

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 161) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 161

Resolved, That Senate Resolution 48, 105th Congress, agreed to February 4, 1997, is amended—

(1) in section 1(e), by striking “\$5,000” and inserting “\$10,000”; and

(2) in sections 1(e) and 1(g), by striking “September 30, 1997” and inserting “September 30, 1998”.

GRANTING CONSENT OF CONGRESS TO CHICKASAW TRAIL ECONOMIC DEVELOPMENT COMPACT

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 95, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 95) granting the consent of Congress to the Chickasaw Trail Economic Development Compact.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. THOMPSON. Mr. President, I would like to take this opportunity to make a few brief comments with my colleague, Senator LOTT, in support of H. J. Res. 95, a resolution passed by the House of Representatives which gives the consent of Congress to the Chickasaw Trail Economic Development Compact. As the U.S. Constitution requires all State compacts to be approved by Congress, Representatives ED BRYANT of Tennessee and ROGER WICKER of Mississippi recently introduced this legislation in the House.

This Compact will allow the States of Tennessee and Mississippi to determine the feasibility of establishing an industrial park which would straddle the border between the two States. This proposed Industrial Park would lie in both Fayette County, TN, and Marshall County, MS. Governors Sundquist and Fordice have each expressed their support for this initiative, as they believe this type of industrial park will be strengthened by taking a regional approach to industrial recruitment and development.

I believe that Tennessee will benefit from this initiative by combining the competitive assets of southwest Tennessee and Northern Mississippi to create an attractive and viable business park.

I ask my friend from Mississippi, Senator LOTT, if he agrees that this initiative will be of significant benefit to our two States and, indeed, to much of the Southeast region?

Mr. LOTT. I thank the Senator for his comments. This area of our two States is growing rapidly and I agree that a new, bistate industrial park would be of great benefit to both Mississippi and Tennessee. It is my hope that this proposed economic development project will mean a major increase in the number of jobs and level of prosperity for this region of the country.

I have been working on this proposal for an industrial park for a number of years and I am pleased that this essential, in fact critical, next step of the process is taking place now. I know that both you and I will keep a close watch on the progress of this proposed industrial park and I thank you for bringing it up on the floor.

Mr. FRIST. Mr. President, I rise today in support of House Joint Resolution 95, a measure introduced by my friend, Representative ED BRYANT of the Seventh District of Tennessee. This legislation gives congressional approval to the Chickasaw Trail Economic Development Compact. This partnership is an interstate compact created by agreement of the Mississippi and Tennessee State Legislatures to promote joint economic development and interstate cooperation in a rural, undeveloped area of Fayette County, TN, and Marshall County, MS.

The plan creates the Chickasaw Authority, which will conduct a study of the feasibility of establishing an industrial park in the area. If this study produces a positive recommendation, Mississippi and Tennessee would then negotiate a new compact implementing the details to establish a 4,000- to 5,000-acre industrial park. Such a facility would capitalize on the strengths that lie on both sides of the State line and attract new investment and employment opportunities. The proximity of the park to metro Memphis would build on the already strong commercial activity in Southwest Tennessee and North Mississippi. To my knowledge, this type of cooperation between States has never been attempted.

Mr. President, I am proud to add my name to the unanimous support of the members of the Tennessee and Mississippi congressional delegations. It is my hope that this project will bring economic development and jobs by attracting new sophisticated high-technology industries to the area. I would like to thank the majority leader, Senator LOTT, for his assistance in bringing this measure before the Senate, and I would also like to thank Senator THOMPSON and Senator COCHRAN for their support for this initiative. I yield the floor.

Mr. LOTT. Mr. President, I ask unanimous consent that the joint resolution be considered read a third time and passed; that the motion to reconsider

be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 95) was read the third time and passed.

GRANTING CONSENT AND APPROVAL OF CONGRESS TO AMEND WASHINGTON METROPOLITAN AREA TRANSIT REGULATION COMPACT

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 986, which is at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 986) granting the consent and approval of Congress for the State of Maryland, the Commonwealth of Virginia, and the District of Columbia to amend the Washington Metropolitan Area Transit Regulation Compact.

The Senate proceeded to consider the joint resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the joint resolution be considered read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 986) was read the third time and passed.

The PRESIDING OFFICER. Without objection, the preamble is agreed to.

The preamble was agreed to.

AMTRAK REFORM AND ACCOUNTABILITY ACT OF 1997

Mr. LOTT. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 738) to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 738) entitled “An Act to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes.”, do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49; TABLE OF SECTIONS.

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

(b) *AMENDMENT OF TITLE 49, UNITED STATES CODE*.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

(c) TABLE OF SECTIONS.—The table of sections for this Act is as follows:

Sec. 1. Short title; amendment of title 49; table of sections.

Sec. 2. Findings.

TITLE I—REFORMS

SUBTITLE A—OPERATIONAL REFORMS

Sec. 101. Basic system.

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

Sec. 103. Route and service criteria.

Sec. 104. Additional qualifying routes.

Sec. 105. Transportation requested by States, authorities, and other persons.

Sec. 106. Amtrak commuter.

Sec. 107. Through service in conjunction with intercity bus operations.

Sec. 108. Rail and motor carrier passenger service.

Sec. 109. Passenger choice.

Sec. 110. Application of certain laws.

SUBTITLE B—PROCUREMENT

Sec. 121. Contracting out.

SUBTITLE C—EMPLOYEE PROTECTION REFORMS

Sec. 141. Railway Labor Act Procedures.

Sec. 142. Service discontinuance.

SUBTITLE D—USE OF RAILROAD FACILITIES

Sec. 161. Liability limitation.

Sec. 162. Retention of facilities.

TITLE II—FISCAL ACCOUNTABILITY

Sec. 201. Amtrak financial goals.

Sec. 202. Independent assessment.

Sec. 203. Amtrak Reform Council.

Sec. 204. Sunset trigger.

Sec. 205. Senate procedure for consideration of restructuring and liquidation plans.

Sec. 206. Access to records and accounts.

Sec. 207. Officers' pay.

Sec. 208. Exemption from taxes.

Sec. 209. Limitation on use of tax refund.

TITLE III—AUTHORIZATION OF APPROPRIATIONS

Sec. 301. Authorization of appropriations.

TITLE IV—MISCELLANEOUS

Sec. 401. Status and applicable laws.

Sec. 402. Waste disposal.

Sec. 403. Assistance for upgrading facilities.

Sec. 404. Demonstration of new technology.

Sec. 405. Program master plan for Boston-New York main line.

Sec. 406. Americans with Disabilities Act of 1990.

Sec. 407. Definitions.

Sec. 408. Northeast Corridor cost dispute.

Sec. 409. Inspector General Act of 1978 amendment.

Sec. 410. Interstate rail compacts.

Sec. 411. Board of Directors.

Sec. 412. Educational participation.

Sec. 413. Report to Congress on Amtrak bankruptcy.

Sec. 414. Amtrak to notify Congress of lobbying relationships.

Sec. 415. Financial powers.

SEC. 2. FINDINGS.

The Congress finds that—

(1) intercity rail passenger service is an essential component of a national intermodal passenger transportation system;

(2) Amtrak is facing a financial crisis, with growing and substantial debt obligations severely limiting its ability to cover operating costs and jeopardizing its long-term viability;

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

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

(5) additional flexibility is needed to allow Amtrak to operate in a businesslike manner in order to manage costs and maximize revenues;

(6) Amtrak should ensure that new management flexibility produces cost savings without compromising safety;

(7) Amtrak's management should be held accountable to ensure that all investment by the Federal Government and State governments is used effectively to improve the quality of service and the long-term financial health of Amtrak;

(8) Amtrak and its employees should proceed quickly with proposals to modify collective bargaining agreements to make more efficient use of manpower and to realize cost savings which are necessary to reduce Federal financial assistance;

(9) Amtrak and intercity bus service providers should work cooperatively and develop coordinated intermodal relationships promoting seamless transportation services which enhance travel options and increase operating efficiencies;

(10) Amtrak's Strategic Business Plan calls for the establishment of a dedicated source of capital funding for Amtrak in order to ensure that Amtrak will be able to fulfill the goals of maintaining—

(A) a national passenger rail system; and
(B) that system without Federal operating assistance; and

(11) Federal financial assistance to cover operating losses incurred by Amtrak should be eliminated by the year 2002.

TITLE I—REFORMS

Subtitle A—Operational Reforms

SEC. 101. BASIC SYSTEM.

(a) OPERATION OF BASIC SYSTEM.—(1) Section 24701 is amended to read as follows:

"§24701. National rail passenger transportation system

"Amtrak shall operate a national rail passenger transportation system which ties together existing and emergent regional rail passenger service and other intermodal passenger service."

(2) The item relating to section 24701 in the table of sections of chapter 247 is amended to read as follows:

"24701. National rail passenger transportation system."

(b) IMPROVING RAIL PASSENGER TRANSPORTATION.—Section 24702 and the item relating thereto in the table of sections for chapter 247 are repealed.

(c) DISCONTINUANCE.—Section 24706 is amended—

(1) by striking "90 days" and inserting "180 days" in subsection (a)(1);

(2) by striking "24707(a) or (b) of this title," in subsection (a)(1) and inserting "or discontinuing service over a route,";

(3) by inserting "or assume" after "agree to share" in subsection (a)(1);

(4) by striking "section 24707(a) or (b) of this title" in subsection (a)(2) and inserting "paragraph (1)"; and

(5) by striking "section 24707(a) or (b) of this title" in subsection (b)(1) and inserting "subsection (a)(1)".

(d) COST AND PERFORMANCE REVIEW.—Section 24707 and the item relating thereto in the table of sections for chapter 247 are repealed.

(e) SPECIAL COMMUTER TRANSPORTATION.—Section 24708 and the item relating thereto in the table of sections for chapter 247 are repealed.

(f) CONFORMING AMENDMENT.—Section 24312(a)(1) is amended by striking "24701(a)".

SEC. 102. MAIL, EXPRESS, AND AUTO-FERRY TRANSPORTATION.

(a) REPEAL.—Section 24306 is amended—

(1) by striking the last sentence of subsection (a); and

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

"(b) AUTHORITY OF OTHERS TO PROVIDE AUTO-FERRY TRANSPORTATION.—State and local laws and regulations that impair the provision of auto-ferry transportation do not apply to

Amtrak or a rail carrier providing auto-ferry transportation. A rail carrier may not refuse to participate with Amtrak in providing auto-ferry transportation because a State or local law or regulation makes the transportation unlawful."

SEC. 103. ROUTE AND SERVICE CRITERIA.

Section 24703 and the item relating thereto in the table of sections for chapter 247 are repealed.

SEC. 104. ADDITIONAL QUALIFYING ROUTES.

Section 24705 and the item relating thereto in the table of sections for chapter 247 are repealed.

SEC. 105. TRANSPORTATION REQUESTED BY STATES, AUTHORITIES, AND OTHER PERSONS.

(a) REPEAL.—Section 24704 and the item relating thereto in the table of sections of chapter 247 are repealed.

(b) STATE, REGIONAL, AND LOCAL COOPERATION.—Section 24101(c)(2) is amended by inserting "separately or in combination," after "and the private sector".

(c) CONFORMING AMENDMENT.—Section 24312(a)(1) is amended by striking "or 24704(b)(2)".

SEC. 106. AMTRAK COMMUTER.

(a) REPEAL OF CHAPTER 245.—Chapter 245 and the item relating thereto in the table of chapters for subtitle V of such title, are repealed.

(b) CONFORMING AMENDMENT.—Section 24301(f) is amended to read as follows:

"(f) TAX EXEMPTION FOR CERTAIN COMMUTER AUTHORITIES.—A commuter authority that was eligible to make a contract with Amtrak Commuter to provide commuter rail passenger transportation but which decided to provide its own rail passenger transportation beginning January 1, 1983, is exempt, effective October 1, 1981, from paying a tax or fee to the same extent Amtrak is exempt."

(c) TRACKAGE RIGHTS NOT AFFECTED.—The repeal of chapter 245 of title 49, United States Code, by subsection (a) of this section is without prejudice to the retention of trackage rights over property owned or leased by commuter authorities.

(d) TRACKAGE RIGHTS NOT AFFECTED.—The repeal of chapter 245 of title 49, United States Code, by subsection (a) of this section is without prejudice to the retention of trackage rights over property owned or leased by commuter authorities.

SEC. 107. THROUGH SERVICE IN CONJUNCTION WITH INTERCITY BUS OPERATIONS.

(a) IN GENERAL.—Section 24305(a) is amended by adding at the end the following new paragraph:

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

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

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

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

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

(b) POLICY STATEMENT.—Section 24305(d) is amended by adding at the end the following new paragraph:

"(3) Congress encourages Amtrak and motor common carriers of passengers to use the authority conferred in sections 11322 and 14302 of this title for the purpose of providing improved service to the public and economy of operation."

SEC. 108. RAIL AND MOTOR CARRIER PASSENGER SERVICE.

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

(1) to combine or package their respective services and facilities to the public as a means of increasing revenues; and

(2) to coordinate schedules, routes, rates, reservations, and ticketing to provide for enhanced intermodal surface transportation.

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

SEC. 109. PASSENGER CHOICE.

Federal employees are authorized to travel on Amtrak for official business where total travel cost from office to office is competitive on a total trip or time basis.

SEC. 110. APPLICATION OF CERTAIN LAWS.

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

(b) APPLICATION OF FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT.—Section 303B(m) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b(m)) applies to a proposal in the possession or control of Amtrak.

Subtitle B—Procurement

SEC. 121. CONTRACTING OUT.

(a) REPEAL OF BAN ON CONTRACTING OUT.—Section 24312 is amended—

- (1) by striking subsection (b);
- (2) by striking "(1)" in subsection (a); and
- (3) by striking "(2) Wage" in subsection (a) and inserting "(b) WAGE RATES.—Wage".

(b) AMENDMENT OF EXISTING COLLECTIVE BARGAINING AGREEMENT.—

(1) CONTRACTING OUT.—Any collective bargaining agreement entered into between Amtrak and an organization representing Amtrak employees before the date of enactment of this Act is deemed amended to include the language of section 24312(b) of title 49, United States Code, as that section existed on the day before the effective date of the amendments made by subsection (a).

(2) ENFORCEABILITY OF AMENDMENT.—The amendment to any such collective bargaining agreement deemed to be made by paragraph (1) of this subsection is binding on all parties to the agreement and has the same effect as if arrived at by agreement of the parties under the Railway Labor Act.

(c) CONTRACTING-OUT ISSUES TO BE INCLUDED IN NEGOTIATIONS.—Proposals on the subject matter of contracting out work, other than work related to food and beverage service, which results in the layoff of an Amtrak employee—

(1) shall be included in negotiations under section 6 of the Railway Labor Act (45 U.S.C. 156) between Amtrak and an organization representing Amtrak employees, which shall be commenced by—

(A) the date on which labor agreements under negotiation on the date of enactment of this Act may be re-opened; or

(B) November 1, 1999, whichever is earlier;

(2) may, at the mutual election of Amtrak and an organization representing Amtrak employees, be included in any negotiation in progress under section 6 of the Railway Labor Act (45 U.S.C. 156) on the date of enactment of this Act; and

(3) may not be included in any negotiation in progress under section 6 of the Railway Labor Act (45 U.S.C. 156) on the date of enactment of this Act, unless both Amtrak and the organization representing Amtrak employees agree to include it in the negotiation.

No contract between Amtrak and an organization representing Amtrak employees, that is under negotiation on the date of enactment of this Act, may contain a moratorium that extends more than 5 years from the date of expiration of the last moratorium.

(d) NO INFERENCE.—The amendment made by subsection (a)(1) is without prejudice to the power of Amtrak to contract out the provision of food and beverage services on board Amtrak trains or to contract out work not resulting in the layoff of Amtrak employees.

Subtitle C—Employee Protection Reforms

SEC. 141. RAILWAY LABOR ACT PROCEDURES.

(a) NOTICES.—Notwithstanding any arrangement in effect before the date of the enactment of this Act, notices under section 6 of the Railway Labor Act (45 U.S.C. 156) with respect to all issues relating to employee protective arrangements and severance benefits which are applicable to employees of Amtrak, including all provisions of Appendix C-2 to the National Railroad Passenger Corporation Agreement, signed July 5, 1973, shall be deemed served and effective on the date which is 45 days after the date of the enactment of this Act. Amtrak, and each affected labor organization representing Amtrak employees, shall promptly supply specific information and proposals with respect to each such notice.

(b) NATIONAL MEDIATION BOARD EFFORTS.—Except as provided in subsection (c), the National Mediation Board shall complete all efforts, with respect to the dispute described in subsection (a), under section 5 of the Railway Labor Act (45 U.S.C. 155) not later than 120 days after the date of the enactment of this Act.

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

(d) DISPUTE RESOLUTION.—(1) With respect to the dispute described in subsection (a) which—

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

(B) is not submitted to arbitration as described in subsection (c),

Amtrak shall, and the labor organization parties to such dispute shall, within 127 days after the date of the enactment of this Act, each select an individual from the entire roster of arbitrators maintained by the National Mediation Board. Within 134 days after the date of the enactment of this Act, the individuals selected under the preceding sentence shall jointly select an individual from such roster to make recommendations with respect to such dispute under this subsection. If the National Mediation Board is not informed of the selection under the preceding sentence 134 days after the date of enactment of this Act, the Board shall immediately select such individual.

(2) No individual shall be selected under paragraph (1) who is pecuniarily or otherwise interested in any organization of employees or any railroad.

(3) The compensation of individuals selected under paragraph (1) shall be fixed by the National Mediation Board. The second paragraph of section 10 of the Railway Labor Act shall apply to the expenses of such individuals as if such individuals were members of a board created under such section 10.

(4) If the parties to a dispute described in subsection (a) fail to reach agreement within 150 days after the date of the enactment of this Act, the individual selected under paragraph (1) with respect to such dispute shall make recommendations to the parties proposing contract terms to resolve the dispute.

(5) If the parties to a dispute described in subsection (a) fail to reach agreement, no change shall be made by either of the parties in the conditions out of which the dispute arose for 30 days after recommendations are made under paragraph (4).

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

(e) NO PRECEDENT FOR FREIGHT.—Nothing in this Act, or in any amendment made by this Act, shall affect the level of protection provided to freight railroad employees and mass transportation employees as it existed on the day before the date of enactment of this Act.

SEC. 142. SERVICE DISCONTINUANCE.

(a) REPEAL.—Section 24706(c) is repealed.

(b) EXISTING CONTRACTS.—Any provision of a contract entered into before the date of the enactment of this Act between Amtrak and a labor organization representing Amtrak employees relating to employee protective arrangements and severance benefits applicable to employees of Amtrak is extinguished, including all provisions of Appendix C-2 to the National Railroad Passenger Corporation Agreement, signed July 5, 1973.

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

(d) NONAPPLICATION OF BANKRUPTCY LAW PROVISION.—Section 1172(c) of title 11, United States Code, shall not apply to Amtrak and its employees.

Subtitle D—Use of Railroad Facilities

SEC. 161. LIABILITY LIMITATION.

(a) IN GENERAL.—Chapter 281 is amended by adding at the end the following new section:

"§28103. Limitations on rail passenger transportation liability

"(a) LIMITATIONS.—(1) Notwithstanding any other statutory or common law or public policy, or the nature of the conduct giving rise to damages or liability, in a claim for personal injury to a passenger, death of a passenger, or damage to property of a passenger arising from or in connection with the provision of rail passenger transportation, or from or in connection with any rail passenger transportation operations over or rail passenger transportation use of right-of-way or facilities owned, leased, or maintained by any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State, punitive damages, to the extent permitted by applicable State law, may be awarded in connection with any such claim only if the plaintiff establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct carried out by the defendant with a conscious, flagrant indifference to the rights or safety of others. If, in any case wherein death was caused, the law of the place where the act or omission complained of occurred provides, or has been construed to provide, for damages only punitive in nature, this paragraph shall not apply.

"(2) The aggregate allowable awards to all rail passengers, against all defendants, for all claims, including claims for punitive damages, arising from a single accident or incident, shall not exceed \$200,000,000.

"(b) CONTRACTUAL OBLIGATIONS.—A provider of rail passenger transportation may enter into contracts that allocate financial responsibility for claims.

"(c) MANDATORY COVERAGE.—Amtrak shall maintain a total minimum liability coverage for claims through insurance and self-insurance of at least \$200,000,000 per accident or incident.

"(d) EFFECT ON OTHER LAWS.—This section shall not affect the damages that may be recovered under the Act of April 27, 1908 (45 U.S.C. 51 et seq.; popularly known as the 'Federal Employers' Liability Act') or under any workers compensation Act.

"(e) DEFINITION.—For purposes of this section—

"(1) the term 'claim' means a claim made—

"(A) against Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State; or

"(B) against an officer, employee, affiliate engaged in railroad operations, or agent, of Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State;

“(2) the term ‘punitive damages’ means damages awarded against any person or entity to punish or deter such person or entity, or others, from engaging in similar behavior in the future; and

“(3) the term ‘rail carrier’ includes a person providing excursion, scenic, or museum train service, and an owner or operator of a privately owned rail passenger car.”.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 281 is amended by adding at the end the following new item:

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

SEC. 162. RETENTION OF FACILITIES.

Section 24309(b) is amended by inserting “or on January 1, 1997,” after “1979.”.

TITLE II—FISCAL ACCOUNTABILITY

SEC. 201. AMTRAK FINANCIAL GOALS.

Section 24101(d) is amended by adding at the end thereof the following: “Amtrak shall prepare a financial plan to operate within the funding levels authorized by section 24104 of this chapter, including budgetary goals for fiscal years 1998 through 2002. Commencing no later than the fiscal year following the fifth anniversary of the Amtrak Reform and Accountability Act of 1997, Amtrak shall operate without Federal operating grant funds appropriated for its benefit.”.

SEC. 202. INDEPENDENT ASSESSMENT.

(a) INITIATION.—Not later than 15 days after the date of enactment of this Act, the Secretary of Transportation shall contract with an entity independent of Amtrak and not in any contractual relationship with Amtrak, and independent of the Department of Transportation, to conduct a complete independent assessment of the financial requirements of Amtrak through fiscal year 2002. The entity shall have demonstrated knowledge about railroad industry accounting requirements, including the uniqueness of the industry and of Surface Transportation Board accounting requirements. The Department of Transportation, Office of Inspector General, shall approve the entity’s statement of work and the award and shall oversee the contract. In carrying out its responsibilities under the preceding sentence, the Inspector General’s Office shall perform such overview and validation or verification of data as may be necessary to assure that the assessment conducted under this subsection meets the requirements of this section.

(b) ASSESSMENT CRITERIA.—The Secretary and Amtrak shall provide to the independent entity estimates of the financial requirements of Amtrak for the period described in subsection (a), using as a base the fiscal year 1997 appropriation levels established by the Congress. The independent assessment shall be based on an objective analysis of Amtrak’s funding needs.

(c) CERTAIN FACTORS TO BE TAKEN INTO ACCOUNT.—The independent assessment shall take into account all relevant factors, including Amtrak’s—

- (1) cost allocation process and procedures;
- (2) expenses related to intercity rail passenger service, commuter service, and any other service Amtrak provides;
- (3) Strategic Business Plan, including Amtrak’s projected expenses, capital needs, ridership, and revenue forecasts; and
- (4) assets and liabilities.

For purposes of paragraph (3), in the capital needs part of its Strategic Business Plan Amtrak shall distinguish between that portion of the capital required for the Northeast Corridor and that required outside the Northeast Corridor, and shall include rolling stock requirements, including capital leases, “state of good repair” requirements, and infrastructure improvements.

(d) BIDDING PRACTICES.—

(1) STUDY.—The independent assessment also shall determine whether, and to what extent, Amtrak has performed each year during the pe-

riod from 1992 through 1996 services under contract at amounts less than the cost to Amtrak of performing such services with respect to any activity other than the provision of intercity rail passenger transportation, or mail or express transportation. For purposes of this clause, the cost to Amtrak of performing services shall be determined using generally accepted accounting principles for contracting. If identified, such contracts shall be detailed in the report of the independent assessment, as well as the methodology for preparation of bids to reflect Amtrak’s actual cost of performance.

(2) REFORM.—If the independent assessment performed under this subparagraph reveals that Amtrak has performed services under contract for an amount less than the cost to Amtrak of performing such services, with respect to any activity other than the provision of intercity rail passenger transportation, or mail or express transportation, then Amtrak shall revise its methodology for preparation of bids to reflect its cost of performance.

(e) DEADLINE.—The independent assessment shall be completed not later than 180 days after the contract is awarded, and shall be submitted to the Council established under section 203, the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the United States Senate, and the Committee on Transportation and Infrastructure of the United States House of Representatives.

SEC. 203. AMTRAK REFORM COUNCIL.

(a) ESTABLISHMENT.—There is established an independent commission to be known as the Amtrak Reform Council.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall consist of 11 members, as follows:

- (A) The Secretary of Transportation.
- (B) Two individuals appointed by the President, of which—
 - (i) one shall be a representative of a rail labor organization; and
 - (ii) one shall be a representative of rail management.
- (C) Three individuals appointed by the Majority Leader of the United States Senate.
- (D) One individual appointed by the Minority Leader of the United States Senate.
- (E) Three individuals appointed by the Speaker of the United States House of Representatives.
- (F) One individual appointed by the Minority Leader of the United States House of Representatives.

(2) APPOINTMENT CRITERIA.—

(A) TIME FOR INITIAL APPOINTMENTS.—Appointments under paragraph (1) shall be made within 30 days after the date of enactment of this Act.

(B) EXPERTISE.—Individuals appointed under subparagraphs (C) through (F) of paragraph (1)—

- (i) may not be employees of the United States;
- (ii) may not be board members or employees of Amtrak;
- (iii) may not be representatives of rail labor organizations or rail management; and
- (iv) shall have technical qualifications, professional standing, and demonstrated expertise in the field of corporate management, finance, rail or other transportation operations, labor, economics, or the law, or other areas of expertise relevant to the Council.

(3) TERM.—Members shall serve for terms of 5 years. If a vacancy occurs other than by the expiration of a term, the individual appointed to fill the vacancy shall be appointed in the same manner as, and shall serve only for the unexpired portion of the term for which, that individual’s predecessor was appointed.

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

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

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

(5) MAJORITY REQUIRED FOR ACTION.—A majority of the members of the Council present and voting is required for the Council to take action. No person shall be elected chairman of the Council who receives fewer than 5 votes.

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

(d) TRAVEL EXPENSES.—Each member of the Council shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with section 5702 and 5703 of title 5, United States Code.

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

(f) ACCESS TO INFORMATION.—Amtrak shall make available to the Council all information the Council requires to carry out its duties under this section. The Council shall establish appropriate procedures to ensure against the public disclosure of any information obtained under this subsection that is a trade secret or commercial or financial information that is privileged or confidential.

(g) DUTIES.—

(1) EVALUATION AND RECOMMENDATION.—The Council shall—

- (A) evaluate Amtrak’s performance; and
- (B) make recommendations to Amtrak for achieving further cost containment and productivity improvements, and financial reforms.

(2) SPECIFIC CONSIDERATIONS.—In making its evaluation and recommendations under paragraph (1), the Council shall consider all relevant performance factors, including—

- (A) Amtrak’s operation as a national passenger rail system which provides access to all regions of the country and ties together existing and emerging rail passenger corridors;
- (B) appropriate methods for adoption of uniform cost and accounting procedures throughout the Amtrak system, based on generally accepted accounting principles; and
- (C) management efficiencies and revenue enhancements, including savings achieved through labor and contracting negotiations.

(3) MONITOR WORK-RULE SAVINGS.—If, after January 1, 1997, Amtrak enters into an agreement involving work-rules intended to achieve savings with an organization representing Amtrak employees, then Amtrak shall report quarterly to the Council—

- (A) the savings realized as a result of the agreement; and
 - (B) how the savings are allocated.
- (h) ANNUAL REPORT.—Each year before the fifth anniversary of the date of enactment of this Act, the Council shall submit to the Congress a report that includes an assessment of—

- (1) Amtrak’s progress on the resolution of productivity issues; or
 - (2) the status of those productivity issues, and makes recommendations for improvements and for any changes in law it believes to be necessary or appropriate.
- (i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Council such sums as may be necessary to enable the Council to carry out its duties.

SEC. 204. SUNSET TRIGGER.

(a) IN GENERAL.—If at any time more than 2 years after the date of enactment of this Act and implementation of the financial plan referred to in section 24104(d) of title 49, United States Code, as amended by section 201 of this Act, the Amtrak Reform Council finds that—

- (1) Amtrak’s business performance will prevent it from meeting the financial goals set forth in section 24104(d) of title 49, United States Code, as amended by section 201 of this Act; or
- (2) Amtrak will require operating grant funds after the fifth anniversary of the date of enactment of this Act,

then the Council shall immediately notify the President, the Committee on Commerce, Science, and Transportation of the United States Senate, and the Committee on Transportation and Infrastructure of the United States House of Representatives.

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

- (1) Amtrak's performance;
- (2) the findings of the independent assessment conducted under section 202;
- (3) the level of Federal funds made available for carrying out the financial plan referred to in section 24104(d) of title 49, United States Code, as amended by section 201 of this Act; and
- (4) Acts of God, national emergencies, and other events beyond the reasonable control of Amtrak.

(c) **ACTION PLAN.**—Within 90 days after the Council makes a finding under subsection (a)—

- (1) it shall develop and submit to the Congress an action plan for a restructured and rationalized national intercity rail passenger system; and
- (2) Amtrak shall develop and submit to the Congress an action plan for the complete liquidation of Amtrak, after having the plan reviewed by the Inspector General of the Department of Transportation and the General Accounting Office for accuracy and reasonableness.

SEC. 205. SENATE PROCEDURE FOR CONSIDERATION OF RESTRUCTURING AND LIQUIDATION PLANS.

(a) **IN GENERAL.**—If, within 90 days (not counting any day on which either House is not in session) after a restructuring plan is submitted to the House of Representatives and the Senate by the Amtrak Reform Council under section 204 of this Act, an implementing Act with respect to a restructuring plan (without regard to whether it is the plan submitted) has not been passed by the Congress, then a liquidation disapproval resolution shall be introduced in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. The liquidation disapproval resolution shall be held at the desk at the request of the Presiding Officer.

(b) **CONSIDERATION IN THE SENATE.**—

(1) **REFERRAL AND REPORTING.**—A liquidation disapproval resolution introduced in the Senate shall be placed directly and immediately on the Calendar.

(2) **IMPLEMENTING RESOLUTION FROM HOUSE.**—When the Senate receives from the House of Representatives a liquidation disapproval resolution, the resolution shall not be referred to committee and shall be placed on the Calendar.

(3) **CONSIDERATION OF SINGLE LIQUIDATION DISAPPROVAL RESOLUTION.**—After the Senate has proceeded to the consideration of a liquidation disapproval resolution under this subsection, then no other liquidation disapproval resolution originating in that same House shall be subject to the procedures set forth in this section.

(4) **AMENDMENTS.**—No amendment to the resolution is in order except an amendment that is relevant to liquidation of Amtrak. Consideration of the resolution for amendment shall not exceed one hour excluding time for recorded votes and quorum calls. No amendment shall be subject to further amendment, except for perfecting amendments.

(5) **MOTION NONDEBATABLE.**—A motion to proceed to consideration of a liquidation disapproval resolution under this subsection shall not be debatable. It shall not be in order to move to reconsider the vote by which the motion to proceed was adopted or rejected, although subsequent motions to proceed may be made under this paragraph.

(6) **LIMIT ON CONSIDERATION.**—

(A) After no more than 20 hours of consideration of a liquidation disapproval resolution,

the Senate shall proceed, without intervening action or debate (except as permitted under paragraph (9)), to vote on the final disposition thereof to the exclusion of all amendments not then pending and to the exclusion of all motions, except a motion to reconsider or table.

(B) The time for debate on the liquidation disapproval resolution shall be equally divided between the Majority Leader and the Minority Leader or their designees.

(7) **DEBATE OF AMENDMENTS.**—Debate on any amendment to a liquidation disapproval resolution shall be limited to one hour, equally divided and controlled by the Senator proposing the amendment and the majority manager, unless the majority manager is in favor of the amendment, in which case the minority manager shall be in control of the time in opposition.

(8) **NO MOTION TO RECOMMEND.**—A motion to recommend a liquidation disapproval resolution shall not be in order.

(9) **DISPOSITION OF SENATE RESOLUTION.**—If the Senate has read for the third time a liquidation disapproval resolution that originated in the Senate, then it shall be in order at any time thereafter to move to proceed to the consideration of a liquidation disapproval resolution for the same special message received from the House of Representatives and placed on the Calendar pursuant to paragraph (2), strike all after the enacting clause, substitute the text of the Senate liquidation disapproval resolution, agree to the Senate amendment, and vote on final disposition of the House liquidation disapproval resolution, all without any intervening action or debate.

(10) **CONSIDERATION OF HOUSE MESSAGE.**—Consideration in the Senate of all motions, amendments, or appeals necessary to dispose of a message from the House of Representatives on a liquidation disapproval resolution shall be limited to not more than 4 hours. Debate on each motion or amendment shall be limited to 30 minutes. Debate on any appeal or point of order that is submitted in connection with the disposition of the House message shall be limited to 20 minutes. Any time for debate shall be equally divided and controlled by the proponent and the majority manager, unless the majority manager is a proponent of the motion, amendment, appeal, or point of order, in which case the minority manager shall be in control of the time in opposition.

(c) **CONSIDERATION IN CONFERENCE.**—

(1) **CONVENING OF CONFERENCE.**—In the case of disagreement between the two Houses of Congress with respect to a liquidation disapproval resolution passed by both Houses, conferees should be promptly appointed and a conference promptly convened, if necessary.

(2) **SENATE CONSIDERATION.**—Consideration in the Senate of the conference report and any amendments in disagreement on a liquidation disapproval resolution shall be limited to not more than 4 hours equally divided and controlled by the Majority Leader and the Minority Leader or their designees. A motion to recommit the conference report is not in order.

(d) **DEFINITIONS.**—For purposes of this section—

(1) **LIQUIDATION DISAPPROVAL RESOLUTION.**—The term "liquidation disapproval resolution" means only a resolution of either House of Congress which is introduced as provided in subsection (a) with respect to the liquidation of Amtrak.

(2) **RESTRUCTURING PLAN.**—The term "restructuring plan" means a plan to provide for a restructured and rationalized national intercity rail passenger transportation system.

(e) **RULES OF SENATE.**—This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate, and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of a liquidation disapproval resolution; and they supersede other

rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

SEC. 206. ACCESS TO RECORDS AND ACCOUNTS.

Section 24315 is amended by adding at the end the following new subsection:

"(h) **ACCESS TO RECORDS AND ACCOUNTS.**—A State shall have access to Amtrak's records, accounts, and other necessary documents used to determine the amount of any payment to Amtrak required of the State."

SEC. 207. OFFICERS' PAY.

Section 24303(b) is amended by adding at the end the following: "The preceding sentence shall not apply for any fiscal year for which no Federal assistance is provided to Amtrak."

SEC. 208. EXEMPTION FROM TAXES.

Section 24301(l)(1) is amended—

(1) by striking so much as precedes "exempt from a tax" and inserting the following:

"(1) **IN GENERAL.**—Amtrak, a rail carrier subsidiary of Amtrak, and any passenger or other customer of Amtrak or such subsidiary, are";

(2) by striking "tax or fee imposed" and all that follows through "levied on it" and inserting "tax, fee, head charge, or other charge, imposed or levied by a State, political subdivision, or local taxing authority on Amtrak, a rail carrier subsidiary of Amtrak, or on persons traveling in intercity rail passenger transportation or on mail or express transportation provided by Amtrak or such a subsidiary, or on the carriage of such persons, mail, or express, or on the sale of any such transportation, or on the gross receipts derived therefrom"; and

(3) by amending the last sentence thereof to read as follows: "In the case of a tax or fee that Amtrak was required to pay as of September 10, 1982, Amtrak is not exempt from such tax or fee if it was assessed before April 1, 1997."

SEC. 209. LIMITATION ON USE OF TAX REFUND.

(a) **IN GENERAL.**—Amtrak may not use any amount received under section 977 of the Taxpayer Relief Act of 1997—

(1) for any purpose other than making payments to non-Amtrak States (pursuant to section 977(c) of that Act), or the financing of qualified expenses (as that term is defined in section 977(e)(1) of that Act); or

(2) to offset other amounts used for any purpose other than the financing of such expenses.

(b) **REPORT BY ARC.**—The Amtrak Reform Council shall report quarterly to the Congress on the use of amounts received by Amtrak under section 977 of the Taxpayer Relief Act of 1997.

TITLE III—AUTHORIZATION OF APPROPRIATIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

(a) **AMENDMENT.**—Section 24104(a) is amended to read as follows:

"(a) **IN GENERAL.**—There are authorized to be appropriated to the Secretary of Transportation—

- "(1) \$1,138,000,000 for fiscal year 1998;
- "(2) \$1,058,000,000 for fiscal year 1999;
- "(3) \$1,023,000,000 for fiscal year 2000;
- "(4) \$989,000,000 for fiscal year 2001; and
- "(5) \$955,000,000 for fiscal year 2002,

for the benefit of Amtrak for capital expenditures under chapters 243, 247, and 249 of this title, operating expenses, and payments described in subsection (c)(1)(A) through (C). In fiscal years following the fifth anniversary of the enactment of the Amtrak Reform and Accountability Act of 1997 no funds authorized for Amtrak shall be used for operating expenses other than those prescribed for tax liabilities under section 3221 of the Internal Revenue Code of 1986 that are more than the amount needed for benefits of individuals who retire from Amtrak and for their beneficiaries."

(b) **AMTRAK REFORM LEGISLATION.**—This Act constitutes Amtrak reform legislation within the

meaning of section 977(f)(1) of the Taxpayer Relief Act of 1997.

TITLE IV—MISCELLANEOUS

SEC. 401. STATUS AND APPLICABLE LAWS.

Section 24301 is amended—

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

(2) by amending subsection (c) to read as follows:

“(c) APPLICATION OF SUBTITLE IV.—Subtitle IV of this title shall not apply to Amtrak, except for sections 11301, 11322(a), 11502, and 11706. Notwithstanding the preceding sentence, Amtrak shall continue to be considered an employer under the Railroad Retirement Act of 1974, the Railroad Unemployment Insurance Act, and the Railroad Retirement Tax Act.”.

SEC. 402. WASTE DISPOSAL.

Section 24301(m)(1)(A) is amended by striking “1996” and inserting “2001”.

SEC. 403. ASSISTANCE FOR UPGRADING FACILITIES.

Section 24310 and the item relating thereto in the table of sections for chapter 243 are repealed.

SEC. 404. DEMONSTRATION OF NEW TECHNOLOGY.

Section 24314 and the item relating thereto in the table of sections for chapter 243 are repealed.

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

(a) REPEAL.—Section 24903 is repealed and the table of sections for chapter 249 is amended by striking the item relating to that section.

(b) CONFORMING AMENDMENTS.—

(1) Section 24902 is amended—

(A) by striking subsections (a), (c), and (d) and redesignating subsection (b) as subsection (a) and subsections (e) through (m) as subsections (b) through (j), respectively; and

(B) in subsection (j), as so redesignated by subparagraph (A) of this paragraph, by striking “(m)”.

(2) Section 24904(a) is amended—

(A) by inserting “and” at the end of paragraph (6);

(B) by striking “; and” at the end of paragraph (7) and inserting a period; and

(C) by striking paragraph (8).

SEC. 406. AMERICANS WITH DISABILITIES ACT OF 1990.

(a) APPLICATION TO AMTRAK.—

(1) ACCESS IMPROVEMENTS AT CERTAIN SHARED STATIONS.—Amtrak is responsible for its share, if any, of the costs of accessibility improvements required by the Americans With Disabilities Act of 1990 at any station jointly used by Amtrak and a commuter authority.

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

(b) CONFORMING AMENDMENT.—Section 24307 is amended—

(1) by striking subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

SEC. 407. DEFINITIONS.

Section 24102 is amended—

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

(2) by redesignating paragraphs (3) through (10) as paragraphs (2) through (9), respectively; and

(3) by inserting “, including a unit of State or local government,” after “means a person” in paragraph (7), as so redesignated.

SEC. 408. NORTHEAST CORRIDOR COST DISPUTE.

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

SEC. 409. INSPECTOR GENERAL ACT OF 1978 AMENDMENT.

(a) AMENDMENT.—

(1) IN GENERAL.—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking “Amtrak.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect at the beginning of the first fiscal year after a fiscal year for which Amtrak receives no Federal subsidy.

(b) AMTRAK NOT FEDERAL ENTITY.—Amtrak shall not be considered a Federal entity for purposes of the Inspector General Act of 1978. The preceding sentence shall apply for any fiscal year for which Amtrak receives no Federal subsidy.

(c) FEDERAL SUBSIDY.—

(1) ASSESSMENT.—In any fiscal year for which Amtrak requests Federal assistance, the Inspector General of the Department of Transportation shall review Amtrak’s operations and conduct an assessment similar to the assessment required by section 202(a). The Inspector General shall report the results of the review and assessment to—

(A) the President of Amtrak;

(B) the Secretary of Transportation;

(C) the United States Senate Committee on Appropriations;

(D) the United States Senate Committee on Commerce, Science, and Transportation;

(E) the United States House of Representatives Committee on Appropriations; and

(F) the United States House of Representatives Committee on Transportation and Infrastructure.

(2) REPORT.—The report shall be submitted, to the extent practicable, before any such committee reports legislation authorizing or appropriating funds for Amtrak for capital acquisition, development, or operating expenses.

(3) SPECIAL EFFECTIVE DATE.—This subsection takes effect 1 year after the date of enactment of this Act.

SEC. 410. INTERSTATE RAIL COMPACTS.

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

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

(2) assembling rights-of-way; and

(3) performing capital improvements, including—

(A) the construction and rehabilitation of maintenance facilities;

(B) the purchase of locomotives; and

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

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

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

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

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

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

(B) issue bonds; and

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

SEC. 411. BOARD OF DIRECTORS.

(a) AMENDMENT.—Section 24302 is amended to read as follows:

“§24302. Board of Directors

“(a) REFORM BOARD.—

“(1) ESTABLISHMENT AND DUTIES.—The Reform Board described in paragraph (2) shall assume the responsibilities of the Board of Directors of Amtrak by March 31, 1998, or as soon thereafter as at least 4 members have been appointed and qualified. The Board appointed under prior law shall be abolished when the Reform Board assumes such responsibilities.

“(2) MEMBERSHIP.—(A)(i) The Reform Board shall consist of 7 voting members appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years.

“(ii) Notwithstanding clause (i), if the Secretary of Transportation is appointed to the Reform Board, such appointment shall not be subject to the advice and consent of the Senate. If appointed, the Secretary may be represented at Board meetings by his designee.

“(B) In selecting the individuals described in subparagraph (A) for nominations for appointments to the Reform Board, the President should consult with the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate.

“(C) Appointments under subparagraph (A) shall be made from among individuals who—

“(i) have technical qualification, professional standing, and demonstrated expertise in the fields of transportation or corporate or financial management;

“(ii) are not representatives of rail labor or rail management; and

“(iii) in the case of 6 of the 7 individuals selected, are not employees of Amtrak or of the United States.

“(D) The President of Amtrak shall serve as an ex officio, nonvoting member of the Reform Board.

“(3) CONFIRMATION PROCEDURE IN SENATE.—

“(A) This paragraph is enacted by the Congress—

“(i) as an exercise of the rulemaking power of the Senate, and as such it is deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of a motion to discharge; and it supersedes other rules only to the extent that it is inconsistent therewith; and

“(ii) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

“(B) If, by the first day of June on which the Senate is in session after a nomination is submitted to the Senate under this section, the committee to which the nomination was referred has not reported the nomination, then it shall be discharged from further consideration of the nomination and the nomination shall be placed on the Executive Calendar.

“(C) It shall be in order at any time thereafter to move to proceed to the consideration of the nomination without any intervening action or debate.

“(D) After no more than 10 hours of debate on the nomination, which shall be evenly divided between, and controlled by, the Majority Leader and the Minority Leader, the Senate shall proceed without intervening action to vote on the nomination.

“(b) BOARD OF DIRECTORS.—Five years after the establishment of the Reform Board under subsection (a), a Board of Directors shall be selected—

“(1) if Amtrak has, during the then current fiscal year, received Federal assistance, in accordance with the procedures set forth in subsection (a)(2); or

“(2) if Amtrak has not, during the then current fiscal year, received Federal assistance, pursuant to bylaws adopted by the Reform Board (which shall provide for employee representation), and the Reform Board shall be dissolved.

“(c) AUTHORITY TO RECOMMEND PLAN.—The Reform Board shall have the authority to recommend to the Congress a plan to implement the recommendations of the 1997 Working Group on Inter-City Rail regarding the transfer of Amtrak’s infrastructure assets and responsibilities to a new separately governed corporation.”.

(b) EFFECT ON AUTHORIZATIONS.—If the Reform Board has not assumed the responsibilities

of the Board of Directors of Amtrak before July 1, 1998, all provisions authorizing appropriations under the amendments made by section 301(a) of this Act for a fiscal year after fiscal year 1998 shall cease to be effective. The preceding sentence shall have no effect on funds provided to Amtrak pursuant to section 977 of the Taxpayer Relief Act of 1997.

SEC. 412. EDUCATIONAL PARTICIPATION.

Amtrak shall participate in educational efforts with elementary and secondary schools to inform students on the advantages of rail travel and the need for rail safety.

SEC. 413. REPORT TO CONGRESS ON AMTRAK BANKRUPTCY.

Within 120 days after the date of enactment of this Act, the Comptroller General shall submit a report identifying financial and other issues associated with an Amtrak bankruptcy to the United States Senate Committee on Commerce, Science, and Transportation and to the United States House of Representatives Committee on Transportation and Infrastructure. The report shall include an analysis of the implications of such a bankruptcy on the Federal government, Amtrak's creditors, and the Railroad Retirement System.

SEC. 414. AMTRAK TO NOTIFY CONGRESS OF LOBBYING RELATIONSHIPS.

If, at any time, during a fiscal year in which Amtrak receives Federal assistance, Amtrak enters into a consulting contract or similar arrangement, or a contract for lobbying, with a lobbying firm, an individual who is a lobbyist, or who is affiliated with a lobbying firm, as those terms are defined in section 3 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602), Amtrak shall notify the United States Senate Committee on Commerce, Science, and Transportation, and the United States House of Representatives Committee on Transportation and Infrastructure of—

- (1) the name of the individual or firm involved;
- (2) the purpose of the contract or arrangement; and
- (3) the amount and nature of Amtrak's financial obligation under the contract.

This section applies only to contracts, renewals or extensions of contracts, or arrangements entered into after the date of the enactment of this Act.

SEC. 415. FINANCIAL POWERS.

(a) CAPITALIZATION.—(1) Section 24304 is amended to read as follows:

“§24304. Employee stock ownership plans

“In issuing stock pursuant to applicable corporate law, Amtrak is encouraged to include employee stock ownership plans.”

(2) The item relating to section 24304 in the table of sections of chapter 243 is amended to read as follows:

“24304. Employee stock ownership plans.”

(b) REDEMPTION OF COMMON STOCK.—Amtrak shall, before October 1, 2002, redeem all common stock previously issued, for the fair market value of such stock.

(c) ELIMINATION OF LIQUIDATION PREFERENCE AND VOTING RIGHTS OF PREFERRED STOCK.—(1)(A) Preferred stock of Amtrak held by the Secretary of Transportation shall confer no liquidation preference.

(B) Subparagraph (A) shall take effect 90 days after the date of the enactment of this Act.

(2)(A) Preferred stock of Amtrak held by the Secretary of Transportation shall confer no voting rights.

(B) Subparagraph (A) shall take effect 60 days after the date of the enactment of this Act.

(d) STATUS AND APPLICABLE LAWS.—(1) Section 24301(a)(3) is amended by inserting “, and shall not be subject to title 31” after “United States Government”.

(2) Section 9101(2) of title 31, United States Code, relating to Government corporations, is amended by striking subparagraph (A) and re-

designating subparagraphs (B) through (L) as subparagraphs (A) through (K), respectively.

Mr. LOTT. I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

NO ELECTRONIC THEFT (NET) ACT

Mr. LOTT. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 2265 and, further, that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2265) to amend the provisions of title 17 and 18, United States Code, to provide greater copyright protection by amending criminal copyright infringement provisions, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. HATCH. Mr. President, I rise in support of passage of H.R. 2265, The No Electronic Theft [NET] Act. This bill plugs the “LaMacchia Loophole” in criminal copyright enforcement.

Current sec. 506(a) of the Copyright Act contains criminal penalties for willful copyright infringement for “commercial advantage or private financial gain.” In U.S. versus LaMacchia, 871 F. Supp. 535 (D. Mass. 1994), defendant, a graduate student attending MIT, encouraged lawful purchasers of copyrighted computer games and other software to upload these works via a special password to an electronic bulletin board on the Internet. The defendant then transferred the works to another electronic address and urged other persons with access to a second password to download the materials for personal use without authorization by or compensation to the copyright owners. Because the defendant never benefited financially from any of these transactions, the current criminal copyright infringement could not be used. Furthermore, the court held that neither could the federal wire fraud statute, since Congress never envisioned protecting copyrights under that statute. For persons with few assets, civil liability is not an adequate deterrent.

It is obvious that great harm could be done to copyright owners if this practice were to become widespread. Significant losses to copyright holders would undermine the monetary incentive to create which is recognized in our Constitution. Mr. President, I believe that willful, commercial-scale pirating of copyrighted works, even when the pirate receives no monetary reward, ought to be nipped in the bud. This bill does that.

I will admit, Mr. President, that I initially had concerns about this bill. I was afraid that the language was so

broad that the net could be cast too widely—pardon the pun—so that minor offenders or persons who honestly believed that they had a legitimate right to engage in the behavior prohibited by the bill would be swept in. What of the educator who feels that his or her action is a fair use of the copyrighted work? Although the bill is not failsafe, because of the severity of the potential losses to copyright owners from widespread LaMacchia-like behavior and the little time remaining in this session, on balance I was persuaded to support the bill.

I place great store by the “willfulness” requirement in the bill. Although there is on-going debate about what precisely is the “willfulness” standard in the Copyright Act—as the House Report records—I submit that in the LaMacchia context “willful” ought to mean the intent to violate a known legal duty. The Supreme Court has given the term “willful” that construction in numerous cases in the past 25 years, for example: U.S. versus Bishop, 412, U.S. 346 (1973); U.S. versus Pomponio, 429 U.S. 987 (1976); Cheek versus U.S., 498 U.S. 192 (1991); and Ratzlaf versus U.S., 510 U.S. 135 (1994). As Chairman of the Judiciary Committee, that is the interpretation that I give to this term. Otherwise, I would have objected and not allowed this bill to pass by unanimous consent. Under this standard, then, an educator who in good faith believes that he or she is engaging in a fair use of copyrighted material could not be prosecuted under the bill.

I am also relying upon the good sense of prosecutors and judges. Again, the purpose of the bill is to prosecute commercial-scale pirates who do not have commercial advantage or private financial gain from their illegal activities. But if an over-zealous prosecutor should bring and win a case against a college prankster, I am confident that the judge would exercise the discretion that he or she may have under the Sentencing Guidelines to be lenient. If the practical effect of the bill turns out to be draconian, we may have to revisit the issue.

In addition to my concern that the bill's scope might be too broad, I wanted to make sure that the language of the bill would not prejudice in any way the debate about the copyright liability of on-line and Internet service providers. Mr. President, there are good arguments on both sides of the issue, and I will shortly begin the process of bringing the parties together to try to obtain a mutually agree-upon solution to this problem. It is my understanding that representatives of the OSP/ISP community and the fair use community were consulted during the passage of the bill in the House. This tends to confirm my judgment that the bill was not intended to affect the OSP/ISP liability debate.

Finally, Mr. President, I would like to point out two areas that are susceptible to interpretation mischief. First,