

109TH CONGRESS
2^D SESSION

H. R. 5965

To strengthen national security and promote energy independence by reducing the Nation's reliance on foreign oil, improving vehicle technology and efficiency, increasing the distribution of alternative fuels, bolstering rail infrastructure, and expanding access to public transit.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2006

Mr. HOYER (for himself, Mr. DINGELL, Mr. SKELTON, Mr. OBERSTAR, Mr. SPRATT, Mr. OBEY, Mr. FRANK of Massachusetts, Mr. GORDON, Mr. BERMAN, Mr. UDALL of Colorado, Ms. HERSETH, Mr. BLUMENAUER, Mr. SCHIFF, Mr. ACKERMAN, Ms. BEAN, Ms. BERKLEY, Mr. BISHOP of New York, Mr. BOUCHER, Ms. CORRINE BROWN of Florida, Mr. CARDIN, Mr. CASE, Mr. CLEAVER, Mr. COSTA, Mr. CUMMINGS, Mr. DAVIS of Florida, Ms. DELAURO, Mr. ETHERIDGE, Mr. FATTAH, Mr. HOLT, Mr. KILDEE, Mr. KIND, Mr. KUCINICH, Ms. LEE, Ms. MATSUI, Ms. MCCOLLUM of Minnesota, Mr. MCGOVERN, Ms. MOORE of Wisconsin, Ms. NORTON, Mr. PRICE of North Carolina, Mr. REYES, Mr. SABO, Ms. SCHWARTZ of Pennsylvania, Mr. SERRANO, Mr. SMITH of Washington, Mrs. TAUSCHER, Mr. VAN HOLLEN, Mr. MILLER of North Carolina, Mr. ROSS, Ms. DEGETTE, Mr. CLAY, Mr. GONZALEZ, Mr. RUPPERSBERGER, Mr. DAVIS of Illinois, Mr. MORAN of Virginia, and Mr. HINOJOSA) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Armed Services, Government Reform, Rules, Science, Ways and Means, House Administration, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To strengthen national security and promote energy independence by reducing the Nation's reliance on foreign oil, improving vehicle technology and efficiency, increas-

ing the distribution of alternative fuels, bolstering rail infrastructure, and expanding access to public transit.

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 CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Program for Real Energy Security Act” or the
6 “PROGRESS Act”.

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—NATIONAL COMMISSION ON ENERGY SECURITY AND
TRANSITION TO NEW FUELS

Sec. 101. Establishment.
Sec. 102. Duties of Commission.
Sec. 103. Membership.
Sec. 104. Initial meeting.
Sec. 105. Administrative assistance.
Sec. 106. Powers of Commission.
Sec. 107. Reports.
Sec. 108. Action on report recommendations.
Sec. 109. Termination.

TITLE II—NEW MANHATTAN CENTER FOR HIGH EFFICIENCY
VEHICLES

Sec. 201. Findings.
Sec. 202. Definitions.
Sec. 203. New Manhattan Center for High Efficiency Vehicles.
Sec. 204. Advisory council.
Sec. 205. Responsibilities.
Sec. 206. Export of high-efficiency vehicle manufacturing.
Sec. 207. Protection of information.
Sec. 208. Authorization on appropriations.
Sec. 209. Advanced battery loan guarantee program.
Sec. 210. Domestic manufacturing conversion grant program.

TITLE III—BIOFUELS INFRASTRUCTURE DEVELOPMENT

Sec. 301. Biofuels infrastructure development.

TITLE IV—GOVERNMENT USE AND DIVERSITY OF SUPPLY

- Sec. 401. Renewable fuel regulations.
- Sec. 402. Grants for cellulosic ethanol production.
- Sec. 403. Standard specifications for biodiesel.
- Sec. 404. Requirement for greater use of alternative fuels in Federal fleet.
- Sec. 405. Requirement for Inspector General investigations relating to alternative fuel use and supply in Federal agencies and regulations.
- Sec. 406. Report on vehicles and infrastructure for alternative fuel use.
- Sec. 407. Funds set aside for alternative fuel infrastructure.
- Sec. 408. Authority for Department of Defense to enter into long-term contracts to procure biobased fuel and unconventional fuel.
- Sec. 409. Federal support for plug-in hybrid electric vehicles.
- Sec. 410. Congressional alternative fuel use in vehicles.

TITLE V—TRANSIT PROMOTION AND RAIL INFRASTRUCTURE
DEVELOPMENT

Subtitle A—Transit

- Sec. 501. Increase and expansion of employer-provided mass transit fringe benefits.
- Sec. 502. Grants to improve public transportation services.
- Sec. 503. Study of fuel savings from intelligent transportation systems.

Subtitle B—Secure Access for Commuter Rail

- Sec. 511. Short title.
- Sec. 512. Findings.
- Sec. 513. Rail transit access.
- Sec. 514. Rail transportation policy.

Subtitle C—Intercity Passenger Rail and Rail Bond Program

- Sec. 521. Capital assistance for intercity passenger rail service; State rail plans.
- Sec. 522. State rail plans.
- Sec. 523. Rail cooperative research program.
- Sec. 524. High-speed intercity rail facility bonds.
- Sec. 525. Tax credit to holders of qualified high-speed rail infrastructure bonds.

Subtitle D—Energy Supply and Freight Rail

- Sec. 531. Short title.
- Sec. 532. Capital grants for railroad track.

Subtitle E—Rail Reliability

- Sec. 541. Reliability of railroad transportation of energy supplies.

1 SEC. 2. FINDINGS.

2 The Congress finds the following:

- 3** (1) The United States dependence on foreign
4 petroleum poses a serious risk to our national secu-
5 rity and our economic well-being. The United States

1 must immediately develop a proactive energy strat-
2 egy that includes the promotion of energy efficiency
3 and the investment in alternative and new energy
4 technologies.

5 (2) America should achieve energy independ-
6 ence by reducing its reliance on oil from the Middle
7 East and other unstable regions of the world by de-
8 veloping emerging technologies that work in synergy
9 with the existing energy infrastructure. A sustained
10 investment in research and development is crucial to
11 creating cutting-edge technologies that allow us to
12 develop clean, sustainable energy alternatives and
13 capitalize on America's vast renewable natural re-
14 sources.

15 (3) The Federal Government should lead the
16 Nation in an effort to substantially reduce the use
17 of petroleum based fuels by rapidly expanding pro-
18 duction and distribution of synthetic and biobased
19 fuels, such as ethanol derived from cellulosic sources,
20 and by deploying new engine technologies for fuel-
21 flexible, hybrid, plug-in hybrid, and biodiesel vehi-
22 cles.

23 (4) The Nation will be more secure by making
24 a concerted effort to improve the diversity and reli-
25 ability of the Nation's energy resources and trans-

1 portation fuels. We must make greater investments
2 in renewable energy, alternative fuels such as bio-
3 mass, and efficiency improvements to answer our
4 growing demand for energy.

5 (5) The Federal Government should undertake
6 a complete review of regulations that may affect
7 supply and bottlenecks that create regional emer-
8 gencies that threaten the well-being of our economy
9 and the health and safety of our citizens. We must
10 make every effort to use all of our energy sources,
11 making each a cleaner, safer contributor to the Na-
12 tion's energy resources.

13 (6) Despite the expenditure of billions of dollars
14 on homeland security since 9/11, the American peo-
15 ple are still vulnerable to attack by terrorists at
16 home. Recent natural disasters have also under-
17 scored the vulnerability and critical importance of
18 energy supply to the Nation's economic vitality. Our
19 energy facilities, transportation systems, and critical
20 infrastructure must be adequately secured.

21 (7) Not only must our energy infrastructure be
22 secured, but Americans must feel safe in utilizing
23 mass transit systems. Transit provides an alter-
24 native form of commuting, reduces the use of oil and
25 gasoline, and plays a key role in moving Americans

1 and their families in times of emergencies as well.
2 Increasing security for mass transit through addi-
3 tional funding for rail, bus, and subway security is
4 part of the Nation’s energy security.

5 **TITLE I—NATIONAL COMMIS-**
6 **SION ON ENERGY SECURITY**
7 **AND TRANSITION TO NEW**
8 **FUELS**

9 **SEC. 101. ESTABLISHMENT.**

10 There is established a commission to be known as the
11 “National Commission on Energy Security and Transition
12 to New Fuels” (in this title referred to as the “Commis-
13 sion”).

14 **SEC. 102. DUTIES OF COMMISSION.**

15 The Commission shall make recommendations to the
16 Congress and the President for preserving the national en-
17 ergy security in the event of a terrorist attack or natural
18 disaster, and for reducing United States dependence on
19 foreign oil according to a schedule for national energy
20 independence over the next 5, 10, 15, and 20 years. The
21 Commission shall focus on regional approaches to achiev-
22 ing such goals, taking into account regional differences in
23 energy supply and demand, and shall—

24 (1) address fuel supply and infrastructure needs
25 to support the development of wide-scale use of al-

1 ternative fueled vehicles, including flexible-fuel vehi-
2 cles, electric hybrid vehicles, advanced diesel engines,
3 and hydrogen fueled vehicles, for passenger cars,
4 commercial fleets, and industrial vehicles;

5 (2) identify vulnerabilities in energy infrastruc-
6 ture, such as overreliance on refining capacity con-
7 centrated in areas susceptible to hurricane damage,
8 and recommend actions to remedy or mitigate such
9 vulnerabilities;

10 (3) propose legislative actions to—

11 (A) promote efficiency and biomass and
12 other alternative resource use, including the de-
13 velopment of biofuels, battery, and composite
14 material technologies; and

15 (B) pursue near-term options to reduce
16 transportation fuel demand, such as expanded
17 use of public transit; and

18 (4) propose Federal, State, and local fiscal and
19 regulatory changes to accomplish the purposes de-
20 scribed in this subsection, and develop uniform codes
21 and other tools for use by governments to accom-
22 plish those purposes.

23 **SEC. 103. MEMBERSHIP.**

24 (a) NUMBER AND APPOINTMENT.—

1 (1) IN GENERAL.—The Commission shall con-
2 sist of—

3 (A) 6 members appointed by the Speaker
4 of the House of Representatives, including—

5 (i) 1 appointed in consultation with
6 the chairman of the Committee on Energy
7 and Commerce;

8 (ii) 1 appointed in consultation with
9 the chairman of the Committee on Trans-
10 portation and Infrastructure;

11 (iii) 1 appointed in consultation with
12 the chairman of the Committee on Agri-
13 culture;

14 (iv) 1 appointed in consultation with
15 the chairman of the Committee on Govern-
16 ment Reform;

17 (v) 1 appointed in consultation with
18 the chairman of the Committee on Science;
19 and

20 (vi) 1 appointed in consultation with
21 the chairman of the Committee on Armed
22 Services;

23 (B) 6 members appointed by the minority
24 leader of the House of Representatives, includ-
25 ing—

1 (i) 1 appointed in consultation with
2 the ranking minority member of the Com-
3 mittee on Energy and Commerce;

4 (ii) 1 appointed in consultation with
5 the ranking minority member of the Com-
6 mittee on Transportation and Infrastruc-
7 ture;

8 (iii) 1 appointed in consultation with
9 the ranking minority member of the Com-
10 mittee on Agriculture;

11 (iv) 1 appointed in consultation with
12 the ranking minority member of the Com-
13 mittee on Government Reform;

14 (v) 1 appointed in consultation with
15 the ranking minority member of the Com-
16 mittee on Science; and

17 (vi) 1 appointed in consultation with
18 the chairman of the Committee on Armed
19 Services;

20 (C) 6 members appointed by the majority
21 leader of the Senate, including—

22 (i) 1 appointed in consultation with
23 the chairman of the Committee on Com-
24 merce, Science, and Transportation;

1 (ii) 1 appointed in consultation with
2 the chairman of the Committee on Energy
3 and Natural Resources;

4 (iii) 1 appointed in consultation with
5 the chairman of the Committee on Home-
6 land Security and Governmental Affairs;
7 and

8 (iv) 1 appointed in consultation with
9 the chairman of the Committee on Armed
10 Services;

11 (D) 6 members appointed by the minority
12 leader of the Senate, including—

13 (i) 1 appointed in consultation with
14 the ranking minority member of the Com-
15 mittee on Commerce, Science, and Trans-
16 portation;

17 (ii) 1 appointed in consultation with
18 the ranking minority member of the Com-
19 mittee on Energy and Natural Resources;

20 (iii) 1 appointed in consultation with
21 the ranking minority member of the Com-
22 mittee on Homeland Security and Govern-
23 mental Affairs; and

1 (iv) 1 appointed in consultation with
2 the chairman of the Committee on Armed
3 Services; and

4 (E) 12 members appointed by the Presi-
5 dent, including—

6 (i) 1 appointed in consultation with
7 the Secretary of Energy;

8 (ii) 1 appointed in consultation with
9 the Secretary of Transportation;

10 (iii) 1 appointed in consultation with
11 the Secretary of Commerce;

12 (iv) 1 appointed in consultation with
13 the Secretary of Agriculture; and

14 (v) 1 appointed in consultation with
15 the Administrator of the Environmental
16 Protection Agency.

17 (2) APPOINTMENT PRINCIPLES.—

18 (A) CHAIRMAN.—The President shall des-
19 ignate 1 member appointed under paragraph
20 (1)(E) to be Chairman of the Commission.

21 (B) CONSULTATION.—At least 3 of the ap-
22 pointments by the President shall be made in
23 consultation with the bipartisan national asso-
24 ciations representing elected State and local
25 governmental officials.

1 (C) LIMITATION ON PARTY MEMBER-
2 SHIP.—Not more than 3 of the members ap-
3 pointed by the President under paragraph
4 (1)(E), other than members appointed under
5 clauses (i) through (v) of that subparagraph,
6 shall be members of the same political party as
7 the President.

8 (D) BALANCE.—Each person appointing
9 members of the Commission under paragraph
10 (1) shall seek to achieve a balance of Commis-
11 sion members among representatives of appro-
12 priate Federal, State, and local government
13 agencies, industry, academia, and nonprofit
14 stakeholder organizations, and among diverse
15 geographical areas.

16 (b) VACANCIES.—Any vacancy occurring before the
17 termination of the Commission shall be filled in the same
18 manner as the original appointment.

19 (c) COMPENSATION.—

20 (1) IN GENERAL.—Except as provided in para-
21 graph (2), members of the Commission shall serve
22 without pay.

23 (2) TRAVEL EXPENSES.—Each member shall
24 receive travel expenses, including per diem in lieu of
25 subsistence, in accordance with applicable provisions

1 under chapter I of chapter 57 of title 5, United
2 States Code.

3 (d) RECOMMENDATIONS.—The Commission may only
4 make recommendations if 75 percent or more of its mem-
5 bership approve those recommendations.

6 **SEC. 104. INITIAL MEETING.**

7 The Commission shall hold its initial meeting not
8 later than 60 days after the date of enactment of this Act.

9 **SEC. 105. ADMINISTRATIVE ASSISTANCE.**

10 (a) IN GENERAL.—The Secretary of Energy shall
11 provide to the Commission any administrative assistance
12 necessary for the Commission to carry out its duties under
13 this title.

14 (b) EXPERTS AND CONSULTANTS.—The Commission
15 may procure temporary and intermittent services under
16 section 3109(b) of title 5, United States Code.

17 (c) STAFF OF FEDERAL AGENCIES.—Upon request
18 of the Commission, the head of any Federal department
19 or agency may detail, on a reimbursable basis, any of the
20 personnel of that department or agency to the Commission
21 to assist it in carrying out its duties under this title.

22 **SEC. 106. POWERS OF COMMISSION.**

23 (a) HEARINGS AND SESSIONS.—The Commission
24 may, for the purpose of carrying out this title, hold hear-

1 ings, sit and act at times and places, take testimony, and
2 receive evidence as the Commission considers appropriate.

3 (b) POWERS OF MEMBERS AND AGENTS.—Any mem-
4 ber or agent of the Commission may, if authorized by the
5 Commission, take any action which the Commission is au-
6 thorized to take by this section.

7 (c) OBTAINING OFFICIAL DATA.—The Commission
8 may secure directly from any department or agency of the
9 United States information necessary to enable it to carry
10 out this title. Upon request of the Chairperson of the Com-
11 mission, the head of that department or agency shall fur-
12 nish that information to the Commission.

13 (d) MAILS.—The Commission may use the United
14 States mails in the same manner and under the same con-
15 ditions as other departments and agencies of the United
16 States.

17 (e) SUBPOENA POWER.—

18 (1) IN GENERAL.—The Commission may issue
19 subpoenas requiring the attendance and testimony of
20 witnesses and the production of any evidence relat-
21 ing to any matter which the Commission is empow-
22 ered to investigate by this title. The attendance of
23 witnesses and the production of evidence may be re-
24 quired from any place within the United States at

1 any designated place of hearing within the United
2 States.

3 (2) FAILURE TO OBEY A SUBPOENA.—If a per-
4 son refuses to obey a subpoena issued under para-
5 graph (1), the Commission may apply to a United
6 States district court for an order requiring that per-
7 son to appear before the Commission to give testi-
8 mony, produce evidence, or both, relating to the
9 matter under investigation. The application may be
10 made within the judicial district where the hearing
11 is conducted or where that person is found, resides,
12 or transacts business. Any failure to obey the order
13 of the court may be punished by the court as civil
14 contempt.

15 (3) SERVICE OF SUBPOENAS.—The subpoenas
16 of the Commission shall be served in the manner
17 provided for subpoenas issued by a United States
18 district court under the Federal Rules of Civil Pro-
19 cedure for the United States district courts.

20 (4) SERVICE OF PROCESS.—All process of any
21 court to which application is made under paragraph
22 (2) may be served in the judicial district in which
23 the person required to be served resides or may be
24 found.

1 **SEC. 107. REPORTS.**

2 (a) INITIAL REPORT.—Not later than 3 months after
3 the first meeting of the Commission, the Commission shall
4 transmit to the President and the Congress and initial re-
5 port containing such recommendations as the Commission
6 has been able to prepare at that time.

7 (b) FINAL REPORT.—Not later than 6 months after
8 transmittal of the report under subsection (a), the Com-
9 mission shall transmit a final report to the President and
10 the Congress. The final report shall contain a detailed
11 statement of the findings and conclusions of the Commis-
12 sion, together with its recommendations.

13 **SEC. 108. ACTION ON REPORT RECOMMENDATIONS.**

14 (a) PRESIDENTIAL RESPONSE.—Not later than 30
15 days after receiving a report from the Commission under
16 section 107(a) or (b), the President shall transmit to Con-
17 gress a response consisting of either approval or dis-
18 approval of each of the recommendations contained in the
19 report from the Commission. Such response shall include
20 an explanation for the disapproval of any such rec-
21 ommendation.

22 (b) IMPLEMENTATION.—The appropriate Federal of-
23 ficials shall, unless a joint resolution described in sub-
24 section (c) is enacted pursuant to this section, implement
25 all recommendations approved by the President under sub-
26 section (a).

1 (c) TERMS OF THE RESOLUTION.—For purposes of
2 subsection (b), the term “joint resolution” means only a
3 joint resolution which is introduced within the 10-day pe-
4 riod beginning on the date on which the President trans-
5 mits the response to the Congress under subsection (a),
6 and—

7 (1) which does not have a preamble;

8 (2) the matter after the resolving clause of
9 which is as follows “That Congress disapproves the
10 recommendations of the National Commission on
11 Energy Security and Transition to New Fuels as
12 submitted by the President on _____”, the
13 blank space being filled in with the appropriate date;
14 and

15 (3) the title of which is as follows: “Joint reso-
16 lution disapproving the recommendations of the Na-
17 tional Commission on Energy Security and Transi-
18 tion to New Fuels”.

19 (d) REFERRAL.—A resolution described in subsection
20 (c) that is introduced in the House of Representatives
21 shall be referred to the appropriate committees of the
22 House of Representatives. A resolution described in sub-
23 section (c) introduced in the Senate shall be referred to
24 the appropriate committees of the Senate.

1 (e) DISCHARGE.—If the committee to which a resolu-
2 tion described in subsection (c) is referred has not re-
3 ported such resolution (or an identical resolution) by the
4 end of the 20-day period beginning on the date on which
5 the President transmits the response to the Congress
6 under subsection (a), such committee shall be, at the end
7 of such period, discharged from further consideration of
8 such resolution, and such resolution shall be placed on the
9 appropriate calender of the House involved.

10 (f) CONSIDERATION.—(1) On or after the third day
11 after the date on which the committee to which such a
12 resolution is referred has reported, or has been discharged
13 (under subsection (e)) from further consideration of, such
14 a resolution, it is in order (even though a previous motion
15 to the same effect has been disagreed to) for any Member
16 of the respective House to move to proceed to the consider-
17 ation of the resolution. A Member may make the motion
18 only on the day after the calender day on which the Mem-
19 ber announces to the House concerned the Member's in-
20 tention to make the motion, except that, in the case of
21 the House of Representatives, the motion may be made
22 without such prior announcement if the motion is made
23 by direction of the committee to which the resolution was
24 referred. All points of order against the resolution (and
25 against consideration of the resolution) are waived. The

1 motion is highly privileged in the House of Representatives
2 and is privileged in the Senate and is not debatable. The
3 motion is not subject to amendment, or to a motion to
4 postpone, or to a motion to proceed to the consideration
5 of other business. A motion to reconsider the vote by
6 which the motion is agreed to or disagreed to shall not
7 be in order. If a motion to proceed to the consideration
8 of the resolution is agreed to, the respective House shall
9 immediately proceed to consideration of the joint resolu-
10 tion without intervening motion, order, or other business,
11 and the resolution shall remain the unfinished business of
12 the respective House until disposed of.

13 (2) Debate on the resolution, and on all debatable
14 motions and appeals in connection therewith, shall be lim-
15 ited to not more than 2 hours, which shall be divided
16 equally between those favoring and those opposing the res-
17 olution. An amendment to the resolution is not in order.
18 A motion to postpone, or a motion to proceed to the con-
19 sideration of other business, or a motion to recommit the
20 resolution is not in order. A motion to reconsider the vote
21 by which the resolution is agreed to or disagreed to is not
22 in order.

23 (3) Immediately following the conclusion of the de-
24 bate on a resolution described in subsection (c) and a sin-
25 gle quorum call at the conclusion of the debate if re-

1 requested in accordance with the rules of the appropriate
2 House, the vote on final passage of the resolution shall
3 occur.

4 (4) Appeals from the decisions of the Chair relating
5 to the application of the rules of the Senate or the House
6 of Representatives, as the case may be, to the procedure
7 relating to a resolution described in subsection (c) shall
8 be decided without debate.

9 (g) CONSIDERATION BY OTHER HOUSE.—(1) If, be-
10 fore the passage by one House of a resolution of that
11 House described in subsection (c), that House receives
12 from the other House a resolution described in subsection
13 (c), then the following procedures shall apply:

14 (A) The resolution of the other House shall not
15 be referred to a committee and may not be consid-
16 ered in the House receiving it except in the case of
17 final passage as provided in subparagraph (B)(ii).

18 (B) With respect to a resolution described in
19 subsection (c) of the House receiving the resolu-
20 tion—

21 (i) the procedure in that House shall be
22 the same as if no resolution had been received
23 from the other House; but

24 (ii) the vote on final passage shall be on
25 the resolution of the other House.

1 (2) Upon disposition of the resolution received from
2 the other House, it shall no longer be in order to consider
3 the resolution that originated in the receiving House.

4 (h) RULES OF THE SENATE AND HOUSE.—This sec-
5 tion is enacted by Congress—

6 (1) as an exercise of the rulemaking power of
7 the Senate and House of Representatives, respec-
8 tively, and as such it is deemed a part of the rules
9 of each House, respectively, but applicable only with
10 respect to the procedure to be followed in that
11 House in the case of a resolution described in sub-
12 section (c), and it supersedes other rules only to the
13 extent that it is inconsistent with such rules; and

14 (2) with full recognition of the constitutional
15 right of either House to change the rules (so far as
16 relating to the procedure of that House) at any time,
17 in the same manner, and to the same extent as in
18 the case of any other rule of that House.

19 **SEC. 109. TERMINATION.**

20 The Commission shall terminate 60 days after trans-
21 mitting its final report pursuant to section 107(b).

1 **TITLE II—NEW MANHATTAN**
2 **CENTER FOR HIGH EFFI-**
3 **CIENCY VEHICLES**

4 **SEC. 201. FINDINGS.**

5 The Congress finds that—

6 (1) private, academic, and government research
7 and development resources need to be focused and
8 coordinated to accomplish the rapid commercializa-
9 tion and deployment of technologies and resources
10 needed to achieve energy independence;

11 (2) a project similar to the Manhattan Project
12 is needed to bring national attention to the need for
13 energy independence and to move the United States
14 beyond its reliance on oil and gasoline;

15 (3) an independent entity is needed to identify
16 the areas where scientific breakthroughs and govern-
17 ment investment are best focused, in coordination
18 with private and academic efforts, to encourage the
19 commercial development of viable vehicle and fuel
20 technologies in areas such as efficiency, biomass,
21 and hydrogen that could play a role in reducing de-
22 mand for oil and meeting growing domestic eco-
23 nomic needs for fuel;

24 (4) such an entity could encourage the develop-
25 ment of those technologies, help break through pri-

1 vate sector risk barriers to their development, and
2 advise Congress and the President on policies needed
3 to foster their use; and

4 (5) such an effort would improve the Nation's
5 energy and national security by lowering demand for
6 petroleum, increasing domestic fuel supplies, cre-
7 ating jobs, and improving the environment.

8 **SEC. 202. DEFINITIONS.**

9 In this title—

10 (1) **ADVISORY COUNCIL.**—The term “Advisory
11 Council” means the Advisory Council established
12 under section 204.

13 (2) **CENTER.**—The term “Center” means the
14 New Manhattan Center for High Efficiency Vehicles
15 established under section 203(c).

16 (3) **RESEARCH.**—The term “research” includes
17 research on the technologies, materials, and manu-
18 facturing processes required for high efficiency vehi-
19 cles.

20 **SEC. 203. NEW MANHATTAN CENTER FOR HIGH EFFI-**
21 **CIENCY VEHICLES.**

22 (a) **SUMMIT.**—Not later than 60 days after the date
23 of enactment of this Act, the President shall convene a
24 summit of the principal advisors and directors of all pro-
25 grams in the Federal Government related to the develop-

1 ment of vehicle (or related and component parts) tech-
2 nologies and alternative fuels, including ethanol and
3 biofuels, electric drive, and hydrogen. Such summit shall
4 include leading researchers at the Federal laboratories and
5 representatives of private sector partners, and affiliated
6 labor unions, engaged in the production and manufac-
7 turing of these vehicle and fuel technologies. The summit
8 shall be for the purpose of—

9 (1) reviewing the progress and promise for each
10 of these technologies toward increasing fuel econ-
11 omy, the interrelationship of these technologies to
12 each other, and additional funding resources needed
13 to accelerate the progress of these programs toward
14 improving efficiency and economy dramatically in
15 the next decade, including review of technology de-
16 veloped and lessons learned from the Federal Gov-
17 ernment’s initiative known as the Partnership for a
18 New Generation of Vehicles; and

19 (2) making recommendations as to the organi-
20 zation and structure of the Center described in this
21 section.

22 (b) PROGRAM.—The Secretary of Energy, in con-
23 sultation with the Secretary of Defense, the Secretary of
24 Transportation, and the Administrator of the Environ-
25 mental Protection Agency, shall carry out a program con-

1 sisting of a collaborative effort with industry, government,
2 and academia to support research, development, dem-
3 onstration, and commercial application activities related to
4 high efficiency vehicles. Such program shall include exam-
5 ination of motors, clutches, sensors, controllers, cooling
6 systems, variable combustion engine technologies, flexible
7 fueled and dual fuel fueling systems, hybrid electric flexi-
8 ble fuel vehicles, electric drive accessory components, and
9 advanced batteries in an effort to—

10 (1) reduce production costs to the lowest pos-
11 sible level, with special emphasis on identifying elec-
12 tric drive components and systems that can be ad-
13 vanced through research and development toward
14 commercialization;

15 (2) increase fuel economy; and

16 (3) coordinate related Federal research, devel-
17 opment, and commercialization programs in accord-
18 ance with the recommendations resulting from the
19 summit convened under subsection (a).

20 (c) GRANTS.—Such program shall consist of grants
21 to—

22 (1) the Center, made in accordance with the
23 memorandum of understanding entered into under
24 subsection (e);

25 (2) researchers, including Center participants;

- 1 (3) small businesses;
- 2 (4) National Laboratories; and
- 3 (5) institutions of higher education.

4 (d) CENTER.—Not later than 90 days after the date
5 of enactment of this Act, the Secretary of Energy shall
6 competitively select a consortium to serve as the New
7 Manhattan Center for High Efficiency Vehicles, which
8 shall consist of participants who are private, for-profit
9 United States firms, open to large and small businesses,
10 that, as a group, are broadly representative of United
11 States high efficiency vehicle research, development, infra-
12 structure, and manufacturing expertise as a whole.

13 (e) MEMORANDUM OF UNDERSTANDING.—The Sec-
14 retary of Energy shall enter into a memorandum of under-
15 standing with the Center for the purposes of this title. The
16 memorandum of understanding shall require the following:

17 (1) That the Center shall have—

18 (A) a charter agreed to by all representa-
19 tives of the automotive industry that are par-
20 ticipating members of the Center; and

21 (B) an annual operating plan that is devel-
22 oped in the consultation with the Secretary of
23 Energy and the Advisory Council.

24 (2) That the total amount of funds made avail-
25 able to the Center by Federal, State, and local gov-

1 ernment agencies for any fiscal year for the support
2 of the research and development activities of the
3 Center under this section may not exceed 50 percent
4 of the total cost of such activities.

5 (3) That the Center, in conducting research
6 and development activities pursuant to the memo-
7 randum of understanding, cooperate with and draw
8 on the expertise of the National Laboratories of the
9 Department of Energy and of colleges and univer-
10 sities in the United States in the field of automotive
11 manufacturing technology.

12 (4) That an independent, commercial auditor be
13 retained—

14 (A) to determine the extent to which the
15 funds made available to the Center by the
16 United States for the research and development
17 activities of the Center have been expended in
18 a manner that is consistent with the purposes
19 of this title, the charter of the Center, and the
20 annual operating plan of the Center; and

21 (B) to submit to the Secretary of Energy,
22 the Center, and the Comptroller General of the
23 United States an annual report containing the
24 findings and determinations of such auditor.

1 (5) That the Center take all steps necessary to
2 maximize the expeditious and timely transfer of
3 technology developed and owned by the Center to the
4 participants in the Center in accordance with the
5 agreement between the Center and those partici-
6 pants and for the purpose of improving the high effi-
7 ciency vehicle manufacturing productivity of United
8 States automotive firms.

9 (f) COST SHARING.—In carrying out this section, the
10 Secretary of Energy shall require cost sharing in accord-
11 ance with section 988 of the Energy Policy Act of 2005
12 (42 U.S.C.16352).

13 (g) RIGHTS TO INTELLECTUAL PROPERTY.—The
14 Secretary of Energy may require (in accordance with sec-
15 tion 202(a)(ii) of title 35, United States Code, section 152
16 of the Atomic Energy Act of 1954 (42 U.S.C. 2182), and
17 section 9 of the Federal Nonnuclear Energy Research and
18 Development Act of 1974 (42 U.S.C. 5908)) that for any
19 new invention developed under this title—

20 (1) the Center participants who are active par-
21 ticipants in research, development, and demonstra-
22 tion activities related to the high efficiency vehicle
23 technologies that are covered by this section shall be
24 granted the first option to negotiate with the inven-
25 tion owner, at least in the field of high efficiency ve-

1 hicles, nonexclusive licenses and royalties on terms
2 that are reasonable under the circumstances;

3 (2) for 1 year after a United States patent is
4 issued for the invention—

5 (A) the patent holder shall not negotiate
6 any license or royalty with any entity that is
7 not a participant in the Center; and

8 (B) the patent holder shall negotiate non-
9 exclusive licenses and royalties in good faith
10 with any interested participant in the Center;
11 and

12 (3) such other terms are applied as the Sec-
13 retary determines are required to promote acceler-
14 ated commercialization of inventions made under
15 this section.

16 (h) NATIONAL ACADEMY REVIEW.—The Secretary of
17 Energy shall enter into an arrangement with the National
18 Academy of Sciences to conduct periodic reviews of the
19 program under this section.

20 **SEC. 204. ADVISORY COUNCIL.**

21 (a) ESTABLISHMENT.—There is established the Advi-
22 sory Council on Federal Participation in the New Manhat-
23 tan Center for High Efficiency Vehicles.

24 (b) FUNCTIONS.—(1) The Advisory Council shall ad-
25 vise the Center and the Secretary of Energy on appro-

1 p r i a t e t e c h n o l o g y g o a l s f o r t h e r e s e a r c h a n d d e v e l o p m e n t
2 a c t i v i t i e s o f t h e C e n t e r , a n d s h a l l d e v e l o p a p l a n t o a c h i e v e
3 t h o s e g o a l s . T h e p l a n s h a l l p r o v i d e f o r t h e d e v e l o p m e n t
4 o f h i g h - q u a l i t y , h i g h - y i e l d h i g h e f f i c i e n c y v e h i c l e m a n u f a c -
5 t u r i n g t e c h n o l o g i e s t h a t m e e t t h e n a t i o n a l e n e r g y s e c u r i t y
6 a n d c o m m e r c i a l n e e d s o f t h e U n i t e d S t a t e s .

7 (2) The Advisory Council shall—

8 (A) conduct an annual review of the activities
9 of the Center for the purpose of determining the ex-
10 t e n t o f t h e p r o g r e s s m a d e b y t h e C e n t e r i n c a r r y i n g
11 o u t t h e p l a n r e f e r r e d t o i n p a r a g r a p h (1); a n d

12 (B) on the basis of its determinations under
13 s u b p a r a g r a p h (A), s u b m i t t o t h e C e n t e r a n y r e c -
14 o m m e n d a t i o n s f o r m o d i f i c a t i o n o f t h e p l a n o r t h e
15 t e c h n o l o g i c a l g o a l s i n t h e p l a n c o n s i d e r e d a p p r o -
16 p r i a t e b y t h e A d v i s o r y C o u n c i l .

17 (3) The Advisory Council shall review the research
18 a c t i v i t i e s o f t h e C e n t e r a n d s h a l l s u b m i t t o t h e S e c r e t a r y
19 o f E n e r g y a n d t h e C o n g r e s s a n a n n u a l r e p o r t c o n t a i n i n g
20 a d e s c r i p t i o n o f t h e e x t e n t t o w h i c h t h e C e n t e r i s a c h i e v i n g
21 i t s r e s e a r c h a n d d e v e l o p m e n t g o a l s .

22 (c) MEMBERSHIP.—The Advisory Council shall be
23 c o m p o s e d o f 12 m e m b e r s a s f o l l o w s :

24 (1) The Under Secretary for Science of the De-
25 p a r t m e n t o f E n e r g y .

1 (2) The Administrator of the Research and In-
2 novative Technology Administration.

3 (3) The Director of the National Science Foun-
4 dation.

5 (4) The Chairman of the Federal Laboratory
6 Consortium for Technology Transfer.

7 (5) Eight members appointed by the President
8 as follows:

9 (A) Three members who are eminent indi-
10 viduals in the automotive technology and manu-
11 facturing industry.

12 (B) Two members who are eminent indi-
13 viduals in the fields of alternative fuels tech-
14 nology.

15 (C) Two members who represent organized
16 labor in these related manufacturing fields.

17 (D) One member who represents consumer
18 interests in energy efficiency and conservation.

19 (d) TERMS OF MEMBERSHIP.—Each member of the
20 Advisory Council appointed under subsection (c)(5) shall
21 be appointed for a term of three years, except that of the
22 members first appointed, two shall be appointed for a term
23 of one year, two shall be appointed for a term of two years,
24 and three shall be appointed for a term of three years,
25 as designated by the President at the time of appointment.

1 A member of the Advisory Council may serve after the
2 expiration of the member's term until a successor has
3 taken office.

4 (e) VACANCIES.—A vacancy in the Advisory Council
5 shall not affect its powers but, in the case of a member
6 appointed under subsection (c)(5), shall be filled in the
7 same manner as the original appointment was made. Any
8 member appointed to fill a vacancy for an unexpired term
9 shall be appointed for the remainder of such term.

10 (f) QUORUM.—Seven members of the Advisory Coun-
11 cil shall constitute a quorum.

12 (g) MEETINGS.—The Advisory Council shall meet at
13 the call of the Chairman or a majority of its members.

14 (h) COMPENSATION.—(1) Each member of the Advi-
15 sory Council shall serve without compensation.

16 (2) While away from their homes or regular places
17 of business in the performance of duties for the Advisory
18 Council, members of the Advisory Council shall be allowed
19 travel expenses, including per diem in lieu of subsistence,
20 at rates authorized for employees of agencies under sec-
21 tions 5702 and 5703 of title 5, United States Code.

22 (i) FEDERAL ADVISORY COMMITTEE ACT.—Section
23 14 of the Federal Advisory Committee Act (5 U.S.C.
24 App.) shall not apply to the Advisory Council.

1 **SEC. 205. RESPONSIBILITIES.**

2 The Comptroller General of the United States shall—

3 (1) review the annual reports of the auditor
4 submitted to the Comptroller General in accordance
5 with section 202(d)(4)(B); and

6 (2) transmit to the Congress comments of the
7 accuracy and completeness of those reports, and any
8 additional comments on the reports that the Comp-
9 troller General considers appropriate.

10 **SEC. 206. EXPORT OF HIGH-EFFICIENCY VEHICLE MANU-
11 FACTURING.**

12 Any export of materials, equipment, and technology
13 developed by the Center in whole or in part with financial
14 assistance provided under this title shall be subject to the
15 Export Administration Act of 1979 (50 U.S.C. App. 2401
16 et seq.), as continued in effect under the International
17 Emergency Economic Powers Act, and shall not be subject
18 to the Arms Export Control Act.

19 **SEC. 207. PROTECTION OF INFORMATION.**

20 (a) FREEDOM OF INFORMATION ACT.—Section 552
21 of title 5, United States Code, shall not apply to informa-
22 tion obtained by the Federal Government on a confidential
23 basis under this title.

24 (b) INFORMATION.—Notwithstanding any other pro-
25 vision of law, intellectual property, trade secrets, and tech-
26 nical data owned and developed by the Center or any of

1 the participants in the Center may not be disclosed by any
2 officer or employee of the Department of Energy except
3 as provided in the provision included in the memorandum
4 of understanding pursuant to section 202(d).

5 **SEC. 208. AUTHORIZATION ON APPROPRIATIONS.**

6 There are authorized to be appropriated to the Sec-
7 retary of Energy for carrying out this title \$500,000,000
8 for each of the fiscal years 2007 through 2016.

9 **SEC. 209. ADVANCED BATTERY LOAN GUARANTEE PRO-**
10 **GRAM.**

11 (a) ESTABLISHMENT OF PROGRAM.—The Secretary
12 of Energy shall establish a program to provide guarantees
13 of loans by private institutions for the construction of fa-
14 cilities for the manufacture of advanced vehicle batteries
15 that are developed and produced in the United States, in-
16 cluding advanced lithium ion batteries.

17 (b) REQUIREMENTS.—The Secretary may provide a
18 loan guarantee under subsection (a) to an applicant if—

19 (1) without a loan guarantee, credit is not
20 available to the applicant under reasonable terms or
21 conditions sufficient to finance the construction of a
22 facility described in subsection (a);

23 (2) the prospective earning power of the appli-
24 cant and the character and value of the security
25 pledged provide a reasonable assurance of repayment

1 of the loan to be guaranteed in accordance with the
2 terms of the loan; and

3 (3) the loan bears interest at a rate determined
4 by the Secretary to be reasonable, taking into ac-
5 count the current average yield on outstanding obli-
6 gations of the United States with remaining periods
7 of maturity comparable to the maturity of the loan.

8 (c) CRITERIA.—In selecting recipients of loan guar-
9 antees from among applicants, the Secretary shall give
10 preference to proposals that—

11 (1) meet all applicable Federal and State per-
12 mitting requirements;

13 (2) are most likely to be successful; and

14 (3) are located in local markets that have the
15 greatest need for the facility.

16 (d) MATURITY.—A loan guaranteed under subsection
17 (a) shall have a maturity of not more than 20 years.

18 (e) TERMS AND CONDITIONS.—The loan agreement
19 for a loan guaranteed under subsection (a) shall provide
20 that no provision of the loan agreement may be amended
21 or waived without the consent of the Secretary.

22 (f) ASSURANCE OF REPAYMENT.—The Secretary
23 shall require that an applicant for a loan guarantee under
24 subsection (a) provide an assurance of repayment in the
25 form of a performance bond, insurance, collateral, or other

1 means acceptable to the Secretary in an amount equal to
2 not less than 20 percent of the amount of the loan.

3 (g) GUARANTEE FEE.—The recipient of a loan guar-
4 antee under subsection (a) shall pay the Secretary an
5 amount determined by the Secretary to be sufficient to
6 cover the administrative costs of the Secretary relating to
7 the loan guarantee.

8 (h) FULL FAITH AND CREDIT.—The full faith and
9 credit of the United States is pledged to the payment of
10 all guarantees made under this section. Any such guar-
11 antee made by the Secretary shall be conclusive evidence
12 of the eligibility of the loan for the guarantee with respect
13 to principal and interest. The validity of the guarantee
14 shall be incontestable in the hands of a holder of the guar-
15 anteed loan.

16 (i) REPORTS.—Until each guaranteed loan under this
17 section has been repaid in full, the Secretary shall annu-
18 ally submit to Congress a report on the activities of the
19 Secretary under this section.

20 (j) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated such sums as are nec-
22 essary to carry out this section.

23 (k) TERMINATION OF AUTHORITY.—The authority of
24 the Secretary to issue a loan guarantee under subsection

1 (a) terminates on the date that is 10 years after the date
2 of enactment of this Act.

3 **SEC. 210. DOMESTIC MANUFACTURING CONVERSION**
4 **GRANT PROGRAM.**

5 Section 712 of the Energy Policy Act of 2005 (42
6 U.S.C. 16062) is amended—

7 (1) in subsection (a)—

8 (A) by inserting “and components thereof,
9 including vehicles and components derived from
10 the activities of the New Manhattan Center for
11 High Efficiency Vehicles” after “sales of effi-
12 cient hybrid and advanced diesel vehicles”;

13 (B) by inserting “, plug-in electric hybrid,
14 flexible-fuel,” after “production of efficient hy-
15 brid”; and

16 (C) by adding at the end the following:
17 “Priority shall be given to the refurbishment or
18 retooling of manufacturing facilities that have
19 recently ceased operation or will cease operation
20 in the near future.”; and

21 (2) by striking subsection (b) and inserting the
22 following:

23 “(b) **COORDINATION WITH STATE AND LOCAL PRO-**
24 **GRAMS.**—The Secretary may coordinate implementation of
25 this section with State and local programs designed to ac-

1 accomplish similar goals, including the retention and retrain-
2 ing of skilled workers from the such manufacturing facili-
3 ties, including by establishing matching grant arrange-
4 ments.

5 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
6 are authorized to be appropriated to the Secretary for car-
7 rying out this section—

8 “(1) \$200,000,000 for each of the fiscal years
9 2007 through 2011; and

10 “(2) such sums as may be necessary for each
11 of the fiscal years 2012 through 2015.”.

12 **TITLE III—BIOFUELS INFRA-** 13 **STRUCTURE DEVELOPMENT**

14 **SEC. 301. BIOFUELS INFRASTRUCTURE DEVELOPMENT.**

15 (a) GRANT PROGRAM.—The Secretary of Energy
16 shall establish a program for making grants for providing
17 assistance to retail and wholesale motor fuel dealers or
18 other entities for the installation, replacement, or conver-
19 sion of motor fuel storage and dispensing infrastructure
20 to be used exclusively to store and dispense biobased fuel
21 (as defined in section 303(2) of the Biomass Research and
22 Development Act of 2000 (7 U.S.C. 8101 note)), including
23 E–85 gasoline, biodiesel, or biodiesel blended fuel. Such
24 infrastructure may include equipment used in the blend-
25 ing, distribution, and transport of such fuels.

1 (b) RETAIL TECHNICAL AND MARKETING ASSIST-
2 ANCE.—The Secretary of Energy shall enter into contracts
3 with entities with demonstrated experience in assisting re-
4 tail fueling stations in installing refueling systems and
5 marketing alternative fuels nationally, for the provision of
6 technical and marketing assistance to recipients of grants
7 under this section. Such assistance shall include—

8 (1) technical advice for compliance with applica-
9 ble Federal and State environmental requirements;

10 (2) help in identifying supply sources and se-
11 curing long-term contracts; and

12 (3) provision of public outreach, education, and
13 labeling materials.

14 (c) ALLOCATION.—Grants under this section shall be
15 made to applicants based upon criteria that will maximize
16 the availability and use of the alternative fuel, and that
17 will ensure that alternative fuels are available across the
18 country, such as population, number of vehicles that can
19 operate on E-85, number of diesel powered vehicles, num-
20 ber of retail fuel outlets, and saturation of vehicles capable
21 of operating on the fuels described in subsection (a). The
22 Secretary of Energy may also reserve funds appropriated
23 for carrying out this section to support biofuels infrastruc-
24 ture development projects with a cost of greater than
25 \$1,000,000, that are of national significance. The Sec-

1 retary shall reserve funds appropriated for the biofuels in-
2 frastructure development grant program for technical and
3 marketing assistance described in subsection (b). Grants
4 shall be prioritized based on criteria that include—

5 (1) the public demand for each alternative fuel
6 in a particular geographic area based on State reg-
7 istration records showing the number of automobiles
8 that can be operated with alternative fuel; and

9 (2) the opportunity to create or expand cor-
10 ridors of alternative fuel stations along interstate or
11 State highways.

12 (d) **COMBINED APPLICATIONS.**—States and local gov-
13 ernment entities and nonprofit entities may apply for as-
14 sistance under this section on behalf of a group of retailers
15 within a certain geographic area, or to carry out regional
16 or multistate deployment projects. Any such application
17 shall certify the availability and details of a program to
18 match the Federal grant as required under subsection (e)
19 and list the retail locations that would receive the funds.

20 (e) **LIMITATIONS.**—Assistance provided under this
21 section shall not exceed—

22 (1) 33 percent of the estimated cost of the in-
23 stallation, replacement, or conversion of motor fuel
24 storage and dispensing infrastructure; or

1 (2) \$180,000 for a combination of equipment at
2 any one retail outlet.

3 (f) OPERATION OF ALTERNATIVE FUEL STATIONS.—

4 The Secretary shall establish rules that set forth require-
5 ments for grant recipients under this section that include
6 providing to the public the alternative fuel, establishing
7 a marketing plan that informs consumers of the price and
8 availability of the alternative fuel, clearly labeling the dis-
9 pensers and related equipment, and providing periodic re-
10 ports on the status of the alternative fuel sales, the type
11 and amount of the alternative fuel dispensed at each loca-
12 tion, and the average price of such fuel.

13 (g) NOTIFICATION REQUIREMENTS.—Not later than
14 the date on which each alternative fuel station begins to
15 offer alternative fuel to the public, the grant recipient that
16 used grant funds to construct or upgrade such station
17 shall notify the Secretary of Energy of such opening. The
18 Secretary of Energy shall add each new alternative fuel
19 station to the alternative fuel station locator on its
20 Website when it receives notification under this sub-
21 section.

22 (h) INELIGIBILITY.—No person may receive assist-
23 ance under this section and receive a credit under section
24 30C of the Internal Revenue Code of 1986.

1 (i) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Secretary of En-
3 ergy for carrying out this section \$200,000,000 for each
4 of the fiscal years 2007 through 2011, and such sums as
5 may be necessary thereafter.

6 **TITLE IV—GOVERNMENT USE**
7 **AND DIVERSITY OF SUPPLY**

8 **SEC. 401. RENEWABLE FUEL REGULATIONS.**

9 The Secretary of Energy shall issue regulations under
10 section 212 of the Clean Air Act (as added by section 1511
11 of the Energy Policy Act of 2005) to provide for cellulosic
12 ethanol production loan guarantees and issue a request for
13 proposals under subsection (b) of such section 212 within
14 90 days after the enactment of this Act.

15 **SEC. 402. GRANTS FOR CELLULOSIC ETHANOL PRODUC-**
16 **TION.**

17 Subsection (s) of section 211 of the Clean Air Act
18 is redesignated as subsection (t) and subsection (r) of such
19 section 211 (as added by section 1512 of the Energy Pol-
20 icy Act of 2005), relating to conversion assistance for cel-
21 lulosic biomass, waste-derived ethanol, and approved re-
22 newable fuels, is redesignated as subsection (s) and
23 amended as follows:

24 (1) By adding the following new subparagraphs
25 at the end of paragraph (3):

1 “(D) \$500,000,000 for fiscal year 2009.

2 “(E) \$500,000,000 for fiscal year 2010.”.

3 (2) By adding the following new paragraph at
4 the end thereof:

5 “(5) GEOGRAPHICAL DISPERSION.—The grants
6 under this subsection shall be made to recipients dis-
7 tributed regionally across the country in such man-
8 ner that an eligible production facility is constructed
9 in each PADD (and each of the subpads in PADD
10 1) throughout the country with each such facility
11 using, to the extent possible, a different feedstock
12 material.”.

13 **SEC. 403. STANDARD SPECIFICATIONS FOR BIODIESEL.**

14 Section 211 of the Clean Air Act is amended by add-
15 ing the following new subsection at the end thereof:

16 “(u) STANDARD SPECIFICATIONS FOR BIODIESEL.—
17 Not later than 180 days after the enactment of this sub-
18 section, the Administrator shall promulgate regulations es-
19 tablishing a series of uniform per gallon fuel standards
20 for categories of biodiesel fuel and designate an identifica-
21 tion number for fuel meeting each the standard in each
22 such category so that vehicle manufacturers are able to
23 design engines to use biodiesel fuel meeting one or more
24 of such standards.”.

1 **SEC. 404. REQUIREMENT FOR GREATER USE OF ALTER-**
2 **NATIVE FUELS IN FEDERAL FLEET.**

3 Section 400AA(a)(3)(E) of the Energy Policy and
4 Conservation Act (42 U.S.C. 6374(a)(3)(E)) is amended
5 by adding at the end the following new clauses:

6 “(iii) The report under clause (ii) also shall include
7 an identification of the geographic areas where the alter-
8 native fuel required to be used in dual fueled vehicles ac-
9 quired pursuant to this section is not reasonably available,
10 as certified under clause (i)(I), and a list of such areas
11 where it would be most beneficial, in order of priority, to
12 install a pump for dispensing a fuel known as E-85 or
13 biodiesel fuel for such vehicles.

14 “(iv) The Secretary may not grant a waiver under
15 clause (i) in any fiscal year following a fiscal year in which
16 the report under clause (ii) is not filed. In the case of
17 an agency that receives a waiver under clause (i) for 2
18 successive fiscal years, the agency shall submit to the Sec-
19 retary and Congress recommendations for solving the
20 problems causing the need for the waiver.”.

21 **SEC. 405. REQUIREMENT FOR INSPECTOR GENERAL INVES-**
22 **TIGATIONS RELATING TO ALTERNATIVE**
23 **FUEL USE AND SUPPLY IN FEDERAL AGEN-**
24 **CIES AND REGULATIONS.**

25 (a) REQUIREMENT.—The Inspector General of each
26 department or agency shall conduct a comprehensive in-

1 vestigation into alternative fuel use and supply within the
2 department or agency to identify the reasons why alter-
3 native fuels are not being used in all dual fueled vehicles
4 operated by the department or agency.

5 (b) MATTERS COVERED.—At a minimum, the inves-
6 tigation required under subsection (a) shall cover the fol-
7 lowing:

8 (1) The location of the dual fueled vehicles op-
9 erated by the department or agency and the location
10 of the nearest alternative fuel pumps.

11 (2) Whether dual fueled vehicles operated by
12 the department or agency would make better use of
13 alternative fuel if the vehicles were redeployed to
14 other geographic areas.

15 (3) The steps undertaken by the head of the de-
16 partment or agency to ensure that the dual fueled
17 vehicles use alternative fuel, including—

18 (A) whether such use is a priority for the
19 department or agency; and

20 (B) whether and how often waivers are
21 sought and obtained under section
22 400AA(a)(3)(E) of the Energy Policy and Con-
23 servation Act (42 U.S.C. 6374(a)(3)(E)).

1 (4) The manner in which use of alternative fuel
2 is kept track of in vehicles leased by the department
3 or agency.

4 (c) REPORT.—The Inspector General of each depart-
5 ment or agency shall submit to Congress a report on the
6 investigation conducted under subsection (a) not later
7 than January 3, 2007. The report shall include the results
8 of the investigation and recommendations by the Inspector
9 General for increased use of alternative fuels in the dual
10 fueled vehicles operated by the department or agency.

11 **SEC. 406. REPORT ON VEHICLES AND INFRASTRUCTURE**
12 **FOR ALTERNATIVE FUEL USE.**

13 Not later than 90 days after the date of the enact-
14 ment of this Act, the Secretary of Defense shall submit
15 to Congress a report that identifies, across the Armed
16 Forces, the locations and concentrations of flex-fuel vehi-
17 cles in the current and planned inventory of the Depart-
18 ment of Defense, as well as the diesel engine vehicles and
19 equipment, so as to prioritize the location and placement
20 of new alternative fuel infrastructure to maximize the use
21 of alternative fuels (such as E-85 and biodiesel) in vehi-
22 cles acquired under the requirements of the Energy Policy
23 Act of 1992. The report shall also identify the locations
24 that are currently served by contract or commercial avail-

1 ability, and contain recommendations for future coordina-
2 tion and use of commercial outlets of alternative fuels.

3 **SEC. 407. FUNDS SET ASIDE FOR ALTERNATIVE FUEL IN-**
4 **FRASTRUCTURE.**

5 (a) **PERCENTAGE REQUIRED.**—Of the amounts ap-
6 propriated or otherwise made available for a fiscal year
7 for activities of the Defense Energy Support Center of the
8 Defense Logistics Agency for noncombat fuel infrastruc-
9 ture, not less than 5 percent shall be available only for
10 alternative fuel (such as E–85 and biodiesel) infrastruc-
11 ture.

12 (b) **TERMINATION.**—The requirement of subsection
13 (a) terminates as of the date on which the Secretary of
14 Defense submits to Congress the Secretary’s certification
15 that the Department of Defense can run all noncombat
16 flex-fuel vehicles in the inventory of the Department on
17 alternative fuels (such as E–85 and biodiesel).

18 **SEC. 408. AUTHORITY FOR DEPARTMENT OF DEFENSE TO**
19 **ENTER INTO LONG-TERM CONTRACTS TO**
20 **PROCURE BIOBASED FUEL AND UNCONVEN-**
21 **TIONAL FUEL.**

22 Section 2398a of title 10, United States Code, is
23 amended—

1 (1) in subsection (b), by inserting after “cov-
2 ered fuel” the following: “, biobased fuel, or coal-to-
3 liquid fuel”;

4 (2) in subsection (d)—

5 (A) by inserting after “covered fuel” the
6 following: “, biobased fuel, or coal-to-liquid
7 fuel”; and

8 (B) by striking “1 or more years” and in-
9 serting “up to 25 years”; and

10 (3) by adding at the end the following new sub-
11 section:

12 “(f) DEFINITIONS.—In this section:

13 “(1) The term ‘biobased fuel’ has the meaning
14 provided in section 303(2) of the Biomass Research
15 and Development Act of 2000 (7 U.S.C. 8101
16 note)), including E-85 gasoline, biodiesel, or bio-
17 diesel blended fuel.

18 “(2) The term ‘coal-to-liquid fuel’ means a fuel
19 produced from a coal-to-liquid process or technology
20 in a coal-to-liquid facility.

21 “(3) The term ‘coal-to-liquid’ means—

22 “(A) with respect to a process or tech-
23 nology, the use of the coal resources of the
24 United States, using the class of chemical reac-

1 tions known as Fischer-Tropsch, to produce
2 synthetic fuel suitable for transportation; and

3 “(B) with respect to a facility, the portion
4 of a facility related to the Fischer-Tropsch
5 process, or related to Fischer-Tropsch finished
6 fuel production, that ensures the capture, trans-
7 portation, and sequestration of byproducts of
8 the use of coal at the facility, including carbon
9 emissions.”.

10 **SEC. 409. FEDERAL SUPPORT FOR PLUG-IN HYBRID ELEC-**
11 **TRIC VEHICLES.**

12 (a) AMENDMENT.—Section 301 of the Energy Policy
13 Act of 1992 (42 U.S.C. 13211) is amended—

14 (1) in paragraph (8)—

15 (A) by striking “or” at the end of subpara-
16 graph (A);

17 (B) by inserting “or” at the end of sub-
18 paragraph (B); and

19 (C) by adding after subparagraph (B) the
20 following new subparagraph:

21 “(C) a hybrid electric vehicle;”;

22 (2) by redesignating paragraphs (11), (12),
23 (13), and (14) as paragraphs (12), (13), (14), and
24 (16) respectively;

1 (3) by inserting after paragraph (10) the fol-
2 lowing new paragraph:

3 “(11) the term ‘hybrid electric vehicle’ means a
4 vehicle that—

5 “(A) can operate on either liquid combus-
6 tible fuel or electric power provided by an on-
7 board battery; and

8 “(B) utilizes regenerative power capture
9 technology to recover energy expended in brak-
10 ing the vehicle for use in recharging the bat-
11 tery;”;

12 (4) in paragraph (14), as so redesignated by
13 paragraph (2) of this subsection, by striking “and”
14 at the end; and

15 (5) by inserting after paragraph (14), as so re-
16 designated by paragraph (2) of this subsection, the
17 following new paragraph:

18 “(15) the term ‘plug-in hybrid electric vehicle’
19 means a hybrid electric vehicle that can operate sole-
20 ly on electric power for a minimum of 20 miles
21 under city driving conditions, and that is capable of
22 recharging its battery from an offboard electricity
23 source; and”.

24 (b) PLUG-IN HYBRID ELECTRIC VEHICLE MATCHING
25 GRANTS.—

1 (1) ESTABLISHMENT.—The Secretary of En-
2 ergy shall establish a competitive grant program to
3 provide not more than 25 grants annually to State
4 governments, local governments, metropolitan trans-
5 portation authorities, or combinations thereof for the
6 purposes of procuring and testing plug-in hybrid
7 electric vehicles.

8 (2) APPLICATIONS.—

9 (A) REQUIREMENTS.—The Secretary shall
10 issue requirements for applying for grants
11 under the program. The Secretary shall require
12 that applications, at a minimum, include a de-
13 scription of how data will be—

14 (i) collected on the—

15 (I) performance of the vehicle or
16 vehicles and the components, includ-
17 ing the battery, energy management,
18 and charging systems, under various
19 driving speeds, trip ranges, traffic,
20 and other driving conditions;

21 (II) costs of the vehicle or vehi-
22 cles, including acquisition, operating,
23 and maintenance costs, and how the
24 project or projects will be self-sus-

1 taining after Federal assistance is
2 completed; and

3 (III) emissions of the vehicle or
4 vehicles, including greenhouse gases,
5 and the amount of petroleum dis-
6 placed as a result of the project or
7 projects; and

8 (ii) summarized for dissemination to
9 the Department of Energy, other grantees,
10 and the public.

11 (B) PARTNERS.—An applicant under sub-
12 paragraph (A) may carry out a project or
13 projects in partnership with one or more private
14 entities.

15 (C) RESTRICTIONS.—The Secretary shall
16 award grants under this subsection with geo-
17 graphic diversity such that there is at least one
18 recipient government partner in every PADD,
19 and in every Sub-PADD in the case of PADD
20 1.

21 (c) REPORT.—The Secretary of Energy shall report
22 to Congress on the potential for Federal Government pro-
23 curement and acquisition of plug-in electric hybrid vehi-
24 cles, including a proposed schedule for the acquisition of
25 such vehicles, and including possible participation in com-

1 mitment programs such as the National Plug-in Partners
2 Campaign.

3 **SEC. 410. CONGRESSIONAL ALTERNATIVE FUEL USE IN VE-**
4 **HICLES.**

5 (a) FINDINGS.—The Congress finds that—

6 (1) Members of Congress should follow their
7 own example of setting forth legislation that encour-
8 ages the use of alternatively fueled vehicles;

9 (2) in 2005, the total cost of automobile leases
10 for Members of Congress surpassed \$1,000,000, and
11 a collective switch to alternative fuel vehicles, hybrid
12 vehicles, or vehicles powered by biofuels could poten-
13 tially save American taxpayers thousands of dollars
14 annually; and

15 (3) the General Services Administration has al-
16 ready purchased over 68,000 alternative fueled vehi-
17 cles for the use of Federal customers, more than any
18 other organization in the United States.

19 (b) STUDY.—Not later than 6 months after the date
20 of enactment of this Act, the Comptroller General shall
21 transmit to the Congress the results of a study, along with
22 recommendations, as to how best to enable Members of
23 Congress to procure alternative fuel vehicles for official
24 use.

1 (c) LEASING ADVICE.—The Chief Administrative Of-
2 ficer of the House of Representatives and the Secretary
3 of the Senate shall advise Members of their respective bod-
4 ies as to the available options to lease alternative fuel vehi-
5 cles, including vehicles treated as alternative fuels vehicles
6 by the Administrator of General Services under standards
7 established by the Administrator, any other vehicles pow-
8 ered by alternative fuel or synthetic fuel, and any other
9 vehicles powered in whole or in part by flexible-fuel oper-
10 ating systems, biofuel operating systems, electrical oper-
11 ating systems, or hybrid-electrical operating systems.

12 **TITLE V—TRANSIT PROMOTION**
13 **AND RAIL INFRASTRUCTURE**
14 **DEVELOPMENT**

15 **Subtitle A—Transit**

16 **SEC. 501. INCREASE AND EXPANSION OF EMPLOYER-PRO-**
17 **VIDED MASS TRANSIT FRINGE BENEFITS.**

18 (a) EQUALIZATION OF LIMITATION FOR EMPLOYER-
19 PROVIDED MASS TRANSIT FRINGE BENEFIT WITH LIM-
20 ITATION FOR EMPLOYER-PROVIDED PARKING FRINGE
21 BENEFIT.—

22 (1) IN GENERAL.—Subparagraph (A) of section
23 132(f)(2) of the Internal Revenue Code of 1986 is
24 amended by striking “\$100” and inserting “\$175”.

1 (2) INFLATION ADJUSTMENT.—Subparagraph
2 (A) of section 132(f)(6) of such Code is amended by
3 striking the last sentence thereof.

4 (b) EXTENSION OF TRANSPORTATION FRINGE BEN-
5 EFIT TO BICYCLE COMMUTERS.—

6 (1) IN GENERAL.—Paragraph (1) of section
7 132(f) of the Internal Revenue Code of 1986 (relat-
8 ing to general rule for qualified transportation
9 fringe) is amended by adding at the end the fol-
10 lowing:

11 “(D) Bicycle commuting allowance.”.

12 (2) BICYCLE COMMUTING ALLOWANCE DE-
13 FINED.—Paragraph (5) of section 132(f) of such
14 Code (relating to definitions) is amended by adding
15 at the end the following:

16 “(F) BICYCLE COMMUTING ALLOWANCE.—

17 The term ‘bicycle commuting allowance’ means
18 an amount provided to an employee for trans-
19 portation on a bicycle if such transportation is
20 in connection with travel between the employ-
21 ee’s residence and place of employment.”.

22 (3) LIMITATION ON EXCLUSION.—Paragraph
23 (2) of section 132(f) of such Code is amended by
24 striking “subparagraphs (A) and (B)” and inserting
25 “subparagraphs (A), (B), and (D)”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2005.

4 **SEC. 502. GRANTS TO IMPROVE PUBLIC TRANSPORTATION**
5 **SERVICES.**

6 (a) AUTHORIZATIONS OF APPROPRIATIONS.—

7 (1) URBANIZED AREA FORMULA GRANTS.—In
8 addition to other amounts authorized or made avail-
9 able, there is authorized to be appropriated
10 \$2,000,000,000 for fiscal year 2007 to carry out
11 section 5307 of title 49, United States Code.

12 (2) FORMULA GRANTS FOR OTHER THAN UR-
13 BANIZED AREAS.—In addition to other amounts au-
14 thorized or made available, there is authorized to be
15 appropriated \$200,000,000 for fiscal year 2007 to
16 carry out section 5311 of such title.

17 (b) USE OF FUNDS.—

18 (1) IN GENERAL.—Funds appropriated pursu-
19 ant to this section shall be used for projects that will
20 expand or improve public transportation services
21 provided by existing public transportation systems,
22 as determined by the Secretary of Transportation.

23 (2) PRIORITY.—In awarding grants using funds
24 appropriated pursuant to subsection (a)(2), the Sec-

1 retary shall give priority to projects involving vehi-
2 cles that use clean fuels or are powered by biofuels.

3 (c) MATCHING SHARE.—

4 (1) DEFERRAL.—In awarding a grant for a
5 project using funds appropriated pursuant to sub-
6 section (a), the Secretary may permit the recipient
7 of the grant to defer payment of the non-Federal
8 share of cost of the project for a period not to ex-
9 ceed 2 fiscal years.

10 (2) LIMITATION.—The Secretary may permit
11 such a deferral only if the Secretary determines that
12 the deferral will not result in a decrease in the ag-
13 gregate amount of funds provided by the recipient in
14 a fiscal year for projects under section 5307 or 5311
15 of such title, as appropriate, as compared to the pre-
16 ceding fiscal year.

17 (d) AVAILABILITY OF FUNDS.—Funds appropriated
18 pursuant to this section shall remain available until ex-
19 pended.

20 **SEC. 503. STUDY OF FUEL SAVINGS FROM INTELLIGENT**
21 **TRANSPORTATION SYSTEMS.**

22 Not later than 2 years after the date of enactment
23 of this Act, the Secretary of Energy shall, in consultation
24 with the Secretary of Transportation, report to Congress
25 on the potential fuel savings from intelligent transpor-

1 tation systems that help businesses and consumers to plan
2 their travel and avoid delays. These systems may include
3 web-based real-time transit information systems, conges-
4 tion information systems, carpool information systems,
5 parking information systems, freight route management,
6 and traffic management systems. The report shall include
7 analysis of fuel savings, analysis of system costs, assess-
8 ment of local, State, and regional differences in applica-
9 bility, and evaluation of case studies, best practices, and
10 emerging technologies from both the private and public
11 sector.

12 **Subtitle B—Secure Access for** 13 **Commuter Rail**

14 **SEC. 511. SHORT TITLE.**

15 This subtitle may be cited as the “Transit Rail Ac-
16 commodation Improvement and Needs Act”.

17 **SEC. 512. FINDINGS.**

18 The Congress finds that—

19 (1) modern and efficient fixed guideway trans-
20 portation is important to the viability and well-being
21 of metropolitan areas and to the energy conservation
22 and self-sufficiency goals of the United States;

23 (2) public convenience and necessity require the
24 development of fixed guideway transportation sys-
25 tems in metropolitan areas presently without such

1 service, and the expansion of existing systems in
 2 metropolitan areas already receiving such service;
 3 and

4 (3) use of existing railroad trackage and rights-
 5 of-way in and around metropolitan areas provides a
 6 unique and valuable opportunity for the development
 7 and expansion of fixed guideway transportation fa-
 8 cilities with a minimum of disruption to the environ-
 9 ment and the surrounding community.

10 **SEC. 513. RAIL TRANSIT ACCESS.**

11 (a) AMENDMENT.—Part E of subtitle V of title 49,
 12 United States Code, is amended by adding at the end the
 13 following new chapter:

14 **“CHAPTER 285—RAIL TRANSIT ACCESS**

“Sec.

“28501. Definitions.

“28502. Shared use of rail carrier trackage by mass transportation authorities.

“28503. Shared use of rail rights-of-way by mass transportation authorities.

“28504. Applicability of other laws.

“28505. Standards for Board action.

15 **“§ 28501. Definitions**

16 “In this chapter—

17 “(1) the term ‘Board’ means the Surface
 18 Transportation Board;

19 “(2) the term ‘capital work’ means mainte-
 20 nance, restoration, reconstruction, capacity enhance-
 21 ment, or rehabilitation work on trackage that would
 22 be treated, in accordance with generally accepted ac-

1 counting principles, as a capital item rather than an
2 expense;

3 “(3) the term ‘fixed guideway transportation’
4 means mass transportation (as defined in section
5 5302(a)(7)) provided on, by, or using a fixed guide-
6 way (as defined in section 5302(a)(4));

7 “(4) the term ‘mass transportation authority’
8 means a local governmental authority (as defined in
9 section 5302(a)(6)) established to provide, or make
10 a contract providing for, fixed guideway transpor-
11 tation;

12 “(5) the term ‘rail carrier’ means a person,
13 other than a governmental authority, providing com-
14 mon carrier railroad transportation for compensation
15 subject to the jurisdiction of the Board under chap-
16 ter 105;

17 “(6) the term ‘segregated fixed guideway facil-
18 ity’ means a fixed guideway facility constructed
19 within the railroad right-of-way of a rail carrier but
20 physically separate from trackage, including relo-
21 cated trackage, within the right-of-way used by a
22 rail carrier for freight transportation purposes; and

23 “(7) the term ‘trackage’ means a railroad line
24 of a rail carrier, including a spur, industrial, team,

1 switching, side, yard, or station track, and a facility
2 of a rail carrier.

3 **“§ 28502. Shared use of rail carrier trackage by mass**
4 **transportation authorities**

5 “(a) AUTHORITY.—If, after a reasonable period of
6 negotiation, a mass transportation authority cannot reach
7 agreement with a rail carrier to use trackage of, and have
8 related services provided by, the rail carrier for purposes
9 of fixed guideway transportation, the Board shall, upon
10 application of the mass transportation authority or the rail
11 carrier, and if the Board finds it necessary or useful to
12 carry out this chapter—

13 “(1) order that the trackage be made available
14 and the related services be provided to the mass
15 transportation authority; and

16 “(2) prescribe reasonable terms and compensa-
17 tion for use of the trackage and provision of the re-
18 lated services, including the performance of capital
19 work if the mass transportation authority has dem-
20 onstrated that such capital work is required for effi-
21 cient and reliable passenger operations on the track-
22 age to be used.

23 “(b) STANDARD FOR COMPENSATION; QUALITY OF
24 SERVICE.—When prescribing reasonable compensation
25 under subsection (a)(2), the Board shall consider alter-

1 native cost allocation principles, including incremental cost
2 and fully allocated cost, under rules promulgated by the
3 Board within 6 months after the date of the enactment
4 of the Transit Rail Accommodation Improvement and
5 Needs Act. The Board shall consider quality of service by
6 the rail carrier as a major factor when determining com-
7 pensation for the use of the trackage and providing the
8 related services.

9 “(c) TERMS OF OPERATION.—When prescribing rea-
10 sonable terms under subsection (a)(2), the Board may pre-
11 scribe the number of trains that may be operated by or
12 for the mass transportation authority, the speeds at which
13 such trains may be operated, and the trackage mainte-
14 nance levels to be provided by the rail carrier.

15 “(d) ADDITIONAL TRAINS.—When a rail carrier and
16 a mass transportation authority cannot agree to terms for
17 the operation of additional trains by or for a mass trans-
18 portation authority over a rail line of the carrier, the mass
19 transportation authority or the rail carrier may apply to
20 the Board for an order establishing such terms. If the
21 Board finds it reasonable to carry out this chapter, the
22 Board shall order the rail carrier to allow operation of the
23 requested additional trains on such terms as the Board
24 finds reasonable under the circumstances.

1 “(e) TRACKAGE MAINTENANCE.—If a mass transpor-
2 tation authority believes that maintenance or related cap-
3 ital work of trackage operated by or for the mass transpor-
4 tation authority has fallen below a necessary level to main-
5 tain reliable service at speeds necessary to provide conven-
6 ient and efficient mass transportation service, the mass
7 transportation authority may, after notice to the rail car-
8 rier and a sufficient period for maintenance or related cap-
9 ital work improvements, apply to the Board for an order
10 requiring the rail carrier to provide increased or improved
11 maintenance or related capital work on the trackage. If
12 the Board finds it reasonable to carry out this part, the
13 Board shall order the rail carrier to provide such increased
14 or improved maintenance or related capital work as the
15 Board finds reasonable under the circumstances. The rem-
16 edy available under this subsection shall be in addition to
17 any contract rights that a mass transportation authority
18 may possess with respect to trackage maintenance or re-
19 lated capital work.

20 “(f) ACCELERATED SPEEDS.—If a rail carrier re-
21 fuses to allow accelerated speeds for trains operated by
22 or for a mass transportation authority, the mass transpor-
23 tation authority may apply to the Board for an order re-
24 quiring the rail carrier to allow the accelerated speeds and
25 related capital work required to permit operation at the

1 accelerated speeds. The Board shall decide whether accel-
2 erated speeds are practicable and which capital work
3 would be required to make accelerated speeds practicable.
4 The Board shall establish the maximum allowable speeds
5 for trains operated by or for a mass transportation author-
6 ity on terms the Board decides are reasonable.

7 “(g) PREFERENCE OVER FREIGHT TRANSPOR-
8 TATION.—Except in an emergency, and consistent with
9 subtitle E of title V of the PROGRESS Act and regula-
10 tions issued thereunder, fixed guideway transportation
11 provided by or for a mass transportation authority pursu-
12 ant to an order issued under subsection (a) has preference
13 over freight transportation in using a rail line, junction,
14 or crossing unless the Board orders otherwise under this
15 chapter. A rail carrier affected by this subsection may
16 apply to the Board for relief. If the Board decides that
17 preference for fixed guideway transportation materially
18 will lessen the quality of freight transportation provided
19 to shippers, the Board shall establish the rights of the rail
20 carrier and the mass transportation authority on reason-
21 able terms.

22 “(h) FINAL DETERMINATION.—The Board shall
23 make a determination under this section not later than
24 120 days after a mass transportation authority or a rail
25 carrier submits an application to the Board.

1 **“§ 28503. Shared use of rail rights-of-way by mass**
2 **transportation authorities**

3 “(a) GENERAL AUTHORITY.—If, after a reasonable
4 period of negotiation, a mass transportation authority can-
5 not reach agreement with a rail carrier to acquire an inter-
6 est in a railroad right-of-way for the construction and op-
7 eration of a segregated fixed guideway facility, the mass
8 transportation authority may apply to the Board for an
9 order requiring the rail carrier to convey an interest to
10 the authority. The Board, not later than 120 days after
11 receiving the application, shall order the interest conveyed
12 if—

13 “(1) the mass transportation authority assumes
14 a reasonable allocation of costs associated with any
15 necessary relocation of a rail carrier’s trackage with-
16 in the right-of-way; and

17 “(2) the fixed guideway transportation purpose
18 of the proposed segregated fixed guideway facility
19 cannot be met adequately at a reasonable cost by ac-
20 quiring an interest in other property.

21 “(b) COMPENSATION AND TERMS.—A conveyance or-
22 dered by the Board under this section shall be subject to
23 the payment of just compensation and to such other rea-
24 sonable terms as the Board may prescribe.

1 **“§ 28504. Applicability of other laws**

2 “(a) BOARD REVIEW OR APPROVAL.—Operations or
3 conveyances undertaken pursuant to an order issued
4 under section 28502 or 28503 are not subject to Board
5 review or approval under subtitle IV of this title unless
6 the Board, on a case-by-case basis, has determined that
7 the mass transportation authority has assumed rights or
8 obligations under such order to provide transportation
9 subject to the jurisdiction of the Board under chapter 105.

10 “(b) CONTRACTUAL OBLIGATIONS FOR CLAIMS.—
11 Nothing in this chapter shall be construed to limit a rail
12 transportation provider’s right under section 28103(b) to
13 enter into contracts that allocate financial responsibility
14 for claims.

15 **“§ 28505. Standards for Board action**

16 “In proceedings under sections 28502 and 28503 the
17 Board shall utilize, to the extent relevant and feasible, the
18 principles, standards, and precedents utilized in pro-
19 ceedings under sections 24308 and 24311(c) involving the
20 National Railroad Passenger Corporation.”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) LIMITATIONS ON RAIL PASSENGER TRANS-
23 PORTATION LIABILITY.—Section 28103(a) of title
24 49, United States Code, is amended by inserting “or
25 other fixed guideway transportation” after “com-
26 muter”.

1 (2) TABLE OF CHAPTERS.—The table of chap-
 2 ters of subtitle V of title 49, United States Code, is
 3 amended by adding after the item relating to chap-
 4 ter 283 the following new item:

“285. RAIL TRANSIT ACCESS 28501”.

5 **SEC. 514. RAIL TRANSPORTATION POLICY.**

6 Section 10101 of title 49, United States Code, is
 7 amended—

8 (1) by striking “and” at the end of paragraph
 9 (14);

10 (2) by striking the period at the end of para-
 11 graph (15) and inserting “; and”; and

12 (3) by adding at the end the following new
 13 paragraph:

14 “(16) to encourage and promote the operation
 15 of safe, efficient, and reliable commuter rail pas-
 16 senger service and other fixed guideway transpor-
 17 tation systems, including operations where the serv-
 18 ice will share lines, corridors, or other facilities with
 19 freight railroads or with intercity rail passenger
 20 service.”.

1 **Subtitle C—Intercity Passenger**
 2 **Rail and Rail Bond Program**

3 **SEC. 521. CAPITAL ASSISTANCE FOR INTERCITY PAS-**
 4 **SENGER RAIL SERVICE; STATE RAIL PLANS.**

5 (a) IN GENERAL.—Part C of subtitle V of title 49,
 6 United States Code, is amended by inserting the following
 7 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.

“24406. Authorization of appropriations.

8 **“§ 24401. Definitions**

9 “In this chapter:

10 “(1) APPLICANT.—The term ‘applicant’ means
 11 a State (including the District of Columbia), a group
 12 of States, an Interstate Compact, or a public agency
 13 established by one or more States and having re-
 14 sponsibility for providing intercity passenger rail
 15 service.

16 “(2) CAPITAL PROJECT.—The term ‘capital
 17 project’ means a project or program in a State rail
 18 plan developed under chapter 225 of this title for—

19 “(A) acquiring, constructing, improving, or
 20 inspecting equipment or a facility for use in or

1 for the primary benefit of intercity passenger
2 rail service, expenses incidental to the acquisi-
3 tion or construction (including designing, engi-
4 neering, location surveying, mapping, environ-
5 mental studies, and acquiring rights-of-way),
6 payments for the capital portions of rail track-
7 age rights agreements, highway-rail grade
8 crossing improvements related to intercity pas-
9 senger rail service, security, mitigating environ-
10 mental impacts, communication and signaliza-
11 tion improvements, relocation assistance, ac-
12 quiring replacement housing sites, and acquir-
13 ing, constructing, relocating, and rehabilitating
14 replacement housing;

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

18 “(C) costs associated with developing State
19 rail plans; and

20 “(D) the first-dollar liability costs for in-
21 surance related to the provision of intercity pas-
22 senger rail service under section 24404.

23 “(3) INTERCITY PASSENGER RAIL SERVICE.—
24 The term ‘intercity passenger rail service’ means
25 transportation services with the primary purpose of

1 passenger transportation between towns, cities and
2 metropolitan areas by rail, including high-speed rail,
3 as defined in section 24102.

4 **“§ 24402. Capital investment grants to support inter-**
5 **city passenger rail service**

6 “(a) GENERAL AUTHORITY.—

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

12 “(2) The Secretary shall require that a grant
13 under this section be subject to the terms, condi-
14 tions, requirements, and provisions the Secretary de-
15 cides are necessary or appropriate for the purposes
16 of this section, including requirements for the dis-
17 position of net increases in value of real property re-
18 sulting from the project assisted under this section
19 and shall prescribe procedures and schedules for the
20 awarding of grants under this chapter, including ap-
21 plication and qualification procedures and a record
22 of decision on applicant eligibility. The Secretary
23 shall issue a final rule establishing such procedures
24 not later than 90 days after the date of enactment
25 of this chapter.

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

2 “(1) The Secretary may not approve a grant for
3 a project under this section unless the Secretary
4 finds that the project is part of a State rail plan de-
5 veloped under chapter 225 of this title and that the
6 applicant or recipient has or will have the legal, fi-
7 nancial, and technical capacity to carry out the
8 project, satisfactory continuing control over the use
9 of the equipment or facilities, and the capability and
10 willingness to maintain the equipment or facilities.

11 “(2) An applicant shall provide sufficient infor-
12 mation upon which the Secretary can make the find-
13 ings required by this subsection.

14 “(3) If an applicant has not selected the pro-
15 posed operator of its service competitively, the appli-
16 cant shall provide written justification to the Sec-
17 retary showing why the proposed operator is the
18 best, taking into account price and other factors,
19 and that use of the proposed operator will not un-
20 necessarily increase the cost of the project.

21 “(c) PROJECT SELECTION CRITERIA.—The Sec-
22 retary, in selecting the recipients of financial assistance
23 to be provided under subsection (a), shall—

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

4 “(2) give preference to projects with high levels
5 of estimated ridership, increased on-time perform-
6 ance, reduced trip time, additional service frequency,
7 or other significant service enhancements;

8 “(3) encourage intermodal connectivity through
9 projects that provide direct connections between
10 train stations, airports, bus terminals, subway sta-
11 tions, ferry ports, and other modes of transpor-
12 tation;

13 “(4) ensure that each project is compatible
14 with, and is operated in conformance with—

15 “(A) plans developed pursuant to the re-
16 quirements of section 135 of title 23, United
17 States Code; and

18 “(B) the national rail plan (if it is avail-
19 able); and

20 “(5) favor the following kinds of projects:

21 “(A) Projects that are expected to have a
22 significant favorable impact on air or highway
23 traffic congestion, capacity, or safety.

24 “(B) Projects that also improve freight or
25 commuter rail operations.

1 “(C) Projects that have significant envi-
2 ronmental benefits.

3 “(D) Projects that are—

4 “(i) at a stage of preparation that all
5 pre-commencement compliance with envi-
6 ronmental protection requirements has al-
7 ready been completed; and

8 “(ii) ready to be commenced.

9 “(E) Projects with positive economic and
10 employment impacts.

11 “(F) Projects that encourage the use of
12 positive train control technologies.

13 “(G) Projects that have commitments of
14 funding from non-Federal Government sources
15 in a total amount that exceeds the minimum
16 amount of the non-Federal contribution re-
17 quired for the project.

18 “(H) Projects that involve donated prop-
19 erty interests or services.

20 “(I) Projects that are identified by the
21 Surface Transportation Board as necessary to
22 improve the on time performance and reliability
23 of intercity passenger rail under section
24 24308(f).

1 “(d) AMTRAK ELIGIBILITY.—To receive a grant
2 under this section, the National Railroad Passenger Cor-
3 poration may enter into a cooperative agreement with 1
4 or more States to carry out 1 or more projects on a State
5 rail plan’s ranked list of rail capital projects developed
6 under section 22504(a)(5) of this title.

7 “(e) LETTERS OF INTENT, FULL FUNDING GRANT
8 AGREEMENTS, AND EARLY SYSTEMS WORK AGREE-
9 MENTS.—

10 “(1) The Secretary may issue a letter of intent
11 to an applicant announcing an intention to obligate,
12 for a major capital project under this section, an
13 amount from future available budget authority speci-
14 fied in law that is not more than the amount stipu-
15 lated as the financial participation of the Secretary
16 in the project.

17 “(2) The Secretary may make a full funding
18 grant agreement with an applicant. The agreement
19 shall—

20 “(A) establish the terms of participation by
21 the United States Government in a project
22 under this section;

23 “(B) establish the maximum amount of
24 Government financial assistance for the project;

1 “(C) cover the period of time for com-
2 pleting the project, including a period extending
3 beyond the period of an authorization; and

4 “(D) make timely and efficient manage-
5 ment of the project easier according to the law
6 of the United States.

7 “(3) The total estimated amount of future obli-
8 gations of the Government and contingent commit-
9 ments to incur obligations covered by all outstanding
10 letters of intent, full funding grant agreements, and
11 early systems work agreements may be not more
12 than the amount authorized under section 24406,
13 less an amount the Secretary reasonably estimates is
14 necessary for grants under this section not covered
15 by a letter. The total amount covered by new letters
16 and contingent commitments included in full funding
17 grant agreements and early systems work agree-
18 ments may be not more than a limitation specified
19 in law.

20 “(f) FEDERAL SHARE OF NET PROJECT COST.—

21 “(1)(A) Based on engineering studies, studies
22 of economic feasibility, and information on the ex-
23 pected use of equipment or facilities, the Secretary
24 shall estimate the net project cost.

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

3 “(C) The Secretary shall give priority in allo-
4 cating future obligations and contingent commit-
5 ments to incur obligations to grant requests seeking
6 a lower Federal share of the project net capital cost.

7 “(2) 50 percent of the average amounts ex-
8 pended by a State or group of States (including the
9 District of Columbia) for capital projects to benefit
10 intercity passenger rail service in fiscal years 2005
11 and 2006 shall be credited towards the matching re-
12 quirements for grants awarded under this section.
13 The Secretary may require such information as nec-
14 essary to verify such expenditures.

15 “(3) 50 percent of the average amounts ex-
16 pended by a State or group of States (including the
17 District of Columbia) in a fiscal year beginning in
18 2007 for capital projects to benefit intercity pas-
19 senger rail service or for the operating costs of such
20 service above the average of expenditures made for
21 such service in fiscal years 2005 and 2006 shall be
22 credited towards the matching requirements for
23 grants awarded under this section. The Secretary
24 may require such information as necessary to verify
25 such expenditures.

1 “(g) UNDERTAKING PROJECTS IN ADVANCE.—

2 “(1) The Secretary may pay the Federal share
3 of the net capital project cost to an applicant that
4 carries out any part of a project described in this
5 section according to all applicable procedures and re-
6 quirements if—

7 “(A) the applicant applies for the payment;

8 “(B) the Secretary approves the payment;

9 and

10 “(C) before carrying out the part of the
11 project, the Secretary approves the plans and
12 specifications for the part in the same way as
13 other projects under this section.

14 “(2) The cost of carrying out part of a project
15 includes the amount of interest earned and payable
16 on bonds issued by the applicant to the extent pro-
17 ceeds of the bonds are expended in carrying out the
18 part. However, the amount of interest under this
19 paragraph may not be more than the most favorable
20 interest terms reasonably available for the project at
21 the time of borrowing. The applicant shall certify, in
22 a manner satisfactory to the Secretary, that the ap-
23 plicant has shown reasonable diligence in seeking the
24 most favorable financial terms.

1 “(3) The Secretary shall consider changes in
2 capital project cost indices when determining the es-
3 timated cost under paragraph (2) of this subsection.

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

13 “(i) PUBLIC-PRIVATE PARTNERSHIPS.—

14 “(1) IN GENERAL.—A metropolitan planning
15 organization, State transportation department, or
16 other project sponsor may enter into an agreement
17 with any public, private, or nonprofit entity to coop-
18 eratively implement any project funded with a grant
19 under this chapter.

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

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

25 “(B) cost-sharing of any project expense;

1 “(C) carrying out administration, construc-
2 tion management, project management, project
3 operation, or any other management or oper-
4 ational duty associated with the project; and

5 “(D) any other form of participation ap-
6 proved by the Secretary.

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

10 “(j) SPECIAL TRANSPORTATION CIRCUMSTANCES.—
11 In carrying out this section, the Secretary shall allocate
12 an appropriate portion of the amounts available under this
13 section to provide grants to States in which there is no
14 intercity passenger rail service for the purpose of funding
15 freight rail capital projects that are on a State rail plan
16 developed under chapter 225 of this title that provide pub-
17 lic benefits (as defined in chapter 225) as determined by
18 the Secretary.

19 **“§ 24403. Project management oversight**

20 “(a) PROJECT MANAGEMENT PLAN REQUIRE-
21 MENTS.—To receive Federal financial assistance for a
22 major capital project under this chapter, an applicant
23 must prepare and carry out a project management plan
24 approved by the Secretary of Transportation.

25 “(b) SECRETARIAL OVERSIGHT.—

1 ability insurance coverage for rail passenger service associ-
2 ated with the capital assistance grant, but the coverage
3 may not exceed \$20,000,000 per occurrence or
4 \$20,000,000 in aggregate per year.

5 **“§ 24405. Grant conditions**

6 “(a) DOMESTIC BUYING PREFERENCE.—

7 “(1) REQUIREMENT.—

8 “(A) IN GENERAL.—In carrying out a
9 project funded in whole or in part with a grant
10 under this chapter, the grant recipient shall
11 purchase only—

12 “(i) unmanufactured articles, mate-
13 rial, and supplies mined or produced in the
14 United States; or

15 “(ii) manufactured articles, material,
16 and supplies manufactured in the United
17 States substantially from articles, material,
18 and supplies mined, produced, or manufac-
19 tured in the United States.

20 “(B) DE MINIMIS AMOUNT.—Subpara-
21 graph (A) applies only to a purchase in an total
22 amount that is not less than \$1,000,000.

23 “(2) EXEMPTIONS.—On application of a recipi-
24 ent, the Secretary may exempt a recipient from the
25 requirements of this subsection if the Secretary de-

1 cides that, for particular articles, material, or sup-
2 plies—

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

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

7 “(C) the articles, material, or supplies, or
8 the articles, material, or supplies from which
9 they are manufactured, are not mined, pro-
10 duced, or manufactured in the United States in
11 sufficient and reasonably available commercial
12 quantities and are not of a satisfactory quality.

13 “(3) UNITED STATES DEFINED.—In this sub-
14 section, the term ‘the United States’ means the
15 States, territories, and possessions of the United
16 States and the District of Columbia.

17 “(b) OPERATORS DEEMED RAIL CARRIERS AND EM-
18 PLOYERS FOR CERTAIN PURPOSES.—A person that con-
19 ducts rail operations over rail infrastructure constructed
20 or improved with funding provided in whole or in part in
21 a grant made under this chapter—

22 “(1) shall be considered an employer for pur-
23 poses of the Railroad Retirement Act of 1974 (45
24 U.S.C. 231 et seq.); and

1 “(2) shall be considered a carrier for purposes
2 of the Railway Labor Act (43 U.S.C. 151 et seq.).

3 “(c) GRANT CONDITIONS.—The Secretary shall re-
4 quire as a condition of making any grant under this chap-
5 ter that includes the improvement or use of rights-of-way
6 owned by a railroad that—

7 “(1) a written agreement exist between the ap-
8 plicant and the railroad regarding such use and
9 ownership, including—

10 “(A) any compensation for such use;

11 “(B) assurances regarding the adequacy of
12 infrastructure capacity to accommodate both
13 existing and future freight and passenger oper-
14 ations; and

15 “(C) an assurance by the railroad that col-
16 lective bargaining agreements with the rail-
17 road’s employees (including terms regulating
18 the contracting of work) will remain in full
19 force and effect according to their terms for
20 work performed by the railroad on the railroad
21 transportation corridor; and

22 “(2) the applicant agrees to comply with—

23 “(A) the standards of section 24312 of this
24 title, as such section was in effect on September
25 1, 2003, with respect to the project in the same

1 manner that the National Railroad Passenger
2 Corporation is required to comply with those
3 standards for construction work financed under
4 an agreement made under section 24308(a) of
5 this title; and

6 “(B) the protective arrangements estab-
7 lished under section 504 of the Railroad Revi-
8 talization and Regulatory Reform Act of 1976
9 (45 U.S.C. 836) with respect to employees af-
10 fected by actions taken in connection with the
11 project to be financed in whole or in part by
12 grants under this chapter.

13 “(d) REPLACEMENT OF EXISTING INTERCITY PAS-
14 Senger Rail Service.—

15 “(1) COLLECTIVE BARGAINING AGREEMENT
16 FOR INTERCITY PASSENGER RAIL PROJECTS.—Any
17 entity providing intercity passenger railroad trans-
18 portation that begins operations after the date of en-
19 actment of this Act on a project funded in whole or
20 in part by grants made under this chapter and re-
21 places intercity rail passenger service that was pro-
22 vided by Amtrak, unless such service was provided
23 solely by Amtrak to another entity, as of such date
24 shall enter into an agreement with the authorized

1 bargaining agent or agents for adversely affected
2 employees of the predecessor provider that—

3 “(A) gives each such qualified employee of
4 the predecessor provider priority in hiring ac-
5 cording to the employee’s seniority on the pred-
6 ecessor provider for each position with the re-
7 placing entity that is in the employee’s craft or
8 class and is available within 3 years after the
9 termination of the service being replaced;

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

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

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

16 “(2) IMMEDIATE REPLACEMENT SERVICE.—

17 “(A) NEGOTIATIONS.—If the replacement
18 of preexisting intercity rail passenger service oc-
19 curs concurrent with or within a reasonable
20 time before the commencement of the replacing
21 entity’s rail passenger service, the replacing en-
22 tity shall give written notice of its plan to re-
23 place existing rail passenger service to the au-
24 thorized collective bargaining agent or agents
25 for the potentially adversely affected employees

1 of the predecessor provider at least 90 days be-
2 fore the date on which it plans to commence
3 service. Within 5 days after the date of receipt
4 of such written notice, negotiations between the
5 replacing entity and the collective bargaining
6 agent or agents for the employees of the prede-
7 cessor provider shall commence for the purpose
8 of reaching agreement with respect to all mat-
9 ters set forth in subparagraphs (A) through (D)
10 of paragraph (1). The negotiations shall con-
11 tinue for 30 days or until an agreement is
12 reached, whichever is sooner. If at the end of
13 30 days the parties have not entered into an
14 agreement with respect to all such matters, the
15 unresolved issues shall be submitted for arbitra-
16 tion in accordance with the procedure set forth
17 in subparagraph (B).

18 “(B) ARBITRATION.—If an agreement has
19 not been entered into with respect to all mat-
20 ters set forth in subparagraphs (A) through (D)
21 of paragraph (1) as described in subparagraph
22 (A) of this paragraph, the parties shall select
23 an arbitrator. If the parties are unable to agree
24 upon the selection of such arbitrator within 5
25 days, either or both parties shall notify the Na-

1 tional Mediation Board, which shall provide a
2 list of seven arbitrators with experience in arbi-
3 trating rail labor protection disputes. Within 5
4 days after such notification, the parties shall al-
5 ternately strike names from the list until only
6 1 name remains, and that person shall serve as
7 the neutral arbitrator. Within 45 days after se-
8 lection of the arbitrator, the arbitrator shall
9 conduct a hearing on the dispute and shall
10 render a decision with respect to the unresolved
11 issues among the matters set forth in subpara-
12 graphs (A) through (D) of paragraph (1). This
13 decision shall be final, binding, and conclusive
14 upon the parties. The salary and expenses of
15 the arbitrator shall be borne equally by the par-
16 ties; all other expenses shall be paid by the
17 party incurring them.

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

24 “(4) SUBSEQUENT REPLACEMENT OF SERV-
25 ICE.—If the replacement of existing rail passenger

1 service takes place within 3 years after the replacing
2 entity commences intercity passenger rail service,
3 the replacing entity and the collective bargaining
4 agent or agents for the adversely affected employees
5 of the predecessor provider shall enter into an agree-
6 ment with respect to the matters set forth in sub-
7 paragraphs (A) through (D) of paragraph (1). If the
8 parties have not entered into an agreement with re-
9 spect to all such matters within 60 days after the
10 date on which the replacing entity replaces the pre-
11 cessor provider, the parties shall select an arbi-
12 trator using the procedures set forth in paragraph
13 (2)(B), who shall, within 20 days after the com-
14 mencement of the arbitration, conduct a hearing and
15 decide all unresolved issues. This decision shall be
16 final, binding, and conclusive upon the parties.

17 “(e) INAPPLICABILITY TO CERTAIN RAIL OPER-
18 ATIONS.—Nothing in this section applies to—

19 “(1) commuter rail passenger transportation
20 (as defined in section 24102(4) of this title) oper-
21 ations of a State or local government authority (as
22 those terms are defined in section 5302(11) and (6),
23 respectively, of this title) eligible to receive financial
24 assistance under section 5307 of this title, or to its
25 contractor performing services in connection with

1 commuter rail passenger operations (as so defined);
 2 or

3 “(2) the National Railroad Passenger Corpora-
 4 tion’s access rights to railroad rights of way and fa-
 5 cilities under current law for projects funded under
 6 this chapter where train operating speeds do not ex-
 7 ceed 79 miles per hour.

8 **“§ 24406. Authorization of appropriations.**

9 “There are authorized to be appropriated to the Sec-
 10 retary of Transportation for carrying out this chapter
 11 \$200,000,000 for each of the fiscal years 2007 through
 12 2011.”.

13 (b) CONFORMING AMENDMENTS.—The table of chap-
 14 ters for subtitle V of title 49, United States Code, is
 15 amended by inserting the following after the item relating
 16 to chapter 243:

“244. INTERCITY PASSENGER RAIL SERVICE CAPITAL AS-
 SISTANCE 24401”.

17 **SEC. 522. STATE RAIL PLANS.**

18 (a) IN GENERAL.—Part B of subtitle V of title 49,
 19 United States Code, is amended by adding at the end the
 20 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.

1 **“§ 22501. Definitions**

2 “In this subchapter:

3 “(1) PRIVATE BENEFIT.—

4 “(A) IN GENERAL.—The term ‘private
5 benefit’—

6 “(i) means a benefit accrued to a per-
7 son or private entity, other than the Na-
8 tional Railroad Passenger Corporation,
9 that directly improves the economic and
10 competitive condition of that person or en-
11 tity through improved assets, cost reduc-
12 tions, service improvements, or any other
13 means as defined by the Secretary; and

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

17 “(B) CONSULTATION.—The Secretary may
18 seek the advice of the States and rail carriers
19 in further defining this term.

20 “(2) PUBLIC BENEFIT.—

21 “(A) IN GENERAL.—The term ‘public ben-
22 efit’—

23 “(i) means a benefit accrued to the
24 public in the form of enhanced mobility of

1 people or goods, environmental protection
2 or enhancement, congestion mitigation, en-
3 hanced trade and economic development,
4 improved air quality or land use, more effi-
5 cient energy use, enhanced public safety or
6 security, reduction of public expenditures
7 due to improved transportation efficiency
8 or infrastructure preservation, and any
9 other positive community effects as defined
10 by the Secretary; and

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

14 “(B) CONSULTATION.—The Secretary may
15 seek the advice of the States and rail carriers
16 in further defining this term.

17 “(3) STATE.—The term ‘State’ means any of
18 the 50 States and the District of Columbia.

19 “(4) STATE RAIL TRANSPORTATION AUTHOR-
20 ITY.—The term ‘State rail transportation authority’
21 means the State agency or official responsible under
22 the direction of the Governor of the State or a State
23 law for preparation, maintenance, coordination, and
24 administration of the State rail plan.”.

1 **“§ 22502. Authority**

2 “(a) IN GENERAL.—Each State may prepare and
3 maintain a State rail plan in accordance with the provi-
4 sions of this subchapter.

5 “(b) REQUIREMENTS.—For the preparation and peri-
6 odic revision of a State rail plan, a State shall—

7 “(1) establish or designate a State rail trans-
8 portation authority to prepare, maintain, coordinate,
9 and administer the plan;

10 “(2) establish or designate a State rail plan ap-
11 proval authority to approve the plan;

12 “(3) submit the State’s approved plan to the
13 Secretary of Transportation for review; and

14 “(4) revise and resubmit a State-approved plan
15 no less frequently than once every 5 years for re-
16 approval by the Secretary.

17 **“§ 22503. Purposes**

18 “(a) PURPOSES.—The purposes of a State rail plan
19 are as follows:

20 “(1) To set forth State policy involving freight
21 and passenger rail transportation, including com-
22 muter rail operations, in the State.

23 “(2) To establish the period covered by the
24 State rail plan.

1 “(3) To present priorities and strategies to en-
2 hance rail service in the State that benefits the pub-
3 lic.

4 “(4) To serve as the basis for Federal and
5 State rail investments within the State.

6 “(b) COORDINATION.—A State rail plan shall be co-
7 ordinated with other State transportation planning goals
8 and programs and set forth rail transportation’s role with-
9 in the State transportation system.

10 **“§ 22504. Transparency; coordination; review**

11 “(a) PREPARATION.—A State shall provide adequate
12 and reasonable notice and opportunity for comment and
13 other input to the public, rail carriers, commuter and tran-
14 sit authorities operating in, or affected by rail operations
15 within the State, units of local government, and other in-
16 terested parties in the preparation and review of its State
17 rail plan.

18 “(b) INTERGOVERNMENTAL COORDINATION.—A
19 State shall review the freight and passenger rail service
20 activities and initiatives by regional planning agencies, re-
21 gional transportation authorities, and municipalities with-
22 in the State, or in the region in which the State is located,
23 while preparing the plan, and shall include any rec-
24 ommendations made by such agencies, authorities, and
25 municipalities as deemed appropriate by the State.

1 **“§ 22505. Content**

2 “(a) IN GENERAL.—Each State rail plan shall con-
3 tain the following:

4 “(1) An inventory of the existing overall rail
5 transportation system and rail services and facilities
6 within the State and an analysis of the role of rail
7 transportation within the State’s surface transpor-
8 tation system.

9 “(2) A review of all rail lines within the State,
10 including proposed high speed rail corridors and sig-
11 nificant rail line segments not currently in service.

12 “(3) A statement of the State’s passenger rail
13 service objectives, including minimum service levels,
14 for rail transportation routes in the State.

15 “(4) A general analysis of rail’s transportation,
16 economic, and environmental impacts in the State,
17 including congestion mitigation, trade and economic
18 development, air quality, land-use, energy-use, and
19 community impacts.

20 “(5) A long-range rail investment program for
21 current and future freight and passenger infrastruc-
22 ture in the State that meets the requirements of
23 subsection (b).

24 “(6) A statement of public financing issues for
25 rail projects and service in the State, including a list
26 of current and prospective public capital and oper-

1 ating funding resources, public subsidies, State tax-
2 ation, and other financial policies relating to rail in-
3 frastructure development.

4 “(7) An identification of rail infrastructure
5 issues within the State that reflects consultation
6 with all relevant stake holders.

7 “(8) A review of major passenger and freight
8 intermodal rail connections and facilities within the
9 State, including seaports, and prioritized options to
10 maximize service integration and efficiency between
11 rail and other modes of transportation within the
12 State.

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

17 “(10) A performance evaluation of passenger
18 rail services operating in the State, including pos-
19 sible improvements in those services, and a descrip-
20 tion of strategies to achieve those improvements.

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

1 “(12) A statement that the State is in compli-
2 ance with the requirements of section 22102.

3 “(b) LONG-RANGE SERVICE AND INVESTMENT PRO-
4 GRAM.—

5 “(1) PROGRAM CONTENT.—A long-range rail
6 investment program included in a State rail plan
7 under subsection (a)(5) shall include the following
8 matters:

9 “(A) A list of any rail capital projects ex-
10 pected to be undertaken or supported in whole
11 or in part by the State.

12 “(B) A detailed funding plan for those
13 projects.

14 “(2) PROJECT LIST CONTENT.—The list of rail
15 capital projects shall contain—

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

18 “(B) a statement of the correlation be-
19 tween—

20 “(i) public funding contributions for
21 the projects; and

22 “(ii) the public benefits.

23 “(3) CONSIDERATIONS FOR PROJECT LIST.—In
24 preparing the list of freight and intercity passenger
25 rail capital projects, a State rail transportation au-

1 thority should take into consideration the following
2 matters:

3 “(A) Contributions made by non-Federal
4 and non-State sources through user fees,
5 matching funds, or other private capital involve-
6 ment.

7 “(B) Rail capacity and congestion effects.

8 “(C) Effects to highway, aviation, and
9 maritime capacity, congestion, or safety.

10 “(D) Regional balance.

11 “(E) Environmental impact.

12 “(F) Economic and employment impacts.

13 “(G) Projected ridership and other service
14 measures for passenger rail projects.

15 **“§ 22506. Review**

16 “The Secretary shall prescribe procedures for States
17 to submit State rail plans for review under this title, in-
18 cluding standardized format and data requirements.”.

19 (b) CONFORMING AMENDMENT.—The table of chap-
20 ters for subtitle V of title 49, United States Code, is
21 amended by inserting the following after the item relating
22 to chapter 223:

“225. STATE RAIL PLANS 22501”.

1 **SEC. 523. RAIL COOPERATIVE RESEARCH PROGRAM.**

2 (a) ESTABLISHMENT AND CONTENT.—Chapter 249
3 of title 49, United States Code, is amended by adding at
4 the end the following:

5 **“§ 24910. Rail cooperative research program**

6 “(a) IN GENERAL.—The Secretary shall establish
7 and carry out a rail cooperative research program. The
8 program shall—

9 “(1) address, among other matters, intercity
10 rail passenger and freight rail services, including ex-
11 isting rail passenger and freight technologies and
12 speeds, incrementally enhanced rail systems and in-
13 frastructure, and new high-speed wheel-on-rail sys-
14 tems and rail security;

15 “(2) address ways to expand the transportation
16 of international trade traffic by rail, enhance the ef-
17 ficiency of intermodal interchange at ports and other
18 intermodal terminals, and increase capacity and
19 availability of rail service for seasonal freight needs;

20 “(3) consider research on the interconnected-
21 ness of commuter rail, passenger rail, freight rail,
22 and other rail networks; and

23 “(4) give consideration to regional concerns re-
24 garding rail passenger and freight transportation,
25 including meeting research needs common to des-
26 ignated high-speed corridors, long-distance rail serv-

1 ices, and regional intercity rail corridors, projects,
2 and entities.

3 “(b) CONTENT.—The program to be carried out
4 under this section shall include research designed—

5 “(1) to identify the unique aspects and at-
6 tributes of rail passenger and freight service;

7 “(2) to develop more accurate models for evalu-
8 ating the impact of rail passenger and freight serv-
9 ice, including the effects on highway and airport and
10 airway congestion, environmental quality, and energy
11 consumption;

12 “(3) to develop a better understanding of modal
13 choice as it affects rail passenger and freight trans-
14 portation, including development of better models to
15 predict utilization;

16 “(4) to recommend priorities for technology
17 demonstration and development;

18 “(5) to meet additional priorities as determined
19 by the advisory board established under subsection
20 (c), including any recommendations made by the Na-
21 tional Research Council;

22 “(6) to explore improvements in management,
23 financing, and institutional structures;

24 “(7) to address rail capacity constraints that
25 affect passenger and freight rail service through a

1 wide variety of options, ranging from operating im-
2 provements to dedicated new infrastructure, taking
3 into account the impact of such options on oper-
4 ations;

5 “(8) to improve maintenance, operations, cus-
6 tomer service, or other aspects of intercity rail pas-
7 senger and freight service;

8 “(9) to recommend objective methodologies for
9 determining intercity passenger rail routes and serv-
10 ices, including the establishment of new routes, the
11 elimination of existing routes, and the contraction or
12 expansion of services or frequencies over such
13 routes;

14 “(10) to review the impact of equipment and
15 operational safety standards on the further develop-
16 ment of high speed passenger rail operations con-
17 nected to or integrated with non-high speed freight
18 or passenger rail operations; and

19 “(11) to recommend any legislative or regu-
20 latory changes necessary to foster further develop-
21 ment and implementation of high speed passenger
22 rail operations while ensuring the safety of such op-
23 erations that are connected to or integrated with
24 non-high speed freight or passenger rail operations.

25 “(c) ADVISORY BOARD.—

1 “(1) ESTABLISHMENT.—In consultation with
2 the heads of appropriate Federal departments and
3 agencies, the Secretary shall establish an advisory
4 board to recommend research, technology, and tech-
5 nology transfer activities related to rail passenger
6 and freight transportation.

7 “(2) MEMBERSHIP.—The advisory board shall
8 include—

9 “(A) representatives of State transpor-
10 tation agencies;

11 “(B) transportation and environmental
12 economists, scientists, and engineers; and

13 “(C) representatives of Amtrak, the Alaska
14 Railroad, freight railroads, transit operating
15 agencies, intercity rail passenger agencies, rail-
16 way labor organizations, and environmental or-
17 ganizations.

18 “(d) NATIONAL ACADEMY OF SCIENCES.—The Sec-
19 retary may make grants to, and enter into cooperative
20 agreements with, the National Academy of Sciences to
21 carry out such activities relating to the research, tech-
22 nology, and technology transfer activities described in sub-
23 section (b) as the Secretary deems appropriate.”.

1 (b) CLERICAL AMENDMENT.—The chapter analysis
 2 for chapter 249 is amended by adding at the end the fol-
 3 lowing:

“24910. Rail cooperative research program.”.

4 **SEC. 524. HIGH-SPEED INTERCITY RAIL FACILITY BONDS.**

5 (a) AMENDMENT.—Chapter 261 of title 49, United
 6 States Code, is amended by adding at the end the fol-
 7 lowing new section:

8 **“§ 26106. High-speed rail infrastructure bonds**

9 “(a) DESIGNATION.—The Secretary may designate
 10 bonds for purposes of subsection (f) or section 54 of the
 11 Internal Revenue Code of 1986 if—

12 “(1) the bonds are to be issued by—

13 “(A) a State, if the entire railroad pas-
 14 senger transportation corridor containing the
 15 infrastructure project to be financed is within
 16 the State;

17 “(B) 1 or more of the States that have en-
 18 tered into an agreement or an interstate com-
 19 pact consented to by Congress under section
 20 410(a) of Public Law 105–134 (49 U.S.C
 21 24101 nt); or

22 “(C) an agreement or an interstate com-
 23 pact described in subparagraph (B);

24 “(2) the bonds are for the purpose of financ-
 25 ing—

1 “(A) projects that make a substantial con-
2 tribution to providing the infrastructure and
3 equipment required to complete a high-speed
4 rail transportation corridor (including projects
5 for the acquisition, financing, or refinancing of
6 equipment and other capital improvements, in-
7 cluding the introduction of new high-speed tech-
8 nologies such as magnetic levitation systems,
9 track or signal improvements, the elimination of
10 grade crossings, development of intermodal fa-
11 cilities, improvement of train speeds or safety,
12 or both, and station rehabilitation or construc-
13 tion), but only if the Secretary determines that
14 the projects are part of a viable and comprehen-
15 sive high-speed rail transportation corridor de-
16 sign for intercity passenger service, including a
17 design for minimally operable segments of a
18 corridor designated under section 104(d)(2) of
19 title 23, United States Code; or

20 “(B) projects for the Alaska Railroad;

21 “(3) for a railroad passenger transportation
22 corridor design that includes the use of rights-of-way
23 owned by a freight railroad, a written agreement ex-
24 ists between the applicant and the freight railroad
25 regarding such use and ownership, including com-

1 pensation for such use and assurances regarding the
2 adequacy of infrastructure capacity to accommodate
3 both existing and future freight and passenger oper-
4 ations, and including an assurance by the freight
5 railroad that collective bargaining agreements with
6 the freight railroad’s employees (including terms
7 regulating the contracting of work) shall remain in
8 full force and effect according to their terms for
9 work performed by the freight railroad on such rail-
10 road passenger transportation corridor;

11 “(4) the corridor design eliminates existing rail-
12 way-highway grade crossings that the Secretary de-
13 termines would impede high-speed rail operations;

14 “(5) the applicant agrees to comply with—

15 “(A) the standards of section 24312, as in
16 effect on September 1, 2002, with respect to
17 the project in the same manner that the Na-
18 tional Railroad Passenger Corporation is re-
19 quired to comply with such standards for con-
20 struction work financed under an agreement
21 made under section 24308(a); and

22 “(B) the protective arrangements estab-
23 lished under section 504 of the Railroad Revi-
24 talization and Regulatory Reform Act of 1976
25 (45 U.S.C. 836) with respect to employees af-

1 fected by actions taken in connection with the
2 project to be financed by the bond; and

3 “(6) the applicant agrees not to pay the prin-
4 cipal or interest on the bonds using funds derived di-
5 rectly or indirectly from the Highway Trust Fund,
6 except as permitted by law as of the date of the en-
7 actment of this section.

8 “(b) BOND AMOUNT LIMITATION.—

9 “(1) IN GENERAL.—The amount of bonds des-
10 ignated under this section may not exceed—

11 “(A) in the case of subsection (f) bonds,
12 \$1,200,000,000 for each of the fiscal years
13 2007 through 2016; and

14 “(B) in the case of section 54 bonds,
15 \$1,200,000,000 for each of the fiscal years
16 2007 through 2016.

17 “(2) CARRYOVER OF UNUSED LIMITATION.—If
18 for any fiscal year the limitation amount under sub-
19 paragraph (A) or (B) of paragraph (1) exceeds—

20 “(A) with respect to subparagraph (A) of
21 paragraph (1), the amount of subsection (f)
22 bonds issued during such year; or

23 “(B) with respect to subparagraph (B) of
24 paragraph (1), the amount of section 54 bonds
25 issued during such year,

1 the limitation amount under subparagraph (A) or
2 (B) of paragraph (1), as the case may be, for the
3 following fiscal year (through fiscal year 2020) shall
4 be increased by the amount of such excess.

5 “(c) PREFERENCE.—The Secretary shall give pref-
6 erence to the designation under this section of bonds for
7 projects—

8 “(1) to be funded through a combination of
9 subsection (f) bonds and section 54 bonds;

10 “(2) which propose to link rail passenger serv-
11 ice with other modes of transportation;

12 “(3) expected to have a significant impact on
13 air traffic congestion;

14 “(4) expected to also improve commuter rail op-
15 erations;

16 “(5) where all environmental work has already
17 been completed and the project is ready to com-
18 mence; or

19 “(6) that have received financial commitments
20 and other support of State and local governments.

21 “(d) TIMELY DISPOSITION OF APPLICATION.—The
22 Secretary shall grant or deny a requested designation
23 within 9 months after receipt of an application.

24 “(e) ANNUAL REPORTS.—

1 “(1) FROM ISSUER OF BONDS.—The issuer of
2 bonds designated under subsection (a) shall report
3 annually to the Secretary regarding the terms of
4 outstanding designated bonds and the progress made
5 with respect to the project financed by the bonds.

6 “(2) FROM SECRETARY.—The Secretary, in
7 consultation with the Secretary of the Treasury,
8 shall transmit to the Congress an annual report
9 which includes—

10 “(A) reports received under paragraph (1);

11 and

12 “(B) an assessment of the progress made
13 toward completion of high-speed rail transpor-
14 tation corridors resulting from projects financed
15 by bonds designated under subsection (a).

16 “(f) TAX TREATMENT OF SUBSECTION (f) BONDS.—

17 “(1) EXCLUSION FROM GROSS INCOME.—The
18 interest on a bond designated by the Secretary
19 under subsection (a) for purposes of this subsection
20 shall be excluded from gross income under section
21 103 of the Internal Revenue Code of 1986, notwith-
22 standing section 149(c) of such Code.

23 “(2) EXEMPTION FROM VOLUME CAP.—For
24 purposes of section 146 of such Code, a bond des-
25 ignated by the Secretary under subsection (a) for

1 purposes of this subsection shall be considered to be
2 exempt from the volume cap of the issuing authority
3 in the same manner as bonds listed in subsection (g)
4 of such section 146.

5 “(g) REFINANCING RULES.—Bonds designated by
6 the Secretary under subsection (a) may be issued for refi-
7 nancing projects only if the indebtedness being refinanced
8 (including any obligation directly or indirectly refinanced
9 by such indebtedness) was originally incurred by the
10 issuer—

11 “(1) after the date of the enactment of this sec-
12 tion;

13 “(2) for a term of not more than 3 years;

14 “(3) to finance projects described in subsection
15 (a)(2); and

16 “(4) in anticipation of being refinanced with
17 proceeds of a bond designated under subsection (a).

18 “(h) PROVISIONS REGARDING HIGH-SPEED RAIL
19 SERVICE.—

20 “(1) STATUS AS EMPLOYER OR CARRIER.—Any
21 entity providing railroad transportation (within the
22 meaning of section 20102) that begins operations
23 after the date of the enactment of this section and
24 that uses property acquired pursuant to this section
25 (except as provided in subsection (a)(2)(B)), shall be

1 considered an employer for purposes of the Railroad
2 Retirement Act of 1974 (45 U.S.C. 231 et seq.) and
3 considered a carrier for purposes of the Railway
4 Labor Act (45 U.S.C. 151 et seq.).

5 “(2) COLLECTIVE BARGAINING AGREEMENT.—

6 Any entity providing high-speed intercity passenger
7 railroad transportation (within the meaning of sec-
8 tion 20102) that begins operations after the date of
9 enactment of this section on a project funded in
10 whole or in part by bonds designated under sub-
11 section (a), and replaces intercity rail passenger
12 service that was provided by another entity as of the
13 date of enactment of this section, shall enter into an
14 agreement with the authorized bargaining agent or
15 agents for employees of the predecessor provider
16 that—

17 “(A) gives each employee of the prede-
18 cessor provider priority in hiring according to
19 the employee’s seniority on the predecessor pro-
20 vider for each position with the replacing entity
21 that is in the employee’s craft or class and is
22 available within three years after the termi-
23 nation of the service being replaced;

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

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

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

5 “(3) IMMEDIATE REPLACEMENT OF EXISTING
6 RAIL PASSENGER SERVICE.—

7 “(A) NEGOTIATIONS.—If the replacement
8 of preexisting intercity rail passenger service oc-
9 curs concurrent with or within a reasonable
10 amount of time before the commencement of
11 the replacing entity’s high-speed rail passenger
12 service, the replacing entity shall give written
13 notice of its plan to replace existing rail pas-
14 senger service to the authorized collective bar-
15 gaining agent or agents for the employees of
16 the predecessor provider at least 90 days prior
17 to the date it plans to commence service. With-
18 in 5 days after the date of receipt of such writ-
19 ten notice, negotiations between the replacing
20 entity and the collective bargaining agent or
21 agents for the employees of the predecessor pro-
22 vider shall commence for the purpose of reach-
23 ing agreement with respect to all matters set
24 forth in paragraph (2) (A)–(D). The negotia-
25 tions shall continue for 30 days or until an

1 agreement is reached, whichever is sooner. If at
2 the end of 30 days the parties have not entered
3 into an agreement with respect to all such mat-
4 ters, the unresolved issues shall be submitted
5 for arbitration in accordance with the procedure
6 set forth in subparagraph (B).

7 “(B) ARBITRATION.—If an agreement has
8 not been entered into with respect to all mat-
9 ters set forth in paragraph (2) (A)–(D) as pro-
10 vided in subparagraph (A) of this paragraph,
11 the parties shall select an arbitrator. If the par-
12 ties are unable to agree upon the selection of
13 such arbitrator within 5 days, either or both
14 parties shall notify the National Mediation
15 Board, which shall provide a list of seven arbi-
16 trators with experience in arbitrating rail labor
17 protection disputes. Within 5 days after such
18 notification, the parties shall alternately strike
19 names from the list until only one name re-
20 mains, and that person shall serve as the neu-
21 tral arbitrator. Within 45 days after selection of
22 the arbitrator, the arbitrator shall conduct a
23 hearing on the dispute and shall render a deci-
24 sion with respect to the unresolved issues set
25 forth in paragraph (2) (A)–(D). This decision

1 shall be final, binding, and conclusive upon the
2 parties. The salary and expenses of the arbi-
3 trator shall be borne equally by the parties; all
4 other expenses shall be paid by the party incur-
5 ring them.

6 “(C) SERVICE COMMENCEMENT.—A re-
7 placing entity under this paragraph shall com-
8 mence service only after an agreement is en-
9 tered into with respect to the matters set forth
10 in paragraph (2) (A)–(D) or the decision of the
11 arbitrator has been rendered.

12 “(4) SUBSEQUENT REPLACEMENT OF EXISTING
13 RAIL PASSENGER SERVICE.—If the replacement of
14 existing rail passenger service takes place within 3
15 years after the replacing entity commences high-
16 speed rail passenger service, the replacing entity and
17 the collective bargaining agent or agents for the em-
18 ployees of the predecessor provider shall enter into
19 an agreement with respect to the matters set forth
20 in paragraph (2) (A)–(D). If the parties have not
21 entered into an agreement with respect to all such
22 matters within 60 days after the date on which the
23 replacing entity replaces the predecessor provider,
24 the parties shall select an arbitrator using the proce-
25 dures set forth in paragraph (3)(B), who shall, with-

1 in 20 days after the commencement of the arbitra-
2 tion, conduct a hearing and decide all unresolved
3 issues. This decision shall be final, binding, and con-
4 clusive upon the parties.

5 “(i) ISSUANCE OF REGULATIONS.—Not later than 6
6 months after the date of the enactment of this section,
7 the Secretary shall issue regulations for carrying out this
8 section.

9 “(j) DEFINITIONS.—For purposes of this section—
10 “(1) SUBSECTION (f) BOND.—The term ‘sub-
11 section (f) bond’ means a bond designated by the
12 Secretary under subsection (a) for purposes of sub-
13 section (f).

14 “(2) SECTION 54 BOND.—The term ‘section 54
15 bond’ means a bond designated by the Secretary
16 under subsection (a) for purposes of section 54 of
17 the Internal Revenue Code of 1986 (relating to cred-
18 it to holders of qualified high-speed rail infrastruc-
19 ture bonds).”.

20 (b) TABLE OF SECTIONS AMENDMENT.—The table of
21 sections of chapter 261 of title 49, United States Code,
22 is amended by adding after the item relating to section
23 26105 the following new item:

“26106. High-speed rail infrastructure bonds.”.

1 **SEC. 525. TAX CREDIT TO HOLDERS OF QUALIFIED HIGH-**
 2 **SPEED RAIL INFRASTRUCTURE BONDS.**

3 (a) IN GENERAL.—Part IV of subchapter A of chap-
 4 ter 1 of the Internal Revenue Code of 1986 (relating to
 5 credits against tax) is amended by adding at the end the
 6 following new subpart:

7 **“Subpart H—Nonrefundable Credit for Holders of**
 8 **Qualified High-Speed Rail Infrastructure Bonds**

“Sec. 54. Credit to holders of qualified high-speed rail infrastructure bonds.

9 **“SEC. 54. CREDIT TO HOLDERS OF QUALIFIED HIGH-SPEED**
 10 **RAIL INFRASTRUCTURE BONDS.**

11 “(a) ALLOWANCE OF CREDIT.—In the case of a tax-
 12 payer who holds a qualified high-speed rail infrastructure
 13 bond on a credit allowance date of such bond which occurs
 14 during the taxable year, there shall be allowed as a credit
 15 against the tax imposed by this chapter for such taxable
 16 year an amount equal to the sum of the credits determined
 17 under subsection (b) with respect to credit allowance dates
 18 during such year on which the taxpayer holds such bond.

19 “(b) AMOUNT OF CREDIT.—

20 “(1) IN GENERAL.—The amount of the credit
 21 determined under this subsection with respect to any
 22 credit allowance date for a qualified high-speed rail
 23 infrastructure bond is 25 percent of the annual cred-
 24 it determined with respect to such bond.

1 “(2) ANNUAL CREDIT.—The annual credit de-
2 termined with respect to any qualified high-speed
3 rail infrastructure bond is the product of—

4 “(A) the applicable credit rate, multiplied
5 by

6 “(B) the outstanding face amount of the
7 bond.

8 “(3) APPLICABLE CREDIT RATE.—For purposes
9 of paragraph (2), the applicable credit rate with re-
10 spect to an issue is the rate equal to an average
11 market yield (as of the day before the date of sale
12 of the issue) on outstanding long-term corporate
13 debt obligations (determined under regulations pre-
14 scribed by the Secretary).

15 “(4) CREDIT ALLOWANCE DATE.—For purposes
16 of this section, the term ‘credit allowance date’
17 means—

18 “(A) March 15,

19 “(B) June 15,

20 “(C) September 15, and

21 “(D) December 15.

22 Such term includes the last day on which the bond
23 is outstanding.

24 “(5) SPECIAL RULE FOR ISSUANCE AND RE-
25 DEMPTION.—In the case of a bond which is issued

1 during the 3-month period ending on a credit allow-
2 ance date, the amount of the credit determined
3 under this subsection with respect to such credit al-
4 lowance date shall be a ratable portion of the credit
5 otherwise determined based on the portion of the 3-
6 month period during which the bond is outstanding.
7 A similar rule shall apply when the bond is re-
8 deemed.

9 “(c) LIMITATION BASED ON AMOUNT OF TAX.—

10 “(1) IN GENERAL.—The credit allowed under
11 subsection (a) for any taxable year shall not exceed
12 the excess of—

13 “(A) the sum of the regular tax liability
14 (as defined in section 26(b)) plus the tax im-
15 posed by section 55, over

16 “(B) the sum of the credits allowable
17 under this part (other than this subpart and
18 subpart C).

19 “(2) CARRYOVER OF UNUSED CREDIT.—If the
20 credit allowable under subsection (a) exceeds the
21 limitation imposed by paragraph (1) for such taxable
22 year, such excess shall be carried to the succeeding
23 taxable year and added to the credit allowable under
24 subsection (a) for such taxable year.

1 “(d) CREDIT INCLUDED IN GROSS INCOME.—Gross
2 income includes the amount of the credit allowed to the
3 taxpayer under this section (determined without regard to
4 subsection (c)) and the amount so included shall be treat-
5 ed as interest income.

6 “(e) QUALIFIED HIGH-SPEED RAIL INFRASTRUC-
7 TURE BOND.—For purposes of this part, the term ‘quali-
8 fied high-speed rail infrastructure bond’ means any bond
9 issued as part of an issue if—

10 “(1) the issuer certifies that the Secretary of
11 Transportation has designated the bond for purposes
12 of this section under section 26106(a) of title 49,
13 United States Code, as in effect on the date of the
14 enactment of this section,

15 “(2) 95 percent or more of the proceeds from
16 the sale of such issue are to be used for expenditures
17 incurred after the date of the enactment of this sec-
18 tion for any project described in section 26106(a)(2)
19 of title 49, United States Code,

20 “(3) the term of each bond which is part of
21 such issue does not exceed 20 years,

22 “(4) the payment of principal with respect to
23 such bond is the obligation solely of the issuer, and

24 “(5) the issue meets the requirements of sub-
25 section (f) (relating to arbitrage).

1 “(f) SPECIAL RULES RELATING TO ARBITRAGE.—

2 “(1) IN GENERAL.—Subject to paragraph (2),
3 an issue shall be treated as meeting the require-
4 ments of this subsection if as of the date of
5 issuance, the issuer reasonably expects—

6 “(A) to spend at least 95 percent of the
7 proceeds from the sale of the issue for 1 or
8 more qualified projects within the 3-year period
9 beginning on such date,

10 “(B) to incur a binding commitment with
11 a third party to spend at least 10 percent of the
12 proceeds from the sale of the issue, or to com-
13 mence construction, with respect to such
14 projects within the 6-month period beginning on
15 such date, and

16 “(C) to proceed with due diligence to com-
17 plete such projects and to spend the proceeds
18 from the sale of the issue.

19 “(2) RULES REGARDING CONTINUING COMPLI-
20 ANCE AFTER 3-YEAR DETERMINATION.—If at least
21 95 percent of the proceeds from the sale of the issue
22 is not expended for 1 or more qualified projects
23 within the 3-year period beginning on the date of
24 issuance, but the requirements of paragraph (1) are
25 otherwise met, an issue shall be treated as con-

1 continuing to meet the requirements of this subsection
2 if either—

3 “(A) the issuer uses all unspent proceeds
4 from the sale of the issue to redeem bonds of
5 the issue within 90 days after the end of such
6 3-year period, or

7 “(B) the following requirements are met:

8 “(i) The issuer spends at least 75 per-
9 cent of the proceeds from the sale of the
10 issue for 1 or more qualified projects with-
11 in the 3-year period beginning on the date
12 of issuance.

13 “(ii) Either—

14 “(I) the issuer spends at least 95
15 percent of the proceeds from the sale
16 of the issue for 1 or more qualified
17 projects within the 4-year period be-
18 ginning on the date of issuance, or

19 “(II) the issuer pays to the Fed-
20 eral Government any earnings on the
21 proceeds from the sale of the issue
22 that accrue after the end of the 3-year
23 period beginning on the date of
24 issuance and uses all unspent pro-
25 ceeds from the sale of the issue to re-

1 deem bonds of the issue within 90
2 days after the end of the 4-year pe-
3 riod beginning on the date of
4 issuance.

5 “(g) RECAPTURE OF PORTION OF CREDIT WHERE
6 CESSATION OF COMPLIANCE.—

7 “(1) IN GENERAL.—If any bond which when
8 issued purported to be a qualified high-speed rail in-
9 frastructure bond ceases to be such a qualified bond,
10 the issuer shall pay to the United States (at the
11 time required by the Secretary) an amount equal to
12 the sum of—

13 “(A) the aggregate of the credits allowable
14 under this section with respect to such bond
15 (determined without regard to subsection (c))
16 for taxable years ending during the calendar
17 year in which such cessation occurs and the 2
18 preceding calendar years, and

19 “(B) interest at the underpayment rate
20 under section 6621 on the amount determined
21 under subparagraph (A) for each calendar year
22 for the period beginning on the first day of
23 such calendar year.

24 “(2) FAILURE TO PAY.—If the issuer fails to
25 timely pay the amount required by paragraph (1)

1 with respect to such bond, the tax imposed by this
2 chapter on each holder of any such bond which is
3 part of such issue shall be increased (for the taxable
4 year of the holder in which such cessation occurs) by
5 the aggregate decrease in the credits allowed under
6 this section to such holder for taxable years begin-
7 ning in such 3 calendar years which would have re-
8 sulted solely from denying any credit under this sec-
9 tion with respect to such issue for such taxable
10 years.

11 “(3) SPECIAL RULES.—

12 “(A) TAX BENEFIT RULE.—The tax for
13 the taxable year shall be increased under para-
14 graph (2) only with respect to credits allowed
15 by reason of this section which were used to re-
16 duce tax liability. In the case of credits not so
17 used to reduce tax liability, the carryforwards
18 under subsection (c) shall be appropriately ad-
19 justed.

20 “(B) NO CREDITS AGAINST TAX.—Any in-
21 crease in tax under paragraph (2) shall not be
22 treated as a tax imposed by this chapter for
23 purposes of determining—

24 “(i) the amount of any credit allow-
25 able under this part, or

1 “(ii) the amount of the tax imposed
2 by section 55.

3 “(h) OTHER DEFINITIONS AND SPECIAL RULES.—
4 For purposes of this section—

5 “(1) BOND.—The term ‘bond’ includes any ob-
6 ligation.

7 “(2) QUALIFIED PROJECT.—The term ‘qualified
8 project’ means any project described in section
9 26106(a)(2) of title 49, United States Code.

10 “(3) TREATMENT OF CHANGES IN USE.—For
11 purposes of subsection (e)(2), the proceeds from the
12 sale of an issue shall not be treated as used for a
13 qualified project to the extent that the issuer takes
14 any action within its control which causes such pro-
15 ceeds not to be used for a qualified project. The Sec-
16 retary shall prescribe regulations specifying remedial
17 actions that may be taken (including conditions to
18 taking such remedial actions) to prevent an action
19 described in the preceding sentence from causing a
20 bond to fail to be a qualified high-speed rail infra-
21 structure bond.

22 “(4) PARTNERSHIP; S CORPORATION; AND
23 OTHER PASS-THRU ENTITIES.—Under regulations
24 prescribed by the Secretary, in the case of a partner-
25 ship, trust, S corporation, or other pass-thru entity,

1 rules similar to the rules of section 41(g) shall apply
2 with respect to the credit allowable under subsection
3 (a).

4 “(5) BONDS HELD BY REGULATED INVEST-
5 MENT COMPANIES.—If any qualified high-speed rail
6 infrastructure bond is held by a regulated invest-
7 ment company, the credit determined under sub-
8 section (a) shall be allowed to shareholders of such
9 company under procedures prescribed by the Sec-
10 retary.

11 “(6) REPORTING.—Issuers of qualified high-
12 speed rail infrastructure bonds shall submit reports
13 similar to the reports required under section
14 149(e).”.

15 (b) AMENDMENTS TO OTHER CODE SECTIONS.—

16 (1) REPORTING.—Subsection (d) of section
17 6049 of the Internal Revenue Code of 1986 (relating
18 to returns regarding payments of interest) is amend-
19 ed by adding at the end the following new para-
20 graph:

21 “(8) REPORTING OF CREDIT ON QUALIFIED
22 HIGH-SPEED RAIL INFRASTRUCTURE BONDS.—

23 “(A) IN GENERAL.—For purposes of sub-
24 section (a), the term ‘interest’ includes amounts
25 includible in gross income under section 54(d)

1 and such amounts shall be treated as paid on
2 the credit allowance date (as defined in section
3 54(b)(4)).

4 “(B) REPORTING TO CORPORATIONS,
5 ETC.—Except as otherwise provided in regula-
6 tions, in the case of any interest described in
7 subparagraph (A), subsection (b)(4) shall be
8 applied without regard to subparagraphs (A),
9 (H), (I), (J), (K), and (L)(i) of such subsection.

10 “(C) REGULATORY AUTHORITY.—The Sec-
11 retary may prescribe such regulations as are
12 necessary or appropriate to carry out the pur-
13 poses of this paragraph, including regulations
14 which require more frequent or more detailed
15 reporting.”.

16 (2) TREATMENT FOR ESTIMATED TAX PUR-
17 POSES.—

18 (A) INDIVIDUAL.—Section 6654 of such
19 Code (relating to failure by individual to pay es-
20 timated income tax) is amended by redesign-
21 ating subsection (m) as subsection (n) and by
22 inserting after subsection (l) the following new
23 subsection:

24 “(m) SPECIAL RULE FOR HOLDERS OF QUALIFIED
25 HIGH-SPEED RAIL INFRASTRUCTURE BONDS.—For pur-

1 poses of this section, the credit allowed by section 54 to
2 a taxpayer by reason of holding a qualified high-speed rail
3 infrastructure bond on a credit allowance date shall be
4 treated as if it were a payment of estimated tax made by
5 the taxpayer on such date.”.

6 (B) CORPORATE.—Section 6655 of such
7 Code (relating to failure by corporation to pay
8 estimated income tax) is amended by adding at
9 the end of subsection (g) the following new
10 paragraph:

11 “(5) SPECIAL RULE FOR HOLDERS OF QUALI-
12 FIED HIGH-SPEED RAIL INFRASTRUCTURE BONDS.—
13 For purposes of this section, the credit allowed by
14 section 54 to a taxpayer by reason of holding a
15 qualified high-speed rail infrastructure bond on a
16 credit allowance date shall be treated as if it were
17 a payment of estimated tax made by the taxpayer on
18 such date.”.

19 (c) CLERICAL AMENDMENTS.—

20 (1) The table of subparts for part IV of sub-
21 chapter A of chapter 1 is amended by adding at the
22 end the following new item:

“SUBPART H. NONREFUNDABLE CREDIT FOR HOLDERS OF QUALIFIED HIGH-
SPEED RAIL INFRASTRUCTURE BONDS”.

23 (2) Section 6401(b)(1) is amended by striking
24 “and G” and inserting “G, and H”.

1 (d) ISSUANCE OF REGULATIONS.—Not later than 6
2 months after the date of the enactment of this section,
3 the Secretary of the Treasury shall issue regulations for
4 carrying out this section and the amendments made by
5 this section.

6 (e) HIGH-SPEED INTERCITY RAIL FACILITIES.—

7 (1) REQUIREMENT TO MEET TITLE 49 RE-
8 QUIREMENTS.—Section 142(i) of the Internal Rev-
9 enue Code of 1986 is amended by adding at the end
10 the following new paragraph:

11 “(4) ADDITIONAL REQUIREMENTS.—A bond
12 issued as part of an issue described in subsection
13 (a)(11) shall not be considered an exempt facility
14 bond unless the requirements of paragraphs (1)
15 through (6) of section 26106(a) of title 49, United
16 States Code, are met.”.

17 (2) REVISION OF SPEED REQUIREMENT.—Sec-
18 tion 142(i)(1) of such Code is amended by striking
19 “150 miles per hour” and inserting “110 miles per
20 hour”.

21 (f) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to obligations issued after the date
23 of the enactment of this Act.

1 **Subtitle D—Energy Supply and**
2 **Freight Rail**

3 **SEC. 531. SHORT TITLE.**

4 This subtitle may be cited as the “Railroad Track
5 Modernization Act of 2006”.

6 **SEC. 532. CAPITAL GRANTS FOR RAILROAD TRACK.**

7 (a) AMENDMENT.—Chapter 223 of title 49, United
8 States Code, is amended to read as follows:

9 **“CHAPTER 223—CAPITAL GRANTS FOR**
10 **RAILROAD TRACK**

“Sec.

“22301. Capital grants for railroad track.

11 **“§ 22301. Capital grants for railroad track**

12 “(a) ESTABLISHMENT OF PROGRAM.—

13 “(1) ESTABLISHMENT.—The Secretary of
14 Transportation shall establish a program of capital
15 grants for the rehabilitation, preservation, or im-
16 provement of railroad track (including roadbed,
17 bridges, and related track structures) of class II and
18 class III railroads. Such grants shall be for rehabili-
19 tating, preserving, or improving track used primarily
20 for freight transportation to a standard ensuring
21 that the track can be operated safely and efficiently,
22 including grants for rehabilitating, preserving, or im-
23 proving track to handle 286,000 pound rail cars.
24 Grants may be provided under this chapter—

1 “(A) directly to the class II or class III
2 railroad; or

3 “(B) with the concurrence of the class II
4 or class III railroad, to a State or local govern-
5 ment.

6 “(2) STATE COOPERATION.—Class II and class
7 III railroad applicants for a grant under this chap-
8 ter are encouraged to utilize the expertise and assist-
9 ance of State transportation agencies in applying for
10 and administering such grants. State transportation
11 agencies are encouraged to provide such expertise
12 and assistance to such railroads.

13 “(3) INTERIM REGULATIONS.—Not later than
14 December 31, 2006, the Secretary shall issue tem-
15 porary regulations to implement the program under
16 this section. Subchapter II of chapter 5 of title 5
17 does not apply to a temporary regulation issued
18 under this paragraph or to an amendment to such
19 a temporary regulation.

20 “(4) FINAL REGULATIONS.—Not later than Oc-
21 tober 1, 2007, the Secretary shall issue final regula-
22 tions to implement the program under this section.

23 “(b) MAXIMUM FEDERAL SHARE.—The maximum
24 Federal share for carrying out a project under this section
25 shall be 80 percent of the project cost. The non-Federal

1 share may be provided by any non-Federal source in cash,
2 equipment, or supplies. Other in-kind contributions may
3 be approved by the Secretary on a case by case basis con-
4 sistent with this chapter.

5 “(c) PROJECT ELIGIBILITY.—For a project to be eli-
6 gible for assistance under this section the track must have
7 been operated or owned by a class II or class III railroad
8 as of the date of the enactment of the Railroad Track
9 Modernization Act of 2006.

10 “(d) USE OF FUNDS.—Grants provided under this
11 section shall be used to implement track capital projects
12 as soon as possible. In no event shall grant funds be con-
13 tractually obligated for a project later than the end of the
14 third Federal fiscal year following the year in which the
15 grant was awarded. Any funds not so obligated by the end
16 of such fiscal year shall be returned to the Secretary for
17 reallocation.

18 “(e) ADDITIONAL PURPOSE.—In addition to making
19 grants for projects as provided in subsection (a), the Sec-
20 retary may also make grants to supplement direct loans
21 or loan guarantees made under title V of the Railroad Re-
22 vitalization and Regulatory Reform Act of 1976 (45
23 U.S.C. 822(d)), for projects described in the last sentence
24 of section 502(d) of such title. Grants made under this
25 subsection may be used, in whole or in part, for paying

1 credit risk premiums, lowering rates of interest, or pro-
2 viding for a holiday on principal payments.

3 “(f) EMPLOYEE PROTECTION.—The Secretary shall
4 require as a condition of any grant made under this sec-
5 tion that the recipient railroad provide a fair arrangement
6 at least as protective of the interests of employees who
7 are affected by the project to be funded with the grant
8 as the terms imposed under section 11326(a), as in effect
9 on the date of the enactment of the Railroad Track Mod-
10 ernization Act of 2006.

11 “(g) LABOR STANDARDS.—

12 “(1) PREVAILING WAGES.—The Secretary shall
13 ensure that laborers and mechanics employed by
14 contractors and subcontractors in construction work
15 financed by a grant made under this section will be
16 paid wages not less than those prevailing on similar
17 construction in the locality, as determined by the
18 Secretary of Labor under the Act of March 3, 1931
19 (known as the Davis-Bacon Act; 40 U.S.C. 276a et
20 seq.). The Secretary shall make a grant under this
21 section only after being assured that required labor
22 standards will be maintained on the construction
23 work.

24 “(2) WAGE RATES.—Wage rates in a collective
25 bargaining agreement negotiated under the Railway

1 Labor Act (45 U.S.C. 151 et seq.) are deemed for
 2 purposes of this subsection to comply with the Act
 3 of March 3, 1931 (known as the Davis-Bacon Act;
 4 40 U.S.C. 276a et seq.).

5 “(h) STUDY.—The Secretary shall conduct a study
 6 of the projects carried out with grant assistance under this
 7 section to determine the public interest benefits associated
 8 with the light density railroad networks in the States and
 9 their contribution to a multimodal transportation system.
 10 Not later than March 31, 2008, the Secretary shall report
 11 to Congress any recommendations the Secretary considers
 12 appropriate regarding the eligibility of light density rail
 13 networks for Federal infrastructure financing.

14 “(i) AUTHORIZATION OF APPROPRIATIONS.—There
 15 are authorized to be appropriated to the Secretary of
 16 Transportation \$350,000,000 for each of the fiscal years
 17 2007 through 2009 for carrying out this section.”.

18 (b) CONFORMING AMENDMENT.—The item relating
 19 to chapter 223 in the table of chapters of subtitle V of
 20 title 49, United States Code, is amended to read as fol-
 21 lows:

“223. CAPITAL GRANTS FOR RAILROAD TRACK 22301”.

1 **Subtitle E—Rail Reliability**

2 **SEC. 541. RELIABILITY OF RAILROAD TRANSPORTATION OF** 3 **ENERGY SUPPLIES.**

4 (a) FINDING.—The Congress finds that the Nation’s
5 rail system is a critical part of national security, and that
6 the Surface Transportation Board has the obligation and
7 authority to ensure that the Nation’s rail infrastructure
8 is adequate to enable safe, efficient, and reliable delivery
9 of passengers, energy supplies, and other goods and serv-
10 ices, and that the Nation’s rail carriers meet their common
11 carrier obligations to deliver products and maintain infra-
12 structure at a level which provides for the safe, efficient,
13 and reliable delivery of passengers, energy supplies, and
14 other goods and services.

15 (b) RELIABILITY REQUIREMENTS.—Not later than
16 180 days after the date of enactment of this Act, the Sur-
17 face Transportation Board, after consultation with the
18 Secretary of Transportation, the Secretary of Energy, the
19 Secretary of Commerce, the Secretary of Agriculture, the
20 Secretary of Defense, and the Chairman of the Federal
21 Energy Regulatory Commission, shall issue regulations re-
22 quiring implementation of the reliability standards ap-
23 proved under this section.

24 (c) DEFINITION.—For purposes of this section, the
25 term “reliability standard” means a requirement, ap-

1 proved by the Surface Transportation Board under this
2 section, to provide for reliable and timely operation of rail-
3 road transportation of passengers, energy supplies, and
4 other goods and services. The term shall include a require-
5 ment for operation and maintenance of the railroad sys-
6 tem as well as for efficient transfer of freight cars and
7 train sets between different railroads.

8 (d) ADVISORY PANEL.—Not later than 90 days after
9 the date of enactment of this Act, the Surface Transpor-
10 tation Board shall establish an advisory panel, consisting
11 of representatives of the rail carrier industry, energy sup-
12 ply companies, and industrial and individual consumers of
13 energy and rail transportation services. Such advisory
14 panel shall ensure its independence of the users, owners,
15 and operators of the railroad system while ensuring fair
16 stakeholder representation in the selection of its directors,
17 ensure balanced decisionmaking in any committee or orga-
18 nizational structure, and provide for reasonable notice and
19 opportunity for public comment, due process, openness,
20 and balance of interests in developing reliability standards
21 and otherwise exercising its duties. Such advisory panel
22 shall, after obtaining all relevant stakeholder comments,
23 make recommendations for the establishment of standards
24 for rail operations to ensure the timely and efficient trans-
25 portation of fuels and energy feedstocks, especially during

1 times of energy or fuel supply emergencies. The first such
2 recommendations shall be transmitted to the Surface
3 Transportation Board not later than 270 days after the
4 date of enactment of this Act. These recommendations
5 may include suggestions for expanded rail infrastructure
6 to expand, connect new, or bolster existing points within
7 the current rail line network.

8 (e) SURFACE TRANSPORTATION BOARD AP-
9 PROVAL.—

10 (1) IN GENERAL.—The Surface Transportation
11 Board may approve, by rule or order, a proposed re-
12 liability standard or modification to a reliability
13 standard if it determines that the standard is just,
14 reasonable, not unduly discriminatory or pref-
15 erential, and in the public interest. The Surface
16 Transportation Board shall use the recommenda-
17 tions developed by the advisory panel under sub-
18 section (d) with respect to the content of a proposed
19 standard or modification to a reliability standard. A
20 proposed standard or modification shall take effect
21 upon approval by the Surface Transportation Board.
22 The Surface Transportation Board shall approve or
23 disapprove the first recommended standards trans-
24 mitted by the advisory panel not later than 1 year
25 after receiving such transmittal.

1 (2) REMAND.—The Surface Transportation
2 Board shall remand to the advisory panel for further
3 consideration a proposed reliability standard or a
4 modification to a reliability standard that the Sur-
5 face Transportation Board disapproves in whole or
6 in part.

7 (3) SURFACE TRANSPORTATION BOARD INITI-
8 ATED STANDARDS.—The Surface Transportation
9 Board, upon its own motion or upon complaint, may
10 request the advisory panel to submit to the Surface
11 Transportation Board a recommendation for a pro-
12 posed reliability standard or modification to a reli-
13 ability standard that addresses a specific matter if
14 the Surface Transportation Board considers such a
15 new or modified reliability standard appropriate to
16 carry out this section. If the advisory panel fails to
17 submit a proposed or modified standard within 1
18 year after such a request from the Surface Trans-
19 portation Board, the Board may implement its own
20 standard to carry out this section.

21 (4) CONFLICT.—A final rule adopted under this
22 section shall include fair processes for the identifica-
23 tion and timely resolution of any conflict between a
24 reliability standard and any function, rule, order,
25 tariff, rate schedule, or agreement accepted, ap-

1 proved, or ordered by the Surface Transportation
2 Board applicable to a rail carrier. Such rail carrier
3 shall continue to comply with such function, rule,
4 order, tariff, rate schedule, or agreement accepted
5 approved, or ordered by the Surface Transportation
6 Board until—

7 (A) the Surface Transportation Board
8 finds a conflict exists between a reliability
9 standard and any such provision;

10 (B) the Surface Transportation Board or-
11 ders a change to such provision; and

12 (C) the ordered change becomes effective.

13 If the Surface Transportation Board determines
14 that a reliability standard needs to be changed as a
15 result of such a conflict, it shall order the advisory
16 panel to develop and recommend to the Surface
17 Transportation Board a modified reliability stand-
18 ard.

19 (5) PENALTIES.—On its own motion or upon
20 complaint, the Surface Transportation Board may
21 order compliance with a reliability standard and may
22 impose a penalty against a rail carrier or other enti-
23 ty if the Surface Transportation Board finds, after
24 notice and opportunity for a hearing, that the rail
25 carrier or other entity has engaged or is about to en-

- 1 gage in any acts or practices that constitute or will
- 2 constitute a violation of a reliability standard.

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