

## **A Bill**

To amend title 49, United States Code, to provide for stable, productive, and efficient passenger rail service in the United States, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

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

(a) SHORT TITLE.--This Act may be cited as the "Passenger Rail Investment Reform Act".

(b) TABLE OF CONTENTS.--The table of contents of this Act is as follows:

Sec. 1. Short title; Table of Contents.

Sec. 2. Purposes; Definitions.

### **TITLE I--NATIONAL PASSENGER RAIL SERVICE RESTRUCTURING**

Sec. 101. Board of Directors of Amtrak.

Sec. 102. Passenger Rail Service Restructuring.

Sec. 103. North East Corridor Compact.

Sec. 104. Assistance to Address Capital Needs.

Sec. 105. Employee Transition Assistance; Authorization.

Sec. 106. Limit on Operating Assistance for Long-Distance Routes.

Sec. 107. Repeal of Obsolete and Executed Provisions of Law; Other.

### **TITLE II--FINANCIAL REFORM**

Sec. 201. Limitations on Availability of Grants.

Sec. 202. Spending Plans for Capital Backlog Reduction.

Sec. 203. Redemption of Common Stock.

Sec. 204. Retirement of Preferred Stock; Transfer of Assets.

Sec. 205. Real Estate and Asset Sales.

Sec. 206. Management and Transfer of Secured Debt.

Sec. 207. Transition Assistance.

### **TITLE III-- GRANTS AND OTHER ASSISTANCE FOR INTERCITY PASSENGER RAIL SERVICE**

Sec. 301. Capital Assistance For Intercity Passenger Rail Service.

Sec. 302. Final Regulations on Applications by States for Corridor Development Grants.

Sec. 303. Authority for Interstate Compacts for Corridor Development.

## **SEC. 2. PURPOSES; DEFINITIONS**

(a) PURPOSES.--The purposes of this Act are to--

(1) preserve an intercity passenger rail service system in the United States that is driven by sound economics;

(2) provide a transition from the existing structure for providing such service to a structure that is more aligned with existing and emerging transportation needs;

(3) develop a system that provides high quality passenger rail service at a reasonable cost;

(4) establish a long-term partnership among the states and the Federal government to support intercity passenger rail service; and

(5) create an effective public-private partnership, after a reasonable transition, to manage the capital assets of the Northeast Corridor.

(b) DEFINITIONS.--In this Act,

(1) "Year One" means the next Federal fiscal year to begin after the date of enactment of this Act, except that the term means the current Federal fiscal year if the date of enactment of the Act is within 60 days of the first day of the current Federal fiscal year.

(2) "Year Two", "Year Three", "Year Four", "Year Five", and "Year Six" mean, respectively, the Federal fiscal year that follows year one by one, two, three, four, and five years, respectively.

## **TITLE I--NATIONAL PASSENGER RAIL SERVICE RESTRUCTURING**

### **SEC. 101. BOARD OF DIRECTORS OF AMTRAK.**

Section 24302 of title 49, United States Code, is amended to read as follows:

#### **"§ 24302. Board of Directors**

"(a) MEMBERSHIP.-- (1) The Transition Board of Directors of Amtrak shall consist of 11 voting members, including--

"(A) the Secretary of Transportation, or an officer of the United States within the Department of Transportation compensated under the Executive

Schedule under title 5, United States Code, who is designated by the Secretary (hereafter in this section the 'Secretary's delegate'); and

"(B) 10 other members appointed by the President, by and with the advice and consent of the Senate.

"(2) The President of Amtrak shall serve as an ex officio, nonvoting member of the Board of Directors.

"(b) COMPENSATION.--Each member of the Board of Directors shall not be compensated for service as such member, but shall receive with respect to such service travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5.

"(c) TERM OF OFFICE.--Members serving un-expired terms on the date of enactment of this section may continue to serve until the earlier of the expiration of their terms or the date on which the restructuring mandated under section 24310 of this title is implemented. Members appointed by the President under subsection (a)(1)(B) shall serve for a term that expires on the date the restructuring mandated in section 24310 of this title is implemented. At the expiration of their terms, members of the Board shall be eligible to serve as members of the boards of successor corporations to Amtrak.

"(d) QUORUM.--At any time after the date of enactment of this section, a majority of the Board members who have been lawfully appointed shall constitute a quorum for purposes of conducting Board meetings and making all necessary decisions regarding the operations, structure, and business affairs of Amtrak.

"(e) TRANSITION COMMITTEE.--(1) The Board of Directors shall form an Asset Transition Committee comprised of the Secretary, or the Secretary's delegate, and two other members, or one other member if two other members are not lawfully appointed.

"(2) In addition to other powers and duties assigned by the Board, the Asset Transition Committee has the duty to ensure that the public interest is served in Board decisions and Amtrak management actions that change the use of or status of (A) the contractual right of access of Amtrak to rail lines of other railroads; (B) Amtrak secured

debt; (C) Northeast Corridor real property and assets; and (D) rolling stock.

"(3) The Board may not take an action with regard to the assets or secured debt specified in paragraph (2), or permit an Amtrak management action with regard to those assets, that is not approved by the Asset Transition Committee.

"(f) MODIFICATION OF BOARD AFTER RESTRUCTURING.--(1) Upon the commencement of operations of the Nationwide Passenger Rail Service Provider and the Passenger Rail Infrastructure Manager under section 24310 of this title, the Board of Directors of Amtrak shall consist of--

"(A) the Secretary of Transportation;

"(B) the Federal Railroad Administrator or another officer of the United States within the Department of Transportation compensated under the Executive Schedule under title 5, United States Code, who is designated by the Secretary; and

"(C) the Federal Transit Administrator or another officer of the United States within the Department of Transportation compensated under the Executive Schedule under title 5, United States Code, who is designated by the Secretary.

"(2) Upon the designation of directors by the Secretary under paragraph (1), and with the exception of the Secretary of Transportation, the members of the Transition Board of Directors shall no longer serve as appointees of the President to the Amtrak Board of Directors, but shall instead become members of the Board of Directors of the entities referred to in Federal law as the 'Passenger Rail Service Provider' or the 'Passenger Rail Infrastructure Manager'.

## **SEC. 102. PASSENGER RAIL SERVICE RESTRUCTURING.**

(a) IN GENERAL.--Title 49, United States Code, is amended by inserting the following after section 24309:

"Sec. 24310. Amtrak restructuring mandate

"(a) IN GENERAL.--Within 6 months after Year One begins, and notwithstanding any other provision of this title, the Board of Directors shall prepare a plan to restructure Amtrak management, personnel, assets, operations, and other activities

and relationships to conform to the requirements of this section. The Board shall transmit the completed plan to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House, and the Committees on Appropriations of the House and Senate.

"(b) MINIMUM REQUIREMENTS.--At a minimum, the restructuring plan required under this section shall provide for the following:

"(1) The filing of appropriate Articles of Incorporation under state law for two business corporations that are entirely independent of Amtrak, hereinafter referred to as the 'Passenger Rail Service Provider' and the 'Passenger Rail Infrastructure Manager' or collectively the 'successor corporations.'

"(2) The division of Amtrak into three functionally independent entities that provide the following:

"(A) A corporation, hereinafter referred to as 'Amtrak', that shall provide overall supervision of Amtrak restructuring and subsequent management of residual responsibilities, including succeeding to the legal rights of the National Railroad Passenger Corporation, and including specifically Amtrak's legal right of access to other railroads, following transfer of rail operations and infrastructure management to the successor corporations established under paragraph (1);

"(B) Passenger rail operating services nationwide, including operation of the Reservations Center and ownership and management of existing rolling stock and its maintenance; and

"(C) Passenger rail infrastructure management.

"(3) The assignment of all Amtrak personnel by name to one of the entities specified in paragraph (2), with no loss of pay or benefits, including seniority rights to employment within any entity, except that an employee who elects employment with the entity specified by paragraph (2)(A) shall become an employee of the corporation, with only such rights regarding pay and benefits as the corporation shall determine;

"(4) The division of accounting, finance, budget, assets, and personnel to provide for the operation and funding of each entity independently.

"(5) A transition schedule that provides for completion of the restructuring not later than the last day of Year One.

"(c) SUCCESSOR CORPORATIONS.--(1) Consistent with the business corporation law of the state of incorporation of the successor corporations specified by subsection (b)(1) of this section, each of the successor corporations shall be qualified to undertake railroad activities of an operational or infrastructure nature on a contractual basis with Amtrak or any other entity;

"(2) The Passenger Rail Service Provider--

"(i) shall have the exclusive right, until the last day of Year Three, to continue to provide the intercity passenger service that is being provided by Amtrak on the date of enactment of the Passenger Rail Investment Reform Act, but after the last day of Year One, may operate such passenger rail service only under a contract; and

"(ii) shall provide interline reservations services to any other provider of intercity passenger rail services on the same basis and rates as services are provided to the operational entities that provide service within Amtrak on the date of enactment.

"(3) The Passenger Rail Infrastructure Manager--

"(i) shall have the exclusive right, until the last day of Year Six, to continue to provide the dispatching, maintenance, and infrastructure services that are being provided by Amtrak on the date of enactment of the Passenger Rail Investment Reform Act, but after the last day of Year One, may provide these services only under a contract; and

"(ii) shall carry out the multi-year infrastructure plan prepared by Amtrak, to the extent funds are made available.

"(4)(A) The successor corporations are not a department, agency, or instrumentality of the United States Government nor are they Government corporations

(as defined in section 103 of title 5)..

"(B) Chapter 105 of this title does not apply to the successor corporations. However, laws and regulations governing safety, employee representation for collective bargaining purposes, the handling of disputes between carriers and employees, employee retirement, annuity, and unemployment systems, and other dealings with employees that apply to a rail carrier providing transportation subject to subchapter I of chapter 105 apply to the successor corporations. The employee retirement, annuity, and unemployment systems that apply to a rail carrier providing transportation subject to subchapter I of chapter 105 apply to the entity specified by subsection (b)(2)(A) of this section.

"(C) Subsections (c) through (l) of section 24301 of this title shall apply to the successor corporations.

"(5) Subject to further action by the Board of Directors, the President of Amtrak on the date of enactment of the Passenger Rail Investment Reform Act shall be offered the position of Chief Executive Officer of the Passenger Rail Service Provider.

"(6) The contractual rights of successor corporations to provide services may not be extended beyond the dates set forth in subsections (c)(2) and (c)(3), as applicable, without competitive bid.

"(7) The Passenger Rail Service Provider shall provide to the Secretary of Transportation not later than 18 months after the enactment of the Passenger Rail Investment Reform Act, recommendations on the feasibility, advantages, and disadvantages of separation of the Reservations Center into a free-standing entity that can become an element of an intermodal reservations service.

"(8) The functionally independent entity specified by subsection (b)(2)(A) shall retain all legal rights pertaining to the name 'Amtrak,' and may, at its option, license or otherwise make the name 'Amtrak' commercially available in connection with intercity passenger rail and related services.

"(d) ROLLING STOCK AND SHOPS.--(1) With respect to any route on which intercity passenger rail service is provided on the date of enactment of the Passenger Rail

Investment Reform Act, the Passenger Rail Service Provider shall make available to any replacement operator the legacy equipment that is associated with the service on the route.

"(2) Such equipment and services shall be made available on such terms as Amtrak determines are fair, reasonable, and in the public interest.

"(e) FREIGHT AND COMMUTER OPERATIONS.--(1) Amtrak shall ensure that the implementation of the restructuring prescribed in this section gives due consideration to the needs of freight and commuter rail operations that, as of the effective date of the Passenger Rail Investment Reform Act, operate in the Northeast Corridor on Amtrak right of way.

"(2) Notwithstanding paragraph (1), commuter services headquartered in a State or Commonwealth that is not a member of the North East Corridor Compact after the last day of Year Two, shall pay the fully allocated costs incurred by the successor corporation or any successor entity for access to and use of the Northeast Corridor for such services.

"(3) The right of access by Amtrak to rail lines owned by other carriers is, as of the effective date of the Passenger Rail Investment Reform Act, restricted as follows:

"(A) The terms and conditions for operation of an intercity passenger rail route or frequency to be added after the date of enactment of the Passenger Rail Investment Reform Act shall be determined by negotiation and mutual agreement between the host railroad and the operator of the route or frequency sought to be added, with no preferential right of access.

"(B) If not utilized by Amtrak, Amtrak's right of access to any segment owned by rail line of another rail carrier may be assigned to no more than one intercity passenger rail operator during the term of the assignment, except by agreement among Amtrak, its assignee, and the owner of the rail line.

(b) CONFORMING AMENDMENTS.--(1) The analysis of chapter 243 of title 49, United States Code, is amended by inserting the following after the item relating to section 24309:

"24310. Amtrak restructuring mandate."



(2) Section 24102 (Definitions) of title 49, United States Code, is amended--

(A) by inserting the following after section 24102(5):

"(5a) 'legacy equipment' means the rolling stock required to provide intercity passenger rail service owned or leased by the National Railroad Passenger Corporation on the date of enactment of this chapter."; and

(B) by inserting the following at the end:

"(10) 'Year one' means the next Federal fiscal year to begin after the date of enactment of the Passenger Rail Investment Reform Act, except that the term means the current Federal fiscal year if the date of enactment of the Act is within 60 days of the first day of the current Federal fiscal year.

"(11) 'Year two', 'year three', 'year four', 'year five', and 'year six' mean, respectively, the Federal fiscal year that follows year one by one, two, three, four, and five years, respectively.".

### **SEC. 103. NORTH EAST CORRIDOR COMPACT.**

(a) CONSENT TO COMPACT.--(1) The States and District that constitute the Northeast Corridor, as defined in 49 U.S.C. 24102, may enter into an agreement, not in conflict with a law of the United States and titled the "North East Corridor Compact", to provide passenger rail service and to conduct related activities in the Northeast Corridor.

(2) The North East Corridor Compact shall be submitted to Congress for its consent, and it is the sense of Congress that rapid consent to the Compact shall be a priority of Congress.

(b) COMPACT COMMISSION.--(1) There is hereby established a commission to be known as the "North East Corridor Compact Commission (hereinafter referred to in this section as the "Commission"). The Commission shall be composed of five members as follows:

(A) Two members (or their designees), to be selected by the Secretary of Transportation.

(B) Two members (or their designees), to be selected by agreement of the following government representatives:

(i) The governors of Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, and Massachusetts.

(ii) The mayor of the District of Columbia.

(C) One member to be selected by the four members selected under paragraphs (1) and (2) of this subsection.

(2) The following applies to the Commission:

(A) Members shall be appointed for the life of the Commission.

(B) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(C) 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, United States Code.

(D) The Chairman of the Commission shall be elected by the members.

(E) The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(F) 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.

(G) 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.

(c) FUNCTIONS.--(1) The Commission shall prepare for the consideration of and adoption by participating States, the District of Columbia, and the Secretary of Transportation an interstate compact that provides for the following:

(A) full authority for 99 years to succeed to the responsibilities of the National Railroad Passenger Corporation as operator of the Northeast Corridor, subject to the provisions of a lease from the Department of Transportation;

(B) execution of a lease of the Northeast Corridor from the Department of Transportation, for a period of 99 years, subject to appropriate provisions protecting the lessor's interests, including reversion of all lease interests to the lessor in the event the lessee fails to meet its financial obligations or otherwise assume financial responsibility for Northeast Corridor functions;

(C) responsibility for Corridor maintenance and improvement;

(D) operation of intercity passenger rail service;

(E) arrangements for operation of freight railroad operations and commuter operations; and

(F) assumption of financial responsibility for Northeast Corridor functions.

(G) Authority to make use of the Corridor for non-rail purposes.

(H) Participation by the Department of Transportation, as the non-voting representative of the United States.

(2) The compact terms shall, at a minimum, conform to the requirements of subsections (e) through (i) of this section.

(d) FINAL COMPACT PROPOSAL.--(1) The Commission shall submit a final compact proposal to member states, the District of Columbia, and the Federal Government not later than the last day of Year One.

(2) The Commission shall terminate on the 180th day following the date of transmittal of the final compact proposal under this subsection. All records and papers of the Commission shall thereupon be delivered by the Administrator of General Services for deposit in the National Archives.

(e) GOVERNANCE AND FUNDING REQUIREMENTS FOR COMPACT.--(1) The governance provisions of the compact shall provide a mechanism to ensure voting representation for the States, Commonwealths, and District that comprise the Northeast Corridor, and non-voting representation for the Secretary of Transportation as an ex officio member participating in all Compact affairs.

(2) The provisions of the compact shall establish the financial obligations of each

compact member and shall provide for its management of rail services in the Corridors.

(f) EMPLOYEE INTEREST REQUIREMENTS FOR COMPACT.--The employee provisions of the compact shall, at a minimum, provide the following with regard to employees in the Northeast Corridor if the Compact chooses to replace the successor corporations for operation and maintenance of the physical plant or operation of passenger trains, or both:

(1) Payment of any labor protection payments owed and not paid by the successor corporations established under 49 U.S.C. 24310(b).

(2) In the case of an employee who is employed by the National Railroad Passenger Corporation on the date of enactment of the Passenger Rail Investment Reform Act and who accepts employment by a successor corporation, a right of first refusal to accept a substantially similar position with the replacement operator when the successor corporation is replaced.

(g) FEDERAL INTEREST REQUIREMENTS FOR COMPACT.--The provisions of the Compact shall hold the United States Government harmless as to the actions of the Compact under the lease of rights to the Northeast Corridor by the United States Government.

(h) COMPACT BORROWING AUTHORITY.--(1) The borrowing authority provisions of the compact may authorize the compact to issue bonds or other debt instruments from time to time in its discretion, for purposes that include paying any part of the cost of rail service improvements, construction, and rehabilitation and the acquisition of real and personal property, including operating equipment, except that debt issued by the compact may be secured only by revenues to the compact and may not be a debt of the member States or of the Federal Government.

(2) The debt authorized by this subsection shall under no circumstances be backed by the full faith and credit of the United States, and a grant made under the authority of this Act or under the authority of Part C of Subtitle V of title 49, United States Code, shall include an express acknowledgement by the grantee that the debt does not constitute an obligation of the United States.

(i) **ADOPTION OF COMPACT; TURNOVER.**--(1) The members shall adopt a final compact agreement not later than the last day of Year Two, and the compact shall thereafter assume responsibility for all Corridor operations from the successor corporations on a date that is not later than 8 months following adoption of the compact, which date shall be known as the "NEC turnover date."

(2) In the event that the members do not adopt the final compact agreement and make it operational under the schedule set forth in this section, the Secretary of Transportation shall assume control of the entity specified by 49 U.S.C. 24310(b)(2)(A) and shall make such legislative recommendations as the President judges necessary and expedient to Congress that address the monetary contributions by Northeast Corridor states and the District of Columbia that would be necessary to provide continued intercity passenger rail service in the Northeast Corridor.

(j) **AUTHORIZATION OF APPROPRIATIONS.**--There are authorized such sums as may be necessary to carry out the purposes of this section.

#### **SEC. 104. ASSISTANCE TO ADDRESS CAPITAL NEEDS.**

(a) **IN GENERAL.**--There are authorized to be appropriated to the Secretary of Transportation, for capital expenditures in compliance with capital spending plans developed under section 202 of this Act, including the Secretary's expenses related thereto, the following amounts:

- (1) such sums as may be necessary for Year Three.
- (2) such sums as may be necessary for Year Four.
- (3) such sums as may be necessary for Year Five.
- (4) such sums as may be necessary for Year Six.

(b) **OBLIGATION OPTIONS.**--(1) Subject to paragraph (2), the Secretary may obligate the funds authorized by this section through grants to or cooperative agreements with States, the Passenger Rail Service Provider, the North East Corridor Compact or another qualified Compact, or through contracts with private companies.

(2) Funds appropriated under this section shall not be obligated and not be disbursed from the Treasury for the North East Corridor Compact until it has been

established and is empowered and qualified to enter into contracts for the expenditure of the funds.

(c) ELIGIBILITY OF EXPENDITURES.--(1) The Federal share of expenditures for capital improvements under this section may be not more than 100 percent and is solely authorized for the purpose of funding deferred maintenance, safety and security projects. Expenditures for capacity expansion are not authorized by this section.

(2) Funds appropriated under this section may be obligated for an expenditure only if the Secretary has determined in writing that the expenditure on any railroad infrastructure investments is limited to a route or routes with a useful life of at least 5 years.

#### **SEC. 105. EMPLOYEE TRANSITION ASSISTANCE; AUTHORIZATION.**

(a) PROVISION OF FINANCIAL INCENTIVES.-- To facilitate the restructuring required by this title, the Secretary is authorized to develop a program under which the Secretary may, in the Secretary's discretion, provide grants for financial incentives to be provided to employees of the National Railroad Passenger Corporation who voluntarily terminate their employment with the Corporation or the successor corporations and relinquish any legal rights to receive termination-related payments under any contractual agreement with the Corporation or the successor corporations.

(b) CONDITIONS FOR FINANCIAL INCENTIVES.--As a condition for receiving financial assistance grants under this section, the Corporation or the successor corporations must certify that--

(1) the financial assistance results in a net reduction in the total number of employees equal to the number receiving financial incentives,

(2) the financial assistance results in a net reduction in total employment expense equivalent to the total employment expenses associated with the employees receiving financial incentives; and

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

(c) AMOUNT OF FINANCIAL INCENTIVES.--The financial incentives authorized under this section may be no greater than \$50,000.00 per employee.

(d) AUTHORIZATION OF APPROPRIATIONS.--There are hereby authorized to the Secretary such sums as may be necessary to make grants to the National Railroad Passenger Corporation or the successor corporation to fund termination-related payments to employees under existing contractual agreements until four years from the first day of Year One.

#### **SEC. 106. LIMIT ON OPERATING ASSISTANCE FOR LONG-DISTANCE ROUTES.**

(a) IN GENERAL.--Title 49, United States Code, is amended by inserting the following after section 24315:

"Sec. 24316. Limit on operating assistance for long-distance routes

"(a) GENERAL AUTHORITY.--(1) After the last day of Year One, the Secretary of Transportation may make grants for operating assistance under the authority of this section, and not under any other provision of law, to reimburse operators of long-distance routes, as defined in section 24102, and corridor feeder routes for the operating expenses incurred in operating those routes to provide intercity passenger rail transportation.

"(2) The Secretary shall require that a grant under this section be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including the definition of eligible expenses and the documentation of eligible operating losses on a quarterly basis.

"(b) FEDERAL SHARE OF OPERATING EXPENSES.--(1) No funds appropriated under this Part shall be used to fund operating expenses of a long-distance route after the last day of Year One, except as provided in paragraph (2) of this subsection.

"(2) Funds appropriated under this section may be used to reimburse the operator of a long-distance route or a corridor feeder route for operating expenses on that route provided that amounts reimbursed do not exceed the operating losses on the route and do not constitute a reimbursement per-passenger mile greater than--

- “(A) \$0.40 during Year Two;
- “(B) \$0.20 during Year Three;
- “(C) \$0.10 during Year Four; and
- “(D) \$0.00 for each year thereafter.

“(c) AUTHORIZATION OF APPROPRIATIONS.--There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section, including the Secretary's expenses related thereto.

(b) CONFORMING AMENDMENTS.--(1) The analysis of chapter 243 of title 49, United States Code, is amended by inserting the following after the item relating to section 24315:

"24316. Limit on operating assistance for long-distance routes."

(2) Section 24102 (Definitions) of title 49, United States Code, is amended--

(A) by inserting the following after section 24102(4):

“(4a) ‘corridor feeder route’ means a portion of a long distance train or route that provides services between regional corridors by connecting to endpoints of the corridors.”; and

(B) by inserting the following after section 24102(5a), as added by this Act:

"(5b) ‘long distance train’ or ‘long distance route’ means one of or a portion of the following trains or routes operated by the National Railroad Passenger Corporation on the date of enactment of this section: the Silver Star, the Three Rivers, the Cardinal, the Silver Meteor, the Empire Builder, the Capitol Limited, the California Zephyr, the Southwest Chief, the City of New Orleans, the Texas Eagle, the Sunset Limited, the Coast Starlight, the Lake Shore Limited, the Palmetto, the Crescent, the Pennsylvanian, and the Auto Train."

## **SEC. 107. REPEAL OF OBSOLETE AND EXECUTED PROVISIONS OF LAW; OTHER.**

(a) IN GENERAL.--Title 49, United States Code, is amended by repeal of the following sections:



- (1) Section 24701 (Operation of basic system).
- (2) Section 24706 (Discontinuance).
- (3) Section 24901 (Definitions).
- (4) Section 24902 (Goals and Requirements).
- (5) Section 24904 (General Authority).
- (6) Section 24906 (Eliminating highway at-grade crossings).
- (7) Section 24909 (Authorization of appropriations).

(b) REVISIONS TO SECTION 24305.-- (1) Section 24305 (a) is amended by striking paragraph (2) and renumbering paragraph (3) as paragraph (2).

(2) Section 24305(b) is amended by striking paragraph (4) and renumbering paragraph (5) as paragraph (4) and paragraph (6) as paragraph (5).

(3) Subsection 24305(f)(2) is amended by inserting before the word "Amtrak", the following "With regard to items acquired with funds provided by the Federal Government,"

(c) CONFORMING AMENDMENT.--The analysis of chapters 243, 247, and 249 are amended by deleting, as appropriate, items relating to the following sections: 24307, 24701, 24706, 24901, 24902, 24904, 24906, 24908, and 24909.

(d) EFFECTIVE DATE.--The effective date of this section is the first day of Year One.

## **TITLE II--FINANCIAL REFORMS**

### **SEC. 201. LIMITATIONS ON AVAILABILITY OF GRANTS.**

(a) IN GENERAL.--Title 49, United States Code, is amended by inserting the following after section 24313:

#### **"Sec. 24314. Transitional limitations on availability of grants**

"(a) REQUIREMENTS PRIOR TO RESTRUCTURING.--A grant made to the National Railroad Passenger Corporation under the authority of Part C of Subtitle V of this title between the first day of Year One, and the establishment and commencement of operations by the successor corporations under section 24310 of this title may only be made subject to the following limitations:

"(1) The Secretary of Transportation shall not disburse funding to cover

operating losses on a long-distance train route without first receiving and approving a grant request for that specific train route.

"(2) Each such grant request shall be accompanied by a detailed financial analysis and revenue projection justifying the Federal support to the Secretary's satisfaction.

"(3) The Secretary of Transportation and the Board of Directors of the Corporation shall ensure that, of the amount made available by appropriations for capital and operating assistance to the Corporation in a fiscal year, sufficient sums are reserved to satisfy the contractual obligations of the Corporation to provide commuter and intrastate passenger rail service.

"(4) Not later than December 31 prior to each fiscal year in which grants are made to the Corporation, the Corporation shall transmit to the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House, and the House and Senate Committees on Appropriations a business plan for operating and capital improvements to be funded in the fiscal year under section 24104(a) of title 49, United States Code.

"(5) The business plan shall include a description of the work to be funded, along with cost estimates and an estimated timetable for completion of the projects covered by the business plan.

"(6) Each month of each fiscal year in which grants are made to the Corporation, the Corporation shall submit to the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House, and the House and Senate Committees on Appropriations a supplemental report regarding the business plan, which shall describe the work completed to date, any changes to the business plan, and the reasons for such changes.

"(7) A grant may not be used for operating expenses or capital projects that is not approved by the Secretary of Transportation or an element of the

Corporation's current fiscal year business plan, or that is obligated or expended unless the Corporation certifies, as part of the grant agreement, that it has complied with and will abide by the following requirements:

"(A) The Corporation's management will maintain financial controls and accounting transparency to the satisfaction of the Secretary, including developing or enhancing any existing capacity separately to report (a) all revenue and expenses associated with rail operations by route; and (b) budgeted and actual expenditures for all capital investments.

"(B) The Corporation's management will provide to the Board of Directors, the Department of Transportation and Congress its Monthly Performance Report. The Corporation shall also make available to the Department of Transportation the same details and reports on its financial performance that it makes available to Amtrak management, at the same time that it provides those reports and details to Amtrak management.

"(C) The Corporation shall expend funds only for the continuation of existing plants and services. With the exception of expenditures for which it obtains written approval from the Department of Transportation, The Corporation will not use of any of its funds for actual expansion or planning for expansion of rail service, including high speed rail service.

"(D) The Corporation has negotiated with its employees substantial operating cost reductions needed to make its operations competitive with private-sector service providers.

"(b) REQUIREMENTS FOLLOWING RESTRUCTURING.--Any grant made directly to either of the successor corporations under the authority of Part C of Subtitle V of this title may only be made subject to the following limitations:

"(1) The Secretary of Transportation shall not disburse funding to cover operating losses on a long-distance train route without first receiving and approving a grant request for that specific train route.

"(2) Each such grant request shall be accompanied by a detailed financial

analysis and revenue projection justifying the Federal support to the Secretary's satisfaction.

"(3) The Secretary of Transportation shall ensure that, of the amount made available by appropriations for capital and operating assistance in a fiscal year, sufficient sums are reserved to satisfy the successor corporation's contractual obligations, if any, with respect to commuter and intrastate passenger rail service.

"(4) Not later than December 31 prior to each fiscal year in which grants are made, the successor corporations shall each transmit to the Secretary of Transportation a business plan for operating and capital improvements to be funded in the fiscal year.

"(5) The business plan shall include a description of the work to be funded, along with cost estimates and an estimated timetable for completion of the projects covered by the business plan.

"(6) Each month of each fiscal year in which grants are made, the successor corporations shall each submit to the Secretary of Transportation a supplemental report regarding the business plan, which shall describe the work completed to date, any changes to the business plan, and the reasons for such changes.

"(7) A grant may not be used for operating expenses or capital projects that is not approved by the Secretary of Transportation or an element of the current fiscal year business plan, or that is obligated or expended unless the successor corporation agrees, as part of the grant agreement, to abide by the following requirements:

"(A) Management will maintain financial controls and accounting transparency to the satisfaction of the Secretary, including developing or enhancing any existing capacity separately to report (a) all revenue and expenses associated with rail operations by route; and (b) budgeted and actual expenditures for all capital investments.

"(B) Management of each successor corporation shall make

available to the Department of Transportation the same details and reports on its financial performance that it makes available internally, at the same time that it provides those reports and details internally.

"(C) Funds will be spent only on existing plants and services."

(b) CONFORMING AMENDMENTS.--(1) The analysis of chapter 243 of title 49, United States Code, is amended by inserting the following after the item relating to section 24313:

"24314. Transitional limitations on availability of grants."

**SEC. 202. SPENDING PLANS FOR CAPITAL BACKLOG REDUCTION.**

(a) IN GENERAL.-- Within 6 months after Year One begins, and as a condition of grants to the National Railroad Passenger Corporation between that date and the implementation of the restructuring required under 49 U.S.C. 24310, the Corporation shall prepare a capital spending plan that addresses capital needs, consistent with the funding levels authorized to be provided for Year One and each fiscal year thereafter through Year Six, for--

- (1) Northeast Corridor capital assets; and
- (2) capital assets on long-distance routes other than on the Northeast Corridor; and
- (3) capital assets on short-distance routes other than the Northeast Corridor.

(b) APPROVAL BY THE SECRETARY AND THE COMPACT.--(1) The Corporation shall submit the capital spending plan prepared under this section to the Secretary of Transportation for review and approval. The plan shall be implemented only after approval by the Secretary, and with any modifications specified by the Secretary.

(2) The Secretary of Transportation shall require that the plan be updated at least annually.

(3) On and after creation of North East Corridor Compact, the Secretary shall make no grants to the Compact for Northeast Corridor for capital investments, except in accordance with a capital spending plan prepared by the Compact and approved by both

the Compact and the Secretary. The same requirements shall apply to grants made to States and other Compacts under this section.

### **SEC. 203. REDEMPTION OF COMMON STOCK.**

(a) VALUATION.--The Secretary of Transportation shall arrange, at the National Railroad Passenger Corporation's expense, for a valuation of all assets and liabilities of the Corporation to be performed by the Secretary of the Treasury, or by a contractor selected by the Secretary of the Treasury. Such valuation shall be conducted in accordance with criteria and requirements to be determined by the Secretary, in the Secretary's discretion, and shall be completed within 6 months after Year One begins.

(b) REDEMPTION.--(1) Prior to the transfer of assets to the Secretary directed by section 204 of this Act, and within 9 months after Year One begins, the Corporation shall redeem all common stock in the Corporation issued prior to the date of enactment of this Act at the book value of such stock, based on the valuation performed under subsection (a).

(2) No provision of this Act, or amendments made by this Act, provide to the owners of the common stock a priority over holders of indebtedness or other stock of the Corporation.

(c) ACQUISITION THROUGH EMINENT DOMAIN.--In the event that the Corporation and the owners of its common stock have not completed the redemption of such stock by a date that is within 9 months after Year One begins, the Corporation shall exercise the eminent domain provisions contained in 49 U.S.C. 24311, as amended by this Act, to acquire that stock. The valuation performed under subsection (a) shall be deemed to constitute just compensation except to the extent that the owners of the common stock demonstrate that the valuation is less than the constitutional minimum value of the stock.

(d) AMENDMENT OF 49 U.S.C. 24311.--Section 24311 of title 49, United States Code, is amended--

(1) by striking “or” at the end of subsection (a)(1)(A);

(2) by striking the period at the end of subsection (a)(1)(B) and

substituting “; or”; and

(3) by inserting the following after subsection (a)(1)(B):

“(C) necessary to redeem the Corporation’s common stock from any holder thereof, including a rail carrier.”.

(e) CONVERSION OF PREFERRED STOCK TO COMMON.--(1) Subsequent to the redemption of the common stock in the Corporation issued prior to the date of enactment of this Act, the Secretary of Transportation shall convert the one share of the preferred stock of the Corporation retained under section 204 of this Act for ten shares of common stock in the Corporation.

(2) The Corporation shall not issue any other common stock without the express written consent of the Secretary.

#### **SEC. 204. RETIREMENT OF PREFERRED STOCK; TRANSFER OF ASSETS.**

(a) TRANSFER.-- Not later than 30 days after the redemption or acquisition specified under section 203 of this Act, the Corporation shall, in return for the consideration specified in subsection (c), transfer to the Secretary of Transportation title to the following assets:

(1) The portions of the Northeast Corridor currently owned or leased by the Corporation as well as any improvements made to these assets. The assets transferred to the Secretary shall include the rail right-of-way, stations, track, signal equipment, electric traction facilities, bridges, tunnels and all other improvements owned by Amtrak between Boston, Massachusetts and Washington, District of Columbia (including the route through Springfield, Massachusetts and the routes to Harrisburg, Pennsylvania and Albany, New York from the Northeast Corridor mainline).

(2) Chicago Union Station and rail-related assets in the Chicago metropolitan area.

(3) All other track and right-of-way, stations, repair facilities and other real property owned or leased by the Corporation.

(b) EXISTING ENCUMBRANCES.--(1) With regard to any assets described in

subsection (a) that the Corporation has provided as security or collateral for a debt entered into prior to the date of enactment of this Act, the Corporation shall transfer its underlying legal interest in such asset to the Secretary, provided, however, that the Corporation shall remain liable for the debt secured by the asset.

(2) The obligation of the National Railroad Passenger Corporation to repay in full any indebtedness to the United States incurred since January 1, 1990, is not affected by this Act or an amendment made by this Act.

(c) CONSIDERATION.--In consideration for the assets transferred to the United States under subsection (b) above, the Secretary shall--

(1) deliver to the Corporation all but one share of the preferred stock of the Corporation held by the Secretary and forgive the Corporation's legal obligation to pay any dividends, including accrued but unpaid dividends as of the date of transfer, evidenced by the preferred stock certificates; and

(2) Release the Corporation from all mortgages and liens held by the Secretary that were in existence on January 1, 1990.

(d) AGREEMENT.--(1) Prior to accepting title to the assets transferred under this section, the Secretary shall enter into an agreement with the Corporation under which the Corporation will exercise on behalf of the Secretary care, custody and control of the assets to be transferred.

(2) The agreement shall identify in detail the specific functions of the Corporation's employees and equipment, and the specific numbers and locations of the employees and equipment associated with each function, that would be needed for continuation of commuter and freight rail service in the event that the Corporation were to cease operation, and identify those actions that would be required to ensure that such functions can be continued on an interim basis to avoid any interruption in commuter or freight rail service on the Northeast Corridor.

(e) FURTHER TRANSFERS.-- (1) The Secretary may, for appropriate consideration, transfer title to all or part of Chicago Union Station and rail-related assets in the Chicago metropolitan area acquired under this section to a regional public



transportation agency that has significant operations in Chicago Union Station on the date of enactment of this Act.

(2) The Secretary may, for appropriate consideration, transfer to the underlying states title to real estate properties owned by the Corporation between Boston, Massachusetts and Washington, District of Columbia that constitute the route through Springfield, Massachusetts and the routes to Harrisburg, Pennsylvania and Albany, New York from the Northeast Corridor mainline.

(3) The Secretary may, for appropriate consideration, transfer title to all or part of the assets acquired under subsection (a)(3) to a State, a public agency, a railroad, or other entity deemed appropriate by the Secretary.

(4) All financial consideration determined by the Secretary to be appropriate consideration for the transfer of the assets described in paragraphs (1)-(3) shall be used exclusively to reduce the Corporation's long-term debt that exists on the date of enactment.

#### **SEC. 205. REAL ESTATE AND ASSET SALES; OTHER.**

(a) IN GENERAL.--The Amtrak Board of Directors shall undertake and complete not later than the last day of Year Three, the disposition of all stations, track, and other facilities outside the Northeast Corridor mainline, including property conveyed to the Secretary of Transportation under section 204 of this Act.

(b) PROCEEDS OF LIQUIDATION.--Notwithstanding section 3302 of title 31, United States Code, any proceeds from the liquidation of assets under this section shall--

(1) be credited as an offsetting collection to the account that finances grants for debt and interest payments under section 206 of this Act to the Passenger Rail Service Provider specified under 49 U.S.C. 24310; and

(2) remain available until expended.

#### **SEC. 206. MANAGEMENT AND TRANSFER OF SECURED DEBT.**

(a) NEW DEBT PROHIBITION.--Except as approved by the Secretary of Transportation to re-finance existing secured debt, the Corporation shall not enter into any obligation secured by assets of the Corporation after the date of enactment of this

Act. This section does not prohibit unsecured lines of credit used by the Corporation or any subsidiary for working capital purposes.

(b) SECURED DEBT TRANSFER.--(1) Upon establishment of the Passenger Rail Service Provider specified under 49 U.S.C. 24310 and the transfer of ownership of the existing rolling stock, all debt secured by the rolling stock shall be transferred to and become a liability solely of, the Passenger Rail Service Provider.

(2) Upon establishment of the North East Corridor Compact under section 103 of this Act, the secured debt associated with fixed assets in the Northeast Corridor shall be transferred to and become a liability solely of, the North East Corridor Compact.

(c) FY05-09 AUTHORIZATION.--(1) There are authorized to be appropriated to the Secretary for grants to the Passenger Rail Service Provider to pay principal and interest payments on secured debt existing on the date of enactment of this Act the following amounts:

(1) such sums as may be necessary in Year Two.

(2) such sums as may be necessary in Year Three.

(3) such sums as may be necessary in Year Four.

(4) such sums as may be necessary in Year Five.

(5) such sums as may be necessary in Year Six.

(2) The funding authorized by this section shall not--

(A) modify the extent or nature of any indebtedness of the National Railroad Passenger Corporation to the United States in existence of the date of enactment of this Act;

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

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

## **SEC. 207. TRANSITION ASSISTANCE.**

(a) FY04 ASSISTANCE.--There are authorized to be appropriated to the Secretary for grants to the National Railroad Passenger Corporation for operating and capital expenses such sums as may be necessary in Year One.

(b) FY05 SUCCESSOR CORPORATION OPERATING ASSISTANCE.-- There are authorized to be appropriated to the Secretary such sums as may be necessary for grants to--

(1) the Passenger Rail Service Provider for operating expenses of all services except long-distance trains and routes in Year Two; and

(2) the Passenger Rail Infrastructure Manager for capital expenses in Year Two.

(c) ADMINISTRATIVE EXPENSES OF COMPACTS.-- There are authorized to be appropriated to the Secretary such sums as may be necessary for grants for the administrative expenses of interstate compacts in Years One through Three.

(d) EXPENSES OF AMTRAK.-- There are authorized to be appropriated to the Secretary such sums as may be necessary for grants for the administrative expenses of Amtrak in Years Two through Six..

(e) GRANTS MADE AFTER YEAR TWO.-- After the last day of Year Two, the Secretary may not enter into a grant agreement under this Act, other than section 206(c), or part C of Title V of title 49, United States Code, unless each other party to the grant agreement is a State, regional compact, or other public entity.

### **TITLE III-- GRANTS AND OTHER ASSISTANCE FOR INTERCITY PASSENGER RAIL SERVICE**

#### **SEC. 301. CAPITAL ASSISTANCE FOR INTERCITY PASSENGER RAIL SERVICE.**

(a) Part C of Subtitle V of title 49, United States Code, is amended by inserting the following after chapter 243:

#### **"CHAPTER 244--INTERCITY PASSENGER RAIL SERVICE CORRIDOR CAPITAL ASSISTANCE**

"Sec.

"24401. Definitions; effective date.

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

"24403. Project management oversight

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

"24405. Authorization of appropriations.

"Sec. 24401. Definitions; effective date.

"(a) DEFINITIONS.--In this chapter--

"(1) 'applicant' means a State, an Interstate Compact (including the North East Corridor Compact as specified in section 103 of the Passenger Rail Investment Reform Act), or a public agency established by one or more States and having responsibility for providing intercity passenger rail service.

"(2) 'capital project' means a project within a corridor plan or program for--

"(A) acquiring, constructing, supervising or inspecting equipment or a facility for use in intercity passenger rail service, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, environmental studies, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, passenger rail-related intelligent transportation systems, highway-rail grade crossing improvements on routes used for intercity passenger rail service, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

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

"(C) the first-dollar liability costs for insurance related to the provision of intercity passenger rail service.

"(3) 'intercity passenger rail service' means transportation services with the primary purpose of passenger transportation between towns, cities and metropolitan areas by rail, including high-speed rail.

"(b) EFFECTIVE DATE.--This chapter is effective on the first day of Year Two.

"Sec. 24402. Capital investment grants to support intercity passenger rail service

"(a) GENERAL AUTHORITY.--(1) The Secretary of Transportation may make grants under this section to an applicant to assist in financing the capital costs of facilities and equipment necessary to provide intercity passenger rail transportation.

"(2) The Secretary shall require that a grant under this section be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section.

"(3) A grant under this section may not be made for a project or program of projects that qualifies for financial assistance under chapter 53 of this title.

"(b) PROJECT AS PART OF APPROVED PROGRAM.--(1) The Secretary may not approve a grant for a project under this section unless the Secretary finds that the project is part of an approved corridor plan and program developed under section 5303 of this title and that the applicant or recipient has or will have the legal, financial, and technical capacity to carry out the project (including safety and security aspects of the project), satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities.

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

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

"(4) An applicant shall demonstrate that it has agreed with the railroad over which the intercity passenger rail service will operate concerning the applicant's operating and capital plans.

"(c) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.--(1)(A) The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a major capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.

"(B) At least 30 days before issuing a letter under subparagraph (A) of this paragraph or entering into a full funding grant agreement, the Secretary shall notify in writing the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and the House and Senate Committees on Appropriations of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

"(C) The issuance of a letter is deemed not to be an obligation under sections 1108(c) and (d), 1501, and 1502(a) of title 31, U.S.C., or an administrative commitment.

"(D) An obligation or administrative commitment may be made only when amounts are appropriated.

"(2)(A) The Secretary may make a full funding grant agreement with an applicant. The agreement shall--

"(i) establish the terms of participation by the United States Government in a project under this section;

"(ii) establish the maximum amount of Government financial assistance for the project;

"(iii) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and

"(iv) make timely and efficient management of the project easier according to the law of the United States.

"(B) An agreement under this paragraph obligates an amount of available budget authority specified in law and 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. The agreement shall state that the contingent commitment is not an obligation of the Government and is subject to subject to the availability of appropriations made by Federal law and to Federal laws in force on or enacted after the date of the contingent commitment. 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 full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

"(3)(A) The Secretary may make an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe--

"(i) a full funding grant agreement for the project will be made; and

"(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

"(B) A work agreement under this paragraph obligates an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier. A work agreement shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization. Interest and other financing costs of efficiently carrying out the work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms. If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Government payments made under the work agreement plus reasonable interest and penalty charges the Secretary establishes in the agreement.

"(4) The total estimated amount of future obligations of the Government and

contingent commitments to incur obligations covered by all outstanding letters of intent, full funding grant agreements, and early systems work agreements may be not more than the amount authorized under section 24405 of this title, less an amount the Secretary reasonably estimates is necessary for grants under this section not covered by a letter. The total amount covered by new letters and contingent commitments included in full funding grant agreements and early systems work agreements may be not more than a limitation specified in law.

"(d) FEDERAL SHARE OF NET PROJECT COST.--(1)(A) Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net project cost.

"(B) A grant for the project shall not exceed the specified percentage of the project net capital cost established for the year the grant is approved, as follows:

"(i) 100 percent in the case of approval for Year Two.

"(ii) 80 percent in the case of approval for Year Three.

"(iii) 60 percent in the case of approval for Year Four.

"(iii) 50 percent in the case of approval for Year Five, and thereafter.

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

"(2) Up to an additional 30 percent of project net capital cost may be funded from amounts appropriated to or made available to a department or agency of the Federal Government that are eligible to be expended for transportation.

"(e) UNDERTAKING PROJECTS IN ADVANCE.--(1) The Secretary may pay the Federal share of the net capital project cost to an applicant that carries out any part of a project described in this section according to all applicable procedures and requirements if--

"(A) the applicant applies for the payment;

"(B) the Secretary approves the payment; and

"(C) before carrying out the part of the project, the Secretary approves the



plans and specifications for the part in the same way as other projects under this section.

"(2) The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the applicant to the extent proceeds of the bonds are expended in carrying out the part. However, the amount of interest under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financial terms.

"(3) The Secretary shall consider changes in capital project cost indices when determining the estimated cost under paragraph (2) of this subsection."

"Sec. 24403. Project management oversight

"(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.--To receive Federal financial assistance for a major capital project under this chapter, an applicant must prepare and carry out a project management plan approved by the Secretary of Transportation. The plan shall provide for--

"(1) adequate recipient staff organization with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;

"(2) a budget covering the project management organization, appropriate consultants, property acquisition, utility relocation, systems demonstration staff, audits, and miscellaneous payments the recipient may be prepared to justify;

"(3) a construction schedule for the project;

"(4) a document control procedure and recordkeeping system;

"(5) a change order procedure that includes a documented, systematic approach to handling the construction change orders;

"(6) organizational structures, management skills, and staffing levels required throughout the construction phase;

"(7) quality control and quality assurance functions, procedures, and

responsibilities for construction, system installation, and integration of system components;

"(8) material testing policies and procedures;

"(9) internal plan implementation and reporting requirements;

"(10) criteria and procedures to be used for testing the operational system or its major components;

"(11) periodic updates of the plan, especially related to project budget and project schedule, financing, and ridership estimates;

"(12) the recipient's commitment to submit a project budget and project schedule to the Secretary each month.

"(b) SECRETARIAL OVERSIGHT.--(1) The Secretary may use no more than 0.5 percent of amounts made available in a fiscal year for capital projects under this chapter to enter into contracts to oversee the construction of such projects.

"(2) The Secretary may use amounts available under paragraph (1) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under paragraph (1)

"(3) The Federal Government shall pay the entire cost of carrying out a contract under this subsection.

"(c) ACCESS TO SITES AND RECORDS.--Each recipient of assistance under this chapter shall provide the Secretary and a contractor the Secretary chooses under subsection (c) of this section with access to the construction sites and records of the recipient when reasonably necessary.

'(e) REGULATIONS.-- The Secretary shall prescribe regulations necessary to carry out this section. The regulations shall include--

"(1) a definition of "major capital project" for this section; and

"(2) a requirement that oversight begin during the preliminary engineering stage of a project, unless the Secretary finds it more appropriate to begin oversight during another stage of a project, to maximize the transportation benefits and cost savings associated with project management oversight;

“(3) a deadline by which all grant applications for a fiscal year must be submitted that is early enough to permit the Secretary to evaluate all timely applications thoroughly before making grants;

“(4) a formula based on population, track miles of railroad, and passenger miles traveled in the prior fiscal year by which one-half of the funds appropriated for capital grants for each fiscal year are to be allocated among the states;

“(5) a requirement that, if a State does not timely apply for its share of formula grant funds under paragraph (4) of this subsection, those funds will be made available to other States under paragraph (6) of this subsection;

“(6) criteria by which the Secretary will allocate one-half of the funds appropriated for capital grants for each fiscal year, including at least projected ridership, passenger rail and intermodal connections, congestion and air quality mitigation, underserved communities, and the effect of the grant on whether existing service will continue.

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

"Notwithstanding the requirements of section 24402 of this title, the Secretary of Transportation may approve the use of capital assistance under this chapter to fund self-insured retention of risk for the first tier of liability insurance coverage for rail passenger service associated with the capital assistance grant, but the coverage may not exceed \$20 million per occurrence or \$20 million in aggregate per year.

"Sec. 24405. Authorization of appropriations

"There are authorized to be appropriated to make capital financial assistance grants under this chapter, including the Secretary's expenses related thereto, the following amounts:

"(1) such sums as may be necessary in Year Two.

"(2) such sums as may be necessary in Year Three.

"(3) such sums as may be necessary in Year Four.

"(4) such sums as may be necessary in Year Five.

"(5) such sums as may be necessary in Year Six."

(b) CONFORMING AMENDMENTS.--(1) The table of chapters for title 49, United States Code, is amended by inserting the following after the item relating to chapter 243:

"244. Intercity Passenger Rail Service Capital Assistance .....24401".

(2) The chapter analysis for Subtitle V of title 49, United States Code, is amended by inserting the following after the item relating to chapter 243:

"244. Intercity Passenger Rail Service Capital Assistance .....24401".

### **SEC. 302. FINAL REGULATIONS ON APPLICATIONS BY STATES FOR DEVELOPMENT GRANTS.**

Not later than June 1 of Year One, the Administrator of the Federal Railroad Administration shall issue final regulations setting forth procedures for application and minimum requirements for the award of grants on and after the first day of Year Two, under chapter 244 of title 49, United States Code.

### **SEC. 303. AUTHORITY FOR INTERSTATE COMPACTS FOR CORRIDOR DEVELOPMENT.**

(a) CONSENT TO COMPACTS--(1) Two or more States with an interest in a specific form, route, or corridor of intercity passenger rail service (including high speed rail service) may enter into interstate compacts to implement the service, including--

- (1) retaining an existing service or commencing a new service;
- (2) assembling rights-of-way; and
- (3) performing capital improvements, including -
  - (A) the construction and rehabilitation of maintenance facilities;
  - (B) the purchase of rolling stock; and
  - (C) operational improvements, including communications, signals, and other systems.

(2) A compact entered into under the authority of this section shall be submitted to Congress for its consent, and it is the sense of Congress that rapid consent to the Compact shall be a priority of Congress.

(b) FINANCING.--(1) An interstate compact established by States under

subsection (a) may provide that, in order to carry out the compact, the States may--

- (A) accept contributions from a unit of State or local government or a person;

- (B) use any Federal or State funds made available for intercity passenger rail service (except funds made available for Amtrak);

- (C) on such terms and conditions as the States consider advisable--

- (i) borrow money on a short-term basis and issue notes for the borrowing; and

- (ii) issue bonds; and

- (D) obtain financing by other means permitted under Federal or State law.

(2) Bonds and other indebtedness incurred under the authority of this subsection shall under no circumstances be backed by the full faith and credit of the United States,