

①

114TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { 114-

PASSENGER RAIL REFORM AND INVESTMENT ACT OF 2015

FEBRUARY --, 2015.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

together with

VIEWS

[To accompany H.R. 749]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 749) to reauthorize Federal support for passenger rail programs, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

CONTENTS

	Page
Purpose of Legislation.....	
Background and Need for Legislation.....	
Hearings.....	
Legislative History and Consideration.....	
Committee Votes.....	
Committee Oversight Findings.....	
New Budget Authority and Tax Expenditures.....	
Congressional Budget Office Cost Estimate	
Performance Goals and Objectives.....	
Advisory of Earmarks.....	
Duplication of Federal Programs.....	
Disclosure of Directed Rule Makings.....	
Federal Mandate Statement.....	
Preemption Clarification.....	
Advisory Committee Statement.....	
Applicability of Legislative Branch.....	
Section-by-Section Analysis of Legislation.....	
Additional Matters.....	
Changes in Existing Law Made by the Bill, as Reported.....	
Committee Correspondence.....	

PURPOSE OF LEGISLATION

H.R. 749 authorizes the nation’s passenger rail programs, including the National Railroad Passenger Corporation (Amtrak), and Amtrak’s Office of the Inspector General, and the Federal Railroad Administration’s (FRA) loan and grant programs for rail investments. H.R. 749 fundamentally changes the authorization structure of Amtrak by providing funding by service, or “lines of business”, rather than applying the previous structure which provided separate grants for operating and capital/debt service activities. It also reforms Amtrak’s operations, budgeting, and planning processes, and allows for more private sector participation in stations, rights-of-way, and operations. H.R. 749 makes further changes to intercity passenger rail policy administered by FRA, including revisions to grant programs, loan programs, and the delivery process for projects, to ensure better oversight and accelerate infrastructure projects.

BACKGROUND AND NEED FOR LEGISLATION

For nearly 100 years, America was the unquestioned global leader in passenger rail. During that time, trains were the primary, and in many cases, the only, mode of transportation available for medium- and long-distance travel. However, the advent of commercial aviation and the Interstate Highway System provided new transportation alternatives and changed the

equation. In the face of this stiff competition, our Nation's passenger rail system faded into disuse and disrepair.

Today, however, passenger rail presents one of the best hopes for relieving the country's congested highways and airspace. In 2006, the United States population reached 300 million people, and by 2039 the country is expected to break the 400 million mark. The population concentration in the nation's urban areas is increasing, in particular on the eastern seaboard and the Northeast Corridor (NEC) between Washington, D.C., New York City, and Boston. Congestion costs also continue to rise. Crippling congestion and poor roads cost businesses and commuters almost \$115 billion each year in wasted time and fuel – up from \$24 billion in 1982. In addition, Americans spend more than 4 billion hours annually stuck in traffic.

These statistics indicate that passenger rail must be part of the solution to the nation's transportation needs. H.R. 749, the Passenger Rail Reform and Investment Act of 2015 (PRRIA), reforms and improves the nation's intercity passenger rail system to meet the challenges of the nation's continued growth.

Any reform of passenger rail must start with Amtrak, whose mission is to provide rail passenger service to the country. Since it began providing service in 1971, Amtrak has relied upon federal funds to remain solvent. While more efficient operations and reforms could help reduce reliance on federal funds, the full costs of operations and capital expenses will require federal funds for the foreseeable future.

In addition to federal funding, Amtrak generates revenue from operation of its three functions, or lines of business: (1) the NEC; (2) state-supported routes; and (3) long-distance routes. The NEC is a line of railroad track owned by Amtrak and others that runs from Washington, D.C., to Boston, Massachusetts. Amtrak operates both its higher speed Acela trains and lower speed regional trains on the NEC, while also managing the infrastructure. The majority of trains on the NEC, however, are not Amtrak's, but commuter railroads' serving major cities and their suburbs in the Northeast. Indeed, of the 2,000 daily trains on the NEC, only approximately 150 are Amtrak's. These statistics underscore the importance of the NEC, but also show a strong need for infrastructure improvements and involvement of the states. PRRIA makes several significant steps to increase infrastructure investment in the NEC and improve planning and coordination among all users of the NEC to ensure the asset is properly utilized and improved for better service.

Amtrak also operates 21 state-supported routes in 19 states, where states contribute funding to provide additional passenger rail services. These are corridors of less than 750 miles, primarily located in the Northeast, Midwest, and Pacific Coast, and connect major metropolitan areas. State-supported corridor services carry nearly half of Amtrak's annual riders – about 15.1 million riders. While states are required, by a previous authorization of Amtrak, to contribute funding for these corridors, PRRIA ensures that states are accurately billed for the services Amtrak provides. It also establishes a dispute resolution mechanism to help resolve disagreements on costs for the service.

(4)

Finally, Amtrak operates 15 long distance routes that utilize a network of over 18,500 miles of privately owned freight rail track and carry more than 4.8 million passengers. These routes are primarily legacy routes taken over by Amtrak from the freight railroads when Amtrak was formed in 1971, and are the only Amtrak trains in 23 of the 46 states in the network. PRRIA ensures these routes are evaluated to enhance efficiency and reduce losses.

PRRIA not only makes the above noted changes to the way each line of business is run, it also advances the lines-of-business approach by authorizing Amtrak funding for operations and capital into two accounts, the NEC account and the National Network account, which includes state-supported and long-distance routes. In addition, Amtrak's planning and grant requests must be divided by line of business, therefore, on the whole, PRRIA advances Amtrak's reorganization of the company into business lines, and prohibits cross-subsidization among accounts, except for specific transfer authority available after notification to the Amtrak Board of Directors. These reforms will enhance accountability and transparency, while improving the performance of each business line.

Beyond Amtrak reforms, PRRIA also focuses on the development of the nation's rail system generally. The bill leverages infrastructure resources, creates more opportunities for non-Federal participation in passenger rail, streamlines FRA processes for project development, improves procedures for FRA's rail loan program, and enhances oversight of FRA-administered grant programs. Overall, PRRIA makes reforms to passenger rail infrastructure programs that will help advance passenger rail as a solution for the nation's transportation needs.

HEARINGS

No hearings were held on this legislation in the 114th Congress. However, several hearings and other Committee events were held on matters related to this legislation in the 113th Congress. On April 11, 2013, the Subcommittee on Railroads, Pipelines, and Hazardous Materials (Subcommittee) held a hearing on Amtrak's grant request for fiscal year 2014, and how it relates to Amtrak's on-going reorganization and the reauthorization of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA 2008) (Public Law 110-432). On May 21, 2013, the Subcommittee held a hearing to discuss Amtrak's financial performance by service type and overall trends in costs, its spending of federal funds, and how it runs as a business. On June 6-7, 2013, the Subcommittee hosted a roundtable on an Amtrak train to New York, NY and a field hearing in New York, NY, respectively, to assess and discuss the importance of the NEC to the states it serves, the regional economy, and transportation network. On June 27, 2013, the Subcommittee hosted a listening session and heard from major stakeholders on developing the nation's rail policy for the next reauthorization. On July 9, 2013, the Subcommittee held a hearing on the role of innovative financing tools to advance intercity passenger rail projects.

LEGISLATIVE HISTORY AND CONSIDERATION

On February 5, 2015, House Committee on Transportation and Infrastructure Chairman Bill Shuster and Ranking Member Peter DeFazio and Subcommittee on Railroads, Pipelines, and Hazardous Materials Chairman Jeff Denham and Ranking Member Michael Capuano introduced H.R. 749, the Passenger Rail Reform and Investment Act of 2015 (PRRIA). On February 12,

2015, the Committee on Transportation and Infrastructure met in open session and ordered the bill reported favorably to the House by voice vote with a quorum present. No amendments were offered.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no record votes taken in connection with consideration of H.R. 749.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 749 from the Director of the Congressional Budget Office:

[Insert CBO letter] ← insert CBO letter

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this legislation are to authorize passenger rail programs administered by the Federal Railroad Administration, including operating and capital funding for Amtrak and the intercity passenger rail grants, and reform Amtrak's operations, budgeting, and planning. The bill also allows for more private sector participation in stations, rights-of-way, and passenger rail operations. Finally, H.R. 749 makes further changes to intercity passenger rail policy, improving the administration of the rail grant programs, rail loan programs, and the delivery process for rail projects.



CONGRESSIONAL BUDGET OFFICE
U.S. Congress
Washington, DC 20515

Douglas W. Elmendorf, Director

February 25, 2015

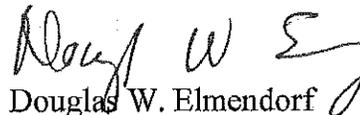
Honorable Bill Shuster
Chairman
Committee on Transportation
and Infrastructure
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 749, the Passenger Rail Reform and Investment Act of 2015.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sarah Puro, who can be reached at 226-2860.

Sincerely,


Douglas W. Elmendorf

Enclosure

cc: Honorable Peter A. DeFazio
Ranking Member



CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

February 25, 2015

H.R. 749
Passenger Rail Reform and Investment Act of 2015

*As ordered reported by the House Committee on Transportation and Infrastructure
on February 12, 2015*

SUMMARY

CBO estimates that H.R. 749 would authorize appropriations totaling \$7.2 billion over the 2016-2020 period for rail programs. That amount includes \$5.3 billion for grants to Amtrak, \$1.2 billion for grants to states for intercity rail projects, and \$625 million to renegotiate and prepay a portion of Amtrak's nonfederal debt. Assuming appropriation of the amounts specified and estimated to be necessary, CBO estimates that implementing the legislation would cost \$7.0 billion over the 2016-2020 period.

Pay-as-you-go procedures do not apply to this legislation because it would not affect direct spending or revenues.

H.R. 749 would impose intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA), by requiring some state and local governments and Amtrak to create plans and submit reports about the capital assets of intercity passenger rail systems. The bill also would place new administrative and operational requirements on Amtrak. CBO estimates that the cost to both public and private entities of complying with those mandates would be small and would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$77 million and \$154 million in 2015, respectively, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary effect of H.R. 749 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

	By Fiscal Year, in Millions of Dollars					2016- 2020
	2016	2017	2018	2019	2020	
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Capital and Operating Grants to Amtrak						
Estimated Authorization Level	1,287	1,313	1,340	1,370	0	5,310
Estimated Outlays	1,041	1,273	1,333	1,363	298	5,307
Cost to Renegotiate and Prepay Amtrak's Nonfederal Debt						
Estimated Authorization Level	125	125	125	125	125	625
Estimated Outlays	125	125	125	125	125	625
Grants to States for Rail Projects						
Authorization Level	300	300	300	300	0	1,200
Estimated Outlays	30	150	225	270	270	945
Amtrak Inspector General						
Authorization Level	23	24	24	25	0	96
Estimated Outlays	21	23	24	25	3	96
Other Provisions						
Estimated Authorization Level	2	2	1	0	0	5
Estimated Outlays	1	2	1	1	0	5
Total Changes						
Estimated Authorization Level	1,737	1,764	1,790	1,820	125	7,236
Estimated Outlays	1,217	1,573	1,708	1,784	696	6,978

BASIS OF ESTIMATE

For this estimate, CBO assumes that the bill will be enacted by the end of fiscal year 2015 and that the amounts authorized and estimated to be necessary will be appropriated each year. Spending is based on historical patterns of spending for rail programs.

Capital and Operating Grants to Amtrak

H.R. 749 would restructure the federal government's funding support for Amtrak and would authorize the appropriation of \$5.8 billion for grants to Amtrak over the 2016-2019 period. That amount includes specified amounts for the rail network between Boston, Massachusetts, and Washington, DC, and for the rail network in other parts of the country. Amtrak received a grant of \$1.4 billion for fiscal year 2015 for activities similar to those authorized in H.R. 749. As directed by the legislation, the specified authorization levels in H.R. 749 for this activity have been reduced by \$500 million to account for the estimated cost to renegotiate and prepay a portion of Amtrak's debt over the 2016-2019 period (as discussed in the next section). Assuming appropriation of the remaining authorized amounts, CBO estimates those provisions would cost \$5.3 billion over the 2016-2020 period.

Cost to Renegotiate and Prepay Amtrak's Nonfederal Debt

Subject to the availability of appropriated funds, section 209 would require the Secretary of the Treasury to negotiate with Amtrak's creditors to prepay Amtrak's debt with the goal of reducing Amtrak's debt-service costs. Under the assumption that the federal government will continue to provide Amtrak with grants to pay a portion of its debt-service costs—as it has since 2006—those prepayments also would reduce future discretionary costs to the federal government.

According to Amtrak, it has about \$1 billion in nonfederal debt—but, based on information from the Department of the Treasury, not all of that debt could be favorably renegotiated to result in savings to Amtrak. Much of Amtrak's nonfederal debt is for lease payments it makes for railcars and locomotives. In some of those leases, Amtrak has the option, at times specified in the lease contracts, to buy out the remainder of the lease term and take ownership of the rail equipment. In such cases, the Treasury would calculate the net present value of the stream of future lease payments compared to the cost to buy out the lease term to determine if savings would accrue from buying out the lease. Other debt includes a mortgage on New York's Penn Station and tax-exempt bonds that are not callable until fiscal year 2022. Based on information about the components of Amtrak's debt, CBO estimates that \$625 million would be authorized to be appropriated to prepay Amtrak's debt over the 2016-2020 period, leading to estimated costs of that amount.

Under provisions of the bill, any amounts appropriated to Amtrak to renegotiate and prepay its debt would reduce the amounts authorized to be appropriated by the bill for Amtrak's Capital and Operating Grants. Although CBO estimates that \$625 million would be authorized to be appropriated to prepay Amtrak's debt over the 2016-2020 period, the amounts authorized to be appropriated for Capital and Operating Grants have been reduced

by only \$500 million because those grants would be authorized only through 2019 under H.R. 749.

Over the next five years, CBO estimates that Amtrak's debt-service costs would be reduced by about \$20 million a year. However, over the next couple of decades, Amtrak's debt service would be reduced by more than \$625 million. If the federal government continues to provide Capital and Operating Grants to Amtrak, those lower costs could be used to reduce the amount of grants to Amtrak in the future or could be used for other Amtrak priorities, including capital spending.

Grants to States for Rail Projects

Over the 2016-2019 period, the bill would authorize the appropriation of \$1.2 billion in grants to states for capital costs related to facilities, infrastructure, and equipment necessary for intercity passenger rail service. No amounts were appropriated for such grants in 2015. Assuming appropriation of the authorized amounts, CBO estimates that spending for those grants would total \$945 million over the 2016-2020 period.

Amtrak Inspector General

H.R. 749 would authorize the appropriation of \$96 million for the operations of the Amtrak Inspector General over the 2016-2019 period. Amtrak's Office of the Inspector General received appropriations of \$23 million for fiscal year 2015 for activities similar to those authorized in H.R. 749. Assuming appropriation of the authorized amounts, CBO estimates that implementing these provisions would cost \$96 million over the 2016-2020 period.

Other Provisions

H.R. 749 would require the Federal Rail Administration (FRA) to establish a working group to assess the feasibility of restoring rail service between New Orleans, Louisiana, and Orlando, Florida. The bill also would require the FRA to complete a rulemaking to revise how federal reviews of planned freight and commuter rail projects are conducted in order to adjust how the agency complies with the Historic Preservation Act. Based on information from FRA, CBO estimates that implementing those provisions would cost \$5 million over the 2016-2020 period.

PAY-AS-YOU-GO CONSIDERATIONS: None.

11

INTERGOVERNMENTAL AND PRIVATE SECTOR PARTICIPATION

ESTIMATE PREPARED BY:

Federal Costs: Sarah Puro

Impact on State, Local, and Tribal Governments: Melissa Merrell

Impact on the Private Sector: Amy Petz

ESTIMATE APPROVED BY:

Theresa Gullo

Deputy Assistant Director for Budget Analysis



ADVISORY OF EARMARKS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. No provision in the bill includes an earmark, limited tax benefit, or limited tariff benefit under clause 9(e), 9(f), or 9(g) of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(g) of H. Res. 5, 114th Cong. (2015), the Committee finds that no provision of H.R. 749 establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

Pursuant to section 3(i) of H. Res. 5, 113th Cong. (2015), the Committee estimates that enacting H.R. 749 specifically directs the completion of a specific rule making within the meaning of section 551 of title 5, United States Code. Section 205 of H.R. 749 requires the secretary of Transportation to carry out a rulemaking for an alternative pilot passenger rail program, and section 401 of H.R. 749 requires the Secretary of Transportation to carry out a rulemaking regarding environmental streamlining of railroad projects.

FEDERAL MANDATE STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104-4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 749 does not preempt any state, local, or tribal law. H.R. 749 preserves the rights and permitting authorities of states.

ADVISORY COMMITTEE STATEMENT

Section 203 of this legislation establishes an advisory committee, as defined by section 2 of the Federal Advisory Committee Act (5 U.S.C. app.). Pursuant to section 5 of the Federal Advisory Committee Act, the Committee determines that the functions of this advisory committee are not being carried out by existing agencies or advisory commissions. The

Committee also determines that the advisory committee has a clearly defined purpose, fairly balanced membership, and meets all of the other requirements of section 5(b) of the Federal Advisory Committee Act.

APPLICABILITY OF LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104-1).

SECTION-BY-SECTION ANALYSIS OF LEGISLATION

Title I— Authorization of Appropriations

Section 101. Authorization for Amtrak System.

Fiscal responsibility is a top priority for the Committee. For decades authorization bills have included unrealistic funding levels. PRRIA breaks this cycle by authorizing Amtrak at fiscally responsible, recently appropriated funding levels. This section authorizes funds to be appropriated for fiscal years 2016 through 2019 to the Secretary of the Department of Transportation (Secretary) for the use of Amtrak for capital projects, operating grants, debt service payments, and other activities.

However, instead of separate authorizations for capital and debt service and for operating grants, subsection 101(a) authorizes funding to be appropriated to a new Northeast Corridor Improvement Fund account, for capital projects and debt service payments related to the corridor, and subsection 101(b) authorizes funding to be appropriated to a new National Network account for the capital and operating expenses of state-supported and long-distance routes, and for debt service payments related to those services. Subsection 101(c) allows the Secretary to withhold up to one half of one percent of the funds authorized in this section for oversight purposes. The authorization structure contained in this section will ensure transparency in the federal funding requirements for Amtrak.

Section 102. Authorization for Amtrak Office of Inspector General.

This section authorizes funds to be appropriated for fiscal years 2016 through 2019 to the Secretary for the Office of Inspector General of Amtrak to conduct oversight of Amtrak's operations and management.

Section 103. National Infrastructure Investments.

This section authorizes funds to be appropriated for fiscal years 2016 through 2019 to the Secretary for capital grants for intercity passenger rail projects under Chapter 244 of Title 49, United States Code, and grade crossing improvement projects under section 20154 of Title 49, United States Code. Of the amounts authorized to be appropriated, 50 percent of funds shall be

15

used for a Federal-State Partnership for Northeast Corridor Rehabilitation and Improvement program established under section 301 of this Act.

Section 104. Northeast Corridor.

This section clarifies, for the purposes of this title, that the NEC is defined as the main line between Boston, Massachusetts and Washington, District of Columbia, and the facilities and services necessary to operate and maintain that line.

Title II— Amtrak Reform

Section 201. Amtrak Reform.

This section amends chapter 243 of title 49, United States Code, by adding at the end the following new sections:

Section 24317. Costs and Revenues.

With the move to a lines-of-business approach for authorizing federal support for Amtrak, all costs and revenues of the company must be allocated to the newly created accounts. This new section requires Amtrak to establish and maintain internal controls to ensure that all costs and revenues are allocated to either the NEC or National Network account.

Section 24318. Grant Process.

This new section lays out the procedures Amtrak shall follow when preparing and submitting to the Secretary and Congress a request for federal grants. It also sets forth the contents of such grant requests, including a detailed financial analysis by lines of business, a description of the work to be funded along with cost estimates and a timetable for completion of projects supported by the federal funds, and other information similar in nature to budget requests of executive agencies of the federal government. The Committee believes the grant process and contents need to better justify federal support and give the taxpayers and Congress a more transparent understanding of the federal funds being invested, so that informed decisions can be made on the amount of federal funding provided each year. This new section also outlines the review and approval process for grant requests and the payment schedule for the Secretary to obligate and outlay funds to Amtrak.

Section 24319. Accounts.

Due to the shift to a lines-of-business approach to authorizations, this new section requires Amtrak to establish two accounts, the Northeast Corridor Improvement Fund account and the National Network account. It mandates that all federal grant funds, compensation received from states pursuant to sections

209 and 212 of Division B of Public Law 110-432, and operating surpluses shall be allocated between the two accounts. The establishment of these two accounts eliminates the need to cross-subsidize Amtrak's lines of business, though the section does include a transfer mechanism via notification to the Amtrak Board of Directors. Establishing these accounts ensures that profits generated on the NEC, and state access payments for use of the NEC, are reinvested on the corridor. Similarly, state payments, federal appropriations, and revenue generated on the National Network will go towards activities supported by that account.

The Committee is concerned that Amtrak's current structure is not transparent or aligned by core services. Establishing separate accounts and only allowing funds to be transferred between the accounts following Amtrak notification and justification to the Amtrak Board of Directors will significantly increase transparency and accountability. Subsection (e) also requires the Secretary to issue letters of intent to obligate future year budget authority for major capital projects requiring multi-year funding to enhance certainty that the project will reach completion.

Finally, the Committee is concerned about Amtrak's history with procurements, including problems with the Acela fleet procurement and lack of funding to complete an ongoing purchase of sleeping and baggage cars. While the company has made progress on planning, it has been inconsistent with carrying out business cases for major procurements, even when it relies upon federal funding to make such purchases. PRRIA addresses this problem by mandating that Amtrak conduct a business case prior to entering into any large capital acquisition. Specifically, Amtrak must submit a business case to the Secretary and Congress for rolling stock purchases in excess of \$100,000,000 that sets forth the costs and benefits of the procurement, the total payments by fiscal year, the source of the funding, whether the purchase will increase the need for federal funding, and contingency plans if there is no funding available for the purchase. This subsection is intended to improve Amtrak's business planning while giving Congress and the public confidence that Amtrak is exercising effective stewardship of federal funds.

Section 24911. Northeast Corridor Planning.

The NEC is a valuable transportation asset to the region and nation as a whole. It is also one of the world's most complicated railroad corridors, with roughly 150 daily Amtrak trains and nearly 1,800 daily commuter and freight trains. The PRRIA 2008 created the Northeast Corridor Infrastructure and Operations Advisory Commission (NEC Commission) to act as the regional body to coordinate activities on the corridor, and also required states to start contributing funds to maintain the corridor. PRRIA significantly advances these efforts by empowering the NEC Commission to act as a true planner and convener of the states, commuter railroads, and Amtrak. This enhanced governance regime will allow states to have an equal voice in the management of



the corridor, and will ensure that all investments are coordinated appropriately among the infrastructure owners and users.

Specifically, this section charges the NEC Commission to work in conjunction with Amtrak, the FRA, and the states to develop and implement a five-year NEC Capital Investment Plan in order to identify, prioritize, and phase projects needed to improve the NEC. This plan then becomes the basis upon which investments in the NEC must be made by Amtrak. Also, for projects to be eligible for both the Federal-State Partnership for NEC Development and Improvement grants established in section 301 and for the NEC Fast Forward RRIF loan set-aside established in section 303, the project must be included in the NEC Capital Investment Plan.

This section also requires Amtrak, states, and public transportation entities that own infrastructure or operate service on the NEC to develop and submit to the NEC Commission NEC Asset Management Plans within 12 months of the enactment of the Act. Once developed, these asset plans will be used to inform the development of the NEC Capital Investment Plan. Furthermore, recognizing that the FRA is currently conducting a Service Development Plan for the NEC as part of its NEC FUTURE study, the NEC Commission is required to update that NEC Service Development Plan every 10 years. This will allow for an evaluation of service goals as ridership, revenues, and service levels evolve over the years.

Section 202. Five-Year Capital and Operating Plan.

PRRIA requires greater transparency into Amtrak's accounting. Amtrak must provide detailed information to states on costs for their services. Furthermore, Amtrak is required to complete detailed five-year capital and financial plans, with annual explanations of how it met its prior year's goals. This will help Congress, states, and the taxpayers better understand and evaluate its return-on-investment in Amtrak.

This section requires the Amtrak Board of Directors to prepare five-year capital and operating plans for the NEC and the National Network within 60 days of an Act appropriating funds to Amtrak. To ensure that the states are properly involved in Amtrak's decision-making regarding their services, the plan must be done in consultation with the NEC Commission for NEC planning and the states for National Network planning. Following the lines-of-business approach and to ensure that Congress is properly informed, this section identifies the specific information to be contained in the plans, including forecasts and projects, by each line of business. Also, this section requires Amtrak to plan based on real, constrained funding levels, not overly optimistic targets that will never materialize, by making the plans conform to authorized funding levels so that Congress is provided with realistic expectations of what can be achieved given the actual federal funds. Finally, this section requires that Amtrak update Congress on its progress monthly to maintain accountability throughout the year.

Section 203. State-supported Routes.

State-supported routes account for nearly half of Amtrak's total ridership. While ridership has been successful, a patchwork of financial arrangements had developed between Amtrak and the states with varying levels of support. Given this inconsistent approach, Section 209 of PRIIA 2008 required Amtrak to work with the states to develop and implement a single, nationwide standardized methodology for establishing and allocating the costs of providing intercity rail service on state-supported routes. While most states have begun to pay for their state supported routes on an equal basis, states have raised concerns that Amtrak's financial data is not transparent enough to know exactly what the underlying costs are for. At the same time, the Committee is concerned that some states are not paying Amtrak for services as required under section 209 of PRIIA 2008, and urges such states to take action to pay for such services.

Section 203 seeks to remedy these issues by requiring the Secretary to establish a State-Supported Route Advisory Committee made up of Amtrak, the Department of Transportation and the FRA, and seven states that sponsor state-supported routes, to promote cooperation and planning along the routes pursuant to section 209 of PRIIA 2008. Amtrak will also be required to regularly submit detailed financial and performance information to the states. This will help to enhance transparency and accountability toward the states paying for the service. Finally, this section creates an expedited dispute resolution process with the Surface Transportation Board functioning as the final arbiter.

Section 204. Route and Service Planning.

Amtrak operates 15 long-distance trains over an 18,500 mile network serving 39 states, utilizing privately-owned freight rail track. PRIIA 2008 included several provisions to try to improve performance and reduce operating losses on these routes; however, no action on these provisions has been taken by the FRA.

To ensure action is taken, this section requires Amtrak, not the FRA, to contract with a third party entity to develop and recommend objective methodologies for Amtrak to use in evaluating what intercity passenger rail routes and services it will provide, including creation of new routes, elimination of existing routes, or other changes to improve service. Recommendations must be submitted to Congress, and the Amtrak Board of Directors is required to consider adoption of such recommendations and then explain to Congress its reasoning for adopting or not adopting those recommendations.

Section 205. Competition.

During both the 113th and 114th Congresses, with other modes becoming more congested, private providers of passenger rail have expressed interest in developing new services. Indeed, projects are underway where private companies will build and operate their own passenger rail lines in a couple of states. The Committee takes advantage of this rail renaissance and interest in passenger rail development, by establishing an alternative passenger rail pilot program to encourage competition along certain Amtrak routes. Within our free market economic construct, competition can generate better efficiencies and improved services for the customer. Under the pilot program established in section 205, rail carriers would submit bids to FRA, who would award the winning bidder the right and obligation to provide rail service over that route, as well

as access to Amtrak’s reservation system, stations, and facilities as long as the company maintains minimum FRA standards. In addition, the winning bidder would only be able to receive 90 percent or less of the prior year’s Amtrak cost. This section grants FRA the authority to transfer a defined portion of Amtrak’s appropriation for that specific route to operate the alternative service. It also requires, no later than 1 year after the enactment of the Act, the FRA to issue a rulemaking to develop the pilot program. Finally, not later than 1 year after the conclusion of the program, the FRA must submit the results of the pilot program to Congress.

Section 206. Food and Beverage Reform.

For decades Amtrak has operated its food and beverage service at a loss. PRRIA addresses this problem by requiring that Amtrak implement a series of reforms to eliminate food and beverage losses over the next five years, which may include improved product and supply chain efficiencies; strengthened training and accountability for staff; improved scheduling of food and beverage staff; and ticket revenue enhancements.

This section requires that within five years of enactment of the Act, the operating loss associated with providing food and beverage service on board trains will be eliminated. The section also includes language protecting Amtrak’s existing workforce, but also mandates that after the five year period, no federal funding may be utilized to cover food and beverage losses.

Section 207. Right-of-way Leveraging.

Amtrak owns the majority of the NEC, which passes through some of the most densely populated areas of the country. The company also controls several other rail lines around the Nation. These railroad rights-of-way represent an untapped opportunity to partner with the private sector to generate additional non-passenger rail service revenue. Additional revenue would help reduce the need for federal funding and allow more private investment for passenger rail.

This section requires Amtrak to issue a Request for Proposals seeking private sector entities to utilize Amtrak-owned right-of-way for telecom systems, energy distribution systems, and other activities. The Amtrak Board of Directors is required to review each proposal, and no later than 18 months after the enactment of this Act submit to Congress a summary of each proposal received as well as any proposals accepted.

Section 208. Station Development

Rail stations are often located in desirable downtown locations and can become focal points for significant residential, commercial, and retail development, and enhance transportation options in communities. For example, Denver undertook a half a billion dollar project to develop a commuter and intercity rail terminal, a regional bus facility, new light rail platforms, and improved public spaces, surrounded by significant private real estate development. Amtrak owns many of these stations, but leveraging their potential for real estate and other development and enhancement has been a low priority. The Committee urges Amtrak, among other proposals, to form partnerships that provide bike sharing programs and dedicated bike parking areas with

(2)

lighting and accessibility in its stations to help enhance seamless transportation connections and grow ridership.

Section 208 requires Amtrak to transmit to Congress a report on options to enhance development around Amtrak stations not later than 180 days after enactment of this Act. Development proposals should strengthen multimodal connections, capture development-related revenue streams, and pursue opportunities to better leverage station assets. Doing so will generate more revenue to that line of business within Amtrak which can be used to improve infrastructure.

Section 209. Amtrak Debt.

This section reauthorizes section 205 of PRIIA 2008 to restructure Amtrak's debt. Ten years ago, Amtrak's debt reached \$3.7 billion. PRIIA 2008 provided authority for restructuring Amtrak's debt which reduced its debt to \$1.4 billion in just six short years.

Section 210. Amtrak Pilot Program for Passengers Transporting Domesticated Cats and Dogs.

This section requires Amtrak to develop and implement a pilot program to allow domesticated cats and dogs to travel on a specifically designated railcar. The animal must be in a kennel sized in accordance to Amtrak's requirements for carry-on baggage. The passenger will pay a fee that, in the aggregate, covers the full costs of the pilot program.

Section 211. Amtrak Boarding Procedures.

One of the benefits of intercity passenger rail is the ability to quickly board a train, from train stations centrally located in cities, as opposed to the airports, which are often located far from downtowns, and which require passengers to arrive much earlier before a departure time. However, Amtrak is not fully leveraging this competitive advantage and has seemingly cumbersome boarding procedures at some of its largest stations.

This section requires the Amtrak Inspector General to conduct a study comparing Amtrak boarding procedures at its 10 busiest stations to other rail boarding procedures, and make recommendations to the Amtrak Board of Directors to improve such procedures. Within six months of receiving the recommendations, the Board shall consider each recommendation for implementation.

Title III— Intercity Passenger Rail Policy

Section 301. Federal-State Partnership for NEC Development and Improvement.

The NEC is an incredibly valuable asset to both the region and the Nation, and it should be treated as such. Capital improvements are necessary to bring the corridor into a state-of-good-repair and increase service reliability. The NEC also acts as a valuable resource for states along the corridor. Of the nearly 2,000 trains that traverse the corridor daily, roughly 1,800 of them are

commuter trains, not owned by Amtrak. This joint use highlights the need for greater reliability and efficiency, and presents opportunities for partnerships with states to improve this asset for all users.

This section establishes a program under Chapter 244 of Title 49, United States Code, for issuing grants on a competitive basis for the purpose of financing capital projects included in the Northeast Corridor Priority Project List. The list is required to include projects to improve the state-of-good repair of existing assets, and projects to improve intercity passenger rail performance through increased reliability, reduced trip times, and other improvements. Finally, states are required to equally match the funding provided by this Act, and the FRA is not authorized to obligate federal funds until the state match is guaranteed.

Section 302: RRIF Process Improvements.

The FRA administers the Railroad Rehabilitation and Improvement Financing (RRIF) program, which provides long-term, low-interest loans and loan guarantees for railroad-related improvements. While this program is authorized to provide up to \$35 billion in lending, nearly all of it remains unused. This lack of uptake stems in part from FRA’s slow, cumbersome approval process.

This section makes several improvements to the RRIF loan program, including limiting the Office of Management and Budget review period for loan approval and setting a 45-day timeframe for determining application completion. States are allowed more flexibility in determining collateral offered to secure loans and adds Positive Train Control projects to the list of projects given preference in the approval process. The section also includes an annual report to Congress on RRIF program activities.

Section 303. NEC Fast Forward.

The RRIF program is one way the federal government can partner with the states and Amtrak to advance large infrastructure projects that are difficult to carry out with annual appropriations. In particular, the NEC, with its proven passenger rail and commuter rail ridership, is an ideal area to use the RRIF program to address needed improvements. PRRIA dedicates a significant portion of the RRIF program to the NEC to incentivize states and localities to come to the table and seek loans to advance projects of national and regional significance.

This section directs the Secretary, as part of the RRIF program, to provide direct loans and loan guarantees to eligible entities for capital projects to improve the NEC. It also requires the Government Accountability Office to submit a report to Congress identifying potential revenue sources, projects, and service improvements that could be achieved by RRIF capital improvements programs.

This section also increases the comment period on certain waiver determinations from 15 to 30 days and requires the Secretary to submit an annual report on such waivers to Congress.

22

Finally, it allows provisions used in FRA grant programs to be applied to the RRIF loan program.

Section 304. Large Capital Project Requirements.

This section prevents the Secretary from obligating a grant through the High-Speed and Intercity Passenger Rail Programs in excess of \$1 billion unless the applicant is able to demonstrate to the Secretary that the non-federal share is committed, the project will result in a useable segment, and the applicant submits certain information to the Secretary on the project, including the project's anticipated benefits. These provisions will ensure that the federal funding for the project is being used efficiently and effectively to achieve the intended goals of the program. Furthermore, it requires the Secretary to ensure that the project is maintained to the level of utility that is necessary to support the benefits approved by the Secretary for a period of 20 years from the date the project is placed in service. If the project is not maintained for a period of time in excess of 12 months, then a pro-rata share of the federal contribution shall be refunded.

Section 305. Small Business Participation Study.

This section requires the Secretary to conduct a nationwide disparity and availability study on the use of small business concerns owned and controlled by socially and economically disadvantaged individuals in publicly funded intercity passenger rail projects administered by the FRA.

Section 306. Gulf Coast Rail Service Working Group.

This section requires the FRA to convene a working group to evaluate the restoration of intercity rail passenger service in the Gulf Coast Region between New Orleans, Louisiana and Orlando, Florida.

Section 307. Miscellaneous.

This section amends Title 49, United States Code in order to make technical corrections.

Title IV— Project Delivery

Section 401. Project Delivery Rulemaking.

PRIIA 2008 and the American Recovery and Reinvestment Act of 2009 (ARRA) changed FRA's primary focus from being a safety agency to include being a major grant-maker. ARRA provided \$8 billion in federal funding for High Speed and Intercity Passenger Rail grants to states for various passenger rail projects. These projects require environmental reviews to comply with the National Environmental Policy Act (NEPA), yet the FRA still has no regulations on environmental review, only a Federal Register notice from May 1999 predating the addition of its substantial grant-making duties. However, prior transportation authorizations for other modal administrations within the DOT streamlined environmental review processes for

the Federal Transit Administration (FTA), the Federal Highway Administration (FHWA), and the Federal Aviation Administration (FAA) leaving FRA's processes several iterations behind these agencies. States have expressed concerns with this lack of guidance and about the discrepancies in the environmental review processes of the separate intermodal agencies, particularly when a project crosses multiple jurisdictions.

Because environmental reviews of rail projects can require participation by multiple agencies, if participation in the process is done sequentially, a delay at one agency can have cascading dilatory effects throughout the process. Further, without deadlines, environmental reviews can be delayed simply because no agency action was taken. The bill addresses these concerns by requiring the Secretary to issue a rulemaking to govern the environmental review, permitting, and approval or disapproval of freight railroad, intercity rail passenger, and certain commuter rail passenger infrastructure projects. The rulemaking is to include procedures for creating process efficiencies, such as conducting concurrent reviews, establishing deadlines for decisions, providing for improved agency coordination, and considering expanded categorical exclusions.

Section 402. Historic Preservation of Railroads.

PRIIA 2008 mandated that the FRA study ways to streamline compliance with section 106 of the National Historic Preservation Act and section 303 of Title 49 for rail infrastructure projects. Concerns have been raised regarding, among other things, the length of time added to project reviews as a result of compliance with those laws and the lack of uniformity in how historic preservation reviews were conducted by the requisite entities for rail projects. The FRA submitted its report to Congress in March 2013 outlining the administrative and legislative actions that could be taken to reduce timelines and improve reviews. This section builds upon that report and requires the Secretary to pursue administrative program alternatives to promote a consistent approach to the treatment of railroads for historic preservation purposes, and to consider, among other options, the development of programmatic agreements, program comments, exempted categories of undertakings, and guidance for historical reviews. Further, the Secretary must develop mechanisms for streamlining compliance with the requirements of section 303 reviews for railroad and rail-related properties and shall consider, among other options, the development of programmatic evaluations, de minimis impact determinations, and regulatory guidance.

Title V— Miscellaneous

Section 501. Definitions.

This section amends Title 49 to insert several definitions to conform to changes made elsewhere in the Act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE 49, UNITED STATES CODE

* * * * *

SUBTITLE V—RAIL PROGRAMS

* * * * *

PART B—ASSISTANCE

* * * * *

CHAPTER 221—LOCAL RAIL FREIGHT ASSISTANCE

* * * * *

§ 22106. Limitations on financial assistance

(a) GRANTS AND LOANS.—A State shall use financial assistance for projects under this chapter to make a grant or lend money to the owner of rail property, or a rail carrier providing rail transportation, related to a project being assisted.

(b) STATE USE OF REPAID FUNDS AND CONTINGENT INTEREST RECOVERIES.—The State shall place the United States Government's share of money that is repaid and any contingent interest that is recovered in an interest-bearing account. The repaid money, contingent interest, and any [interest thereof] *interest thereon* shall be considered to be State funds. The State shall use such funds to make other grants and loans, consistent with the purposes for which financial assistance may be used under subsection (a), as the State considers to be appropriate.

(c) ENCOURAGING PARTICIPATION.—To the maximum extent possible, the State shall encourage the participation of shippers, rail carriers, and local communities in paying the State share of assistance costs.

* * * * *

PART C—PASSENGER TRANSPORTATION

* * * * *

2

CHAPTER 241—GENERAL

Sec.						
24101.	Findings, mission, and goals.					
		*	*	*	*	*
[24104.	Authorization of appropriations.]					
		*	*	*	*	*

§ 24101. Findings, mission, and goals

(a) FINDINGS.—(1) Public convenience and necessity require that Amtrak, to the extent its budget allows, provide modern, cost-efficient, and energy-efficient intercity rail passenger transportation between crowded urban areas and in other areas of the United States.

(2) Rail passenger transportation can help alleviate overcrowding of airways and airports and on highways.

(3) A traveler in the United States should have the greatest possible choice of transportation most convenient to the needs of the traveler.

(4) A greater degree of cooperation is necessary among Amtrak, other rail carriers, State, regional, and local governments, the private sector, labor organizations, and suppliers of services and equipment to Amtrak to achieve a performance level sufficient to justify expending public money.

(5) Modern and efficient commuter rail passenger transportation is important to the viability and well-being of major urban areas and to the energy conservation and self-sufficiency goals of the United States.

(6) As a rail passenger transportation entity, Amtrak should be available to operate commuter rail passenger transportation through its subsidiary, Amtrak Commuter, under contract with commuter authorities that do not provide the transportation themselves as part of the governmental function of the State.

(7) The Northeast Corridor is a valuable resource of the United States used by intercity and commuter rail passenger transportation and freight transportation.

(8) Greater coordination between intercity and commuter rail passenger transportation is required.

(b) MISSION.—The mission of Amtrak is to provide efficient and effective intercity passenger rail mobility consisting of high quality service that is trip-time competitive with other intercity travel options and that is consistent with the goals of [subsection (d)] subsection (c).

(c) GOALS.—Amtrak shall—

(1) use its best business judgment in acting to minimize United States Government subsidies, including—

- (A) increasing fares;
- (B) increasing revenue from the transportation of mail and express;
- (C) reducing losses on food service;
- (D) improving its contracts with operating rail carriers;

3

- (E) reducing management costs; and
- (F) increasing employee productivity;
- (2) minimize Government subsidies by encouraging State, regional, and local governments and the private sector, separately or in combination, to share the cost of providing rail passenger transportation, including the cost of operating facilities;
- (3) carry out strategies to achieve immediately maximum productivity and efficiency consistent with safe and efficient transportation;
- (4) operate Amtrak trains, to the maximum extent feasible, to all station stops within 15 minutes of the time established in public timetables;
- (5) develop transportation on rail corridors subsidized by States and private parties;
- (6) implement schedules based on a systemwide average speed of at least 60 miles an hour that can be achieved with a degree of reliability and passenger comfort;
- (7) encourage rail carriers to assist in improving intercity rail passenger transportation;
- (8) improve generally the performance of Amtrak through comprehensive and systematic operational programs and employee incentives;
- (9) provide additional or complementary intercity transportation service to ensure mobility in times of national disaster or other instances where other travel options are not adequately available;
- (10) carry out policies that ensure equitable access to the Northeast Corridor by intercity and commuter rail passenger transportation;
- (11) coordinate the uses of the Northeast Corridor, particularly intercity and commuter rail passenger transportation; and
- (12) maximize the use of its resources, including the most cost-effective use of employees, facilities, and real property.

(d) MINIMIZING GOVERNMENT SUBSIDIES.—To carry out subsection (c)(12) of this section, Amtrak is encouraged to make agreements with the private sector and undertake initiatives that are consistent with good business judgment and designed to maximize its revenues and minimize Government subsidies. Amtrak shall prepare a financial plan, consistent with section 204 of the Passenger Rail Investment and Improvement Act of 2008, including the budgetary goals for fiscal years 2009 through 2013. Amtrak and its Board of Directors shall adopt a long-term plan that minimizes the need for Federal operating subsidies.

§ 24102. Definitions

In this part—

- (1) “auto-ferry transportation” means intercity rail passenger transportation—
 - (A) of automobiles or recreational vehicles and their occupants; and
 - (B) when space is available, of used unoccupied vehicles.

27

(2) "commuter authority" means a State, local, or regional entity established to provide, or make a contract providing for, commuter rail passenger transportation.

(3) "commuter rail passenger transportation" means short-haul rail passenger transportation in metropolitan and suburban areas usually having reduced fare, multiple-ride, and commuter tickets and morning and evening peak period operations.

(4) "intercity rail passenger transportation" means rail passenger transportation, except commuter rail passenger transportation.

(5) "*long-distance route*" means a route described in subparagraph (C) of paragraph (7).

(6) "*National Network*" includes long-distance routes and State-supported routes.

[(5)] (7) "national rail passenger transportation system" means—

(A) the segment of the continuous Northeast Corridor railroad line between Boston, Massachusetts, and Washington, District of Columbia;

(B) rail corridors that have been designated by the Secretary of Transportation as high-speed rail corridors (other than corridors described in subparagraph (A)), but only after regularly scheduled intercity service over a corridor has been established;

(C) long-distance routes of more than 750 miles between endpoints operated by Amtrak as of the date of enactment of the Passenger Rail Investment and Improvement Act of 2008; and

(D) short-distance corridors, or routes of not more than 750 miles between endpoints, operated by—

(i) Amtrak; or

(ii) another rail carrier that receives funds under chapter 244.

[(6)] (8) "Northeast Corridor" means Connecticut, Delaware, the District of Columbia, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island.

[(7)] (9) "rail carrier" means a person, including a unit of State or local government, providing rail transportation for compensation.

[(8)] (10) "rate" means a rate, fare, or charge for rail transportation.

[(9)] (11) "regional transportation authority" means an entity established to provide passenger transportation in a region.

(12) "*state-of-good-repair*" means a condition in which physical assets, both individually and as a system, are—

(A) performing at a level at least equal to that called for in their as-built or as-modified design specification during any period when the life cycle cost of maintaining the assets is lower than the cost of replacing them; and

(B) sustained through regular maintenance and replacement programs.

8

(13) "State-supported route" means a route described in subparagraph (B) or (D) of paragraph (7), or in section 24702, that is operated by Amtrak, excluding those trains operated by Amtrak on the routes described in paragraph (7)(A).

* * * * *

[§ 24104. Authorization of appropriations

[(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation—

- [(1)** \$1,138,000,000 for fiscal year 1998;
- [(2)** \$1,058,000,000 for fiscal year 1999;
- [(3)** \$1,023,000,000 for fiscal year 2000;
- [(4)** \$989,000,000 for fiscal year 2001; and
- [(5)** \$955,000,000 for fiscal year 2002,

for the benefit of Amtrak for capital expenditures under chapters 243, 247, and 249 of this title, operating expenses, and payments described in subsection (c)(1)(A) through (C). In fiscal years following the fifth anniversary of the enactment of the Amtrak Reform and Accountability Act of 1997 no funds authorized for Amtrak shall be used for operating expenses other than those prescribed for tax liabilities under section 3221 of the Internal Revenue Code of 1986 that are more than the amount needed for benefits of individuals who retire from Amtrak and for their beneficiaries.

[(b) OPERATING EXPENSES.—(1) Not more than \$381,000,000 may be appropriated to the Secretary for each of the fiscal years ending September 30, 1993, and September 30, 1994, for the benefit of Amtrak for operating expenses. Not more than 5 percent of the amounts appropriated for each fiscal year shall be used to pay operating expenses under section 24704 of this title for transportation in operation on September 30, 1992.

[(2)(A) Not more than the following amounts may be appropriated to the Secretary for the benefit of Amtrak for operating losses under section 24704 of this title for transportation beginning after September 30, 1992:

- [(i)** \$7,500,000 for the fiscal year ending September 30, 1993.
- [(ii)** \$9,500,000 for the fiscal year ending September 30, 1994.

[(B) The expenditure by Amtrak of an amount appropriated under subparagraph (A) of this paragraph is deemed not to be an operating expense when calculating the revenue-to-operating expense ratio of Amtrak.

[(c) MANDATORY PAYMENTS.—(1) Not more than \$150,000,000 for the fiscal year ending September 30, 1993, and amounts that may be necessary for the fiscal year ending September 30, 1994, may be appropriated to the Secretary to pay—

[(A) tax liabilities under section 3221 of the Internal Revenue Code of 1986 (26 U.S.C. 3221) due in those fiscal years that are more than the amount needed for benefits for individuals who retire from Amtrak and for their beneficiaries;

29

[(B) obligations of Amtrak under section 8(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 358(a)) due in those fiscal years that are more than obligations of Amtrak calculated on an experience-related basis; and

[(C) obligations of Amtrak due under section 3321 of the Code (26 U.S.C. 3321).

[(2) Amounts appropriated under this subsection are not a United States Government subsidy of Amtrak.

[(d) PAYMENT TO AMTRAK.—Amounts appropriated under this section shall be paid to Amtrak under the budget request of the Secretary as approved or modified by Congress when the amounts are appropriated. A payment may not be made more frequently than once every 90 days, unless Amtrak, for good cause, requests more frequent payment before a 90-day period ends. In each fiscal year in which amounts are authorized to be appropriated under this section, amounts appropriated shall be paid to Amtrak as follows:

- [(1) 50 percent on October 1.
- [(2) 25 percent on January 1.
- [(3) 25 percent on April 1.

[(e) AVAILABILITY OF AMOUNTS AND EARLY APPROPRIATIONS.—(1) Amounts appropriated under this section remain available until expended.

[(2) Amounts for capital acquisitions and improvements may be appropriated in a fiscal year before the fiscal year in which the amounts will be obligated.

[(f) LIMITATIONS ON USE.—Amounts appropriated under this section may not be used to subsidize operating losses of commuter rail passenger or rail freight transportation.]

* * * * *

CHAPTER 243—AMTRAK

Sec.
24301. Status and applicable laws.

* * * * *

24316. [Plan to assist] *Plans to address needs of families of passengers involved in rail passenger accidents.*

24317. *Costs and revenues.*

24318. *Grant process.*

24319. *Accounts.*

24320. *5-Year capital and operating plan.*

24321. *Food and beverage reform.*

* * * * *

§24317. Costs and revenues

(a) *IN GENERAL.—Not later than 60 days after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, Amtrak shall establish and maintain internal controls to ensure Amtrak's costs and revenues are allocated to either the Northeast Corridor or the National Network, including proportional shares of common and fixed costs.*

(b) *DEFINITION.*—For purposes of this chapter, the term “Northeast Corridor” means the Northeast Corridor main line between Boston, Massachusetts, and the District of Columbia, and facilities and services used to operate and maintain that line.

§24318. Grant process

(a) *PROCEDURES FOR GRANT REQUESTS.*—Not later than 30 days after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, the Secretary of Transportation shall establish and transmit to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate substantive and procedural requirements, including schedules, for grant requests under this section.

(b) *GRANT REQUESTS.*—Amtrak shall transmit grant requests for Federal funds to be appropriated to the Secretary for the use of Amtrak to—

(1) the Secretary; and

(2) the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate.

(c) *CONTENTS.*—A grant request under subsection (b) shall—

(1) provide a detailed financial analysis for the upcoming fiscal year for the Northeast Corridor, State-supported routes, and long-distance routes, including projections for the items listed in 24320(c)(1), as applicable, in comparison to prior fiscal year projections;

(2) include a description of the work to be funded, along with cost estimates and an estimated timetable for completion of the projects covered by the request;

(3) include an assessment of the continuing financial stability of Amtrak;

(4) be displayed on Amtrak’s website within a reasonable timeframe following its submission to the entities described in subsection (b); and

(5) be in similar format and substance to those submitted by executive agencies of the Federal Government.

(d) *REVIEW AND APPROVAL.*—

(1) *30-DAY APPROVAL PROCESS.*—The Secretary shall complete the review of a grant request and approve or disapprove the request not later than 30 days after the date on which Amtrak submits the grant request. If the Secretary disapproves the request or determines that the request is incomplete or deficient, the Secretary shall include the reason for disapproval or the incomplete items or deficiencies in a notice to Amtrak.

(2) *15-DAY MODIFICATION PERIOD.*—Not later than 15 days after receiving notification from the Secretary under paragraph (1), Amtrak shall submit a modified request for the Secretary’s review.

(3) REVISED REQUESTS.—Not later than 15 days after receiving a modified request from Amtrak, the Secretary shall either approve the modified request, or, if the Secretary finds that the request is still incomplete or deficient, the Secretary shall identify in writing to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate the remaining deficiencies and recommend a process for resolving the outstanding portions of the request.

(e) PAYMENT TO AMTRAK.—

(1) IN GENERAL.—Except as provided in paragraph (2), in each fiscal year for which amounts are authorized to be appropriated, amounts appropriated shall be paid to Amtrak as follows:

- (A) 50 percent on October 1.
- (B) 25 percent on January 1.
- (C) 25 percent on April 1.

(2) EXCEPTION.—The Secretary may make a payment to Amtrak of appropriated funds more frequently than once every 90 days if Amtrak, for good cause, requests more frequent payment before a 90-day period ends.

(f) AVAILABILITY OF AMOUNTS AND EARLY APPROPRIATIONS.—Amounts appropriated to the Secretary for the use of Amtrak shall remain available until expended. Amounts for capital acquisitions and improvements may be appropriated for a fiscal year before the fiscal year in which the amounts will be obligated.

(g) LIMITATIONS ON USE.—Amounts appropriated to the Secretary for the use of Amtrak may not be used to subsidize operating losses of commuter rail passenger or rail freight transportation.

§24319. Accounts

(a) ESTABLISHMENT OF ACCOUNTS.—Amtrak shall establish—
(1) a Northeast Corridor Improvement Fund account; and
(2) a National Network account.

(b) NORTHEAST CORRIDOR IMPROVEMENT FUND ACCOUNT.—
(1) DEPOSITS.—Amtrak shall deposit in the Northeast Corridor Improvement Fund account established under subsection (a)(1)—

- (A) grant funds appropriated for the Northeast Corridor Improvement Fund pursuant to section 101(a) of the Passenger Rail Reform and Investment Act of 2015 or any subsequent Act;
- (B) compensation received from commuter rail passenger transportation on the Northeast Corridor provided to Amtrak pursuant to section 24905(c); and
- (C) any operating surplus of the Northeast Corridor, as allocated pursuant to section 24317.

(2) USE OF NORTHEAST CORRIDOR IMPROVEMENT FUND ACCOUNT.—Except as provided in subsection (d), amounts deposited in the Northeast Corridor Improvement Fund account shall be made available for the use of Amtrak for—

23

(A) capital projects described in section 24401(2) (A) or (B) to bring the Northeast Corridor to a state-of-good-repair, including projects described in section 24911(a)(2)(E)(i)(I);

(B) capital projects intended to increase corridor capacity, improve service reliability, and reduce travel time for rail users on the Northeast Corridor, including projects described in subclauses (II) and (III) of section 24911(a)(2)(E)(i), consistent with the planning process established under section 24911; and

(C) retirement of principal and payment of interest on loans for capital equipment, or capital leases, attributable to the Northeast Corridor.

(c) NATIONAL NETWORK ACCOUNT.—

(1) DEPOSITS.—Amtrak shall deposit in the account established under subsection (a)(2)—

(A) grant funds appropriated for the National Network pursuant to section 101(b) of the Passenger Rail Reform and Investment Act of 2015, or any subsequent Act;

(B) compensation received from States provided to Amtrak pursuant to section 209 of the Passenger Rail Investment and Improvement Act of 2008 (42 U.S.C. 24101 note); and

(C) any operating surplus from the National Network, as allocated pursuant to section 24317.

(2) USE OF NATIONAL NETWORK ACCOUNT.—Except as provided in subsection (d), amounts deposited in the National Network account shall be made available for the use of Amtrak for capital expenses and operating costs of the National Network and retirement of principal and payment of interest on loans for capital equipment, or capital leases, attributable to the National Network.

(d) TRANSFER AUTHORITY.—

(1) AUTHORITY.—Amtrak may transfer any funds appropriated pursuant to the Passenger Rail Reform and Investment Act of 2015 or any other Act, or any surplus generated by operations, between the Northeast Corridor Improvement Fund and National Network accounts upon the expiration of 60 days after Amtrak has notified the Amtrak Board of Directors of such transfer.

(2) REPORT.—Not later than 30 days after the Amtrak Board of Directors receives notification from Amtrak under paragraph (1), the Board shall transmit a report to the Secretary, the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives, and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate, that includes—

(A) the amount of the transfer; and

(B) a detailed explanation of the reason for the transfer, including effects on Amtrak services if no transfer were made.

(e) LETTERS OF INTENT.—

(1) *REQUIREMENT.*—The Secretary shall issue a letter of intent to Amtrak announcing an intention to obligate, for a major capital project described in subclauses (II) and (III) of section 24911(a)(2)(E)(i), an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.

(2) *NOTICE TO CONGRESS.*—At least 30 days before issuing a letter under paragraph (1), the Secretary shall notify in writing the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives, and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate, of the proposed letter. The Secretary shall include with the notification a copy of the proposed letter, the criteria used for selecting the project for a grant award, and a description of how the project meets criteria of this section.

(3) *CONTINGENT NATURE OF OBLIGATION OR COMMITMENT.*—An obligation or administrative commitment may be made only when amounts are appropriated. The letter of intent shall state that the contingent commitment is not an obligation of the Federal Government, and is subject to the availability of appropriations under Federal law and to Federal laws in force or enacted after the date of the contingent commitment.

(f) *ROLLING STOCK PURCHASES.*—Prior to entering into contracts in excess of \$100,000,000 for rolling stock procurements, Amtrak shall submit a business case analysis to the Secretary, the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives, and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate, on the utility of such purchase. This analysis shall—

(1) include a cost and benefit comparison that describes the total lifecycle costs and the anticipated benefits related to revenue, operational efficiency, reliability, and other factors;

(2) set forth the total payments by fiscal year;

(3) identify the specific source and amounts of funding for each payment, including Federal funds, State funds, Amtrak profits, Federal, State, or private loans or loan guarantees, and other funding;

(4) include whether any payment under the contract will increase Amtrak's grant request, as required under section 24318, in that particular fiscal year; and

(5) describe how Amtrak will adjust the procurement if future funding is not available.

§ 24320. 5-Year capital and operating plan

(a) *PLAN.*—Not later than 60 days after the date of enactment of an Act appropriating funds pursuant to section 101 of the Passenger Rail Reform and Investment Act of 2015, or any subsequent authorization of appropriations for the same purposes, the Amtrak Board of Directors shall prepare and transmit to the Committee on Transportation and Infrastructure and the Committee on Appro-

priations of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate a 5-year capital and operating plan for the Northeast Corridor and National Network.

(b) *CONSULTATION.*—Each such plan shall be prepared in consultation with—

- (1) the Federal Railroad Administration;
- (2) the Northeast Corridor Infrastructure and Operations Advisory Commission, with respect to the Northeast Corridor; and
- (3) the requisite States, with respect to the National Network.

(c) *CONTENTS.*—A plan prepared under this section shall—

(1) for each of the Northeast Corridor and the National Network, include—

(A) projected revenues and expenditures for the Northeast Corridor, State-supported routes, long-distance routes, and corporate development, including Federal and non-Federal funding sources;

(B) projected ridership levels for the Northeast Corridor, State-supported routes, and long-distance routes;

(C) projected capital and operational funding requirements necessary to maintain passenger service in order to accommodate predicted ridership levels and predicted sources of Federal and non-Federal funding;

(D) projected capital and operating requirements, ridership, revenue, and expenditures for new passenger service operations or service expansions;

(E) an assessment of the continuing financial stability of Amtrak, as indicated by factors including anticipated Federal funding of capital and operating costs, Amtrak's ability to efficiently recruit, retain, and manage its workforce, and Amtrak's ability to effectively provide passenger rail service;

(F) estimates of long-term and short-term debt and associated principal and interest payments (both current and anticipated);

(G) annual cash flow forecasts;

(H) a statement describing methods of estimation and significant assumptions;

(I) specific measures that demonstrate measurable improvement year over year in the financial results of Amtrak's operations;

(J) prior fiscal year and projected—

(i) operating ratio, cash operating loss, and cash operating loss per passenger on a route, business line, and corporate basis;

(ii) specific costs and savings estimates resulting from reform initiatives;

(iii) productivity statistics on a route, business line, and corporate basis; and

(iv) equipment reliability statistics;

(K) capital and operating expenditures for anticipated security needs; and

(L) a prioritization of capital expenditures by business line; and

(2) reflect the Northeast Corridor planning, as applicable, and grant processes established under sections 24911 and 24318.

(d) CONFORMANCE TO AUTHORIZED FUNDING LEVELS.—

(1) IN GENERAL.—Except as provided in paragraph (2), any financial projection for a fiscal year that is included in a plan prepared under this section shall be based on the amount of dedicated funding for such fiscal year.

(2) ABSENCE OF APPROPRIATION.—In the absence of an appropriation of funds for such fiscal year, the projection shall be based on the amount of funds authorized by law to be appropriated for that fiscal year, plus other dedicated funding.

(3) DEDICATED FUNDING DEFINED.—In this subsection, the term “dedicated funding” means any amounts appropriated for a fiscal year and any other funding sources, including revenues and other ancillary funding streams, for the Northeast Corridor or the National Network.

(e) STANDARDS TO PROMOTE FINANCIAL STABILITY.—In preparing a plan under this section, the Board shall apply sound budgetary practices, including reducing costs and other expenditures, improving productivity, increasing revenues, or combinations of such practices.

(f) UPDATES.—Amtrak shall provide monthly reports for the current fiscal year in electronic format to the Secretary and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate regarding the items described in subsection (c)(1), which shall include a description of the work completed to date, any differences from projections, and the reasons for such differences.

§24321. Food and beverage reform

(a) PLAN.—Not later than 90 days after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, Amtrak shall develop and begin implementing a plan to eliminate, within 5 years of such date of enactment, the operating loss associated with providing food and beverage service on board Amtrak trains.

(b) CONSIDERATIONS.—In developing and implementing the plan, Amtrak shall consider a combination of cost management and revenue generation initiatives, including—

- (1) scheduling optimization;
- (2) on-board logistics;
- (3) product development and supply chain efficiency;
- (4) training, awards, and accountability;
- (5) technology enhancements and process improvements;

and

- (6) ticket revenue allocation.

36

(c) SAVINGS CLAUSE.—Amtrak shall ensure that no Amtrak employee holding a position as of the date of enactment of the Passenger Rail Reform and Investment Act of 2015 is involuntarily separated because of—

(1) the development and implementation of the plan required under subsection (a); or

(2) any other action taken by Amtrak to implement this section.

(d) NO FEDERAL FUNDING FOR OPERATING LOSSES.—Beginning on the date that is 5 years after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, no Federal funds may be used to cover any operating loss associated with providing food and beverage service on a route operated by Amtrak or an alternative passenger rail service provider that operates a route in lieu of Amtrak pursuant to section 24711.

(e) REPORT.—Not later than 120 days after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, and annually thereafter for 5 years, Amtrak shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the plan developed pursuant to subsection (a) and a description of progress in the implementation of the plan.

* * * * *

**CHAPTER 244—INTERCITY PASSENGER RAIL SERVICE
CORRIDOR CAPITAL ASSISTANCE**

Sec.
24401. Definitions.

* * * * *

24407. Federal-State partnership for Northeast Corridor rehabilitation and improvement.

* * * * *

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

(a) GENERAL AUTHORITY.—

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

(2) Consistent with the requirements of this chapter, the Secretary shall require that a grant under this section be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section and shall prescribe procedures and schedules for the awarding of grants under this title, including application and qualification procedures and a record of deci-

sion on applicant eligibility. The Secretary shall issue a final rule establishing such procedures not later than 2 years after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008. For the period prior to the earlier of the issuance of such a rule or 2 years after the date of enactment of such Act, the Secretary shall issue interim guidance to applicants covering such procedures, and administer the grant program authorized under this section pursuant to such guidance.

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

(1) The Secretary may not approve a grant for a project under this section unless the Secretary finds that the project is part of a State rail plan developed under chapter 227 of this title, or under the plan required by section 211 of the Passenger Rail Investment and Improvement Act of 2008, and that the applicant or recipient has or will have the legal, financial, and technical capacity to carry out the project, satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities.

(2) An applicant shall provide sufficient information upon which the Secretary can make the findings required by this subsection.

(3) If an applicant has not selected the proposed operator of its service competitively, the applicant shall provide written justification to the Secretary showing why the proposed operator is the best, taking into account price and other factors, and that use of the proposed operator will not unnecessarily increase the cost of the project.

(c) PROJECT SELECTION CRITERIA.—The Secretary, in selecting the recipients of financial assistance to be provided under subsection (a), shall—

(1) require—

(A) that the project be part of a State rail plan developed under chapter 227 of this title, or under the plan required by section 211 of the Passenger Rail Investment and Improvement Act of 2008;

(B) that the applicant or recipient has or will have the legal, financial, and technical capacity to carry out the project, satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities;

(C) that the applicant provides sufficient information upon which the Secretary can make the findings required by this subsection;

(D) that if an applicant has selected the proposed operator of its service competitively, that the applicant provide written justification to the Secretary showing why the proposed operator is the best, taking into account costs and other factors;

(E) that each proposed project meet all safety and security requirements that are applicable to the project under law; and

(F) that each project be compatible with, and operated in conformance with—

- (i) plans developed pursuant to the requirements of section 135 of title 23, United States Code; and
- (ii) the national rail plan (if it is available);

(2) select projects—

(A) that are anticipated to result in significant improvements to intercity rail passenger service, including, but not limited to, consideration of—

- (i) the project's levels of estimated ridership, increased on-time performance, reduced trip time, additional service frequency to meet anticipated or existing demand, or other significant service enhancements as measured against minimum standards developed under section 207 of the Passenger Rail Investment and Improvement Act of 2008;
- (ii) the project's anticipated favorable impact on air or highway traffic congestion, capacity, or safety; and
- (iii) identification of the project by the Surface Transportation Board as necessary to improve the on-time performance and reliability of intercity passenger rail under section 24308(f);

(B) for which there is a high degree of confidence that the proposed project is feasible and will result in the anticipated benefits, as indicated by—

- (i) the project's precommencement compliance with environmental protection requirements;
- (ii) the readiness of the project to be commenced;
- (iii) the timing and amount of the project's future noncommitted investments;
- (iv) the commitment of any affected host rail carrier to ensure the realization of the anticipated benefits; and
- (v) other relevant factors as determined by the Secretary; and

(C) for which the level of the anticipated benefits compares favorably to the amount of Federal funding requested under this chapter; and

(3) give greater consideration to projects—

(A) that are anticipated to result in benefits to other modes transportation and to the public at large, including, but not limited to, consideration of the project's—

- (i) encouragement of intermodal connectivity through provision of direct connections between train stations, airports, bus terminals, subway stations, ferry ports, and other modes of transportation;
- (ii) anticipated improvement of freight or commuter rail operations;
- (iii) encouragement of the use of positive train control technologies;
- (iv) environmental benefits, including projects that involve the purchase of environmentally sensitive,

fuel-efficient, and cost-effective passenger rail equipment;

(v) anticipated positive economic and employment impacts;

(vi) encouragement of State and private contributions toward station development, energy and environmental efficiency, and economic benefits; and

(vii) falling under the description in section 5302(a)(1)(G) of this title as defined to support intercity passenger rail service; and

(B) that incorporate equitable financial participation in the project's financing, including, but not limited to, consideration of—

(i) donated property interests or services;

(ii) financial contributions by freight and commuter rail carriers commensurate with the benefit expected to their operations; and

(iii) financial commitments from host railroads, non-Federal governmental entities, nongovernmental entities, and others.

(d) STATE RAIL PLANS.—State rail plans completed before the date of enactment of the Passenger Rail Investment and Improvement Act of 2008 that substantially meet the requirements of chapter 227 of this title, as determined by the Secretary pursuant to section 22506 of this title, shall be deemed by the Secretary to have met the requirements of subsection (c)(1)(A) of this section.

(e) AMTRAK ELIGIBILITY.—To receive a grant under this section, Amtrak may enter into a cooperative agreement with 1 or more States to carry out 1 or more projects on a State rail plan's ranked list of rail capital projects developed under section 22504(a)(5) of this title. For such a grant, Amtrak may not use Federal funds authorized under section 101(a) or (c) of the Passenger Rail Investment and Improvement Act of 2008 to fulfill the non-Federal share requirements under subsection (g) of this section.

(f) LETTERS OF INTENT AND EARLY SYSTEMS WORK AGREEMENTS.—

(1) The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a major capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.

(2) At least 30 days before issuing a letter under paragraph (1) of this subsection, the Secretary shall notify in writing the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the House and Senate Committees on Appropriations of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement, the criteria used in subsection (c) for selecting the project for a grant award, and a description of how the project meets such criteria.

(3) An obligation or administrative commitment may be made only when amounts are appropriated. The letter of intent shall state that the contingent commitment is not an obligation of the Federal Government, and is subject to the availability of appropriations under Federal law and to Federal laws in force or enacted after the date of the contingent commitment.

(g) FEDERAL SHARE OF NET PROJECT COST.—

(1)(A) Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net project cost.

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

(C) The Secretary shall give priority in allocating future obligations and contingent commitments to incur obligations to grant requests seeking a lower Federal share of the project net capital cost.

(2) Up to an additional 20 percent of the required non-Federal funds may be funded from amounts appropriated to or made available to a department or agency of the Federal Government that are eligible to be expended for transportation.

(3) The following amounts, not to exceed \$15,000,000 per fiscal year, shall be available to each applicant as a credit toward an applicant's matching requirement for a grant awarded under this section—

(A) in each of fiscal years 2009, 2010, and 2011—

(i) 50 percent of the average of amounts expended in fiscal years 2002 through 2008 by an applicant for capital projects related to intercity passenger rail service; and

(ii) 50 percent of the average of amounts expended in fiscal years 2002 through 2008 by an applicant for operating costs of such service; and

(B) in each of fiscal years 2010, 2011 and 2012, 50 percent of the amount by which the amounts expended for capital projects and operating costs related to intercity passenger rail service by an applicant in the prior fiscal year exceed the average capital and operating expenditures made for such service in fiscal years 2006, 2007, and 2008.

The Secretary may require such information as necessary to verify such expenditures. Credits made available to an applicant in a fiscal year under this paragraph may only be applied towards grants awarded in that fiscal year.

(4) The Federal share of expenditures for capital improvements under this chapter may not exceed 100 percent.

(h) 2-YEAR AVAILABILITY.—Funds appropriated under this section shall remain available until expended. If any amount provided as a grant under this section is not obligated or expended for the purposes described in subsection (a) within 2 years after the date on which the State received the grant, such sums shall be returned to the Secretary for other intercity passenger rail development projects under this section at the discretion of the Secretary.

(i) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—A metropolitan planning organization, State transportation department, or other project sponsor may enter into an agreement with any public, private, or nonprofit entity to cooperatively implement any project funded with a grant under this chapter.

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

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

(B) cost-sharing of any project expense;

(C) carrying out administration, construction management, project management, project operation, or any other management or operational duty associated with the project; and

(D) any other form of participation approved by the Secretary.

(3) SUBALLOCATION.—A State may allocate funds under this section to any entity described in paragraph (1).

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

(1) in which there is no intercity passenger rail service for the purpose of funding freight rail capital projects that are on a State rail plan developed under chapter 227 of this title that provide public benefits (as defined in chapter 227) as determined by the Secretary; or

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

(k) SMALL CAPITAL PROJECTS.—The Secretary shall make not less than 5 percent annually available from the amounts authorized under section 101(c) of the Passenger Rail Investment and Improvement Act of 2008 beginning in fiscal year 2009 for grants for capital projects eligible under this section not exceeding \$2,000,000, including costs eligible under section 209(d) of that Act. For grants awarded under this subsection, the Secretary may waive requirements of this section, including state rail plan requirements, as appropriate.

(l) NONMOTORIZED TRANSPORTATION ACCESS AND STORAGE.—Grants under this chapter may be used to provide access to rolling stock for nonmotorized transportation, including bicycles, and recreational equipment, and to provide storage capacity in trains for such transportation, equipment, and other luggage, to ensure passenger safety.

(m) LARGE CAPITAL PROJECT REQUIREMENTS.—

(1) IN GENERAL.—For a grant awarded under this chapter for an amount in excess of \$1,000,000,000, the following conditions shall apply:

42

(A) The Secretary of Transportation shall not obligate any funding unless the applicant demonstrates to the satisfaction of the Secretary that it has committed and will be able to fulfill the non-Federal share required for the grant within the applicant's proposed project completion timetable.

(B) The Secretary shall not obligate any funding for work activities that occur after the completion of final design unless—

(i) the applicant transmits to the Secretary a financial plan that generally identifies the sources of the non-Federal funding required for any subsequent segments or phases of the corridor service development program covering the project for which the grant is made;

(ii) the grant will result in a useable segment, a transportation facility, or equipment, that has operational independence; and

(iii) the intercity passenger rail benefits anticipated to result from the grant, such as increased speed, improved on-time performance, reduced trip time, increased frequencies, new service, safety improvements, improved accessibility, or other significant enhancements are detailed by the grantee and approved by the Secretary.

(C) The Secretary shall ensure that the project is maintained to the level of utility that is necessary to support the benefits approved under subparagraph (B)(iii) for a period of 20 years from the date the useable segment, transportation facility, or equipment described in subparagraph (B)(ii) is placed in service. If the project property is not maintained as required by this subparagraph for a period of time in excess of 12 months, then a pro-rata share of the Federal contribution, based upon the percentage remaining of the 20-year period that commenced when the project property was placed in service, shall be refunded.

(2) EARLY WORK.—The Secretary may allow a grantee subject to this subsection to engage in at-risk work activities subsequent to the conclusion of final design where the Secretary determines that such work activities are reasonable and necessary.

* * * * *

§ 24405. Grant conditions

(a) BUY AMERICA.—(1) The Secretary of Transportation may obligate an amount that may be appropriated to carry out this chapter for a project only if the steel, iron, and manufactured goods used in the project are produced in the United States.

(2) The Secretary of Transportation may waive paragraph (1) of this subsection if the Secretary finds that—

(A) applying paragraph (1) would be inconsistent with the public interest;

(B) the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;

(C) rolling stock or power train equipment cannot be bought and delivered in the United States within a reasonable time; or

(D) including domestic material will increase the cost of the overall project by more than 25 percent.

(3) For purposes of this subsection, in calculating the components' costs, labor costs involved in final assembly shall not be included in the calculation.

(4) If the Secretary determines that it is necessary to waive the application of paragraph (1) based on a finding under paragraph (2), the Secretary shall, before the date on which such finding takes effect—

(A) publish in the Federal Register a detailed written justification as to why the waiver is needed; and

(B) provide notice of such finding and an opportunity for public comment on such finding for a reasonable period of time not to exceed [15 days] *30 days*.

(5) Not later than December 31, 2012, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on any waivers granted under paragraph (2).

(6) The Secretary of Transportation may not make a waiver under paragraph (2) of this subsection for goods produced in a foreign country if the Secretary, in consultation with the United States Trade Representative, decides that the government of that foreign country—

(A) has an agreement with the United States Government under which the Secretary has waived the requirement of this subsection; and

(B) has violated the agreement by discriminating against goods to which this subsection applies that are produced in the United States and to which the agreement applies.

(7) A person is ineligible to receive a contract or subcontract made with amounts authorized under this chapter if a court or department, agency, or instrumentality of the Government decides the person intentionally—

(A) affixed a 'Made in America' label, or a label with an inscription having the same meaning, to goods sold in or shipped to the United States that are used in a project to which this subsection applies but not produced in the United States; or

(B) represented that goods described in subparagraph (A) of this paragraph were produced in the United States.

(8) The Secretary may not impose any limitation on assistance provided under this chapter that restricts a State from imposing more stringent requirements than this subsection on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with that assistance or re-

stricts a recipient of that assistance from complying with those State-imposed requirements.

(9) The Secretary may allow a manufacturer or supplier of steel, iron, or manufactured goods to correct after bid opening any certification of noncompliance or failure to properly complete the certification (but not including failure to sign the certification) under this subsection if such manufacturer or supplier attests under penalty of perjury that such manufacturer or supplier submitted an incorrect certification as a result of an inadvertent or clerical error. The burden of establishing inadvertent or clerical error is on the manufacturer or supplier.

(10) A party adversely affected by an agency action under this subsection shall have the right to seek review under section 702 of title 5.

(11) The requirements of this subsection shall only apply to projects for which the costs exceed \$100,000.

(12) *Not later than 1 year after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, and annually thereafter, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report listing any waiver issued under this section during the preceding year.*

(b) OPERATORS DEEMED RAIL CARRIERS AND EMPLOYERS FOR CERTAIN PURPOSES.—A person that conducts rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under this chapter shall be considered a rail carrier as defined in section 10102(5) of this title for purposes of this title and any other statute that adopts that definition or in which that definition applies, including—

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

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

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

(c) GRANT CONDITIONS.—The Secretary shall require as a condition of making any grant under this chapter for a project that uses rights-of-way owned by a railroad that—

(1) a written agreement exist between the applicant and the railroad regarding such use and ownership, including—

(A) any compensation for such use;

(B) assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations;

(C) an assurance by the railroad that collective bargaining agreements with the railroad's employees (including terms regulating the contracting of work) will remain in full force and effect according to their terms for work performed by the railroad on the railroad transportation corridor; and

(D) an assurance that an applicant complies with liability requirements consistent with section 28103 of this title; and

(2) the applicant agrees to comply with—

(A) the standards of section 24312 of this title, as such section was in effect on September 1, 2003, with respect to the project in the same manner that Amtrak is required to comply with those standards for construction work financed under an agreement made under section 24308(a) of this title; and

(B) the protective arrangements established under section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 836) with respect to employees affected by actions taken in connection with the project to be financed in whole or in part by grants under this chapter.

(d) REPLACEMENT OF EXISTING INTERCITY PASSENGER RAIL SERVICE.—

(1) COLLECTIVE BARGAINING AGREEMENT FOR INTERCITY PASSENGER RAIL PROJECTS.—Any entity providing intercity passenger railroad transportation that begins operations after the date of enactment of this Act on a project funded in whole or in part by grants made under this chapter and replaces intercity rail passenger service that was provided by Amtrak, unless such service was provided solely by Amtrak to another entity, as of such date shall enter into an agreement with the authorized bargaining agent or agents for adversely affected employees of the predecessor provider that—

(A) gives each such qualified employee of the predecessor provider priority in hiring according to the employee's seniority on the predecessor provider for each position with the replacing entity that is in the employee's craft or class and is available within 3 years after the termination of the service being replaced;

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

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

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

(2) IMMEDIATE REPLACEMENT SERVICE.—

(A) NEGOTIATIONS.—If the replacement of preexisting intercity rail passenger service occurs concurrent with or within a reasonable time before the commencement of the replacing entity's rail passenger service, the replacing entity shall give written notice of its plan to replace existing rail passenger service to the authorized collective bargaining agent or agents for the potentially adversely affected employees of the predecessor provider at least 90 days before the date on which it plans to commence service. Within 5 days after the date of receipt of such written notice, negotiations between the replacing entity and the collective bargaining agent or agents for the employees of the predecessor provider shall commence for the purpose of reaching agreement with respect to all matters set forth in subparagraphs (A) through (D) of paragraph (1). The nego-

tiations shall continue for 30 days or until an agreement is reached, whichever is sooner. If at the end of 30 days the parties have not entered into an agreement with respect to all such matters, the unresolved issues shall be submitted for arbitration in accordance with the procedure set forth in subparagraph (B).

(B) ARBITRATION.—If an agreement has not been entered into with respect to all matters set forth in subparagraphs (A) through (D) of paragraph (1) as described in subparagraph (A) of this paragraph, the parties shall select an arbitrator. If the parties are unable to agree upon the selection of such arbitrator within 5 days, either or both parties shall notify the National Mediation Board, which shall provide a list of seven arbitrators with experience in arbitrating rail labor protection disputes. Within 5 days after such notification, the parties shall alternately strike names from the list until only 1 name remains, and that person shall serve as the neutral arbitrator. Within 45 days after selection of the arbitrator, the arbitrator shall conduct a hearing on the dispute and shall render a decision with respect to the unresolved issues among the matters set forth in subparagraphs (A) through (D) of paragraph (1). The arbitrator shall be guided by prevailing national standard rates of pay, benefits, and working conditions for comparable work. This decision shall be final, binding, and conclusive upon the parties. The salary and expenses of the arbitrator shall be borne equally by the parties; all other expenses shall be paid by the party incurring them.

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

(4) SUBSEQUENT REPLACEMENT OF SERVICE.—If the replacement of existing rail passenger service takes place within 3 years after the replacing entity commences intercity passenger rail service, the replacing entity and the collective bargaining agent or agents for the adversely affected employees of the predecessor provider shall enter into an agreement with respect to the matters set forth in subparagraphs (A) through (D) of paragraph (1). If the parties have not entered into an agreement with respect to all such matters within 60 days after the date on which the replacing entity replaces the predecessor provider, the parties shall select an arbitrator using the procedures set forth in paragraph (2)(B), who shall, within 20 days after the commencement of the arbitration, conduct a hearing and decide all unresolved issues. This decision shall be final, binding, and conclusive upon the parties.

(e) INAPPLICABILITY TO CERTAIN RAIL OPERATIONS.—Nothing in this section applies to—

(1) commuter rail passenger transportation (as defined in section 24102(4) of this title) operations of a State or local gov-

ernment authority (as those terms are defined in section 5302(11) and (6), respectively, of this title) eligible to receive financial assistance under section 5307 of this title, or to its contractor performing services in connection with commuter rail passenger operations (as so defined);

(2) the Alaska Railroad or its contractors; or

(3) Amtrak's access rights to railroad rights of way and facilities under current law.

(f) LIMITATION.—No grants shall be provided under this chapter for commuter rail passenger transportation, as defined in section 24102(4) of this title.

* * * * *

§ 24407. Federal-State partnership for Northeast Corridor rehabilitation and improvement

(a) IN GENERAL.—The Secretary of Transportation shall develop and implement a program for issuing grants to applicants, on a competitive basis, for the purpose of financing the capital projects included in the Northeast Corridor Priority Project List developed under subsection (c).

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

(1) APPLICANT.—The term “applicant” means a State (including the District of Columbia), a group of States, an Interstate Compact, or a public agency established by one or more States and having responsibility for providing intercity passenger or commuter rail service.

(2) MAJOR STATE-OF-GOOD-REPAIR PROJECT.—The term “major state-of-good-repair project” means a capital project primarily intended to replace, rehabilitate or repair major Northeast Corridor infrastructure assets utilized for providing intercity rail passenger transportation, including tunnels, bridges, stations, and other assets as determined by the Secretary.

(3) IMPROVEMENT PROJECT.—The term “improvement project” means a capital project primarily intended to improve intercity passenger rail performance on the Northeast Corridor, including reduced trip times, increased train frequencies, higher operating speeds, and other improvements as determined by the Secretary.

(c) NORTHEAST CORRIDOR PRIORITY PROJECT LIST.—The Northeast Corridor Infrastructure and Operations Advisory Commission, established under section 24905, shall develop and approve a Northeast Corridor Priority Project List that shall include—

(1) a list of prioritized individual major state-of-good-repair projects and improvement projects along the Northeast Corridor that—

(A) can be completed based on—

(i) the funding authorized under section 103(b) of the Passenger Rail Reform and Investment Act of 2015;

(ii) any subsequent applicable authorization in effect;

46

(iii) in the absence of such an authorization, a 5-year funding amount based on the most recent appropriation; or

(iv) the requirements of subsection (d); and

(B) are consistent with the Northeast Corridor capital investment plan required under section 24911(a);

(2) an identification of the applicant for each individual project;

(3) an identification of the sources of non-Federal matching funds for each project; and

(4) a description of the benefits each project will bring to intercity rail passenger services.

(d) *USE OF FUNDS.*—The Federal grants authorized under this section shall be for no more than 50 percent of the net project cost of the project involved.

(e) *APPLICABILITY OF CAPITAL GRANT REQUIREMENTS.*—Except as specifically provided in this section, the use of any amounts appropriated for grants under this section shall be subject to the requirements of this chapter.

(f) *MATCH REQUIREMENTS.*—No grants may be obligated to an applicant under this section unless the applicant has transmitted to the Secretary of Transportation a binding written commitment to provide all amounts necessary for the purpose of matching Federal contributions as required by this section.

(g) *UPDATES TO LIST.*—The Northeast Corridor Infrastructure and Operations Advisory Commission shall revise the NEC Priority Project List as necessary to reflect—

(1) any differences in the availability of Federal funding from the levels assumed for purposes of subsection (c)(1)(A) (i) and (ii);

(2) any elimination or addition of projects; and

(3) any reduction or increase in benefits to be derived from a project.

(h) *AVAILABILITY.*—Amounts appropriated for carrying out this section shall remain available until expended.

(i) *SAVINGS CLAUSE.*—Nothing in this section shall supplant the requirement of applicants to compensate Amtrak for the use of Amtrak facilities or services pursuant to section 24905(c).

(j) *DEFINITION.*—For purposes of this section, the term “Northeast Corridor” means the Northeast Corridor main line between Boston, Massachusetts, and the District of Columbia, and the Northeast Corridor branch lines connecting to Harrisburg, Pennsylvania, Springfield, Massachusetts, and Spuyten Duyvil, New York, and facilities and services used to operate and maintain those lines.

* * * * *

CHAPTER 247—AMTRAK ROUTE SYSTEM

Sec.

99

24701. National rail passenger transportation system.
 * * * * *
 24712. State-supported routes.
 * * * * *

§ 24706. Discontinuance

(a) NOTICE OF DISCONTINUANCE.—(1) Except as provided in subsection (b) of this section, at least 180 days before [a discontinuance under section 24704 or or] discontinuing service over a route, Amtrak shall give notice of the discontinuance in the way Amtrak decides will give a State, a regional or local authority, or another person the opportunity to agree to share or assume the cost of any part of the train, route, or service to be discontinued.

(2) Notice of the discontinuance under [section 24704 or] paragraph (1) shall be posted in all stations served by the train to be discontinued at least 14 days before the discontinuance.

(b) DISCONTINUANCE FOR LACK OF APPROPRIATIONS.—(1) Amtrak may discontinue service under [section 24704 or] subsection (a)(1) during—

(A) the first month of a fiscal year if the authorization of appropriations and the appropriations for Amtrak are not enacted at least 90 days before the beginning of the fiscal year; and

(B) the 30 days following enactment of an appropriation for Amtrak or a rescission of an appropriation.

(2) Amtrak shall notify each affected State or regional or local transportation authority of a discontinuance under this subsection as soon as possible after Amtrak decides to discontinue the service.

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

* * * * *

§ 24711. Alternate passenger rail service pilot program

[(a) IN GENERAL.—Within 1 year after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008, the Federal Railroad Administration shall complete a rulemaking proceeding to develop a pilot program that—

[(1) permits a rail carrier or rail carriers that own infrastructure over which Amtrak operates a passenger rail service route described in subparagraph (B), (C), or (D) of section 24102(5) or in section 24702 to petition the Administration to be considered as a passenger rail service provider over that route in lieu of Amtrak for a period not to exceed 5 years after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008;

[(2) requires the Administration to notify Amtrak within 30 days after receiving a petition under paragraph (1) and establish a deadline by which both the petitioner and Amtrak would be required to submit a bid to provide passenger rail service over the route to which the petition relates;

[(3) requires that each bid describe how the bidder would operate the route, what Amtrak passenger equipment would be needed, if any, what sources of non-Federal funding the bidder would use, including any State subsidy, among other things;

[(4) requires the Administration to select winning bidders by evaluating the bids against the financial and performance metrics developed under section 207 of the Passenger Rail Investment and Improvement Act of 2008 and to give preference in awarding contracts to bidders seeking to operate routes that have been identified as one of the five worst performing Amtrak routes under section 24710;

[(5) requires the Administration to execute a contract within a specified, limited time after the deadline established under paragraph (2) and award to the winning bidder—

[(A) the right and obligation to provide passenger rail service over that route subject to such performance standards as the Administration may require, consistent with the standards developed under section 207 of the Passenger Rail Investment and Improvement Act of 2008; and

[(B) an operating subsidy—

[(i) for the first year at a level not in excess of the level in effect during the fiscal year preceding the fiscal year in which the petition was received, adjusted for inflation;

[(ii) for any subsequent years at such level, adjusted for inflation; and

[(6) requires that each bid contain a staffing plan describing the number of employees needed to operate the service, the job assignments and requirements, and the terms of work for prospective and current employees of the bidder for the service outlined in the bid, and such staffing plan be made available by the winning bidder to the public after the bid award.

[(b) ROUTE LIMITATIONS.—The Administration may not make the program available with respect to more than 2 Amtrak inter-city passenger rail routes.

[(c) PERFORMANCE STANDARDS; ACCESS TO FACILITIES; EMPLOYEES.—If the Administration awards the right and obligation to provide passenger rail service over a route under the program to a rail carrier or rail carriers—

[(1) it shall execute a contract with the rail carrier or rail carriers for rail passenger operations on that route that conditions the operating and subsidy rights upon—

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

[(B) the service provider's compliance with the minimum standards established under section 207 of the Passenger Rail Investment and Improvement Act of 2008 and such additional performance standards as the Administration may establish;

[(2) it shall, if the award is made to a rail carrier other than Amtrak, require Amtrak to provide access to its reserva-

tion system, stations, and facilities directly related to operations to any rail carrier or rail carriers awarded a contract under this section, in accordance with section 217 of that Act, necessary to carry out the purposes of this section;

[(3) the employees of any person used by a rail carrier or rail carriers (as defined in section 10102(5) of this title) in the operation of a route under this section shall be considered an employee of that carrier or carriers and subject to the applicable Federal laws and regulations governing similar crafts or classes of employees of Amtrak, including provisions under section 121 of the Amtrak Reform and Accountability Act of 1997 relating to employees that provide food and beverage service; and

[(4) the winning bidder shall provide hiring preference to qualified Amtrak employees displaced by the award of the bid, consistent with the staffing plan submitted by the bidder and shall be subject to the grant conditions under section 24405 of this title.

[(d) CESSATION OF SERVICE.—If a rail carrier or rail carriers awarded a route under this section cease to operate the service or fail to fulfill their obligations under the contract required under subsection (c), the Administrator, in collaboration with the Surface Transportation Board, shall take any necessary action consistent with this title to enforce the contract and ensure the continued provision of service, including the installment of an interim service provider and re-bidding the contract to operate the service. The entity providing service shall either be Amtrak or a rail carrier defined in subsection (a)(1).

[(e) ADEQUATE RESOURCES.—Before taking any action allowed under this section, the Secretary shall certify that the Administrator has sufficient resources that are adequate to undertake the program established under this section.]

§24711. Alternate passenger rail service pilot program

(a) IN GENERAL.—Not later than 1 year after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, the Federal Railroad Administration shall complete a rulemaking proceeding to develop a pilot program that—

(1) permits a rail carrier or rail carriers that own infrastructure over which Amtrak operates a passenger rail service route described in subparagraph (B), (C), or (D) of section 24102(7) or in section 24702(a) to petition the Federal Railroad Administration to be considered as a passenger rail service provider over that route in lieu of Amtrak for an operations period of 5 years;

(2) requires the Federal Railroad Administration to notify Amtrak within 30 days after receiving a petition under paragraph (1) and establish a deadline by which both the petitioner and Amtrak would be required to submit a bid to provide passenger rail service over the route to which the petition relates;

(3) requires that each bid describe how the bidder would operate the route, what Amtrak passenger equipment would be needed, if any, and what sources of non-Federal funding the

bidder would use, including any State subsidy, among other things;

(4) requires the Federal Railroad Administration to execute a contract within a specified, limited time after the deadline established under paragraph (2) and award to the winning bidder—

(A) the right and obligation to provide passenger rail service over that route subject to such performance standards as the Federal Railroad Administration may require; and

(B) an operating subsidy—

(i) for the first year at a level not in excess of 90 percent of the level in effect for that specific route during the fiscal year preceding the fiscal year in which the petition was received, adjusted for inflation; and

(ii) for any subsequent years at the level calculated under clause (i), adjusted for inflation; and

(5) requires that each bid contain a staffing plan describing the number of employees needed to operate the service, the job assignments and requirements, and the terms of work for prospective and current employees of the bidder for the service outlined in the bid, and that such staffing plan be made available by the winning bidder to the public after the bid award.

(b) **ROUTE LIMITATIONS.**—The Federal Railroad Administration may not make the program available with respect to more than 2 Amtrak intercity passenger rail routes.

(c) **PERFORMANCE STANDARDS; ACCESS TO FACILITIES; EMPLOYEES.**—If the Federal Railroad Administration awards the right and obligation to provide passenger rail service over a route under this section to a rail carrier or rail carriers—

(1) it shall execute a contract with the rail carrier or rail carriers for rail passenger operations on that route that conditions the operating and subsidy rights on—

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

(B) the service provider's compliance with the standards established under subsection (a)(4)(A), and such additional performance standards as the Administration may establish;

(2) it shall, if the award is made to a rail carrier other than Amtrak, require Amtrak to provide access to its reservation system, stations, and facilities directly related to operations to any rail carrier or rail carriers awarded a contract under this section, in accordance with subsection (d), necessary to carry out the purposes of this section;

(3) an employee of any person used by such rail carrier or rail carriers in the operation of a route under this section shall be considered an employee of that carrier or carriers and subject to the applicable Federal laws and regulations governing similar crafts or classes of employees of Amtrak, including provisions under section 121 of the Amtrak Reform and Account-

ability Act of 1997 (49 U.S.C. 4312 note) relating to employees that provide food and beverage service; and

(4) the winning bidder shall provide hiring preference to qualified Amtrak employees displaced by the award of the bid, consistent with the staffing plan submitted by the bidder, and shall be subject to the grant conditions under section 24405 of this title.

(d) **DISPUTES.**—If Amtrak and the rail carrier or rail carriers awarded a route under this section cannot agree upon terms to carry out subsection (c)(2), and the Surface Transportation Board finds that access to Amtrak's facilities or equipment, or the provision of services by Amtrak, is necessary to carry out subsection (c)(2) and that the operation of Amtrak's other services will not be impaired thereby, the Surface Transportation Board shall, within 120 days after submission of the dispute, issue an order that the facilities and equipment be made available, and that services be provided, by Amtrak, and shall determine reasonable compensation, liability, and other terms for use of the facilities and equipment and provision of the services.

(e) **CESSATION OF SERVICE.**—If a rail carrier or rail carriers awarded a route under this section cease to operate the service or fail to fulfill their obligations under the contract required under subsection (c), the Federal Railroad Administration, in collaboration with the Surface Transportation Board, shall take any necessary action consistent with this title to enforce the contract and ensure the continued provision of service, including the installment of an interim service provider and rebidding the contract to operate the service. The entity providing service shall either be Amtrak or a rail carrier defined in subsection (a)(1).

(f) **ADEQUATE RESOURCES.**—Before taking any action allowed under this section, the Secretary shall certify that the Federal Railroad Administration has sufficient resources appropriated under section 101(b) of Passenger Rail Reform and Investment Act of 2015, or any subsequent appropriation, for that purpose that are adequate to undertake the program established under this section.

(g) **BUDGET AUTHORITY.**—The Secretary of Transportation may provide to a winning bidder selected under this section appropriations authorized under sections 101(b) of the Passenger Rail Reform and Investment Act of 2015, or any subsequent appropriation for the same purposes, necessary to cover the operating subsidy described in subsection (a)(4)(B).

§ 24712. State-supported routes

(a) **STATE-SUPPORTED ROUTE ADVISORY COMMITTEE.**—

(1) **ESTABLISHMENT.**—Not later than 90 days after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, the Secretary of Transportation shall establish a State-Supported Route Advisory Committee to promote mutual co-operation and planning pertaining to the rail operations and related activities of trains operated on State-supported routes and to further implement section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note).

(2) **MEMBERSHIP.**—The Committee shall consist of representatives of—

- (A) Amtrak;
- (B) the Department of Transportation, including the Federal Railroad Administration; and
- (C) 7 States that sponsor State-supported routes, selected by the Administrator of the Federal Railroad Administration on the basis of appropriate expertise and geographic balance, and in a manner that ensures that all appropriate States are represented periodically on the Committee.

(3) **DISTRIBUTION OF MEMBERSHIP.**—The membership belonging to any of the groups described in each individual subparagraph of paragraph (2) shall not constitute a majority of the Committee's memberships.

(4) **MEETINGS; RULES AND PROCEDURES.**—The Committee shall establish a schedule and location for convening meetings, but shall meet no less than 2 times every fiscal year. The Committee shall develop rules and procedures to govern the Committee's proceedings.

(b) **COST, SERVICE, AND RIDERSHIP FORECASTS.**—

(1) **IN GENERAL.**—Not later than January 31, 2016, and annually thereafter, Amtrak shall transmit to each State that sponsors a State-supported route, and to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate—

(A) a final statement of costs, revenues, ridership, and other information determined appropriate by the Committee established under subsection (a), pertaining to each such route for the prior fiscal year; and

(B) a cost, service, and ridership forecast for each such route for the upcoming fiscal year, developed pursuant to the methodology established under section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note).

(2) **EXCEPTION.**—The Committee may establish a different deadline than is required under paragraph (1) for submission of final financial statements and cost, service, and ridership forecasts.

(3) **QUARTERLY UPDATES.**—Beginning in 2016, and each year thereafter, Amtrak shall transmit to each State that sponsors a State-supported route quarterly updates of the cost, service, and ridership forecast described in paragraph (1)(B) to enable States to pace costs against State budgets, plan effectively, and address unexpected changes in costs in a timely manner, on the following dates:

(A) April 30, for the period encompassing January through March of such year.

(B) July 31, for the period encompassing April through June of such year.

5

(C) October 31, for the period encompassing July through September of such year.

(c) INVOICES.—Not later than February 15, 2016, and monthly thereafter, Amtrak shall provide to each State that sponsors a State-supported route a monthly invoice of the cost of operating such route, including fixed costs and third-party costs.

(d) DISPUTE RESOLUTION.—

(1) REQUEST FOR EXPEDITED RESOLUTION.—If a dispute arises with respect to a forecast developed under subsection (b), an invoice developed under subsection (c), or the terms of a contract for operation of a State-supported route negotiated between Amtrak and a State that sponsors the route, either Amtrak or the State may request that the Surface Transportation Board conduct expedited dispute resolution under this subsection.

(2) PROCEDURES.—The Surface Transportation Board shall establish procedures for expedited resolution of disputes brought before it under this subsection.

(3) BINDING EFFECT.—The decision of the Surface Transportation Board under this subsection shall be binding on the parties to the dispute.

(e) FRA ASSISTANCE.—The Federal Railroad Administration may provide assistance to the parties in the course of negotiations for a contract for operation of a State-supported route.

(f) PERFORMANCE METRICS.—In negotiating a contract for operation of a State-supported route, Amtrak and the State or States that sponsor the route shall consider including provisions that provide penalties and incentives for performance based on metrics that take into account only those factors within the control of Amtrak or the State or States.

(g) DEFINITION OF STATE.—In this section, the term “State” means each of the 50 States and the District of Columbia.

* * * * *

CHAPTER 249—NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

Sec.

24901. Definitions.

* * * * *

24911. Northeast Corridor planning.

* * * * *

§24911. Northeast Corridor planning

(a) NORTHEAST CORRIDOR CAPITAL INVESTMENT PLAN.—

(1) REQUIREMENT.—Not later than 12 months after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, and annually thereafter, the Northeast Corridor Infrastructure and Operations Advisory Commission established under section 24905 (referred to in this section as the “Commission”) shall develop a capital investment plan for the Northeast Corridor main line between Boston, Massachusetts, and the

District of Columbia, and the Northeast Corridor branch lines connecting to Harrisburg, Pennsylvania, Springfield, Massachusetts, and Spuyten Duyvil, New York, and facilities and services used to operate and maintain those lines.

(2) CONTENTS.—Each such plan shall—

(A) be developed to establish a coordinated approach to capital spending on the Northeast Corridor;

(B) cover a period of 5 fiscal years, beginning with the first fiscal year after the date of the plan;

(C) notwithstanding section 24902(b), prioritize projects and investments along the Northeast Corridor based on—

(i) the anticipated benefits and costs of projects;

(ii) the anticipated Federal and non-Federal funding available; and

(iii) the information contained in the Northeast Corridor asset management plans required under subsection (b), once available;

(D) ensure coordination and optimization across the entire Northeast Corridor and among the various owners and users;

(E) include a financial plan for the investment period that—

(i) categorizes each capital project as being primarily associated with—

(I) normalized capital replacement;

(II) replacement, rehabilitation, or repair of Northeast Corridor infrastructure assets, including tunnels, bridges, stations, and other assets; or

(III) improvement of train performance on the Northeast Corridor, including reduced trip times, increased train frequencies, higher operating speeds, and other improvements;

(ii) identifies the anticipated funding source and financing method for each capital project described in subclauses (II) and (III) of clause (i);

(iii) describes the anticipated outcomes of each project, including—

(I) an assessment of the potential effect on passenger accessibility, operations, safety, reliability, and resiliency, and on the ability of infrastructure owners and operators to meet regulatory requirements should the project not be funded; and

(II) an assessment of the benefits and costs;

(iv) identifies the extent to which the capital assets are or will be jointly used by intercity passenger rail service and other users, and the proportionate share of that joint usage; and

(v) for projects that are expected to be fully or partially funded through Federal financial assistance, identifies the most appropriate public agency or entity to receive those funds and implement each capital project.

(3) **ADDITIONAL CONTENTS.**—Any plan developed under paragraph (1) after the publication by the Secretary of Transportation of the Northeast Corridor service development plan shall also—

(A) be developed to identify, prioritize, and phase the implementation of projects necessary to achieve the goals and findings contained in such Northeast Corridor service development plan;

(B) allow for flexibility to change prioritization and programs based upon the availability of Federal and non-Federal funding;

(C) inform the Secretary in developing recommendations for Congress on Federal funding needs for the Northeast Corridor and any corresponding Federal investments in the respective capital programs for Northeast Corridor infrastructure owners and users; and

(D) capture the network-level anticipated outcomes associated with plan implementation, including the anticipated effect on passenger accessibility, operations, safety, reliability, and resiliency.

(b) **NORTHEAST CORRIDOR ASSET MANAGEMENT PLANS.**—

(1) **CONTENTS.**—Amtrak, and States and public transportation entities that own infrastructure that supports or provides for intercity rail passenger transportation on the Northeast Corridor, shall develop and update as necessary Northeast Corridor asset management plans for the Northeast Corridor main line between Boston, Massachusetts, and the District of Columbia, and the Northeast Corridor branch lines connecting to Harrisburg, Pennsylvania, Springfield, Massachusetts, and Spuyten Duyvil, New York, and facilities and services used to operate and maintain those lines, that—

(A) are consistent with the Federal Transit Administration process, as authorized under section 5326, when implemented; and

(B) include, at a minimum—

(i) an inventory of all capital assets owned by the developer of the plan;

(ii) an assessment of the condition of each of those assets;

(iii) a description of how the condition of each asset has changed since the previous iteration of the plan; and

(iv) a description of the necessary resources and processes for bringing or maintaining those assets in a state-of-good repair, including decision support tools and investment prioritization methodologies.

(2) **TRANSMITTAL TO COMMISSION.**—Not later than 12 months after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, each entity described in paragraph (1) shall transmit to the Commission a plan developed under paragraph (1). Any updates to such plan shall also be transmitted to the Commission.

56

(c) *NORTHEAST CORRIDOR SERVICE DEVELOPMENT PLAN UPDATES.—The Commission shall, at least once every 10 years, update the Northeast Corridor service development plan.*

* * * * *

PASSENGER RAIL INVESTMENT AND IMPROVEMENT ACT OF 2008

* * * * *

DIVISION B—AMTRAK

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This division may be cited as the “Passenger Rail Investment and Improvement Act of 2008”.

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

* * * * *

TITLE II—AMTRAK REFORM AND OPERATIONAL IMPROVEMENTS

Sec. 201. National railroad passenger transportation system defined.

* * * * *

[Sec. 204. Development of 5-year financial plan.]

* * * * *

[Sec. 206. Establishment of grant process.]

* * * * *

[Sec. 211. Northeast Corridor state-of-good-repair plan.]

* * * * *

TITLE II—AMTRAK REFORM AND OPERATIONAL IMPROVEMENTS

* * * * *

[SEC. 204. DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.

[(a) DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.—The Amtrak Board of Directors shall submit an annual budget and business plan for Amtrak, and a 5-year financial plan for the fiscal year to which that budget and business plan relate and the subsequent 4 years, prepared in accordance with this section, to the Secretary and the Inspector General of the Department of Transportation no later than—

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

[(2) the date that is 60 days after the date of enactment of an appropriations Act for the fiscal year, if later.

[(b) CONTENTS OF 5-YEAR FINANCIAL PLAN.—The 5-year financial plan for Amtrak shall include, at a minimum—

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

[(2) projected ridership levels for all Amtrak passenger operations;

[(3) revenue and expenditure forecasts for non-passenger operations;

[(4) capital funding requirements and expenditures necessary to maintain passenger service in order to accommodate predicted ridership levels and predicted sources of capital funding;

[(5) operational funding needs, if any, to maintain current and projected levels of passenger service, including State-supported routes and predicted funding sources;

[(6) projected capital and operating requirements, ridership, and revenue for any new passenger service operations or service expansions;

[(7) an assessment of the continuing financial stability of Amtrak, as indicated by factors such as anticipated Federal funding of capital and operating costs, Amtrak's ability to efficiently recruit, retain, and manage its workforce, and Amtrak's ability to effectively provide passenger rail service;

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

[(9) annual cash flow forecasts;

[(10) a statement describing methods of estimation and significant assumptions;

[(11) specific measures that demonstrate measurable improvement year over year in the financial results of Amtrak's operations;

[(12) prior fiscal year and projected operating ratio, cash operating loss, and cash operating loss per passenger on a route, business line, and corporate basis;

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

[(14) prior fiscal year and projected labor productivity statistics on a route, business line, and corporate basis;

[(15) prior fiscal year and projected equipment reliability statistics; and

[(16) capital and operating expenditures for anticipated security needs.

[(c) STANDARDS TO PROMOTE FINANCIAL STABILITY.—In meeting the requirements of subsection (b), Amtrak shall—

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

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

[(3) ensure that the plan is consistent with the authorizations of appropriations under title I of this division.

[(d) REVIEW BY DOT INSPECTOR GENERAL.—Within 60 days after their submission by Amtrak, the Inspector General of the De-

partment of Transportation shall review the annual budget and the 5-year financial plans prepared by Amtrak under this section to determine whether they meet the requirements of subsection (b) and shall furnish any relevant findings to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Appropriations of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Appropriations of the Senate.]

SEC. 205. RESTRUCTURING LONG-TERM DEBT AND CAPITAL LEASES.

(a) **IN GENERAL.**—The Secretary of the Treasury, in consultation with the Secretary and Amtrak, may make agreements to restructure Amtrak's indebtedness [as of the date of enactment of this Act], *to the extent provided in advance in appropriations Acts.* [This authorization expires 2 years after the date of enactment of this Act.]

(b) **DEBT RESTRUCTURING.**—[The Secretary of the Treasury, in consultation] *To the extent amounts are provided in advance in appropriations Acts, the Secretary of the Treasury, in consultation with the Secretary and Amtrak, shall enter into negotiations with the holders of Amtrak debt, including leases, outstanding [as of the date of enactment of this Act] for the purpose of restructuring (including repayment) and repaying that debt. The Secretary of the Treasury may secure agreements for restructuring or repayment on such terms as the Secretary of the Treasury deems favorable to the interests of the United States Government.*

(c) **CRITERIA.**—In restructuring Amtrak's indebtedness, the Secretary of the Treasury and Amtrak—

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

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

(d) **PAYMENT OF RENEGOTIATED DEBT.**—If the criteria under subsection (c) are met, the Secretary of the Treasury may assume or repay the restructured debt, as appropriate, *to the extent provided in advance in appropriations Acts.*

(e) **AMTRAK PRINCIPAL AND INTEREST PAYMENTS.**—

(1) **PRINCIPAL ON DEBT SERVICE.**—Unless the Secretary of the Treasury makes sufficient payments to creditors under subsection (d) so that Amtrak is required to make no payments to creditors in a fiscal year, the Secretary shall use funds authorized [by section 102 of this division] for the use of Amtrak for retirement of principal or payment of interest on loans for capital equipment, or capital leases.

(2) **REDUCTIONS IN AUTHORIZATION LEVELS.**—Whenever action taken by the Secretary of the Treasury under subsection (a) results in reductions in amounts of principal or interest that Amtrak must service on existing debt, the corresponding amounts authorized [by section 102] *for Amtrak* shall be reduced accordingly.

(f) **LEGAL EFFECT OF PAYMENTS UNDER THIS SECTION.**—The payment of principal and interest on secured debt, other than debt

assumed under subsection (d), with the proceeds of grants under subsection (e) shall not—

(1) modify the extent or nature of any indebtedness of Amtrak to the United States in existence [as of the date of enactment of this Act];

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

(3) imply any Federal guarantee or commitment to amortize Amtrak's outstanding indebtedness.

(g) SECRETARY APPROVAL.—Amtrak may not incur more debt after the date of enactment of this Act without the express advance approval of the Secretary.

(h) REPORT.—The Secretary of the Treasury shall transmit a report to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Appropriations of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Appropriations of the Senate, by June 1, 2010—

(1) describing in detail any agreements to restructure the Amtrak debt; and

(2) providing an estimate of the savings to Amtrak and the United States Government.

ISEC. 206. ESTABLISHMENT OF GRANT PROCESS.

[(a) GRANT REQUESTS.—Amtrak shall submit grant requests (including a schedule for the disbursement of funds), consistent with the requirements of this division, to the Secretary for funds authorized to be appropriated to the Secretary for the use of Amtrak under sections 101(a), (b), and (c), 102, 219(b), and 302.

[(b) PROCEDURES FOR GRANT REQUESTS.—The Secretary shall establish substantive and procedural requirements, including schedules, for grant requests under this section not later than 30 days after the date of enactment of this Act and shall transmit copies of such requirements and schedules to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. As part of those requirements, the Secretary shall require, at a minimum, that Amtrak deposit grant funds, consistent with the appropriated amounts for each area of expenditure in a given fiscal year, in the following 2 accounts:

[(1) The Amtrak Operating account.

[(2) The Amtrak General Capital account.

Amtrak may not transfer such funds to another account or expend such funds for any purpose other than the purposes covered by the account in which the funds are deposited without approval by the Secretary.

[(c) REVIEW AND APPROVAL.—

[(1) 30-DAY APPROVAL PROCESS The Secretary shall complete the review of a grant request (including the disbursement schedule) and approve or disapprove the request within 30 days after the date on which Amtrak submits the grant request. If the Secretary disapproves the request or determines that the request is incomplete or deficient, the Secretary shall

include the reason for disapproval or the incomplete items or deficiencies in a notice to Amtrak.

[(2) 15-DAY MODIFICATION PERIOD Within 15 days after receiving notification from the Secretary under the preceding sentence, Amtrak shall submit a modified request for the Secretary's review.

[(3) REVISED REQUESTS Within 15 days after receiving a modified request from Amtrak, the Secretary shall either approve the modified request, or, if the Secretary finds that the request is still incomplete or deficient, the Secretary shall identify in writing to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the remaining deficiencies and recommend a process for resolving the outstanding portions of the request.]

* * * * *

[SEC. 208. METHODOLOGIES FOR AMTRAK ROUTE AND SERVICE PLANNING DECISIONS.

[(a) METHODOLOGY DEVELOPMENT.—Within 180 days after the date of enactment of this Act, the Federal Railroad Administration shall obtain the services of a qualified independent entity to develop and recommend objective methodologies for Amtrak to use in determining what intercity passenger routes and services it will provide, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes. In developing such methodologies, the entity shall consider—

[(1) the current or expected performance and service quality of intercity passenger train operations, including cost recovery, on-time performance and minutes of delay, ridership, on-board services, stations, facilities, equipment, and other services;

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

[(3) the transportation needs of communities and populations that are not well served by intercity passenger rail service or by other forms of intercity transportation;

[(4) Amtrak's and other major intercity passenger rail service providers in other countries' methodologies for determining intercity passenger rail routes and services; and

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

[(b) SUBMITTAL TO CONGRESS.—Within 1 year after the date of enactment of this Act, the entity shall submit recommendations developed under subsection (a) to Amtrak, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

[(c) CONSIDERATION OF RECOMMENDATIONS.—Within 90 days after receiving the recommendations developed under subsection (a) by the entity, the Amtrak Board of Directors shall consider the adoption of those recommendations. The Board shall transmit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce,

Science, and Transportation of the Senate explaining its reasons for adopting or not adopting the recommendations.]

SEC. 208. METHODOLOGIES FOR AMTRAK ROUTE AND SERVICE PLANNING DECISIONS.

(a) **METHODOLOGY DEVELOPMENT.**—Not later than 180 days after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, as a condition of receiving a grant under section 101 of such Act, Amtrak shall obtain the services of an independent entity to develop and recommend objective methodologies for Amtrak to use in determining what intercity rail passenger transportation routes and services it should provide, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes.

(b) **CONSIDERATIONS.**—Amtrak shall require the entity, in developing the methodologies described in subsection (a), to consider—

(1) the current and expected performance and service quality of intercity rail passenger transportation operations, including cost recovery, on-time performance, ridership, on-board services, stations, facilities, equipment, and other services;

(2) connectivity of a route with other routes;

(3) the transportation needs of communities and populations that are not well served by intercity rail passenger transportation service or by other forms of intercity transportation;

(4) the methodologies of Amtrak and major intercity rail passenger transportation service providers in other countries for determining intercity passenger rail routes and services;

(5) the views of States, rail carriers that own infrastructure over which Amtrak operates, Amtrak employee representatives, and other interested parties; and

(6) the funding levels that will be available under authorization levels that have been enacted into law.

(c) **RECOMMENDATIONS.**—Not later than 1 year after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, Amtrak shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate the recommendations developed by the entity pursuant to subsection (a).

(d) **CONSIDERATION OF RECOMMENDATIONS.**—Not later than 90 days after transmitting the recommendations pursuant to subsection (c), the Amtrak Board of Directors shall consider the adoption of the recommendations and transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing an explanation of any reasons for adopting or not adopting the recommendations.

* * * * *

[SEC. 211. NORTHEAST CORRIDOR STATE-OF-GOOD-REPAIR PLAN.

[(a) IN GENERAL.—Within 6 months after the date of enactment of this Act, Amtrak, in consultation with the Secretary and the States (including the District of Columbia) that make up the

Northeast Corridor (as defined in section 24102 of title 49, United States Code), shall prepare a capital spending plan for capital projects required to return the railroad right-of-way (including track, signals, and auxiliary structures), facilities, stations, and equipment, of the Northeast Corridor main line to a state-of-good-repair by the end of fiscal year 2018, consistent with the funding levels authorized in this division, and shall submit the plan to the Secretary.

[(b) REVIEW AND APPROVAL BY THE SECRETARY.—

[(1) 60-DAY APPROVAL PROCESS.—The Secretary shall complete the review of the capital spending plan and approve or disapprove the plan within 60 days after the date on which Amtrak submits the plan. During review, the Secretary may seek comments from the Commission established under section 24905 of title 49, United States Code, and other Northeast Corridor users regarding the plan. If the Secretary disapproves the plan or determines that the plan is incomplete or deficient, the Secretary shall include the reason for disapproval or the incomplete items or deficiencies in a notice to Amtrak.

[(2) 15-DAY MODIFICATION PERIOD.—Within 15 days after receiving notification from the Secretary under paragraph (1), Amtrak shall submit a modified plan for the Secretary's review.

[(3) REVISED REQUESTS.—Within 15 days after receiving a modified plan from Amtrak, the Secretary shall either approve the modified plan, or, if the Secretary finds that the plan is still incomplete or deficient, the Secretary shall identify in writing to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the remaining deficiencies and recommend a process for resolving the outstanding portions of the plan.

[(c) PLAN UPDATES.—The plan shall be updated at least annually and the Secretary shall review and approve such updates, in accordance with the procedures described in subsection (b).

[(d) GRANTS.—The Secretary shall make grants to Amtrak with funds authorized by section 101(c) for Northeast Corridor capital investments contained within the capital spending plan prepared by Amtrak and approved by the Secretary.

[(e) OVERSIGHT.—Using the funds authorized by section 101(d), the Secretary shall review Amtrak's capital expenditures funded by this section to ensure that such expenditures are consistent with the capital spending plan and that Amtrak is providing adequate project management oversight and fiscal controls.

[(f) ELIGIBILITY OF EXPENDITURES.—The Federal share of expenditures for capital improvements under this section may not exceed 100 percent.]

* * * * *

SEC. 217. ACCESS TO AMTRAK EQUIPMENT AND SERVICES.

If a State desires to select or selects an entity other than Amtrak to provide services required for the operation of an intercity passenger train route described in section [24102(5)(D)]

65

24102(7)(D) or 24702 of title 49, United States Code, the State may make an agreement with Amtrak to use facilities and equipment of, or have services provided by, Amtrak under terms agreed to by the State and Amtrak to enable the State to utilize an entity other than Amtrak to provide services required for operation of the route. If the parties cannot agree upon terms, and the Surface Transportation Board finds that access to Amtrak's facilities or equipment, or the provision of services by Amtrak, is necessary to carry out this provision and that the operation of Amtrak's other services will not be impaired thereby, the Surface Transportation Board shall, within 120 days after submission of the dispute, issue an order that the facilities and equipment be made available, and that services be provided, by Amtrak, and shall determine reasonable compensation, liability, and other terms for use of the facilities and equipment and provision of the services. Compensation shall be determined, as appropriate, in accordance with the methodology established pursuant to section 209 of this division, if available.

* * * * *

TITLE III—INTERCITY PASSENGER RAIL POLICY

* * * * *

SEC. 305. NEXT GENERATION CORRIDOR TRAIN EQUIPMENT POOL.

(a) **IN GENERAL.**—Within 180 days after the date of enactment of this Act, Amtrak shall establish a Next Generation Corridor Equipment Pool Committee, comprised of representatives of Amtrak, the Federal Railroad Administration, host freight railroad companies, passenger railroad equipment manufacturers, *nonprofit organizations representing employees who perform overhaul and maintenance of passenger railroad equipment*, interested States, and, as appropriate, other passenger railroad operators. The purpose of the Committee shall be to design, develop specifications for, and procure standardized next-generation corridor equipment.

(b) **FUNCTIONS.**—The Committee may—

- (1) determine the number of different types of equipment required, taking into account variations in operational needs and corridor infrastructure;
- (2) establish a pool of equipment to be used on corridor routes funded by participating States; and
- (3) subject to agreements between Amtrak and States, utilize services provided by Amtrak to design, maintain and re-manufacture equipment.

(c) **COOPERATIVE AGREEMENTS.**—Amtrak and States participating in the Committee may enter into agreements for the funding, procurement, remanufacture, ownership, and management of corridor equipment, including equipment currently owned or leased by Amtrak and next-generation corridor equipment acquired as a result of the Committee's actions[, and may establish a corporation, which may be owned or jointly-owned by Amtrak, participating States, or other entities, to perform these functions].

(66)

(d) FUNDING.—In addition to the authorizations provided in this section, capital projects to carry out the purposes of this section shall be eligible for grants made pursuant to chapter 244 of title 49, United States Code.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary \$5,000,000 for fiscal year 2010, to remain available until expended, for grants to Amtrak and States participating in the Next Generation Corridor Train Equipment Pool Committee established under this section for the purpose of designing, developing specifications for, and initiating the procurement of an initial order of 1 or more types of standardized next-generation corridor train equipment [and establishing a jointly-owned corporation to manage that equipment].

* * * * *

RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

* * * * *

TITLE V—RAILROAD REHABILITATION AND IMPROVEMENT FINANCING

* * * * *

SEC. 502. DIRECT LOANS AND LOAN GUARANTEES.

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

- (1) State and local governments;
- (2) interstate compacts consented to by Congress under section 410(a) of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 note);
- (3) government sponsored authorities and corporations;
- (4) railroads;
- (5) joint ventures that include at least one railroad; and
- (6) solely for the purpose of constructing a rail connection between a plant or facility and a second rail carrier, limited option rail freight shippers that own or operate a plant or other facility that is served by no more than a single railroad.

(b) ELIGIBLE PURPOSES.—

(1) IN GENERAL.—Direct loans and loan guarantees under this section shall be used to—

- (A) acquire, improve, or rehabilitate intermodal or rail equipment or facilities, including track, components of track, bridges, yards, buildings, and shops;
- (B) refinance outstanding debt incurred for the purposes described in subparagraph (A); or
- (C) develop or establish new intermodal or railroad facilities.

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

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

(1) enhance public safety, *including projects for the installation of a positive train control (as defined in section 20157(i) of title 49, United States Code) system;*

(2) enhance the environment;

(3) promote economic development;

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

(5) are endorsed by the plans prepared under section 135 of title 23, United States Code, by the State or States in which they are located;

(6) preserve or enhance rail or intermodal service to small communities or rural areas;

(7) enhance service and capacity in the national rail system; or

(8) would materially alleviate rail capacity problems which degrade the provision of service to shippers and would fulfill a need in the national transportation system.

(d) EXTENT OF AUTHORITY.—The aggregate unpaid principal amounts of obligations under direct loans and loan guarantees made under this section shall not exceed \$35,000,000,000 at any one time. Of this amount, *40 percent shall be available solely for projects described in subsection (1)(1), and not less than \$7,000,000,000 shall be available solely for projects primarily benefiting freight railroads other than Class I carriers.* The Secretary shall not establish any limit on the proportion of the unused amount authorized under this subsection that may be used for 1 loan or loan guarantee.

(e) RATES OF INTEREST.—

(1) DIRECT LOANS.—The Secretary shall require interest to be paid on a direct loan made under this section at a rate not less than that necessary to recover the cost of making the loan.

(2) LOAN GUARANTEES.—The Secretary shall not make a loan guarantee under this section if the interest rate for the loan exceeds that which the Secretary determines to be reasonable, taking into consideration the prevailing interest rates and customary fees incurred under similar obligations in the private capital market.

(f) INFRASTRUCTURE PARTNERS.—

(1) AUTHORITY OF SECRETARY.—In lieu of or in combination with appropriations of budget authority to cover the costs of direct loans and loan guarantees as required under section 504(b)(1) of the Federal Credit Reform Act of 1990, the Secretary may accept on behalf of an applicant for assistance under this section a commitment from a non-Federal source to fund in whole or in part credit risk premiums with respect to the loan that is the subject of the application. In no event shall the aggregate of appropriations of budget authority and credit risk premiums described in this paragraph with respect to a direct loan or loan guarantee be less than the cost of that direct loan or loan guarantee.

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

(A) the circumstances of the applicant, including the amount of collateral offered, if any;

(B) the proposed schedule of loan disbursements;

(C) historical data on the repayment history of similar borrowers;

(D) consultation with the Congressional Budget Office;

(E) the size and characteristics of the cohort of which the loan or loan guarantee is a member; and

(F) any other factors the Secretary considers relevant.

(3) PAYMENT OF PREMIUMS.—Credit risk premiums under this subsection shall be paid to the Secretary before the disbursement of loan amounts.

(4) COHORTS OF LOANS.—In order to maintain sufficient balances of credit risk premiums to adequately protect the Federal Government from risk of default, while minimizing the length of time the Government retains possession of those balances, the Secretary shall establish cohorts of loans. When all obligations attached to a cohort of loans have been satisfied, credit risk premiums paid for the cohort, and interest accrued thereon, which were not used to mitigate losses shall be returned to the original source on a pro rata basis. A cohort may include loans and loan guarantees. The Secretary shall not establish any limit on the proportion of a cohort that may be used for 1 loan or loan guarantee.

(g) PREREQUISITES FOR ASSISTANCE.—The Secretary shall not make a direct loan or loan guarantee under this section unless the Secretary has made a finding in writing that—

(1) repayment of the obligation is required to be made within a term of not more than 35 years from the date of its execution;

(2) the direct loan or loan guarantee is justified by the present and probable future demand for rail services or intermodal facilities;

(3) the applicant has given reasonable assurances that the facilities or equipment to be acquired, rehabilitated, improved, developed, or established with the proceeds of the obligation will be economically and efficiently utilized;

(4) the obligation can reasonably be repaid, using an appropriate combination of credit risk premiums and collateral offered by the applicant to protect the Federal Government; and

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

(h) CONDITIONS OF ASSISTANCE.—(1) The Secretary shall, before granting assistance under this section, require the applicant to agree to such terms and conditions as are sufficient, in the judgment of the Secretary, to ensure that, as long as any principal or interest is due and payable on such obligation, the applicant, and any railroad or railroad partner for whose benefit the assistance is intended—

(A) will not use any funds or assets from railroad or intermodal operations for purposes not related to such operations, if such use would impair the ability of the applicant, railroad, or railroad partner to provide rail or intermodal services in an efficient and economic manner, or would adversely affect the ability of the applicant, railroad, or railroad partner to perform any obligation entered into by the applicant under this section;

(B) will, consistent with its capital resources, maintain its capital program, equipment, facilities, and operations on a continuing basis; and

(C) will not make any discretionary dividend payments that unreasonably conflict with the purposes stated in subsection (b).

[(2)] (2)(A) The Secretary shall not require an applicant for a direct loan or loan guarantee under this section to provide collateral. Any collateral provided or thereafter enhanced shall be valued as a going concern after giving effect to the present value of improvements contemplated by the completion and operation of the project. The Secretary shall not require that an applicant for a direct loan or loan guarantee under this section have previously sought the financial assistance requested from another source. *The Secretary may subordinate rights of the Secretary under any provision of title 49 or title 23 of the United States Code, to the rights of the Secretary under this section and section 503.*

(B) The Secretary shall, for purposes of making a finding under subsection (g)(4), accept the net present value on a future stream of State or local subsidy income or dedicated revenue as collateral offered to secure the loan.

(3) The Secretary shall require recipients of direct loans or loan guarantees under this section to comply with—

(A) the standards of section 24312 of title 49, United States Code, as in effect on September 1, 2002, with respect to the project in the same manner that the National Railroad Passenger Corporation is required to comply with such standards for construction work financed under an agreement made under section 24308(a) of that title; **[and]**

(B) the protective arrangements established under section 504 of this Act, with respect to employees affected by actions taken in connection with the project to be financed by the loan or loan guarantee **[.]**; and

(C) the requirements of section 24405(a) of title 49, United States Code.

(i) **TIME LIMIT FOR APPROVAL OR DISAPPROVAL.—[Not later than 90 days after receiving]**

(1) IN GENERAL.—Not later than 90 days after an application is determined pursuant to paragraph (2) to be a complete application for a direct loan or loan guarantee under this section, the Secretary shall approve or disapprove the application. In order to enable compliance with such time limit, the Office of Management and Budget shall take any actions required with respect to the application within such 90-day period.

(2) COMPLETION OF APPLICATION.—The Secretary shall establish procedures for making a determination, not later than

45 days after submission of an application under this section, whether the application is complete. Such procedures shall—

(A) provide for a checklist of the required components of a complete application;

(B) require the Secretary to provide to the applicant a description of the specific components of the application that remain incomplete if an application is determined to be incomplete; and

(C) permit reapplication without prejudice for applications determined to be incomplete.

(3) **INDEPENDENT FINANCIAL ANALYST.**—The Secretary shall assign an independent financial analyst within 45 days of submittal of a complete application.

(j) **REPAYMENT SCHEDULES.**—

(1) **IN GENERAL.**—The Secretary shall establish a repayment schedule requiring payments to commence not later than the sixth anniversary date of the original loan disbursement.

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

(k) **REPORT TO CONGRESS.**—Not later than 1 year after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, and annually thereafter, the Secretary shall transmit to Congress a report on the program under this section that provides information on loans approved and disapproved by the Secretary during the previous year. Such report shall not disclose the identity of direct loan or loan guarantee recipients. The report shall describe—

(1) the number of pre-application meetings with potential applicants;

(2) the number of applications received and determined complete under subsection (i)(2), including the requested loan amounts;

(3) the dates of receipt of applications;

(4) the dates applications were determined complete under subsection (i)(2);

(5) the number of applications determined incomplete under subsection (i)(2);

(6) the final decision dates for both approvals and disapprovals of applications;

(7) the number of applications withdrawn from consideration; and

(8) the annual loan portfolio asset quality.

(l) **NORTHEAST CORRIDOR FAST FORWARD.**—

(1) **PURPOSE.**—The Secretary, as part of the Railroad Rehabilitation and Improvement Financing program, shall provide direct loans and loan guarantees to eligible entities described in subsection (a) for capital projects to improve the Northeast Corridor (as used in section 24911 of title 49, United States Code).

(2) **COLLATERAL.**—Loans made or guaranteed under this subsection shall require collateral equal to the loan amount requested.

(3) **INVESTMENT GRADE RATING.**—A direct loan or loan guarantee shall be made under this subsection only if a rating

11

agency has assigned an investment grade rating of BBB minus, Baa3, bbb minus, BBB (low), (or equivalent) or higher to the project obligation. For purposes of this paragraph, the term "rating agency" means a credit rating agency registered with the Securities and Exchange Commission as a nationally recognized statistical rating organization (as that term is defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))).

(4) INCLUSION IN NEC PLANNING.—Loans and loan guarantees made under this subsection shall be for projects that are included in the most recent 5-year budget and business plan prepared pursuant to section 24911(a) of title 49, United States Code.

(5) REFINANCING.—Loans made or guaranteed under this subsection shall not be used for the refinancing of outstanding debt incurred.

(6) COHORT OF LOANS.—Subsection (f)(4) shall not apply to loans made or guaranteed under this subsection.

* * * * *

all