

117TH CONGRESS  
1ST SESSION

# S. 468

To expedite transportation project delivery, facilitate infrastructure improvement, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 25, 2021

Mr. THUNE (for himself and Ms. HASSAN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To expedite transportation project delivery, facilitate infrastructure improvement, and for other purposes.

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Railroad Rehabilitation and Financing Innovation Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Railroad Rehabilitation and Improvement Financing Program.
- Sec. 3. Conforming amendments.
- Sec. 4. Transitional and savings provisions.
- Sec. 5. Repeals.

1 **SEC. 2. RAILROAD REHABILITATION AND IMPROVEMENT**  
 2 **FINANCING PROGRAM.**

3 (a) AMENDMENT TO TITLE 49, UNITED STATES  
 4 CODE.—Part B of subtitle V of title 49, United States  
 5 Code, is amended by inserting after chapter 223 the fol-  
 6 lowing:

7 **“CHAPTER 224—RAILROAD REHABILITA-**  
 8 **TION AND IMPROVEMENT FINANCING**  
 9 **PROGRAM**

“22401. Definitions.

“22402. Direct loans and loan guarantees.

“22403. Administration of direct loans and loan guarantees.

“22404. Employee protection.

“22405. Substantive criteria and standards.

“22406. Funding.

10 **“§ 22401. Definitions**

11 “In this chapter:

12 “(1) COST.—

13 “(A) IN GENERAL.—The term ‘cost’ means  
 14 the estimated long-term cost to the Government  
 15 of a direct loan or loan guarantee, or modifica-  
 16 tion of the direct loan or loan guarantee, cal-  
 17 culated on a net present value basis, excluding  
 18 administrative costs and any incidental effects  
 19 on governmental receipts or outlays.

20 “(B) COST OF DIRECT LOANS.—

21 “(i) IN GENERAL.—The cost of a di-  
 22 rect loan shall be the net present value, at

1 the time when the direct loan is disbursed,  
2 of the following estimated cash flows:

3 “(I) Loan disbursements.

4 “(II) Repayments of principal.

5 “(III) Payments of interest and  
6 other payments by or to the Govern-  
7 ment over the life of the loan.

8 “(ii) CALCULATION.—Calculation of  
9 the cost of a direct loan shall include the  
10 effects of changes in loan terms resulting  
11 from the exercise by the borrower of an op-  
12 tion included in the loan contract.

13 “(C) COST OF LOAN GUARANTEE.—

14 “(i) IN GENERAL.—The cost of a loan  
15 guarantee shall be the net present value, at  
16 the time when the guaranteed loan is dis-  
17 bursed, of the following estimated cash  
18 flows:

19 “(I) Payments by the Govern-  
20 ment to cover defaults and delin-  
21 quencies, interest subsidies, or other  
22 payments.

23 “(II) Payments to the Govern-  
24 ment, including origination and other  
25 fees, penalties, and recoveries.

1                   “(ii) CALCULATION.—Calculation of  
2                   the cost of a loan guarantee shall include  
3                   the effects of changes in loan terms result-  
4                   ing from the exercise by the guaranteed  
5                   lender of an option included in the loan  
6                   guarantee, or by the borrower of an option  
7                   included in the guaranteed loan contract.

8                   “(D) COST OF MODIFICATION.—The cost  
9                   of a modification is the difference between the  
10                  current estimate of the net present value of the  
11                  remaining cash flows under the terms of a di-  
12                  rect loan or loan guarantee contract, and the  
13                  current estimate of the net present value of the  
14                  remaining cash flows under the terms of the  
15                  contract, as modified.

16                  “(E) ESTIMATION OF NET PRESENT VAL-  
17                  UES; DISCOUNT RATE.—In estimating net  
18                  present values, the discount rate shall be the  
19                  average interest rate on marketable Treasury  
20                  securities of similar maturity to the cash flows  
21                  of the direct loan or loan guarantee for which  
22                  the estimate is being made.

23                  “(F) ESTIMATED COST; BASIS.—When  
24                  funds are obligated for a direct loan or loan  
25                  guarantee, the estimated cost shall be based on

1 the current assumptions, adjusted to incor-  
2 porate the terms of the loan contract, for the  
3 fiscal year in which the funds are obligated.

4 “(2) CURRENT.—The term ‘current’ has the  
5 meaning given such term in section 250(c)(9) of the  
6 Balanced Budget and Emergency Deficit Control  
7 Act of 1985 (2 U.S.C. 900(c)(9)).

8 “(3) DIRECT LOAN.—

9 “(A) IN GENERAL.—The term ‘direct loan’  
10 means a disbursement of funds by the Govern-  
11 ment to a non-Federal borrower under a con-  
12 tract that requires the repayment of the funds.

13 “(B) INCLUSIONS.—The term ‘direct loan’  
14 includes the purchase of, or participation in, a  
15 loan made by another lender and financing ar-  
16 rangements that defer payment for more than  
17 90 days, including the sale of a Government  
18 asset on credit terms.

19 “(C) EXCLUSION.—The term ‘direct loan’  
20 does not include the acquisition of a federally  
21 guaranteed loan in satisfaction of default  
22 claims.

23 “(4) DIRECT LOAN OBLIGATION.—The term ‘di-  
24 rect loan obligation’ means a binding agreement by

1 the Secretary to make a direct loan when specified  
2 conditions are fulfilled by the borrower.

3 “(5) INTERMODAL.—The term ‘intermodal’  
4 means of or relating to the connection between rail  
5 service and other modes of transportation, including  
6 all parts of facilities at which the connection is  
7 made.

8 “(6) INVESTMENT-GRADE RATING.—The term  
9 ‘investment-grade rating’ means a rating of BBB  
10 minus, Baa3, bbb minus, BBB(low), or higher as-  
11 signed by a rating agency.

12 “(7) LOAN GUARANTEE.—The term ‘loan guar-  
13 antee’ means any guarantee, insurance, or other  
14 pledge with respect to the payment of all or a part  
15 of the principal or interest on any debt obligation of  
16 a non-Federal borrower to a non-Federal lender, but  
17 does not include the insurance of deposits, shares, or  
18 other withdrawable accounts in financial institutions.

19 “(8) LOAN GUARANTEE COMMITMENT.—The  
20 term ‘loan guarantee commitment’ means a binding  
21 agreement by the Secretary to make a loan guar-  
22 antee when specified conditions are fulfilled by the  
23 borrower, the lender, or any other party to the guar-  
24 antee agreement.

1           “(9) MASTER CREDIT AGREEMENT.—The term  
2           ‘master credit agreement’ means an agreement to  
3           make 1 or more direct loans or loan guarantees at  
4           future dates for a program of related projects on  
5           terms acceptable to the Secretary.

6           “(10) MODIFICATION.—

7           “(A) IN GENERAL.—The term ‘modifica-  
8           tion’ means any Government action that alters  
9           the estimated cost of an outstanding direct loan  
10          (or direct loan obligation) or an outstanding  
11          loan guarantee (or loan guarantee commitment)  
12          from the current estimate of cash flows.

13          “(B) INCLUSIONS.—The term ‘modifica-  
14          tion’ includes—

15                 “(i) the sale of loan assets, with or  
16                 without recourse, and the purchase of  
17                 guaranteed loans; and

18                 “(ii) any action resulting from new  
19                 legislation, or from the exercise of adminis-  
20                 trative discretion under existing law, that  
21                 directly or indirectly alters the estimated  
22                 cost of outstanding direct loans (or direct  
23                 loan obligations) or loan guarantee (or  
24                 loan guarantee commitment), such as a  
25                 change in collection procedures.

1           “(11) PROJECT OBLIGATION.—The term  
2           ‘project obligation’ means a note, bond, debenture,  
3           or other debt obligation issued by a borrower in con-  
4           nection with the financing of a project, other than  
5           a direct loan or loan guarantee under this chapter.

6           “(12) RAILROAD.—The term ‘railroad’ has the  
7           meaning given the term ‘railroad carrier’ in section  
8           20102.

9           “(13) RATING AGENCY.—The term ‘rating  
10          agency’ means a credit rating agency registered with  
11          the Securities and Exchange Commission as a na-  
12          tionally recognized statistical rating organization (as  
13          defined in section 3(a) of the Securities Exchange  
14          Act of 1934 (15 U.S.C. 78c(a))).

15          “(14) SECRETARY.—The term ‘Secretary’  
16          means the Secretary of Transportation.

17          “(15) SUBSTANTIAL COMPLETION.—The term  
18          ‘substantial completion’ means—

19                 “(A) the opening of a project to passenger  
20                 or freight traffic; or

21                 “(B) a comparable event, as determined by  
22                 the Secretary and specified in the terms of the  
23                 direct loan or loan guarantee.



1 **“§ 22402. Direct loans and loan guarantees**

2 “(a) GENERAL AUTHORITY.—The Secretary shall  
3 provide direct loans and loan guarantees—

4 “(1) to States and units of local government;

5 “(2) to interstate compacts consented to by  
6 Congress under section 410(a) of the Amtrak Re-  
7 form and Accountability Act of 1997 (Public Law  
8 105–134; 49 U.S.C. 24101 note);

9 “(3) to government-sponsored authorities and  
10 corporations;

11 “(4) to railroads;

12 “(5) to joint ventures that include at least 1 of  
13 the entities described in paragraph (1), (2), (3), (4),  
14 or (6);

15 “(6) to private entities with controlling owner-  
16 ship in 1 or more freight railroads other than Class  
17 1 carriers; and

18 “(7) solely for the purpose of constructing a  
19 rail connection between a plant or facility and a rail-  
20 road, limited option freight shippers that own or op-  
21 erate a plant or other facility.

22 “(b) ELIGIBLE PURPOSES.—

23 “(1) IN GENERAL.—Direct loans and loan guar-  
24 antees provided under this section shall be used—

25 “(A)(i) to acquire, improve, or rehabilitate  
26 intermodal or rail equipment or facilities, in-

1 including track, components of track, civil works  
2 such as cuts and fills, bridges, yards, buildings,  
3 and shops; and

4 “(ii) to finance costs related to the activi-  
5 ties described in clause (i), including  
6 preconstruction costs;

7 “(B) to develop or establish new inter-  
8 modal or railroad facilities;

9 “(C) to refinance outstanding debt in-  
10 curred for the purposes described in subpara-  
11 graph (A) or (B);

12 “(D) to reimburse planning, permitting,  
13 and design expenses relating to activities de-  
14 scribed in subparagraph (A) or (B); or

15 “(E) to finance economic development, in-  
16 cluding commercial and residential development,  
17 and related infrastructure and activities that—

18 “(i) incorporates private investment;

19 “(ii) is physically or functionally re-  
20 lated to a passenger rail station or  
21 multimodal station that includes rail serv-  
22 ice;

23 “(iii) has a high probability of the ap-  
24 plicant commencing the contracting proc-  
25 ess for construction not later than 90 days

1 after the date on which the direct loan or  
2 loan guarantee is obligated for the project  
3 under this chapter; and

4 “(iv) has a high probability of reduc-  
5 ing the need for financial assistance under  
6 any other Federal program for the relevant  
7 passenger rail station or service by increas-  
8 ing ridership, tenant lease payments, or  
9 other activities that generate revenue ex-  
10 ceeding costs.

11 “(2) OPERATING EXPENSES NOT ELIGIBLE.—  
12 Direct loans and loan guarantees under this section  
13 may not be used for railroad operating expenses.

14 “(3) SUNSET.—The Secretary may provide a  
15 direct loan or loan guarantee under this section for  
16 a project described in paragraph (1)(E) only during  
17 the 4-year period beginning on December 4, 2015.

18 “(c) PRIORITY PROJECTS.—In granting applications  
19 for direct loans or guaranteed loans under this section,  
20 the Secretary shall give priority to projects that—

21 “(1) enhance public safety, including projects  
22 for the installation of a positive train control system  
23 (as defined in section 20157(i));

24 “(2) promote economic development;

25 “(3) enhance the environment;

1           “(4) enable United States companies to be more  
2 competitive in international markets;

3           “(5) are endorsed by the plans prepared under  
4 chapter 227 of this title or section 135 of title 23  
5 by the State or States in which the projects are lo-  
6 cated;

7           “(6) improve railroad stations and passenger  
8 facilities and increase transit-oriented development;

9           “(7) preserve or enhance rail or intermodal  
10 service to small communities or rural areas;

11           “(8) enhance service and capacity in the na-  
12 tional rail system; or

13           “(9)(A) would materially alleviate rail capacity  
14 problems that degrade the provision of service to  
15 shippers; and

16           “(B) would fulfill a need in the national trans-  
17 portation system.

18           “(d) EXTENT OF AUTHORITY.—

19           “(1) LIMITATION ON AGGREGATE UNPAID PRIN-  
20 CIPAL AMOUNTS OF OBLIGATIONS.—The aggregate  
21 unpaid principal amounts of obligations under direct  
22 loans and loan guarantees made under this section  
23 may not exceed \$35,000,000,000 at any time.

24           “(2) MINIMUM AMOUNT FOR FREIGHT RAIL-  
25 ROADS.—Of the amount referred to in paragraph

1 (1), not less than \$7,000,000,000 shall be available  
2 solely for projects primarily benefitting freight rail-  
3 roads other than Class I carriers.

4 “(3) PROPORTION OF UNUSED AMOUNT.—The  
5 Secretary shall not establish any limit on the propor-  
6 tion of the unused amount authorized under this  
7 subsection that may be used for 1 loan or loan guar-  
8 antee.

9 “(e) RATES OF INTEREST.—

10 “(1) DIRECT LOANS.—The interest rate on a  
11 direct loan under this section shall be not less than  
12 the yield on United States Treasury securities of a  
13 similar maturity to the maturity of the secured loan  
14 on the date of execution of the loan agreement.

15 “(2) LOAN GUARANTEES.—The Secretary shall  
16 not make a loan guarantee under this section if the  
17 interest rate for the loan exceeds that which the Sec-  
18 retary determines to be reasonable, taking into con-  
19 sideration the prevailing interest rates and cus-  
20 tomary fees incurred under similar obligations in the  
21 private capital market.

22 “(f) INFRASTRUCTURE PARTNERS.—

23 “(1) AUTHORITY OF SECRETARY.—

24 “(A) IN GENERAL.—In lieu of or in com-  
25 bination with appropriations of budget author-

1           ity to cover the costs of direct loans and loan  
2           guarantees as required under section 504(b)(1)  
3           of the Federal Credit Reform Act of 1990 (2  
4           U.S.C. 661c(b)(1)), including the cost of a  
5           modification of a direct loan or loan guarantee,  
6           the Secretary may accept on behalf of an appli-  
7           cant for assistance under this section a commit-  
8           ment from a non-Federal source, including a  
9           State or local government or agency, or public  
10          benefit corporation or public authority of a  
11          State or local government, to fund, in whole or  
12          in part, credit risk premiums and modification  
13          costs with respect to the loan that is the subject  
14          of the application or modification.

15                 “(B) LIMITATION.—The aggregate of ap-  
16                 propriations of budget authority and credit risk  
17                 premiums described in this paragraph with re-  
18                 spect to a direct loan or loan guarantee shall  
19                 not be less than the cost of that direct loan or  
20                 loan guarantee.

21                 “(2) CREDIT RISK PREMIUM AMOUNT.—The  
22                 Secretary shall determine the amount required for  
23                 credit risk premiums under this subsection on the  
24                 basis of—

1           “(A) the circumstances of the applicant,  
2 including the amount of collateral offered, if  
3 any;

4           “(B) the proposed schedule of loan dis-  
5 bursements;

6           “(C) historical data on the repayment his-  
7 tory of similar borrowers;

8           “(D) consultation with the Congressional  
9 Budget Office; and

10           “(E) any other factors the Secretary con-  
11 siders relevant.

12           “(3) CREDITWORTHINESS.—Upon receipt of a  
13 proposal from an applicant for assistance under this  
14 section, the Secretary shall accept, as a basis for de-  
15 termining the amount of the credit risk premium  
16 under paragraph (2), in addition to the value of any  
17 collateral described in paragraph (5), any of the fol-  
18 lowing :

19           “(A) The net present value of a future  
20 stream of State or local subsidy income or other  
21 dedicated revenues to secure the direct loan or  
22 loan guarantee.

23           “(B) Adequate coverage requirements to  
24 ensure repayment, on a nonrecourse basis, from

1 cash flows generated by the project or any other  
2 dedicated revenue source, including—

3 “(i) tolls;

4 “(ii) user fees, including operating or  
5 tenant charges, facility rents, or other fees  
6 paid by transportation service providers or  
7 operators for access to, or the use of, in-  
8 frastructure, including rail lines, bridges,  
9 tunnels, yards, or stations; and

10 “(iii) payments owing to the obligor  
11 under a public-private partnership.

12 “(C) An investment-grade rating on the di-  
13 rect loan or loan guarantee, as applicable, un-  
14 less the total amount of the direct loan or loan  
15 guarantee is greater than \$150,000,000, in  
16 which case the applicant shall have an invest-  
17 ment-grade rating from not fewer than 2 rating  
18 agencies regarding the direct loan or loan guar-  
19 antee.

20 “(D) A projection of freight or passenger  
21 demand for the project based on regionally de-  
22 veloped economic forecasts, including projec-  
23 tions of any modal diversion resulting from the  
24 project.



1           “(4) PAYMENT OF PREMIUMS.—Credit risk pre-  
2           miums under this subsection shall be paid to the  
3           Secretary before the disbursement of loan amounts  
4           (and in the case of a modification, before the modi-  
5           fication is executed), to the extent appropriations  
6           are not available to the Secretary to meet the costs  
7           of direct loans and loan guarantees, including costs  
8           of modifications of direct loans and loan guarantees.

9           “(5) COLLATERAL.—

10           “(A) TYPES OF COLLATERAL.—An appli-  
11           cant or infrastructure partner may propose tan-  
12           gible and intangible assets as collateral, exclu-  
13           sive of goodwill. The Secretary, after evaluating  
14           each such asset—

15                   “(i) shall accept a net liquidation  
16                   value of collateral; and

17                   “(ii) shall consider and may accept—

18                           “(I) the market value of collat-  
19                           eral; or

20                           “(II) in the case of a blanket  
21                           pledge or assignment of an entire op-  
22                           erating asset or basket of assets as  
23                           collateral, the net liquidation value,  
24                           the market value of assets, or, the

1 market value of the going concern,  
2 considering—

3 “(aa) inclusion in the pledge  
4 of all the assets necessary for  
5 independent operational utility of  
6 the collateral, including tangible  
7 assets such as real property,  
8 track and structure, equipment  
9 and rolling stock, stations, sys-  
10 tems and maintenance facilities  
11 and intangible assets such as  
12 long-term shipping agreements,  
13 easements, leases and access  
14 rights such as for trackage and  
15 haulage;

16 “(bb) interchange commit-  
17 ments; and

18 “(cc) the value of the asset  
19 as determined through the cost  
20 or market approaches, or the  
21 market value of the going con-  
22 cern, with the latter considering  
23 discounted cash flows for a pe-  
24 riod not to exceed the term of the  
25 direct loan or loan guarantee.

1           “(B) APPRAISAL STANDARDS.—In evalu-  
 2           ating appraisals of collateral under subpara-  
 3           graph (A), the Secretary shall consider—

4                   “(i) adherence to the substance and  
 5                   principles of the Uniform Standards of  
 6                   Professional Appraisal Practice, as devel-  
 7                   oped by the Appraisal Standards Board of  
 8                   the Appraisal Foundation;

9                   “(ii) performance of the appraisal by  
 10                  licensed or certified appraisers as may be  
 11                  required by the State of jurisdiction for the  
 12                  type of asset being appraised; and

13                  “(iii) the qualifications of the apprais-  
 14                  ers to value the type of collateral offered.

15          “(g) PREREQUISITES FOR ASSISTANCE.—The Sec-  
 16          retary may not make a direct loan or loan guarantee under  
 17          this section unless the Secretary has made a written find-  
 18          ing that—

19                  “(1) repayment of the obligation is required to  
 20                  be made within a term of the lesser of—

21                   “(A) 35 years after the date of substantial  
 22                   completion of the project; or

23                   “(B) with regard to rail equipment or fa-  
 24                   cilities with estimated useful lives that exceed  
 25                   the term described in subparagraph (A)—

1                   “(i) 50 years after the date of sub-  
2                   stantial completion of the project; or

3                   “(ii) the estimated useful life of the  
4                   rail equipment or facilities to be acquired,  
5                   rehabilitated, improved, developed, or es-  
6                   tablished, subject to an adequate deter-  
7                   mination of long-term risk;

8                   “(2) the direct loan or loan guarantee is justi-  
9                   fied by the present and probable future demand for  
10                  rail services or intermodal facilities;

11                  “(3) the applicant has given reasonable assur-  
12                  ances that the facilities or equipment to be acquired,  
13                  rehabilitated, improved, developed, or established  
14                  with the proceeds of the obligation will be economi-  
15                  cally and efficiently utilized;

16                  “(4) the obligation can reasonably be repaid,  
17                  using an appropriate combination of credit risk pre-  
18                  miums and collateral offered by the applicant to pro-  
19                  tect the Federal Government; and

20                  “(5) the purposes of the direct loan or loan  
21                  guarantee are consistent with subsection (b).

22                  “(h) CONDITIONS OF ASSISTANCE.—

23                  “(1) IN GENERAL.—Before granting assistance  
24                  under this section, the Secretary shall require the  
25                  applicant to agree to such terms and conditions as

1 are sufficient, in the judgment of the Secretary, to  
2 ensure that, as long as any principal or interest is  
3 due and payable on the obligation, the applicant,  
4 and any railroad or railroad partner for whose ben-  
5 efit the assistance is intended—

6 “(A) will not use any funds or assets from  
7 railroad or intermodal operations for purposes  
8 not related to the operations, if the use—

9 “(i) would impair the ability of the  
10 applicant, railroad, or railroad partner to  
11 provide rail or intermodal services in an ef-  
12 ficient and economic manner; or

13 “(ii) would adversely affect the ability  
14 of the applicant, railroad, or railroad part-  
15 ner to perform any obligation entered into  
16 by the applicant under this section;

17 “(B) will, consistent with its capital re-  
18 sources, maintain its capital program, equip-  
19 ment, facilities, and operations on a continuing  
20 basis; and

21 “(C) will not make any discretionary divi-  
22 dend payments that unreasonably conflict with  
23 the purposes stated in subsection (b).

24 “(2) COLLATERAL AND REQUEST FOR ASSIST-  
25 ANCE FROM ANOTHER SOURCE NOT REQUIRED.—

1           “(A) COLLATERAL.—

2                   “(i) IN GENERAL.—The Secretary  
3           may not require an applicant for a direct  
4           loan or loan guarantee under this section  
5           to provide collateral.

6                   “(ii) VALUATION.—Any collateral pro-  
7           vided or enhanced after being provided  
8           shall be valued as a going concern after  
9           giving effect to the present value of im-  
10          provements contemplated by the comple-  
11          tion and operation of the project, if appli-  
12          cable.

13                  “(B) REQUEST FOR ASSISTANCE FROM AN-  
14          OTHER SOURCE.—The Secretary may not re-  
15          quire an applicant for a direct loan or loan  
16          guarantee under this section to have previously  
17          sought the financial assistance requested from  
18          another source.

19                  “(3) REQUIRED COMPLIANCE.—The Secretary  
20          shall require recipients of direct loans or loan guar-  
21          antees under this section to comply with—

22                          “(A) the standards of section 24312, as in  
23                  effect on September 1, 2002, with respect to  
24                  the project in the same manner that Amtrak is  
25                  required to comply with the standards for con-

1           struction work financed under an agreement  
2           made under section 24308(a); and

3           “(B) the protective arrangements estab-  
4           lished under section 22404, with respect to em-  
5           ployees affected by actions taken in connection  
6           with the project to be financed by the direct  
7           loan or loan guarantee.

8           “(4) MATCHING FUNDS.—The Secretary shall  
9           require each recipient of a direct loan or loan guar-  
10          antee under this section, for a project described in  
11          subsection (b)(1)(E), to provide a non-Federal  
12          match of not less than 25 percent of the total  
13          amount expended by the recipient for the project.

14          “(i) APPLICATION PROCESSING PROCEDURES.—

15                 “(1) APPLICATION STATUS NOTICES.—Not later  
16                 than 30 days after the date on which the Secretary  
17                 receives an application under this section, or addi-  
18                 tional information and material under paragraph  
19                 (2)(B), the Secretary shall provide the applicant  
20                 written notice as to whether the application is com-  
21                 plete or incomplete.

22                 “(2) INCOMPLETE APPLICATIONS.—If the Sec-  
23                 retary determines that an application is incomplete,  
24                 the Secretary shall—

1           “(A) provide the applicant with a descrip-  
2           tion of all of the specific information or mate-  
3           rial that is needed to complete the application,  
4           including any information required by an inde-  
5           pendent financial analyst; and

6           “(B) allow the applicant to resubmit the  
7           application with the information and material  
8           described under subparagraph (A) to complete  
9           the application.

10           “(3) APPLICATION APPROVALS AND DIS-  
11           APPROVALS.—

12           “(A) IN GENERAL.—Not later than 45  
13           days after the date on which the Secretary noti-  
14           fies an applicant that an application is complete  
15           under paragraph (1), the Secretary shall pro-  
16           vide the applicant written notice as to whether  
17           the Secretary has approved or disapproved the  
18           application.

19           “(B) ACTIONS BY THE OFFICE OF MAN-  
20           AGEMENT AND BUDGET.—In order to enable  
21           compliance with the time limit under subpara-  
22           graph (A), the Office of Management and  
23           Budget shall take any action required with re-  
24           spect to the application within such 45-day pe-  
25           riod.



1           “(4) STREAMLINED APPLICATION REVIEW  
2 PROCESS.—

3           “(A) IN GENERAL.—Consistent with sec-  
4 tion 116, and not later than 180 days after  
5 date of the enactment of the Railroad Rehabili-  
6 tation and Financing Innovation Act, the Sec-  
7 retary shall make available an expedited appli-  
8 cation process or processes at the request of ap-  
9 plicants seeking loans or loan guarantees.

10           “(B) CRITERIA.—Applicants seeking loans  
11 and loan guarantees issued under this sub-  
12 section shall—

13           “(i) seek a total loan or loan guar-  
14 antee value not exceeding \$100,000,000;

15           “(ii) meet eligible project purposes in-  
16 cluded in subparagraphs (A)(i), (A)(ii),  
17 and (B) of subsection (b)(1); and

18           “(iii) meet other criteria considered  
19 appropriate by the Secretary, in consulta-  
20 tion with the Department of Transpor-  
21 tation Council on Credit and Finance.

22           “(C) EXPEDITED CREDIT REVIEW.—The  
23 total period between the submission of a draft  
24 application and the approval or disapproval of  
25 a loan or loan guarantee for an applicant under

1 this paragraph may not exceed 90 days. If an  
2 application review conducted under this para-  
3 graph exceeds 90 days, the Secretary shall—

4 “(i) provide written notice to the ap-  
5 plicant, including a justification for the  
6 delay and updated estimate of the time  
7 needed for approval or disapproval; and

8 “(ii) post the notice on the dashboard  
9 described in paragraph (5).

10 “(5) DASHBOARD.—The Secretary shall post,  
11 on the Department of Transportation’s internet  
12 website, a monthly report that includes, for each ap-  
13 plication—

14 “(A) the applicant type;

15 “(B) the location of the project;

16 “(C) a brief description of the project, in-  
17 cluding its purpose;

18 “(D) the requested direct loan or loan  
19 guarantee amount;

20 “(E) the date on which the Secretary pro-  
21 vided application status notice under paragraph  
22 (1);

23 “(F) the date that the Secretary provided  
24 notice of approval or disapproval under para-  
25 graph (3); and

1           “(G) whether the project utilized the expedited application process under paragraph (4).

2  
3           “(6) REGULAR CREDITWORTHINESS REVIEW  
4 STATUS REPORTS.—

5           “(A) IN GENERAL.—The Secretary shall  
6 provide to the applicant a regular report containing information related to the application  
7 for a loan or loan guarantee, including—  
8

9                   “(i) a summary of the proposed transaction, including—  
10

11                           “(I) the total value of the proposed loan or loan guarantee;  
12

13                           “(II) the name of the applicant or applicants submitting an application;  
14  
15

16                           “(III) the proposed capital structure of the project to which the loan or loan guarantee would be applied,  
17 including the proposed Federal and  
18 non-Federal shares of the total project  
19 cost;  
20  
21

22                           “(IV) the type of activity to receive credit assistance, including  
23 whether the project—  
24

1                   “(aa) is new construction or  
2                   rehabilitation of existing rail  
3                   equipment or facilities;

4                   “(bb) is a refinancing an ex-  
5                   isting loan or loan guarantee;  
6                   and

7                   “(V) if a deferred payment is  
8                   proposed, the length of such  
9                   deferment;

10                  “(VI) the credit rating or ratings  
11                  provided for the applicant;

12                  “(VII) if other credit instruments  
13                  are involved, the proposed subordina-  
14                  tion relationship and a description of  
15                  such other credit instruments;

16                  “(VIII) a schedule for the readi-  
17                  ness of proposed investments for fi-  
18                  nancing;

19                  “(IX) a description of any Fed-  
20                  eral permits required, including under  
21                  the National Environmental Policy  
22                  Act of 1969 (42 U.S.C. 4321 et seq.)  
23                  and any waivers under section 5323(j)  
24                  of title 49, United States Code (com-

1 monly referred to as the ‘Buy America  
2 Act’); and

3 “(X) other characteristics of the  
4 proposed activity to be financed, bor-  
5 rower, key agreements, or the nature  
6 of the credit that the Secretary con-  
7 siders to be fundamental to the credit-  
8 worthiness review;

9 “(ii) the status of the application in  
10 the pre-application review and selection  
11 process;

12 “(iii) the cumulative amounts paid by  
13 the Secretary to outside advisors related to  
14 the application, including financial and  
15 legal advisors;

16 “(iv) a description of the key rating  
17 factors used by the Secretary to determine  
18 credit risk, including—

19 “(I) the qualitative and quan-  
20 titative factors used to determine risk  
21 for the proposed application;

22 “(II) an adjectival risk rating for  
23 each identified factor, ranked as ei-  
24 ther low, moderate, or high; and

1           “(v) a nonbinding estimate of the  
2           credit risk premium, which may be in the  
3           form of—

4                   “(I) a range, based on the assess-  
5                   ment of risk factors described in  
6                   clause (iv); or

7                   “(II) a justification for why the  
8                   estimate of the credit risk premium  
9                   cannot be determined based on avail-  
10                  able information; and

11           “(vi) a description of key information  
12           the Secretary needs from the applicant to  
13           complete the credit review process and  
14           make a final determination of the credit  
15           risk premium.

16           “(B) REPORT.—The Secretary shall sub-  
17           mit the report described in subparagraph (A)  
18           not less frequently than every 45 days after the  
19           date on which the Secretary presents the first  
20           request to the applicant for funding to pay fees  
21           for advisors described in subparagraph (A)(iii).

22           “(C) EXCEPTION.—The report required  
23           under this paragraph may not be applied to ap-  
24           plications processed using the expedited credit  
25           review process under paragraph (5)(B).

1 “(j) REPAYMENT SCHEDULES.—

2 “(1) IN GENERAL.—The Secretary shall estab-  
3 lish a repayment schedule requiring payments to  
4 commence not later than 5 years after the date of  
5 substantial completion.

6 “(2) ACCRUAL.—Interest shall accrue as of the  
7 date of disbursement, and shall be amortized over  
8 the remaining term of the loan, beginning at the  
9 time the payments begin.

10 “(3) DEFERRED PAYMENTS.—

11 “(A) IN GENERAL.—If, at any time the  
12 date of substantial completion, the obligor is  
13 unable to pay the scheduled loan repayments of  
14 principal and interest on a direct loan provided  
15 under this section, the Secretary, subject to  
16 subparagraph (B), may allow, for a maximum  
17 aggregate time of 1 year over the duration of  
18 the direct loan, the obligor to add unpaid prin-  
19 cipal and interest to the outstanding balance of  
20 the direct loan.

21 “(B) INTEREST.—A payment deferred  
22 under subparagraph (A) shall—

23 “(i) continue to accrue interest under  
24 paragraph (2) until the loan is fully repaid;  
25 and

1                   “(ii) be scheduled to be amortized  
2                   over the remaining term of the loan.

3                   “(4) PREPAYMENTS.—

4                   “(A) USE OF EXCESS REVENUES.—With  
5                   respect to a direct loan provided by the Sec-  
6                   retary under this section, any excess revenues  
7                   that remain after satisfying scheduled debt  
8                   service requirements on the project obligations  
9                   and direct loan and all deposit requirements  
10                  under the terms of any trust agreement, bond  
11                  resolution, or similar agreement securing  
12                  project obligations may be applied annually to  
13                  prepay the direct loan without penalty.

14                  “(B) USE OF PROCEEDS OF REFI-  
15                  NANCING.—The direct loan may be prepaid at  
16                  any time without penalty from the proceeds of  
17                  refinancing from non-Federal funding sources.

18                  “(k) SALE OF DIRECT LOANS.—

19                  “(1) IN GENERAL.—Subject to paragraph (2)  
20                  and as soon as practicable after substantial comple-  
21                  tion of a project, the Secretary, after notifying the  
22                  obligor, may sell to another entity or reoffer into the  
23                  capital markets a direct loan for the project if the  
24                  Secretary determines that the sale or reoffering has  
25                  a high probability of being made on favorable terms.



1           “(2) CONSENT OF OBLIGOR.—In making a sale  
2 or reoffering under paragraph (1), the Secretary  
3 shall not change the original terms and conditions of  
4 the secured loan without the prior written consent of  
5 the obligor.

6           “(1) NONSUBORDINATION.—

7           “(1) IN GENERAL.—Except as provided in para-  
8 graph (2), a direct loan provided by the Secretary  
9 under this section shall not be subordinated to the  
10 claims of any holder of project obligations in the  
11 event of bankruptcy, insolvency, or liquidation of the  
12 obligor.

13           “(2) PREEXISTING INDENTURES.—

14           “(A) IN GENERAL.—The Secretary may  
15 waive the requirement under paragraph (1) for  
16 a public agency borrower that is financing on-  
17 going capital programs and has outstanding  
18 senior bonds under a preexisting indenture if—

19                   “(i) the direct loan is rated in the A  
20 category or higher;

21                   “(ii) the direct loan is secured and  
22 payable from pledged revenues not affected  
23 by project performance, such as a tax-  
24 based revenue pledge or a system-backed  
25 pledge of project revenues; and

1                   “(iii) the program share, under this  
2                   chapter, of eligible project costs is 50 per-  
3                   cent or less.

4                   “(B) LIMITATION.—The Secretary may  
5                   impose limitations for the waiver of the non-  
6                   subordination requirement under this para-  
7                   graph if the Secretary determines that the limi-  
8                   tations would be in the financial interest of the  
9                   Federal Government.

10                  “(m) MASTER CREDIT AGREEMENTS.—

11                   “(1) IN GENERAL.—Subject to paragraph (2)  
12                   and to subsection (d), the Secretary may enter into  
13                   a master credit agreement that is contingent on all  
14                   of the conditions for the provision of a direct loan  
15                   or loan guarantee, as applicable, under this chapter  
16                   and other applicable requirements being satisfied  
17                   prior to the issuance of the direct loan or loan guar-  
18                   antee.

19                   “(2) CONDITIONS.—Each master credit agree-  
20                   ment shall—

21                   “(A) establish the maximum amount and  
22                   general terms and conditions of each applicable  
23                   direct loan or loan guarantee;

24                   “(B) identify 1 or more dedicated non-  
25                   Federal revenue sources that will secure the re-

1 payment of each applicable direct loan or loan  
2 guarantee;

3 “(C) provide for the obligation of funds—

4 “(i) for the direct loans or loan guar-  
5 antees contingent on the meeting of all ap-  
6 plicable requirements and after all require-  
7 ments have been met, for the projects sub-  
8 ject to the master credit agreement; and

9 “(D) provide 1 or more dates, as deter-  
10 mined by the Secretary, before which the mas-  
11 ter credit agreement results in the disbursement  
12 issuance of each of the direct loans or loan  
13 guarantees or in the release of the master cred-  
14 it agreement.

15 **“§ 22403. Administration of direct loans and loan**  
16 **guarantees**

17 “(a) APPLICATIONS.—

18 “(1) IN GENERAL.—The Secretary shall pre-  
19 scribe the form and contents required of applications  
20 for assistance under section 22402, to enable the  
21 Secretary to determine the eligibility of the appli-  
22 cant’s proposal, and shall establish terms and condi-  
23 tions for direct loans and loan guarantees made  
24 under that section, including a program guide, a  
25 standard term sheet, and specific timetables.

1           “(2) DOCUMENTATION.—An applicant meeting  
2           the size standard for small business concerns estab-  
3           lished under section 3(a)(2) of the Small Business  
4           Act (15 U.S.C. 632(a)(2)) may provide unaudited fi-  
5           nancial statements as documentation of historical fi-  
6           nancial information if such statements are accom-  
7           panied by the applicant’s Federal tax returns and  
8           Internal Revenue Service tax verifications for the  
9           corresponding years.

10          “(b) FULL FAITH AND CREDIT.—All guarantees en-  
11          tered into by the Secretary under section 22402 shall con-  
12          stitute general obligations of the United States of America  
13          and shall be backed by the full faith and credit of the  
14          United States of America.

15          “(c) ASSIGNMENT OF LOAN GUARANTEES.—The  
16          holder of a loan guarantee made under section 22402 may  
17          assign the loan guarantee in whole or in part, subject to  
18          such requirements as the Secretary may prescribe.

19          “(d) MODIFICATIONS.—The Secretary may approve  
20          the modification of any term or condition of a direct loan,  
21          loan guarantee, direct loan obligation, or loan guarantee  
22          commitment, including the rate of interest, time of pay-  
23          ment of interest or principal, or security requirements, if  
24          the Secretary finds in writing that—

1           “(1) the modification is equitable and is in the  
2 overall best interests of the United States;

3           “(2) consent has been obtained from the appli-  
4 cant and in the case of a loan guarantee or loan  
5 guarantee commitment, the holder of the obligation;  
6 and

7           “(3) the modification cost has been covered  
8 under section 22402(f).

9           “(e) COMPLIANCE.—The Secretary shall ensure com-  
10 pliance by an applicant, any other party to the loan, and  
11 any railroad or railroad partner for whose benefit assist-  
12 ance is intended, with the provisions of this chapter, regu-  
13 lations issued under this chapter, and the terms and con-  
14 ditions of the direct loan or loan guarantee, including  
15 through regular periodic inspections.

16           “(f) COMMERCIAL VALIDITY.—

17           “(1) IN GENERAL.—For purposes of claims by  
18 any party other than the Secretary, a loan guarantee  
19 or loan guarantee commitment shall be conclusive  
20 evidence that the underlying obligation is in compli-  
21 ance with the provisions of this chapter, and that  
22 the obligation has been approved and is legal as to  
23 principal, interest, and other terms.

24           “(2) VALID AND INCONTESTABLE.—A guar-  
25 antee or commitment under paragraph (1) shall be

1 valid and incontestable in the hands of a holder of  
2 the guarantee or commitment, including the original  
3 lender or any other holder, as of the date when the  
4 Secretary granted the application for the guarantee  
5 or commitment, except as to fraud or material mis-  
6 representation by the holder.

7 “(g) DEFAULT.—

8 “(1) IN GENERAL.—The Secretary shall pre-  
9 scribe regulations setting forth procedures in the  
10 event of default on a loan made or guaranteed under  
11 section 22402.

12 “(2) LOAN GUARANTEES.—The Secretary shall  
13 ensure that each loan guarantee made under section  
14 22402 contains terms and conditions that provide  
15 that—

16 “(A) if a payment of principal or interest  
17 under the loan is in default for more than 30  
18 days, the Secretary shall pay to the holder of  
19 the obligation, or the holder’s agent, the  
20 amount of unpaid guaranteed interest;

21 “(B) if the default has continued for more  
22 than 90 days, the Secretary shall pay to the  
23 holder of the obligation, or the holder’s agent,  
24 90 percent of the unpaid guaranteed principal;

1           “(C) after final resolution of the default,  
2           through liquidation or otherwise, the Secretary  
3           shall pay to the holder of the obligation, or the  
4           holder’s agent, any remaining amounts guaran-  
5           teed but that were not recovered through the  
6           default’s resolution;

7           “(D) the Secretary shall not be required to  
8           make any payment under subparagraphs (A)  
9           through (C) if the Secretary finds, before the  
10          expiration of the periods described in such sub-  
11          paragraphs, that the default has been remedied;  
12          and

13          “(E) the holder of the obligation shall not  
14          receive payment or be entitled to retain pay-  
15          ment in a total amount that, together with all  
16          other recoveries (including any recovery based  
17          upon a security interest in equipment or facili-  
18          ties) exceeds the actual loss of the holder.

19          “(h) RIGHTS OF THE SECRETARY.—

20          “(1) SUBROGATION.—If the Secretary makes  
21          payment to a holder, or a holder’s agent, under sub-  
22          section (g) in connection with a loan guarantee made  
23          under section 22402, the Secretary shall be sub-  
24          rogated to all of the rights of the holder with respect  
25          to the obligor under the loan.

1           “(2) DISPOSITION OF PROPERTY.—The Sec-  
2           retary may complete, recondition, reconstruct, ren-  
3           ovate, repair, maintain, operate, charter, rent, sell,  
4           or otherwise dispose of any property or other inter-  
5           ests obtained pursuant to this section. The Secretary  
6           shall not be subject to any Federal or State regu-  
7           latory requirements when carrying out this para-  
8           graph.

9           “(i) ACTION AGAINST OBLIGOR.—

10           “(1) IN GENERAL.—The Secretary may bring a  
11           civil action in an appropriate Federal court in the  
12           name of the United States in the event of a default  
13           on a direct loan made under section 22402 or in the  
14           name of the United States or of the holder of the  
15           obligation in the event of a default on a loan guar-  
16           anteed under section 22402.

17           “(2) RECORDS AND EVIDENCE.—The holder of  
18           a guarantee shall make available to the Secretary all  
19           records and evidence necessary to prosecute the civil  
20           action.

21           “(3) PROPERTY AS SATISFACTION OF SUMS  
22           OWED.—The Secretary may accept property in full  
23           or partial satisfaction of any sums owed as a result  
24           of a default.

25           “(4) EXCESS AMOUNT.—



1           “(A) PAYMENT TO OBLIGOR.—If the Sec-  
2           retary receives, through the sale or other dis-  
3           position of the property described in paragraph  
4           (3), an excess amount described in subpara-  
5           graph (B), the Secretary shall pay to the obli-  
6           gor the excess amount.

7           “(B) AMOUNT.—An excess amount under  
8           this subparagraph is an amount the exceeds the  
9           aggregate of—

10                   “(i) the amount paid to the holder of  
11                   a guarantee under subsection (g); and

12                   “(ii) any other cost to the United  
13                   States of remedying the default.

14           “(j) BREACH OF CONDITIONS.—The Attorney Gen-  
15           eral shall commence a civil action in an appropriate Fed-  
16           eral court to enjoin any activity that the Secretary finds  
17           is in violation of this chapter, regulations issued under this  
18           chapter, or any conditions that were agreed to, and to se-  
19           cure any other appropriate relief.

20           “(k) ATTACHMENT.—No attachment or execution  
21           may be issued against the Secretary, or any property in  
22           the control of the Secretary, prior to the entry of final  
23           judgment to that effect in any Federal, State, or other  
24           court.

25           “(l) CHARGES AND LOAN SERVICING.—

1           “(1) PURPOSES.—The Secretary may collect  
2 from each applicant, obligor, or loan party a reason-  
3 able charge for—

4           “(A) the cost of evaluating the application,  
5 amendments, modifications, and waivers, in-  
6 cluding for evaluating project viability, appli-  
7 cant creditworthiness, and the appraisal of the  
8 value of the equipment or facilities for which  
9 the direct loan or loan guarantee is sought, and  
10 for making necessary determinations and find-  
11 ings;

12           “(B) to cost of award management and  
13 project management oversight;

14           “(C) the cost of services from expert firms,  
15 including counsel, and independent financial ad-  
16 visors to assist in the underwriting, auditing,  
17 servicing, and exercise of rights with respect to  
18 direct loans and loan guarantees; and

19           “(D) the cost of all other expenses in-  
20 curred as a result of a breach of any term or  
21 condition or any event of default on a direct  
22 loan or loan guarantee.

23           “(2) CHARGE DIFFERENT AMOUNTS.—The Sec-  
24 retary may charge different amounts under this sub-

1 section based on the different costs incurred under  
2 paragraph (1).

3 “(3) SERVICER.—

4 “(A) IN GENERAL.—The Secretary may  
5 appoint a financial entity to assist the Secretary  
6 in servicing a direct loan or loan guarantee  
7 under this chapter.

8 “(B) DUTIES.—A servicer appointed under  
9 subparagraph (A) shall act as the agent of the  
10 Secretary in servicing a direct loan or loan  
11 guarantee under this chapter.

12 “(C) FEES.—A servicer appointed under  
13 subparagraph (A) shall receive a servicing fee  
14 from the obligor or other loan party, subject to  
15 approval by the Secretary.

16 “(4) NATIONAL SURFACE TRANSPORTATION  
17 AND INNOVATIVE FINANCE BUREAU ACCOUNT.—  
18 Amounts collected under this subsection shall—

19 “(A) be credited directly to the National  
20 Surface Transportation and Innovative Finance  
21 Bureau Account; and

22 “(B) remain available until expended to  
23 pay for the costs described in this subsection.

24 “(m) FEES AND CHARGES.—Except as provided in  
25 this chapter, the Secretary may not assess fees, including

1 user fees, or charges in connection with a direct loan or  
2 loan guarantee provided under section 22402.

3 **“§ 22404. Employee protection**

4 “(a) IN GENERAL.—

5 “(1) FAIR AND EQUITABLE ARRANGEMENTS.—

6 Fair and equitable arrangements shall be provided,  
7 in accordance with this section, to protect the inter-  
8 ests of any employees who may be affected by ac-  
9 tions taken pursuant to authorizations or approval  
10 obtained under this chapter.

11 “(2) ARRANGEMENTS BY AGREEMENTS.—The  
12 arrangements under paragraph (1) shall be deter-  
13 mined by the execution of an agreement between the  
14 representatives of the railroads and the representa-  
15 tives of their employees not later than June 4, 1976.

16 “(3) PRESCRIBED ARRANGEMENTS.—In the ab-  
17 sence of an executed agreement under paragraph  
18 (2), the Secretary of Labor shall prescribe the appli-  
19 cable protective arrangements not later than July 4,  
20 1976.

21 “(b) TERMS.—

22 “(1) APPLICABILITY TO EXISTING EMPLOY-  
23 EES.—The arrangements required under subsection  
24 (a) shall apply to each employee who has an employ-  
25 ment relationship with a railroad on the date on

1       which the railroad first applies for financial assist-  
2       ance under this chapter.

3               “(2) INCLUSIONS.—Such arrangements shall  
4       include such provisions as may be necessary for the  
5       negotiation and execution of agreements as to the  
6       manner in which the protective arrangements shall  
7       be applied, including notice requirements.

8               “(3) EXECUTION PRIOR TO IMPLEMENTATION  
9       OF WORK.—The agreements shall be executed prior  
10      to implementation of work funded from financial as-  
11      sistance under this chapter.

12              “(4) ARBITRATION.—

13                   “(A) IN GENERAL.—If an agreement de-  
14      scribed in subsection (a)(2) is not reached with-  
15      in 30 days after the date on which an applica-  
16      tion for the assistance is approved, either party  
17      to the dispute may submit the issue for final  
18      and binding arbitration.

19                   “(B) DECISION.—

20                           “(i) WHEN DECISION IS TO BE REN-  
21      DERED.—The decision on any arbitration  
22      under this paragraph shall be rendered  
23      within 30 days after the submission.

24                           “(ii) EFFECT.—The arbitration deci-  
25      sion—

1                   “(I) shall not modify the protec-  
2                   tion afforded in the protective ar-  
3                   rangements established pursuant to  
4                   this section;

5                   “(II) shall be final and binding  
6                   on the parties to the arbitration; and

7                   “(III) shall become a part of the  
8                   agreement.

9                   “(5) OTHER INCLUSIONS.—The arrangements  
10                  shall also include such provisions as may be nec-  
11                  essary—

12                   “(A) for the preservation of compensation  
13                   (including subsequent general wage increases,  
14                   vacation allowances, and monthly compensation  
15                   guarantees), right, privileges, and benefits (in-  
16                   cluding fringe benefits such as pensions, hos-  
17                   pitalization, and vacations, under the same con-  
18                   ditions and so long as the benefits continue to  
19                   be accorded to other employees of the employ-  
20                   ing railroad in active service or on furlough, as  
21                   the case may be) to the employees under exist-  
22                   ing collective-bargaining agreements or other-  
23                   wise;

24                   “(B) to provide for final and binding arbi-  
25                   tration of any dispute that cannot be settled by

1 the parties with respect to the interpretation,  
2 application, or enforcement of the provisions of  
3 the protective arrangements;

4 “(C) to provide that an employee who is  
5 unable to secure employment by the exercise of  
6 the employee’s seniority rights, as a result of  
7 actions taken with financial assistance obtained  
8 under this chapter, shall be offered reassign-  
9 ment and, where necessary, retraining to fill a  
10 position comparable to the position held at the  
11 time of the adverse effect and for which the em-  
12 ployee is, or by training and retraining can be-  
13 come, physically and mentally qualified, so long  
14 as the offer is not in contravention of collective  
15 bargaining agreements relating to the provi-  
16 sions in this paragraph; and

17 “(D) to provide that the protection af-  
18 farded pursuant to this section shall not be ap-  
19 plicable to employees benefitted solely as a re-  
20 sult of the work that is financed by funds pro-  
21 vided pursuant to this chapter.

22 “(c) SUBCONTRACTING.—The arrangements that are  
23 required to be negotiated by the parties or prescribed by  
24 the Secretary of Labor, pursuant to subsections (a) and  
25 (b), shall include provisions regulating subcontracting by

1 the railroads of work that is financed by funds provided  
2 pursuant to this chapter.

3 **“§ 22405. Substantive criteria and standards**

4 “The Secretary shall publish in the Federal Register  
5 and post on the Department of Transportation website the  
6 substantive criteria and standards used by the Secretary  
7 to determine whether to approve or disapprove applica-  
8 tions submitted under section 22404. The Secretary shall  
9 ensure adequate procedures and guidelines are in place to  
10 permit the filing of complete applications not later than  
11 30 days after such publication.

12 **“§ 22406. Funding**

13 “(a) AUTHORIZATION OF APPROPRIATIONS.—

14 “(1) IN GENERAL.—There are authorized to be  
15 appropriated out of the General Fund for credit as-  
16 sistance under this chapter—

17 “(A) \$30,000,000 for fiscal year 2022;

18 “(B) \$31,000,000 for fiscal year 2023;

19 “(C) \$32,000,000 for fiscal year 2024;

20 “(D) \$33,000,000 for fiscal year 2025;

21 and

22 “(E) \$34,000,000 for fiscal year 2026.

23 “(2) AVAILABILITY.—Amounts appropriated  
24 pursuant to this subsection shall remain available  
25 until expended.



1 “(b) USE OF FUNDS.—

2 “(1) IN GENERAL.—Except as provided in para-  
3 graph (2), amounts appropriated pursuant to this  
4 section shall be used for loans and loan guarantees  
5 with a total value of not more than \$200,000,000.

6 “(2) ADMINISTRATIVE COSTS.—In each fiscal  
7 year, not less than \$3,000,000 of the amounts ap-  
8 propriated pursuant to subsection (a) shall be made  
9 available for the Secretary for use in lieu of charges  
10 collected under section 22403(l)(1) for freight rail-  
11 roads other than Class I carriers and passenger rail-  
12 roads.

13 “(3) SHORT LINE SET-ASIDE.—In each fiscal  
14 year, not less than 50 percent of the amounts appro-  
15 priated pursuant to subsection (a) that remain avail-  
16 able after the set aside described in paragraph (2)  
17 shall be set aside for freight railroads other than  
18 Class I carriers.

19 “(4) PASSENGER RAIL SET-ASIDE.—Any  
20 amounts appropriated pursuant to subsection (a)  
21 that remain available after the set-asides described  
22 in paragraphs (2) and (3) shall be set aside for pas-  
23 senger railroads.”.

1 (b) CLERICAL AMENDMENT.—The table of chapters  
 2 for title 49, United States Code, is amended by inserting  
 3 after the item relating to chapter 223 the following:

“CHAPTER 224—RAILROAD REHABILITATION AND IMPROVEMENT FINANCING  
 PROGRAM”.

4 **SEC. 3. CONFORMING AMENDMENTS.**

5 (a) NATIONAL TRAILS SYSTEM ACT.—Section 8(d)  
 6 of the National Trails System Act (16 U.S.C. 1247(d))  
 7 is amended by inserting “(45 U.S.C. 801 et seq.) and  
 8 chapter 224 of title 49, United States Code” after  
 9 “1976”.

10 (b) PASSENGER RAIL REFORM AND INVESTMENT  
 11 ACT.—Section 11315(c) of the Passenger Rail Reform  
 12 and Investment Act of 2015 (23 U.S.C. 322 note; Public  
 13 Law 114–94) is amended by striking “sections 502 and  
 14 503 of the Railroad Revitalization and Regulatory Reform  
 15 Act of 1976” and inserting “sections 22402 and 22403  
 16 of title 49, United States Code”.

17 (c) PROVISIONS CLASSIFIED IN TITLE 45, UNITED  
 18 STATES CODE.—

19 (1) Section 101 of the Railroad Revitalization  
 20 and Regulatory Reform Act of 1976 (45 U.S.C.  
 21 801) is amended—

22 (A) in subsection (a), in the matter pre-  
 23 ceding paragraph (1), by striking “It is the  
 24 purpose of the Congress in this Act to” and in-

1           serting “The purpose of this Act and chapter  
2           224 of subtitle V of title 49, United States  
3           Code, is to”; and

4           (B) in subsection (b), in the matter pre-  
5           ceding paragraph (1), by striking “It is de-  
6           clared to be the policy of the Congress in this  
7           Act” and inserting “The policy of this Act and  
8           chapter 224 of title 49, United States Code,  
9           is”.

10          (2) Section 11607(b) of the Railroad Infra-  
11          structure Financing Improvement Act (Public Law  
12          114–94; 45 U.S.C. 821 note) is amended by striking  
13          “All provisions under sections 502 through 504 of  
14          the Railroad Revitalization and Regulatory Reform  
15          Act of 1976 (45 U.S.C. 8301 et seq.)” and inserting  
16          “All provisions under section 22404 through 22404  
17          of title 49, United States Code,”.

18          (3) Section 11610(b) of the Railroad Infra-  
19          structure Financing Improvement Act (Public Law  
20          114–94; 45 U.S.C. 821 note) is amended by striking  
21          “section 502(f) of the Railroad Revitalization and  
22          Regulatory Reform Act of 1976 (45 U.S.C. 822(f)),  
23          as amended by section 11607 of this Act” and in-  
24          serting “section 22402(f) of title 49, United States  
25          Code”.

1           (4) Section 7203(b)(2) of the Transportation  
2           Equity Act for the 21st Century (Public Law 105–  
3           178; 45 U.S.C. 821 note) is amended by striking  
4           “title V of the Railroad Revitalization and Regu-  
5           latory Reform Act of 1976 (45 U.S.C. 821 et seq.)”  
6           and inserting “chapter 224 of title 49, United States  
7           Code,”.

8           (5) Section 212(d)(1) of Hamm Alert Maritime  
9           Safety Act of 2018 (title II of Public Law 115–265;  
10          45 U.S.C. 822 note) is amended, in the matter pre-  
11          ceding subparagraph (A), by striking “for purposes  
12          of section 502(f)(4) of the Railroad Revitalization  
13          and Regulatory Reform Act of 1976 (45 U.S.C.  
14          822(f)(4))” and inserting “for purposes of section  
15          22402 of title 49, United States Code”.

16          (6) Section 15(f) of the Milwaukee Railroad Re-  
17          structuring Act (45 U.S.C. 914(f)) is amended by  
18          striking “Section 516 of the Railroad Revitalization  
19          and Regulatory Reform Act of 1976 (45 U.S.C.  
20          836)” and inserting “Section 22404 of title 49,  
21          United States Code,”.

22          (7) Section 104(b) of the Rock Island Railroad  
23          Transition and Employee Assistance Act (45 U.S.C.  
24          1003(b)) is amended—

1 (A) in paragraph (1), by striking “title V  
2 of the Railroad Revitalization and Regulatory  
3 Reform Act of 1976 (45 U.S.C. 821 et seq.)”  
4 and inserting “chapter 224 of title 49, United  
5 States Code,”; and

6 (B) in paragraph (2), by striking “title V  
7 of the Railroad Revitalization and Regulatory  
8 Reform Act of 1976, and section 516 of such  
9 Act (45 U.S.C. 836)” and inserting “chapter  
10 224 of title 49, United States Code, and section  
11 22404 of title 49, United States Code,”.

12 (8) Section 104(b)(2) of the Rock Island Rail-  
13 road Transition and Employee Assistance Act (45  
14 U.S.C. 1003(b)(2)) is amended by striking “title V  
15 of the Railroad Revitalization and Regulatory Re-  
16 form Act of 1976, and section 516 of such Act (45  
17 U.S.C. 836)” and inserting “chapter 224 of title 49,  
18 United States Code, and section 22404 of such title  
19 49,”.

20 (d) TITLE 49.—

21 (1) Section 116(d)(1)(B) of title 49, United  
22 States Code, is amended by striking “sections 501  
23 through 503 of the Railroad Revitalization and Reg-  
24 ulatory Reform Act of 1976 (45 U.S.C. 821–823)”

1 and inserting “sections 22401 through 22403 of this  
2 title”.

3 (2) Section 306(b) of title 49, United States  
4 Code, is amended—

5 (A) by striking “chapter 221 or 249 of this  
6 title,” and inserting “chapter 221, 224, or 249  
7 of this title,”; and

8 (B) by striking “, or title V of the Railroad  
9 Revitalization and Regulatory Reform Act of  
10 1976 (45 U.S.C. 821 et seq.)”.

11 (3) Section 11311(d) of the Passenger Rail Re-  
12 form and Investment Act of 2015 (Public Law 114-  
13 94; 49 U.S.C. 20101 note) is amended by striking  
14 “, and section 502 of the Railroad Revitalization  
15 and Regulatory Reform Act of 1976 (45 U.S.C.  
16 822)”.

17 (4) Section 205(g) of the Passenger Rail In-  
18 vestment and Improvement Act of 2008 (division B  
19 of Public Law 110-432; 49 U.S.C. 24101 note) is  
20 amended by striking “title V of the Railroad Revital-  
21 ization and Regulatory Reform Act of 1976 (45  
22 U.S.C. 821 et seq.)” and inserting “chapter 224 of  
23 title 49, United States Code”.

24 (5) Section 22905(e)(2)(B) of title 49, United  
25 States Code, is amended by striking “section 504 of

1 the Railroad Revitalization and Regulatory Reform  
2 Act of 1976 (45 U.S.C. 836)” and inserting “section  
3 22404 of this title”.

4 (6) Section 24903 of title 49, United States  
5 Code, is amended—

6 (A) in subsection (a)(6), by striking “and  
7 the Railroad Revitalization and Regulatory Re-  
8 form Act of 1976 (45 U.S.C. 801 et seq.)” and  
9 inserting “, the Railroad Revitalization and  
10 Regulatory Reform Act of 1976 (45 U.S.C. 801  
11 et seq.), and chapter 224 of this title”; and

12 (B) in subsection (c)(2), by striking “and  
13 the Railroad Revitalization and Regulatory Re-  
14 form Act of 1976 (45 U.S.C. 801 et seq.)” and  
15 inserting “, the Railroad Revitalization and  
16 Regulatory Reform Act of 1976 (45 U.S.C. 801  
17 et seq.), and chapter 224 of this title”.

18 **SEC. 4. TRANSITIONAL AND SAVINGS PROVISIONS.**

19 (a) DEFINITIONS.—In this section:

20 (1) RESTATED PROVISION.—The term “restated  
21 provision” means a provision of chapter 224 of title  
22 49, United States Code, as added by section 2.

23 (2) SOURCE PROVISION.—The term “source  
24 provision” means a provision of law that is replaced  
25 by a restated provision.

1 (b) CUTOFF DATE.—

2 (1) IN GENERAL.—The restated provisions re-  
3 place certain source provisions enacted on or before  
4 December 31, 2020.

5 (2) SUBSEQUENT AMENDMENTS AND RE-  
6 PEALS.—If a law enacted after December 31, 2020  
7 amends or repeals a source provision, that law is  
8 deemed to amend or repeal, as the case may be, the  
9 corresponding restated provision. If a law enacted  
10 after December 31, 2020 is otherwise inconsistent  
11 with a restated provision of this Act, that law super-  
12 sedes the restated provision of this Act to the extent  
13 of the inconsistency.

14 (c) ORIGINAL DATE OF ENACTMENT UNCHANGED.—  
15 A restated provision is deemed to have been enacted on  
16 the date of enactment of the corresponding source provi-  
17 sion.

18 (d) REFERENCES TO RESTATED PROVISIONS.—A  
19 reference to a restated provision is deemed to refer to the  
20 corresponding source provision.

21 (e) REFERENCES TO SOURCE PROVISIONS.—A ref-  
22 erence to a source provision, including a reference in a  
23 regulation, order, or other law, is deemed to refer to the  
24 corresponding restated provision.



1 (f) REGULATIONS, ORDERS, AND OTHER ADMINIS-  
 2 TRATIVE ACTIONS.—A regulation, order, or other admin-  
 3 istrative action in effect under a source provision con-  
 4 tinues in effect under the corresponding restated provi-  
 5 sion.

6 (g) ACTIONS TAKEN AND OFFENSES COMMITTED.—  
 7 An action taken or an offense committed under a source  
 8 provision is deemed to have been taken or committed  
 9 under the corresponding restated provision.

10 **SEC. 5. REPEALS.**

11 The following provisions of law are repealed, except  
 12 with respect to rights and duties that matured, penalties  
 13 that were incurred, or proceedings that were begun before  
 14 the date of enactment of this Act:

Schedule of Laws Repealed

Act	Section	United States Code Former Classification
Railroad Revitalization and Regu- latory Reform Act of 1976 (Public Law 94–210) .....	501 .....	45 U.S.C. 821.
	502 .....	45 U.S.C. 822.
	503 .....	45 U.S.C. 823.
	504 .....	45 U.S.C. 836.
Safe, Accountable, Flexible, Effi- cient Transportation Equity Act: A Legacy for Users or SAFETEA-LU (Public Law 109– 59) .....	9003(j) .....	45 U.S.C. 822 note.

