may
19 make grants under this section to an applicant to
20 assist in financing the capital costs of facilities, in-
21 frastructure, and equipment necessary to provide or
22 improve intercity passenger rail transportation.

23 “(2) Consistent with the requirements of this
24 chapter, the Secretary shall require that a grant
25 under this section be subject to the terms, condi-

1 tions, requirements, and provisions the Secretary de-
2 cides are necessary or appropriate for the purposes
3 of this section, including requirements for the dis-
4 position of net increases in value of real property re-
5 sulting from the project assisted under this section
6 and shall prescribe procedures and schedules for the
7 awarding of grants under this title, including appli-
8 cation and qualification procedures and a record of
9 decision on applicant eligibility. The Secretary shall
10 issue a final rule establishing such procedures not
11 later than 2 years after the date of enactment of the
12 Passenger Rail Investment and Improvement Act of
13 2008. For the period prior to the earlier of the
14 issuance of such a rule or 2 years after the date of
15 enactment of such Act, the Secretary shall issue in-
16 terim guidance to applicants covering such proce-
17 dures, and administer the grant program authorized
18 under this section pursuant to such guidance.

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

20 “(1) The Secretary may not approve a grant for
21 a project under this section unless the Secretary
22 finds that the project is part of a State rail plan de-
23 veloped under chapter 227 of this title, or under the
24 plan required by section 211 of the Passenger Rail
25 Investment and Improvement Act of 2008, and that

1 the applicant or recipient has or will have the legal,
2 financial, and technical capacity to carry out the
3 project, satisfactory continuing control over the use
4 of the equipment or facilities, and the capability and
5 willingness to maintain the equipment or facilities.

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

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

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

19 “(1) require—

20 “(A) that the project be part of a State
21 rail plan developed under chapter 227 of this
22 title, or under the plan required by section 211
23 of the Passenger Rail Investment and Improve-
24 ment Act of 2008;

1 “(B) that the applicant or recipient has or
2 will have the legal, financial, and technical ca-
3 pacity to carry out the project, satisfactory con-
4 tinuing control over the use of the equipment or
5 facilities, and the capability and willingness to
6 maintain the equipment or facilities;

7 “(C) that the applicant provides sufficient
8 information upon which the Secretary can make
9 the findings required by this subsection;

10 “(D) that if an applicant has selected the
11 proposed operator of its service competitively,
12 that the applicant provide written justification
13 to the Secretary showing why the proposed op-
14 erator is the best, taking into account costs and
15 other factors;

16 “(E) that each proposed project meet all
17 safety and security requirements that are appli-
18 cable to the project under law; and

19 “(F) that each project be compatible with,
20 and operated in conformance with—

21 “(i) plans developed pursuant to the
22 requirements of section 135 of title 23,
23 United States Code; and

24 “(ii) the national rail plan (if it is
25 available);

1 “(2) select projects—

2 “(A) that are anticipated to result in sig-
3 nificant improvements to intercity rail pas-
4 senger service, including, but not limited to,
5 consideration of—

6 “(i) the project’s levels of estimated
7 ridership, increased on-time performance,
8 reduced trip time, additional service fre-
9 quency to meet anticipated or existing de-
10 mand, or other significant service enhance-
11 ments as measured against minimum
12 standards developed under section 207 of
13 the Passenger Rail Investment and Im-
14 provement Act of 2008;

15 “(ii) the project’s anticipated favor-
16 able impact on air or highway traffic con-
17 gestion, capacity, or safety; and

18 “(iii) identification of the project by
19 the Surface Transportation Board as nec-
20 essary to improve the on-time performance
21 and reliability of intercity passenger rail
22 under section 24308(f);

23 “(B) for which there is a high degree of
24 confidence that the proposed project is feasible

1 and will result in the anticipated benefits, as in-
2 dicated by—

3 “(i) the project’s precommencement
4 compliance with environmental protection
5 requirements;

6 “(ii) the readiness of the project to be
7 commenced;

8 “(iii) the timing and amount of the
9 project’s future noncommitted investments;

10 “(iv) the commitment of any affected
11 host rail carrier to ensure the realization of
12 the anticipated benefits; and

13 “(v) other relevant factors as deter-
14 mined by the Secretary; and

15 “(C) for which the level of the anticipated
16 benefits compares favorably to the amount of
17 Federal funding requested under this chapter;
18 and

19 “(3) give greater consideration to projects—

20 “(A) that are anticipated to result in bene-
21 fits to other modes transportation and to the
22 public at large, including, but not limited to,
23 consideration of the project’s—

24 “(i) encouragement of intermodal
25 connectivity through provision of direct

1 connections between train stations, air-
2 ports, bus terminals, subway stations, ferry
3 ports, and other modes of transportation;

4 “(ii) anticipated improvement of
5 freight or commuter rail operations;

6 “(iii) encouragement of the use of
7 positive train control technologies;

8 “(iv) environmental benefits, including
9 projects that involve the purchase of envi-
10 ronmentally sensitive, fuel-efficient, and
11 cost-effective passenger rail equipment;

12 “(v) anticipated positive economic and
13 employment impacts;

14 “(vi) encouragement of State and pri-
15 vate contributions toward station develop-
16 ment, energy and environmentally effi-
17 ciency, and economic benefits; and

18 “(vii) falling under the description in
19 section 5302(a)(1)(G) of this title as de-
20 fined to support intercity passenger rail
21 service; and

22 “(B) that incorporate equitable financial
23 participation in the project’s financing, includ-
24 ing, but not limited to, consideration of—

1 “(i) donated property interests or
2 services;

3 “(ii) financial contributions by freight
4 and commuter rail carriers commensurate
5 with the benefit expected to their oper-
6 ations; and

7 “(iii) financial commitments from host
8 railroads, non-Federal governmental enti-
9 ties, nongovernmental entities, and others.

10 “(d) STATE RAIL PLANS.—State rail plans completed
11 before the date of enactment of the Passenger Rail Invest-
12 ment and Improvement Act of 2008 that substantially
13 meet the requirements of chapter 227 of this title, as de-
14 termined by the Secretary pursuant to section 22506 of
15 this title, shall be deemed by the Secretary to have met
16 the requirements of subsection (c)(1)(A) of this section.

17 “(e) AMTRAK ELIGIBILITY.—To receive a grant
18 under this section, Amtrak may enter into a cooperative
19 agreement with 1 or more States to carry out 1 or more
20 projects on a State rail plan’s ranked list of rail capital
21 projects developed under section 22504(a)(5) of this title.
22 For such a grant, Amtrak may not use Federal funds au-
23 thorized under section 101(a) or (c) of the Passenger Rail
24 Investment and Improvement Act of 2008 to fulfill the

1 non-Federal share requirements under subsection (g) of
2 this section.

3 “(f) LETTERS OF INTENT AND EARLY SYSTEMS
4 WORK AGREEMENTS.—

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

12 “(2) At least 30 days before issuing a letter
13 under paragraph (1) of this subsection, the Sec-
14 retary shall notify in writing the Committee on
15 Transportation and Infrastructure of the House of
16 Representatives, the Committee on Commerce,
17 Science, and Transportation of the Senate, and the
18 House and Senate Committees on Appropriations of
19 the proposed letter or agreement. The Secretary
20 shall include with the notification a copy of the pro-
21 posed letter or agreement, the criteria used in sub-
22 section (c) for selecting the project for a grant
23 award, and a description of how the project meets
24 such criteria.

1 “(3) An obligation or administrative commit-
2 ment may be made only when amounts are appro-
3 priated. The letter of intent shall state that the con-
4 tingent commitment is not an obligation of the Fed-
5 eral Government, and is subject to the availability of
6 appropriations under Federal law and to Federal
7 laws in force or enacted after the date of the contin-
8 gent commitment.

9 “(g) FEDERAL SHARE OF NET PROJECT COST.—

10 “(1)(A) Based on engineering studies, studies
11 of economic feasibility, and information on the ex-
12 pected use of equipment or facilities, the Secretary
13 shall estimate the net project cost.

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

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

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

1 “(3) The following amounts, not to exceed
2 \$15,000,000 per fiscal year, shall be available to
3 each applicant as a credit toward an applicant’s
4 matching requirement for a grant awarded under
5 this section—

6 “(A) in each of fiscal years 2009, 2010,
7 and 2011—

8 “(i) 50 percent of the average of
9 amounts expended in fiscal years 2002
10 through 2008 by an applicant for capital
11 projects related to intercity passenger rail
12 service; and

13 “(ii) 50 percent of the average of
14 amounts expended in fiscal years 2002
15 through 2008 by an applicant for oper-
16 ating costs of such service; and

17 “(B) in each of fiscal years 2010, 2011
18 and 2012, 50 percent of the amount by which
19 the amounts expended for capital projects and
20 operating costs related to intercity passenger
21 rail service by an applicant in the prior fiscal
22 year exceed the average capital and operating
23 expenditures made for such service in fiscal
24 years 2006, 2007, and 2008.

1 The Secretary may require such information as nec-
2 essary to verify such expenditures. Credits made
3 available to an applicant in a fiscal year under this
4 paragraph may only be applied towards grants
5 awarded in that fiscal year.

6 “(4) The Federal share of expenditures for cap-
7 ital improvements under this chapter may not exceed
8 100 percent.

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

18 “(i) COOPERATIVE AGREEMENTS.—

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

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

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

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

7 “(C) carrying out administration, construc-
8 tion management, project management, project
9 operation, or any other management or oper-
10 ational duty associated with the project; and

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

13 “(3) SUBALLOCATION.—A State may allocate
14 funds under this section to any entity described in
15 paragraph (1).

16 “(j) SPECIAL TRANSPORTATION CIRCUMSTANCES.—
17 In carrying out this section, the Secretary shall allocate
18 an appropriate portion of the amounts available under this
19 section to provide grants to States—

20 “(1) in which there is no intercity passenger
21 rail service for the purpose of funding freight rail
22 capital projects that are on a State rail plan devel-
23 oped under chapter 227 of this title that provide
24 public benefits (as defined in chapter 227) as deter-
25 mined by the Secretary; or

1 “(2) in which the rail transportation system is
2 not physically connected to rail systems in the conti-
3 nental United States or may not otherwise qualify
4 for a grant under this section due to the unique
5 characteristics of the geography of that State or
6 other relevant considerations, for the purpose of
7 funding transportation-related capital projects.

8 “(k) SMALL CAPITAL PROJECTS.—The Secretary
9 shall make not less than 5 percent annually available from
10 the amounts authorized under section 101(e) of the Pas-
11 senger Rail Investment and Improvement Act of 2008 be-
12 ginning in fiscal year 2009 for grants for capital projects
13 eligible under this section not exceeding \$2,000,000, in-
14 cluding costs eligible under section 209(d) of that Act. For
15 grants awarded under this subsection, the Secretary may
16 waive requirements of this section, including state rail
17 plan requirements, as appropriate.

18 “(l) NONMOTORIZED TRANSPORTATION ACCESS AND
19 STORAGE.—Grants under this chapter may be used to
20 provide access to rolling stock for nonmotorized transpor-
21 tation, including bicycles, and recreational equipment, and
22 to provide storage capacity in trains for such transpor-
23 tation, equipment, and other luggage, to ensure passenger
24 safety.

1 **“§ 24403. Project management oversight**

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

8 “(1) adequate recipient staff organization with
9 well-defined reporting relationships, statements of
10 functional responsibilities, job descriptions, and job
11 qualifications;

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

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

18 “(4) a document control procedure and record-
19 keeping system;

20 “(5) a change order procedure that includes a
21 documented, systematic approach to handling the
22 construction change orders;

23 “(6) organizational structures, management
24 skills, and staffing levels required throughout the
25 construction phase;

1 “(7) quality control and quality assurance func-
2 tions, procedures, and responsibilities for construc-
3 tion, system installation, and integration of system
4 components;

5 “(8) material testing policies and procedures;

6 “(9) internal plan implementation and reporting
7 requirements;

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

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

14 “(12) the recipient’s commitment to submit pe-
15 riodically a project budget and project schedule to
16 the Secretary.

17 “(b) SECRETARIAL OVERSIGHT.—

18 “(1) The Secretary may use no more than 1
19 percent of amounts made available in a fiscal year
20 for capital projects under this chapter to enter into
21 contracts to oversee the construction of such
22 projects.

23 “(2) The Secretary may use amounts available
24 under paragraph (1) of this subsection to make con-
25 tracts for safety, procurement, management, and fi-

1 nancial compliance reviews and audits of a recipient
2 of amounts under paragraph (1).

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

6 “(c) ACCESS TO SITES AND RECORDS.—Each recipi-
7 ent of assistance under this chapter shall provide the Sec-
8 retary and a contractor the Secretary chooses under sub-
9 section (b) of this section with access to the construction
10 sites and records of the recipient when reasonably nec-
11 essary.

12 **“§ 24404. Use of capital grants to finance first-dollar**
13 **liability of grant project**

14 “Notwithstanding the requirements of section 24402
15 of this chapter, the Secretary of Transportation may ap-
16 prove the use of a capital assistance grant under this
17 chapter to fund self-insured retention of risk for the first
18 tier of liability insurance coverage for rail passenger serv-
19 ice associated with the grant, but the coverage may not
20 exceed \$20,000,000 per occurrence or \$20,000,000 in ag-
21 gregate per year.

22 **“§ 24405. Grant conditions**

23 “(a) BUY AMERICA.—(1) The Secretary of Transpor-
24 tation may obligate an amount that may be appropriated
25 to carry out this chapter for a project only if the steel,

1 iron, and manufactured goods used in the project are pro-
2 duced in the United States.

3 “(2) The Secretary of Transportation may waive
4 paragraph (1) of this subsection if the Secretary finds
5 that—

6 “(A) applying paragraph (1) would be incon-
7 sistent with the public interest;

8 “(B) the steel, iron, and goods produced in the
9 United States are not produced in a sufficient and
10 reasonably available amount or are not of a satisfac-
11 tory quality;

12 “(C) rolling stock or power train equipment
13 cannot be bought and delivered in the United States
14 within a reasonable time; or

15 “(D) including domestic material will increase
16 the cost of the overall project by more than 25 per-
17 cent.

18 “(3) For purposes of this subsection, in calculating
19 the components’ costs, labor costs involved in final assem-
20 bly shall not be included in the calculation.

21 “(4) If the Secretary determines that it is necessary
22 to waive the application of paragraph (1) based on a find-
23 ing under paragraph (2), the Secretary shall, before the
24 date on which such finding takes effect—

1 “(A) publish in the Federal Register a detailed
2 written justification as to why the waiver is needed;
3 and

4 “(B) provide notice of such finding and an op-
5 portunity for public comment on such finding for a
6 reasonable period of time not to exceed 15 days.

7 “(5) Not later than December 31, 2012, the Sec-
8 retary shall submit to the Committee on Transportation
9 and Infrastructure of the House of Representatives and
10 the Committee on Commerce, Science, and Transportation
11 of the Senate a report on any waivers granted under para-
12 graph (2).

13 “(6) The Secretary of Transportation may not make
14 a waiver under paragraph (2) of this subsection for goods
15 produced in a foreign country if the Secretary, in consulta-
16 tion with the United States Trade Representative, decides
17 that the government of that foreign country—

18 “(A) has an agreement with the United States
19 Government under which the Secretary has waived
20 the requirement of this subsection; and

21 “(B) has violated the agreement by discrimi-
22 nating against goods to which this subsection applies
23 that are produced in the United States and to which
24 the agreement applies.

1 “(7) A person is ineligible to receive a contract or
2 subcontract made with amounts authorized under this
3 chapter if a court or department, agency, or instrumen-
4 tality of the Government decides the person inten-
5 tionally—

6 “(A) affixed a ‘Made in America’ label, or a
7 label with an inscription having the same meaning,
8 to goods sold in or shipped to the United States that
9 are used in a project to which this subsection applies
10 but not produced in the United States; or

11 “(B) represented that goods described in sub-
12 paragraph (A) of this paragraph were produced in
13 the United States.

14 “(8) The Secretary may not impose any limitation on
15 assistance provided under this chapter that restricts a
16 State from imposing more stringent requirements than
17 this subsection on the use of articles, materials, and sup-
18 plies mined, produced, or manufactured in foreign coun-
19 tries in projects carried out with that assistance or re-
20 stricts a recipient of that assistance from complying with
21 those State-imposed requirements.

22 “(9) The Secretary may allow a manufacturer or sup-
23 plier of steel, iron, or manufactured goods to correct after
24 bid opening any certification of noncompliance or failure
25 to properly complete the certification (but not including

1 failure to sign the certification) under this subsection if
2 such manufacturer or supplier attests under penalty of
3 perjury that such manufacturer or supplier submitted an
4 incorrect certification as a result of an inadvertent or cler-
5 ical error. The burden of establishing inadvertent or cler-
6 ical error is on the manufacturer or supplier.

7 “(10) A party adversely affected by an agency action
8 under this subsection shall have the right to seek review
9 under section 702 of title 5.

10 “(11) The requirements of this subsection shall only
11 apply to projects for which the costs exceed \$100,000.

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

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

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

24 “(3) the Railroad Unemployment Insurance Act
25 (45 U.S.C. 351 et seq.).

1 “(c) GRANT CONDITIONS.—The Secretary shall re-
2 quire as a condition of making any grant under this chap-
3 ter for a project that uses rights-of-way owned by a rail-
4 road that—

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

8 “(A) any compensation for such use;

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

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

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

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

24 “(A) the standards of section 24312 of this
25 title, as such section was in effect on September

1 1, 2003, with respect to the project in the same
2 manner that Amtrak is required to comply with
3 those standards for construction work financed
4 under an agreement made under section
5 24308(a) of this title; and

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

13 “(d) REPLACEMENT OF EXISTING INTERCITY PAS-
14 SENGER RAIL SERVICE.—

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

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

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

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

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

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

16 “(2) IMMEDIATE REPLACEMENT SERVICE.—

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

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

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

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

21 “(3) SERVICE COMMENCEMENT.—A replacing
22 entity under this subsection shall commence service
23 only after an agreement is entered into with respect
24 to the matters set forth in subparagraphs (A)

1 through (D) of paragraph (1) or the decision of the
2 arbitrator has been rendered.

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

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

23 “(1) commuter rail passenger transportation
24 (as defined in section 24102(4) of this title) oper-
25 ations of a State or local government authority (as

1 those terms are defined in section 5302(11) and (6),
2 respectively, of this title) eligible to receive financial
3 assistance under section 5307 of this title, or to its
4 contractor performing services in connection with
5 commuter rail passenger operations (as so defined);

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

7 “(3) Amtrak’s access rights to railroad rights of
8 way and facilities under current law.

9 “(f) LIMITATION.—No grants shall be provided under
10 this chapter for commuter rail passenger transportation,
11 as defined in section 24102(4) of this title.

12 **“§ 24406. Authorization of appropriations**

13 “There are authorized to be appropriated to the Sec-
14 retary of Transportation for capital grants under this
15 chapter the following amounts:

16 “(1) For fiscal year 2009, \$100,000,000.

17 “(2) For fiscal year 2010, \$300,000,000.

18 “(3) For fiscal year 2011, \$400,000,000.

19 “(4) For fiscal year 2012, \$500,000,000.

20 “(5) For fiscal year 2013, \$600,000,000.”.

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

“244. INTERCITY PASSENGER RAIL SERVICE CORRIDOR
CAPITAL ASSISTANCE 24401”.

1 (c) ASSISTANCE.—In implementing section 24405(a)
2 of title 49, United States Code, the Federal Highway Ad-
3 ministration shall, upon request by the Federal Railroad
4 Administration, assist the Federal Railroad Administra-
5 tion in developing a process for posting on its website or
6 distributing via email notices of waiver requests received
7 pursuant to such subsection and soliciting public com-
8 ments on the intent to issue a waiver. The Federal Rail-
9 road Administration’s development of such a process does
10 not relieve the Federal Railroad Administration of the re-
11 quirements under paragraph (4) of such subsection.

12 **SEC. 302. CONGESTION GRANTS.**

13 (a) AMENDMENT.—Chapter 241 of title 49, United
14 States Code, is amended by adding at the end the fol-
15 lowing new section:

16 **“§ 24105. Congestion grants**

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

23 “(b) ELIGIBLE PROJECTS.—Projects eligible for
24 grants under this section include projects—

1 “(1) identified by Amtrak as necessary to re-
2 duce congestion or facilitate ridership growth in
3 intercity rail passenger transportation along heavily
4 traveled rail corridors;

5 “(2) identified by the Surface Transportation
6 Board as necessary to improve the on time perform-
7 ance and reliability of intercity rail passenger trans-
8 portation under section 24308(f); and

9 “(3) designated by the Secretary as being suffi-
10 ciently advanced in development to be capable of
11 serving the purposes described in subsection (a) on
12 an expedited schedule.

13 “(c) FEDERAL SHARE.—The Federal share of the
14 cost of a project financed under this section shall not ex-
15 ceed 80 percent.

16 “(d) GRANT CONDITIONS.—The Secretary of Trans-
17 portation shall require each recipient of a grant under this
18 section to comply with the grant requirements of section
19 24405 of this title.

20 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated, from amounts made
22 available under section 301 of the Passenger Rail Invest-
23 ment and Improvement Act of 2008, to the Secretary to
24 carry out this section—

25 “(1) \$50,000,000 for fiscal year 2010;

- 1 “(2) \$75,000,000 for fiscal year 2011;
2 “(3) \$100,000,000 for fiscal year 2012; and
3 “(4) \$100,000,000 for fiscal year 2013.”.

4 (b) TABLE OF SECTIONS AMENDMENT.—The table of
5 sections for such chapter 241 is amended by adding at
6 the end the following new item:

“24105. Congestion grants.”.

7 **SEC. 303. STATE RAIL PLANS.**

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

10 **“CHAPTER 227—STATE RAIL PLANS**

“Sec.

“22701. Definitions.

“22702. Authority.

“22703. Purposes.

“22704. Transparency; coordination; review.

“22705. Content.

“22706. Review.

11 **“§ 22701. Definitions**

12 “**In this subchapter:**

13 “(1) PRIVATE BENEFIT.—

14 “(A) IN GENERAL.—The term ‘private
15 benefit’—

16 “(i) means a benefit accrued to a per-
17 son or private entity, other than Amtrak,
18 that directly improves the economic and
19 competitive condition of that person or en-
20 tity through improved assets, cost reduc-

1 tions, service improvements, or any other
2 means as defined by the Secretary; and

3 “‘(ii) shall be determined on a project-
4 by-project basis, based upon an agreement
5 between the parties.

6 “(B) CONSULTATION.—The Secretary may
7 seek the advice of the States and rail carriers
8 in further defining this term.

9 “(2) PUBLIC BENEFIT.—

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

12 “(i) means a benefit accrued to the
13 public, including Amtrak, in the form of
14 enhanced mobility of people or goods, envi-
15 ronmental protection or enhancement, con-
16 gestion mitigation, enhanced trade and
17 economic development, improved air qual-
18 ity or land use, more efficient energy use,
19 enhanced public safety or security, reduc-
20 tion of public expenditures due to improved
21 transportation efficiency or infrastructure
22 preservation, and any other positive com-
23 munity effects as defined by the Secretary;
24 and

1 “(ii) shall be determined on a project-
2 by-project basis, based upon an agreement
3 between the parties.

4 “(B) CONSULTATION.—The Secretary may
5 seek the advice of the States and rail carriers
6 in further defining this term.

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

9 “(4) STATE RAIL TRANSPORTATION AUTHOR-
10 ITY.—The term ‘State rail transportation authority’
11 means the State agency or official responsible under
12 the direction of the Governor of the State or a State
13 law for preparation, maintenance, coordination, and
14 administration of the State rail plan.

15 **“§ 22702. Authority**

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

19 “(b) REQUIREMENTS.—The Secretary shall establish
20 the minimum requirements for the preparation and peri-
21 odic revision of a State rail plan, including that a State
22 shall—

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

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

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

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

8 **“§ 22703. Purposes**

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

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

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

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

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

21 “(b) COORDINATION.—A State rail plan shall be co-
22 ordinated with other State transportation planning goals
23 and programs, including the plan required under section
24 135 of title 23, and set forth rail transportation’s role
25 within the State transportation system.

1 **“§ 22704. Transparency; coordination; review**

2 “(a) PREPARATION.—A State shall provide adequate
3 and reasonable notice and opportunity for comment and
4 other input to the public, rail carriers, commuter and tran-
5 sit authorities operating in, or affected by rail operations
6 within the State, units of local government, and other in-
7 terested parties in the preparation and review of its State
8 rail plan.

9 “(b) INTERGOVERNMENTAL COORDINATION.—A
10 State shall review the freight and passenger rail service
11 activities and initiatives by regional planning agencies, re-
12 gional transportation authorities, and municipalities with-
13 in the State, or in the region in which the State is located,
14 while preparing the plan, and shall include any rec-
15 ommendations made by such agencies, authorities, and
16 municipalities as deemed appropriate by the State.

17 **“§ 22705. Content**

18 “(a) IN GENERAL.—Each State rail plan shall, at a
19 minimum, contain the following:

20 “(1) An inventory of the existing overall rail
21 transportation system and rail services and facilities
22 within the State and an analysis of the role of rail
23 transportation within the State’s surface transpor-
24 tation system.

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

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

7 “(4) A general analysis of rail’s transportation,
8 economic, and environmental impacts in the State,
9 including congestion mitigation, trade and economic
10 development, air quality, land-use, energy-use, and
11 community impacts.

12 “(5) A long-range rail investment program for
13 current and future freight and passenger infrastruc-
14 ture in the State that meets the requirements of
15 subsection (b).

16 “(6) A statement of public financing issues for
17 rail projects and service in the State, including a list
18 of current and prospective public capital and oper-
19 ating funding resources, public subsidies, State tax-
20 ation, and other financial policies relating to rail in-
21 frastructure development.

22 “(7) An identification of rail infrastructure
23 issues within the State that reflects consultation
24 with all relevant stakeholders.

1 “(8) A review of major passenger and freight
2 intermodal rail connections and facilities within the
3 State, including seaports, and prioritized options to
4 maximize service integration and efficiency between
5 rail and other modes of transportation within the
6 State.

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

11 “(10) A performance evaluation of passenger
12 rail services operating in the State, including pos-
13 sible improvements in those services, and a descrip-
14 tion of strategies to achieve those improvements.

15 “(11) A compilation of studies and reports on
16 high-speed rail corridor development within the
17 State not included in a previous plan under this sub-
18 chapter, and a plan for funding any recommended
19 development of such corridors in the State.

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

22 “(b) LONG-RANGE SERVICE AND INVESTMENT PRO-
23 GRAM.—

24 “(1) PROGRAM CONTENT.—A long-range rail
25 investment program included in a State rail plan

1 under subsection (a)(5) shall, at a minimum, include
2 the following matters:

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

6 “(B) A detailed funding plan for those
7 projects.

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

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

12 “(B) a statement of the correlation be-
13 tween—

14 “(i) public funding contributions for
15 the projects; and

16 “(ii) the public benefits.

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

22 “(A) Contributions made by non-Federal
23 and non-State sources through user fees,
24 matching funds, or other private capital involve-
25 ment.

1 “(B) Rail capacity and congestion effects.

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

4 “(D) Regional balance.

5 “(E) Environmental impact.

6 “(F) Economic and employment impacts.

7 “(G) Projected ridership and other service
8 measures for passenger rail projects.

9 **“§ 22706. Review**

10 “The Secretary shall prescribe procedures for States
11 to submit State rail plans for review under this title, in-
12 cluding standardized format and data requirements. State
13 rail plans completed before the date of enactment of the
14 Passenger Rail Investment and Improvement Act of 2008
15 that substantially meet the requirements of this chapter,
16 as determined by the Secretary, shall be deemed by the
17 Secretary to have met the requirements of this chapter.”.

18 (b) CONFORMING AMENDMENT.—The chapter anal-
19 ysis for subtitle V is amended by inserting the following
20 after the item relating to chapter 223:

“227. State rail plans22701”.

21 **SEC. 304. TUNNEL PROJECT.**

22 (a) NEW TUNNEL ALIGNMENT AND ENVIRON-
23 MENTAL REVIEW.—Not later than September 30, 2013,
24 the Federal Railroad Administration, working with Am-
25 trak, the Surface Transportation Board, the City of Balti-

1 more, the State of Maryland, and rail operators described
2 in subsection (b), as appropriate, shall—

3 (1) select and approve, as applicable, a new rail
4 tunnel alignment in Baltimore that will permit an
5 increase in train speed and service reliability; and

6 (2) ensure completion of the related environ-
7 mental review process.

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

13 (c) **AUTHORIZATION OF APPROPRIATIONS.**—There
14 are authorized to be appropriated to the Secretary for car-
15 rying out this section \$60,000,000 for the period encom-
16 passing fiscal years 2009 through 2013.

17 **SEC. 305. NEXT GENERATION CORRIDOR TRAIN EQUIP-**
18 **MENT POOL.**

19 (a) **IN GENERAL.**—Within 180 days after the date
20 of enactment of this Act, Amtrak shall establish a Next
21 Generation Corridor Equipment Pool Committee, com-
22 prised of representatives of Amtrak, the Federal Railroad
23 Administration, host freight railroad companies, passenger
24 railroad equipment manufacturers, interested States, and,
25 as appropriate, other passenger railroad operators. The

1 purpose of the Committee shall be to design, develop speci-
2 fications for, and procure standardized next-generation
3 corridor equipment.

4 (b) FUNCTIONS.—The Committee may—

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

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

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

13 (c) COOPERATIVE AGREEMENTS.—Amtrak and
14 States participating in the Committee may enter into
15 agreements for the funding, procurement, remanufacture,
16 ownership, and management of corridor equipment, in-
17 cluding equipment currently owned or leased by Amtrak
18 and next-generation corridor equipment acquired as a re-
19 sult of the Committee's actions, and may establish a cor-
20 poration, which may be owned or jointly-owned by Am-
21 trak, participating States, or other entities, to perform
22 these functions.

23 (d) FUNDING.—In addition to the authorizations pro-
24 vided in this section, capital projects to carry out the pur-

1 poses of this section shall be eligible for grants made pur-
2 suant to chapter 244 of title 49, United States Code.

3 (e) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to the Secretary
5 \$5,000,000 for fiscal year 2010, to remain available until
6 expended, for grants to Amtrak and States participating
7 in the Next Generation Corridor Train Equipment Pool
8 Committee established under this section for the purpose
9 of designing, developing specifications for, and initiating
10 the procurement of an initial order of 1 or more types
11 of standardized next-generation corridor train equipment
12 and establishing a jointly-owned corporation to manage
13 that equipment.

14 **SEC. 306. 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;

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;

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 “(12) to review rail crossing safety improve-
15 ments, including improvements using new safety
16 technology; and

17 “(13) to review and develop technology designed
18 to reduce train horn noise and its effect on commu-
19 nities, including broadband horn technology.

20 “(c) ADVISORY BOARD.—

21 “(1) ESTABLISHMENT.—In consultation with
22 the heads of appropriate Federal departments and
23 agencies, the Secretary shall establish an advisory
24 board to recommend research, technology, and tech-

1 nology transfer activities related to rail passenger
2 and freight transportation.

3 “(2) MEMBERSHIP.—The advisory board shall
4 include—

5 “(A) representatives of State transpor-
6 tation agencies;

7 “(B) transportation and environmental
8 economists, scientists, and engineers; and

9 “(C) representatives of Amtrak, the Alaska
10 Railroad, freight railroads, transit operating
11 agencies, intercity rail passenger agencies, rail-
12 way labor organizations, and environmental or-
13 ganizations.

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

20 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated to the Secretary of
22 Transportation \$5,000,000 for each of fiscal years 2010
23 through 2013 for carrying out this section.”.

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

“24910. Rail cooperative research program.”.

4 **SEC. 307. FEDERAL RAIL POLICY.**

5 Section 103 is amended—

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

8 (2) by striking the second and third sentences
9 of subsection (a);

10 (3) by inserting after subsection (a) the fol-
11 lowing:

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

19 (4) by adding at the end the following:

20 “(j) ADDITIONAL DUTIES OF THE ADMINIS-
21 TRATOR.—The Administrator shall—

22 “(1) provide assistance to States in developing
23 State rail plans prepared under chapter 227 and re-
24 view all State rail plans submitted under that sec-
25 tion;

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

7 “(3) develop a preliminary national rail plan
8 within a year after the date of enactment of the Pas-
9 senger Rail Investment and Improvement Act of
10 2008;

11 “(4) develop and enhance partnerships with the
12 freight and passenger railroad industry, States, and
13 the public concerning rail development;

14 “(5) support rail intermodal development and
15 high-speed rail development, including high speed
16 rail planning;

17 “(6) ensure that programs and initiatives devel-
18 oped under this section benefit the public and work
19 toward achieving regional and national transpor-
20 tation goals; and

21 “(7) facilitate and coordinate efforts to assist
22 freight and passenger rail carriers, transit agencies
23 and authorities, municipalities, and States in pas-
24 senger-freight service integration on shared rights of
25 way by providing neutral assistance at the joint re-

1 quest of affected rail service providers and infra-
2 structure owners relating to operations and capacity
3 analysis, capital requirements, operating costs, and
4 other research and planning related to corridors
5 shared by passenger or commuter rail service and
6 freight rail operations.

7 “(k) PERFORMANCE GOALS AND REPORTS.—

8 “(1) PERFORMANCE GOALS.—In conjunction
9 with the objectives established and activities under-
10 taken under subsection (j) of this section, the Ad-
11 ministrator shall develop a schedule for achieving
12 specific, measurable performance goals.

13 “(2) RESOURCE NEEDS.—The strategy and an-
14 nual plans shall include estimates of the funds and
15 staff resources needed to accomplish each goal and
16 the additional duties required under subsection (j).

17 “(3) SUBMISSION WITH PRESIDENT’S BUDG-
18 ET.—Beginning with fiscal year 2010 and each fis-
19 cal year thereafter, the Secretary shall submit to the
20 Committee on Transportation and Infrastructure of
21 the House of Representatives and the Committee on
22 Commerce, Science, and Transportation of the Sen-
23 ate, at the same time as the President’s budget sub-
24 mission, the Administration’s performance goals and
25 schedule developed under paragraph (1), including

1 an assessment of the progress of the Administration
2 toward achieving its performance goals.”.

3 **TITLE IV—MISCELLANEOUS**
4 **PROVISIONS**

5 **SEC. 401. COMMUTER RAIL MEDIATION.**

6 (a) AMENDMENT.—Part E of subtitle V is amended
7 by adding at the end the following:

8 **“CHAPTER 285—COMMUTER RAIL**
9 **MEDIATION**

“Sec.

“28501. Definitions

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

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

“28504. Applicability of other laws.

“28505. Rules and regulations.

10 **“§ 28501. Definitions**

11 “In this chapter—

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

14 “(2) the term ‘capital work’ means mainte-
15 nance, restoration, reconstruction, capacity enhance-
16 ment, or rehabilitation work on trackage that would
17 be treated, in accordance with generally accepted ac-
18 counting principles, as a capital item rather than an
19 expense;

20 “(3) the term ‘commuter rail passenger trans-
21 portation’ has the meaning given that term in sec-
22 tion 24102;

1 “(4) the term ‘public transportation authority’
2 means a local governmental authority (as defined in
3 section 5302(a)(6)) established to provide, or make
4 a contract providing for, commuter rail passenger
5 transportation;

6 “(5) the term ‘rail carrier’ means a person,
7 other than a governmental authority, providing com-
8 mon carrier railroad transportation for compensation
9 subject to the jurisdiction of the Board under chap-
10 ter 105;

11 “(6) the term ‘segregated fixed guideway facil-
12 ity’ means a fixed guideway facility constructed
13 within the railroad right-of-way of a rail carrier but
14 physically separate from trackage, including relo-
15 cated trackage, within the right-of-way used by a
16 rail carrier for freight transportation purposes; and

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

21 **“§ 28502. Surface Transportation Board mediation of**
22 **trackage use requests**

23 “If, after a reasonable period of negotiation, a public
24 transportation authority cannot reach agreement with a
25 rail carrier to use trackage of, and have related services

1 provided by, the rail carrier for purposes of commuter rail
2 passenger transportation, the public transportation au-
3 thority or the rail carrier may apply to the Board for non-
4 binding mediation. The Board shall conduct the non-
5 binding mediation in accordance with the mediation pro-
6 cess of section 1109.4 of title 49, Code of Federal Regula-
7 tions, as in effect on the date of enactment of this section.

8 **“§ 28503. Surface Transportation Board mediation of**
9 **rights-of-way use requests**

10 “If, after a reasonable period of negotiation, a public
11 transportation authority cannot reach agreement with a
12 rail carrier to acquire an interest in a railroad right-of-
13 way for the construction and operation of a segregated
14 fixed guideway facility to provide commuter rail passenger
15 transportation, the public transportation authority or the
16 rail carrier may apply to the Board for nonbinding medi-
17 ation. The Board shall conduct the nonbinding mediation
18 in accordance with the mediation process of section 1109.4
19 of title 49, Code of Federal Regulations, as in effect on
20 the date of enactment of this section.

21 **“§ 28504. Applicability of other laws**

22 “Nothing in this chapter shall be construed to limit
23 a rail transportation provider’s right under section
24 28103(b) to enter into contracts that allocate financial re-
25 sponsibility for claims.

1 **“§ 28505. Rules and regulations**

2 “Within 1 year after the date of enactment of this
3 section, the Board shall issue such rules and regulations
4 as may be necessary to carry out this chapter.”.

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

“285. COMMUTER RAIL MEDIATION 28501”.

8 **SEC. 402. ROUTING EFFICIENCY DISCUSSIONS WITH AM-**
9 **TRAK.**

10 Amtrak, commuter rail entities, regional and State
11 public transportation authorities, and freight railroad car-
12 riers are encouraged to engage in good faith discussions
13 with respect to the routing and timing of trains to effi-
14 ciently move a maximum number of commuter, intercity,
15 and regional rail passengers, particularly during the peak
16 times of commuter usage.

17 **SEC. 403. SENSE OF CONGRESS REGARDING COMMUTER**
18 **RAIL EXPANSION.**

19 (a) FINDINGS.—The Congress find the following:

20 (1) In 2006, Americans took 10.1 billion trips
21 on public transportation for the first time since
22 1949.

23 (2) The Northeast region is one of the Nation’s
24 largest emerging transportation “megaregions”

1 where infrastructure expansion and improvements
2 are most needed.

3 (3) New England's road traffic has increased
4 two to three times faster than its population since
5 1990.

6 (4) Connecticut has one of the Nation's longest
7 average commute times according to the United
8 States Census Bureau, and 80 percent of Con-
9 necticut commuters drive by themselves to work,
10 demonstrating the need for expanded commuter rail
11 access.

12 (5) The Connecticut Department of Transpor-
13 tation has pledged to modernize, repair, and
14 strengthen the rail line infrastructure to provide for
15 increased safety and security along a crucial trans-
16 portation corridor in the Northeast.

17 (6) Expanded New Haven-Springfield rail serv-
18 ice would improve access to Bradley International
19 Airport, one the region's busiest airports, as well as
20 to Hartford, Connecticut, and Springfield, Massa-
21 chusetts, two of the region's commercial, residential,
22 and industrial centers.

23 (7) Expanded commuter rail service on the New
24 Haven-Springfield line could result in an estimated
25 630,000 additional trips per year and 2,215,384

1 passenger miles per year, helping to curb pollution
2 and greenhouse gas emissions from road vehicle traf-
3 fic.

4 (8) The MetroNorth New Haven Line and
5 Shore Line East railways saw respective 3.43 per-
6 cent and 4.93 percent increases in ridership over the
7 course of 2007, demonstrating the need for ex-
8 panded commuter rail service in Connecticut.

9 (9) Expanded New Haven-Springfield com-
10 muter rail service could provide transportation near-
11 ly 17 times more efficient in terms of average mile-
12 age versus road vehicles, alleviating road congestion
13 and providing a significant savings to consumers
14 during a time of high gas prices.

15 (b) SENSE OF CONGRESS.—It is the sense of the
16 Congress that expanded commuter rail service on the rail
17 line between New Haven, Connecticut, and Springfield,
18 Massachusetts, is an important transportation priority,
19 and Amtrak should work cooperatively with the States of
20 Connecticut and Massachusetts to enable expanded com-
21 muter rail service on such line.

22 (c) INFRASTRUCTURE MAINTENANCE REPORT.—Am-
23 trak shall submit a report to the Committee on Transpor-
24 tation and Infrastructure of the House of Representatives
25 and the Committee on Commerce, Science, and Transpor-

1 tation of the Senate, and to the State Departments of
2 Transportation of Connecticut and Massachusetts, on the
3 total cost of uncompleted infrastructure maintenance on
4 the rail line between New Haven, Connecticut, and Spring-
5 field, Massachusetts.

6 **SEC. 404. LOCOMOTIVE BIOFUEL STUDY.**

7 (a) IN GENERAL.—The Secretary, in consultation
8 with the Secretary of Energy and the Administrator of
9 the Environmental Protection Agency, shall conduct a
10 study to determine the extent to which freight railroads,
11 Amtrak, and other passenger rail operators could use
12 biofuel blends to power locomotives and other vehicles that
13 can operate on diesel fuel, as appropriate.

14 (b) DEFINITION.—In this section, the term “biofuel”
15 has the meaning given such term by section 9001 of the
16 Farm Security and Rural Investment Act of 2002 (7
17 U.S.C. 8101).

18 (c) FACTORS.—In conducting the study, the Sec-
19 retary shall consider—

20 (1) the energy intensity of various biofuel
21 blends compared to diesel fuel;

22 (2) environmental and energy effects of using
23 various biofuel blends compared to diesel fuel, in-
24 cluding emission effects;

25 (3) the cost of purchasing biofuel blends;

1 degradable lubricants for freight and passenger railroad
2 locomotives, rolling stock, or other equipment. The Sec-
3 retary shall work with an agricultural-based lubricant test-
4 ing facility or facilities to complete this study. The study
5 shall include—

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

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

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

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

19 **SEC. 406. CROSS-BORDER PASSENGER RAIL SERVICE.**

20 (a) PLAN.—Not later than 1 year after the date of
21 the enactment of this Act, Amtrak shall, in consultation
22 with the Secretary, the Secretary of Homeland Security,
23 the Washington State Department of Transportation, and
24 the owners of the relevant railroad infrastructure—

1 (1) develop a strategic plan to facilitate ex-
2 panded passenger rail service across the inter-
3 national border between the United States and Can-
4 ada during the 2010 Olympic Games on the Amtrak
5 passenger rail route between Vancouver, British Co-
6 lumbia, Canada, and Eugene, Oregon (commonly
7 known as “Amtrak Cascades”);

8 (2) develop recommendations for the Depart-
9 ment of Homeland Security to process efficiently rail
10 passengers traveling on Amtrak Cascades across
11 such international border during the 2010 Olympic
12 Games; and

13 (3) submit to Congress a report containing the
14 strategic plan described in paragraph (1) and the
15 recommendations described in paragraph (2).

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

24 (1) in Vancouver, Canada, no later than June
25 1, 2009; and

1 (2) in other areas as determined appropriate by
2 the Secretary.

3 **SEC. 407. HISTORIC PRESERVATION OF RAILROADS.**

4 (a) **STUDY; OTHER ACTIONS.**—The Secretary of
5 Transportation shall—

6 (1) conduct a study, in consultation with the
7 Advisory Council on Historic Preservation, the Na-
8 tional Conference of State Historic Preservation Of-
9 ficers, the Department of the Interior, appropriate
10 representatives of the railroad industry, and rep-
11 resentative stakeholders, on ways to streamline com-
12 pliance with the requirements of section 303 of title
13 49, United States Code, and section 106 of the Na-
14 tional Historic Preservation Act (16 U.S.C. 470f)
15 for federally funded railroad infrastructure repair
16 and improvement projects;

17 (2) take immediate action to cooperate with the
18 Alaska Railroad, the Alaska State Historic Preserva-
19 tion Office, the Advisory Council on Historic Preser-
20 vation, and the Department of the Interior, in expe-
21 diting the decisionmaking process for safety-related
22 projects of the railroad involving property and facili-
23 ties that have disputed historic significance; and

24 (3) take immediate action to cooperate with the
25 North Carolina Department of Transportation, the

1 North Carolina State Historic Preservation Office,
2 the Virginia State Historic Preservation Office, the
3 Advisory Council on Historic Preservation, and the
4 Department of the Interior, in expediting the deci-
5 sionmaking process for safety-related railroad
6 projects of the North Carolina Department of
7 Transportation and the Southeast High Speed Rail
8 Corridor involving property and facilities that have
9 disputed historic significance.

10 (b) REPORT.—Not later than 1 year after the date
11 of enactment of this Act, the Secretary shall submit, to
12 the Committee on Transportation and Infrastructure of
13 the House of Representatives and the Committee on Com-
14 merce, Science, and Transportation of the Senate, a report
15 on the results of the study conducted under subsection
16 (a)(1) and the actions directed under subsection (a)(2)
17 and (3). The report shall include recommendations for any
18 regulatory or legislative amendments that may streamline
19 compliance with the requirements described in subsection
20 (a)(1) in a manner consistent with railroad safety and the
21 policies and purposes of section 106 of the National His-
22 toric Preservation Act (16 U.S.C. 470f), section 303 of
23 title 49, United States Code, and section 8(d) of Public
24 Law 90–543 (16 U.S.C. 1247(d)).

1 **TITLE V—HIGH-SPEED RAIL**

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

3 (a) CORRIDOR PLANNING.—Section 26101 is amend-
4 ed—

5 (1) in the section heading, by striking “**Cor-**
6 **ridor development**” and inserting “**High-**
7 **speed rail corridor planning**”;

8 (2) in the heading of subsection (a), by striking
9 “CORRIDOR DEVELOPMENT” and inserting “COR-
10 RIDOR PLANNING”;

11 (3) by striking “corridor development” each
12 place it appears and inserting “corridor planning”;
13 and

14 (4) in subsection (c)(2), by striking “develop-
15 ment” and inserting “planning”.

16 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
17 26104 is amended in paragraph (1) of subsection (a) by
18 striking “\$70,000,000” and inserting “\$30,000,000”.

19 (c) CONFORMING AMENDMENT.—The item relating
20 to section 26101 in the table of sections of chapter 261
21 is amended by striking “Corridor development” and in-
22 serting “High-speed rail corridor planning”.

23 (d) HIGH-SPEED RAIL CORRIDOR DEVELOPMENT.—
24 Chapter 261 is amended by adding at the end thereof the
25 following:

1 **“§ 26106. High-speed rail corridor development**

2 “(a) IN GENERAL.—The Secretary of Transportation
3 shall establish and implement a high-speed rail corridor
4 development program.

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

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

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

15 “(3) CAPITAL PROJECT.—The term ‘capital
16 project’ means a project or program in a State rail
17 plan developed under chapter 227 of this title for ac-
18 quiring, constructing, improving, or inspecting
19 equipment, track, and track structures, or a facility
20 of use in or for the primary benefit of high-speed
21 rail service, expenses incidental to the acquisition or
22 construction (including designing, engineering, loca-
23 tion surveying, mapping, environmental studies, and
24 acquiring rights-of-way), payments for the capital
25 portions of rail trackage rights agreements, highway-
26 rail grade crossing improvements related to high-

1 speed rail service, mitigating environmental impacts,
2 communication and signalization improvements, relo-
3 cation assistance, acquiring replacement housing
4 sites, and acquiring, constructing, relocating, and re-
5 habilitating replacement housing.

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

10 “(5) INTERCITY PASSENGER RAIL SERVICE.—
11 The term ‘intercity passenger rail service’ has the
12 meaning given the term ‘intercity rail passenger
13 transportation’ in section 24102 of this title.

14 “(6) STATE.—The term ‘State’ means any of
15 the 50 States or the District of Columbia.

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

19 “(d) APPLICATIONS.—Each applicant seeking to re-
20 ceive a grant under this section to develop a high-speed
21 rail corridor shall submit to the Secretary an application
22 in such form and in accordance with such requirements
23 as the Secretary shall establish.

24 “(e) COMPETITIVE GRANT SELECTION AND CRI-
25 TERIA FOR GRANTS.—

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

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

5 “(B) conduct a national solicitation for ap-
6 plications; and

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

8 “(2) GRANT CRITERIA.—The Secretary, in se-
9 lecting the recipients of high-speed rail development
10 grants to be provided under subsection (c), shall—

11 “(A) require—

12 “(i) that the project be part of a State
13 rail plan developed under chapter 227 of
14 this title, or under the plan required by
15 section 211 of the Passenger Rail Invest-
16 ment and Improvement Act of 2008;

17 “(ii) that the applicant or recipient
18 has or will have the legal, financial, and
19 technical capacity to carry out the project,
20 satisfactory continuing control over the use
21 of the equipment or facilities, and the ca-
22 pability and willingness to maintain the
23 equipment or facilities;

24 “(iii) that the project be based on the
25 results of preliminary engineering studies

1 or other planning, including corridor plan-
2 ning activities funded under section 26101
3 of this title;

4 “(iv) that the applicant provides suffi-
5 cient information upon which the Secretary
6 can make the findings required by this
7 subsection;

8 “(v) that if an applicant has selected
9 the proposed operator of its service, that
10 the applicant provide written justification
11 to the Secretary showing why the proposed
12 operator is the best, taking into account
13 costs and other factors;

14 “(vi) that each proposed project meet
15 all safety and security requirements that
16 are applicable to the project under law;
17 and

18 “(vii) that each project be compatible
19 with, and operated in conformance with—

20 “(I) plans developed pursuant to
21 the requirements of section 135 of
22 title 23; and

23 “(II) the national rail plan (if it
24 is available);

25 “(B) select high-speed rail projects—

1 “(i) that are anticipated to result in
2 significant improvements to intercity rail
3 passenger service, including, but not lim-
4 ited to, consideration of the project’s—

5 “(I) levels of estimated ridership,
6 increased on-time performance, re-
7 duced trip time, additional service fre-
8 quency to meet anticipated or existing
9 demand, or other significant service
10 enhancements as measured against
11 minimum standards developed under
12 section 207 of the Passenger Rail In-
13 vestment and Improvement Act of
14 2008;

15 “(II) anticipated favorable im-
16 pact on air or highway traffic conges-
17 tion, capacity, or safety; and

18 “(ii) for which there is a high degree
19 of confidence that the proposed project is
20 feasible and will result in the anticipated
21 benefits, as indicated by—

22 “(I) the project’s
23 precommencement compliance with
24 environmental protection require-
25 ments;

1 “(II) the readiness of the project
2 to be commenced;

3 “(III) the commitment of any af-
4 fected host rail carrier to ensure the
5 realization of the anticipated benefits;
6 and

7 “(IV) other relevant factors as
8 determined by the Secretary;

9 “(iii) for which the level of the antici-
10 pated benefits compares favorably to the
11 amount of Federal funding requested
12 under this section; and

13 “(C) give greater consideration to
14 projects—

15 “(i) that are anticipated to result in
16 benefits to other modes of transportation
17 and to the public at large, including, but
18 not limited to, consideration of the
19 project’s—

20 “(I) encouragement of intermodal
21 connectivity through provision of di-
22 rect connections between train sta-
23 tions, airports, bus terminals, subway
24 stations, ferry ports, and other modes
25 of transportation;

1 “(II) anticipated improvement of
2 conventional intercity passenger,
3 freight, or commuter rail operations;

4 “(III) use of positive train con-
5 trol technologies;

6 “(IV) environmental benefits, in-
7 cluding projects that involve the pur-
8 chase of environmentally sensitive,
9 fuel-efficient, and cost-effective pas-
10 senger rail equipment;

11 “(V) anticipated positive eco-
12 nomic and employment impacts;

13 “(VI) encouragement of State
14 and private contributions toward sta-
15 tion development, energy and environ-
16 mental efficiency, and economic bene-
17 fits; and

18 “(VII) falling under the descrip-
19 tion in section 5302(a)(1)(G) of this
20 title as defined to support intercity
21 passenger rail service; and

22 “(ii) that incorporate equitable finan-
23 cial participation in the project’s financing,
24 including, but not limited to, consideration
25 of—

1 “(I) donated property interests
2 or services;

3 “(II) financial contributions by
4 intercity passenger, freight, and com-
5 muter rail carriers commensurate with
6 the benefit expected to their oper-
7 ations; and

8 “(III) financial commitments
9 from host railroads, non-Federal gov-
10 ernmental entities, non-governmental
11 entities, and others.

12 “(3) GRANT CONDITIONS.—The Secretary shall
13 require each recipient of a grant under this chapter
14 to comply with the grant requirements of section
15 24405 of this title.

16 “(4) STATE RAIL PLANS.—State rail plans com-
17 pleted before the date of enactment of the Passenger
18 Rail Investment and Improvement Act of 2008 that
19 substantially meet the requirements of chapter 227
20 of this title, as determined by the Secretary pursu-
21 ant to section 22506 of this title, shall be deemed
22 by the Secretary to have met the requirements of
23 paragraph (2)(A)(i) of this subsection.

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

4 “(g) ISSUANCE OF REGULATIONS.—Within 1 year
5 after the date of enactment of this section, the Secretary
6 shall issue regulations to carry out this section.

7 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated to the Secretary to carry
9 out this section—

10 “(1) \$150,000,000 for fiscal year 2009;

11 “(2) \$300,000,000 for fiscal year 2010;

12 “(3) \$350,000,000 for fiscal year 2011;

13 “(4) \$350,000,000 for fiscal year 2012; and

14 “(5) \$350,000,000 for fiscal year 2013.”.

15 “(e) TABLE OF SECTIONS AMENDMENT.—The table of
16 sections for chapter 261 is amended by adding after the
17 item relating to section 26105 the following new item:

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

18 **SEC. 502. ADDITIONAL HIGH-SPEED RAIL PROJECTS.**

19 “(a) SOLICITATION OF PROPOSALS.—

20 “(1) IN GENERAL.—Not later than 60 days after
21 the date of enactment of this Act, the Secretary
22 shall issue a request for proposals for projects for
23 the financing, design, construction, operation, and
24 maintenance of a high-speed intercity passenger rail

1 system operating within a high-speed rail corridor,
2 including—

3 (A) the Northeast Corridor;

4 (B) the California Corridor;

5 (C) the Empire Corridor;

6 (D) the Pacific Northwest Corridor;

7 (E) the South Central Corridor;

8 (F) the Gulf Coast Corridor;

9 (G) the Chicago Hub Network;

10 (H) the Florida Corridor;

11 (I) the Keystone Corridor;

12 (J) the Northern New England Corridor;

13 and

14 (K) the Southeast Corridor.

15 (2) SUBMISSION.—Proposals shall be submitted
16 to the Secretary not later than 270 days after the
17 publication of such request for proposals under para-
18 graph (1).

19 (3) PERFORMANCE STANDARD.—Proposals sub-
20 mitted under paragraph (2) must meet any stand-
21 ards established by the Secretary. For corridors with
22 existing intercity passenger rail service, proposals
23 shall also be designed to achieve a reduction of exist-
24 ing minimum intercity rail service trip times between
25 the main corridor city pairs by a minimum of 25

1 percent. In the case of a proposal submitted with re-
2 spect to paragraph (1)(A), the proposal must be de-
3 signed to achieve a 2-hour or less express service be-
4 tween Washington, District of Columbia, and New
5 York City, New York.

6 (4) CONTENTS.—A proposal submitted under
7 this subsection shall include—

8 (A) the names and qualifications of the
9 persons submitting the proposal and the entities
10 proposed to finance, design, construct, operate,
11 and maintain the railroad, railroad equipment,
12 and related facilities, stations, and infrastruc-
13 ture;

14 (B) a detailed description of the proposed
15 rail service, including possible routes, required
16 infrastructure investments and improvements,
17 equipment needs and type, train frequencies,
18 peak and average operating speeds, and trip
19 times;

20 (C) a description of how the project would
21 comply with Federal rail safety and security
22 laws, orders, and regulations governing high-
23 speed rail operations;

24 (D) the locations of proposed stations,
25 which maximize the usage of existing infra-

1 structure to the extent possible, and the popu-
2 lations such stations are intended to serve;

3 (E) the type of equipment to be used, in-
4 cluding any technologies, to achieve trip time
5 goals;

6 (F) a description of any proposed legisla-
7 tion needed to facilitate all aspects of the
8 project;

9 (G) a financing plan identifying—

10 (i) projected revenue, and sources
11 thereof;

12 (ii) the amount of any requested pub-
13 lic contribution toward the project, and
14 proposed sources;

15 (iii) projected annual ridership projec-
16 tions for the first 10 years of operations;

17 (iv) annual operations and capital
18 costs;

19 (v) the projected levels of capital in-
20 vestments required both initially and in
21 subsequent years to maintain a state-of-
22 good-repair necessary to provide the ini-
23 tially proposed level of service or higher
24 levels of service;

1 (vi) projected levels of private invest-
2 ment and sources thereof, including the
3 identity of any person or entity that has
4 made or is expected to make a commit-
5 ment to provide or secure funding and the
6 amount of such commitment; and

7 (vii) projected funding for the full fair
8 market compensation for any asset, prop-
9 erty right or interest, or service acquired
10 from, owned, or held by a private person or
11 Federal entity that would be acquired, im-
12 paired, or diminished in value as a result
13 of a project, except as otherwise agreed to
14 by the private person or entity;

15 (H) a description of how the project would
16 contribute to the development of a national
17 high-speed rail system and an intermodal plan
18 describing how the system will facilitate conven-
19 ient travel connections with other transpor-
20 tation services;

21 (I) a description of how the project will en-
22 sure compliance with Federal laws governing
23 the rights and status of employees associated
24 with the route and service, including those spec-

1 ified in section 24405 of title 49, United States
2 Code;

3 (J) a description of how the design, con-
4 struction, implementation, and operation of the
5 project will accommodate and allow for future
6 growth of existing and projected intercity, com-
7 muter, and freight rail service;

8 (K) a description of how the project would
9 comply with Federal and State environmental
10 laws and regulations, of what the environmental
11 impacts would result from the project, and how
12 any adverse impacts would be mitigated; and

13 (L) a description of the project's impacts
14 on highway and aviation congestion, energy
15 consumption, land use, and economic develop-
16 ment in the service area.

17 (b) DETERMINATION AND ESTABLISHMENT OF COM-
18 MISSIONS.—Not later than 60 days after receipt of the
19 proposals under subsection (a), the Secretary shall—

20 (1) make a determination as to whether any
21 such proposals—

22 (A) contain the information required under
23 subsection (a)(3) and (4);

24 (B) are sufficiently credible to warrant fur-
25 ther consideration;

1 (C) are likely to result in a positive impact
2 on the Nation's transportation system; and

3 (D) are cost-effective and in the public in-
4 terest; and

5 (2) establish a commission under subsection (c)
6 for each corridor with one or more proposals that
7 the Secretary determines satisfies the requirements
8 of paragraph (1), and forward to each commission
9 such proposals for review and consideration.

10 (c) COMMISSIONS.—

11 (1) MEMBERS.—Each commission referred to in
12 subsection (b)(2) shall include—

13 (A) the governors of the affected States, or
14 their respective designees;

15 (B) mayors of appropriate municipalities
16 along the proposed corridor, or their respective
17 designees;

18 (C) a representative from each freight rail-
19 road carrier using the relevant corridor, if ap-
20 plicable;

21 (D) a representative from each transit au-
22 thority using the relevant corridor, if applicable;

23 (E) representatives of nonprofit employee
24 labor organizations representing affected rail-
25 road employees; and

1 (D) the President of Amtrak or his or her
2 designee.

3 (2) APPOINTMENT AND SELECTION.—The Sec-
4 retary shall appoint the members under paragraph
5 (1). In selecting each commission's members to ful-
6 fill the requirements under paragraph (1)(B) and
7 (E), the Secretary shall consult with the Chairmen
8 and Ranking Members of the Senate Committee on
9 Commerce, Science, and Transportation and the
10 House of Representatives Committee on Transpor-
11 tation and Infrastructure.

12 (3) CHAIRPERSON AND VICE-CHAIRPERSON SE-
13 LECTION.—The Chairperson and Vice-Chairperson
14 shall be elected from among members of each com-
15 mission.

16 (4) QUORUM AND VACANCY.—

17 (A) QUORUM.—A majority of the members
18 of each commission shall constitute a quorum.

19 (B) VACANCY.—Any vacancy in each com-
20 mission shall not affect its powers and shall be
21 filled in the same manner in which the original
22 appointment was made.

23 (5) APPLICATION OF LAW.—Except where oth-
24 erwise provided by this section, the Federal Advisory

1 Committee Act (P.L. 92-463) shall apply to each
2 commission created under this section.

3 (d) COMMISSION CONSIDERATION.—

4 (1) IN GENERAL.—Each commission established
5 under subsection (b)(2) shall be responsible for re-
6 viewing the proposal or proposals forwarded to it
7 under that subsection and not later than 90 days
8 after the establishment of the commission, shall
9 transmit to the Secretary a report which includes—

10 (A) a summary of each proposal received;

11 (B) services to be provided under each pro-
12 posal, including projected ridership, revenues,
13 and costs;

14 (C) proposed public and private contribu-
15 tions for each proposal;

16 (D) the advantages offered by the proposal
17 over existing intercity passenger rail services;

18 (E) public operating subsidies or assets
19 needed for the proposed project;

20 (F) possible risks to the public associated
21 with the proposal, including risks associated
22 with project financing, implementation, comple-
23 tion, safety, and security;

24 (G) a ranked list of the proposals rec-
25 ommended for further consideration under sub-

1 section (e) in accordance with each proposal's
2 projected positive impact on the Nation's trans-
3 portation system;

4 (H) an identification of any proposed Fed-
5 eral legislation that would facilitate implemen-
6 tation of the projects and Federal legislation
7 that would be required to implement the
8 projects; and

9 (I) any other recommendations by the com-
10 mission concerning the proposed projects.

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

14 (3) AUTHORIZATION OF APPROPRIATIONS.—
15 There are authorized to be appropriated to the Sec-
16 retary for the use of each commission established
17 under subsection (b)(2) such sums as are necessary
18 to carry out this section.

19 (e) SELECTION BY SECRETARY.—

20 (1) Not later than 60 days after receiving the
21 recommended proposals of the commissions estab-
22 lished under subsection (b)(2), the Secretary shall—

23 (A) review such proposals and select any
24 proposal which provides substantial benefits to
25 the public and the national transportation sys-

1 tem, is cost-effective, offers significant advan-
2 tages over existing services, and meets other
3 relevant factors determined appropriate by the
4 Secretary; and

5 (B) issue a report to the Committee on
6 Transportation and Infrastructure of the House
7 of Representatives and the Committee on Com-
8 merce, Science, and Transportation of the Sen-
9 ate containing any proposal with respect to sub-
10 section (a)(1)(A) that is selected by the Sec-
11 retary under subparagraph (A) of this para-
12 graph, all the information regarding the pro-
13 posal provided to the Secretary under sub-
14 section (d), and any other relevant information
15 deemed appropriate.

16 (2) Following the submission of the report
17 under paragraph (1)(B), the Secretary shall trans-
18 mit to the Committee on Transportation and Infra-
19 structure of the House of Representatives and the
20 Committee on Commerce, Science, and Transpor-
21 tation of the Senate a report containing any pro-
22 posal with respect to subparagraphs (B) through
23 (K) of subsection (a)(1) that are selected by the Sec-
24 retary under paragraph (1) of this subsection, all
25 the information regarding the proposal provided to

1 the Secretary under subsection (d), and any other
2 relevant information deemed appropriate.

3 (3) The report required under paragraph (2)
4 shall not be submitted by the Secretary until the re-
5 port submitted under paragraph (1) has been con-
6 sidered through a hearing by 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 on the re-
10 port submitted under paragraph (1)(B).

11 (f) PRELIMINARY ENGINEERING.—For planning and
12 preliminary engineering activities that meet the criteria of
13 section 26101 of title 49, United States Code, (other than
14 subsections (a) and (b)(2)) that are undertaken after the
15 Secretary submits reports to the Committee on Transpor-
16 tation and Infrastructure of the House of Representatives
17 and the Committee on Commerce, Science, and Transpor-
18 tation of the Senate as required under subsection (e), not
19 to exceed \$5,000,000 is authorized to be appropriated
20 from funds made available under section 26104(a) of such
21 title. Only 1 proposal for each corridor under subsection
22 (a) shall be eligible for such funds.

23 (g) NO ACTIONS WITHOUT ADDITIONAL AUTHOR-
24 ITY.—No Federal agency may take any action to imple-
25 ment, establish, facilitate, or otherwise act upon any pro-

1 posal submitted under this section, other than those ac-
2 tions specifically authorized by this section, without ex-
3 plicit statutory authority enacted after the date of enact-
4 ment of this Act.

5 (h) DEFINITIONS.—In this section, the following defi-
6 nitions apply:

7 (1) INTERCITY PASSENGER RAIL.—The term
8 “intercity passenger rail” means intercity rail pas-
9 senger transportation as defined in section 24102 of
10 title 49, United States Code.

11 (2) STATE.—The term “State” means any of
12 the 50 States or the District of Columbia.

13 (3) NORTHEAST CORRIDOR.—The term “North-
14 east Corridor” has the meaning given under section
15 24102 of title 49, United States Code.

16 (4) HIGH-SPEED RAIL CORRIDOR.—The terms
17 “high-speed rail corridor” and “corridor” mean a
18 corridor designated by the Secretary pursuant to
19 section 104(d)(2) of title 23, United States Code,
20 and the Northeast Corridor.

1 **TITLE VI—CAPITAL AND PRE-**
2 **VENTIVE MAINTENANCE**
3 **PROJECTS FOR WASHINGTON**
4 **METROPOLITAN AREA TRAN-**
5 **SIT AUTHORITY**

6 **SEC. 601. AUTHORIZATION FOR CAPITAL AND PREVENTIVE**
7 **MAINTENANCE PROJECTS FOR WASHINGTON**
8 **METROPOLITAN AREA TRANSIT AUTHORITY.**

9 (a) AUTHORIZATION.—

10 (1) IN GENERAL.—Subject to the succeeding
11 provisions of this section, the Secretary of Transpor-
12 tation is authorized to make grants to the Transit
13 Authority, in addition to the contributions author-
14 ized under sections 3, 14, and 17 of the National
15 Capital Transportation Act of 1969 (sec. 9–1101.01
16 et seq., D.C. Official Code), for the purpose of fi-
17 nancing in part the capital and preventive mainte-
18 nance projects included in the Capital Improvement
19 Program approved by the Board of Directors of the
20 Transit Authority.

21 (2) DEFINITIONS.—In this section—

22 (A) the term “Transit Authority” means
23 the Washington Metropolitan Area Transit Au-
24 thority established under Article III of the
25 Compact; and

1 (B) the term “Compact” means the Wash-
2 ington Metropolitan Area Transit Authority
3 Compact (80 Stat. 1324; Public Law 89–774).

4 (b) USE OF FUNDS.—The Federal grants made pur-
5 suant to the authorization under this section shall be sub-
6 ject to the following limitations and conditions:

7 (1) The work for which such Federal grants are
8 authorized shall be subject to the provisions of the
9 Compact (consistent with the amendments to the
10 Compact described in subsection (d)).

11 (2) Each such Federal grant shall be for 50
12 percent of the net project cost of the project in-
13 volved, and shall be provided in cash from sources
14 other than Federal funds or revenues from the oper-
15 ation of public mass transportation systems. Con-
16 sistent with the terms of the amendment to the
17 Compact described in subsection (d)(1), any funds
18 so provided shall be solely from undistributed cash
19 surpluses, replacement or depreciation funds or re-
20 serves available in cash, or new capital.

21 (3) Such Federal grants may be used only for
22 the maintenance and upkeep of the systems of the
23 Transit Authority as of the date of the enactment of
24 this Act and may not be used to increase the mile-
25 age of the rail system.

1 (c) APPLICABILITY OF REQUIREMENTS FOR MASS
2 TRANSPORTATION CAPITAL PROJECTS RECEIVING FUNDS
3 UNDER FEDERAL TRANSPORTATION LAW.—Except as
4 specifically provided in this section, the use of any
5 amounts appropriated pursuant to the authorization under
6 this section shall be subject to the requirements applicable
7 to capital projects for which funds are provided under
8 chapter 53 of title 49, United States Code, except to the
9 extent that the Secretary of Transportation determines
10 that the requirements are inconsistent with the purposes
11 of this section.

12 (d) AMENDMENTS TO COMPACT.—No amounts may
13 be provided to the Transit Authority pursuant to the au-
14 thorization under this section until the Transit Authority
15 notifies the Secretary of Transportation that each of the
16 following amendments to the Compact (and any further
17 amendments which may be required to implement such
18 amendments) have taken effect:

19 (1)(A) An amendment requiring that all pay-
20 ments by the local signatory governments for the
21 Transit Authority for the purpose of matching any
22 Federal funds appropriated in any given year au-
23 thorized under subsection (a) for the cost of oper-
24 ating and maintaining the adopted regional system

1 are made from amounts derived from dedicated
2 funding sources.

3 (B) For purposes of this paragraph, the term
4 “dedicated funding source” means any source of
5 funding which is earmarked or required under State
6 or local law to be used to match Federal appropria-
7 tions authorized under this division for payments to
8 the Transit Authority.

9 (2) An amendment establishing an Office of the
10 Inspector General of the Transit Authority.

11 (3) An amendment expanding the Board of Di-
12 rectors of the Transit Authority to include 4 addi-
13 tional Directors appointed by the Administrator of
14 General Services, of whom 2 shall be nonvoting and
15 2 shall be voting, and requiring one of the voting
16 members so appointed to be a regular passenger and
17 customer of the bus or rail service of the Transit
18 Authority.

19 (e) ACCESS TO WIRELESS SERVICE IN METRORAIL
20 SYSTEM.—

21 (1) REQUIRING TRANSIT AUTHORITY TO PRO-
22 VIDE ACCESS TO SERVICE.—No amounts may be
23 provided to the Transit Authority pursuant to the
24 authorization under this section unless the Transit
25 Authority ensures that customers of the rail service

1 of the Transit Authority have access within the rail
2 system to services provided by any licensed wireless
3 provider that notifies the Transit Authority (in ac-
4 cordance with such procedures as the Transit Au-
5 thority may adopt) of its intent to offer service to
6 the public, in accordance with the following time-
7 table:

8 (A) Not later than 1 year after the date of
9 the enactment of this Act, in the 20 under-
10 ground rail station platforms with the highest
11 volume of passenger traffic.

12 (B) Not later than 4 years after such date,
13 throughout the rail system.

14 (2) ACCESS OF WIRELESS PROVIDERS TO SYS-
15 TEM FOR UPGRADES AND MAINTENANCE.—No
16 amounts may be provided to the Transit Authority
17 pursuant to the authorization under this section un-
18 less the Transit Authority ensures that each licensed
19 wireless provider who provides service to the public
20 within the rail system pursuant to paragraph (1) has
21 access to the system on an ongoing basis (subject to
22 such restrictions as the Transit Authority may im-
23 pose to ensure that such access will not unduly im-
24 pact rail operations or threaten the safety of cus-
25 tomers or employees of the rail system) to carry out

1 emergency repairs, routine maintenance, and up-
2 grades to the service.

3 (3) PERMITTING REASONABLE AND CUSTOMARY
4 CHARGES.—Nothing in this subsection may be con-
5 strued to prohibit the Transit Authority from requir-
6 ing a licensed wireless provider to pay reasonable
7 and customary charges for access granted under this
8 subsection.

9 (4) REPORTS.—Not later than 1 year after the
10 date of the enactment of this Act, and each of the
11 3 years thereafter, the Transit Authority shall sub-
12 mit to the Committee on Oversight and Government
13 Reform of the House of Representatives and the
14 Committee on Homeland Security and Governmental
15 Affairs of the Senate a report on the implementation
16 of this subsection.

17 (5) DEFINITION.—In this subsection, the term
18 “licensed wireless provider” means any provider of
19 wireless services who is operating pursuant to a Fed-
20 eral license to offer such services to the public for
21 profit.

22 (f) AMOUNT.—There are authorized to be appro-
23 priated to the Secretary of Transportation for grants
24 under this section an aggregate amount not to exceed

1 \$1,500,000,000 to be available in increments over 10 fis-
2 cal years beginning in fiscal year 2009, or until expended.

3 (g) AVAILABILITY.—Amounts appropriated pursuant
4 to the authorization under this section shall remain avail-
5 able until expended.