

Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing any proposal with respect to subparagraphs (B) through (K) of subsection (a)(1) that are selected by the Secretary under paragraph (1) of this subsection, all the information regarding the proposal provided to the Secretary under subsection (d), and any other relevant information deemed appropriate.

“(3) The report required under paragraph (2) shall not be submitted by the Secretary until the report submitted under paragraph (1) has been considered through a hearing by the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the report submitted under paragraph (1)(B).

“(f) PRELIMINARY ENGINEERING.—For planning and preliminary engineering activities that meet the criteria of section 26101 of title 49, United States Code, (other than subsections (a) and (b)(2)) that are undertaken after the Secretary submits reports to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate as required under subsection (e), not to exceed \$5,000,000 is authorized to be appropriated from funds made available under section 26104(a) of such title. Only 1 proposal for each corridor under subsection (a) shall be eligible for such funds.

“(g) NO ACTIONS WITHOUT ADDITIONAL AUTHORITY.—No Federal agency may take any action to implement, establish, facilitate, or otherwise act upon any proposal submitted under this section, other than those actions specifically authorized by this section, without explicit statutory authority enacted after the date of enactment of this Act [Oct. 16, 2008].

“(h) DEFINITIONS.—In this section, the following definitions apply:

“(1) INTERCITY PASSENGER RAIL.—The term ‘intercity passenger rail’ means intercity rail passenger transportation as defined in section 24102 of title 49, United States Code.

“(2) STATE.—The term ‘State’ means any of the 50 States or the District of Columbia.

“(3) NORTHEAST CORRIDOR.—The term ‘Northeast Corridor’ has the meaning given under section 24102 of title 49, United States Code.

“(4) HIGH-SPEED RAIL CORRIDOR.—The terms ‘high-speed rail corridor’ and ‘corridor’ mean a corridor designated by the Secretary pursuant to section 104(d)(2) of title 23, United States Code, and the Northeast Corridor.”

PART E—MISCELLANEOUS

AMENDMENTS

1994—Pub. L. 103-440, title I, §103(a)(1), Nov. 2, 1994, 108 Stat. 4616, redesignated part D of this subtitle as part E.

CHAPTER 281—LAW ENFORCEMENT

Sec.	
28101.	Rail police officers.
28102.	Limit on certain accident or incident liability.
28103.	Limitations on rail passenger transportation liability.

AMENDMENTS

1997—Pub. L. 105-134, title I, §161(b), Dec. 2, 1997, 111 Stat. 2578, added item 28103.

1994—Pub. L. 103-440, title I, §103(a)(1), (b)(2), Nov. 2, 1994, 108 Stat. 4616, 4619, renumbered chapter 261 of this title as chapter 281 and items 26101 and 26102 as 28101 and 28102, respectively.

UNITED STATES-CANADA ALASKA RAIL COMMISSION

Pub. L. 106-570, title III, Dec. 27, 2000, 114 Stat. 3043, provided that:

“SEC. 301. SHORT TITLE.

“This title may be cited as the ‘Rails to Resources Act of 2000’.

“SEC. 302. FINDINGS.

“Congress finds that—

“(1) rail transportation is an essential component of the North American intermodal transportation system;

“(2) the development of economically strong and socially stable communities in the western United States and Canada was encouraged significantly by government policies promoting the development of integrated transcontinental, interstate and interprovincial rail systems in the States, territories and provinces of the two countries;

“(3) United States and Canadian federal support for the completion of new elements of the transcontinental, interstate and interprovincial rail systems was halted before rail connections were established to the State of Alaska and the Yukon Territory;

“(4) rail transportation in otherwise isolated areas facilitates controlled access and may reduce overall impact to environmentally sensitive areas;

“(5) the extension of the continental rail system through northern British Columbia and the Yukon Territory to the current terminus of the Alaska Railroad would significantly benefit the United States and Canadian visitor industries by facilitating the comfortable movement of passengers over long distances while minimizing effects on the surrounding areas; and

“(6) ongoing research and development efforts in the rail industry continue to increase the efficiency of rail transportation, ensure safety, and decrease the impact of rail service on the environment.

“SEC. 303. AGREEMENT FOR A UNITED STATES-CANADA BILATERAL COMMISSION.

“The President is authorized and urged to enter into an agreement with the Government of Canada to establish an independent joint commission to study the feasibility and advisability of linking the rail system in Alaska to the nearest appropriate point on the North American continental rail system.

“SEC. 304. COMPOSITION OF COMMISSION.

“(a) MEMBERSHIP.—

“(1) TOTAL MEMBERSHIP.—The Agreement should provide for the Commission to be composed of 24 members, of which 12 members are appointed by the President and 12 members are appointed by the Government of Canada.

“(2) GENERAL QUALIFICATIONS.—The Agreement should provide for the membership of the Commission, to the maximum extent practicable, to be representative of—

“(A) the interests of the local communities (including the governments of the communities), aboriginal peoples, and businesses that would be affected by the connection of the rail system in Alaska to the North American continental rail system; and

“(B) a broad range of expertise in areas of knowledge that are relevant to the significant issues to be considered by the Commission, including economics, engineering, management of resources, social sciences, fish and game management, environmental sciences, and transportation.

“(b) UNITED STATES MEMBERSHIP.—If the United States and Canada enter into an agreement providing for the establishment of the Commission, the President shall appoint the United States members of the Commission as follows:

“(1) Two members from among persons who are qualified to represent the interests of communities and local governments of Alaska.

“(2) One member representing the State of Alaska, to be nominated by the Governor of Alaska.

“(3) One member from among persons who are qualified to represent the interests of Native Alas-

kans residing in the area of Alaska that would be affected by the extension of rail service.

“(4) Three members from among persons involved in commercial activities in Alaska who are qualified to represent commercial interests in Alaska, of which one shall be a representative of the Alaska Railroad Corporation.

“(5) One member representing United States Class I rail carriers and one member representing United States rail labor.

“(6) Three members with relevant expertise, at least one of whom shall be an engineer with expertise in subarctic transportation and at least one of whom shall have expertise on the environmental impact of such transportation.

“(c) CANADIAN MEMBERSHIP.—The Agreement should provide for the Canadian membership of the Commission to be representative of broad categories of interests of Canada as the Government of Canada determines appropriate, consistent with subsection (a)(2).

“SEC. 305. GOVERNANCE AND STAFFING OF COMMISSION.

“(a) CHAIRMAN.—The Agreement should provide for the Chairman of the Commission to be elected from among the members of the Commission by a majority vote of the members.

“(b) COMPENSATION AND EXPENSES OF UNITED STATES MEMBERS.—

“(1) COMPENSATION.—Each member of the Commission appointed by the President who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. Each such member who is an officer or employee of the United States shall serve without compensation in addition to that received for services as an officer or employee of the United States.

“(2) TRAVEL EXPENSES.—The members of the Commission appointed by the President shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

“(c) STAFF.—

“(1) IN GENERAL.—The Agreement should provide for the appointment of a staff and an executive director to be the head of the staff.

“(2) COMPENSATION.—Funds made available for the Commission by the United States may be used to pay the compensation of the executive director and other personnel at rates fixed by the Commission that are not in excess of the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

“(d) OFFICE.—The Agreement should provide for the office of the Commission to be located in a mutually agreed location within the impacted areas of Alaska, the Yukon Territory, and northern British Columbia.

“(e) MEETINGS.—The Agreement should provide for the Commission to meet at least biannually to review progress and to provide guidance to staff and others, and to hold, in locations within the affected areas of Alaska, the Yukon Territory and northern British Columbia, such additional informational or public meetings as the Commission deems necessary to the conduct of its business.

“(f) PROCUREMENT OF SERVICES.—The Agreement should authorize and encourage the Commission to procure by contract, to the maximum extent practicable, the services (including any temporary and intermittent services) that the Commission determines necessary for carrying out the duties of the Commission. In the case of any contract for the services of an individual, funds

made available for the Commission by the United States may not be used to pay for the services of the individual at a rate that exceeds the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

“SEC. 306. DUTIES.

“(a) STUDY.—

“(1) IN GENERAL.—The Agreement should provide for the Commission to study and assess, on the basis of all available relevant information, the feasibility and advisability of linking the rail system in Alaska to the North American continental rail system through the continuation of the rail system in Alaska from its northeastern terminus to a connection with the continental rail system in Canada.

“(2) SPECIFIC ISSUES.—The Agreement should provide for the study and assessment to include the consideration of the following issues:

“(A) Railroad engineering.

“(B) Land ownership.

“(C) Geology.

“(D) Proximity to mineral, timber, tourist, and other resources.

“(E) Market outlook.

“(F) Environmental considerations.

“(G) Social effects, including changes in the use or availability of natural resources.

“(H) Potential financing mechanisms.

“(3) ROUTE.—The Agreement should provide for the Commission, upon finding that it is feasible and advisable to link the rail system in Alaska as described in paragraph (1), to determine one or more recommended routes for the rail segment that establishes the linkage, taking into consideration cost, distance, access to potential freight markets, environmental matters, existing corridors that are already used for ground transportation, the route surveyed by the Army Corps of Engineers during World War II and such other factors as the Commission determines relevant.

“(4) COMBINED CORRIDOR EVALUATION.—The Agreement should also provide for the Commission to consider whether it would be feasible and advisable to combine the power transmission infrastructure and petroleum product pipelines of other utilities into one corridor with a rail extension of the rail system of Alaska.

“(b) REPORT.—The Agreement should require the Commission to submit to Congress and the Secretary of Transportation and to the Minister of Transport of the Government of Canada, not later than 3 years after the Commission commencement date, a report on the results of the study, including the Commission's findings regarding the feasibility and advisability of linking the rail system in Alaska as described in subsection (a)(1) and the Commission's recommendations regarding the preferred route and any alternative routes for the rail segment establishing the linkage.

“SEC. 307. COMMENCEMENT AND TERMINATION OF COMMISSION.

“(a) COMMENCEMENT.—The Agreement should provide for the Commission to begin to function on the date on which all members are appointed to the Commission as provided for in the Agreement.

“(b) TERMINATION.—The Commission should be terminated 90 days after the date on which the Commission submits its report under section 306.

“SEC. 308. FUNDING.

“(a) RAILS TO RESOURCES FUND.—The Agreement should provide for the following:

“(1) ESTABLISHMENT.—The establishment of an interest-bearing account to be known as the ‘Rails to Resources Fund’.

“(2) CONTRIBUTIONS.—The contribution by the United States and the Government of Canada to the Fund of amounts that are sufficient for the Commission to carry out its duties.

“(3) AVAILABILITY.—The availability of amounts in the Fund to pay the costs of Commission activities.

“(4) DISSOLUTION.—Dissolution of the Fund upon the termination of the Commission and distribution of the amounts remaining in the Fund between the United States and the Government of Canada.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to any fund established for use by the Commission as described in subsection (a)(1) \$6,000,000, to remain available until expended.

“SEC. 309. DEFINITIONS.

“In this title:

“(1) AGREEMENT.—The term ‘Agreement’ means an agreement described in section 303.

“(2) COMMISSION.—The term ‘Commission’ means a commission established pursuant to any Agreement.”

§ 28101. Rail police officers

(a) IN GENERAL.—Under regulations prescribed by the Secretary of Transportation, a rail police officer who is employed by a rail carrier and certified or commissioned as a police officer under the laws of a State may enforce the laws of any jurisdiction in which the rail carrier owns property, to the extent of the authority of a police officer certified or commissioned under the laws of that jurisdiction, to protect—

- (1) employees, passengers, or patrons of the rail carrier;
(2) property, equipment, and facilities owned, leased, operated, or maintained by the rail carrier;
(3) property moving in interstate or foreign commerce in the possession of the rail carrier; and
(4) personnel, equipment, and material moving by rail that are vital to the national defense.

(b) ASSIGNMENT.—A railroad police officer employed by a railroad carrier and certified or commissioned as a police officer under the laws of a State may be temporarily assigned to assist a second railroad carrier in carrying out law enforcement duties upon the request of the second railroad carrier, at which time the police officer shall be considered to be an employee of the second railroad carrier and shall have authority to enforce the laws of any jurisdiction in which the second railroad carrier owns property to the same extent as provided in subsection (a).

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 939, §26101; renumbered §28101, Pub. L. 103-440, title I, §103(a)(1), Nov. 2, 1994, 108 Stat. 4616; amended Pub. L. 110-53, title XV, §1526(a), Aug. 3, 2007, 121 Stat. 452.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 26101, 45:446, Nov. 29, 1990, Pub. L. 101-647, §1704, 104 Stat. 4846.

The words “to the extent of the authority of a police officer certified or commissioned under the laws of that jurisdiction” are placed before clause (1) rather than at the end of clause (4), as in the source provision, to reflect the probable intent of Congress.

AMENDMENTS

2007—Pub. L. 110-53 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1994—Pub. L. 103-440 renumbered section 26101 of this title as this section.

§ 28102. Limit on certain accident or incident liability

(a) GENERAL.—When a publicly financed commuter transportation authority established under Virginia law makes a contract to indemnify Amtrak for liability for operations conducted by or for the authority or to indemnify a rail carrier over whose tracks those operations are conducted, liability against Amtrak, the authority, or the carrier for all claims (including punitive damages) arising from an accident or incident in the District of Columbia related to those operations may not be more than the limits of the liability coverage the authority maintains to indemnify Amtrak or the carrier.

(b) MINIMUM REQUIRED LIABILITY COVERAGE.—A publicly financed commuter transportation authority referred to in subsection (a) of this section must maintain a total minimum liability coverage of at least \$200,000,000.

(c) EFFECTIVENESS.—This section is effective only after Amtrak or a rail carrier seeking an indemnification contract under this section makes an operating agreement with a publicly financed commuter transportation authority established under Virginia law to provide access to its property for revenue transportation related to the operations of the authority.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 940, §26102; renumbered §28102, Pub. L. 103-440, title I, §103(a)(1), Nov. 2, 1994, 108 Stat. 4616.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Rows 1-3: 26102(a), 26102(b), 26102(c) with corresponding source information.

In subsection (a), the words “Notwithstanding any other provision of law”, “whether for compensatory or”, and “occurring” are omitted as surplus.

In subsection (c), the words “an indemnification contract” are substituted for “coverage” for clarity.

AMENDMENTS

1994—Pub. L. 103-440 renumbered section 26102 of this title as this 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.

(Added Pub. L. 105-134, title I, §161(a), Dec. 2, 1997, 111 Stat. 2577.)

REFERENCES IN TEXT

The Federal Employers’ Liability Act, referred to in subsec. (d), is act Apr. 22, 1908, ch. 149, 35 Stat. 65, as amended, which is classified generally to chapter 2 (§51 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see Short Title note set out under section 51 of Title 45 and Tables.

CHAPTER 283—STANDARD WORK DAY

Sec.	
28301.	General.
28302.	Penalties.

§ 28301. General

(a) EIGHT HOUR DAY.—In contracts for labor and service, 8 hours shall be a day’s work and the standard day’s work for determining the compensation for services of an employee em-

ployed by a common carrier by railroad subject to subtitle IV of this title and actually engaged in any capacity in operating trains used for transporting passengers or property on railroads from—

(1) a State of the United States or the District of Columbia to any other State or the District of Columbia;

(2) one place in a territory or possession of the United States to another place in the same territory or possession;

(3) a place in the United States to an adjacent foreign country; or

(4) a place in the United States through a foreign country to any other place in the United States.

(b) APPLICATION.—Subsection (a) of this section—

(1) does not apply to—

(A) an independently owned and operated railroad not exceeding one hundred miles in length;

(B) an electric street railroad; and

(C) an electric interurban railroad; but

(2) does apply to an independently owned and operated railroad less than one hundred miles in length—

(A) whose principal business is leasing or providing terminal or transfer facilities to other railroads; or

(B) engaged in transfers of freight between railroads or between railroads and industrial plants.

(Added Pub. L. 104-287, §5(56)(A), Oct. 11, 1996, 110 Stat. 3394.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
28301	45:65. (uncodified).	Sept. 3, 5, 1916, ch. 436, §1, 39 Stat. 721. Sept. 3, 5, 1916, ch. 436, §§2, 3, 39 Stat. 721.

In subsection (a), the word “determining” is substituted for “reckoning” for clarity. The words “who are not or may hereafter be employed” are omitted as surplus. In clause (1), the words “or territory” are omitted because the existing territories of the United States are now connected to the United States by rail. In clause (2), the words “or possession of the United States” are added for consistency in the revised title and with other titles of the United States Code.

The text of sections 2 and 3 of the Act of September 3, 5, 1916 (ch. 436, 39 Stat. 721), is omitted to eliminate executed provisions.

§ 28302. Penalties

A person violating section 28301 of this title shall be fined under title 18, imprisoned not more than one year, or both.

(Added Pub. L. 104-287, §5(56)(A), Oct. 11, 1996, 110 Stat. 3394.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
28302	45:66.	Sept. 3, 5, 1916, ch. 436, §4, 39 Stat. 722.

The words “shall be guilty of a misdemeanor” are omitted, and the words “shall be fined under title 18”