

HR 4122 IH

110th CONGRESS

1st Session

H. R. 4122

To support the development of high-speed rail in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

November 8, 2007

Mr. COSTA introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To support the development of high-speed rail 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.

This Act may be cited as the `American Investment in Safe, Reliable High-Speed Rail Act'.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (Public Law 102-240) discussed high-speed rail as part of an intermodal transportation system for the United States, and directed the Department of Transportation to `lead and coordinate Federal efforts in the research and development of high-speed ground transportation technologies in order to foster implementation of magnetic levitation and high-speed steel wheel on rail transportation systems as alternatives to existing transportation systems.'

(2) The Department of Transportation has designated eleven high-speed rail corridors in the United States.

(3) High-speed rail development will be a state-of-the-art transportation system that will have impact on climate change.

(4) High-speed rail is an efficient, practical, and less polluting transportation mode that can fill the gap between future demand and present capacity.

(5) High-speed rail will greatly reduce carbon dioxide emissions by reducing vehicle travel and make major contributes to efforts to reduce greenhouses gas emissions and combat global warming.

(6) High-speed rail will drastically reduce the traffic congestion currently plaguing our Nation's busiest highway systems.

(7) Most of the high-speed rail tracks will be at ground level, only needing a minimum path 50 feet wide, comparable to a new two-lane road with shoulders, but providing 20 times the transportation capacity.

(8) The future growth of the United States will require multimodal of transportation to ease travel across the country.

(9) High-speed rail can provide a viable alternative to airspace capacity problems the Federal Aviation Administration admits it cannot solve in the Los Angeles to Bay Area air corridor. High-speed rail will have comparable and often shorter travel times when compared to air travel on trips 200 to 500 miles in length, allowing it to significantly reduce airspace congestion.

(10) The only current fast train lines in the country only average a speed of 82.2 miles per hour.

(11) Rail track will be fully grade-separated from road traffic with bridges or underpasses.

(12) At peak travel times, trains can be expanded to accommodate more passengers than the current congested highway system.

(13) The Federal Government has traditionally participated in significant infrastructure improvements such as the Transcontinental Railroad, Interstate Highway System, and the Tennessee Valley Authority, as well as our Nation's port and harbor systems.

(14) The economic strength and development of our Nation has been led by advances in transportation projects, such as the Erie Canal, Transcontinental Railroad, Interstate Highway System, and airports.

(15) Improving the linkage of major metropolitan areas across the country using rail systems can bring great economic growth.

(16) Expanding the Nation's highways and airports is costly, and constrained by environmental restrictions.

(17) High-speed rail construction will yield millions of jobs throughout the country.

(18) Advances in rail technology have allowed high-speed rail systems in Europe and Japan to attain speeds of up to 357 miles per hour and provide a much needed alternative for trips in the 200 to 500-mile range.

(19) The Shinkansen high-speed trains in Japan carry over 300,000,000 passengers a year, and the system's 1,540 miles of track continues to expand due to demand for travel.

(20) High-speed rail will save up to tens of millions of barrels of oil per year.

SEC. 3. PURPOSE.

The purpose of this Act is to establish high-speed rail in the United States--

(1) to further right-of-way purchases, designs, and construction of

high-speed rail systems in the United States;

(2) to create a 21st century intermodal transportation system;

(3) to alleviate the air and highway congestion plaguing our Nation;
and

(4) to develop an environmentally friendly and efficient mass transportation system to reduce greenhouse gas emissions.

SEC. 4. CAPITAL ASSISTANCE FOR INTERCITY PASSENGER RAIL SERVICE.

(a) In General- 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.

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

24403. Project management oversight.

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

24405. Grant conditions.

Sec. 24401. Definitions

In this chapter:

(1) **APPLICANT**- The term 'applicant' means a State (including the District of Columbia), a group of States, an Interstate Compact, a public agency established by one or more States, or a public-private or

private entity which is responsible for providing intercity passenger rail service.

^ (2) CAPITAL PROJECT- The term `capital project' means a project or program in a State rail plan developed under chapter 225 of this title for--

^ (A) design, right-of-way acquisition, and construction of high-speed rail in the United States;

^ (B) acquiring, constructing, improving, or inspecting equipment, track, and track structures, or a facility for use in or for the primary benefit of 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, highway-rail grade crossing improvements related to intercity passenger rail service, security, mitigating environmental impacts, communication and signalization improvements, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

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

^ (D) costs associated with developing State rail plans; and

^ (E) the first-dollar liability costs for insurance related to the provision of intercity passenger rail service under section 24404.

^ (3) INTERCITY PASSENGER RAIL SERVICE- The term `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, as defined in section 24102.

^ 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 high-speed right-of-way

acquisition, design, and construction of capital projects, and the financing of the capital costs of facilities and equipment necessary to provide or improve 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, and shall prescribe procedures and schedules for the awarding of grants under this chapter, including application and qualification procedures and a record of decision on applicant eligibility. The Secretary shall issue a final rule establishing such procedures not later than 90 days after the date of enactment of this chapter.

` (b) Project as Part of State Rail Plan- (1) The Secretary may not approve a grant for a project under this section unless the Secretary finds that the project is part of a State rail plan developed under chapter 225 of this title, and that the applicant or recipient has or will have the legal, financial, and technical capacity to carry out the project, satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities.

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

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

` (c) Project Selection Criteria- The Secretary, in selecting the recipients of financial assistance to be provided under subsection (a), shall--

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

` (2) give preference to projects with high levels of estimated ridership, increased on-time performance, reduced trip time, additional service frequency to meet anticipated or existing demand, or other significant service enhancements;

- ˘ (3) encourage intermodal connectivity through projects that provide direct connections between train stations, airports, bus terminals, subway stations, ferry ports, and other modes of transportation;
- ˘ (4) ensure that each project is compatible with, and is operated in conformance with--
 - ˘ (A) plans developed pursuant to the requirements of section 135 of title 23, United States Code; and
 - ˘ (B) the national rail plan (if it is available);
- ˘ (5) favor the following kinds of projects:
 - ˘ (A) Projects that are expected to have a significant favorable impact on air or highway traffic congestion, capacity, or safety.
 - ˘ (B) Projects that also improve freight or commuter rail operations.
 - ˘ (C) Projects that have significant environmental benefits particularly through reduced carbon emissions resulting from the lower use of other competing modes in the same travel corridor.
 - ˘ (D) Projects that are--
 - ˘ (i) at a stage of preparation that all precommencement compliance with environmental protection requirements has already been completed; and
 - ˘ (ii) ready to be commenced.
 - ˘ (E) Projects with positive economic and employment impacts.
 - ˘ (F) Projects that encourage the use of positive train control technologies.
 - ˘ (G) Projects that have commitments of funding from non-Federal Government sources in a total amount that exceeds the minimum amount of the non-Federal contribution required for the project.

- ˘ (H) Projects that involve donated property interests or services.
 - ˘ (I) Projects that are identified by the Surface Transportation Board as necessary to improve the on time performance and reliability of intercity passenger rail under section 24308(f).
 - ˘ (J) Projects described in section 5302(a)(1)(G) of this title that are designed to support intercity passenger rail service.
 - ˘ (K) Projects that provide viable solutions to the airside capacity problems in critical corridors identified by the Federal Aviation Administration; and
- ˘ (6) give preference to the following projects designated as a high-speed rail corridor:
- ˘ (A) California Corridor connecting the San Francisco Bay area and Sacramento to Los Angeles and San Diego.
 - ˘ (B) Chicago Hub Corridor Network with the following spokes:
 - ˘ (i) Chicago to Detroit.
 - ˘ (ii) Chicago to Minneapolis/St. Paul, MN, via Milwaukee, WI.
 - ˘ (iii) Chicago to Kansas City, MO, via Springfield, IL, and St Louis, MO.
 - ˘ (iv) Chicago to Louisville, KY, via Indianapolis, IN, and Cincinnati, OH.
 - ˘ (v) Chicago to Cleveland, OH, via Toledo, OH.
 - ˘ (vi) Cleveland, OH, to Cincinnati, OH, via Columbus, OH.
 - ˘ (C) Empire State Corridor from New York City, NY, through Albany, NY to Buffalo, NY.
 - ˘ (D) Florida High-Speed Rail Corridor from Tampa through

Orlando to Miami.

` (E) Gulf Coast Corridor from Houston TX, through New Orleans, LA, to Mobile, AL, with a branch from New Orleans, through Meridian, MS, and Birmingham, AL, to Atlanta, GA.

` (F) Keystone Corridor from Philadelphia, PA, through Harrisburg, PA, to Pittsburgh, PA.

` (G) Northeast Corridor from Washington, DC, through New York City, NY, New Haven, CT, and Providence, RI, to Boston, MA.

` (H) New England Corridor from Boston, MA, to Portland and Auburn, ME, and from Boston, MA, through Concord, NH, and Montpelier, VT, to Montreal, PQ.

` (I) Pacific Northwest Corridor from Eugene, OR, through Portland, OR, and Seattle, WA, to Vancouver, BC.

` (J) South Central Corridor from San Antonio, TX, through Dallas/ Fort Worth to Little Rock, AK, with a branch from Dallas/ Fort Worth through Oklahoma City, OK, to Tulsa, OK.

` (K) Southeast Corridor from Washington, DC, through Richmond, VA, Raleigh, NC, Columbia, SC, Savannah, GA, and Jesup, GA, to Jacksonville, FL, with a branch from Raleigh, NC, through Charlotte, NC, and Greenville, SC, to Atlanta, GA, a branch from Richmond, VA, to Hampton Roads/Norfolk, VA, and a connecting route between Atlanta, GA, to Jesup, GA.

` (d) Amtrak Eligibility- To receive a grant under this section, the National Railroad Passenger Corporation may enter into a cooperative agreement with 1 or more States to carry out 1 or more projects on a State rail plan's ranked list of rail capital projects developed under section 22505(a)(5) of this title.

` (e) 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) 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 laws 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 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, unless the Secretary determines that completion of the project to date is sufficient to serve the national transportation interest.

` (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 by law for such purposes, 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.

ˆ (f) 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.

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

ˆ (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.

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

ˆ (3) 50 percent of the average amounts expended by a State or group of States (including the District of Columbia) for capital projects to benefit intercity passenger rail service and operating costs of such service of up to \$5,000,000 per fiscal year, beginning in fiscal year 2007, shall be credited towards the matching requirements for grants awarded under this section. The Secretary may require such information as necessary to verify such expenditures.

ˆ (g) 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--

ˆ (A) the applicant applies for the payment;

ˆ (B) the Secretary approves the payment; and

ˆ (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.

ˆ (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.

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

^ (i) Public-Private Partnerships-

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

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

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

^ (B) cost-sharing of any project expense;

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

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

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

^ (j) Special Transportation Circumstances- In carrying out this section, the Secretary shall allocate an appropriate portion of the amounts available under this section to provide grants to States--

^ (1) in which there is no intercity passenger rail service for the purpose of funding freight rail capital projects that are on a State rail plan developed under chapter 225 of this title that provide public benefits (as defined in chapter 225) as determined by the Secretary; or

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

for the purpose of funding transportation-related capital projects.

^ (k) Small Capital Projects- The Secretary shall make available \$10,000,000 annually from the amounts otherwise authorized by law beginning in fiscal year 2008 for grants for capital projects eligible under this section not exceeding \$2,000,000. The Secretary may waive requirements of this section, including State rail plan requirements, as appropriate.

^ **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 have a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) issued on the project, and 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; and

` (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 (b) of this section with access to the construction sites and records of the recipient when reasonably necessary.

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

Notwithstanding the requirements of section 24402, 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 \$20,000,000 per occurrence or \$20,000,000 in aggregate per year.

Sec. 24405. Grant conditions

(a) Domestic Buying Preference-

(1) REQUIREMENT-

(A) IN GENERAL- In carrying out a project funded in whole or in part with a grant under this chapter, the grant recipient shall purchase only--

(i) unmanufactured articles, material, and supplies mined or produced in the United States; or

(ii) manufactured articles, material, and supplies manufactured in the United States substantially from articles, material, and supplies mined, produced, or manufactured in the United States.

(B) DE MINIMIS AMOUNT- Subparagraph (A) applies only to a purchase in an total amount that is not less than \$1,000,000.

(2) EXEMPTIONS- On application of a recipient, the Secretary may exempt a recipient from the requirements of this subsection if the Secretary decides that, for particular articles, material, or supplies--

(A) such requirements are inconsistent with the public interest;

(B) the cost of imposing the requirements is unreasonable; or

(C) 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.

“(3) UNITED STATES DEFINED- In this subsection, the term “the United States” means the States, territories, and possessions of the United States and the District of Columbia.

“(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 the that definition or in which that definition applies, including--

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

“(2) the Railway Labor Act (43 U.S.C. 151 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;

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

“(E) for high-speed rail projects 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

^ (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 the National Railroad Passenger Corporation is required to comply with those standards for construction work financed under an agreement made under section 24308(a) of this title; and

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

^ (d) Replacement of Existing Intercity Passenger Rail Service-

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

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

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

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

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

^ (2) IMMEDIATE REPLACEMENT SERVICE-

` (A) NEGOTIATIONS- If the replacement of preexisting intercity rail passenger service occurs concurrent with or within a reasonable time before the commencement of the replacing entity's rail passenger service, the replacing entity shall give written notice of its plan to replace existing rail passenger service to the authorized collective bargaining agent or agents for the potentially adversely affected employees of the predecessor provider at least 90 days before the date on which it plans to commence service. Within 5 days after the date of receipt of such written notice, negotiations between the replacing entity and the collective bargaining agent or agents for the employees of the predecessor provider shall commence for the purpose of reaching agreement with respect to all matters set forth in subparagraphs (A) through (D) of paragraph (1). The 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). This decision shall be final, binding, and conclusive upon the parties. The salary and expenses of the arbitrator shall be borne equally by the parties; all other expenses shall be paid by the party incurring them.

` (3) SERVICE COMMENCEMENT- A replacing entity under this subsection shall commence service only after an agreement is entered into with respect to the matters set forth in subparagraphs (A) through

(D) of paragraph (1) or the decision of the arbitrator has been rendered.

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

` (e) Inapplicability to Certain Rail Operations- Nothing in this section applies to--

` (1) commuter rail passenger transportation (as defined in section 24102(4) of this title) operations of a State or local government authority (as those terms are defined in section 5302(11) and (6), respectively, of this title) eligible to receive financial assistance under section 5307 of this title, or to its contractor performing services in connection with commuter rail passenger operations (as so defined);

` (2) the Alaska Railroad or its contractors;

` (3) the National Railroad Passenger Corporation's access rights to railroad rights-of-way and facilities under current law; or

` (4) high-speed rail corridors.'.

(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:

24401'.

(2) The chapter analysis for subtitle V of such title is amended by inserting

the following after the item relating to chapter 243:

24401'.

SEC. 5. STATE RAIL PLANS.

(a) In General- Part B of subtitle V of title 49, United States Code, is amended by adding at the end the following:

CHAPTER 225--STATE RAIL PLANS AND HIGH PRIORITY PROJECTS

Sec.

22501. Definitions.

22502. Authority.

22503. Purposes.

22504. Transparency; coordination; review.

22505. Content.

22506. Review.

Sec. 22501. Definitions

In this chapter:

(1) PRIVATE BENEFIT-

(A) IN GENERAL- The term "private benefit"--

(i) means a benefit accrued to a person or private entity, other than the National Railroad Passenger Corporation, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or any other means as defined by the Secretary; and

(ii) shall be determined on a project-by-project basis,

based upon an agreement between the parties.

` (B) CONSULTATION- The Secretary may seek the advice of the States and rail carriers in further defining this term.

` (2) PUBLIC BENEFIT-

` (A) IN GENERAL- The term `public benefit'--

` (i) means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary; and

` (ii) shall be determined on a project-by-project basis, based upon an agreement between the parties.

` (B) CONSULTATION- The Secretary may seek the advice of the States and rail carriers in further defining this term.

` (3) STATE- The term `State' means any of the 50 States and the District of Columbia.

` (4) STATE RAIL TRANSPORTATION AUTHORITY- The term `State rail transportation authority' means the State agency or official responsible under the direction of the Governor of the State or a State law for preparation, maintenance, coordination, and administration of the State rail plan.

` **Sec. 22502. Authority**

` (a) In General- Each State may prepare and maintain a State rail plan in accordance with the provisions of this chapter.

` (b) Requirements- For the preparation and periodic revision of a State rail plan, a State shall--

- ˘ (1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;
- ˘ (2) establish or designate a State rail plan approval authority to approve the plan;
- ˘ (3) submit the State's approved plan to the Secretary of Transportation for review; and
- ˘ (4) revise and resubmit a State-approved plan no less frequently than once every 5 years for reapproval by the Secretary.

˘ **Sec. 22503. Purposes**

- ˘ (a) Purposes- The purposes of a State rail plan are as follows:
 - ˘ (1) To set forth State policy involving freight and passenger rail transportation, including commuter rail operations, in the State.
 - ˘ (2) To establish the period covered by the State rail plan.
 - ˘ (3) To present priorities and strategies to enhance rail service in the State that benefits the public.
 - ˘ (4) To serve as the basis for Federal and State rail investments within the State.
- ˘ (b) Coordination- A State rail plan shall be coordinated with other State transportation planning goals and programs and set forth rail transportation's role within the State transportation system.

˘ **Sec. 22504. Transparency; coordination; review**

- ˘ (a) Preparation- A State shall provide adequate and reasonable notice and opportunity for comment and other input to the public, rail carriers, commuter and transit authorities operating in, or affected by rail operations within the State, units of local government, and other interested parties in the preparation and review of its State rail plan.
- ˘ (b) Intergovernmental Coordination- A State shall review the freight and passenger rail service activities and initiatives by regional planning agencies,

regional transportation authorities, and municipalities within the State, or in the region in which the State is located, while preparing the plan, and shall include any recommendations made by such agencies, authorities, and municipalities as deemed appropriate by the State.

Sec. 22505. Content

- ^ (a) In General- Each State rail plan shall contain the following:
 - ^ (1) An inventory of the existing overall rail transportation system and rail services and facilities within the State and an analysis of the role of rail transportation within the State's surface transportation system.
 - ^ (2) A review of all rail lines within the State, including proposed high-speed rail corridors and significant rail line segments not currently in service.
 - ^ (3) A statement of the State's passenger rail service objectives, including minimum service levels, for rail transportation routes in the State.
 - ^ (4) A general analysis of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land use, energy use, and community impacts.
 - ^ (5) A long-range rail investment program for current and future freight and passenger infrastructure in the State that meets the requirements of subsection (b).
 - ^ (6) A statement of public financing issues for rail projects and service in the State, including a list of current and prospective public capital and operating funding resources, public subsidies, State taxation, and other financial policies relating to rail infrastructure development.
 - ^ (7) An identification of rail infrastructure issues within the State that reflects consultation with all relevant stakeholders.
 - ^ (8) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports, and prioritized options to maximize service integration and efficiency between rail and other modes of transportation within the State.

` (9) A review of publicly funded projects within the State to improve rail transportation safety and security, including all major projects funded under section 130 of title 23.

` (10) A performance evaluation of passenger rail services operating in the State, including possible improvements in those services, and a description of strategies to achieve those improvements.

` (11) A compilation of studies and reports on high-speed rail corridor development within the State not included in a previous plan under this chapter, and a plan for funding any recommended development of such corridors in the State.

` (12) A statement that the State is in compliance with the requirements of section 22102.

` (b) Long-Range Service and Investment Program-

` (1) PROGRAM CONTENT- A long-range rail investment program included in a State rail plan under subsection (a)(5) shall include the following matters:

` (A) A list of any rail capital projects expected to be undertaken or supported in whole or in part by the State.

` (B) A detailed funding plan for those projects.

` (2) PROJECT LIST CONTENT- The list of rail capital projects shall contain--

` (A) a description of the anticipated public and private benefits of each such project; and

` (B) a statement of the correlation between--

` (i) public funding contributions for the projects; and

` (ii) the public benefits.

` (3) CONSIDERATIONS FOR PROJECT LIST- In preparing the list of

freight and intercity passenger rail capital projects, a State rail transportation authority should take into consideration the following matters:

- ˘ (A) Contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.
- ˘ (B) Rail capacity and congestion effects.
- ˘ (C) Effects on highway, aviation, and maritime capacity, congestion, or safety.
- ˘ (D) Regional balance.
- ˘ (E) Environmental impact.
- ˘ (F) Economic and employment impacts.
- ˘ (G) Projected ridership and other service measures for passenger rail projects.

˘ **Sec. 22506. Review**

˘ The Secretary shall prescribe procedures for States to submit State rail plans for review under this chapter, including standardized format and data requirements. State rail plans completed before the date of enactment of this chapter that substantially meet the requirements of this chapter, as determined by the Secretary, shall be deemed by the Secretary to have met the requirements of this chapter.'

(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 223:

22501'

(2) The chapter analysis for subtitle V of such title is amended by inserting the following after the item relating to chapter 223:

22501'

SEC. 6. NEXT GENERATION CORRIDOR TRAIN EQUIPMENT POOL.

(a) In General- Within 180 days after the date of enactment of this Act, Amtrak shall establish a Next Generation Corridor Equipment Pool Committee, comprised of representatives of Amtrak, the Federal Railroad Administration, and interested States. The purpose of the Committee shall be to design, develop specifications for, and procure standardized next-generation corridor equipment.

(b) Functions- The Committee may--

(1) determine the number of different types of equipment required, taking into account variations in operational needs and corridor infrastructure;

(2) establish a pool of equipment to be used on corridor routes funded by participating States; and

(3) subject to agreements between Amtrak and States, utilize services provided by Amtrak to design, maintain, and remanufacture equipment.

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

(d) Funding- Capital projects to carry out the purposes of this section shall be eligible for grants made pursuant to chapter 244 of title 49, United States Code.

SEC. 7. FEDERAL RAIL POLICY.

Section 103 of title 49, United States Code, is amended--

(1) by inserting ` In General- ' before ` The Federal' in subsection (a);

(2) by striking the second and third sentences of subsection (a);

(3) by inserting ` Administrator- ' before ` The head' in subsection (b);

(4) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively;

(5) by inserting after subsection (b) the following:

` (c) Safety- To carry out all railroad safety laws of the United States, the Administration is divided on a geographical basis into at least 8 safety offices. The Secretary of Transportation is responsible for all acts taken under those laws and for ensuring that the laws are uniformly administered and enforced among the safety offices.';

(6) by inserting ` Powers and Duties- ' before ` The Administrator' in subsection (d), as redesignated;

(7) by striking ` and' after the semicolon in paragraph (1) of subsection (d), as redesignated;

(8) by redesignating paragraph (2) of subsection (d), as redesignated, as paragraph (3) and inserting after paragraph (1) the following:

` (2) the duties and powers related to railroad policy and development under subsection (e); and';

(9) by inserting ` Transfers of Duty- ' before ` A duty' in subsection (e), as redesignated;

(10) by inserting ` Contracts, Grants, Leases, Cooperative Agreements, and Similar Transactions- ' before ` Subject' in subsection (f), as redesignated;

(11) by striking the last sentence in subsection (f), as redesignated; and

(12) by adding at the end the following:

` (g) Additional Duties of the Administrator- The Administrator shall--

` (1) provide assistance to States in developing State rail plans prepared under chapter 225 and review all State rail plans submitted

under that chapter;

` (2) develop a long range national rail plan that is consistent with approved State rail plans on high-speed rail, its status, potential funding opportunities, and source, and future activities, and the rail needs of the Nation, as determined by the Secretary in order to promote an integrated, cohesive, efficient, and optimized national rail system for the movement of goods and people;

` (3) develop a preliminary national rail plan within a year after the date of enactment of this subsection;

` (4) develop and enhance partnerships with the freight and passenger railroad industry, States, and the public concerning rail development;

` (5) support rail intermodal development and high-speed rail development, including high-speed rail planning, and develop options and strategies for Federal funds and participation in the financing of high-speed rail partnerships with States and the private sector, identifying Federal funding sources, possible levels of Federal funding, and legal and institutional barriers to these partnerships with the Federal Government;

` (6) ensure that programs and initiatives developed under this section benefit the public and work toward achieving regional and national transportation goals; and

` (7) facilitate and coordinate efforts to assist freight and passenger rail carriers, transit agencies and authorities, municipalities, and States in passenger-freight service integration on shared rights-of-way by providing neutral assistance at the joint request of affected rail service providers and infrastructure owners relating to operations and capacity analysis, capital requirements, operating costs, and other research and planning related to corridors shared by passenger or commuter rail service and freight rail operations.

` (h) Performance Goals and Reports-

` (1) PERFORMANCE GOALS- In conjunction with the objectives established and activities undertaken under subsection (g), the Administrator shall develop a schedule for achieving specific, measurable performance goals, including specific performance

measures and timetables for establishing high-speed rail operations in the United States.

ˆ (2) RESOURCE NEEDS- The strategy and annual plans shall include estimates of the funds and staff resources needed to accomplish each goal and the additional duties required under subsection (g).

ˆ (3) SUBMISSION WITH PRESIDENT'S BUDGET- Beginning with fiscal year 2009, and each fiscal year thereafter, the Secretary shall submit to Congress, at the same time as the President's budget submission, the Administration's performance goals and schedule developed under paragraph (1), including an assessment of the progress of the Administration toward achieving its performance goals.'

SEC. 8. RAIL COOPERATIVE RESEARCH PROGRAM.

(a) Establishment and Content- Chapter 249 of title 49, United States Code, is amended by adding at the end the following:

ˆ Sec. 24910. Rail cooperative research program

ˆ (a) In General- The Secretary shall establish and carry out a rail cooperative research program. The program shall--

ˆ (1) address, among other matters, intercity rail passenger and freight rail services, including existing rail passenger and freight technologies and speeds, incrementally enhanced rail systems and infrastructure, and new high-speed wheel-on-rail systems and rail security;

ˆ (2) address ways to expand the transportation of international trade traffic by rail, enhance the efficiency of intermodal interchange at ports and other intermodal terminals, and increase capacity and availability of rail service for seasonal freight needs;

ˆ (3) consider research on the interconnectedness of commuter rail, passenger rail, freight rail, high-speed rail, and other rail networks; and

ˆ (4) give consideration to regional concerns regarding rail passenger and freight transportation, including meeting research needs common to designated high-speed corridors, long-distance rail services, and regional intercity rail corridors, projects, and entities.

- ` (b) Content- The program to be carried out under this section shall include research designed--
- ` (1) to identify the unique aspects and attributes of rail passenger and freight service;
 - ` (2) to develop more accurate models for evaluating the impact of rail passenger and freight service, including the effects on highway and airport and airway congestion, environmental quality, and energy consumption;
 - ` (3) to develop a better understanding of modal choice as it affects rail passenger and freight transportation, including development of better models to predict utilization;
 - ` (4) to recommend priorities for technology demonstration and development;
 - ` (5) to meet additional priorities as determined by the advisory board established under subsection (c), including any recommendations made by the National Academy of Sciences;
 - ` (6) to explore improvements in management, financing, and institutional structures;
 - ` (7) to address rail capacity constraints that affect passenger and freight rail service through a wide variety of options, ranging from operating improvements to dedicated new infrastructure, taking into account the impact of such options on operations;
 - ` (8) to improve maintenance, operations, customer service, or other aspects of intercity rail passenger and freight service;
 - ` (9) to recommend objective methodologies for determining intercity passenger rail routes and services, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes;
 - ` (10) to review the impact of equipment and operational safety standards on the further development of high-speed passenger rail operations connected to or integrated with nonhigh-speed freight or passenger rail operations;

ˆ (11) to recommend any legislative or regulatory changes necessary to foster further development and implementation of high-speed passenger rail operations while ensuring the safety of such operations that are connected to or integrated with nonhigh-speed freight or passenger rail operations;

ˆ (12) to recommend ways to integrate commuter, passenger, and high-speed rail Federal funding and plans to allow for the maximum efficiency and coordination of Federal funds used for these rail purposes, and identify legal and institutional barriers to such integration and coordination and the potential costs or cost savings from such an integration;

ˆ (13) to analyze the environmental benefits and carbon reductions in the air from the electrification of commuter and passenger rail, and from the development of high-speed rail, in noncompliant air quality locations and corridors as compared to current and alternative fuels for current services, and compare high-speed rail carbon reductions to other competing modes in short-haul markets; and

ˆ (14) analyze the impact of high speed rail on transportation capacity in congested corridors in comparison to the impact of investing in highway or airport expansion, for example in the Los Angeles, California, to San Francisco, California, corridor, building upon the May 2007 Federal Aviation Administration study indicating that there were no air side capacity improvements to this and other air corridors.

ˆ (c) Advisory Board-

ˆ (1) ESTABLISHMENT- In consultation with the heads of appropriate Federal departments and agencies, the Secretary shall establish an advisory board to recommend research, technology, and technology transfer activities related to rail passenger and freight transportation.

ˆ (2) MEMBERSHIP- The advisory board shall include--

ˆ (A) representatives of State transportation agencies;

ˆ (B) transportation and environmental economists, scientists, and engineers; and

` (C) representatives of Amtrak, the Alaska Railroad, freight railroads, transit operating agencies, intercity rail passenger agencies, railway labor organizations, and environmental organizations.

` (d) National Academy of Sciences- The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to the research, technology, and technology transfer activities described in subsection (b) as the Secretary deems appropriate.'

(b) Clerical Amendment- The chapter analysis for chapter 249 of title 49, United States Code, is amended by adding at the end the following:

` 24910. Rail cooperative research program.'

END