

Subtitle V (Rail Programs) of title 49,
United States Code, as amended by the
Infrastructure Investment and Jobs Act (IIJA)

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PART A—SAFETY

Chapter 201 – General

Sec. 20103. General Authority

(a) Regulations and orders.--The Secretary of Transportation, as necessary, shall prescribe regulations and issue orders for every area of railroad safety supplementing laws and regulations in effect on October 16, 1970. When prescribing a security regulation or issuing a security order that affects the safety of railroad operations, the Secretary of Homeland Security shall consult with the Secretary.

(b) Regulations of practice for proceedings.--The Secretary shall prescribe regulations of practice applicable to each proceeding under this chapter. The regulations shall reflect the varying nature of the proceedings and include time limits for disposition of the proceedings. The time limit for disposition of a proceeding may not be more than 12 months after the date it begins.

(c) Consideration of information and standards.--In prescribing regulations and issuing orders under this section, the Secretary shall consider existing relevant safety information and standards.

(d) Nonemergency waivers.—

(1) **In General.**—The Secretary of Transportation may waive, or suspend the requirement to comply~~ance~~ with, any part of a regulation prescribed or an order issued under this chapter if ~~the such~~ waiver or suspension is in the public interest and consistent with railroad safety. ~~The Secretary shall make public the reasons for granting the waiver.~~

(2) **Notice Required.**—The Secretary shall—

(A) provide timely public notice of any request for a waiver under this subsection or for a suspension under subpart E of part 211 of title 49, Code of Federal Regulations, or successor regulations;

(B) make available the application for such waiver or suspension and any nonconfidential underlying data to interested parties;

(C) provide the public with notice and a reasonable opportunity to comment on a proposed waiver or suspension under this subsection before making a final decision; and

(D) publish on a publicly accessible website the reasons for granting each such waiver or suspension.

(3) **Information Protection.**—Nothing in this subsection may be construed to require the release of information protected by law from public disclosure.

(4) **Rulemaking.**—

(A) **In General.**—Not later than 1 year after the first day on which a waiver under this subsection or a suspension under subpart E of part 211 of title 49, Code of Federal Regulations, or successor regulations, has been in continuous effect for a 6-year period, the Secretary shall complete a review and analysis of such waiver

or suspension to determine whether issuing a rule that is consistent with the waiver is—

- (i) in the public interest; and
- (ii) consistent with railroad safety.

(B) Factors.—In conducting the review and analysis under subparagraph (A), the Secretary shall consider—

- (i) the relevant safety record under the waiver or suspension;
- (ii) the likelihood that other entities would have similar safety outcomes;
- (iii) the materials submitted in the applications, including any comments regarding such materials; and
- (iv) related rulemaking activity.

(C) Notice and Comment.—

(i) In General.—The Secretary shall publish the review and analysis required under this paragraph in the Federal Register, which shall include a summary of the data collected and all relevant underlying data, if the Secretary decides not to initiate a regulatory update under subparagraph (D).

(ii) Notice of Proposed Rulemaking.—The review and analysis under this paragraph shall be included as part of the notice of proposed rulemaking if the Secretary initiates a regulatory update under subparagraph (D).

(D) Regulatory Update.—The Secretary may initiate a rulemaking to incorporate relevant aspects of a waiver under this subsection or a suspension under subpart E of part 211 of title 49, Code of Federal Regulations or successor regulations, into the relevant regulation, to the extent the Secretary considers appropriate.

(5) Rule of Construction.—Nothing in this subsection may be construed to delay any waiver granted pursuant to this subsection that is in the public interest and consistent with railroad safety.

(e) Hearings.--The Secretary shall conduct a hearing as provided by section 553 of title 5 when prescribing a regulation or issuing an order under this part, including a regulation or order establishing, amending, or providing a waiver, described in subsection (d), of compliance with a railroad safety regulation prescribed or order issued under this part. An opportunity for an oral presentation shall be provided.

(f) Tourist railroad carriers.--In prescribing regulations that pertain to railroad safety that affect tourist, historic, scenic, or excursion railroad carriers, the Secretary of Transportation shall take into consideration any financial, operational, or other factors that may be unique to such railroad carriers. The Secretary shall submit a report to Congress not later than September 30, 1995, on actions taken under this subsection.

(g) Emergency waivers.--

(1) In general.--The Secretary may waive compliance with any part of a regulation prescribed or order issued under this part without prior notice and comment if the Secretary determines that--

- (A) it is in the public interest to grant the waiver;
- (B) the waiver is not inconsistent with railroad safety; and

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

(2) Period of waiver.--A waiver under this subsection may be issued for a period of not more than 60 days and may be renewed upon application to the Secretary only after notice and an opportunity for a hearing on the waiver. The Secretary shall immediately revoke the waiver if continuation of the waiver would not be consistent with the goals and objectives of this part.

(3) Statement of reasons.--The Secretary shall state in the decision issued under this subsection the reasons for granting the waiver.

(4) Consultation.--In granting a waiver under this subsection, the Secretary shall consult and coordinate with other Federal agencies, as appropriate, for matters that may impact such agencies.

(5) Emergency situation; emergency event.--In this subsection, the terms “emergency situation” and “emergency event” mean a natural or manmade disaster, such as a hurricane, flood, earthquake, mudslide, forest fire, snowstorm, terrorist act, biological outbreak, release of a dangerous radiological, chemical, explosive, or biological material, or a war-related activity, that poses a risk of death, serious illness, severe injury, or substantial property damage. The disaster may be local, regional, or national in scope.

Sec. 20108. Research, Development, Testing, and Training

(a) General.--The Secretary of Transportation shall carry out, as necessary, research, development, testing, evaluation, and training for every area of railroad safety.

(b) Contracts.--To carry out this part, the Secretary may make contracts for, and carry out, research, development, testing, evaluation, and training (particularly for those areas of railroad safety found to need prompt attention).

(c) Amounts from non-Government sources for training safety employees.--The Secretary may request, receive, and expend amounts received from non-United States Government sources for expenses incurred in training safety employees of private industry, State and local authorities, or other public authorities, except State rail safety inspectors participating in training under section 20105 of this title.

(d) Facilities.—The Secretary may erect, alter, and repair buildings and make other public improvements to carry out necessary railroad research, safety, and training activities at the Transportation Technology Center in Pueblo, Colorado.

(e) Offsetting Collections.—The Secretary may collect fees or rents from facility users to offset appropriated amounts for the cost of providing facilities or research, development, testing, training, or other services, including long-term sustainment of the on-site physical plant.

(f) Revolving Fund.—Amounts appropriated to carry out subsection (d) and all fees and rents collected pursuant to subsection (e) shall be credited to a revolving fund and remain available until expended. The Secretary may use such fees and rents for operation, maintenance, repair, or improvement of the Transportation Technology Center.

(g) Leases and Contracts.—Notwithstanding section 1302 of title 40, the Secretary may lease to others or enter into contracts for terms of up to 20 years, for such consideration and subject to such terms and conditions as the Secretary determines to be in the best interests of the Government of the United States, for the operation, maintenance, repair, and improvement of the Transportation Technology Center.

(h) Property and Casualty Loss Insurance.—The Secretary may allow its lessees and contractors to purchase property and casualty loss insurance for its assets and activities at the Transportation Technology Center to mitigate the lessee's or contractor's risk associated with operating a facility.

(i) Energy Projects.—Notwithstanding section 1341 of title 31, the Secretary may enter into contracts or agreements, or commit to obligations in connection with third-party contracts or agreements, including contingent liability for the purchase of electric power in connection with such contracts or agreements, for terms not to exceed 20 years, to enable the use of the land at the Transportation Technology Center for projects to produce energy from renewable sources.

(j) Rail Research and Development Center of Excellence.—

(1) Center of excellence.—The Secretary shall award grants to establish and maintain a center of excellence to advance research and development that improves the safety, efficiency, and reliability of passenger and freight rail transportation.

(2) Eligibility.—An institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) or a consortium of nonprofit institutions of higher education shall be eligible to receive a grant from the center established pursuant to paragraph (1).

(3) Selection criteria.—In awarding a grant under this subsection, the Secretary shall—

(A) give preference to applicants with strong past performance related to rail research, education, and workforce development activities;

(B) consider the extent to which the applicant would involve public and private sector passenger and freight railroad operators; and

(C) consider the regional and national impacts of the applicant's proposal.

(4) Use of funds.—Grant funds awarded pursuant to this subsection shall be used for basic and applied research, evaluation, education, workforce development, and training efforts related to safety, project delivery, efficiency, reliability, resiliency, and sustainability of urban commuter, intercity high-speed, and freight rail transportation, to include advances in rolling stock, advanced positive train control, human factors, rail infrastructure, shared corridors, grade crossing safety, inspection technology, remote sensing, rail systems maintenance, network resiliency, operational reliability, energy efficiency, and other advanced technologies.

(5) Federal share.—The Federal share of a grant awarded under this subsection shall be 50 percent of the cost of establishing and operating the center of excellence and related research activities carried out by the grant recipient.

Sec. 20157. Implementation of Positive Train Control Systems

(a) In general.--

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(1) Plan required.--Not later than 90 days after the date of enactment of the Positive Train Control Enforcement and Implementation Act of 2015, each Class I railroad carrier and each entity providing regularly scheduled intercity or commuter rail passenger transportation shall submit to the Secretary of Transportation a revised plan for implementing a positive train control system by December 31, 2018, governing operations on--

(A) its main line over which intercity rail passenger transportation or commuter rail passenger transportation, as defined in section 24102, is regularly provided;

(B) its main line over which poison- or toxic-by-inhalation hazardous materials, as defined in sections 171.8, 173.115, and 173.132 of title 49, Code of Federal Regulations, are transported; and

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

(2) Implementation.--

(A) Contents of revised plan.--A revised plan required under paragraph (1) shall--

(i) describe--

(I) how the positive train control system will provide for interoperability of the system with the movements of trains of other railroad carriers over its lines; and

(II) how, to the extent practical, the positive train control system will be implemented in a manner that addresses areas of greater risk before areas of lesser risk;

(ii) comply with the positive train control system implementation plan content requirements under section 236.1011 of title 49, Code of Federal Regulations; and

(iii) provide--

(I) the calendar year or years in which spectrum will be acquired and will be available for use in each area as needed for positive train control system implementation, if such spectrum is not already acquired and available for use;

(II) the total amount of positive train control system hardware that will be installed for implementation, with totals separated by each major hardware category;

(III) the total amount of positive train control system hardware that will be installed by the end of each calendar year until the positive train control system is implemented, with totals separated by each hardware category;

(IV) the total number of employees required to receive training under the applicable positive train control system regulations;

(V) the total number of employees that will receive the training, as required under the applicable positive train control system regulations, by the end of each calendar year until the positive train control system is implemented;

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(VI) a summary of any remaining technical, programmatic, operational, or other challenges to the implementation of a positive train control system, including challenges with--

(aa) availability of public funding;

(bb) interoperability;

(cc) spectrum;

(dd) software;

(ee) permitting; and

(ff) testing, demonstration, and certification; and

(VII) a schedule and sequence for implementing a positive train control system by the deadline established under paragraph (1).

(B) Alternative schedule and sequence.--Notwithstanding the implementation deadline under paragraph (1) and in lieu of a schedule and sequence under paragraph (2)(A)(iii)(VII), a railroad carrier or other entity subject to paragraph (1) may include in its revised plan an alternative schedule and sequence for implementing a positive train control system, subject to review under paragraph (3). Such schedule and sequence shall provide for implementation of a positive train control system as soon as practicable, but not later than the date that is 24 months after the implementation deadline under paragraph (1).

(C) Amendments.--A railroad carrier or other entity subject to paragraph (1) may file a request to amend a revised plan, including any alternative schedule and sequence, as applicable, in accordance with section 236.1021 of title 49, Code of Federal Regulations.

(D) Compliance.--A railroad carrier or other entity subject to paragraph (1) shall implement a positive train control system in accordance with its revised plan, including any amendments or any alternative schedule and sequence approved by the Secretary under paragraph (3).

(3) Secretarial review.--

(A) Notification.--A railroad carrier or other entity that submits a revised plan under paragraph (1) and proposes an alternative schedule and sequence under paragraph (2)(B) shall submit to the Secretary a written notification when such railroad carrier or other entity is prepared for review under subparagraph (B).

(B) Criteria.--Not later than 90 days after a railroad carrier or other entity submits a notification under subparagraph (A), the Secretary shall review the alternative schedule and sequence submitted pursuant to paragraph (2)(B) and determine whether the railroad carrier or other entity has demonstrated, to the satisfaction of the Secretary, that such carrier or entity has--

(i) installed all positive train control system hardware consistent with the plan contents provided pursuant to paragraph (2)(A)(iii)(II) on or before the implementation deadline under paragraph (1);

(ii) acquired all spectrum necessary for implementation of a positive train control system, consistent with the plan contents provided pursuant to

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paragraph (2)(A)(iii)(I) on or before the implementation deadline under paragraph (1);

(iii) completed employee training required under the applicable positive train control system regulations;

(iv) included in its revised plan an alternative schedule and sequence for implementing a positive train control system as soon as practicable, pursuant to paragraph (2)(B);

(v) certified to the Secretary in writing that it will be in full compliance with the requirements of this section on or before the date provided in an alternative schedule and sequence, subject to approval by the Secretary;

(vi) in the case of a Class I railroad carrier and Amtrak, implemented a positive train control system or initiated revenue service demonstration on the majority of territories, such as subdivisions or districts, or route miles that are owned or controlled by such carrier and required to have operations governed by a positive train control system; and

(vii) in the case of any other railroad carrier or other entity not subject to clause (vi)--

(I) initiated revenue service demonstration on at least 1 territory that is required to have operations governed by a positive train control system; or

(II) met any other criteria established by the Secretary.

(C) Decision.--

(i) In general.--Not later than 90 days after the receipt of the notification from a railroad carrier or other entity under subparagraph (A), the Secretary shall--

(I) approve an alternative schedule and sequence submitted pursuant to paragraph (2)(B) if the railroad carrier or other entity meets the criteria in subparagraph (B); and

(II) notify in writing the railroad carrier or other entity of the decision.

(ii) Deficiencies.--Not later than 45 days after the receipt of the notification under subparagraph (A), the Secretary shall provide to the railroad carrier or other entity a written notification of any deficiencies that would prevent approval under clause (i) and provide the railroad carrier or other entity an opportunity to correct deficiencies before the date specified in such clause.

(D) Revised deadlines.--

(i) Pending reviews.--For a railroad carrier or other entity that submits a notification under subparagraph (A), the deadline for implementation of a positive train control system required under paragraph (1) shall be extended until the date on which the Secretary approves or disapproves the alternative schedule and sequence, if such date is later than the implementation date under paragraph (1).

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(ii) Alternative schedule and sequence deadline.--If the Secretary approves a railroad carrier or other entity's alternative schedule and sequence under subparagraph (C)(i), the railroad carrier or other entity's deadline for implementation of a positive train control system required under paragraph (1) shall be the date specified in that railroad carrier or other entity's alternative schedule and sequence. The Secretary may not approve a date for implementation that is later than 24 months from the deadline in paragraph (1).

(b) Technical assistance.--The Secretary may provide technical assistance and guidance to railroad carriers in developing the plans required under subsection (a).

(c) Progress reports and review.--

(1) Progress reports.--Each railroad carrier or other entity subject to subsection (a) shall, not later than March 31, 2016, and annually thereafter until such carrier or entity has completed implementation of a positive train control system, submit to the Secretary a report on the progress toward implementing such systems, including--

(A) the information on spectrum acquisition provided pursuant to subsection (a)(2)(A)(iii)(I);

(B) the totals provided pursuant to subclauses (III) and (V) of subsection (a)(2)(A)(iii), by territory, if applicable;

(C) the extent to which the railroad carrier or other entity is complying with the implementation schedule under subsection (a)(2)(A)(iii)(VII) or subsection (a)(2)(B);

(D) any update to the information provided under subsection (a)(2)(A)(iii)(VI);

(E) for each entity providing regularly scheduled intercity or commuter rail passenger transportation, a description of the resources identified and allocated to implement a positive train control system;

(F) for each railroad carrier or other entity subject to subsection (a), the total number of route miles on which a positive train control system has been initiated for revenue service demonstration or implemented, as compared to the total number of route miles required to have a positive train control system under subsection (a); and

(G) any other information requested by the Secretary.

(2) Plan review.--The Secretary shall at least annually conduct reviews to ensure that railroad carriers or other entities are complying with the revised plan submitted under subsection (a), including any amendments or any alternative schedule and sequence approved by the Secretary. Such railroad carriers or other entities shall provide such information as the Secretary determines necessary to adequately conduct such reviews.

(3) Public availability.--Not later than 60 days after receipt, the Secretary shall make available to the public on the Internet Web site of the Department of Transportation any report submitted pursuant to paragraph (1) or subsection (d), but may exclude, as the Secretary determines appropriate--

(A) proprietary information; and

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(B) security-sensitive information, including information described in section 1520.5(a) of title 49, Code of Federal Regulations.

(d) Report to Congress.--Not later than July 1, 2018, the Secretary 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 on the progress of each railroad carrier or other entity subject to subsection (a) in implementing a positive train control system.

(e) Enforcement.--The Secretary is authorized to assess civil penalties pursuant to chapter 213 for--

(1) a violation of this section;

(2) the failure to submit or comply with the revised plan required under subsection (a), including the failure to comply with the totals provided pursuant to subclauses (III) and (V) of subsection (a)(2)(A)(iii) and the spectrum acquisition dates provided pursuant to subsection (a)(2)(A)(iii)(I);

(3) failure to comply with any amendments to such revised plan pursuant to subsection (a)(2)(C); and

(4) the failure to comply with an alternative schedule and sequence submitted under subsection (a)(2)(B) and approved by the Secretary under subsection (a)(3)(C).

(f) Other railroad carriers.--Nothing in this section restricts the discretion of the Secretary to require railroad carriers other than those specified in subsection (a) to implement a positive train control system pursuant to this section or section 20156, or to specify the period by which implementation shall occur that does not exceed the time limits established in this section or section 20156. In exercising such discretion, the Secretary shall, at a minimum, consider the risk to railroad employees and the public associated with the operations of the railroad carrier.

(g) Regulations.--

(1) In general.--The Secretary shall prescribe regulations or issue orders necessary to implement this section, including regulations specifying in appropriate technical detail the essential functionalities of positive train control systems, and the means by which those systems will be qualified.

(2) Conforming regulatory amendments.--Immediately after the date of the enactment of the Positive Train Control Enforcement and Implementation Act of 2015, the Secretary--

(A) shall remove or revise the date-specific deadlines in the regulations or orders implementing this section to the extent necessary to conform with the amendments made by such Act; and

(B) may not enforce any such date-specific deadlines or requirements that are inconsistent with the amendments made by such Act.

(3) Review.--Nothing in the Positive Train Control Enforcement and Implementation Act of 2015, or the amendments made by such Act, shall be construed to require the Secretary to issue regulations to implement such Act or amendments other than the regulatory amendments required to conform with this section.

(4) Clarification.--

(A) Prohibitions.--The Secretary is prohibited from--

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- (i) approving or disapproving a revised plan submitted under subsection (a)(1);
- (ii) considering a revised plan under subsection (a)(1) as a request for amendment under section 236.1021 of title 49, Code of Federal Regulations; or
- (iii) requiring the submission, as part of the revised plan under subsection (a)(1), of--
 - (I) only a schedule and sequence under subsection (a)(2)(A)(iii)(VII); or
 - (II) both a schedule and sequence under subsection (a)(2)(A)(iii)(VII) and an alternative schedule and sequence under subsection (a)(2)(B).

(B) Civil penalty authority.--Except as provided in paragraph (2) and this paragraph, nothing in this subsection shall be construed to limit the Secretary's authority to assess civil penalties pursuant to subsection (e), consistent with the requirements of this section.

(C) Retained review authority.--The Secretary retains the authority to review revised plans submitted under subsection (a)(1) and is authorized to require modifications of those plans to the extent necessary to ensure that such plans include the descriptions under subsection (a)(2)(A)(i), the contents under subsection (a)(2)(A)(ii), and the year or years, totals, and summary under subsection (a)(2)(A)(iii)(I) through (VI).

(h) Certification.--

(1) In general.--The Secretary shall not permit the installation of any positive train control system or component in revenue service unless the Secretary has certified that any such system or component has been approved through the approval process set forth in part 236 of title 49, Code of Federal Regulations, and complies with the requirements of that part.

(2) Provisional operation.--Notwithstanding the requirements of paragraph (1), the Secretary may authorize a railroad carrier or other entity to commence operation in revenue service of a positive train control system or component to the extent necessary to enable the safe implementation and operation of a positive train control system in phases.

(i) Definitions.--In this section:

(1) Equivalent or greater level of safety.--The term "equivalent or greater level of safety" means the compliance of a railroad carrier with--

(A) appropriate operating rules in place immediately prior to the use or implementation of such carrier's positive train control system, except that such rules may be changed by such carrier to improve safe operations; and

(B) all applicable safety regulations, except as specified in subsection (j).

(2) Hardware.--The term "hardware" means a locomotive apparatus, a wayside interface unit (including any associated legacy signal system replacements), switch position monitors needed for a positive train control system, physical back office system

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equipment, a base station radio, a wayside radio, a locomotive radio, or a communication tower or pole.

(3) Interoperability.--The term “interoperability” means the ability to control locomotives of the host railroad and tenant railroad to communicate with and respond to the positive train control system, including uninterrupted movements over property boundaries.

(4) Main line.--The term “main line” means a segment or route of railroad tracks over which 5,000,000 or more gross tons of railroad traffic is transported annually, except that--

(A) the Secretary may, through regulations under subsection (g), designate additional tracks as main line as appropriate for this section; and

(B) for intercity rail passenger transportation or commuter rail passenger transportation routes or segments over which limited or no freight railroad operations occur, the Secretary shall define the term “main line” by regulation.

(5) Positive train control system.--The term “positive train control system” means a system designed to prevent train-to-train collisions, over-speed derailments, incursions into established work zone limits, and the movement of a train through a switch left in the wrong position.

(j) Early adoption.--

(1) Operations.--From the date of enactment of the Positive Train Control Enforcement and Implementation Act of 2015 through the 1-year period beginning on the date on which the last Class I railroad carrier's positive train control system subject to subsection (a) is certified by the Secretary under subsection (h)(1) of this section and is implemented on all of that railroad carrier's lines required to have operations governed by a positive train control system, any railroad carrier, including any railroad carrier that has its positive train control system certified by the Secretary, shall not be subject to the operational restrictions set forth in sections 236.567 and 236.1029 of title 49, Code of Federal Regulations, that would apply where a controlling locomotive that is operating in, or is to be operated in, a positive train control-equipped track segment experiences a positive train control system failure, a positive train control operated consist is not provided by another railroad carrier when provided in interchange, or a positive train control system otherwise fails to initialize, cuts out, or malfunctions, provided that such carrier operates at an equivalent or greater level of safety than the level achieved immediately prior to the use or implementation of its positive train control system.

(2) Safety assurance.--During the period described in paragraph (1), if a positive train control system that has been certified and implemented fails to initialize, cuts out, or malfunctions, the affected railroad carrier or other entity shall make reasonable efforts to determine the cause of the failure and adjust, repair, or replace any faulty component causing the system failure in a timely manner.

(3) Plans.--The positive train control safety plan for each railroad carrier or other entity shall describe the safety measures, such as operating rules and actions to comply with applicable safety regulations, that will be put in place during any system failure.

(4) Notification.--During the period described in paragraph (1), if a positive train control system that has been certified and implemented fails to initialize, cuts out, or

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malfunctions, the affected railroad carrier or other entity shall submit a notification to the appropriate regional office of the Federal Railroad Administration within 7 days of the system failure, or under alternative location and deadline requirements set by the Secretary, and include in the notification a description of the safety measures the affected railroad carrier or other entity has in place.

(k) Small railroads.--Not later than 120 days after the date of the enactment of this Act, the Secretary shall amend section 236.1006(b)(4)(iii)(B) of title 49, Code of Federal Regulations (relating to equipping locomotives for applicable Class II and Class III railroads operating in positive train control territory) to extend each deadline under such section by 3 years.

(l) Revenue service demonstration.--When a railroad carrier or other entity subject to (a)(1) notifies the Secretary it is prepared to initiate revenue service demonstration, it shall also notify any applicable tenant railroad carrier or other entity subject to subsection (a)(1).

(m) Reports on positive train control system performance.—

(1) In General.—Each host railroad subject to this section or subpart I of part 236 of title 49, Code of Federal Regulations, shall electronically submit to the Secretary of Transportation a Report of PTC System Performance on Form FRA F 6180.152, which shall be submitted on or before the applicable due date set forth in paragraph (3) and contain the information described in paragraph (2), which shall be separated by the host railroad, each applicable tenant railroad, and each positive train control-governed track segment, consistent with the railroad's positive train control Implementation Plan described in subsection (a)(1).

(2) Required Information.—Each report submitted pursuant to paragraph (1) shall include, for the applicable reporting period—

- (A) the number of positive train control system initialization failures, disaggregated by the number of initialization failures for which the source or cause was the onboard subsystem, the wayside subsystem, the communications subsystem, the back office subsystem, or a non-positive train control component;
- (B) the number of positive train control system cut outs, disaggregated by each component listed in subparagraph (A) that was the source or cause of such cut outs;
- (C) the number of positive train control system malfunctions, disaggregated by each component listed in subparagraph (A) that was the source or cause of such malfunctions;
- (D) the number of enforcements by the positive train control system;
- (E) the number of enforcements by the positive train control system in which it is reasonable to assume an accident or incident was prevented;
- (F) the number of scheduled attempts at initialization of the positive train control system
- (G) the number of train miles governed by the positive train control system; and
- (H) a summary of any actions the host railroad and its tenant railroads are taking to reduce the frequency and rate of initialization failures, cut outs, and malfunctions, such as any actions to correct or eliminate systemic issues and specific problems.

(3) Due Dates.—

(A) In General.—Except as provided in subparagraph (B), each host railroad shall electronically submit the report required under paragraph (1) not later than—

- (i) April 30, for the period from January 1 through March 31;
- (ii) July 31, for the period from April 1 through June 30;
- (iii) October 31, for the period from July 1 through September 30; and
- (iv) January 31, for the period from October 1 through December 31 of the prior calendar year.

(B) Frequency Reduction.—Beginning on the date that is 3 years after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, the Secretary shall reduce the frequency with which host railroads are required to submit the report described in paragraph (1) to not less frequently than twice per year, unless the Secretary—

- (i) determines that quarterly reporting is in the public interest; and
- (ii) publishes a justification for such determination in the Federal Register.

(4) Tenant Railroads.—Each tenant railroad that operates on a host railroad’s positive train control-governed main line and is not currently subject to an exception under section 236.1006(b) of title 49, Code of Federal Regulations, shall submit the information described in paragraph (2) to each applicable host railroad on a continuous basis.

(5) Enforcements.—Any railroad operating a positive train control system classified under Federal Railroad Administration Type Approval number FRA-TA-2010-001 or FRA-TA-2013-003 shall begin submitting the metric required under paragraph (2)(D) not later than January 31, 2023.

Sec. 20167. Reports on highway-rail grade crossing safety.

(a) Report.—Not later than 4 years after the date by which States are required to submit State highway-rail grade crossing action plans under section 11401(b) of the Fixing America’s Surface Transportation Act (49 U.S.C. 22907 note), the Administrator of the Federal Railroad Administration, in consultation with the Administrator of the Federal Highway Administration, shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that summarizes the State highway-rail grade crossing action plans, including—

(1) an analysis and evaluation of each State railway-highway crossings program under section 130 of title 23, including—

- (A) compliance with section 11401 of the Fixing America’s Surface Transportation Act and section 130(g) of title 23; and
- (B) the specific strategies identified by each State to improve safety at highway-rail grade crossings, including crossings with multiple accidents or incidents;

(2) the progress of each State in implementing its State highway-rail grade crossings action plan;

(3) the number of highway-rail grade crossing projects undertaken pursuant to section

130 of title 23, including the distribution of such projects by cost range, road system, nature of treatment, and subsequent accident experience at improved locations;

(4) which States are not in compliance with their schedule of projects under section 130(d) of title 23; and

(5) any recommendations for future implementation of the railway-highway crossings program under section 130 of title 23.

(b) Updates.—Not later than 5 years after the submission of the report required under subsection (a), the Administrator of the Federal Railroad Administration, in consultation with the Administrator of the Federal Highway Administration, shall—

(1) update the report based on the State annual reports submitted pursuant to section 130(g) of title 23 and any other information obtained by or available to the Administrator of the Federal Railroad Administration; and

(2) submit the updated report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(c) Definitions.—In this section:

(1) Highway-rail grade crossing.—The term ‘highway-rail grade crossing’ means a location within a State, other than a location at which 1 or more railroad tracks cross 1 or more railroad tracks at grade, at which—

(A) a public highway, road, or street, or a private roadway, including associated sidewalks and pathways, crosses 1 or more railroad tracks, either at grade or grade-separated; or

(B) a pathway explicitly authorized by a public authority or a railroad carrier that—

(i) is dedicated for the use of non-vehicular traffic, including pedestrians, bicyclists, and others;

(ii) is not associated with a public highway, road, or street, or a private roadway; and

(iii) crosses 1 or more railroad tracks, either at grade or grade-separated.

(2) State.—The term ‘State’ means a State of the United States or the District of Columbia.

Sec. 20169. Speed limit action plans

(a) In General.—Not later than March 3, 2016, each railroad carrier providing intercity rail passenger transportation or commuter rail passenger transportation, in consultation with any applicable host railroad carrier, shall survey its entire system and identify each main track location where there is a reduction of more than 20 miles per hour from the approach speed to a curve, bridge, or tunnel and the maximum authorized operating speed for passenger trains at that curve, bridge, or tunnel.

(b) Action Plans.—Not later than 120 days after the date that the survey under subsection (a) is complete, a railroad carrier described in subsection (a) shall submit to the Secretary of Transportation an action plan that—

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- (1) identifies each main track location where there is a reduction of more than 20 miles per hour from the approach speed to a curve, bridge, or tunnel and the maximum authorized operating speed for passenger trains at that curve, bridge, or tunnel;
 - (2) describes appropriate actions to enable warning and enforcement of the maximum authorized speed for passenger trains at each location identified under paragraph (1), including—
 - (A) modification to automatic train control systems, if applicable, or other signal systems;
 - (B) increased crew size;
 - (C) installation of signage alerting train crews of the maximum authorized speed for passenger trains in each location identified under paragraph (1);
 - (D) installation of alerters;
 - (E) increased crew communication; and
 - (F) other practices;
 - (3) contains milestones and target dates for implementing each appropriate action described under paragraph (2); and
 - (4) ensures compliance with the maximum authorized speed at each location identified under paragraph (1).
- (c) Approval.—Not later than 90 days after the date on which an action plan is submitted under subsection (b) or (d)(2), the Secretary shall approve, approve with conditions, or disapprove the action plan.
- (d) Periodic Reviews and Updates.—Each railroad carrier that submits an action plan to the Secretary pursuant to subsection (b) shall—
- (1) not later than 1 year after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, and annually thereafter, review such plan to ensure the effectiveness of actions taken to enable warning and enforcement of the maximum authorized speed for passenger trains at each location identified pursuant to subsection (b)(1); and
 - (2) not later than 90 days before implementing any significant operational or territorial operating change, including initiating a new service or route, submit to the Secretary a revised action plan, after consultation with any applicable host railroad, that addresses such operational or territorial operating change.
- (e) New Service.—If a railroad carrier providing intercity rail passenger transportation or commuter rail passenger transportation did not exist on the date of enactment of the FAST Act (Public Law 114-94; 129 Stat. 1312), such railroad carrier, in consultation with any applicable host railroad carrier, shall—
- (1) survey its routes pursuant to subsection (a) not later than 90 days after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021; and
 - (2) develop an action plan pursuant to subsection (b) not later than 120 days after the date on which such survey is complete.
- (f) Alternative Safety Measures.—The Secretary may exempt from the requirements under this section each segment of track for which operations are governed by a positive train control

system certified under section 20157, or any other safety technology or practice that would achieve an equivalent or greater level of safety in reducing derailment risk.

(g) Prohibition.—No new intercity or commuter rail passenger service may begin operation unless the railroad carrier providing such service is in compliance with the requirements under this section.

(h) Savings Clause.—Nothing in this section may be construed to prohibit the Secretary from applying the requirements under this section to other segments of track at risk of overspeed derailment.

Sec. 20170. Pre-revenue service safety validation plan

(a) Plan submission.—Any railroad providing new, regularly scheduled, intercity or commuter rail passenger transportation, an extension of existing service, or a renewal of service that has been discontinued for more than 180 days shall develop and submit for review a comprehensive pre-revenue service safety validation plan to the Secretary of Transportation not later than 60 days before initiating such revenue service. Such plan shall include pertinent safety milestones and a minimum period of simulated revenue service to ensure operational readiness and that all safety sensitive personnel are properly trained and qualified.

(b) Compliance.—After submitting a plan pursuant to subsection (a), the railroad shall adopt and comply with such plan and may not amend the plan without first notifying the Secretary of the proposed amendment. Revenue service may not begin until the railroad has completed the requirements of its plan, including the minimum simulated service period required by the plan.

(c) Rulemaking.—The Secretary shall promulgate regulations to carry out this section, including—

(1) requiring that any identified safety deficiencies be addressed and corrected before the initiation of revenue service; and

(2) establishing appropriate deadlines to enable the Secretary to review and approve the pre-revenue service safety validation plan to ensure that service is not unduly delayed.

Sec. 20171. Requirements for railroad freight cars placed into service in the United States

(a) Definitions.—In this section:

(1) Component.—The term ‘component’ means a part or subassembly of a railroad freight car.

(2) Control.—The term ‘control’ means the power, whether direct or indirect and whether or not exercised, through the ownership of a majority or a dominant minority of the total outstanding voting interest in an entity, representation on the board of directors of an entity, proxy voting on the board of directors of an entity, a special share in the entity, a contractual arrangement with the entity, a formal or informal arrangement to act in concert with an entity, or any other means, to determine, direct, make decisions, or cause decisions to be made for the entity.

- (3) Cost of Sensitive Technology.—The term ‘cost of sensitive technology’ means the aggregate cost of the sensitive technology located on a railroad freight car.
- (4) Country of concern.—The term ‘country of concern’ means a country that—
- (A) is identified by the Department of Commerce as a nonmarket economy country (as defined in section 771(18) of the Tariff Act of 1930 (19 U.S.C. 1677(18))) as the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021;
 - (B) was identified by the United States Trade Representative in the most recent report required by section 182 of the Trade Act of 1974 (19 U.S.C. 2242) as a foreign country included on the priority watch list (as defined in subsection (g)(3) of such section); and
 - (C) is subject to monitoring by the Trade Representative under section 306 of the Trade Act of 1974 (19 U.S.C. 2416).
- (5) Net cost.—The term ‘net cost’ has the meaning given such term in chapter 4 of the USMCA or any subsequent free trade agreement between the United States, Mexico, and Canada.
- (6) Qualified facility.—The term ‘qualified facility’ means a facility that is not owned or under the control of a state-owned enterprise.
- (7) Qualified manufacturer.—The term ‘qualified manufacturer’ means a railroad freight car manufacturer that is not owned or under the control of a state-owned enterprise.
- (8) Railroad freight car.—The term ‘railroad freight car’ means a car designed to carry freight or railroad personnel by rail, including—
- (A) a box car;
 - (B) a refrigerator car;
 - (C) a ventilator car;
 - (D) an intermodal well car;
 - (E) a gondola car;
 - (F) a hopper car;
 - (G) an auto rack car;
 - (H) a flat car;
 - (I) a special car;
 - (J) a caboose car;
 - (K) a tank car; and
 - (L) a yard car.
- (9) Sensitive technology.—The term ‘sensitive technology’ means any device embedded with electronics, software, sensors, or other connectivity, that enables the device to connect to, collect data from, or exchange data with another device, including—
- (A) onboard telematics;
 - (B) remote monitoring software;
 - (C) firmware;
 - (D) analytics;
 - (E) global positioning system satellite and cellular location tracking systems;
 - (F) event status sensors;

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(G) predictive component condition and performance monitoring sensors; and
(H) similar sensitive technologies embedded into freight railcar components and sub-assemblies

(10) State-owned enterprise.—The term ‘state-owned enterprise’ means—

(A) an entity that is owned by, or under the control of, a national, provincial, or local government of a country of concern, or an agency of such government; or
(B) an individual acting under the direction or influence of a government or agency described in subparagraph (A).

(11) Substantially transformed.—The term ‘substantially transformed’ means a component of a railroad freight car that undergoes an applicable change in tariff classification as a result of the manufacturing process, as described in chapter 4 and related annexes of the USMCA or any subsequent free trade agreement between the United States, Mexico, and Canada.

(12) USMCA.—The term ‘USMCA’ has the meaning given the term in section 3 of the United States-Mexico-Canada Agreement Implementation Act (19 U.S.C. 4502).

(b) Requirements for railroad freight cars.—

(1) Limitation on railroad freight cars.—A railroad freight car wholly manufactured on or after the date that is 1 year after the date of issuance of the regulations required under subsection (c)(1) may only operate on the United States general railroad system of transportation if—

(A) the railroad freight car is manufactured, assembled, and substantially transformed, as applicable, by a qualified manufacturer in a qualified facility;
(B) none of the sensitive technology located on the railroad freight car, including components necessary to the functionality of the sensitive technology, originates from a country of concern or is sourced from a state-owned enterprise; and
(C) none of the content of the railroad freight car, excluding sensitive technology, originates from a country of concern or is sourced from a state-owned enterprise that has been determined by a recognized court or administrative agency of competent jurisdiction and legal authority to have violated or infringed valid United States intellectual property rights of another including such a finding by a Federal district court under title 35 or the U.S. International Trade Commission under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337).

(2) Limitation on railroad freight car content.—

(A) Percentage limitation.—

(i) Initial limitation.—Not later than 1 year after the date of issuance of the regulations required under subsection (c)(1), a railroad freight car described in paragraph (1) may operate on the United States general railroad system of transportation only if not more than 20 percent of the content of the railroad freight car, calculated by the net cost of all components of the car and excluding the cost of sensitive technology, originates from a country of concern or is sourced from a state-owned enterprise.

(ii) Subsequent limitation.—Effective beginning on the date that is 3 years

after the date of issuance of the regulations required under subsection (c)(1), a railroad freight car described in paragraph (1) may operate on the United States general railroad system of transportation only if not more than 15 percent of the content of the railroad freight car, calculated by the net cost of all components of the car and excluding the cost of sensitive technology, originates from a country of concern or is sourced from a state-owned enterprise.

(B) Conflict.—The percentages specified in clauses (i) and (ii) of subparagraph (A), as applicable, shall apply notwithstanding any apparent conflict with provisions of chapter 4 of the USMCA.

(c) Regulations and penalties.—

(1) Regulations required.—Not later than 2 years after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, the Secretary of Transportation shall issue such regulations as are necessary to carry out this section, including for the monitoring and sensitive technology requirements of this section.

(2) Certification required.—To be eligible to provide a railroad freight car for operation on the United States general railroad system of transportation, the manufacturer of such car shall annually certify to the Secretary of Transportation that any railroad freight cars to be so provided meet the requirements under this section.

(3) Compliance.—

(A) Valid certification required.—At the time a railroad freight car begins operation on the United States general railroad system of transportation, the manufacturer of such railroad freight car shall have valid certification described in paragraph (2) for the year in which such car begins operation.

(B) Registration of noncompliant cars prohibited.—A railroad freight car manufacturer may not register, or cause to be registered, a railroad freight car that does not comply with the requirements under this section in the Association of American Railroad's Umler system.

(4) Civil penalties.—

(A) In general.—Pursuant to section 21301, the Secretary of Transportation may assess a civil penalty of not less than \$100,000, but not more than \$250,000, for each violation of this section for each railroad freight car.

(B) Prohibition on operation for violations.—The Secretary of Transportation may prohibit a railroad freight car manufacturer with respect to which the Secretary has assessed more than 3 violations under subparagraph (A) from providing additional railroad freight cars for operation on the United States general railroad system of transportation until the Secretary determines—

- (i) such manufacturer is in compliance with this section; and
- (ii) all civil penalties assessed to such manufacturer pursuant to subparagraph (A) have been paid in full.

Sec. 20902. Investigations

(a) General authority.--The Secretary of Transportation, or an impartial investigator authorized by the Secretary, may investigate--

- (1) an accident or incident resulting in serious injury to an individual or to railroad property, occurring on the railroad line of a railroad carrier; and
- (2) an accident or incident reported under section 20505 of this title.

(b) Other duties and powers.--In carrying out an investigation, the Secretary or authorized investigator may ~~subpoena~~ ~~subpena~~ witnesses, require the production of records, exhibits, and other evidence, administer oaths, and take testimony. If the accident or incident is investigated by a commission of the State in which it occurred, the Secretary, if convenient, shall carry out the investigation at the same time as, and in coordination with, the commission's investigation. The railroad carrier on whose railroad line the accident or incident occurred shall provide reasonable facilities to the Secretary for the investigation.

(c) Reports.--When in the public interest, the Secretary shall make a report of the investigation, stating the cause of the accident or incident and making recommendations the Secretary considers appropriate. The Secretary shall publish the report in a way the Secretary considers appropriate.

(d) Gathering information and technical expertise.—

(1) In general.—The Secretary shall create a standard process for investigators to use during accident and incident investigations conducted under this section for determining when it is appropriate and the appropriate method for—

(A) gathering information about an accident or incident under investigation from railroad carriers, contractors or employees of railroad carriers or representatives of employees of railroad carriers, and others, as determined relevant by the Secretary; and

(B) consulting with railroad carriers, contractors or employees of railroad carriers or representatives of employees of railroad carriers, and others, as determined relevant by the Secretary, for technical expertise on the facts of the accident or incident under investigation.

(2) Confidentiality.—In developing the process required under paragraph (1), the Secretary shall factor in ways to maintain the confidentiality of any entity identified under paragraph (1) if—

(A) such entity requests confidentiality;

(B) such entity was not involved in the accident or incident; and

(C) maintaining such entity's confidentiality does not adversely affect an investigation of the Federal Railroad Administration.

(3) Applicability.—This subsection shall not apply to any investigation carried out by the National Transportation Safety Board.

Chapter 213

Sec. 21301. Chapter 201 General Violations

(a) Penalty.—

(1) A person may not fail to comply with section 20160 or with a regulation prescribed or order issued by the Secretary of Transportation under chapter 201 of this title. Subject to section 21304 of this title, a person violating section 20160 of this title or a regulation prescribed or order issued by the Secretary under chapter 201 is liable to the United States Government for a civil penalty. The Secretary shall impose the penalty applicable under paragraph (2) of this subsection. A separate violation occurs for each day the violation continues.

(2) The Secretary shall include in, or make applicable to, each regulation prescribed and order issued under chapter 201 of this title a civil penalty for a violation. The Secretary shall impose a civil penalty for a violation of section 20160 of this title. The amount of the penalty shall be at least \$500 but not more than \$25,000. However, when a grossly negligent violation or a pattern of repeated violations has caused an imminent hazard of death or injury to individuals, or has caused death or injury, the amount may be not more than \$100,000.

(3) ~~The Secretary may find that a person has violated this chapter or a regulation prescribed or order, special permit, or approval issued under this chapter only after notice and an opportunity for a hearing. The Secretary shall impose a penalty under this section by giving the person written notice of the amount of the penalty. The Secretary may compromise the amount of a civil penalty by settlement agreement without issuance of an order. Imposed under this subsection to not less than \$500 before referring the matter to the Attorney General for collection.~~ In determining the amount of a compromise, the Secretary shall consider—

- (A) the nature, circumstances, extent, and gravity of the violation;
- (B) with respect to the violator, the degree of culpability, any history of violations, the ability to pay, and any effect on the ability to continue to do business; and
- (C) other matters that justice requires.

(4) ~~The Attorney General may bring a civil action in an appropriate district court of the United States to collect a civil penalty imposed or compromise under this section and any accrued interest on the civil penalty. In the civil action, the amount and appropriateness of the civil penalty shall not be subject to review.~~

~~(b) Setoff.—The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.~~

~~(c) Deposit in Treasury.—A civil penalty collected under this section or section 20113(b) of this title shall be deposited in the Treasury as miscellaneous receipts.~~

PART B—ASSISTANCE

Chapter 224

Sec. 22401. Definitions

In this chapter:

(1) Cost.—

(A) The term “cost” means the estimated long-term cost to the Government of a direct loan or loan guarantee or modification thereof, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays.

(B) The cost of a direct loan shall be the net present value, at the time when the direct loan is disbursed, of the following estimated cash flows:

(i) Loan disbursements.

(ii) Repayments of principal.

(iii) Payments of interest and other payments by or to the Government over the life of the loan after adjusting for estimated defaults, prepayments, fees, penalties, and other recoveries.

Calculation of the cost of a direct loan shall include the effects of changes in loan terms resulting from the exercise by the borrower of an option included in the loan contract.

(C) The cost of a loan guarantee shall be the net present value, at the time when the guaranteed loan is disbursed, of the following estimated cash flows:

(i) Payments by the Government to cover defaults and delinquencies, interest subsidies, or other payments.

(ii) Payments to the Government, including origination and other fees, penalties, and recoveries.

Calculation of the cost of a loan guarantee shall include the effects of changes in loan terms resulting from the exercise by the guaranteed lender of an option included in the loan guarantee contract, or by the borrower of an option included in the guaranteed loan contract.

(D) The cost of a modification is the difference between the current estimate of the net present value of the remaining cash flows under the terms of a direct loan or loan guarantee contract, and the current estimate of the net present value of the remaining cash flows under the terms of the contract, as modified.

(E) In estimating net present values, the discount rate shall be the average interest rate on marketable Treasury securities of similar maturity to the cash flows of the direct loan or loan guarantee for which the estimate is being made.

(F) When funds are obligated for a direct loan or loan guarantee, the estimated cost shall be based on the current assumptions, adjusted to incorporate the terms of the loan contract, for the fiscal year in which the funds are obligated.

(2) Current.—The term “current” has the same meaning as in section 900(c)(9) of title 2.

(3) Direct Loan.—The term “direct loan” means a disbursement of funds by the Government to a non-Federal borrower under a contract that requires the repayment of such funds. The term includes the purchase of, or participation in, a loan made by another lender and financing arrangements that defer payment for more than 90 days, including the sale of a Government asset

on credit terms. The term does not include the acquisition of a federally guaranteed loan in satisfaction of default claims.

(4) Direct Loan Obligation.—The term “direct loan obligation” means a binding agreement by the Secretary to make a direct loan when specified conditions are fulfilled by the borrower.

(5) Intermodal.—The term “intermodal” means of or relating to the connection between rail service and other modes of transportation, including all parts of facilities at which such connection is made.

(6) Investment-grade rating.—The term “investment-grade rating” means a rating of BBB minus, Baa 3, bbb minus, BBB(low), or higher assigned by a rating agency.

(7) Loan Guarantee.—The term “loan guarantee” means any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions.

(8) Loan Guarantee Commitment.—The term “loan guarantee commitment” means a binding agreement by the Secretary to make a loan guarantee when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

(9) Master credit agreement.—The term “master credit agreement” means an agreement to make 1 or more direct loans or loan guarantees at future dates for a program of related projects on terms acceptable to the Secretary.

(10) Modification.—The term “modification” means any Government action that alters the estimated cost of an outstanding direct loan (or direct loan obligation) or an outstanding loan guarantee (or loan guarantee commitment) from the current estimate of cash flows. This includes the sale of loan assets, with or without recourse, and the purchase of guaranteed loans. This also includes any action resulting from new legislation, or from the exercise of administrative discretion under existing law, that directly or indirectly alters the estimated cost of outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) such as a change in collection procedures.

(11) Project obligation.—The term “project obligation” means a note, bond, debenture, or other debt obligation issued by a borrower in connection with the financing of a project, other than a direct loan or loan guarantee under this chapter.

(12) Railroad.—The term “railroad” includes—

(A) any railroad or railroad carrier (as such terms are defined in section 20102); and

(B) any rail carrier (as defined in section 24102).

(13) Rating Agency.—The term “rating agency” means a credit rating agency registered with the Securities and Exchange Commission as a nationally recognized statistical rating organization (as defined in section 78c(a) of title 15).

(14) Secretary.—The term ‘Secretary’ means the Secretary of Transportation.

(15) Substantial Completion.—The term “substantial completion” means—

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

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

Sec. 22402. Direct loans and loan guarantees

(a) General authority

The Secretary shall provide direct loans and loan guarantees to--

- (1) State and local governments;
- (2) entities implementing 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) entities participating in joint ventures that include at least 1 of the entities described in paragraph (1), (2), (3), (4), or (6);
- (6) limited option freight shippers that own or operate a plant or other facility, solely for the purpose of constructing a rail connection between a plant or facility and a railroad; and
- (7) private entities with controlling ownership in 1 or more freight railroads other than Class I carriers.

(b) Eligible purposes.--

(1) In general.—Direct loans and loan guarantees authorized under this section shall be used—

(A) to acquire, improve, or rehabilitate intermodal or rail equipment or facilities, including track, components of track, cuts and fills, stations, tunnels, bridges, yards, buildings, and shops, and to finance costs related to those activities, including pre-construction costs;

(B) to develop or establish new intermodal or railroad facilities;

(C) to develop landside port infrastructure for seaports serviced by rail;

(D) to refinance outstanding debt incurred for the purposes described in subparagraph (A), (B), or (C);

(E) to reimburse planning, permitting, and design expenses relating to activities described in subparagraph (A), (B), or (C); or

(F) to finance economic development, including commercial and residential development, and related infrastructure and activities, that—

(i) incorporates private investment of greater than 20 percent of total project costs;

(ii) is physically connected to, or is within ½ mile of, a fixed guideway transit station, an intercity bus station, a passenger rail station, or a multimodal station, provided that the location includes service by a railroad;

(iii) demonstrates the ability of the applicant to commence the contracting process for construction not later than 90 days after the date on which the direct loan or loan guarantee is obligated for the project under this chapter; and

(iv) demonstrates the ability to generate new revenue for the relevant passenger rail station or service by increasing ridership, increasing tenant

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lease payments or carrying out other activities that generate revenue exceeding costs.

(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 system (as defined in section 20157(i));

(2) promote economic development;

(3) enhance the environment;

(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 or this title by the State or States in which they are located;

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

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

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

(9) 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, 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 interest rate on a direct loan under this section shall be not less than the yield on United States Treasury securities of a similar maturity to the maturity of the second loan on the date of execution of the loan agreement.

(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 661c(b)(1) of Title 2, including the cost of a modification thereof, the Secretary may accept on behalf of an applicant for assistance under this section a commitment from a non-Federal source, including a State

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or local government or agency or public benefit corporation or public authority thereof, to fund in whole or in part credit risk premiums and modification costs with respect to the loan that is the subject of the application or modification. 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; and
- (E) any other factors the Secretary considers relevant.
- (F) Redesignated (E)

(3) Creditworthiness

Upon receipt of a proposal from an applicant under this section the Secretary shall accept as a basis for determining the amount of the credit risk premium under paragraph (2) any of the following in addition to the value of any collateral described in paragraph (6):

- (A) The net present value of a future stream of State or local subsidy income or other dedicated revenues to secure the direct loan or loan guarantee.
- (B) Adequate coverage requirements to ensure repayment, on a non-recourse basis, from cash flows generated by the project or any other dedicated revenue source, including--
 - (i) tolls;
 - (ii) user fees, including operating or tenant charges, facility rents, or other fees paid by transportation service providers or operators for access to, or the use of, infrastructure, including rail lines, bridges, tunnels, yards, or stations; or
 - (iii) payments owing to the obligor under a public-private partnership.
- (C) An investment-grade rating on the direct loan or loan guarantee, as applicable, except that if the total amount of the direct loan or loan guarantee is greater than \$150,000,000, the applicant shall have an investment-grade rating from at least 2 rating agencies on the direct loan or loan guarantee.
- (D) Revenue from projected freight or passenger demand for the project based on regionally developed economic forecasts, including projections of any modal diversion resulting from the project.

(4) Payment of premiums

Credit risk premiums under this subsection shall be paid to the Secretary before the disbursement of loan amounts (and in the case of a modification, before the modification is executed), to the extent appropriations are not available to the Secretary to meet the costs of direct loans and loan guarantees, including costs of modifications thereof.

(5) Cohorts of Loans.—Subject to the availability of funds appropriated by Congress under section 22406(a)(2), for any direct loan issued before the date of enactment of the Fixing America’s Surface Transportation Act (Public Law 114-94) pursuant to sections 501 through 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), the Secretary shall repay the credit risk premiums of such loan, with interest accrued thereon, not later than—

- (A) 60 days after the date of enactment of the Surface Transportation Investment Act of 2021 if the borrower has satisfied all obligations attached to such loan; or
- (B) if the borrower has not yet satisfied all obligations attached to such loan, 60 days after the date on which all obligations attached to such loan have been satisfied.

(6) Collateral.—

(A) Types of collateral.—An applicant or infrastructure partner may propose tangible and intangible assets as collateral, exclusive of goodwill. The Secretary, after evaluating each such asset—

- (i) shall accept a net liquidation value of collateral; and
- (ii) shall consider and may accept—

(I) the market value of collateral; or

(II) in the case of a blanket pledge or assignment of an entire operating asset or basket of assets as collateral, the market value of assets, or, the market value of the going concern, considering—

(aa) inclusion in the pledge of all the assets necessary for independent operational utility of the collateral, including tangible assets such as real property, track and structure, motive power, equipment and rolling stock, stations, systems and maintenance facilities and intangible assets such as long-term shipping agreements, easements, leases and access rights such as for trackage and haulage;

(bb) interchange commitments; and

(cc) the value of the asset as determined through the cost or market approaches, or the market value of the going concern, with the latter considering discounted cash flows for a period not to exceed the term of the direct loan or loan guarantee.

(B) Appraisal standards.—In evaluating appraisals of collateral under subparagraph (A), the Secretary shall consider—

(i) adherence to the substance and principles of the Uniform Standards of Professional Appraisal Practice, as developed by the Appraisal Standards Board of the Appraisal Foundation; and

(ii) the qualifications of the appraisers to value the type of collateral offered.

(7) Repayment of credit risk premiums.—The Secretary shall return credit risk premiums

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paid, and interest accrued on such premiums, to the original source when all obligations of a loan or loan guarantee have been satisfied. This paragraph applies to any project that has been granted assistance under this section after the date of enactment of the Surface Transportation Investment Act of 2021.

(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 that is not longer than the shorter of--

(A) 75 years after the date of substantial completion of the project;

(B) the estimated useful life of the rail equipment or facilities to be acquired, rehabilitated, improved, developed, or established, subject to an adequate determination of long-term risk; or

(C) for projects determined to have an estimated useful life that is longer than 35 years, the period that is equal to the sum of—

(i) 35 years; and

(ii) the product of—

(I) the difference between the estimated useful life and 35 years;
multiplied by

(II) 75 percent.

(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) 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, if applicable. 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.

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

(A) the standards of section 24312, with respect to the project in the same manner that Amtrak is required to comply with such standards for construction work financed under an agreement made under section 24308(a); and

(B) the protective arrangements established under section 22404, with respect to employees affected by actions taken in connection with the project to be financed by the loan or loan guarantee.

(4) The Secretary shall require each recipient of a direct loan or loan guarantee under this section for a project described in subsection (b)(1)(F) to provide a non-Federal match of not less than 25 percent of the total amount expended by the recipient for such project.

(i) Application processing procedures

(1) Application status notices

Not later than 30 days after the date that the Secretary receives an application under this section, or additional information and material under paragraph (2)(B), the Secretary shall provide the applicant written notice as to whether the application is complete or incomplete.

(2) Incomplete applications

If the Secretary determines that an application is incomplete, the Secretary shall--

(A) provide the applicant with a description of all of the specific information or material that is needed to complete the application, including any information required by an independent financial analyst; and

(B) allow the applicant to resubmit the application with the information and material described under subparagraph (A) to complete the application.

(3) Application approvals and disapprovals

(A) In general

Not later than 60 days after the date the Secretary notifies an applicant that an application is complete under paragraph (1), the Secretary shall provide the applicant written notice as to whether the Secretary has approved or disapproved the application.

(B) Actions by the Office of Management and Budget

In order to enable compliance with the time limit under subparagraph (A), the Office of Management and Budget shall take any action required with respect to the application within that 60-day period.

(4) Streamlined Application Review Process.—

(A) In General.—Not later than 180 days after the date of enactment of the Surface Transportation Investment Act of 2021, the Secretary shall implement procedures and measures to economize and make available an streamlined application process or processes at the request of applicants seeking loans or loan guarantees.

(B) Criteria.—Applicants seeking loans and loan guarantees under this section shall—

(i) seek a total loan or loan guarantee value not exceeding \$150,000,000;

- (ii) meet eligible project purposes described in subparagraphs (A) and (B) of subsection (b)(1); and
- (iii) meet other criteria considered appropriate by the Secretary, in consultation with the Council on Credit and Finance of the Department of Transportation.

- (C) Expedited Credit Review.—The total period between the submission of an application and the approval or disapproval of an application for a direct loan or loan guarantee under this paragraph may not exceed 90 days. If an application review conducted under this paragraph exceeds 90 days, the Secretary shall—
- (i) provide written notice to the applicant, including a justification for the delay and updated estimate of the time needed for approval or disapproval; and
 - (ii) publish the notice on the dashboard described in paragraph (5).

(5) Dashboard

The Secretary shall post on the Department of Transportation's Internet Web site a monthly report that includes, for each application--

- (A) the applicant type;
- (B) the location of the project;
- (C) a brief description of the project, including its purpose;
- (D) the requested direct loan or loan guarantee amount;
- (E) the date on which the Secretary provided application status notice under paragraph (1).
- (F) the date that the Secretary provided notice of approval or disapproval under paragraph (3); and
- (G) whether the project utilized the streamlined application process under paragraph (4).

(6) Creditworthiness review status.—

- (A) In General.—The Secretary shall maintain status information related to each application for a loan or loan guarantee, which shall be provided to the applicant upon request, including—
- (i) the total value of the proposed loan or loan guarantee;
 - (ii) the name of the applicant or applicants submitting the application;
 - (iii) the proposed capital structure of the project to which the loan or loan guarantee would be applied, including the proposed Federal and non-Federal shares of the total project cost;
 - (iv) the type of activity to receive credit assistance, including whether the project is new construction, the rehabilitation of existing rail equipment of facilities, or the refinancing an existing loan or loan guarantee;
 - (v) if a deferred payment is proposed, the length of such deferment;
 - (vi) the credit rating or ratings provided for the applicant;
 - (vii) if other credit instruments are involved, the proposed subordination relationship and a description of such other credit instruments;
 - (viii) a schedule for the readiness of proposed investments for financing;

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(ix) a description of any Federal permits required, including under the National Environmental Policy Acts of 1969 (42 U.S.C. 4321 et seq.) and any waivers under section 5323(j) (commonly known as the ‘Buy America Act’);

(x) other characteristics of the proposed activity to be financed, borrower, key agreements, or the nature of the credit that the Secretary considers to be fundamental to the creditworthiness review;

(xi) the status of the application in the pre-application review and selection process;

(xii) the cumulative amounts paid by the Secretary to outside advisor related to the application, including financial and legal advisors;

(xiii) a description of the key rating factors against by the Secretary to determine credit risk, including—

(I) the factors used to determine risk or the proposed application;

(II) an adjectival risk rating for each identified factor, ranked as either low moderate or high;

(xiv) a nonbinding estimate of the credit risk premium, which may be in the form of—

(I) a range, based on the assessment of risk factors described in clause (xiii); or

(II) a justification for why the estimate of the credit risk premium cannot be determined based on available information; and

(xv) a description of the key information the Secretary needs from the applicant to complete the credit review process and make a final determination of the credit risk premium.

(B) Report upon request.—The Secretary shall provide the information described in subparagraph (A) not later than 30 days after a request from the applicant.

(C) Exception.—Applicants processed using the streamlined application review process under paragraph (4) are not subject to the requirement under this paragraph.

(j) Repayment schedules

(1) In general

The Secretary shall establish a repayment schedule requiring payments to commence not later than 5 years after the date of substantial completion.

(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.

(3) Deferred payments

(A) In general

If at any time after the date of substantial completion the obligor is unable to pay the scheduled loan repayments of principal and interest on a direct loan provided under this section, the Secretary, subject to subparagraph (B), may allow, for a maximum aggregate time of 1 year over the duration of the direct loan, the

obligor to add unpaid principal and interest to the outstanding balance of the direct loan.

(B) Interest

A payment deferred under subparagraph (A) shall--

- (i) continue to accrue interest under paragraph (2) until the loan is fully repaid; and
- (ii) be scheduled to be amortized over the remaining term of the loan.

(4) Prepayments

(A) Use of excess revenues

With respect to a direct loan provided by the Secretary under this section, any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and direct loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the direct loan without penalty.

(B) Use of proceeds of refinancing

The direct loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

(k) Sale of direct loans

(1) In general

Subject to paragraph (2) and as soon as practicable after substantial completion of a project, the Secretary, after notifying the obligor, may sell to another entity or reoffer into the capital markets a direct loan for the project if the Secretary determines that the sale or reoffering has a high probability of being made on favorable terms.

(2) Consent of obligor

In making a sale or reoffering under paragraph (1), the Secretary may not change the original terms and conditions of the secured loan without the prior written consent of the obligor.

(l) Nonsubordination

(1) In general

Except as provided in paragraph (2), a direct loan provided by the Secretary under this section shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(2) Preexisting indentures

(A) In general

The Secretary may waive the requirement under paragraph (1) for a public agency borrower that is financing ongoing capital programs and has outstanding senior bonds under a preexisting indenture if--

- (i) the direct loan is rated in the A category or higher;
- (ii) the direct loan is secured and payable from pledged revenues not affected by project performance, such as a tax-based revenue pledge or a system-backed pledge of project revenues; and

(iii) the program share, under this chapter, of eligible project costs is 50 percent or less.

(B) Limitation

The Secretary may impose limitations for the waiver of the nonsubordination requirement under this paragraph if the Secretary determines that such limitations would be in the financial interest of the Federal Government.

(m) Master credit agreements

(1) In general

Subject to subsection (d) and paragraph (2) of this subsection, the Secretary may enter into a master credit agreement that is contingent on all of the conditions for the provision of a direct loan or loan guarantee, as applicable, under this chapter and other applicable requirements being satisfied prior to the issuance of the direct loan or loan guarantee.

(2) Conditions

Each master credit agreement shall--

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

(B) identify 1 or more dedicated non-Federal revenue sources that will secure the repayment of each applicable direct loan or loan guarantee;

(C) provide for the obligation of funds for the direct loans or loan guarantees contingent on and after all requirements have been met for the projects subject to the master credit agreement; and

(D) provide 1 or more dates, as determined by the Secretary, before which the master credit agreement results in each of the direct loans or loan guarantees or in the release of the master credit agreement.

(n) Non-federal share.—The proceeds of a loan provided under this section may be used as the non-Federal share of project costs for any grant program administered by the Secretary if such loan is repayable from non-Federal funds.

Sec. 22403. Administration of direct loans and loan guarantees

(a) In general.—

(1) The Secretary shall prescribe the form and contents required of applications for assistance under section 22402, to enable the Secretary to determine the eligibility of the applicant's proposal, and shall establish terms and conditions for direct loans and loan guarantees made under that section, including a program guide, a standard term sheet, and specific timetables.

(2) Documentation.—An applicant meeting the size standard for small business concerns established under section 3(a)(2) of the Small Business Act (15 U.S.C. 632(a)(2)) may provide unaudited financial statements as documentation of historical financial information if such statements are accompanied by the applicant's Federal tax returns and Internal Revenue Service tax verifications for the corresponding years.

(b) Full faith and credit

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All guarantees entered into by the Secretary under section 22402 shall constitute general obligations of the United States of America backed by the full faith and credit of the United States of America.

(c) Assignment of loan guarantees

The holder of a loan guarantee made under section 22402 of this title may assign the loan guarantee in whole or in part, subject to such requirements as the Secretary may prescribe.

(d) Modifications

The Secretary may approve the modification of any term or condition of a direct loan, loan guarantee, direct loan obligation, or loan guarantee commitment, including the rate of interest, time of payment of interest or principal, or security requirements, if the Secretary finds in writing that--

- (1) the modification is equitable and is in the overall best interests of the United States;
- (2) consent has been obtained from the applicant and, in the case of a loan guarantee or loan guarantee commitment, the holder of the obligation; and
- (3) the modification cost has been covered under section 22402(f) of this title.

(e) Compliance

The Secretary shall assure compliance, by an applicant, any other party to the loan, and any railroad or railroad partner for whose benefit assistance is intended, with the provisions of this chapter, regulations issued hereunder, and the terms and conditions of the direct loan or loan guarantee, including through regular periodic inspections.

(f) Commercial validity

For purposes of claims by any party other than the Secretary, a loan guarantee or loan guarantee commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this chapter, and that such obligation has been approved and is legal as to principal, interest, and other terms. Such a guarantee or commitment shall be valid and incontestable in the hands of a holder thereof, including the original lender or any other holder, as of the date when the Secretary granted the application therefor, except as to fraud or material misrepresentation by such holder.

(g) Default

The Secretary shall prescribe regulations setting forth procedures in the event of default on a loan made or guaranteed under section 22402 of this title. The Secretary shall ensure that each loan guarantee made under that section contains terms and conditions that provide that--

- (1) if a payment of principal or interest under the loan is in default for more than 30 days, the Secretary shall pay to the holder of the obligation, or the holder's agent, the amount of unpaid guaranteed interest;
- (2) if the default has continued for more than 90 days, the Secretary shall pay to the holder of the obligation, or the holder's agent, 90 percent of the unpaid guaranteed principal;
- (3) after final resolution of the default, through liquidation or otherwise, the Secretary shall pay to the holder of the obligation, or the holder's agent, any remaining amounts guaranteed but which were not recovered through the default's resolution;

(4) the Secretary shall not be required to make any payment under paragraphs (1) through (3) if the Secretary finds, before the expiration of the periods described in such paragraphs, that the default has been remedied; and

(5) the holder of the obligation shall not receive payment or be entitled to retain payment in a total amount which, together with all other recoveries (including any recovery based upon a security interest in equipment or facilities) exceeds the actual loss of such holder.

(h) Rights of the Secretary

(1) Subrogation

If the Secretary makes payment to a holder, or a holder's agent, under subsection (g) in connection with a loan guarantee made under section 22402 of this title, the Secretary shall be subrogated to all of the rights of the holder with respect to the obligor under the loan.

(2) Disposition of property

The Secretary may complete, recondition, reconstruct, renovate, repair, maintain, operate, charter, rent, sell, or otherwise dispose of any property or other interests obtained pursuant to this section. The Secretary shall not be subject to any Federal or State regulatory requirements when carrying out this paragraph.

(i) Action against obligor

The Secretary may bring a civil action in an appropriate Federal court in the name of the United States in the event of a default on a direct loan made under section 22402 of this title, or in the name of the United States or of the holder of the obligation in the event of a default on a loan guaranteed under section 22402 of this title. The holder of a guarantee shall make available to the Secretary all records and evidence necessary to prosecute the civil action. The Secretary may accept property in full or partial satisfaction of any sums owed as a result of a default. If the Secretary receives, through the sale or other disposition of such property, an amount greater than the aggregate of--

(1) the amount paid to the holder of a guarantee under subsection (g) of this section; and

(2) any other cost to the United States of remedying the default,
the Secretary shall pay such excess to the obligor.

(j) Breach of conditions

The Attorney General shall commence a civil action in an appropriate Federal court to enjoin any activity which the Secretary finds is in violation of this chapter, regulations issued hereunder, or any conditions which were duly agreed to, and to secure any other appropriate relief.

(k) Attachment

No attachment or execution may be issued against the Secretary, or any property in the control of the Secretary, prior to the entry of final judgment to such effect in any State, Federal, or other court.

(l) Charges and loan servicing

(1) Purposes

The Secretary may collect from each applicant, obligor, or loan party a reasonable charge for--

(A) the cost of evaluating the application, amendments, modifications, and waivers, including for evaluating project viability, applicant creditworthiness, and

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the appraisal of the value of the equipment or facilities for which the direct loan or loan guarantee is sought, and for making necessary determinations and findings;

(B) the cost of award management and project management oversight;

(C) the cost of services from expert firms, including counsel, and independent financial advisors to assist in the underwriting, auditing, servicing, and exercise of rights with respect to direct loans and loan guarantees; and

(D) the cost of all other expenses incurred as a result of a breach of any term or condition or any event of default on a direct loan or loan guarantee.

(2) Standards

The Secretary may charge different amounts under this subsection based on the different costs incurred under paragraph (1).

(3) Servicer

(A) In general

The Secretary may appoint a financial entity to assist the Secretary in servicing a direct loan or loan guarantee under this chapter.

(B) Duties

A servicer appointed under subparagraph (A) shall act as the agent of the Secretary in servicing a direct loan or loan guarantee under this chapter.

(C) Fees

A servicer appointed under subparagraph (A) shall receive a servicing fee from the obligor or other loan party, subject to approval by the Secretary.

(4) National Surface Transportation and Innovative Finance Bureau account

Amounts collected under this subsection shall--

(A) be credited directly to the National Surface Transportation and Innovative Finance Bureau account; and

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

(m) Fees and charges

Except as provided in this chapter, the Secretary may not assess any fees, including user fees, or charges in connection with a direct loan or loan guarantee provided under section 22402 of this title.

Sec. 22404. Employee protection

(a) General

Fair and equitable arrangements shall be provided, in accordance with this section, to protect the interests of any employees who may be affected by actions taken pursuant to authorizations or approval obtained under this chapter. Such arrangements shall be determined by the execution of an agreement between the representatives of the railroads and the representatives of their employees, not later than 120 days after February 5, 1976. In the absence of such an executed agreement, the Secretary of Labor shall prescribe the applicable protective arrangements, not later than 150 days after February 5, 1976.

(b) Terms

The arrangements required by subsection (a) of this section shall apply to each employee who has an employment relationship with a railroad on the date on which such railroad first applies for applicable financial assistance under this chapter. Such arrangements shall include such provisions as may be necessary for the negotiation and execution of agreements as to the manner in which the protective arrangements shall be applied, including notice requirements. Such agreements shall be executed prior to implementation of work funded from financial assistance under this chapter. If such an agreement is not reached within 30 days after the date on which an application for such assistance is approved, either party to the dispute may submit the issue for final and binding arbitration. The decision on any such arbitration shall be rendered within 30 days after such submission. Such arbitration decision shall in no way modify the protection afforded in the protective arrangements established pursuant to this section, shall be final and binding on the parties thereto, and shall become a part of the agreement. Such arrangements shall also include such provisions as may be necessary--

- (1) for the preservation of compensation (including subsequent general wage increases, vacation allowances, and monthly compensation guarantees), rights, privileges, and benefits (including fringe benefits such as pensions, hospitalization, and vacations, under the same conditions and so long as such benefits continue to be accorded to other employees of the employing railroad in active service or on furlough, as the case may be) to such employees under existing collective-bargaining agreements or otherwise;
- (2) to provide for final and binding arbitration of any dispute which cannot be settled by the parties, with respect to the interpretation, application, or enforcement of the provisions of the protective arrangements;
- (3) to provide that an employee who is unable to secure employment by the exercise of his or her seniority rights, as a result of actions taken with financial assistance obtained under this chapter, shall be offered reassignment and, where necessary, retraining to fill a position comparable to the position held at the time of such adverse effect and for which he is, or by training and retraining can become, physically and mentally qualified, so long as such offer is not in contravention of collective bargaining agreements relating thereto; and
- (4) to provide that the protection afforded pursuant to this section shall not be applicable to employees benefited solely as a result of the work which is financed by funds provided pursuant to this chapter.

(c) Subcontracting

The arrangements which are required to be negotiated by the parties or prescribed by the Secretary of Labor, pursuant to subsections (a) and (b) of this section, shall include provisions regulating subcontracting by the railroads of work which is financed by funds provided pursuant to this subchapter.

Sec. 22405. Substantive criteria and standards

The Secretary shall—

- (1) publish in the Federal Register and post on a website of the Department of Transportation the substantive criteria and standards used by the Secretary to determine whether to approve or disapprove applications submitted under section 22402; and
- (2) ensure that adequate procedures and guidelines are in place to permit the filing of complete applicants not later than 30 days after the publication referred to in paragraph (1).

Sec. 22406. Authorization of appropriations.

(a) Authorization.—

(1) In General.—There is authorized to be appropriated for credit assistance under this chapter, which shall be provided at the discretion of the Secretary, \$50,000,000 for each of fiscal years 2022 through 2026.

(2) Refund of premium.—There is authorized to be appropriated to the Secretary \$70,000,000 to repay the credit risk premium in accordance with section 22402(f)(5).

(3) Availability.—Amounts appropriated pursuant to this subsection shall remain available until expended.

(b) Use of Funds.—

(1) In general.—Credit assistance provided under subsection (a) may not exceed \$20,000,000 for any loan or loan guarantee.

(2) Administrative costs.—Not less than 3 percent of the amounts appropriated pursuant to subsection (a) in each fiscal year shall be made available to the Secretary for use in place of charges collected under section 22403(l)(1) for passenger railroads and freight railroads other than Class I carriers.

(3) Short line set-aside.—Not less than 50 percent of the amounts appropriated pursuant to subsection (a)(1) for each fiscal year shall be set aside for freight railroads other than Class I carriers.

Chapter 229

Sec. 22905. 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

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- (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.
- (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 restricts 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

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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.

(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 (45 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 that are equivalent to the protective arrangements established under ~~section 22404 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 or unless Amtrak ceased

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providing intercity passenger railroad transportation over the affected route more than 3 years before the commencement of new service, 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 negotiations 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

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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) operations of a State or local governmental authority (as those terms are defined in section 5302) 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(3)).

Sec. 22907. Consolidated Rail Infrastructure and Safety Improvements

- (a) General authority.--The Secretary may make grants under this section to an eligible recipient to assist in financing the cost of improving passenger and freight rail transportation systems in terms of safety, efficiency, or reliability.
- (b) Eligible recipients.--The following entities are eligible to receive a grant under this section:
- (1) A State (including the District of Columbia).
 - (2) A group of States.
 - (3) An Interstate Compact.
 - (4) A public agency or publicly chartered authority established by 1 or more States.
 - (5) A political subdivision of a State.
 - (6) Amtrak or another rail carrier that provides intercity rail passenger transportation (as rail carrier and intercity rail passenger transportation are defined in section 24102).
 - (7) A Class II railroad or Class III railroad (as those terms are defined in section 20102).
 - (8) An association representing 1 or more railroads described in paragraph (7).

(9) A federally recognized Indian Tribe.

(10~~8~~) Any rail carrier or rail equipment manufacturer in partnership with at least 1 of the entities described in paragraphs (1) through (5).

(11~~9~~) The Transportation Research Board and any entity with which it contracts in the development of rail-related research, including cooperative research programs.

(12~~10~~) A University transportation center engaged in rail-related research.

(13~~11~~) A non-profit labor organization representing a class or craft of employees of rail carriers or rail carrier contractors.

(c) Eligible projects.--The following projects are eligible to receive grants under this section:

(1) Deployment of railroad safety technology, including positive train control and rail integrity inspection systems.

(2) A capital project as defined in section 22901(2), except that a project shall not be required to be in a State rail plan developed under chapter 227.

(3) A capital project identified by the Secretary as being necessary to address congestion **or safety** challenges affecting rail service.

(4) A capital project identified by the Secretary as being necessary to reduce congestion and facilitate ridership growth in intercity passenger rail transportation along heavily traveled rail corridors.

(5) A highway-rail grade crossing improvement project, including installation, repair, or improvement of grade separations, railroad crossing signals, gates, and related technologies, highway traffic signalization, highway lighting and crossing approach signage, roadway improvements such as medians or other barriers, railroad crossing panels and surfaces, and safety engineering improvements to reduce risk in quiet zones or potential quiet zones.

(6) A rail line relocation **or and** improvement project.

(7) A capital project to improve short-line or regional railroad infrastructure.

(8) The preparation of regional rail and corridor service development plans and corresponding environmental analyses.

(9) Any project that the Secretary considers necessary to enhance multimodal connections or facilitate service integration between rail service and other modes, including between intercity rail passenger transportation and intercity bus service or commercial air service.

(10) The development and implementation of a safety program or institute designed to improve rail safety.

(11) **The development and implementation of measures to prevent trespassing and reduce associated injuries and fatalities.**

(12~~11~~) Any research that the Secretary considers necessary to advance any particular aspect of rail-related capital, operations, or safety improvements.

(13~~12~~) Workforce development and training activities, coordinated to the extent practicable with the existing local training programs supported by the Department of Transportation, the Department of Labor, and the Department of Education.

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(14) Research, development, and testing to advance and facilitate innovative rail projects, including projects using electromagnetic guideways in an enclosure in a very low-pressure environment.

(15) The preparation of emergency plans for communities through which hazardous materials are transported by rail.

(16) Rehabilitating, remanufacturing, procuring, or overhauling locomotives, provided that such activities result in a significant reduction of emissions.

(d) Application process.--The Secretary shall prescribe the form and manner of filing an application under this section.

(e) Project selection criteria.--

(1) In general.--In selecting a recipient of a grant for an eligible project, the Secretary shall--

(A) give preference to a proposed project for which the proposed Federal share of total project costs does not exceed 50 percent; and

(B) after factoring in preference to projects under subparagraph (A), select projects that will maximize the net benefits of the funds appropriated for use under this section, considering the cost-benefit analysis of the proposed project, including anticipated private and public benefits relative to the costs of the proposed project and factoring in the other considerations described in paragraph (2).

(2) Other considerations.--The Secretary shall also consider the following:

(A) The degree to which the proposed project's business plan considers potential private sector participation in the financing, construction, or operation of the project.

(B) The recipient's past performance in developing and delivering similar projects, and previous financial contributions.

(C) Whether the recipient has or will have the legal, financial, and technical capacity to carry out the proposed project, satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities.

(D) If applicable, the consistency of the proposed project with planning guidance and documents set forth by the Secretary or required by law or State rail plans developed under chapter 227.

(E) If applicable, any technical evaluation ratings the proposed project received under previous competitive grant programs administered by the Secretary.

(F) Such other factors as the Secretary considers relevant to the successful delivery of the project.

(3) Benefits.--The benefits described in paragraph (1)(B) may include the effects on system and service performance, including measures such as improved safety, competitiveness, reliability, trip or transit time, resilience, efficiencies from improved integration with other modes, the ability to meet existing or anticipated demand, and any other benefits.

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(f) Performance measures.--The Secretary shall establish performance measures for each grant recipient to assess progress in achieving strategic goals and objectives. The Secretary may require a grant recipient to periodically report information related to such performance measures.

(g) Rural areas.--

(1) In general.--Of the amounts appropriated under this section, at least 25 percent shall be available for projects in rural areas. The Secretary shall consider a project to be in a rural area if all or the majority of the project (determined by the geographic location or locations where the majority of the project funds will be spent) is located in a rural area.

(2) Definition of rural area.--In this subsection, the term "rural area" means any area not in an urbanized area, as defined by the Bureau of the Census.

(h) Federal share of total project costs.--

(1) Total project costs.--The Secretary shall estimate the total costs of a project under this section based on the best available information, including any available engineering studies, studies of economic feasibility, environmental analyses, and information on the expected use of equipment or facilities.

(2) Federal share.--The Federal share of total project costs under this section shall not exceed 80 percent.

(3) Treatment of passenger rail revenue.--If Amtrak or another rail carrier is an applicant under this section, Amtrak or the other rail carrier, as applicable, may use ticket and other revenues generated from its operations and other sources to satisfy the non-Federal share requirements.

(4) Grade crossing and trespassing projects.—Applicants may use costs incurred previously for preliminary engineering associated with highway-rail grade crossing improvement projects under subsection (c)(5) and trespassing prevention projects under subsection (c)(11) to satisfy the non-Federal share requirements.

(i) Applicability.--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.

(j) Availability.--Amounts appropriated for carrying out this section shall remain available until expended.

(k) Limitation.--The requirements under sections 22902, 22903, and 22904, and the definition contained in section 22901(1) shall not apply to this section.

(l) Special transportation circumstances.--

(1) In general.--In carrying out this chapter, the Secretary shall allocate an appropriate portion of the amounts available to programs in this chapter to provide grants to States--

(A) 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, including highway construction over rail facilities as an alternative to construction or improvement of a highway-rail grade crossing, that provide public benefits (as defined in chapter 227), as determined by the Secretary; or

(B) 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.

(2) Definition.--For the purposes of this subsection, the term “appropriate portion” means a share, for each State subject to paragraph (1), not less than the share of the total railroad route miles in such State of the total railroad route miles in the United States, excluding from all totals the route miles exclusively used for tourist, scenic, and excursion railroad operations.

Sec. 22908. Restoration and Enhancement Grants

(a) Definitions.—In this section: ~~Applicant defined.—Notwithstanding section 22901(1), in this section, the term “applicant” means—~~

(1) Applicant.—Notwithstanding section 22901(1), the term “applicant” means—

(A~~1~~) a State, including the District of Columbia;

(B~~2~~) a group of States;

(C~~3~~) an entity implementing an interstate compact ~~Interstate Compact~~;

(D~~4~~) a public agency or publicly chartered authority established by 1 or more States;

(E~~5~~) a political subdivision of a State;

(F~~6~~) a federally recognized Indian Tribe;

(G) Amtrak or another rail carrier that provides intercity rail passenger transportation;

(H~~7~~) any ~~Any~~ rail carrier in partnership with at least 1 of the entities described in subparagraphs (A~~1~~) through (F~~5~~); and

(I~~8~~) any combination of the entities described in subparagraphs (A~~1~~) through (F~~7~~).

(2) Operating Assistance.—The term “operating assistance”, with respect to any route subject to section 209 of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110-432), means any cost allocated, or that may be allocated, to a route pursuant to the cost methodology established under such section or under section 24712.

(b) Grants authorized.--The Secretary of Transportation shall develop and implement a program for issuing operating assistance grants to applicants, on a competitive basis, for the purpose of initiating, restoring, or enhancing intercity rail passenger transportation.

(c) Application.--An applicant for a grant under this section shall submit to the Secretary--

(1) a capital and mobilization plan that--

(A) describes any capital investments, service planning actions (such as environmental reviews), and mobilization actions (such as qualification of train crews) required for initiation of intercity rail passenger transportation; and

(B) includes the timeline for undertaking and completing each of the investments and actions referred to in subparagraph (A);

(2) an operating plan that describes the planned operation of the service, including--

(A) the identity and qualifications of the train operator;

(B) the identity and qualifications of any other service providers;

(C) service frequency;

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- (D) the planned routes and schedules;
 - (E) the station facilities that will be utilized;
 - (F) projected ridership, revenues, and costs;
 - (G) descriptions of how the projections under subparagraph (F) were developed;
 - (H) the equipment that will be utilized, how such equipment will be acquired or refurbished, and where such equipment will be maintained; and
 - (I) a plan for ensuring safe operations and compliance with applicable safety regulations;
- (3) a funding plan that--
- (A) describes the funding of initial capital costs and operating costs for the first ~~6 years~~ 3 years of operation;
 - (B) includes a commitment by the applicant to provide the funds described in subparagraph (A) to the extent not covered by Federal grants and revenues; and
 - (C) describes the funding of operating costs and capital costs, to the extent necessary, after the first ~~6 years~~ 3 years of operation; and
- (4) a description of the status of negotiations and agreements with--
- (A) each of the railroads or regional transportation authorities whose tracks or facilities would be utilized by the service;
 - (B) the anticipated railroad carrier, if such entity is not part of the applicant group; and
 - (C) any other service providers or entities expected to provide services or facilities that will be used by the service, including any required access to Amtrak systems, stations, and facilities if Amtrak is not part of the applicant group.
- (d) Priorities.--In awarding grants under this section, the Secretary shall give priority to applications--
- (1) for which planning, design, any environmental reviews, negotiation of agreements, acquisition of equipment, construction, and other actions necessary for initiation of service have been completed or nearly completed;
 - (2) that would restore service over routes formerly operated by Amtrak, including routes described in section 11304 of the Passenger Rail Reform and Investment Act of 2015;
 - (3) that would provide daily or daytime service over routes where such service did not previously exist;
 - (4) that include funding (including funding from railroads), or other significant participation by State, local, and regional governmental and private entities;
 - (5) that include a funding plan that demonstrates the intercity rail passenger service will be financially sustainable beyond the 3-year grant period;
 - (6) that would provide service to regions and communities that are underserved or not served by other intercity public transportation;
 - (7) that would foster economic development, particularly in rural communities and for disadvantaged populations;
 - (8) that would provide other non-transportation benefits; ~~and~~
 - (9) that would enhance connectivity and geographic coverage of the existing national network of intercity rail passenger service; ~~and;~~

(10) for routes selected under the Corridor Identification and Development Program and operated by Amtrak.

(e) Limitations.--

(1) Duration.--Federal operating assistance grants authorized under this section for any individual intercity rail passenger transportation route may not provide funding for more than 6 years (including for any such routes selected for funding before the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021) 3-years and may not be renewed.

(2) Limitation.--Not more than 6 of the operating assistance grants awarded pursuant to subsection (b) may be simultaneously active.

(3) Maximum funding.--Grants described in paragraph (1) may not exceed--

(A) 90 percent of the projected net operating costs for the first year of service;

(B) 80 percent of the projected net operating costs for the second year of service;

(C) 70 percent of the projected net operating costs for the third year of service;

(D) 60 percent of the projected net operating costs for the fourth year of service;

(E) 50 percent of the projected net operating costs for the fifth year of service; and

(F) 30 percent of the projected net operating costs for the sixth year of service.

~~(A) 80 percent of the projected net operating costs for the first year of service;~~

~~(B) 60 percent of the projected net operating costs for the second year of service;~~

~~and~~

~~(C) 40 percent of the projected net operating costs for the third year of service.~~

(f) Use with capital grants and other Federal funding.--A recipient of an operating assistance grant under subsection (b) may use that grant in combination with other Federal grants awarded that would benefit the applicable service.

(g) Availability.--Amounts appropriated for carrying out this section shall remain available until expended.

(h) Coordination with Amtrak.--If the Secretary awards a grant under this section to a rail carrier other than Amtrak, Amtrak may be required consistent with section 24711(c)(1) of this title to provide access to its reservation system, stations, and facilities that are directly related to operations to such carrier, to the extent necessary to carry out the purposes of this section. The Secretary may award an appropriate portion of the grant to Amtrak as compensation for this access.

(i) Conditions.--

(1) Grant agreement.--The Secretary shall require a grant recipient under this section to enter into a grant agreement that requires such recipient to provide similar information regarding the route performance, financial, and ridership projections, and capital and business plans that Amtrak is required to provide, and such other data and information as the Secretary considers necessary.

(2) Installments; termination.--The Secretary may--

(A) award grants under this section in installments, as the Secretary considers appropriate; and

(B) terminate any grant agreement upon--

(i) the cessation of service; or

(ii) the violation of any other term of the grant agreement.

- (3) Grant conditions.--The Secretary shall require each recipient of a grant under this section to comply with the grant requirements of section 22905.
- (j) Report.--Not later than 4 years after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, the Secretary, after consultation with grant recipients under this section, shall submit to Congress a report that describes--
- (1) the implementation of this section;
 - (2) the status of the investments and operations funded by such grants;
 - (3) the performance of the routes funded by such grants;
 - (4) the plans of grant recipients for continued operation and funding of such routes; and
 - (5) any legislative recommendations.

Sec. 22909. Railroad crossing elimination program

22909. Railroad Crossing Elimination Program.

- (a) In General.—The Secretary of Transportation, in cooperation with the Administrator of the Federal Railroad Administration, shall establish a competitive grant program (referred to in this section as the ‘Program’) under which the Secretary shall award grants to eligible recipients described in subsection (c) or highway-rail or pathway-rail grade crossing improvement projects that focus on improving the safety and mobility of people and goods.
- (b) Goals.—The goals of the Program are—
- (1) to eliminate highway-rail grade crossings that are frequently blocked by trains;
 - (2) to improve the health and safety of communities;
 - (3) to reduce the impacts that freight movement and railroad operations may have on underserved communities; and
 - (4) to improve the mobility of people and goods.
- (c) Eligible Recipients.—The following entities are eligible to receive a grant under this section:
- (1) A State, including the District of Columbia, Puerto Rico, and other United States territories and possessions.
 - (2) A political subdivision of a State.
 - (3) A federally recognized Indian Tribe.
 - (4) A unit of local government or a group of local governments.
 - (5) A public port authority.
 - (6) A metropolitan planning organization.
 - (7) A group of entities described in any of paragraphs (1) through (6).
- (d) Eligible Projects.—The Secretary may award a grant under the Program for a highway-rail or pathway-rail grade crossing improvement project (including acquiring real property interests) involving—
- (1) grade separation or closure, including through the use of a bridge, embankment, tunnel, or combination thereof;
 - (2) track relocation;
 - (3) the improvement or installation of protective devices, signals, signs, or other measures to improve safety, provided that such activities are related to a separation or relocation project described in paragraph (1) or (2);

- (4) other means to improve the safety and mobility of people and goods at highway-rail grade crossings (including technological solutions);
- (5) a group of related projects described in paragraphs (1) through (4) that would collectively improve the mobility of people and goods; or
- (6) the planning, environmental review, and design of an eligible project described in paragraphs (1) through (5),

(e) Application Process.—

(1) In General.—An eligible entity seeking a grant under the Program shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) Railroad Approvals.—

(A) In General.—Except as provided in subparagraph (B), the Secretary shall require applicants to obtain the necessary approvals from any impacted rail carriers or real property owners before proceeding with the construction of a project funded by a grant under the Program.

(B) Exception.—The requirement under subparagraph (A) shall not apply to planning projects described in subsection (d)(6) if the applicant agrees to work collaboratively with rail carriers and right-of-way owners.

(f) Project Selection Criteria.—

(1) In General.—In awarding grants under the Program, the Secretary shall evaluate the extent to which proposed projects would—

- (A) improve safety at highway-rail or pathway-rail grade crossings;
- (B) grade separate, eliminate, or close highway-rail or pathway-rail grade crossings;
- (C) improve the mobility of people and goods;
- (D) reduce emissions, protect the environment, and provide community benefits, including noise reduction;
- (E) improve access to emergency services;
- (F) provide economic benefits; and
- (G) improve access to communities separated by rail crossings.

(2) Additional Considerations.—In awarding grants under the Program, the Secretary shall consider—

- (A) the degree to which the proposed project will use—
 - (i) innovative technologies;
 - (ii) innovative design and construction techniques; or
 - (iii) construction materials that reduce greenhouse gas emissions;
- (B) the applicant's planned use of contracting incentives to employ local labor, to the extent permissible under Federal law;
- (C) whether the proposed project will improve the mobility of—
 - (i) multiple modes of transportation, including ingress and egress from freight facilities; or
 - (ii) users of nonvehicular modes of transportation, such as pedestrians, bicyclists, and public transportation;

- (D) whether the proposed project is identified in—
 - (i) the freight investment plan component of a State freight plan, as required under section 70202(b)(9);
 - (ii) a State rail plan prepared in accordance with chapter 227; or
 - (iii) a State highway-rail grade crossing action plan, as required under section 11401(b) of the Passenger Rail Reform and Investment Act of 2015 (title XI of Public Law 114--94); and
 - (E) the level of financial support provided by impacted rail carriers.
- (3) Award Distribution.—In selecting grants for Program funds in any fiscal year, the Secretary shall comply with the following limitations:
- (A) Grant Funds.—Not less than 20 percent of the grant funds available for the Program in any fiscal year shall be reserved for projects located in rural areas or on Tribal lands. The requirement under section 22907(l), which applies to this section, shall not apply to grant funds reserved under this subparagraph shall be reserved for projects in counties with 20 or fewer residents per square mile, according to the most recent decennial census, provided that sufficient eligible applications have been submitted.
 - (B) Planning Grants.—Not less than 25 percent of the grant funds set aside for planning projects in any fiscal year pursuant to section 22104(b) of the Passenger Rail Expansion and Rail Safety Act of 2021 shall be awarded for projects located in rural areas or on tribal lands.
 - (C) State limitation.—Not more than 20 percent of the grant funds available for the Program in any fiscal year may be selected for projects in any single State.
 - (D) Minimum size.—No grant awarded under this section shall be for less than \$1,000,000, except for a planning grant described in subsection (d)(6).
- (g) Cost Share.—Except as provided in paragraph (2), the Federal share of the cost of a project carried out using a grant under the Program may not exceed 80 percent of the total cost of the project. Applicants may count costs incurred or preliminary engineering associated with highway-rail and pathway-rail grade crossing improvement projects as part of the total project costs.
- (h) Congressional Notification.—Not later than 3 days before awarding a grant for a project under the Program, the Secretary shall submit written notification of the proposed grant to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, which shall include—
- (1) a summary of the project; and
 - (2) the amount of the proposed grant award.
- (i) Annual Report.—Not later than 60 days after each round of award notifications, the Secretary shall post, on the public website of the Department of Transportation—
- (1) a list of all eligible applicants that submitted an application for funding under the Program during the current fiscal year;
 - (2) a list of the grant recipients and projects that received grant funding under the Program during such fiscal year; and
 - (3) a list of the proposed projects and applicants that were determined to be ineligible.

(j) Commuter Rail Eligibility and Grant Conditions.—

(1) In General.—Section 22905(f) shall not apply to grant awarded under this section for commuter rail passenger transportation projects.

(2) Administration of funds.—The Secretary of Transportation shall transfer amounts awarded under this section for commuter rail passenger transportation projects to the Federal Transit Administration, which shall administer such funds in accordance with chapter 53.

(3) Protective Arrangements.—

(A) In General.—Notwithstanding paragraph (2) and section 22905(e)(1), as a condition of receiving a grant under this section, any employee covered by the Railway Labor Act (45 U.S.C. 151 et seq.) and the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.) who is adversely affected by actions taken in connection with the project financed in whole or in part by such grant shall be covered by employee protective arrangements required to be established under section 22905(c)(2)(B).

(B) Implementation.—A grant recipient under this section, and the successors, assigns, and contractors of such grant recipient—

(i) shall be bound by the employee protective arrangements required under subparagraph (A); and

(ii) shall be responsible for the implementation of such arrangements and for the obligations under such arrangements, but may arrange for another entity to take initial responsibility for compliance with the conditions of such arrangement.

(k) Defined Term.—In this section, the term ‘rural area’ means any area that is not within an area designated as an urbanized area by the Bureau of the Census.

Sec. 22910. Interstate rail compacts grant program

(a) Grants Authorized.—The Secretary of Transportation shall establish a competitive grant program to provide financial assistance to entities implementing interstate rail compacts pursuant to section 410 of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 note) for—

(1) costs of administration;

(2) systems planning, including studying the impacts on freight rail operations and ridership;

(3) promotion of intercity passenger rail operation;

(4) preparation of applications for competitive Federal grant programs; and

(5) operations coordination.

(b) Maximum amount.—The Secretary may not award a grant under this section in an amount exceeding \$1,000,000 per year.

(c) Selection Criteria.—In selecting a recipient of a grant for an eligible project under this section, the Secretary shall consider—

(1) the amount of funding received (including funding from a rail carrier (as defined in

- section 24102)) or other participation by State, local, and regional governments and the private sector;
- (2) the applicant's work to foster economic development through rail service, particularly in rural communities;
- (3) whether the applicant seeks to restore service over routes formerly operated by Amtrak, including routes described in section 11304(a) of the Passenger Rail Reform and Investment Act of 2015 (title XI of division A of Public Law 114-94);
- (4) the applicant's dedication to providing intercity passenger rail service to regions and communities that are underserved or not served by other intercity public transportation;
- (5) whether the applicant is enhancing connectivity and geographic coverage of the existing national network of intercity passenger rail service;
- (6) whether the applicant has prepared regional rail or corridor service development plans and corresponding environmental analysis; and
- (7) whether the applicant has engaged with appropriate government entities and transportation providers to identify projects necessary to enhance multimodal connections or facilitate service integration between rail service and other modes, including between intercity passenger rail service and intercity bus service or commercial air service.
- (d) Numerical Limitation.—The Secretary may not award grants under this section for more than 10 interstate rail compacts in any fiscal year.
- (e) Operator Limitation.—The Secretary may only award grants under this section to applicants with eligible expenses related to intercity passenger rail service to be operated by Amtrak.
- (f) Non-Federal Match.—The Secretary shall require each recipient of a grant under this section to provide a non-Federal match of not less than 50 percent of the eligible expenses of carrying out the interstate rail compact under this section.
- (g) Report.—Not later than 3 years after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, the Secretary, after consultation with grant recipients under this section, shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that describes—
- (1) the implementation of this section;
 - (2) the status of the planning efforts and coordination funded by grants awarded under this section;
 - (3) the plans of grant recipients for continued implementation of the interstate rail compacts;
 - (4) the status of, and data regarding, any new, restored, or enhanced rail services initiated under the interstate rail compacts; and
 - (5) any legislative recommendations.

PART C—PASSENGER TRANSPORTATION

Chapter 241

Sec. 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 ~~throughout 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 ~~in order to meet the intercity passenger rail needs of the United States to Amtrak to achieve a performance level sufficient to justify expending public money.~~

(5) Modern and efficient ~~intercity passenger and~~ commuter rail passenger transportation is important to the viability and well-being of major urban ~~and rural~~ 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.

~~(9) Long-distance routes are valuable resources of the United States that are used by rural and urban communities.~~

(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 set forth in subsection (c).

(c) Goals.--Amtrak shall--

(1) use its best business judgment in acting to ~~maximize the benefits of Federal investments, minimize United States Government subsidies,~~ including--

(A) ~~offering competitive~~ ~~increasing~~ fares;

(B) increasing revenue from the transportation of mail and express;

(C) ~~offering food service that meets the needs of its customers~~ ~~reducing losses on food service;~~

(D) improving its contracts with ~~rail carriers over whose tracks Amtrak operates~~ ~~operating rail carriers;~~

(E) ~~controlling or~~ reducing management ~~and operating~~ costs; and

(F) ~~providing economic benefits to the communities it serves~~ ~~increasing employee productivity;~~

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- (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; and;
- (13) support and maintain established long-distance routes to provide value to the Nation by serving customers throughout the United States and connecting urban and rural communities.

(d) Increasing Revenues ~~Minimizing government subsidies.~~ ~~--To carry out subsection (c)(12) of this section,~~ Amtrak is encouraged to make agreements with the private sector entities and to undertake initiatives that are consistent with good business judgment and designed to generate additional maximize its revenues to advance the goals described in subsection (c) 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.~~

Chapter 243

Sec. 24302. Board of Directors

(a) Composition and terms.--

(1) The Amtrak Board of Directors (referred to in this section as the "Board") is composed of the following 10 directors, each of whom must be a citizen of the United States:

(A) The Secretary of Transportation.

(B) The **Chief Executive Officer ~~President~~** of Amtrak, who shall serve as a nonvoting member of the Board.

(C) 8 individuals appointed by the President of the United States, by and with the advice and consent of the Senate, with general business and financial experience, experience or qualifications in transportation, freight and passenger rail transportation, travel, hospitality, cruise line, or passenger air transportation businesses, or representatives of employees or users of passenger rail transportation or a State government, **at least 1 of whom shall be an individual with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)) who has a demonstrated history of, or experience with, accessibility, mobility, and inclusive transportation in passenger rail or commuter rail.**

(2) In selecting individuals described in paragraph (1) for nominations for appointments to the Board, the President shall consult with the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate **and try to provide adequate and balanced representation of the major geographic regions of the United States served by Amtrak.**

(3) An individual appointed under paragraph (1)(C) of this subsection shall be appointed for a term of 5 years. Such term may be extended until the individual's successor is appointed and qualified. Not more than 5 individuals appointed under paragraph (1)(C) may be members of the same political party.

(4) Of the individuals appointed pursuant to paragraph (1)(C)—

(A) 2 individuals shall reside in or near a location served by a regularly scheduled Amtrak service along the Northeast Corridor;

(B) 4 individuals shall reside in or near regions of the United States that are geographically distributed outside of the Northeast Corridor, of whom—

(i) 2 individuals shall reside in States served by a long-distance route operated by Amtrak;

(ii) 2 individuals shall reside in States served by a State-supported route operated by Amtrak; and

(iii) an individual who resides in a State that is served by a State-supported route and a long-distance route may be appointed to serve either position referred to in clauses (i) and (ii);

(C) 2 individuals shall reside either—

(i) in or near a location served by a regularly scheduled Amtrak service on the Northeast Corridor; or

(ii) in a State served by long-distance or a State-supported route; and

(D) each individual appointed to the Board pursuant to this paragraph may only fill 1 of the allocations set forth in subparagraphs (A) through (C).

(5) The Board shall elect a chairperson and vice chairperson, other than the Chief Executive Officer of Amtrak, from among its membership. The vice chairperson shall act as chairperson in the absence of the chairperson.

- (6) The Board shall meet at least annually with—
- (A) representatives of Amtrak employees;
 - (B) representatives of persons with disabilities; and
 - (C) the general public, in an open meeting with a virtual attendance option, to discuss financial performance and service results.

~~(4) The Board shall elect a chairman and a vice chairman, other than the President of Amtrak, from among its membership. The vice chairman shall serve as chairman in the absence of the chairman.~~

~~(7)~~ The Secretary may be represented at Board meetings by the Secretary's designee.

(b) Pay and expenses.--Each director not employed by the United States Government or Amtrak is entitled to reasonable pay when performing Board duties. Each director not employed by the United States Government is entitled to reimbursement from Amtrak for necessary travel, reasonable secretarial and professional staff support, and subsistence expenses incurred in attending Board meetings.

(c) Travel.—

(1) Each director not employed by the United States Government shall be subject to the same travel and reimbursable business travel expense policies and guidelines that apply to Amtrak's executive management when performing Board duties.

(2) Not later than 60 days after the end of each fiscal year, the Board shall submit a report describing all travel and reimbursable business travel expenses paid to each director when performing Board duties to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(3) The report submitted under paragraph (2) shall include a detailed justification for any travel or reimbursable business travel expense that deviates from Amtrak's travel and reimbursable business travel expense policies and guidelines.

(d) Vacancies.--A vacancy on the Board is filled in the same way as the original selection, except that an individual appointed by the President of the United States under subsection (a)(1)(C) of this section to fill a vacancy occurring before the end of the term for which the predecessor of that individual was appointed is appointed for the remainder of that term. A vacancy required to be filled by appointment under subsection (a)(1)(C) must be filled not later than 120 days after the vacancy occurs.

(e) Quorum.--A majority of the members serving who are eligible to vote shall constitute a quorum for doing business.

(f) Bylaws.--The Board may adopt and amend bylaws governing the operation of Amtrak. The bylaws shall be consistent with this part and the articles of incorporation.

Sec. 24305. General Authority

(a) Acquisition and operation of equipment and facilities.—

(1) Amtrak may acquire, operate, maintain, and make contracts for the operation and maintenance of equipment and facilities necessary for intercity and commuter rail

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passenger transportation, the transportation of mail and express, and auto-ferry transportation.

(2) Amtrak shall operate and control directly, to the extent practicable, all aspects of the rail passenger transportation it provides.

(3)

(A) Except as provided in subsection (d)(2), Amtrak may enter into a contract with a motor carrier of passengers for the intercity transportation of passengers by motor carrier over regular routes only--

(i) if the motor carrier is not a public recipient of governmental assistance, as such term is defined in section 13902(b)(8)(A) of this title, other than a recipient of funds under section 5311 of this title;

(ii) for passengers who have had prior movement by rail or will have subsequent movement by rail; and

(iii) if the buses, when used in the provision of such transportation, are used exclusively for the transportation of passengers described in clause

(ii).

(B) Subparagraph (A) shall not apply to transportation funded predominantly by a State or local government, or to ticket selling agreements.

(b) Maintenance and rehabilitation.--Amtrak may maintain and rehabilitate rail passenger equipment and shall maintain a regional maintenance plan that includes--

(1) a review panel at the principal office of Amtrak consisting of members the President of Amtrak designates;

(2) a systemwide inventory of spare equipment parts in each operational region;

(3) enough maintenance employees for cars and locomotives in each region;

(4) a systematic preventive maintenance program;

(5) periodic evaluations of maintenance costs, time lags, and parts shortages and corrective actions; and

(6) other elements or activities Amtrak considers appropriate.

(c) Miscellaneous authority.--Amtrak may--

(1) make and carry out appropriate agreements;

(2) transport mail and express and shall use all feasible methods to obtain the bulk mail business of the United States Postal Service;

(3) improve its reservation system and advertising;

(4) provide food and beverage services on its trains only if revenue from the services each year at least equal the cost of providing the services;

(5) conduct research, development, and demonstration programs related to the mission of Amtrak; and

(6) buy or lease rail rolling stock and develop and demonstrate improved rolling stock.

(d) Through routes and joint fares.—

(1) Establishing through routes and joint fares between Amtrak and other intercity rail passenger carriers and motor carriers of passengers is consistent with the public interest and the transportation policy of the United States. Congress encourages establishing those routes and fares.

(2) Amtrak may establish through routes and joint fares with any domestic or international motor carrier, air carrier, or water carrier.

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- (3) Congress encourages Amtrak and motor common carriers of passengers to use the authority conferred in sections 11322 and 14302 of this title for the purpose of providing improved service to the public and economy of operation.
- (e) Rail police.--Amtrak may directly employ or contract with rail police to provide security for rail passengers and property of Amtrak. Rail police directly employed by or contracted by Amtrak who have complied with a State law establishing requirements applicable to rail police or individuals employed in a similar position may be directly employed or contracted without regard to the law of another State containing those requirements.
- (f) Domestic buying preferences.—
- (1) In this subsection, “United States” means the States, territories, and possessions of the United States and the District of Columbia.
- (2) Amtrak shall buy only--
- (A) unmanufactured articles, material, and supplies mined or produced in the United States; or
- (B) manufactured articles, material, and supplies manufactured in the United States substantially from articles, material, and supplies mined, produced, or manufactured in the United States.
- (3) Paragraph (2) of this subsection applies only when the cost of those articles, material, or supplies bought is at least \$1,000,000.
- (4) On application of Amtrak, the Secretary of Transportation may exempt Amtrak from this subsection if the Secretary decides that--
- (A) for particular articles, material, or supplies--
- (i) the requirements of paragraph (2) of this subsection are inconsistent with the public interest;
- (ii) the cost of imposing those requirements is unreasonable; or
- (iii) the articles, material, or supplies, or the articles, material, or supplies from which they are manufactured, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and are not of a satisfactory quality; or
- (B) rolling stock or power train equipment cannot be bought and delivered in the United States within a reasonable time.

Sec. 24312. Labor Standards

- (a) Prevailing wages and health and safety standards.-- Amtrak shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed under an agreement made under section 24308(a) of this title will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under sections 3141-3144, 3146, and 3147 of title 40. Amtrak may make such an agreement only after being assured that required labor standards will be maintained on the construction work. Health and safety standards prescribed by the Secretary under section 3704 of title 40 apply to all construction work performed under such an agreement, except for construction work performed by a rail carrier.
- (b) Wage rates.--Wage in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed to comply with sections 3141-3144, 3146, and 3147 of title 40.

(c) Availability of station agents.—

(1) In General.—Except as provided in paragraph (2), beginning on the date that is 1 year after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, Amtrak shall ensure that at least 1 Amtrak ticket agent is employed at each station building—

(A) that Amtrak owns, or operates service through, as part of a long-distance or Northeast Corridor passenger service route;

(B) where at least 1 Amtrak ticket agent was employed on or after October 1, 2017; and

(C) for which an average of 40 passengers boarded or disembarked an Amtrak train per day during all of the days in fiscal year 2017 when the station was serviced by Amtrak, regardless of the number of Amtrak trains servicing the station per day.

(2) Exception.—Paragraph (1) shall not apply to any station building in which a commuter rail ticket agent has the authority to sell Amtrak tickets.

Sec. 24315. Reports and Audits

(a) Amtrak annual operations report.--Not later than February 15 of each year, Amtrak shall submit to Congress a report that--

(1) for each route on which Amtrak provided intercity rail passenger transportation during the prior fiscal year, includes information on--

(A) ridership;

(B) passenger-miles;

(C) the short-term avoidable profit or loss for each passenger-mile;

(D) the revenue-to-cost ratio;

(E) revenues;

(F) the United States Government subsidy;

(G) the subsidy not provided by the United States Government; and

(H) on-time performance; and

(I) any change made to a route's or service's frequency or station stops;

(2) provides relevant information about a decision to pay an officer of Amtrak more than the rate for level I of the Executive Schedule under section 5312 of title 5; and

(3) specifies--

(A) significant operational problems Amtrak identifies; and

(B) proposals by Amtrak to solve those problems.

(b) Amtrak general and legislative annual report.—

(1) Not later than February 15 of each year, Amtrak shall submit to the President and Congress a complete report of its operations, activities, and accomplishments, including a statement of revenues and expenditures for the prior fiscal year. The report--

(A) shall include a discussion and accounting of Amtrak's success in meeting the goal described in section 24902(a); the goal of section 24902(b) of this title; and

(B) may include recommendations for legislation, including the amount of financial assistance needed for operations and capital improvements, the method of computing the assistance, and the sources of the assistance; and;

(C) shall incorporate the category described in section 24319(c)(2)(C).

(2) Amtrak may submit reports to the President and Congress at other times Amtrak considers desirable.

(c) Secretary's report on effectiveness of this part.--The Secretary of Transportation shall prepare a report on the effectiveness of this part in meeting the requirements for a balanced transportation system in the United States. The report may include recommendations for legislation. The Secretary shall include this report as part of the annual report the Secretary submits under section 308(a) of this title.

(d) Independent audits.--An independent certified public accountant shall audit the financial statements of Amtrak each year. The audit shall be carried out at the place at which the financial statements normally are kept and under generally accepted auditing standards. A report of the audit shall be included in the report required by subsection (a) of this section.

(e) Comptroller General audits.--The Comptroller General may conduct performance audits of the activities and transactions of Amtrak. Each audit shall be conducted at the place at which the Comptroller General decides and under generally accepted management principles. The Comptroller General may prescribe regulations governing the audit.

(f) Availability of records and property of Amtrak and rail carriers.--Amtrak and, if required by the Comptroller General, a rail carrier with which Amtrak has made a contract for intercity rail passenger transportation shall make available for an audit under subsection (d) or (e) of this section all records and property of, or used by, Amtrak or the carrier that are necessary for the audit. Amtrak and the carrier shall provide facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. Amtrak and the carrier may keep all reports and property.

(g) Comptroller General's report to Congress.--The Comptroller General shall submit to Congress a report on each audit, giving comments and information necessary to inform Congress on the financial operations and condition of Amtrak and recommendations related to those operations and conditions. The report also shall specify any financial transaction or undertaking the Comptroller General considers is carried out without authority of law. When the Comptroller General submits a report to Congress, the Comptroller General shall submit a copy of it to the President, the Secretary, and Amtrak at the same time.

(h) Access to records and accounts.--A State shall have access to Amtrak's records, accounts, and other necessary documents used to determine the amount of any payment to Amtrak required of the State.

Sec. 24317. Accounts

(a) Purpose.--The purpose of this section is to--

(1) promote the effective use and stewardship by Amtrak of Amtrak revenues, Federal, State, and third party investments, appropriations, grants and other forms of financial assistance, and other sources of funds; and

(2) enhance the transparency of the assignment of revenues **including Federal grant funds, and costs among Amtrak service lines** ~~and costs among Amtrak business lines~~ while ensuring the health of the Northeast Corridor and National Network.

(b) Account structure.—

(1) ~~In General.—Not later than 180 days after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, the~~ The Secretary of Transportation, in consultation with Amtrak, shall define, maintain and periodically update an account structure and improvements to accounting methodologies, as necessary, to support, ~~at a minimum,~~ the Northeast Corridor and the National Network.

(2) Notification of Substantive Changes.—The Secretary shall notify the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Appropriations of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Appropriations of the House of Representatives regarding any substantive changes made to the account structure, including changes to—

(A) the service lines described in section 24320(b)(1); and

(B) the asset lines described in section 24320(c)(1).

(c) Financial sources.--In defining, maintaining, and updating the account structure and improvements to accounting methodologies required under subsection (b), the Secretary shall ensure, to the greatest extent practicable, that Amtrak assigns the following:

(1) For the Northeast Corridor account, all revenues, appropriations, grants and other forms of financial assistance, compensation, and other sources of funds associated with the Northeast Corridor, including--

(A) grant funds appropriated for the Northeast Corridor pursuant to section 11101(a) of the Passenger Rail Reform and Investment Act of 2015 or any subsequent Act;

(B) compensation received from commuter rail passenger transportation providers for such providers' share of capital and operating costs 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 24318.

(2) For the National Network account, all revenues, appropriations, grants and other forms of financial assistance, compensation, and other sources of funds associated with the National Network, including--

(A) grant funds appropriated for the National Network pursuant to section 11101(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);¹ and

(C) any operating surplus of the National Network, as allocated pursuant to section 24318.

(d) Financial uses.--In defining, maintaining, and updating the account structure and improvements to accounting methodologies required under subsection (b), the Secretary shall ensure, to the greatest extent practicable, that amounts assigned to the Northeast Corridor and National Network accounts shall be used by Amtrak for the following:

(1) For the Northeast Corridor, all associated costs, including--

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- (A) operating activities;
 - (B) capital activities as described in section 24904(a)(2)(E);
 - (C) acquiring, rehabilitating, manufacturing, remanufacturing, overhauling, or improving equipment and associated facilities used for intercity rail passenger transportation by Northeast Corridor train services;
 - (D) payment of principal and interest on loans for capital projects described in this paragraph or for capital leases attributable to the Northeast Corridor;
 - (E) other capital projects on the Northeast Corridor, determined appropriate by the Secretary, and consistent with section 24905(c)(1)(A)(i); and
 - (F) if applicable, capital projects described in section 24904(b).
- (2) For the National Network, all associated costs, including--
- (A) operating activities;
 - (B) capital activities; and
 - (C) the payment of principal and interest on loans or capital leases attributable to the National Network.
- (e) Implementation and reporting.--
- (1) In general.--~~Not later than 1 year after the date of enactment of the Passenger Rail Reform and Investment Act of 2015,~~ Amtrak, in consultation with the Secretary of Transportation, shall maintain and implement any account structures and improvements defined under subsection (b) ~~to enable so that~~ Amtrak ~~is able~~ to produce ~~sources and uses statements for each of the service lines~~ ~~profit and loss statements for each of the business lines~~ described in section 24320(b)(1) and, as appropriate, each of the asset ~~lines~~ ~~categories~~ described in section 24320(c)(1), that identify sources and uses of ~~revenues, appropriations, and transfers between accounts.--~~
- ~~(A) revenues;~~
 - ~~(B) appropriations; and~~
 - ~~(C) transfers between business lines.~~
- (2) Updated ~~sources and uses statements~~ ~~profit and loss statements~~.--Not later than 30 days ~~1 month~~ after the implementation of subsection (b) ~~under paragraph (1)~~, and monthly thereafter, Amtrak shall submit to the Secretary of Transportation updated ~~sources and uses~~ ~~profit and loss~~ statements for each of the ~~service~~ ~~business~~ lines and asset ~~lines~~ referred to in paragraph (1) ~~categories to the Secretary~~. The Secretary and Amtrak may agree to a different frequency of reporting.
- (f) Account management.--For the purposes of account management, Amtrak may transfer funds between the Northeast Corridor account and National Network account without prior notification and approval under subsection (g) if such transfers--
- (1) do not materially impact Amtrak's ability to achieve its anticipated financial, capital, and operating performance goals for the fiscal year; and
 - (2) would not materially change any grant agreement entered into pursuant to section 24319(d), or other agreements made pursuant to applicable Federal law.
- (g) Transfer authority.--
- (1) In general.--If Amtrak determines that a transfer between the accounts defined under subsection (b) does not meet the account management standards established under

subsection (f), Amtrak may transfer funds between the Northeast Corridor and National Network accounts if--

(A) Amtrak notifies the Amtrak Board of Directors, including the Secretary, at least 10 days prior to the expected date of transfer; and

(B) solely for a transfer that will materially change a grant agreement, the Secretary approves.

(2) Report.--Not later than 5 days after the Amtrak Board of Directors receives notification from Amtrak under paragraph (1)(A), the Board shall transmit 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, a report that includes--

(A) the amount of the transfer; and

(B) a detailed explanation of the reason for the transfer, including--

(i) the effects on Amtrak services funded by the account from which the transfer is drawn, in comparison to a scenario in which no transfer was made; and

(ii) the effects on Amtrak services funded by the account receiving the transfer, in comparison to a scenario in which no transfer was made.

(3) Notifications.--Not later than 5 days after the date that Amtrak notifies the Amtrak Board of Directors of a transfer under paragraph (1) to or from an account, Amtrak shall transmit to the State-Supported Route Committee and Northeast Corridor Commission a letter that includes the information described under subparagraphs (A) and (B) of paragraph (2).

~~(h) Report.--Not later than 2 years after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, Amtrak shall submit to the Secretary a report assessing the account and reporting structure established under this section and providing any recommendations for further action. Not later than 180 days after the date of receipt of such report, the Secretary shall provide an assessment that supplements Amtrak's report and submit the Amtrak report with the supplemental assessment to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.~~

(h) Definition of Northeast Corridor.--Notwithstanding section 24102, for purposes of this section, 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.

Sec. 24318. Costs and Revenues

(a) Allocation.--~~Not later than 180 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, revenues, and other compensation are appropriately allocated to the Northeast Corridor, including train services or infrastructure, or the National Network, including proportional shares of common and fixed costs.

(b) Rule of construction.--Nothing in this section shall be construed to limit the ability of Amtrak to enter into an agreement with 1 or more States to allocate operating and capital costs under section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note).

(c) Definition of Northeast Corridor.--Notwithstanding section 24102, for purposes of this section, 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.

Sec. 24319. Grant Process and reporting

(a) Procedures for grant requests.— The Secretary of Transportation shall—

(1) establish and maintain substantive and procedural requirements, including schedules, for grant requests under this section; and

(2) report any changes to such procedures to—

(A) the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Committee on Appropriations of the Senate;

(C) the Committee on Transportation and Infrastructure of the House of Representatives; and

(D) the Committee on Appropriations of the House of Representatives.

~~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 and transmit to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives substantive and procedural requirements, including schedules, for grant requests under this section.~~

(b) Grant requests.--Amtrak shall transmit to the Secretary a grant request annually, or as additionally required, grant requests for Federal funds appropriated to the Secretary of Transportation for the use of Amtrak.

(c) Contents.--~~A grant request under subsection (b) shall, as applicable--~~

(1) In General.—Each grant request under subsection (b) shall, as applicable—

~~(1) describe projected operating and capital costs for the upcoming fiscal year for Northeast Corridor activities, including train services and infrastructure, and National Network activities, including State-supported routes and long-distance routes, in comparison to prior fiscal year actual financial performance;~~

(A) categorize and identify, by source, the Federal funds and program income that will be used for the upcoming fiscal year for each of the Northeast Corridor and National Network in 1 of the categories or subcategories set forth in paragraph (2);

(B) describe the operations, services, programs, projects, and other activities to be funded within each of the categories set forth in paragraph (2), including—

(i) the estimated scope, schedule, and budget necessary to complete each project and program; and

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(ii) the performance measures used to quantify expected and actual project outcomes and benefits, aggregated by fiscal year, project milestone, and any other appropriate grouping; and

(C) describe the status of efforts to improve Amtrak's safety culture.

(2) Grant Categories.—

(A) Operating expenses.—Each grant request to use Federal funds for operating expenses shall—

(i) include estimated net operating costs not covered by other Amtrak revenue sources;

(ii) specify Federal funding requested for each service line described in section 24320(b)(1); and

(iii) be itemized by route.

(B) Debt service.—A grant request to use Federal funds for expenses related to a debt, including payment of principle and interest, as allowed under section 205 of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110-432; 49 U.S.C. 24101 note).

(C) Capital.—A grant request to use Federal funds and program income for capital expenses shall include capital projects and programs primarily associated with—

(i) normalized capital replacement programs, including regularly recurring work

programs implemented on a systematic basis on classes of physical railroad assets, such as track, structures, electric traction and power systems, rolling stock, and communications and signal system, to maintain and sustain the condition and performance of such assets to support continued railroad operations;

(ii) improvements projects to support service and safety enhancements, including discrete projects implemented in accordance with a fixed scope, schedule, and budget that result in enhanced or new infrastructure, equipment, or facilities;

(iii) backlog capital replacement projects, including discrete projects implemented in accordance with a fixed scope, schedule, and budget that primarily replace or rehabilitate major infrastructure assets, including tunnels, bridges, stations, and similar assets, to reduce the state of good repair backlog on the Amtrak network;

(iv) strategic initiative projects, including discrete projects implemented in accordance with a fixed scope, schedule, and budget that primarily improve overall operational performance, lower costs, or otherwise improve Amtrak's corporate efficiency; and

(v) statutory, regulatory, or other legally mandated projects, including discrete projects implemented in accordance with a fixed scope, schedule, and budget that enable Amtrak to fulfill specific legal or regulatory mandates.

(D) Contingency.—A grant request to use Federal funds for operating and capital expense contingency shall include—

(i) contingency levels for specified activities and operations; and

(ii) a process for the utilization of such contingency.

(3) Modification of Categories.—The Secretary of Transportation and Amtrak may jointly agree to modify the categories set forth in paragraph (2) if such modifications are necessary to improve the transparency, oversight, or delivery of projects funded through grant requests under this section.

~~(2) describe the capital projects to be funded, with cost estimates and an estimated timetable for completion of the projects covered by the request;~~

~~(3) assess Amtrak's financial condition; and~~

~~(4) describe the status of efforts to improve safety and security on the Northeast Corridor main line, including a description of any efforts to implement recommendations of relevant railroad safety advisory committees.~~

(d) Review and approval.--

(1) Thirty-day approval process.--

(A) In general.--Not later than 30 days after the date that Amtrak submits a complete grant request under this section, the Secretary of Transportation shall finish ~~shall complete~~ a review of the request and provide notice to Amtrak that--

(i) the request is approved; or

(ii) the request is disapproved, including the reason for the disapproval and an explanation of any ~~incomplete or~~ deficient items.

(B) Grant agreement.--If a grant request is approved, the Secretary shall enter into a grant agreement with Amtrak.

(2) Fifteen-day modification period.--Not later than 15 days after the date of a notice under paragraph (1)(A)(ii), Amtrak shall submit a modified request for the Secretary's review.

(3) Modified requests.--Not later than 15 days after the date that Amtrak submits a modified request under paragraph (2), 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 Commerce, Science, and Transportation and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives the remaining deficiencies and recommend a process for resolving the outstanding portions of the request.

(e) Payments to Amtrak.--

(1) In general.--A grant agreement entered into under subsection (d) shall specify the operations, services, ~~programs, projects, and other activities to be funded by the grant, consistent with the categories required for Amtrak in a grant request under subsection (c)(1)(A) and other activities to be funded by the grant.~~ The grant agreement shall include provisions, consistent with the requirements of this chapter, to measure Amtrak's performance and ensure accountability in delivering the operations, services, ~~programs, projects, or other activities~~ or activities to be funded by the grant.

(2) Schedule.--Except as provided in paragraph (3), in each fiscal year for which amounts are appropriated to the Secretary for the use of Amtrak, and for which the Secretary and

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Amtrak have entered into a grant agreement under subsection (d), the Secretary shall disburse grant funds to Amtrak on the following schedule:

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

(3) Exceptions.--The Secretary may make a payment to Amtrak of appropriated funds—
(A) using an otherwise allowable approach to the method prescribed for a specific project or category of projects under paragraph (2) if the Secretary and Amtrak agree that a different payment method is necessary to more successfully implement and report on an operation, service, program, project, or other activity;
(~~BA~~) more frequently than the schedule under paragraph (2) if Amtrak, for good cause, requests more frequent payment before the end of a payment period; or
(~~CB~~) with a different frequency or in different percentage allocations in the event of a continuing resolution or in the absence of an appropriations Act for the duration of a fiscal year.

(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 cross-subsidize operating losses or capital costs of commuter rail passenger or freight rail transportation.

(h) **Applicable Laws and Regulations.**—

(1) **Single Audit Act of 1984.**—Notwithstanding section 24301(a)(3) of this title and section 7501(a)(13) of title 31, Amtrak shall be deemed a ‘non-Federal entity’ for purposes of chapter 75 of title 31.

(2) **Regulations and guidance.**—The Secretary of Transportation may apply some or all of the requirements set forth in the regulations and guidance promulgated by the Secretary relating to the management, administration, cost principles, and audit requirements for Federal awards.

(i) **Amtrak Grant Reporting.**—The Secretary of Transportation shall determine the varying levels of detail and information that will be included in reports for operations, services, program, projects, program income, cash on hand, and other activities within each of the grant categories described in subsection (c)(2).

(~~jh~~) **Definition of Northeast Corridor.**--Notwithstanding section 24102, for purposes of this section, 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.

Sec. 24320. Amtrak 5-Year service line and asset line plans Business Line and Asset Plans

(a) In general.--

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(1) Final plans.--Not later than February 15, 2020 and biennially thereafter ~~of each year~~, Amtrak shall submit to Congress and the Secretary of Transportation final ~~5-year service line plans and 5-year asset line plans~~ 5-year business line plans and 5-year asset plans prepared in accordance with this section. These final plans shall form the basis for Amtrak's general and legislative annual report to the President and Congress required by section 24315(b). Each plan shall cover a period of 5 fiscal years, beginning with the first fiscal year after the date on which the plan is completed. ~~During each year in which Amtrak is not required to submit a plan under this paragraph, Amtrak shall submit to Congress updated financial sources and uses statements and forecasts with the annual report required under section 24315(b).~~

(2) Fiscal constraint.--Each plan prepared under this section shall be based on funding levels authorized or otherwise available to Amtrak in a fiscal year. In the absence of an authorization or appropriation of funds for a fiscal year, the plans shall be based on the amount of funding available in the previous fiscal year, plus inflation. Amtrak may include an appendix to the ~~asset line plan required under~~ asset plan required in subsection (c) that describes any funding needs in excess of amounts authorized or otherwise available to Amtrak in a fiscal year.

(b) Amtrak 5-year ~~service business~~ line plans.--

(1) Amtrak ~~service business~~ lines.--Amtrak shall prepare a 5-year ~~service business~~ line plan for each of the following business lines and services:

(A) Northeast Corridor train services.

(B) ~~Amtrak State-supported train services~~ State-supported routes operated by Amtrak.

(C) Long-distance ~~train services~~ routes operated by Amtrak.

(D) Ancillary services operated by Amtrak, including commuter operations and other revenue generating activities as determined by the Secretary in coordination with Amtrak.

~~(E) Infrastructure access services for use of Amtrak-owned or Amtrak-controlled infrastructure and facilities.~~

(2) Contents of 5-year ~~service business~~ line plans.--The 5-year ~~service business~~ line plan for each ~~service business~~ line shall include, at a minimum--

(A) a statement of Amtrak's objectives, goals, and service plan for the ~~service business~~ line, in consultation with any entities that are contributing capital or operating funding to support passenger rail services within those business lines, and aligned with Amtrak's ~~5-year asset line plans~~ Strategic Plan and 5-year asset plans under subsection (c);

~~(B) a detailed description of any plans to permanently change a route's or service's frequency of station stops for the service line;~~

~~(C)~~ all projected revenues and expenditures for the ~~service business~~ line, including identification of revenues and expenditures incurred by--

(i) passenger operations;

(ii) non-passenger operations that are directly related to the ~~service business~~ line; and

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- (iii) governmental funding sources, including revenues and other funding received from States;
 - ~~(D)~~ projected ridership levels for all passenger operations;
 - ~~(E)~~ estimates of long-term and short-term debt and associated principal and interest payments (both current and forecasts);
 - ~~(F)~~ annual **sources and uses** ~~profit and loss~~ statements and forecasts and balance sheets;
 - ~~(F)~~ **annual cash flow forecasts;**
 - (G) a statement describing the methodologies and significant assumptions underlying estimates and forecasts;
 - (H) specific performance measures that demonstrate year over year changes in the results of Amtrak's operations;
 - (I) financial performance for each route, **if deemed applicable by the Secretary,** within each **service business** line, including descriptions of the cash operating loss or contribution **and productivity for each route;**
 - (J) specific costs and savings estimates resulting from reform initiatives;
 - (K) prior fiscal year and projected equipment reliability statistics; and
 - (L) an identification and explanation of any major adjustments made from previously-approved plans.
- (3) 5-year **service business** line plans process.--In meeting the requirements of this section, Amtrak shall--
- (A) not later than 180 days after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, submit to the Secretary, for approval, a consultation process for the development of each service line plan that requires Amtrak to—**
 - ~~(iA)~~ consult with the Secretary in the development of the **service business** line plans;
 - ~~(iiB)~~ for the Northeast Corridor **service business** line plan, consult with the Northeast Corridor Commission and transmit to the Commission the final plan under subsection (a)(1), and consult with other entities, as appropriate;
 - ~~(iiiC)~~ for the State-supported route **service business** line plan, consult with the State-Supported Route Committee established under section 24712 **and submit the final service line plan required under subsection (a)(1) to the State-Supported Route Committee;**
 - ~~(ivD)~~ for the long-distance route **service business** line plan, consult with any States or Interstate Compacts that provide funding for such routes, as appropriate; **and**
 - (v) for the infrastructure access service line plan, consult with the Northeast Corridor Commission and other entities, as appropriate, and submit the final asset line plan under subsection (a)(1) to the Northeast Corridor Commission;**

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(~~BE~~) ensure that Amtrak's general and legislative annual report, required under section 24315(b), to the President and Congress is consistent with the information in the 5-year service business line plans; and

(~~CE~~) identify the appropriate Amtrak officials that are responsible for each service business line.

(4) 5-year Service line plans updates.—Amtrak may modify the content to be included in the service line plans described in paragraph (1), upon the approval of the Secretary, if the Secretary determines that such modifications are necessary to improve the transparency, oversight, and delivery of Amtrak services and the use of Federal funds by Amtrak.

(~~5A~~) Definition of Northeast Corridor.--Notwithstanding section 24102, for purposes of this section, 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.

(c) Amtrak 5-year asset line plans.--

(1) Asset lines categories.--Amtrak shall prepare a 5-year asset line plan for each of the following asset lines asset plan for each of the following asset categories:

(A) Transportation, including activities and resources associated with the operation and movement of Amtrak trains, onboard services, and amenities.

(~~BA~~) Infrastructure, including all Amtrak-controlled Northeast Corridor assets and other Amtrak-owned infrastructure, and the associated facilities and maintenance-of-way equipment that support the operation, maintenance, and improvement of those assets.

(~~CB~~) Equipment Passenger rail equipment, including all Amtrak-controlled rolling stock, locomotives, and mechanical shop facilities that are used to overhaul equipment.

(~~DC~~) Stations, including all Amtrak-controlled passenger rail stations and elements of other stations for which Amtrak has legal responsibility or intends to make capital investments.

(~~ED~~) National assets, including national reservations, security, training and training centers, and other assets associated with Amtrak's national rail passenger transportation system.

(2) Contents of 5-year asset line plans.--Each asset line plan shall include, at a minimum—

(A) a summary of Amtrak's 5-year strategic plan for each asset line category, including goals, objectives, any relevant performance metrics, and statutory or regulatory actions affecting the assets;

(B) an inventory of existing Amtrak capital assets, to the extent practicable, including information regarding shared use or ownership, if applicable;

(C) a prioritized list of proposed capital investments that--

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

(I) normalized capital replacement;

(II) backlog capital replacement;

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- (III) improvements to support service enhancements or growth;
 - (IV) strategic initiatives that will improve overall operational performance, lower costs, or otherwise improve Amtrak's corporate efficiency; or
 - (V) statutory, regulatory, or other legal mandates;
 - (ii) identifies each project or program that is associated with more than 1 category described in clause (i); and
 - (iii) describes the anticipated business outcome of each project or program identified under this subparagraph, including an assessment of--
 - (I) the potential effect on passenger operations, safety, reliability, and resilience;
 - (II) the potential effect on Amtrak's ability to meet regulatory requirements if the project or program is not funded; and
 - (III) the benefits and costs; and
 - (D) annual ~~sources and uses profit and loss~~ statements and forecasts for each asset line; and ~~and balance sheets for each asset category.~~
 - (E) other elements that Amtrak elects to include.
- (3) 5-Year asset line plan process.--In meeting the requirements of this subsection, Amtrak shall--
- (A) not later than 180 days after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, submit to the Secretary, for approval, a consultation process for the development of each asset line plan that requires Amtrak to—
 - (iA) consult with each ~~service business~~ line described in subsection (b)(1) in the preparation of each 5-year asset line plan and ensure integration of each 5-year asset line plan with the 5-year ~~service business~~ line plans; and
 - (iiB) consult with the Secretary of Transportation in the development of asset line plans, and as applicable, consult with the Northeast Corridor Commission, the State-Supported Route Committee, and owners of assets affected by 5-year asset line plans; and
 - (BC) identify the appropriate Amtrak officials that are responsible for each asset line ~~category~~.
- (4) 5-year asset line plan updates.—Amtrak may modify the content to be included in the asset line plans described in paragraph (1), on approval of the Secretary, if the Secretary determines that such modifications are necessary to improve the transparency, oversight, and delivery of Amtrak services and the use of Federal funds by Amtrak.
- (54) Evaluation of national assets costs.--The Secretary shall--
- (A) evaluate the costs and scope of all national assets, but shall not include corporate services (as defined pursuant to section 24317(b)); and
 - (B) determine the activities and costs that are--
 - (i) required in order to ensure the efficient operations of a national rail passenger system;
 - (ii) appropriate for allocation to 1 of the other Amtrak business lines; and

(iii) extraneous to providing an efficient national rail passenger system or are too costly relative to the benefits or performance outcomes they provide.

(6~~5~~) Definition of national assets.--In this section, the term “national assets” means the Nation's core rail assets shared among Amtrak services, including national reservations, security, training and training centers, and other assets associated with Amtrak's national rail passenger transportation system.

(7~~6~~) Restructuring of national assets.--Not later than 1 year after the date of completion of the evaluation under ~~paragraph (5) paragraph (4)~~, the Administrator of the Federal Railroad Administration, in consultation with the Amtrak Board of Directors, the governors of each relevant State, and the Mayor of the District of Columbia, or their designees, shall restructure or reallocate, or both, the national assets costs in accordance with the determination under that section, including making appropriate updates to Amtrak's cost accounting methodology and system.

(8~~7~~) Exemption.--

(A) In general.--Upon written request from the Amtrak Board of Directors, the Secretary may exempt Amtrak from including in a plan required under this subsection any information described in paragraphs (1) and (2).

(B) Public availability.--The Secretary shall make available to the public on the Department's Internet Web site any exemption granted under subparagraph (A) and a detailed justification for granting such exemption.

(C) Inclusion in plan.--Amtrak shall include in the plan required under this subsection any request granted under subparagraph (A) and justification under subparagraph (B).

(d) Standards to promote financial stability.--In preparing plans under this section, Amtrak shall—

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

(2) use the categories specified in the financial accounting and reporting system developed under section 203 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note).

Sec. 24321. Food and beverage service ~~Food and Beverage Reform~~

(a) Working Group.—

(1) Establishment.—Not later than 180 days after enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, Amtrak shall establish a working group to provide recommendations to improve Amtrak’s onboard food and beverage service.

(2) Membership.—The working group shall consist of individuals representing—

(A) Amtrak;

(B) the labor organizations representing Amtrak employees who prepare or provide onboard food and beverage service;

(C) nonprofit organizations representing Amtrak passengers; and

(D) States that are providing funding for State-supported routes.

~~(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) Report.—Not later than 1 year after the establishment of the working group pursuant to subsection (a), the working group shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives containing recommendations for improving Amtrak’s food and beverage service, including—~~

~~(1) ways to improve the financial performance of Amtrak;~~

~~(2) ways to increase and retain ridership;~~

~~(3) the differing needs of passengers traveling on long-distance routes, State supported routes, and the Northeast Corridor;~~

~~(4) Amtrak passenger survey data about the food and beverages offered on Amtrak trains;~~

~~(5) ways to incorporate local food and beverage items on State-supported routes; and~~

~~(6) any other issue that the working group determines to be appropriate.~~

~~(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.~~

~~(c) Implementation.—Not later than 180 days after the submission of the report pursuant to subsection (b), Amtrak shall submit a plan for implementing the recommendations of the working group, and an explanation for any of the working group’s recommendations it does not agree with and does not plan on implementing to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.~~

~~(de) Savings clause.--Amtrak shall ensure that no Amtrak employee who held a holding a position on a long-distance or Northeast Corridor route as of the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, Passenger Rail Reform and Investment Act of 2015 is involuntarily separated because of ~~—(1)~~ the development and implementation of the plan required under this section. ~~subsection (a); or~~~~

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

~~(d) 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.~~

Sec. 24323. Prohibition on smoking on Amtrak trains

(a) Prohibition.—Beginning on the date of enactment of this section, Amtrak shall prohibit smoking, including the use of electronic cigarettes, onboard all Amtrak trains.

(b) Electronic cigarette defined.—In this section, the term ‘electronic cigarette’ means a device that delivers nicotine or other substances to a user of the device in the form of a vapor that is inhaled to simulate the experience of smoking.

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Sec. 24706. Discontinuance

(a) Notice of discontinuance.—

(1) Except as provided in ~~subsection (c), not later than 180 days~~ ~~subsection (b) of this section, at least 180 days~~ before 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 paragraph (1) shall be posted in all stations served by the train to be discontinued at least 14 days before the discontinuance.

~~(b) Discontinuance or substantial alternation of long-distance routes.—Except as provided in subsection (c), in an emergency, or during maintenance or construction outages impacting Amtrak routes, Amtrak may not discontinue, reduce the frequency of, suspend, or substantially alter the route of rail service on any segment of any long-distance route in any fiscal year in which Amtrak receives adequate Federal funding for such route on the National Network.~~

~~(c)~~ Discontinuance for lack of appropriations.—

(1) Amtrak may discontinue service under 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.

~~(d) Congressional notification or discontinuance.—Except as provided in subsection (c), not later than 210 days before discontinuing service over a route, Amtrak shall give written notice of such discontinuance to all of the members of Congress representing any State or district in which the discontinuance would occur.~~

~~(e)~~ 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).

Sec. 24712. State-Supported Routes Operated by Amtrak

(a) State-Supported Route Committee.--

(1) Establishment.—~~There is established Not later than 180 days after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, the Secretary of Transportation shall establish~~ the State-Supported Route Committee (referred to in this section as the “Committee”) to promote mutual cooperation and planning pertaining to the **current and future** rail operations of Amtrak and related activities of trains operated by Amtrak 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.--

(A) In general.--The Committee shall consist of--

- (i) members representing Amtrak;
- (ii) members representing the Department of Transportation, including the Federal Railroad Administration; and
- (iii) members representing States.

(B) Non-voting members.--The Committee may invite and accept other non-voting members to participate in Committee activities, as appropriate.

(3) Decisionmaking.--The Committee shall establish a bloc voting system under which, at a minimum--

(A) there are 3 separate voting blocs to represent the Committee's voting members, including--

- (i) 1 voting bloc to represent the members described in paragraph (2)(A)(i);
- (ii) 1 voting bloc to represent the members described in paragraph (2)(A)(ii); and
- (iii) 1 voting bloc to represent the members described in paragraph (2)(A)(iii);

(B) each voting bloc has 1 vote;

(C) the vote of the voting bloc representing the members described in paragraph (2)(A)(iii) requires the support of at least two-thirds of that voting bloc's members; and

(D) the Committee makes decisions by unanimous consent of the 3 voting blocs.

(4) Ability to conduct certain business.—If all of the members of 1 voting bloc described in paragraph (3) abstain from a Committee decision, agreement between the other 2 voting blocs consistent with the procedures set forth in such paragraph shall be deemed sufficient for purpose of achieving unanimous consent.

(5) Meetings; rules and procedures.--The Committee shall define and periodically update ~~convene a meeting and shall define and implement~~ the rules and procedures governing the Committee's proceedings ~~not later than 180 days after the date of establishment of the Committee by the Secretary~~. The rules and procedures shall--

(A) incorporate and further describe the decisionmaking procedures to be used in accordance with paragraph (3); and

(B) be adopted in accordance with such decisionmaking procedures.

(65) Committee decisions.--Decisions made by the Committee in accordance with the Committee's rules and procedures, once established, are binding on all Committee members.

(76) Cost ~~methodology policy allocation methodology~~--

(A) In general.--Subject to subparagraph (B), the Committee may amend the cost ~~methodology policy allocation methodology~~ required and previously approved under section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note).

(B) Revisions to cost methodology policy.—

(i) Requirement to revise and update.—Subject to rules and procedures established pursuant to clause (iii), not later than March 31, 2022, the Committee shall revise and update the cost methodology policy required and previously approved under section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 20901 note). The Committee shall implement a revised cost methodology policy during fiscal year 2023. Not later than 30 days after the adoption of the revised cost methodology policy, the Committee shall submit a report documenting and explaining any changes to the cost methodology policy and plans for implementation of such policy, including a description of the improvements to the accounting information provided by Amtrak to the States, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The revised cost methodology policy shall ensure that States will be responsible for costs attributable to the provision of service for their routes.

(ii) Implementation impacts on federal funding.—To the extent that a revision developed pursuant to clause (i) assigns to Amtrak costs that were previously allocated to States, Amtrak shall request with specificity such additional funding in the general and legislative annual report required under section 24315 or in any appropriate subsequent Federal funding request for the fiscal year in which the revised cost methodology policy will be implemented.

(iii) Procedures for changing methodology.—Notwithstanding section 209(b) of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 20901 note), the rules and procedures implemented pursuant to paragraph (5) shall include—

(I) procedures for changing the cost methodology policy in accordance with clause (i); and

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(II) procedures or broad guidelines for conducting financial planning, including operating and capital forecasting, reporting, data sharing, and governance.

~~(B) Procedures for changing methodology.—The rules and procedures implemented under paragraph (4) shall include procedures for changing the cost allocation methodology.~~

(C) Requirements.—The cost methodology policy ~~allocation methodology~~ shall--

- (i) ensure equal treatment in the provision of like services of all States and groups of States; ~~and~~
- (ii) allocate to each route the costs incurred only for the benefit of that route and a proportionate share, based upon factors that reasonably reflect relative use, of costs incurred for the common benefit of more than 1 route and; ~~;~~
- (iii) promote increased efficiency in Amtrak’s operating and capital activities.

(D) Independent evaluation.—Not later than March 31 of each year, the Committee shall ensure that an independent entity selected by the Committee has completed an evaluation to determine whether State payments for the most recently concluded fiscal year are accurate and comply with the applicable cost allocation methodology.

~~(b) Invoices and reports.—Not later than April 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. The Committee shall determine the frequency and contents of financial and performance reports that Amtrak shall provide to the States, as well as the planning and demand reports that the States shall provide to Amtrak.~~

~~(1) Invoices.—Amtrak shall provide monthly invoices to the Committee and to each State that sponsors a State-supported route that identify the operating costs for such route, including fixed costs and third-party costs.~~

~~(2) Reports.—~~

~~(A) In General.—The Committee shall determine the frequency and contents of—~~

- ~~(i) the financial and performance reports that Amtrak is required to provide to the Committee and the States; and~~
- ~~(ii) the planning and demand reports that the States are required to provide to the Committee and Amtrak.~~

~~(B) Monthly statistical report.—~~

~~(i) Development.—Consistent with the revisions to the policy required under subsection (a)(7)(B), the Committee shall develop a report that contains the general ledger data and operating statistics from Amtrak’s accounting systems used to calculate payments to States.~~

~~(ii) Provision of necessary data.—Not later than 30 days after the last day of each month, Amtrak shall provide to the States and to the Committee the necessary data to complete the report developed pursuant to clause (i) for such month.~~

(c) Dispute resolution.--

(1) Request for dispute resolution.--If a dispute arises with respect to the rules and procedures implemented under subsection (a)(5) ~~(a)(4)~~, an invoice or a report provided under subsection (b), implementation or compliance with the cost allocation methodology developed under section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note) or amended under subsection (a)(7) ~~(a)(6)~~ of this section, either Amtrak or the State may request that the Surface Transportation Board conduct dispute resolution under this subsection.

(2) Procedures.--The Surface Transportation Board shall establish procedures for resolution of disputes brought before it under this subsection, which may include provision of professional mediation services.

(3) Binding effect.--A decision of the Surface Transportation Board under this subsection shall be binding on the parties to the dispute.

(4) Obligation.--Nothing in this subsection shall affect the obligation of a State to pay an amount **related to a State-supported route that a State sponsors that is** not in dispute.

(d) Assistance.--

(1) In general.--The Secretary may provide assistance to the parties in the course of negotiations for a contract for operation of a State-supported route.

(2) Financial assistance.--From among available funds, the Secretary shall provide--

(A) financial assistance to Amtrak or 1 or more States to perform requested independent technical analysis of issues before the Committee; and

(B) administrative expenses that the Secretary determines necessary.

(e) 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, **including incentives to increase revenue, reduce costs, finalize contracts by the beginning of the fiscal year, and require States to promptly make payments for services delivered.**

(f) Statement of goals and objectives.--

(1) In general.--The Committee shall develop **and review and update, as necessary,** a statement of goals, objectives, and associated recommendations concerning the future of State-supported routes operated by Amtrak. The statement shall identify the roles and responsibilities of Committee members and any other relevant entities, such as host railroads, in meeting the identified goals and objectives, or carrying out the recommendations. The Committee may consult with such relevant entities, as the Committee considers appropriate, when developing the statement.

(2) Transmission of statement of goals and objectives.—**As applicable, based on updates, the Committee shall submit an updated statement Not later than 2 years after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, the Committee shall transmit the statement** developed under paragraph (1) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(3) Sense of Congress.—**It is the sense of Congress that—**

(A) the Committee shall be the forum where Amtrak and the States collaborate on

the planning, improvement, and development of corridor routes across the National Network; and

(B) such collaboration should include regular consultation with interstate rail compact parties and other regional planning organizations that address passenger rail.

(g) New State-Supported Routes.—

(1) Consultation.—In developing a new State-supported route, Amtrak shall consult with—

(A) the State or States and local municipalities through which such new service would operate;

(B) commuter authorities and regional transportation authorities in the areas that would be served by the planned route;

(C) host railroads;

(D) the Administrator of the Federal Railroad Administration; and

(E) other stakeholders, as appropriate.

(2) State Commitments.—Notwithstanding any other provision of law, before beginning construction necessary for, or beginning operation of, a State-supported route that is initiated on or after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, Amtrak shall enter into a memorandum of understanding, or otherwise secure an agreement, with each State that would be providing funding for such route for sharing—

(A) ongoing operating costs and capital costs in accordance with the cost methodology policy referred to in subsection (a)(7) then in effect; or

(B) ongoing operating costs and capital costs in accordance with the maximum funding limitations described in section 22908(e).

(3) Application of terms.—In this subsection, the terms ‘capital costs’ and ‘operating costs’ shall apply in the same manner as such terms apply under the cost methodology policy developed pursuant to subsection (a)(7).

(h) Cost methodology policy update implementation report.—Not later than 18 months after the updated cost methodology policy required under subsection (a)(7)(B) is implemented, the Committee shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that assesses the implementation of the updated policy.

(i) Identification of State-Supported Route Changes.—Amtrak shall—

(1) not later than 120 days before the submission of the general and legislative annual report required under section 24315(b), consult with the Committee and any additional States through which a State-supported route may operate regarding any proposed changes to such route; and

(2) include in such report an update of any planned or proposed changes to State-supported routes, including the introduction of new State-supported routes, including—

(A) the timeframe in which such changes would take effect; and

(B) whether Amtrak has entered into commitments with the affected States pursuant [to] subsection (g)(2).

(j) Economic Analysis.—Not later than 3 years after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, the Committee shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that—

- (1) describes the role of the State-supported routes in economic development; and
- (2) examines the impact of the State-supported routes on local station areas, job creation, transportation efficiency, State economics, and the national economy.

(k) Rule of construction.--The decisions of the Committee--

- (1) shall pertain to the rail operations of Amtrak and related activities of trains operated by Amtrak on State-sponsored routes; and
- (2) shall not pertain to the rail operations or related activities of services operated by other rail carriers on State-supported routes.

(l) Definition of State.--In this section, the term “State” means any of the 50 States, including the District of Columbia, that sponsor the operation of trains by Amtrak on a State-supported route, or a public entity that sponsors such operation on such a route.

Chapter 249

Sec. 24903. General Authority

(a) General.--To carry out this chapter and the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.), Amtrak may--

- (1) acquire, maintain, and dispose of any interest in property used to provide improved high-speed rail transportation under section 24902 of this title;
- (2) acquire, by condemnation or otherwise, any interest in real property that Amtrak considers necessary to carry out the goals of section 24902;
- (3) provide for rail freight, intercity rail passenger, and commuter rail passenger transportation over property acquired under this section;
- (4) improve rail rights of way between Boston, Massachusetts, and the District of Columbia (including the route through Springfield, Massachusetts, and routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast Corridor main line) to achieve the goals of section 24902 of providing improved high-speed rail passenger transportation between Boston, Massachusetts, and the District of Columbia, and intermediate intercity markets;
- (5) acquire, build, improve, and install passenger stations, communications and electric power facilities and equipment, public and private highway and pedestrian crossings, and other facilities and equipment necessary to provide improved high-speed rail passenger transportation over rights of way improved under clause (4) of this subsection;
- (6) make agreements with other carriers and commuter authorities to grant, acquire, or make arrangements for rail freight or commuter rail passenger transportation over, rights of way and facilities acquired under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.), **the Railroad Revitalization and Regulatory Reform Act of 1976 (45**

U.S.C. 801 et seq.), and chapter 224 of this title; and ~~and the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.);~~ and

- (7) appoint a general manager of the Northeast Corridor improvement program.
- (b) Compensatory agreements.--Rail freight and commuter rail passenger transportation provided under subsection (a)(3) of this section shall be provided under compensatory agreements with the responsible carriers.
- (c) Compensation for transportation over certain rights of way and facilities.—
- (1) An agreement under subsection (a)(6) of this section shall provide for reasonable reimbursement of costs but may not cross-subsidize intercity rail passenger, commuter rail passenger, and rail freight transportation.
- (2) If the parties do not agree, the Surface Transportation Board shall order that the transportation continue over facilities acquired under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.), ~~the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.), and chapter 224 of this title and the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.)~~ and shall determine compensation (without allowing cross-subsidization between commuter rail passenger and intercity rail passenger and rail freight transportation) for the transportation not later than 120 days after the dispute is submitted. The Board shall assign to a rail carrier obtaining transportation under this subsection the costs Amtrak incurs only for the benefit of the carrier, plus a proportionate share of all other costs of providing transportation under this paragraph incurred for the common benefit of Amtrak and the carrier. The proportionate share shall be based on relative measures of volume of car operations, tonnage, or other factors that reasonably reflect the relative use of rail property covered by this subsection.
- (3) This subsection does not prevent the parties from making an agreement under subsection (a)(6) of this section after the Board makes a decision under this subsection.

Sec. 24904. Northeast Corridor Planning

- (a) Northeast Corridor service development plan.—
- (1) In general.—Not later than March 31, 2022, the Northeast Corridor Commission established under section 24905 (referred to in this section as the ‘Commission’) shall submit a service development plan to Congress.
- (2) Contents.—The plan required under paragraph (1) shall—
- (A) identify key state-of-good-repair, capacity expansion, and capital improvement projects planned for the Northeast Corridor;
- (B) provide a coordinated and consensus-based plan covering a 15-year period;
- (C) identify service objectives and the capital investments required to meet such objectives;
- (D) provide a delivery-constrained strategy that identifies—
- (i) capital investment phasing;
- (ii) an evaluation of workforce needs; and
- (iii) strategies for managing resources and mitigating construction impacts

- on operations; and
- (E) include a financial strategy that identifies funding needs and potential funding sources.
- (3) Updates.—The Commission shall update the service development plan not less frequently than once every 5 years.
- (b) Northeast Corridor capital investment plan.—
 - (1) In General.—Not later than November 1 of each year, the Commission shall—
 - (A) develop an annual capital investment plan for the Northeast Corridor; and
 - (B) submit the capital investment plan to—
 - (i) the Secretary of Transportation;
 - (ii) the Committee on Commerce, Science, and Transportation of the Senate; and
 - (iii) the Committee on Transportation and Infrastructure of the House of Representatives.
 - (2) Contents.—The plan required under paragraph (1) shall—
 - (A) reflect coordination across the entire Northeast Corridor;
 - (B) integrate the individual capital plans developed by Amtrak, States, and commuter authorities in accordance with the cost allocation policy developed and approved under section 24905(c);
 - (C) cover a period of 5 fiscal years, beginning with the fiscal year during which the plan is submitted;
 - (D) notwithstanding section 24903(b), document the projects and programs being undertaken to advance the service objectives and capital investments identified in the Northeast Corridor service development plan developed under subsection (a), and the asset condition needs identified in the Northeast Corridor asset management plans, after considering—
 - (i) the benefits and costs of capital investments in the plan;
 - (ii) project and program readiness;
 - (iii) the operational impacts; and
 - (iv) Federal and non-Federal funding availability;
 - (E) categorize capital projects and programs as primarily associated with 1 of the categories listed under section 24319(c)(2)(C);
 - (F) identify capital projects and programs that are associated with more than 1 category described in subparagraph (E); and
 - (G) include a financial plan that identifies—
 - (i) funding sources and financing methods;
 - (ii) the status of cost sharing agreements pursuant to the cost allocation policy developed under section 24905(c);
 - (iii) the projects and programs that the Commission expects will receive Federal financial assistance; and
 - (iv) the eligible entity or entities that the Commission expects—
 - (I) to receive the Federal financial assistance referred to in clause (iii); and

(II) to implement each capital project.

(3) Review and coordination.—The Commission shall require that the information described in paragraph (2) be submitted in a timely manner to allow for a reasonable period of review by and coordination with, affected agencies before the Commission submits the capital investment plan pursuant to paragraph (1).

~~(a) Northeast Corridor capital investment plan.—~~

~~(1) Requirement.—Not later than May 1 of each year, the Northeast Corridor Commission established under section 24905 (referred to in this section as the “Commission”) shall—~~

~~(A) develop a capital investment plan for the Northeast Corridor; and~~

~~(B) submit the capital investment plan to the Secretary of Transportation and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.~~

~~(2) Contents.—The capital investment plan shall—~~

~~(A) reflect coordination and network optimization across the entire Northeast Corridor;~~

~~(B) integrate the individual capital and service plans developed by each operator using the methods described in the cost allocation policy developed under section 24905(e);~~

~~(C) cover a period of 5 fiscal years, beginning with the first fiscal year after the date on which the plan is completed;~~

~~(D) notwithstanding section 24902(b), identify, prioritize, and phase the implementation of projects and programs to achieve the service outcomes identified in the Northeast Corridor service development plan and the asset condition needs identified in the Northeast Corridor asset management plans, once available, and consider—~~

~~(i) the benefits and costs of capital investments in the plan;~~

~~(ii) project and program readiness;~~

~~(iii) the operational impacts; and~~

~~(iv) Federal and non-Federal funding availability;~~

~~(E) categorize capital projects and programs as primarily associated with—~~

~~(i) normalized capital replacement and basic infrastructure renewals;~~

~~(ii) replacement or rehabilitation of major Northeast Corridor infrastructure assets, including tunnels, bridges, stations, and other assets;~~

~~(iii) statutory, regulatory, or other legal mandates;~~

~~(iv) improvements to support service enhancements or growth; or~~

~~(v) strategic initiatives that will improve overall operational performance or lower costs;~~

~~(F) identify capital projects and programs that are associated with more than 1 category described in subparagraph (E);~~

~~(G) describe the anticipated outcomes of each project or program, including an assessment of—~~

~~(i) the potential effect on passenger accessibility, operations, safety, reliability, and resiliency;~~

~~(ii) the ability of infrastructure owners and operators to meet regulatory requirements if the project or program is not funded; and
(iii) the benefits and costs; and~~

~~(H) include a financial plan.~~

~~(3) Financial plan.—The financial plan under paragraph (2)(H) shall—~~

~~(A) identify funding sources and financing methods;~~

~~(B) identify the expected allocated shares of costs pursuant to the cost allocation policy developed under section 24905(c);~~

~~(C) identify the projects and programs that the Commission expects will receive Federal financial assistance; and~~

~~(D) identify the eligible entity or entities that the Commission expects will receive the Federal financial assistance described under subparagraph (C) and implement each capital project.~~

~~(c_b) Failure to develop a capital investment plan.—If a capital investment plan has not been developed by the Commission for a given fiscal year, then the funds assigned to the Northeast Corridor account established under section 24317(b) for that fiscal year may be spent only on capital projects and programs contained in the Commission’s capital investment plan for the prior fiscal year. spent only on—~~

~~(1) capital projects described in clause (i) or (iii) of subsection (a)(2)(E) of this section; or
(2) capital projects described in subsection (a)(2)(E)(iv) or (v) of this section that are for the sole benefit of Amtrak.~~

~~(d_e) Northeast Corridor capital asset management system.—~~

~~(1) In general.—Amtrak and other infrastructure owners that provide or support intercity rail passenger transportation along the Northeast Corridor shall develop an asset management system and use and update such system, as necessary, to develop submissions to the Northeast Corridor capital investment plan as described in subsection (b).~~

~~(2) Features.—The system required under paragraph (1) shall develop submissions that—~~

~~(A) are consistent with the transit asset management system (as defined in section 5326(a)(3)); and~~

~~(B) include—~~

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

~~(ii) an assessment o condition of such capital assets;~~

~~(iii) a description of the resources and processes that will be necessary to bring or to maintain such capital assets in a state of good repair; and~~

~~(iv) a description of changes in the condition o such capital assets since the submission of the prior version of the plan.~~

~~(1) Contents.—With regard to its infrastructure, Amtrak and each State and public transportation entity that owns infrastructure that supports or provides for intercity rail passenger transportation on the Northeast Corridor shall develop an asset management system and develop and update, as necessary, a Northeast Corridor asset management plan for each service territory described in subsection (a) that—~~

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

~~(B) includes, at a minimum--~~

- ~~(i) an inventory of all capital assets owned by the developer of the asset management plan;~~
- ~~(ii) an assessment of asset condition;~~
- ~~(iii) a description of the resources and processes necessary to bring or maintain those assets in a state of good repair, including decision support tools and investment prioritization methods; and~~
- ~~(iv) a description of changes in asset condition since the previous version of the plan.~~

~~(2) Transmittal.--Each entity described in paragraph (1) shall transmit to the Commission--~~

~~(A) not later than 2 years after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, a Northeast Corridor asset management plan developed under paragraph (1); and~~

~~(B) at least biennially thereafter, an update to such plan.~~

~~(d) Northeast Corridor service development plan updates.--Not less frequently than once every 10 years, the Commission shall update the Northeast Corridor service development plan.~~

(e) Definition of Northeast Corridor.--In this section, the term “Northeast Corridor” means the 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, including the facilities and services used to operate and maintain those lines.

Sec. 24905. Northeast Corridor Commission; Safety Committee

(a) Northeast Corridor Commission.--

(1) Within 180 days after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008, the Secretary of Transportation shall establish a Northeast Corridor Commission (referred to in this section as the “Commission”) to promote mutual cooperation and planning pertaining to the rail operations, infrastructure investments, and related activities of the Northeast Corridor. The Commission shall be made up of--

(A) members representing Amtrak;

(B) members representing the Department of Transportation, including the Office of the Secretary, the Federal Railroad Administration, and the Federal Transit Administration;

(C) 1 member from each of the States (including the District of Columbia) that constitute the Northeast Corridor as defined in section 24102, designated by, and serving at the pleasure of, the chief executive officer thereof; and

(D) non-voting representatives of freight and commuter railroad carriers **authorities** using the Northeast Corridor selected by the Secretary.

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- (2) The Secretary shall ensure that the membership belonging to any of the groups enumerated under paragraph (1) shall not constitute a majority of the Commission's memberships.
 - (3) The Commission shall establish a schedule and location for convening meetings, but shall meet no less than four times per fiscal year, and the Commission shall develop rules and procedures to govern the Commission's proceedings.
 - (4) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.
 - (5) Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5.
 - (6) The members of the Commission shall elect co-chairs consisting of 1 member described in paragraph (1)(B) and 1 member described in paragraph (1)(C).
 - (7) The Commission may appoint and fix the pay of such personnel as it considers appropriate.
 - (8) Upon request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.
 - (9) Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.
 - (10) The Commission shall consult with other entities as appropriate.
- (b) Statement of goals and recommendations.--
- (1) Statement of goals.--The Commission shall develop and periodically update a statement of goals concerning the future of Northeast Corridor rail infrastructure and operations based on achieving expanded and improved intercity, commuter, and freight rail services operating with greater safety and reliability, reduced travel times, increased frequencies and enhanced intermodal connections designed to address airport and highway congestion, reduce transportation energy consumption, improve air quality, and increase economic development of the Northeast Corridor region.
 - (2) Recommendations.--The Commission shall develop recommendations based on the statement developed under this section addressing, as appropriate--
 - (A) short-term and long-term capital investment needs;
 - (B) future funding requirements for capital improvements and maintenance;
 - (C) operational improvements of intercity passenger rail, commuter rail, and freight rail services;
 - (D) opportunities for additional non-rail uses of the Northeast Corridor;
 - (E) scheduling and dispatching;
 - (F) safety and security enhancements;
 - (G) equipment design;
 - (H) marketing of rail services;
 - (I) future capacity requirements; and
 - (J) potential funding and financing mechanisms for projects of corridor-wide significance.

(3) Submission of statement of goals, recommendations, and performance reports.--The Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives--

(A) any updates made to the statement of goals developed under paragraph (1) not later than 60 days after such updates are made; and

(B) annual performance reports and recommendations for improvements, as appropriate, issued not later than March 31 of each year, for the prior fiscal year, which summarize--

(i) the operations and performance of commuter, intercity, and freight rail transportation **including ridership trends** along the Northeast Corridor; ~~and~~

(ii) the delivery of the **first year of the** capital investment plan described in section 24904; ~~and;~~

(iii) progress in assessing and eliminating the state-of-good-repair backlog.

(c) Allocation of costs.--

(1) ~~Policy Development of policy~~.--The Commission shall--

(A) **develop and maintain the standardized policy first approved on September 17, 2015, and update, as appropriate, ~~develop a standardized policy~~** for determining and allocating costs, revenues, and compensation for Northeast Corridor commuter rail passenger transportation, as defined in section 24102 of this title, on the Northeast Corridor main line between Boston, Massachusetts, and Washington, District of Columbia, and the Northeast Corridor branch lines connecting to Harrisburg, Pennsylvania, Springfield, Massachusetts, and Spuyten Duyvil, New York, that use Amtrak facilities or services or that provide such facilities or services to Amtrak that ensures that--

(i) there is no cross-subsidization of commuter rail passenger, intercity rail passenger, or freight rail transportation;

(ii) each service is assigned the costs incurred only for the benefit of that service, and a proportionate share, based upon factors that reasonably reflect relative use, of costs incurred for the common benefit of more than 1 service; and

(iii) all financial contributions made by an operator of a service that benefit an infrastructure owner other than the operator are considered, including but not limited to, any capital infrastructure investments and in-kind services;

(B) develop **a proposed** timetables for implementing **and maintaining** the policy;

(C) submit **updates to the policy and timetables** ~~the policy and the timetable~~ developed under subparagraph (B) to the Surface Transportation Board, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives;

(D) **support the efforts of the members of the Commission to implement the policy in accordance with the timetables developed pursuant to subparagraph (B);**

~~not later than October 1, 2015, adopt and implement the policy in accordance with the timetable; and~~

(E) with the consent of a majority of its members, petition the Surface Transportation Board to appoint a mediator to assist the Commission members through nonbinding mediation to reach an agreement under this section.

(2) Implementation.—

(A) In general.—In accordance with the timetables developed pursuant to paragraph (1)(B), Amtrak and commuter authorities on the Northeast Corridor shall implement the policy developed under paragraph (1) in their agreements for usage of facilities or services.

(B) Effect of failure to implement or comply with policy.—If the entities referred to in subparagraph (A) fail to implement the policy in accordance with paragraph (1)(D) or fail to comply with the policy thereafter, the Surface Transportation Board shall—

(i) determine the appropriate compensation in accordance with the procedures and procedural schedule applicable to a proceeding under section 24903(c), after taking into consideration the policy developed under paragraph (1); and

(ii) enforce its determination on the party or parties involved.

~~Amtrak and public authorities providing commuter rail passenger transportation on the Northeast Corridor shall implement new agreements for usage of facilities or services based on the policy developed under paragraph (1) in accordance with the timetable established therein. If the entities fail to implement such new agreements in accordance with paragraph (1)(D) or fail to comply with the policy thereafter, the Surface Transportation Board shall determine the appropriate compensation for such usage in accordance with the procedures and procedural schedule applicable to a proceeding under section 24903(c), after taking into consideration the policy developed under paragraph (1)(A), as applicable. The Surface Transportation Board shall enforce its determination on the party or parties involved.~~

(3) Revisions.--The Commission may make necessary revisions to the policy developed under paragraph (1), including revisions based on Amtrak's financial accounting system developed pursuant to section 203 of the Passenger Rail Investment and Improvement Act of 2008.

(4) Request for dispute resolution.--If a dispute arises with the implementation of, or compliance with, the policy developed under paragraph (1), the Commission, Amtrak, or ~~commuter authorities~~ public authorities providing commuter rail passenger transportation on the Northeast Corridor may request that the Surface Transportation Board conduct dispute resolution. The Surface Transportation Board shall establish procedures for resolution of disputes brought before it under this paragraph, which may include the provision of professional mediation services.

(d) Authorization of appropriations.--There are authorized to be appropriated to the Secretary for the use of the Commission and the Northeast Corridor Safety Committee such sums as may be necessary to carry out this section during fiscal years ~~2016 through 2020~~, 2022 through 2026, in

addition to any amounts withheld under section 22101(e) of the Passenger Rail Expansion and Rail Safety Act of 2021 ~~section 11101(g) of the Passenger Rail Reform and Investment Act of 2015.~~

(e) Northeast Corridor Safety Committee.--

(1) In general.--The Secretary shall establish a Northeast Corridor Safety Committee composed of members appointed by the Secretary. The members shall be representatives of--

- (A) the Department of Transportation, including the Federal Railroad Administration;
- (B) Amtrak;
- (C) freight carriers operating more than 150,000 train miles a year on the main line of the Northeast Corridor;
- (D) commuter rail agencies;
- (E) rail passengers;
- (F) rail labor; and
- (G) other individuals and organizations the Secretary decides have a significant interest in rail safety or security.

(2) Sunset.--The Committee established under this subsection ceases to exist on the date that the Secretary determines positive train control, as required by section 20157, is fully implemented along the Northeast Corridor.

Sec. 24911. Federal-State Partnership for intercity passenger rail for State of Good Repair

(a) Definitions.--In this section:

(1) Applicant.--The term “applicant” means--

- (A) a State (including the District of Columbia);
- (B) a group of States;
- (C) an Interstate Compact;
- (D) a public agency or publicly chartered authority established by 1 or more States;
- (E) a political subdivision of a State;
- (F) Amtrak, acting on its own behalf or under a cooperative agreement with 1 or more States; ~~or~~
- (G) a federally recognized Indian Tribe; or
- (~~H~~) any combination of the entities described in subparagraphs (A) through (F).

~~(2) Capital project.--The term “capital project” means--~~

- ~~(A) a project primarily intended to replace, rehabilitate, or repair major infrastructure assets utilized for providing intercity rail passenger service, including tunnels, bridges, stations, and other assets, as determined by the Secretary; or~~

~~(B) a project primarily intended to improve intercity passenger rail performance, including reduced trip times, increased train frequencies, higher operating speeds, and other improvements, as determined by the Secretary.~~

(23) Intercity rail passenger transportation.--The term “intercity rail passenger transportation” has the meaning given the term in section 24102.

(34) Northeast corridor.--The term “Northeast Corridor” means--

(A) the main rail line between Boston, Massachusetts and the District of Columbia;

(B) the branch rail lines connecting to Harrisburg, Pennsylvania, Springfield, Massachusetts, and Spuyten Duyvil, New York; and

(C) facilities and services used to operate and maintain lines described in subparagraphs (A) and (B).

~~(5) Qualified railroad asset.--The term “qualified railroad asset” means infrastructure, equipment, or a facility that--~~

~~(A) is owned or controlled by an eligible applicant;~~

~~(B) is contained in the planning document developed under section 24904 and for which a cost-allocation policy has been developed under section 24905(c), or is contained in an equivalent planning document and for which a similar cost-allocation policy has been developed; and~~

~~(C) was not in a state of good repair on the date of enactment of the Passenger Rail Reform and Investment Act of 2015.~~

(b) Grant program authorized.--The Secretary of Transportation shall develop and implement a program for issuing grants to applicants, on a competitive basis, to fund capital projects that reduce the state of good repair backlog, improve performance, or expand or establish new intercity passenger rail service, including privately operated intercity passenger rail service if an eligible applicant is involved; ~~with respect to qualified railroad assets.~~

(c) Eligible projects.—The following capital projects, including acquisition of real property interests, are eligible to receive grants under this section:

(1) A project to replace, rehabilitate, or repair infrastructure, equipment, or a facility used for providing intercity passenger rail service to bring such assets into a state of good repair.

(2) A project to improve intercity passenger rail service performance, including reduced trip times, increased train frequencies, higher operating speeds, improved reliability, expanded capacity, reduced congestion, electrification, and other improvements, as determined by the Secretary.

(3) A project to expand or establish new intercity passenger rail service.

(4) A group of related projects described in paragraphs (1) through (3).

(5) The planning, environmental studies, and final design for a project or group of projects described in paragraphs (1) through (4).

~~(e) Eligible projects.--Projects eligible for grants under this section include capital projects to replace or rehabilitate qualified railroad assets, including--~~

~~(1) capital projects to replace existing assets in kind;~~

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~~(2) capital projects to replace existing assets with assets that increase capacity or provide a higher level of service;~~

~~(3) capital projects to ensure that service can be maintained while existing assets are brought to a state of good repair; and~~

~~(4) capital projects to bring existing assets into a state of good repair.~~

(d) Project selection criteria.—In selecting a project for funding under this section—

(1) or projects located on the Northeast Corridor, the Secretary shall—

(A) make selections consistent with the Northeast Corridor Project Inventory published pursuant to subsection (e)(1), unless when necessary to address materially changed infrastructure or service conditions, changes in project sponsor capabilities or commitments, or other significant changes since the completion of the most recently issued Northeast Corridor Project Inventory; and

(B) for projects that benefit intercity and commuter rail services, only make such selections when Amtrak and the public authorities providing commuter rail passenger transportation at the eligible project location—

(i) are in compliance with section 24905(c)(2); and

(ii) identify funding for the intercity passenger rail share, the commuter rail share, and the local share of the eligible project before the commencement of the project;

(2) for projects not located on the Northeast Corridor, the Secretary shall—

(A) give preference to eligible projects—

(i) for which Amtrak is not the sole applicant;

(ii) that improve the financial performance, reliability, service frequency, or address the state of good repair of an Amtrak route; and

(iii) that are identified in, and consistent with, a corridor inventory prepared under the Corridor Identification and Development Program pursuant to section 25101; and

(B) take into account—

(i) the cost-benefit analysis of the proposed project, including anticipated private and public benefits relative to the costs of the proposed project, including—

(I) effects on system and service performance, including as measured by applicable metrics set forth in part 273 of title 49, Code of Federal Regulations (or successor regulations);

(II) effects on safety, competitiveness, reliability, trip or transit time, greenhouse gas emissions, and resilience;

(III) anticipated positive economic and employment impacts, including development in areas near passenger stations, historic districts, or other opportunity zones;

(IV) efficiencies from improved connections with other modes; and

(V) ability to meet existing or anticipated demand;

(ii) the degree to which the proposed project's business plan considers

potential private sector participation in the financing, construction, or operation of the proposed project;

(iii) the applicant's past performance in developing and delivering similar projects, and previous financial contributions;

(iv) whether the applicant has, or will have—

(I) the legal, financial, and technical capacity to carry out the project;

(II) satisfactory continuing access to the equipment or facilities; and

(III) the capability and willingness to maintain the equipment or facilities;

(v) if applicable, the consistency of the project with planning guidance and documents set forth by the Secretary or otherwise required by law;

(vi) whether the proposed project serves historically unconnected or underconnected communities; and

(vii) any other relevant factors, as determined by the Secretary; and

(3) the Secretary shall reserve—

(A) not less than 45 percent of the amounts appropriated for grants under this section for projects not located along the Northeast Corridor, of which not less than 20 percent shall be for projects that benefit (in whole or in part) a long-distance route; and

(B) not less than 45 percent of the amounts appropriated for grants under this section for projects listed on the Northeast Corridor project inventory published pursuant to subsection (e)(1).

~~(d) Project selection criteria.—In selecting an applicant for a grant under this section, the Secretary shall—~~

~~———(1) give preference to eligible projects for which—~~

~~(A) Amtrak is not the sole applicant;~~

~~(B) applications were submitted jointly by multiple applicants; and~~

~~(C) the proposed Federal share of total project costs does not exceed 50 percent;~~

~~and~~

~~———(2) take into account—~~

~~(A) the cost-benefit analysis of the proposed project, including anticipated private and public benefits relative to the costs of the proposed project, including—~~

~~(i) effects on system and service performance;~~

~~(ii) effects on safety, competitiveness, reliability, trip or transit time, and resilience;~~

~~(iii) efficiencies from improved integration with other modes; and~~

~~(iv) ability to meet existing or anticipated demand;~~

~~(B) the degree to which the proposed project's business plan considers potential private sector participation in the financing, construction, or operation of the proposed project;~~

~~(C) the applicant's past performance in developing and delivering similar projects, and previous financial contributions;~~

~~(D) whether the applicant has, or will have—~~

~~(i) the legal, financial, and technical capacity to carry out the project;~~

~~(ii) satisfactory continuing control over the use of the equipment or facilities; and~~

~~(iii) the capability and willingness to maintain the equipment or facilities;~~

~~(E) if applicable, the consistency of the project with planning guidance and documents set forth by the Secretary or required by law; and~~

~~(F) any other relevant factors, as determined by the Secretary.~~

(e) Long-term planning.—Not later than 1 year after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, and every 2 years thereafter, the Secretary shall create a predictable project pipeline that will assist Amtrak, States, and the public with long-term capital planning by publishing a Northeast Corridor project inventory that—

(1) identifies capital projects for Federal investment, project applicants, and proposed Federal funding levels under this section;

(2) specifies the order in which the Secretary will provide grant funding to projects that have identified sponsors and are located along the Northeast Corridor, including a method and plan or apportioning funds to projects sponsors for the 2-year period, which may be altered by the Secretary, as necessary, if recipients are not carrying out projects in accordance with the anticipated schedule;

(3) takes into consideration the appropriate sequence and phasing of projects described in the Northeast Corridor capital investment plan developed pursuant to section 24904(a);

(4) is consistent with the most recent Northeast Corridor service development plan update described in section 24904(d);

(5) takes into consideration the existing commitments and anticipated Federal, project applicant, sponsor, and other relevant funding levels for the next 5 fiscal years based on information currently available to the Secretary; and

(6) is developed in consultation with the Northeast Corridor Commission and the owners of Northeast Corridor infrastructure and facilities.

~~(e) Northeast Corridor projects.—~~

~~(1) Compliance with usage agreements.—Grant funds may not be provided under this section to an eligible recipient for an eligible project located on the Northeast Corridor unless Amtrak and the public authorities providing commuter rail passenger transportation at the eligible project location on the Northeast Corridor are in compliance with section 24905(c)(2).~~

~~(2) Capital investment plan.—When selecting projects located on the Northeast Corridor, the Secretary shall consider the appropriate sequence and phasing of projects as contained in the Northeast Corridor capital investment plan developed pursuant to section 24904(a).~~

(f) Federal share of total project costs.--

(1) Total project cost.--The Secretary shall estimate the total cost of a project under this section based on the best available information, including engineering studies, studies of

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economic feasibility, environmental analyses, and information on the expected use of equipment or facilities.

(2) Federal share.--The Federal share of total costs for a project under this section shall not exceed 80 percent, **except as specified under paragraph (4).**

(3) Treatment of Amtrak revenue.--If Amtrak is an applicant under this section, Amtrak may use ticket and other revenues generated from its operations and other sources to satisfy the non-Federal share requirements.

(g) Letters of intent; **phased funding agreements.**--

(1) **Letters of intent In general.**--The Secretary **may ~~shall, to the maximum extent practicable,~~** issue a letter of intent to a grantee under this section that--

(A) announces 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; and

(B) states that the contingent commitment--

(i) is not an obligation of the Federal Government; and

(ii) is subject to the availability of appropriations for grants under this section and subject to Federal laws in force or enacted after the date of the contingent commitment.

(2) Phased funding agreements.—

(A) In general.—The Secretary may enter into a phased funding agreement with an applicant if—

(i) the project is highly rated, based on the evaluations and ratings conducted pursuant to this section and the applicable notice of funding opportunity; and

(ii) the Federal assistance to be provided for the project under this section is more than \$80,000,000.

(B) Terms.—A phased funding agreement shall—

(i) establish the terms of participation by the Federal Government in the project;

(ii) establish the maximum amount of Federal financial assistance for the project;

(iii) include the period of time for completing the project, even if such period extends beyond the period for which Federal financial assistance is authorized;

(iv) make timely and efficient management of the project easier in accordance with Federal law; and

(v) if applicable, specify when the process for complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and related environmental laws will be completed for the project.

(C) Special financial rules.—

(i) In general.—A phased funding agreement under this paragraph obligates an amount of available budget authority specified in law and

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may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

(ii) Statement of contingent commitment.—The agreement shall state that the contingent commitment is not an obligation of the Government.

(iii) Interest and other financing costs.—Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a phased funding agreement, except that eligible costs may not be more than the costs of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, to the satisfaction of the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

(iv) Failure to carry out project.—If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Federal grant funds awarded for the project from all Federal funding sources, for all project activities, facilities, and equipment, plus reasonable interest and penalty charges allowable by law or established by the Secretary in the phased funding agreement. For purposes of this clause, a process for complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) that results in the selection of the no build alternative is not within the applicant's control.

(v) Crediting of funds received.—Any funds received by the Government under this paragraph, except for interest and penalty charges, shall be credited to the appropriation account from which the funds were originally derived.

(32) Congressional notification.--

(A) In general.--Not later than 30 days before issuing a **phased funding agreement under paragraph (2) or** a letter under paragraph (1), the Secretary shall submit written notification to--

- (i) the Committee on Commerce, Science, and Transportation of the Senate;
- (ii) the Committee on Appropriations of the Senate;
- (iii) the Committee on Transportation and Infrastructure of the House of Representatives; and
- (iv) the Committee on Appropriations of the House of Representatives.

(B) Contents.--The notification submitted pursuant to subparagraph (A) shall include--

- (i) a copy of **the phased funding agreement or** the proposed letter;
- (ii) the criteria used under subsection (d) for selecting the project for a grant award; and
- (iii) a description of how the project meets such criteria.

(43) Appropriations required.—

(A) In general.—The Secretary may enter into phased funding agreements under this subsection that contain contingent commitments to incur obligations in such amounts as the Secretary determines are appropriate.

(B) Appropriations required.—an obligation ~~An obligation~~ or administrative commitment may be made under this section only when amounts are appropriated for such purpose.

(h) Availability.--Amounts appropriated for carrying out this section shall remain available until expended.

(i) Grant conditions.--Except as specifically provided in this section, the use of any amounts appropriated for grants under this section shall be subject to the grant conditions under **sections 22903 and 22905 ~~section 22905~~**.

(j) Annual report on phased funding agreements and letters of intent.—Not later than the first Monday in February of each year, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Appropriations of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Appropriations of the House of Representatives that includes—

- (1) a proposal for the allocation of amounts to be available to finance grants for projects under this section among applicants for such amounts;
- (2) evaluations and ratings, as applicable, for each project that has received a phased funding agreement or a letter of intent; and
- (3) recommendations for each project that has received a phased funding agreement or a letter or intent for funding based on the evaluations and ratings, as applicable, and on existing commitments and anticipated funding levels for the next 3 fiscal years based on information currently available to the Secretary.

(k) Regional planning guidance corridor planning.—The Secretary may withhold up to 5 percent of the total amount made available for this section to carry out planning and development activities related to section 25101, including—

- (1) providing funding to public entities for the development of service development plans selected under the Corridor Identification and Development Program;
- (2) facilitating and providing guidance or intercity passenger rail systems planning; and
- (3) providing funding for the development and refinement of intercity passenger rail systems planning analytical tools and models.

Chapter 251

Sec. 25101. Corridor Identification and Development Program

25101. Corridor Identification and Development Program.

(a) In general.—Not later than 180 days after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, the Secretary of Transportation shall establish a program to facilitate the development of intercity passenger rail corridors. The program shall include—

- (1) a process for eligible entities described in subsection (b) to submit proposals for the development of intercity passenger rail corridors;

- (2) a process for the Secretary to review and select proposals in accordance with subsection (c);
 - (3) criteria for determining the level of readiness for Federal financial assistance of an intercity passenger rail corridor, which shall include—
 - (A) identification of a service operator which may include Amtrak or private rail carriers;
 - (B) identification of a service sponsor or sponsors;
 - (C) identification capital project sponsors;
 - (D) engagement with the host railroads; and
 - (E) other criteria as determined appropriate by the Secretary;
 - (4) a process for preparing service development plans in accordance with subsection (d), including the identification of planning funds, such as funds made available under section 24911(k) and interstate rail compact grants established under section 22210;
 - (5) the creation of a pipeline of intercity passenger rail corridor projects under subsection (g);
 - (6) planning guidance to achieve the purposes of this section, including guidance for intercity passenger rail corridors not selected under this section; and
 - (7) such other features as the Secretary considers relevant to the successful development of intercity passenger rail corridors.
- (b) Eligible entities.—The Secretary may receive proposals under this section from Amtrak, States, groups of States, entities implementing interstate compacts, regional passenger rail authorities, regional planning organizations, political subdivisions of a State, federally recognized Indian Tribes, and other public entities, as determined by the Secretary.
- (c) Corridor selection.—In selecting intercity passenger rail corridors pursuant to subsection (a), the Secretary shall consider—
- (1) whether the route was identified as part of a regional or interregional intercity passenger rail systems planning study;
 - (2) projected ridership, revenues, capital investment, and operating funding requirements;
 - (3) anticipated environmental, congestion mitigation, and other public benefits;
 - (4) projected trip times and their competitiveness with other transportation modes;
 - (5) anticipated positive economic and employment impacts, including development in the areas near passenger stations, historic districts, or other opportunity zones;
 - (6) committed or anticipated State, regional transportation authority, or other non-Federal funding for operating and capital costs;
 - (7) benefits to rural communities;
 - (8) whether the corridor is included in a State’s approved State rail plan developed pursuant to chapter 227;
 - (9) whether the corridor serves historically unserved or underserved and low-income communities or areas of persistent poverty;
 - (10) whether the corridor would benefit or improve connectivity with existing or planned transportation services of other modes;
 - (11) whether the corridor connects at least 2 of the 100 most populated metropolitan areas;

- (12) whether the corridor would enhance the regional equity and geographic diversity of intercity passenger rail service;
- (13) whether the corridor is or would be integrated into the national rail passenger transportation system and whether the corridor would create benefits for other passenger rail routes and services; and
- (14) whether a passenger rail operator, including a private rail carrier, has expressed support for the corridor.

(d) Service development plans.—For each corridor proposal selected for development under this section, the Secretary shall partner with the entity that submitted the proposal, relevant States, and Amtrak, as appropriate, to prepare a service development plan (or to update an existing service development plan), which shall include—

- (1) a detailed description of the proposed intercity passenger rail service, including train frequencies, peak and average operating speeds, and trip times;
- (2) a corridor project inventory that—
 - (A) identifies the capital projects necessary to achieve the proposed intercity passenger rail service, including—
 - (i) the capital projects for which Federal investment will be sought;
 - (ii) the likely project applicants; and
 - (iii) the proposed Federal funding levels;
 - (B) specifies the order in which Federal funding will be sought or the capital projects identified under subparagraph (A), after considering the appropriate sequence and phasing of projects based on the anticipated availability of funds; and
 - (C) is developed in consultation with the entities listed in subsection (e);
- (3) a schedule and any associated phasing of projects and related service initiation or changes;
- (4) project sponsors and other entities expected to participate in carrying out the plan;
- (5) a description of how the corridor would comply with Federal rail safety and security laws, orders, and regulations;
- (6) the locations of existing and proposed stations;
- (7) the needs for rolling stock and other equipment;
- (8) a financial plan identifying projected—
 - (A) annual revenues;
 - (B) annual ridership;
 - (C) capital investments before service could be initiated;
 - (D) capital investments required to maintain service;
 - (E) annual operating and costs; and
 - (F) sources of capital investment and operating financial support;
- (9) a description of how the corridor would contribute to the development of a multi-State regional network of intercity passenger rail;
- (10) an intermodal plan describing how the new or improved corridor facilities travel connections with other passenger transportation services;
- (11) a description of the anticipated environmental benefits of the corridor; and

- (12) a description of the corridor's impacts on highway and aviation congestion, energy consumption, land use, and economic development in the service area.
- (e) Consultation.—In partnering on the preparation of a service development plan under subsection (d), the Secretary shall consult with—
- (1) Amtrak;
 - (2) appropriate State and regional transportation authorities and local officials;
 - (3) representatives of employee labor organizations representing railroad and other appropriate employees;
 - (4) host railroads for the proposed corridor; and
 - (5) other stakeholders, as determined by the Secretary.
- (f) Updates.—Every 5 years, after the initial development of the service development plan under subsection (d), if at least 40 percent of the work to implement a service development plan prepared under subsection (d) has not yet been completed, the plan's sponsor, in consultation with the Secretary, shall determine whether such plan should be updated.
- (g) Project pipeline.—Not later than 1 year after the establishment of the program under this section, and by February 1st of each year thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Appropriations of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Appropriations of the House of Representatives a project pipeline, in accordance with this section, that—
- (1) identifies intercity passenger rail corridors selected for development under this section;
 - (2) identifies capital projects for Federal investment, project applicants, and proposed Federal funding levels, as applicable, consistent with the corridor project inventory;
 - (3) specifies the order in which the Secretary would provide Federal financial assistance, subject to the availability of funds, to projects that have identified sponsors, including a method and plan for apportioning funds to project sponsors for a 5-year period, which may be altered by the Secretary, as necessary, if recipients are not carrying out projects on the anticipated schedule;
 - (4) takes into consideration the appropriate sequence and phasing of projects described in the corridor project inventory.
 - (5) takes into consideration the existing commitments and anticipated Federal, project applicant, sponsor, and other relevant funding levels for the next 5 fiscal years based on information currently available to the Secretary;
 - (6) is prioritized based on the level of readiness of the corridor; and
 - (7) reflects consultation with Amtrak.
- (h) Definition.—In this section, the term 'intercity passenger rail corridor' means—
- (1) a new intercity passenger rail route of less than 750 miles;
 - (2) the enhancement of an existing intercity passenger rail routes of less than 750 miles;
 - (3) the restoration of service over all or portions of an intercity passenger rail route formerly operated by Amtrak; or
 - (4) the increase of service frequency of a long-distance intercity passenger rail route.

PART D—HIGH-SPEED RAIL

Chapter 261

Sec. 26103. Safety Regulations **and evaluation**

The Secretary—

- (1) shall promulgate such safety regulations as may be necessary for high-speed rail services;
- (2) shall, before promulgating such regulations, consult with developers of new high-speed rail technologies to develop a method for evaluating safety performance; and
- (3) may solicit feedback from relevant safety experts or representatives of rail employees who perform work on similar technology or who may be expected to perform work on new technology, as appropriate.

~~The Secretary shall promulgate such safety regulations as may be necessary for high-speed rail services.~~

PART E—MISCELLANEOUS

Chapter 285

Sec. 28501. Definitions

In this chapter--

- (1) the term “Board” means the Surface Transportation Board;
- (2) the term “capital work” means maintenance, restoration, reconstruction, capacity enhancement, or rehabilitation work on trackage that would be treated, in accordance with generally accepted accounting principles, as a capital item rather than an expense;
- (3) the term “commuter rail passenger transportation” has the meaning given that term in section 24102;
- (4) the term “public transportation authority” means a local governmental authority (as defined in ~~section 5302~~ ~~section 5302(a)(6)~~) established to provide, or make a contract providing for, commuter rail passenger transportation;
- (5) the term “rail carrier” means a person, other than a governmental authority, providing common carrier railroad transportation for compensation subject to the jurisdiction of the Board under chapter 105;
- (6) the term “segregated fixed guideway facility” means a fixed guideway facility constructed within the railroad right-of-way of a rail carrier but physically separate from trackage, including relocated trackage, within the right-of-way used by a rail carrier for freight transportation purposes; and

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