

105TH CONGRESS
1ST SESSION

S. 738

To reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 14, 1997

Mrs. HUTCHISON introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF SECTIONS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Amtrak Reform and Accountability Act of 1997”.

6 (b) **TABLE OF SECTIONS.**—The table of sections for
7 this Act is as follows:

Sec. 1. Short title; table of sections.

Sec. 2. Findings.

 Title I—Reforms

 Subtitle A—Operational Reforms

Sec. 101. Basic system.

Sec. 102. Mail, express, and auto-ferry transportation.

Sec. 103. Route and service criteria.

- Sec. 104. Additional qualifying routes.
- Sec. 105. Transportation requested by States, authorities, and other persons.
- Sec. 106. Amtrak commuter.
- Sec. 107. Through service in conjunction with intercity bus operations.
- Sec. 108. Rail and motor carrier passenger service.
- Sec. 109. Passenger choice.
- Sec. 110. Application of certain laws.
 - Subtitle B—Procurement
- Sec. 121. Contracting out.
 - Subtitle C—Employee Protection Reforms
- Sec. 141. Railway Labor Act Procedures.
- Sec. 142. Service discontinuance.
 - Subtitle D—Use of Railroad Facilities
- Sec. 161. Liability limitation.
 - Title II—Fiscal Accountability
- Sec. 201. Amtrak financial goals.
- Sec. 202. Independent assessment.
- Sec. 203. Amtrak Reform Council.
- Sec. 204. Sunset trigger.
- Sec. 205. Access to records and accounts.
- Sec. 206. Officers' pay.
- Sec. 207. Exemption from taxes.
 - Title III—Authorization of Appropriations
- Sec. 301. Authorization of appropriations.
 - Title IV—Miscellaneous
- Sec. 401. Status and applicable laws.
- Sec. 402. Waste disposal.
- Sec. 403. Assistance for upgrading facilities.
- Sec. 404. Demonstration of new technology.
- Sec. 405. Program master plan for Boston-New York main line.
- Sec. 406. Americans with Disabilities Act of 1990.
- Sec. 407. Definitions.
- Sec. 408. Northeast Corridor cost dispute.
- Sec. 409. Inspector General Act of 1978 amendment.
- Sec. 410. Interstate rail compacts.
- Sec. 411. Composition of Amtrak board of directors.

1 **SEC. 2. FINDINGS.**

2 The Congress finds that—

3 (1) intercity rail passenger service is an essen-
 4 tial component of a national intermodal passenger
 5 transportation system;

6 (2) Amtrak is facing a financial crisis, with
 7 growing and substantial debt obligations severely

1 limiting its ability to cover operating costs and jeop-
2 ardizing its long-term viability;

3 (3) immediate action is required to improve
4 Amtrak's financial condition if Amtrak is to survive;

5 (4) all of Amtrak's stakeholders, including
6 labor, management, and the Federal government,
7 must participate in efforts to reduce Amtrak's costs
8 and increase its revenues;

9 (5) additional flexibility is needed to allow Am-
10 trak to operate in a businesslike manner in order to
11 manage costs and maximize revenues;

12 (6) Amtrak should ensure that new manage-
13 ment flexibility produces cost savings without com-
14 promising safety;

15 (7) Amtrak's management should be held ac-
16 countable to ensure that all investment by the Fed-
17 eral Government and State governments is used ef-
18 fectively to improve the quality of service and the
19 long-term financial health of Amtrak;

20 (8) Amtrak and its employees should proceed
21 quickly with proposals to modify collective bargain-
22 ing agreements to make more efficient use of man-
23 power and to realize cost savings which are nec-
24 essary to reduce Federal financial assistance;

1 (9) Amtrak and intercity bus service providers
 2 should work cooperatively and develop coordinated
 3 intermodal relationships promoting seamless trans-
 4 portation services which enhance travel options and
 5 increase operating efficiencies; and

6 (10) Federal financial assistance to cover oper-
 7 ating losses incurred by Amtrak should be elimi-
 8 nated by the year 2002.

9 **TITLE I—REFORMS**

10 **Subtitle A—Operational Reforms**

11 **SEC. 101. BASIC SYSTEM.**

12 (a) OPERATION OF BASIC SYSTEM.—Section 24701
 13 of title 49, United States Code, is amended to read as
 14 follows:

15 “§ 24701. Operation of basic system

16 “Amtrak shall provide intercity rail passenger trans-
 17 portation within the basic system. Amtrak shall strive to
 18 operate as a national rail passenger transportation system
 19 which provides access to all areas of the country and ties
 20 together existing and emergent regional rail passenger
 21 corridors and other intermodal passenger service.”.

22 (b) IMPROVING RAIL PASSENGER TRANSPOR-
 23 TATION.—Section 24702 of title 49, United States Code,
 24 and the item relating thereto in the table of sections of
 25 chapter 247 of such title, are repealed.

1 (c) DISCONTINUANCE.—Section 24706 of title 49,
2 United States Code, is amended—

3 (1) by striking “90 days” and inserting “180
4 days” in subsection (a)(1);

5 (2) by striking “a discontinuance under section
6 24707(a) or (b) of this title” in subsection (a)(1)
7 and inserting “discontinuing service over a route”;

8 (3) by inserting “or assume” after “agree to
9 share” in subsection (a)(1); and

10 (4) by striking “section 24707(a) or (b) of this
11 title” in subsections (a)(2) and (b)(1) and inserting
12 “paragraph (1)”.

13 (d) COST AND PERFORMANCE REVIEW.—Section
14 24707 of title 49, United States Code, and the item relat-
15 ing thereto in the table of sections of chapter 247 of such
16 title, are repealed.

17 (e) SPECIAL COMMUTER TRANSPORTATION.—Section
18 24708 of title 49, United States Code, and the item relat-
19 ing thereto in the table of sections of chapter 247 of such
20 title, are repealed.

21 (f) CONFORMING AMENDMENT.—Section
22 24312(a)(1) of title 49, United States Code, is amended
23 by striking “, 24701(a),”.

1 **SEC. 102. MAIL, EXPRESS, AND AUTO-FERRY TRANSPOR-**
2 **TATION.**

3 (a) REPEAL.—Section 24306 of title 49, United
4 States Code, is amended—

5 (1) by striking the last sentence of subsection

6 (a);

7 (2) by striking paragraphs (1) and (2) of sub-
8 section (b); and

9 (3) by striking “(3) State” and inserting
10 “State”.

11 **SEC. 103. ROUTE AND SERVICE CRITERIA.**

12 Section 24703 of title 49, United States Code, and
13 the item relating thereto in the table of sections of chapter
14 247 of such title, are repealed.

15 **SEC. 104. ADDITIONAL QUALIFYING ROUTES.**

16 Section 24705 of title 49, United States Code, and
17 the item relating thereto in the table of sections of chapter
18 247 of such title, are repealed.

19 **SEC. 105. TRANSPORTATION REQUESTED BY STATES, AU-**
20 **THORITIES, AND OTHER PERSONS.**

21 Section 24101(c)(2) of title 49, United States Code,
22 is amended by inserting “, separately or in combination,”
23 after “and the private sector”.

24 **SEC. 106. AMTRAK COMMUTER.**

25 (a) REPEAL OF CHAPTER 245.—Chapter 245 of title
26 49, United States Code, and the item relating thereto in

1 the table of chapters of subtitle V of such title, are re-
2 pealed.

3 (b) CONFORMING AMENDMENT.—Section 24301(f) of
4 title 49, United States Code, is amended to read as fol-
5 lows:

6 “(f) TAX EXEMPTION FOR CERTAIN COMMUTER AU-
7 THORITIES.—A commuter authority that was eligible to
8 make a contract with Amtrak Commuter to provide com-
9 muter rail passenger transportation but which decided to
10 provide its own rail passenger transportation beginning
11 January 1, 1983, is exempt, effective October 1, 1981,
12 from paying a tax or fee to the same extent Amtrak is
13 exempt.”.

14 (c) TRACKAGE RIGHTS NOT AFFECTED.—The repeal
15 of chapter 245 of title 49, United States Code, by sub-
16 section (a) of this section is without prejudice to the reten-
17 tion of trackage rights over property owned or leased by
18 commuter authorities.

19 **SEC. 107. THROUGH SERVICE IN CONJUNCTION WITH**
20 **INTERCITY BUS OPERATIONS.**

21 (a) IN GENERAL.—Section 24305(a) of title 49,
22 United States Code, is amended by adding at the end the
23 following new paragraph:

24 “(3)(A) Except as provided in subsection (d)(2), Am-
25 trak may enter into a contract with a motor carrier of

1 passengers for the intercity transportation of passengers
2 by motor carrier over regular routes only—

3 “(i) if the motor carrier is not a public recipient
4 of governmental assistance, as such term is defined
5 in section 10922(d)(1)(F)(i) of this title, other than
6 a recipient of funds under section 18 of the Federal
7 Transit Act;

8 “(ii) for passengers who have had prior move-
9 ment by rail or will have subsequent movement by
10 rail; and

11 “(iii) if the buses, when used in the provision
12 of such transportation, are used exclusively for the
13 transportation of passengers described in clause (ii).

14 “(B) Subparagraph (A) shall not apply to transpor-
15 tation funded predominantly by a State or local govern-
16 ment, or to ticket selling agreements.”.

17 (b) POLICY STATEMENT.—Section 24305(d) of title
18 49, United States Code, is amended by adding at the end
19 the following new paragraph:

20 “(3) Congress encourages Amtrak and motor com-
21 mon carriers of passengers to use the authority conferred
22 in section 11342(a) of this title for the purpose of provid-
23 ing improved service to the public and economy of oper-
24 ation.”.

1 **SEC. 108. RAIL AND MOTOR CARRIER PASSENGER SERVICE.**

2 (a) IN GENERAL.—Notwithstanding any other provi-
3 sion of law (other than section 24305(a) of title 49, United
4 States Code), Amtrak and motor carriers of passengers
5 are authorized—

6 (1) to combine or package their respective serv-
7 ices and facilities to the public as a means of in-
8 creasing revenues; and

9 (2) to coordinate schedules, routes, rates, res-
10 ervations, and ticketing to provide for enhanced
11 intermodal surface transportation.

12 (b) REVIEW.—The authority granted by subsection
13 (a) is subject to review by the Surface Transportation
14 Board and may be modified or revoked by the Board if
15 modification or revocation is in the public interest.

16 **SEC. 109. PASSENGER CHOICE.**

17 Federal employees are authorized to travel on Am-
18 trak for official business where total travel cost from office
19 to office is competitive on a total trip or time basis.

20 **SEC. 110. APPLICATION OF CERTAIN LAWS.**

21 (a) APPLICATION OF FOIA.—Section 24301(e) of
22 title 49, United States Code, is amended by adding at the
23 end thereof the following: “Section 552 of title 5, United
24 States Code, applies to Amtrak for any fiscal year in which
25 Amtrak receives a Federal subsidy.”.

1 (b) APPLICATION OF FEDERAL PROPERTY AND AD-
2 MINISTRATIVE SERVICES ACT.—Section 304A(m) of the
3 Federal Property and Administrative Services Act of 1949
4 (41 U.S.C. 253b) applies to a proposal in the possession
5 or control of Amtrak.”.

6 **Subtitle B—Procurement**

7 **SEC. 121. CONTRACTING OUT.**

8 (a) CONTRACTING OUT REFORM.—Effective 180
9 days after the date of enactment of this Act, section 24312
10 of title 49, United States Code, is amended—

11 (1) by striking the paragraph designation for
12 paragraph (1) of subsection (a);

13 (2) by striking “(2)” in subsection (a)(2) and
14 inserting “(b)”; and

15 (3) by striking subsection (b).

16 The amendment made by paragraph (3) is without preju-
17 dice to the power of Amtrak to contract out the provision
18 of food and beverage services on board Amtrak trains or
19 to contract out work not resulting in the layoff of Amtrak
20 employees.

21 (b) NOTICES.— Notwithstanding any arrangement in
22 effect before the date of the enactment of this Act, notices
23 under section 6 of the Railway Labor Act (45 U.S.C. 156)
24 with respect to all issues relating to contracting out by
25 Amtrak of work normally performed by an employee in

1 a bargaining unit covered by a contract between Amtrak
2 and a labor organization representing Amtrak employees,
3 which are applicable to employees of Amtrak shall be
4 deemed served and effective on the date which is 45 days
5 after the date of the enactment of this Act. Amtrak, and
6 each affected labor organization representing Amtrak em-
7 ployees, shall promptly supply specific information and
8 proposals with respect to each such notice. This subsection
9 shall not apply to issues relating to provisions defining the
10 scope or classification of work performed by an Amtrak
11 employee. The issue for negotiation under this paragraph
12 does not include the contracting out of work involving food
13 and beverage services provided on Amtrak trains or the
14 contracting out of work not resulting in the layoff of Am-
15 trak employees.

16 (c) NATIONAL MEDIATION BOARD EFFORTS.— Ex-
17 cept as provided in subsection (d), the National Mediation
18 Board shall complete all efforts, with respect to the dis-
19 pute described in subsection (b), under section 5 of the
20 Railway Labor Act (45 U.S.C. 155) not later than 120
21 days after the date of the enactment of this Act.

22 (d) RAILWAY LABOR ACT ARBITRATION.—The par-
23 ties to the dispute described in subsection (b) may agree
24 to submit the dispute to arbitration under section 7 of the
25 Railway Labor Act (45 U.S.C. 157), and any award re-

1 sulting therefrom shall be retroactive to the date which
2 is 120 days after the date of the enactment of this Act.

3 (e) DISPUTE RESOLUTION.—

4 (1) With respect to the dispute described in
5 subsection (b) which—

6 (A) is unresolved as of the date which is
7 120 days after the date of the enactment of this
8 Act; and

9 (B) is not submitted to arbitration as de-
10 scribed in subsection (d),

11 Amtrak shall, and the labor organizations that are
12 parties to such dispute shall, within 127 days after
13 the date of the enactment of this Act, each select an
14 individual from the entire roster of arbitrators main-
15 tained by the National Mediation Board. Within 134
16 days after the date of the enactment of this Act, the
17 individuals selected under the preceding sentence
18 shall jointly select an individual from such roster to
19 make recommendations with respect to such dispute
20 under this subsection. If the National Mediation
21 Board is not informed of the selection of the individ-
22 ual under the preceding sentence 134 days after the
23 date of enactment of this Act, the Board will imme-
24 diately select such individual.

1 (2) No individual shall be selected under para-
2 graph (1) who is pecuniarily or otherwise interested
3 in any organization of employees or any railroad or
4 who is selected pursuant to section 141(d) of this
5 Act.

6 (3) The compensation of individuals selected
7 under paragraph (1) shall be fixed by the National
8 Mediation Board. The second paragraph of section
9 10 of the Railway Labor Act (45 U.S.C. 160) shall
10 apply to the expenses of such individuals as if such
11 individuals were members of a board created under
12 such section 10.

13 (4) If the parties to a dispute described in sub-
14 section (b) fail to reach agreement within 150 days
15 after the date of the enactment of this Act, the indi-
16 vidual selected under paragraph (1) with respect to
17 such dispute shall make recommendations to the
18 parties proposing contract terms to resolve the dis-
19 pute.

20 (5) If the parties to a dispute described in sub-
21 section (b) fail to reach agreement, no change shall
22 be made by either of the parties in the conditions
23 out of which the dispute arose for 30 days after rec-
24 ommendations are made under paragraph (4).

1 Board shall complete all efforts, with respect to the dis-
2 pute described in subsection (a), under section 5 of the
3 Railway Labor Act (45 U.S.C. 155) not later than 120
4 days after the date of the enactment of this Act.

5 (c) RAILWAY LABOR ACT ARBITRATION.—The par-
6 ties to the dispute described in subsection (a) may agree
7 to submit the dispute to arbitration under section 7 of the
8 Railway Labor Act (45 U.S.C. 157), and any award re-
9 sulting therefrom shall be retroactive to the date which
10 is 120 days after the date of the enactment of this Act.

11 (d) DISPUTE RESOLUTION.—

12 (1) With respect to the dispute described in
13 subsection (a) which

14 (A) is unresolved as of the date which is
15 120 days after the date of the enactment of this
16 Act; and

17 (B) is not submitted to arbitration as de-
18 scribed in subsection (c), Amtrak shall, and the
19 labor organization parties to such dispute shall,
20 within 127 days after the date of the enactment
21 of this Act, each select an individual from the
22 entire roster of arbitrators maintained by the
23 National Mediation Board. Within 134 days
24 after the date of the enactment of this Act, the
25 individuals selected under the preceding sen-

1 tence shall jointly select an individual from such
2 roster to make recommendations with respect to
3 such dispute under this subsection. If the Na-
4 tional Mediation Board is not informed of the
5 selection under the preceding sentence 134 days
6 after the date of enactment of this Act, the
7 Board will immediately select such individual.

8 (2) No individual shall be selected under para-
9 graph (1) who is pecuniarily or otherwise interested
10 in any organization of employees or any railroad or
11 who is selected pursuant to section 121(e) of this
12 Act.

13 (3) The compensation of individuals selected
14 under paragraph (1) shall be fixed by the National
15 Mediation Board. The second paragraph of section
16 10 of the Railway Labor Act shall apply to the ex-
17 penses of such individuals as if such individuals were
18 members of a board created under such section 10.

19 (4) If the parties to a dispute described in sub-
20 section (a) fail to reach agreement within 150 days
21 after the date of the enactment of this Act, the indi-
22 vidual selected under paragraph (1) with respect to
23 such dispute shall make recommendations to the
24 parties proposing contract terms to resolve the dis-
25 pute.

1 (5) If the parties to a dispute described in sub-
2 section (a) fail to reach agreement, no change shall
3 be made by either of the parties in the conditions
4 out of which the dispute arose for 30 days after rec-
5 ommendations are made under paragraph (4).

6 (6) Section 10 of the Railway Labor Act (45
7 U.S.C. 160) shall not apply to a dispute described
8 in subsection (a).

9 **SEC. 142. SERVICE DISCONTINUANCE.**

10 (a) REPEAL.—Section 24706(c) of title 49, United
11 States Code, is repealed.

12 (b) EXISTING CONTRACTS.—Any provision of a con-
13 tract entered into before the date of the enactment of this
14 Act between Amtrak and a labor organization representing
15 Amtrak employees relating to employee protective ar-
16 rangements and severance benefits applicable to employees
17 of Amtrak is extinguished, including all provisions of Ap-
18 pendix C–2 to the National Railroad Passenger Corpora-
19 tion Agreement, signed July 5, 1973.

20 (c) SPECIAL EFFECTIVE DATE.—Subsections (a) and
21 (b) of this section shall take effect 180 days after the date
22 of the enactment of this Act.

23 (d) NONAPPLICATION OF BANKRUPTCY LAW PROVI-
24 SION.—Section 1172(c) of title 11, United States Code,
25 shall not apply to Amtrak and its employees.

1 **Subtitle D—Use of Railroad**
2 **Facilities**

3 **SEC. 161. LIABILITY LIMITATION.**

4 (a) AMENDMENT.—Chapter 281 of title 49, United
5 States Code, is amended by adding at the end the follow-
6 ing new section:

7 **“§ 28103. Limitations on rail passenger transpor-**
8 **tation liability**

9 “(a) LIMITATIONS.—

10 “(1) Notwithstanding any other statutory or
11 common law or public policy, or the nature of the
12 conduct giving rise to damages or liability, a con-
13 tract between Amtrak and its passengers, the Alaska
14 Railroad and its passengers, or private railroad car
15 operators and their passengers regarding claims for
16 personal injury, death, or damage to property aris-
17 ing from or in connection with the provision of rail
18 passenger transportation, or from or in connection
19 with any operations over or use of right-of-way or
20 facilities owned, leased, or maintained by Amtrak or
21 the Alaska Railroad, or from or in connection with
22 any rail passenger transportation operations over or
23 rail passenger transportation use of right-of-way or
24 facilities owned, leased, or maintained by any high-
25 speed railroad authority or operator, any commuter

1 authority or operator, or any rail carrier shall be en-
2 forceable if—

3 “(A) punitive or exemplary damages,
4 where permitted, are not limited to less than 2
5 times compensatory damages awarded to any
6 claimant by any State or Federal court or ad-
7 ministrative agency, or in any arbitration pro-
8 ceeding, or in any other forum or \$250,000,
9 whichever is greater; and

10 “(B) passengers are provided adequate no-
11 tice of any such contractual limitation or waiver
12 or choice of forum.

13 “(2) For purposes of this subsection, the term
14 ‘claim’ means a claim made directly or indirectly—

15 “(A) against Amtrak, any high-speed rail-
16 road authority or operator, any commuter au-
17 thority or operator, or any rail carrier including
18 the Alaska Railroad or private rail car opera-
19 tors; or

20 “(B) against an affiliate engaged in rail-
21 road operations, officer, employee, or agent of,
22 Amtrak, any high-speed railroad authority or
23 operator, any commuter authority or operator,
24 or any rail carrier.

1 “(3) Notwithstanding paragraph (1)(A), if, in
2 any case in which death was caused, the law of the
3 place where the act or omission complained of oc-
4 curred provides, or has been construed to provide,
5 for damages only punitive in nature, a claimant may
6 recover in a claim limited by this subsection for ac-
7 tual or compensatory damages measured by the pe-
8 cuniary injuries, resulting from such death, to the
9 persons for whose benefit the action was brought,
10 subject to the provisions of paragraph (1).

11 (b) INDEMNIFICATION OBLIGATION.—Obligations of
12 any party, however arising, including obligations arising
13 under leases or contracts or pursuant to orders of an ad-
14 ministrative agency, to indemnify against damages or li-
15 ability for personal injury, death, or damage to property
16 described in subsection (a), incurred after the death of
17 the enactment of the Amtrak Reform and Accountability
18 Act of 1997, shall be enforceable, notwithstanding any
19 other statutory or common law or public policy, or the
20 nature of the conduct giving rise to the damages or liabil-
21 ity.

22 (c) CONFORMING AMENDMENT.—The table of sec-
23 tions of chapter 281 of title 49, United States Code, is
24 amended by adding at the end the following new item:

“28103. Limitations on rail passenger transportation liability.”.

TITLE II—FISCAL ACCOUNTABILITY

3 SEC. 201. AMTRAK FINANCIAL GOALS.

4 Section 24101(d) of title 49, United States Code, is
5 amended by adding at the end thereof the following: “Am-
6 trak shall prepare a financial plan to operate within the
7 funding levels authorized by section 24104 of this chapter,
8 including budgetary goals for fiscal years 1998 through
9 2002. Commencing no later than the fiscal year following
10 the fifth anniversary of the Amtrak Reform and Account-
11 ability Act of 1997, Amtrak shall operate without Federal
12 operating grant funds appropriated for its benefit.”.

13 SEC. 202. INDEPENDENT ASSESSMENT.

14 (a) INITIATION.—Not later than 15 days after the
15 date of enactment of this Act, the Secretary of Transpor-
16 tation shall contract with an entity independent of Amtrak
17 and not in any contractual relationship with Amtrak and
18 of the Department of Transportation to conduct a com-
19 plete independent assessment of the financial require-
20 ments of Amtrak through fiscal year 2002. The entity
21 shall have demonstrated knowledge about railroad indus-
22 try accounting requirements, including the uniqueness of
23 the industry and of Surface Transportation Board ac-
24 counting requirements.

1 (b) ASSESSMENT CRITERIA.—The Secretary and Am-
2 trak shall provide to the independent entity estimates of
3 the financial requirements of Amtrak for the period de-
4 scribed above, using as a base the fiscal year 1997 appro-
5 priation levels established by the Congress. The independ-
6 ent assessment shall be based on an objective analysis of
7 Amtrak’s funding needs.

8 (c) CERTAIN FACTORS TO BE TAKEN INTO AC-
9 COUNT.—The independent assessment shall take into ac-
10 count all relevant factors, including Amtrak’s—

11 (1) cost allocation process and procedures;

12 (2) expenses related to intercity rail passenger
13 service, commuter service, and any other service Am-
14 trak provides;

15 (3) Strategic Business Plan, including Amtrak’s
16 projected expenses, capital needs, ridership, and rev-
17 enue forecasts; and

18 (4) Amtrak’s debt obligations.

19 (d) DEADLINE.—The independent assessment shall
20 be completed not later than 90 days after the contract
21 is awarded, and shall be submitted to the Council estab-
22 lished under section 203, the Secretary of Transportation,
23 the Committee on Commerce, Science, and Transportation
24 of the United States Senate, and the Committee on Trans-

1 portation and Infrastructure of the United States House
2 of Representatives.

3 **SEC. 203. AMTRAK REFORM COUNCIL.**

4 (a) ESTABLISHMENT.—There is established an inde-
5 pendent commission to be known as the Amtrak Reform
6 Council.

7 (b) MEMBERSHIP.—

8 (1) IN GENERAL.—The Council shall consist of
9 9 members, as follows:

10 (A) The Secretary of Transportation.

11 (B) Two individuals appointed by the
12 President, of which—

13 (i) one shall be a representative of a
14 rail labor organization; and

15 (ii) one shall be a representative of
16 rail management.

17 (C) Two individuals appointed by the Ma-
18 jority Leader of the United States Senate.

19 (D) One individual appointed by the Mi-
20 nority Leader of the United States Senate.

21 (E) Two individuals appointed by the
22 Speaker of the United States House of Rep-
23 resentatives.

1 (F) One individual appointed by the Mi-
2 nority Leader of the United States House of
3 Representatives.

4 (2) APPOINTMENT CRITERIA.—

5 (A) TIME FOR INITIAL APPOINTMENTS.—
6 Appointments under paragraph (1) shall be
7 made within 30 days after the date of enact-
8 ment of this Act.

9 (B) EXPERTISE.—Individuals appointed
10 under subparagraphs (C) through (F) of para-
11 graph (1)—

12 (i) may not be employees of the Unit-
13 ed States;

14 (ii) may not be board members or em-
15 ployees of Amtrak;

16 (iii) may not be representatives of rail
17 labor organizations or rail management;
18 and

19 (iv) shall have technical qualifications,
20 professional standing, and demonstrated
21 expertise in the field of corporate manage-
22 ment, finance, rail or other transportation
23 operations, labor, economics, or the law, or
24 other areas of expertise relevant to the
25 Council.

1 (3) TERM.—Members shall serve for terms of 5
2 years. If a vacancy occurs other than by the expira-
3 tion of a term, the individual appointed to fill the
4 vacancy shall be appointed in the same manner as,
5 and shall serve only for the unexpired portion of the
6 term for which, that individual’s predecessor was ap-
7 pointed.

8 (4) CHAIRMAN.—The Council shall elect a
9 chairman from among its membership within 15
10 days after the earlier of—

11 (A) the date on which all members of the
12 Council have been appointed under paragraph
13 (2)(A); or

14 (B) 45 days after the date of enactment of
15 this Act.

16 (5) MAJORITY REQUIRED FOR ACTION.—A ma-
17 jority of the members of the Council present and
18 voting is required for the Council to take action. No
19 person shall be elected chairman of the Council who
20 receives fewer than 5 votes.

21 (c) ADMINISTRATIVE SUPPORT.—The Secretary of
22 Transportation shall provide such administrative support
23 to the Council as it needs in order to carry out its duties
24 under this section.

1 (d) TRAVEL EXPENSES.—Each member of the Coun-
2 cil shall serve without pay, but shall receive travel ex-
3 penses, including per diem in lieu of subsistence, in ac-
4 cordance with section 5702 and 5703 of title 5, United
5 States Code.

6 (e) MEETINGS.—Each meeting of the Council, other
7 than a meeting at which proprietary information is to be
8 discussed, shall be open to the public.

9 (f) ACCESS TO INFORMATION.—Amtrak shall make
10 available to the Council all information the Council re-
11 quires to carry out its duties under this section. The Coun-
12 cil shall establish appropriate procedures to ensure against
13 the public disclosure of any information obtained under
14 this subsection that is a trade secret or commercial or fi-
15 nancial information that is privileged or confidential.

16 (g) DUTIES.—

17 (1) EVALUATION AND RECOMMENDATION.—

18 The Council—

19 (A) shall evaluate Amtrak's performance;

20 and

21 (B) make recommendations to Amtrak for
22 achieving further cost containment and produc-
23 tivity improvements, and financial reforms.

24 (2) SPECIFIC CONSIDERATIONS.—In making its
25 evaluation and recommendations under paragraph

1 (1), the Council take consider all relevant perform-
2 ance factors, including—

3 (A) Amtrak’s operation as a national pas-
4 senger rail system which provides access to all
5 regions of the country and ties together existing
6 and emerging rail passenger corridors;

7 (B) appropriate methods for adoption of
8 uniform cost and accounting procedures
9 throughout the Amtrak system, based on gen-
10 erally accepted accounting principles; and

11 (C) management efficiencies and revenue
12 enhancements, including savings achieved
13 through labor and contracting negotiations.

14 (h) ANNUAL REPORT.—Each year before the fifth
15 anniversary of the date of enactment of this Act, the
16 Council shall submit to the Congress a report that includes
17 an assessment of Amtrak’s progress on the resolution or
18 status of productivity issues; and makes recommendations
19 for improvements and for any changes in law it believes
20 to be necessary or appropriate.

21 (i) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated to the Council such
23 sums as may be necessary to enable the Council to carry
24 out its duties.

1 **SEC. 204. SUNSET TRIGGER.**

2 (a) IN GENERAL.—If at any time the Amtrak Reform
3 Council finds that—

4 (1) Amtrak’s business performance will prevent
5 it from meeting the financial goals set forth in sec-
6 tion 201; or

7 (2) Amtrak will require operating grant funds
8 after the fifth anniversary of the date of enactment
9 of this Act, then

10 the Council shall immediately notify the President, the
11 Committee on Commerce, Science, and Transportation of
12 the United States Senate; and the Committee on Trans-
13 portation and Infrastructure of the United States House
14 of Representatives.

15 (b) FACTORS CONSIDERED.—In making a finding
16 under subsection (a), the Council shall take into account—

17 (1) Amtrak’s performance;

18 (2) the findings of the independent assessment
19 conducted under section 202; and

20 (3) Acts of God, national emergencies, and
21 other events beyond the reasonable control of Am-
22 trak.

23 (c) ACTION PLAN.—Within 90 days after the Council
24 makes a finding under subsection (a), it shall develop and
25 submit to the Congress—

1 (1) an action plan for a restructured and
2 rationalized intercity rail passenger system; and

3 (2) an action plan for the complete liquidation
4 of Amtrak.

5 If the Congress does not approve by concurrent resolution
6 the implementation of the plan submitted under para-
7 graph (1) within 90 calendar days after it is submitted
8 to the Congress, then the Secretary of Transportation and
9 Amtrak shall implement the plan submitted under para-
10 graph (2).

11 **SEC. 205. ACCESS TO RECORDS AND ACCOUNTS.**

12 Section 24315 of title 49, United States Code, is
13 amended by adding at the end the following new sub-
14 section:

15 “(h) ACCESS TO RECORDS AND ACCOUNTS.—A State
16 shall have access to Amtrak’s records, accounts, and other
17 necessary documents used to determine the amount of any
18 payment to Amtrak required of the State.”.

19 **SEC. 206. OFFICERS’ PAY.**

20 Section 24303(b) of title 49, United States Code, is
21 amended by adding at the end the following: “The preced-
22 ing sentence shall not apply for any fiscal year for which
23 no Federal assistance is provided to Amtrak.”.

1 **SEC. 207. EXEMPTION FROM TAXES.**

2 (a) IN GENERAL.—Subsection (l) of section 24301 of
3 title 49, United States Code, is amended—

4 (1) by striking so much of the subsection as
5 precedes “or a rail carrier” in paragraph (1) and in-
6 serting the following:

7 “(1) EXEMPTION FROM TAXES LEVIED AFTER SEP-
8 TEMBER 30, 1981.—

9 “(1) IN GENERAL.—Amtrak”;

10 (2) by inserting “, and any passenger or other
11 customer of Amtrak or such subsidiary,” in para-
12 graph (1) after “subsidiary of Amtrak”;

13 (3) by striking “or fee imposed” in paragraph
14 (1) and all that follows through “levied on it” and
15 inserting “, fee, head charge, or other charge, im-
16 posed or levied by a State, political subdivision, or
17 local taxing authority on Amtrak, a rail carrier sub-
18 sidiary of Amtrak, or on persons traveling in inter-
19 city rail passenger transportation or on mail or ex-
20 press transportation provided by Amtrak or such a
21 subsidiary, or on the carriage of such persons, mail,
22 or express, or on the sale of any such transportation,
23 or on the gross receipts derived therefrom”;

24 (4) by striking the last sentence of paragraph
25 (1);

1 (5) by striking “(2) The” in paragraph (2) and
 2 inserting “(3) JURISDICTION OF UNITED STATES
 3 DISTRICT COURTS.—The”; and

4 (6) by inserting after paragraph (1) the follow-
 5 ing:

6 “(2) PHASE-IN OF EXEMPTION FOR CERTAIN
 7 EXISTING TAXES AND FEES.—

8 “(A) YEARS BEFORE 2000.—Notwithstand-
 9 ing paragraph (1), Amtrak is exempt from a
 10 tax or fee referred to in paragraph (1) that
 11 Amtrak was required to pay as of September
 12 10, 1982, during calendar years 1997 through
 13 1999, only to the extent specified in the follow-
 14 ing table:

PHASE-IN OF EXEMPTION

Year of assessment	Percentage of exemption
1997	40
1998	60
1999	80
2000 and later years	100

15 “(B) TAXES ASSESSED AFTER MARCH, 1999.—
 16 Amtrak shall be exempt from any tax or fee referred
 17 to in subparagraph (A) that is assessed on or after
 18 April 1, 1999.”.

19 (b) EFFECTIVE DATE.—The amendments made by
 20 subsection (a) do not apply to sales taxes imposed on
 21 intrastate travel as of the date of enactment of this Act.

1 **TITLE III—AUTHORIZATION OF**
2 **APPROPRIATIONS**

3 **SEC. 301. AUTHORIZATION OF APPROPRIATIONS.**

4 Section 24104(a) of title 49, United States Code, is
5 amended to read as follows:

6 “(a) IN GENERAL.—There are authorized to be ap-
7 propriated to the Secretary of Transportation—

8 “(1) \$1,138,000,000 for fiscal year 1998;

9 “(2) \$1,058,000,000 for fiscal year 1999;

10 “(3) \$1,023,000,000 for fiscal year 2000;

11 “(4) \$989,000,000 for fiscal year 2001; and

12 “(5) \$955,000,000 for fiscal year 2002,

13 for the benefit of Amtrak for capital expenditures under
14 chapters 243 and 247 of this title, operating expenses, and
15 payments described in subsection (c)(1)(A) through (C).

16 In fiscal years following the fifth anniversary of the enact-
17 ment of the Amtrak Reform and Accountability Act of
18 1997 no funds authorized for Amtrak shall be used for
19 operating expenses other than those prescribed for tax li-
20 abilities under section 3221 of the Internal Revenue Code
21 of 1986 that are more than the amount needed for bene-
22 fits of individuals who retire from Amtrak and for their
23 beneficiaries.”.

1 **TITLE IV—MISCELLANEOUS**

2 **SEC. 401. STATUS AND APPLICABLE LAWS.**

3 Section 24301 of title 49, United States Code, is
4 amended—

5 (1) by striking “rail carrier under section
6 10102” in subsection (a)(1) and inserting “railroad
7 carrier under section 20102(2) and chapters 261
8 and 281”; and

9 (2) by amending subsection (c) to read as fol-
10 lows:

11 “(c) APPLICATION OF SUBTITLE IV.—Subtitle IV of
12 this title shall not apply to Amtrak, except for sections
13 11303, 11342(a), 11504(a) and (d), and 11707. Notwith-
14 standing the preceding sentence, Amtrak shall continue to
15 be considered an employer under the Railroad Retirement
16 Act of 1974, the Railroad Unemployment Insurance Act,
17 and the Railroad Retirement Tax Act.”.

18 **SEC. 402. WASTE DISPOSAL.**

19 Section 24301(m)(1)(A) of title 49, United States
20 Code, is amended by striking “1996” and inserting
21 “2001”.

22 **SEC. 403. ASSISTANCE FOR UPGRADING FACILITIES.**

23 Section 24310 of title 49, United States Code, and
24 the item relating thereto in the table of sections of chapter
25 243 of such title, are repealed.

1 **SEC. 404. DEMONSTRATION OF NEW TECHNOLOGY.**

2 Section 24314 of title 49, United States Code, and
3 the item relating thereto in the table of sections for chap-
4 ter 243 of that title, are repealed.

5 **SEC. 405. PROGRAM MASTER PLAN FOR BOSTON-NEW YORK**
6 **MAIN LINE.**

7 (a) REPEAL.—Section 24903 of title 49, United
8 States Code, is repealed and the table of sections for chap-
9 ter 249 of such title is amended by striking the item relat-
10 ing to that section.

11 (b) CONFORMING AMENDMENTS.—

12 (1) Section 24902 of title 49, United States
13 Code is amended by striking subsections (a), (c),
14 and (d) and redesignating subsection (b) as sub-
15 section (a) and subsections (e) through (m) as sub-
16 sections (b) through (j), respectively.

17 (2) Section 24904(a)(8) is amended by striking
18 “the high-speed rail passenger transportation area
19 specified in section 24902(a)(1) and (2)” and insert-
20 ing “a high-speed rail passenger transportation
21 area”.

22 **SEC. 406. AMERICANS WITH DISABILITIES ACT OF 1990.**

23 (a) APPLICATION TO AMTRAK.—

24 (1) ACCESS IMPROVEMENTS AT CERTAIN
25 SHARED STATIONS.—Amtrak is responsible for its
26 share, if any, of the costs of accessibility improve-

1 ments at any station jointly used by Amtrak and a
2 commuter authority.

3 (2) CERTAIN REQUIREMENTS NOT TO APPLY
4 UNTIL 1998.—Amtrak shall not be subject to any re-
5 quirement under subsection (a)(1), (a)(3), or (e)(2)
6 of section 242 of the Americans With Disabilities
7 Act of 1990 (42 U.S.C. 12162) until January 1,
8 1998.

9 (b) CONFORMING AMENDMENT.—Section 24307 of
10 title 49, United States Code, is amended—

11 (1) by striking subsection (b); and

12 (2) by redesignating subsection (c) as sub-
13 section (b).

14 **SEC. 407. DEFINITIONS.**

15 Section 24102 of title 49, United States Code, is
16 amended—

17 (1) by striking paragraphs (2) and (11);

18 (2) by redesignating paragraphs (3) through
19 (8) as paragraphs (2) through (7), respectively;

20 (3) by inserting “, including a unit of State or
21 local government,” after “means a person” in para-
22 graph (7), as so redesignated; and

23 (4) by inserting after paragraph (7), as so re-
24 designated, the following new paragraph:

1 “(8) ‘rail passenger transportation’ means the
2 interstate, intrastate, or international transportation
3 of passengers by rail, including mail and express.”.

4 **SEC. 408. NORTHEAST CORRIDOR COST DISPUTE.**

5 Section 1163 of the Northeast Rail Service Act of
6 1981 (45 U.S.C. 1111) is repealed.

7 **SEC. 409. INSPECTOR GENERAL ACT OF 1978 AMENDMENT.**

8 (a) AMENDMENT.—

9 (1) IN GENERAL.—Section 8G(a)(2) of the In-
10 spector General Act of 1978 (5 U.S.C. App.) is
11 amended by striking “Amtrak,”.

12 (2) EFFECTIVE DATE.—The amendment made
13 by paragraph (1) takes effect in the first fiscal year
14 for which Amtrak receives no Federal subsidy.

15 (b) AMTRAK NOT FEDERAL ENTITY.—Amtrak shall
16 not be considered a Federal entity for purposes of the In-
17 spector General Act of 1978. The preceding sentence shall
18 apply for any fiscal year for which Amtrak receives no
19 Federal subsidy.

20 **SEC. 410. INTERSTATE RAIL COMPACTS.**

21 (a) CONSENT TO COMPACTS.—Congress grants con-
22 sent to States with an interest in a specific form, route,
23 or corridor of intercity passenger rail service (including
24 high speed rail service) to enter into interstate compacts
25 to promote the provision of the service, including—

1 (1) retaining an existing service or commencing
2 a new service;

3 (2) assembling rights-of-way; and

4 (3) performing capital improvements, includ-
5 ing—

6 (A) the construction and rehabilitation of
7 maintenance facilities;

8 (B) the purchase of locomotives; and

9 (C) operational improvements, including
10 communications, signals, and other systems.

11 (b) FINANCING.—An interstate compact established
12 by States under subsection (a) may provide that, in order
13 to carry out the compact, the States may—

14 (1) accept contributions from a unit of State or
15 local government or a person;

16 (2) use any Federal or State funds made avail-
17 able for intercity passenger rail service (except funds
18 made available for the National Railroad Passenger
19 Corporation);

20 (3) on such terms and conditions as the States
21 consider advisable—

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

24 (B) issue bonds; and

1 (4) obtain financing by other means permitted
2 under Federal or State law.

3 (c) ELIGIBLE PROJECTS.—Section 133(b) of title 23,
4 United States Code, is amended by striking “and publicly
5 owned intracity or intercity bus terminals and facilities”
6 in paragraph (2) and inserting a comma and “including
7 vehicles and facilities, publicly or privately owned, that are
8 used to provide intercity passenger service by bus or rail,
9 or a combination of both”.

10 (d) ELIGIBILITY OF PASSENGER RAIL UNDER CON-
11 GESTION MITIGATION AND AIR QUALITY IMPROVEMENT
12 PROGRAM.—The first sentence of section 149(b) of title
13 23, United States Code, is amended—

14 (1) by striking “or” at the end of paragraph
15 (3);

16 (2) by striking the period at the end of para-
17 graph (4); and

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

19 “(5) if the project or program will have air
20 quality benefits through construction of and oper-
21 ational improvements for intercity passenger rail fa-
22 cilities, operation of intercity passenger rail trains,
23 and acquisition of rolling stock for intercity pas-
24 senger rail service, except that not more than 50
25 percent of the amount received by a State for a fis-

1 cal year under this paragraph may be obligated for
 2 operating support.”.

3 (e) ELIGIBILITY OF PASSENGER RAIL AS NATIONAL
 4 HIGHWAY SYSTEM PROJECT.—Section 103(i) of title 23,
 5 United States Code, is amended by adding at the end
 6 thereof the following:

7 “(14) Construction, reconstruction, and reha-
 8 bilitation of, and operational improvements for,
 9 intercity rail passenger facilities (including facilities
 10 owned by the National Railroad Passenger Corpora-
 11 tion), operation of intercity rail passenger trains,
 12 and acquisition or reconstruction of rolling stock for
 13 intercity rail passenger service, except that not more
 14 than 50 percent of the amount received by a State
 15 for a fiscal year under this paragraph may be obli-
 16 gated for operation.”.

17 **SEC. 411. COMPOSITION OF AMTRAK BOARD OF DIREC-**
 18 **TORS.**

19 Section 24302(a) of title 49, United States Code, is
 20 amended—

21 (1) by striking “3” in paragraph (1)(C) and in-
 22 serting “4”;

23 (2) by striking clauses (i) and (ii) of paragraph
 24 (1)(C) and inserting the following:

1 “(i) one individual selected as a rep-
2 resentative of rail labor in consultation
3 with affected labor organizations.

4 “(ii) one chief executive officer of a
5 State, and one chief executive officer of a
6 municipality, selected from among the
7 chief executive officers of State and mu-
8 nicipalities with an interest in rail trans-
9 portation, each of whom may select an in-
10 dividual to act as the officer’s representa-
11 tive at board meetings.”;

12 (4) striking subparagraphs (D) and (E) of
13 paragraph (1);

14 (5) inserting after subparagraph (C) the follow-
15 ing:

16 “(D) 3 individuals appointed by the Presi-
17 dent of the United States, as follows:

18 “(i) one individual selected as a rep-
19 resentative of a commuter authority, (as
20 defined in section 102 of the Regional Rail
21 Reorganization Act of 1973 (45 U.S.C.
22 702) that provides its own commuter rail
23 passenger transportation or makes a con-
24 tract with an operator, in consultation with
25 affected commuter authorities.

1 “(ii) one individual with technical ex-
2 pertise in finance and accounting prin-
3 ciples.

4 “(iii) one individual selected as a rep-
5 resentative of the general public.”; and

6 (6) by striking paragraph (6) and inserting the
7 following:

8 “(6) The Secretary may be represented at a
9 meeting of the board only by the Administrator of
10 the Federal Railroad Administration.”.

○