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(Original Signature of Member)

115TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To amend the interstate Compact governing the Washington Metropolitan Area Transit Authority, and for other purposes.

\_\_\_\_\_

Mrs. COMSTOCK introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_

## **A BILL**

To amend the interstate Compact governing the Washington Metropolitan Area Transit Authority, 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.**

4       This Act may be cited as the “Metro Efficiency,  
5       Transparency, Reliability, Oversight, Accountability and  
6       Reform Act, or the METRO Accountability and Reform  
7       Act”.

1 **SEC. 2. DEFINITIONS.**

2 For the purposes of this Act:

3 (1) **ACADEMY.**—The term “Academy” means  
4 the National Academy of Public Administration.

5 (2) **APPROPRIATE CONGRESSIONAL COMMIT-**  
6 **TEES.**—The term “appropriate congressional com-  
7 mittees” means—

8 (A) the House Committees on Transpor-  
9 tation and Infrastructure, Oversight and Gov-  
10 ernment Reform, the Judiciary, and Appropria-  
11 tions; and

12 (B) the Senate Committees on Commerce,  
13 Science, and Transportation; Banking, Hous-  
14 ing, and Urban Development; the Judiciary;  
15 and Appropriations.

16 (3) **AUTHORITY.**—The term “Authority” means  
17 the Washington Metropolitan Area Transit Author-  
18 ity established under article III of the compact  
19 (Public Law 89–774; 80 Stat. 1324).

20 (4) **BOARD.**—The term “Board” means the  
21 Board of Directors of the Washington Metropolitan  
22 Area Transit Authority.

23 (5) **COMMISSION.**—The term “Commission”  
24 means the Metro Reform Commission.

1           (6) COMPACT.—The term “Compact” means  
2 the Washington Metropolitan Area Transit Author-  
3 ity Compact.

4           (7) DIRECTOR.—The term “Director” means a  
5 member of the Board of Directors of the Wash-  
6 ington Metropolitan Area Transit Authority.

7           (8) SECRETARY.—The term “Secretary” means  
8 the Secretary of Transportation.

9           (9) SIGNATORY.—The term “Signatory” means  
10 the State of Maryland, the Commonwealth of Vir-  
11 ginia, or the District of Columbia.

12           (10) STATE.—The term “State” includes the  
13 District of Columbia.

14           (11) WMATA.—The term “WMATA” means  
15 the Washington Metropolitan Area Transit Author-  
16 ity.

17           (12) WASHINGTON METROPOLITAN AREA TRAN-  
18 SIT ZONE.—The term “Washington Metropolitan  
19 Area Transit Zone” means the zone created by and  
20 described in section 3 of the Compact, as well as any  
21 additional area that may be added pursuant to sec-  
22 tion 83(a) of such Compact.

23 **SEC. 3. FINDINGS.**

24 Congress finds the following:

1           (1) The Washington Metropolitan Area Transit  
2 Authority is the public transit system of the Wash-  
3 ington metropolitan area and is essential for the  
4 continued and effective performance of the functions  
5 of the Federal Government, and for the orderly  
6 movement of people during major events and times  
7 of regional or national emergency.

8           (2) WMATA, through Metrorail and Metrobus,  
9 serve a population of 4 million within a 1,500  
10 square-mile area.

11           (3) Thirty-five Metrorail stations serve Federal  
12 facilities and 40 percent of Metrorail's peak period  
13 commuters are Federal employees.

14           (4) The governments of Virginia, Maryland,  
15 and the District of Columbia, as well as the Federal  
16 Government, have invested substantially in WMATA,  
17 which operates and maintains approximately  
18 \$40,000,000,000 in physical assets.

19           (5) In addition to regional commuters and local  
20 residents, WMATA serves millions of individuals  
21 from around the world visiting Washington for busi-  
22 ness or tourism.

23           (6) It is a vital interest of the Federal Govern-  
24 ment to support WMATA and work constructively  
25 with Virginia, Maryland, and the District of Colum-

1       bia to ensure the long-term viability of “America’s  
2       Subway”.

3                   **TITLE I—METRO REFORM**  
4                   **BOARD**

5   **SEC. 101. REAUTHORIZATION OF PRIA.**

6       Section 601(f) of the Passenger Rail Investment and  
7   Improvement Act of 2008 (Public Law 110–432; 126  
8   Stat. 4968) is amended to read as follows:

9       “(f) AMOUNT.—There are authorized to be appro-  
10   priated to the Secretary of Transportation for grants  
11   under this section \$150,000,000 for each fiscal year end-  
12   ing in fiscal year 2029.”.

13   **SEC. 102. METRO REFORM BOARD.**

14       (a) IN GENERAL.—At a time determined by the Sec-  
15   retary pursuant to subsection (b), the Secretary, in con-  
16   sultation with the Signatories, and subject the criteria in  
17   section 103, shall issue language to amend the Compact  
18   to establish a Metro Reform Board and transmit such lan-  
19   guage to the Signatories, the funding jurisdictions, and  
20   the appropriate congressional committees. The Secretary  
21   shall not release any funds authorized under section 101  
22   until the Secretary certifies that the Signatories have en-  
23   acted such language.

24       (b) DETERMINATION OF PROGRESS, TIMELINE FOR  
25   ISSUANCE.—

1           (1) IN GENERAL.—On the date of enactment of  
2           this Act, the Secretary shall monitor the progress  
3           being made by each of the Signatories with respect  
4           to making changes to improve all facets of the Au-  
5           thority. Subject to the terms described in this sub-  
6           section, the Secretary shall have discretionary au-  
7           thority in terms of the date upon which the Sec-  
8           retary issues the language described in subsection  
9           (a).

10           (2) RANGE OF DATES.—The Secretary shall  
11           issue language not sooner than February 14, 2018,  
12           but not later than July 1, 2018.

13           (3) CERTIFICATION.—Upon issuance of the lan-  
14           guage described in subsection (a), the Secretary  
15           shall transmit a written explanation to the Signato-  
16           ries and the appropriate congressional committees  
17           explaining the reasoning and justification employed  
18           to move forward at such time.

19 **SEC. 103. PROVISIONS TO BE INCLUDED BY SECRETARY.**

20           (a) IN GENERAL.—In carrying out section 102, the  
21           Secretary shall include specific criteria prescribed in this  
22           section, and shall ensure that the language meets the stat-  
23           ed objectives in this section.

1 (b) PURPOSE.—The Metro Reform Board shall work  
2 expeditiously to improve all facets of the Authority, includ-  
3 ing—

4 (1) the short-, medium-, and long-term financial  
5 outlook;

6 (2) general operations;

7 (3) management and governing structure;

8 (4) maintaining a state of good repair;

9 (5) the pension and retirement benefits pro-  
10 grams;

11 (6) labor relations; and

12 (7) culture of safety.

13 (c) DURATION OF METRO REFORM BOARD.—The  
14 Metro Reform Board shall remain in place for not less  
15 than 3 years after the date it is established pursuant to  
16 this title.

17 (d) BOARD OF DIRECTORS.—The Metro Reform  
18 Board shall be composed of 5 Directors, of whom—

19 (1) 1 shall be appointed by the Northern Vir-  
20 ginia Transportation Commission, in consultation  
21 with the Governor of Virginia;

22 (2) 1 shall be appointed by the Governor of  
23 Maryland, in consultation with the Washington Sub-  
24 urban Transit Commission;

1           (3) 1 shall be appointed by the Mayor of the  
2           District of Columbia, in consultation with the City  
3           Council of the District of Columbia;

4           (4) 1 shall be selected by the 3 other Directors  
5           of the Reform Board from a list of candidates se-  
6           lected by the Secretary of Transportation; and

7           (5) 1 shall be appointed by the Secretary of  
8           Transportation, and that Director shall serve as  
9           Chairperson.

10          (e) QUALIFICATIONS.—The Directors of the Metro  
11          Reform Board, to the greatest extent practicable, shall  
12          possess demonstrable experience in engineering; finance;  
13          public sector financial management or oversight; mass  
14          transit management; planning in transit, mass transit,  
15          transportation, or land use; public safety; homeland secu-  
16          rity; human resources; labor relations management; or as  
17          a chief executive officer, chief financial officer, or be a  
18          board member of a large capacity, publicly traded organi-  
19          zation. Appointees may not currently hold elected political  
20          office.

21          (f) FIDUCIARY OBLIGATION.—The Directors of the  
22          Metro Reform Board shall have a fiduciary obligation to  
23          the Washington Metropolitan Area Transit Authority.

24          (g) TERMS.—Each Director of the Reform Board  
25          shall be appointed for a term of 5 years or less if the



1 Metro Reform Board is terminated sooner by the Signato-  
2 ries.

3 (h) POWERS.—Notwithstanding any Federal law,  
4 rule, or regulation, and except as provided in this section,  
5 the Metro Reform Board shall be afforded all powers, re-  
6 sponsibilities, and obligations of the Board, in addition to  
7 the powers, responsibilities, and obligations set forth in  
8 this section, if the powers conferred in this Act supersede  
9 any constraints placed on the Board prior to amending  
10 the Compact.

11 (1) CONTRACTS.—The Metro Reform Board  
12 shall review all existing and pending contracts and  
13 may amend such contracts, renegotiate them, ap-  
14 prove them, or void them.

15 (2) LIABILITIES.—The Metro Reform Board  
16 shall have the authority to renegotiate existing liabil-  
17 ities.

18 (i) RESTRICTIONS.—

19 (1) RULES; NO VETOES.—The Metro Reform  
20 Board shall adopt its own rules and procedures for  
21 meetings and conducting business, except that the  
22 Board may not adopt a rule, method, or procedure  
23 by which a minority of Directors may vote to pre-  
24 vent action by the Board.

1           (2) SEPARATION OF ACCOUNTS.—The Metro  
2 Reform Board shall keep separate its capital budget  
3 funds and its expense budget funds. The Board shall  
4 not transfer funds between accounts, or use funds in  
5 one account to make payments for items which  
6 should be paid by the other account.

7           (3) LIMITS ON ANNUAL SPENDING IN-  
8 CREASES.—The Metro Reform Board shall adopt  
9 limits on annual spending increases relating to—

10                   (A) capital expenses;

11                   (B) nonpersonnel-related expenses within  
12 the operations account; and

13                   (C) personnel-related expenses with the op-  
14 erations account which, beginning the next fis-  
15 cal year after the date of enactment of this Act,  
16 shall not exceed 0 percent annual growth for 5  
17 fiscal years.

18           (j) LABOR.—

19                   (1) IN GENERAL.—Any contract entered into by  
20 the Authority and employees shall be entered into  
21 with the labor organization representing the employ-  
22 ees and designated for the purpose of collective bar-  
23 gaining pursuant to section 9 of the National Labor  
24 Relations Act (29 U.S.C. 159).

1           (2) EXCEPTIONS.—The Authority shall not  
2 enter into such a contract if the terms of the collec-  
3 tive bargaining agreement—

4           (A) provide protections for work stoppage  
5 by the employees covered by such contract;

6           (B) provide the opportunity for overtime  
7 work that results in pay to any employee in ex-  
8 cess of 120 percent of the annual salary or pay  
9 of that employee;

10          (C) prevent the Authority from using con-  
11 tracted labor or services;

12          (D) restrict in any way the Authority from  
13 laying off, transferring, or demoting an em-  
14 ployee;

15          (E) provide that employee work schedules  
16 are subject to binding interest arbitration if the  
17 labor organization and the Authority are unable  
18 to agree to a work schedule;

19          (F) restrict in any way the number of  
20 part-time employees of the Authority; or

21          (G) provide for rates of overtime that ex-  
22 ceed time and one-half for any reason.

23       (k) DUTIES.—

24           (1) CONSULTATION.—The Metro Reform Board  
25 shall fully cooperate with the National Academy of

1 Public Administration, whose services shall be con-  
2 tracted pursuant to this Act, to provide assistance to  
3 the Authority, the Commonwealth of Virginia, the  
4 District of Columbia, the State of Maryland, and the  
5 Secretary for the purposes of implementing this Act,  
6 and for other purposes.

7 (2) MANAGED COMPETITION.—The Metro Re-  
8 form Board shall undertake a full-cost accounting  
9 and analysis to determine the potential benefits as-  
10 sociated with contracting services and functions cur-  
11 rently provided by employees of the Authority, and  
12 shall adopt a plan to incorporate managed competi-  
13 tion into the workforce.

14 (3) EMPLOYEE PROTECTIONS.—Employees of  
15 the Authority shall be afforded the rights and pro-  
16 tections prescribed in title III.

17 (4) RETIREMENT PLANS.—With respect to pen-  
18 sion and retirement benefits plans for employees of  
19 the Authority—

20 (A) the Authority shall honor all pension  
21 obligations for employees retired from the Au-  
22 thority and currently receiving a pension and  
23 such pension may be modified from time to  
24 time consistent with applicable law;

1 (B) the Authority shall, for employees who,  
2 on the date of enactment of this Act, have accu-  
3 mulated a total of 5 years of employment with  
4 the Authority, devise a system which limits  
5 those enrolled in the Authority's pension plan to  
6 having not more than 100 percent of base an-  
7 nual salary as the amount counted toward the  
8 highest salary level for purposes of calculating  
9 pension benefits;

10 (C) the Authority may, with respect to  
11 those employees who were hired before the date  
12 of enactment of this Act but who had yet to ac-  
13 cumulate a total of 5 years of employment with  
14 the Authority, determine a benefits plan which  
15 may include a combination of a defined benefit  
16 and a defined contribution; and

17 (D) the Authority shall, for all employees  
18 not enrolled in the Authority's pension system  
19 on the date of enactment of this Act, provide  
20 defined contribution retirement plans.

21 (I) CLARIFICATION.—The provisions in this section  
22 are prescribed as minimum criteria. Nothing in this sec-  
23 tion shall be construed to limit—

1 (1) the Secretary of Transportation from fur-  
2 ther prescribing rules, regulations, guidelines, or leg-  
3 islative text; or

4 (2) the Signatories from enacting other provi-  
5 sions to amend the Compact if such provisions are  
6 consistent with this Act and the Secretary approves  
7 any such provisions prior to enactment.

8 **SEC. 104. APPROVAL.**

9 Congress shall approve of the language issued by the  
10 Secretary and enacted by the Signatories pursuant to sec-  
11 tion 102.

12 **TITLE II—NEW WASHINGTON**  
13 **METROPOLITAN AREA TRAN-**  
14 **SIT AUTHORITY COMPACT**

15 **SEC. 201. ADDITIONAL RESOURCES FOR CAPITAL**  
16 **PROJECTS FOR WASHINGTON METROPOLI-**  
17 **TAN AREA TRANSIT AUTHORITY.**

18 (a) **AUTHORIZATION.**—Subject to the provisions of  
19 this section, and notwithstanding the provisions of the  
20 Passenger Rail Investment and Improvement Act of 2008  
21 (Public Law 110–432; 126 Stat. 4968), the Secretary of  
22 Transportation may make grants to the Authority, in ad-  
23 dition to the contributions authorized under sections 3, 14,  
24 and 17 of the National Capital Transportation Act of  
25 1969 (sec. 9–1101.01 et seq., D.C. Official Code), for the

1 purpose of financing in part the capital and preventive  
2 maintenance projects included in the Capital Improvement  
3 Program approved by the Board of Directors of the Au-  
4 thority.

5 (b) USE OF FUNDS.—The Federal grants made pur-  
6 suant to the authorization under this section shall be sub-  
7 ject to the following limitations and conditions:

8 (1) The work for which such Federal grants are  
9 authorized shall be subject to the provisions of the  
10 Compact, including any future amendments to such  
11 Compact.

12 (2) Each such Federal grant shall be for 50  
13 percent of the net project cost of the project in-  
14 volved, and shall be provided in cash from sources  
15 other than Federal funds or revenues from the oper-  
16 ation of public mass transportation systems. Con-  
17 sistent with the terms of the amendment to the  
18 Compact, or any future amendments to such Com-  
19 pact, any funds so provided shall be solely from un-  
20 distributed cash surpluses, replacement or deprecia-  
21 tion funds or reserves available in cash, or new cap-  
22 ital.

23 (c) APPLICABILITY OF REQUIREMENTS FOR MASS  
24 TRANSPORTATION CAPITAL PROJECTS RECEIVING FUNDS  
25 UNDER FEDERAL TRANSPORTATION LAW.—Except as

1 specifically provided in this Act, the use of any amounts  
2 appropriated pursuant to the authorization under this sec-  
3 tion shall be subject to the requirements applicable to cap-  
4 ital projects for which funds are provided under chapter  
5 53 of title 49, United States Code, except to the extent  
6 that the Secretary determines that the requirements are  
7 inconsistent with this Act, its purposes, or any subsequent  
8 rules or guidance issued pursuant to this Act.

9 (d) AMOUNT.—There is authorized to be appro-  
10 priated to the Secretary of Transportation for grants  
11 under this section \$75,000,000 for each fiscal year  
12 through fiscal year 2029.

13 (e) AVAILABILITY.—

14 (1) IN GENERAL.—Amounts appropriated pur-  
15 suant to the authorization under this section shall  
16 remain available until expended. In the event that  
17 the Secretary exercises discretion provided in section  
18 202 to withhold certain funds in any fiscal year, any  
19 remaining funds from that fiscal year shall be avail-  
20 able in subsequent fiscal years, subject to limitations  
21 described in this subsection.

22 (2) ADDITIONAL LIMITATIONS.—With regard to  
23 any remaining funds described in this subsection—

24 (A) such funds shall not be expended be-  
25 yond fiscal year 2033;



1 (B) not more than \$200,000,000 shall be  
2 expended in any single fiscal year;

3 (C) in the event that the Secretary chooses  
4 to expend such funds in fiscal years 2030,  
5 2031, 2032 or 2033—

6 (i) the total amount for any such fis-  
7 cal year shall not exceed \$150,000,000;  
8 and

9 (ii) the Secretary shall, to the greatest  
10 extent practicable, make such funds avail-  
11 able in a decreasing amount beginning in  
12 fiscal year 2030.

13 (3) **AUTHORITY FOR WMATA TO RETAIN**  
14 **FUNDS.**—In the event that the Authority does not  
15 spend the entire amount of funds granted by the  
16 Secretary or the Signatories pursuant to this sec-  
17 tion, the Authority may retain up to 20 percent of  
18 the remaining funds and may spend such funds in  
19 a subsequent fiscal year.

20 **SEC. 202. NEW WMATA COMPACT.**

21 (a) **PURPOSE.**—The purpose of this section is to es-  
22 tablish a means by which the Signatories, with guidance  
23 from the Secretary, may collaborate to adopt a succeeding  
24 interstate Compact that meets the criteria and other  
25 benchmarks set forth in this Act.

1 (b) IN GENERAL.—Not less than 90 days after the  
2 Metro Reform Board is established pursuant to title I, the  
3 Secretary shall establish—

4 (1) parameters and guidelines to which the Sig-  
5 natories shall adhere as they collaborate to adopt a  
6 succeeding interstate Compact that meets the cri-  
7 teria and other benchmarks described in this Act;

8 (2) language that meets the criteria described  
9 in this section and which shall be incorporated into  
10 a succeeding interstate Compact; and

11 (3) a system of goals and metrics by which the  
12 Secretary shall be able to determine the extent to  
13 which—

14 (A) the Authority, governed by the Metro  
15 Reform Board, is making substantial progress  
16 with regard to reaching the goals described in  
17 section 103;

18 (B) the Signatories are making progress  
19 toward complying with this section to amend  
20 the interstate Compact; and

21 (C) the Authority, governed by the suc-  
22 ceeding Metro Board, is making substantial  
23 progress with regard to reaching the goals and  
24 metrics described in this section.

1 (c) REPORT.—Once the parameters, guidelines, lan-  
2 guage, and system described in subsection (a) are estab-  
3 lished, the Secretary shall transmit such parameters,  
4 guidelines, language, and system to the Signatories, the  
5 appropriate congressional committees, and the Authority.

6 (d) LIMITATIONS.—

7 (1) CERTIFICATION.—In addition to the limita-  
8 tions in section 201, the Secretary shall not release  
9 any funds authorized under such section unless the  
10 Secretary certifies that—

11 (A) by using the Compact amendment  
12 process, the Signatories have replaced the  
13 Board in operation and installed a Metro Re-  
14 form Board, pursuant to this Act; and

15 (B) all members of the Metro Reform  
16 Commission have been appointed.

17 (2) COMMENSURATE RELEASE OF FUNDS.—In  
18 addition to the limitations in paragraph (1) and sec-  
19 tion 201, the Secretary shall release funds author-  
20 ized under section 201 in a manner commensurate  
21 with the extent to which—

22 (A) the Signatories are in compliance with  
23 subsections (b)(1) and (b)(3)(B); and

24 (B) the Authority—

1 (i) governed by the Metro Reform  
2 Board, is making substantial progress with  
3 regard to reaching the goals described in  
4 section 103 and the metrics described sub-  
5 section (b)(3)(A); or

6 (ii) governed by the succeeding Metro  
7 Board, is making substantial progress with  
8 regarding to reaching the goals described  
9 in this section.

10 (3) NO TRANSFERS.—Any remaining grant  
11 funds for any fiscal year shall not be transferred to  
12 other accounts within the Department of Transpor-  
13 tation.

14 (4) FUTURE SECRETARIES.—In the event that  
15 a successor Secretary of Transportation enters office  
16 after establishment of the system referenced in sub-  
17 section (a), the successor may continue using such  
18 system, or may establish a new system, except that  
19 the successor shall not implement a new system  
20 without submission to, and written approval by, each  
21 of the appropriate congressional committees.

22 (e) REPORT.—The certification referenced in sub-  
23 section (e)(1) shall be transmitted as soon as practicable  
24 to the appropriate congressional committees, the Signato-  
25 ries, and the Authority. The disbursement of funds shall

1 not take place until the Appropriations Committees of the  
2 House of Representatives and the Senate receive the re-  
3 port.

4 (f) ASSISTANCE WITH GOALS AND METRICS.—In ac-  
5 cordance with section 402, the Secretary shall enter into  
6 a contract with the National Academy of Public Adminis-  
7 tration to provide assistance to the Secretary, the Author-  
8 ity, and the Signatories for the purposes of implementing  
9 this Act, aiding with the transition from Metro Reform  
10 Board to the succeeding the Metro Board, and for other  
11 purposes.

12 (g) PARAMETERS AND GUIDELINES.—With respect  
13 to paragraphs (1) and (2) of subsection (a), the Secretary  
14 shall ensure that the new interstate Compact will improve  
15 the outlook of—

- 16 (1) general finances;
- 17 (2) general operations;
- 18 (3) management;
- 19 (4) maintenance;
- 20 (5) pensions;
- 21 (6) labor relations; and
- 22 (7) day-to-day safety operations.

1 **SEC. 203. PROVISIONS TO BE INCLUDED BY SECRETARY.**

2 (a) IN GENERAL.—With respect to section 202, the  
3 Secretary shall ensure that the succeeding interstate Com-  
4 pact improves all aspects of the Authority, including—

5 (1) the short-, medium-, and long-term financial  
6 outlook;

7 (2) general operations;

8 (3) management and governing structure;

9 (4) maintaining a state of good repair;

10 (5) the pension and retirement benefits pro-  
11 grams;

12 (6) labor relations; and

13 (7) culture of safety.

14 (b) SUCCEEDING WMATA BOARD OF DIRECTORS.—

15 (1) MAKEUP.—The WMATA Board shall con-  
16 sist of 9 Directors, of whom—

17 (A) 2 shall be appointed by the Mayor of  
18 the District of Columbia;

19 (B) 2 shall be appointed by the Governor  
20 of Maryland;

21 (C) 1 shall be appointed by the Northern  
22 Virginia Transportation Commission;

23 (D) 1 shall be appointed by the Governor  
24 of Virginia;

25 (E) 2 shall be appointed by the Secretary  
26 of Transportation; and

1 (F) 1 shall be jointly appointed by the  
2 Governors and the Mayor, in consultation with  
3 the Northern Virginia Transportation Commis-  
4 sion, the Washington Suburban Transit Com-  
5 mission, and the City Council of the District of  
6 Columbia, respectively, and that Director shall  
7 serve as Chair of the Board. In the event that  
8 the Governors and the Mayor fail to jointly ap-  
9 prove the Chair of the Board within 30 days  
10 after Congress grants consent to a succeeding  
11 interstate Compact, the Secretary of Transpor-  
12 tation shall appoint a third individual who shall  
13 serve as Chair.

14 (2) REMOVAL.—Directors shall only be removed  
15 from service to the Board for cause.

16 (3) QUALIFICATIONS.—The Board of Directors,  
17 to the greatest extent practicable, shall possess de-  
18 monstrable experience in engineering, finance; public  
19 sector financial management or oversight; mass  
20 transit management; planning in transit, mass tran-  
21 sit, transportation, or land use; public safety; home-  
22 land security; human resources; labor relations man-  
23 agement; or as a chief executive officer, chief finan-  
24 cial officer, or be a board member of a large capaci-

1       ity, publicly traded organization. Appointed Direc-  
2       tors may not currently hold elected political office.

3               (4) RULES; NO JURISDICTIONAL VETO.—Except  
4       as otherwise provided in this title, the Board shall  
5       adopt its own rules and procedures for meetings and  
6       conducting business, except that the Board shall not  
7       adopt a rule, method, or procedure by which a mi-  
8       nority of Directors may vote to prevent action by the  
9       Board.

10              (5) COMPENSATION.—Directors of the Board  
11       shall be compensated by the Authority for their serv-  
12       ice. The rates of compensation and reimbursement  
13       shall be established at uniform rates across appoint-  
14       ing authorities.

15              (6) SEPARATION OF ACCOUNTS.—The Board  
16       shall keep separate its capital budget funds and its  
17       expense budget funds. The Board shall not transfer  
18       funds between accounts or use funds in one account  
19       to make payments for items which should be paid by  
20       the other account.

21              (c) LIMITS ON ANNUAL SPENDING INCREASES.—The  
22       Signatories shall include in any amendment to the Com-  
23       pact limits on annual spending increases relating to—

24              (1) capital expenses;



1           (2) nonpersonnel-related expenses within the  
2           operations account; and

3           (3) personnel-related expenses within the oper-  
4           ations account.

5           (d) WAIVER.—In the event that the Authority identi-  
6           fies a critical need which requires the Authority to exceed  
7           the limits on the annual spending growth rates established  
8           pursuant to subsection (c), the Authority may seek a waiv-  
9           er by submitting an appeal, in writing, to the legislative  
10          bodies of the Signatories and the executive of the jurisdic-  
11          tion of each Signatory justifying the need to exceed the  
12          limits and the legislative bodies may vote to approve such  
13          appeal. A waiver shall only be granted upon approval by  
14          each of the legislative bodies of the Signatories and the  
15          executives thereof. The terms of such a waiver shall not  
16          exceed 2 years.

17          (e) LIMIT ON ANNUAL CONTRIBUTIONS FROM FUND-  
18          ING JURISDICTIONS FOR OPERATIONS.—The Signatories  
19          shall include in any amendment to the Compact a limit  
20          of 3 percent relating to the annual growth in the rate of  
21          spending by the funding jurisdictions to subsidize oper-  
22          ational needs of the Authority.

23          (f) LABOR PROVISIONS.—

24                 (1) ARBITRATION.—In case of any dispute over  
25          labor rights involving the Authority and such em-

1 employees where collective bargaining does not result in  
2 agreement, the Authority shall submit such dispute  
3 to the National Mediation Board.

4 (2) MANAGED COMPETITION.—The Board shall  
5 undertake a full-cost accounting and analysis to de-  
6 termine the potential benefits associated with con-  
7 tracting services and functions currently provided by  
8 employees of the Authority and shall incorporate a  
9 system of managed competition for labor and service  
10 contracts.

11 (3) EMPLOYEE PROTECTIONS.—Employees of  
12 the Authority shall be afforded the rights and pro-  
13 tections prescribed in title III of this Act.

14 (g) RETIREMENT PLANS.—With respect to pension  
15 and retirement benefits plans for employees of the Author-  
16 ity—

17 (1) the Authority shall honor all pension obliga-  
18 tions for employees retired from the Authority and  
19 currently receiving a pension;

20 (2) the Authority shall, for employees who, on  
21 the date of enactment of this Act, have accumulated  
22 a total of 5 years of employment with the Authority,  
23 devise a system which limits those enrolled in the  
24 Authority's pension plan to having not more than  
25 100 percent of base annual salary as the amount

1 counted toward the highest salary level for purposes  
2 of calculating pension benefits;

3 (3) the Authority may, with respect to those  
4 employees who were hired before the date of enact-  
5 ment of this Act but who had yet to accumulate a  
6 total of 5 years of employment with the Authority,  
7 determine a benefits plan which may include a com-  
8 bination of a defined benefit and a defined contribu-  
9 tion; and

10 (4) the Authority shall, for all employees not  
11 enrolled in the Authority's pension system on the  
12 date of enactment of this Act, provide defined con-  
13 tribution retirement plans.

14 (h) GENERAL EFFICIENCY AND FINANCIAL TRANS-  
15 PARENCY.—The Authority shall procure and utilize a com-  
16 mercially available product with which the Treasurer and  
17 other appropriate officers and staff shall manage the  
18 budget, finances, and other aspects of the Authority. The  
19 product chosen shall enable the Authority to provide open  
20 data, analytics, financial transparency, and reporting  
21 tools, among other things, and shall enable the public to  
22 review the finances of the Authority in real-time.

23 (i) TRANSPARENT CONTRACT APPROVAL.—The  
24 Board shall provide for online publication of notice of pro-  
25 curements and other actions designed to secure competi-

1 tion where competitive procedures are used, and shall em-  
2 ploy innovative contracting practices when warranted or  
3 justified. The Board shall adopt policies and procedures  
4 to comply with this subsection.

5 (j) CLARIFICATION.—The provisions in this section  
6 are prescribed as minimum criteria which must be in-  
7 cluded in any amendment to the Compact. Nothing in this  
8 section shall be construed to limit—

9 (1) the Secretary from further prescribing  
10 rules, regulations, guidelines, or legislative text  
11 which shall be included in any amendment to the  
12 Compact; or

13 (2) the Signatories from including other provi-  
14 sions to amend the Compact; if such provisions are  
15 consistent with this Act; and the Secretary approves  
16 of any such provisions prior to enactment.

17 **TITLE III—EMPLOYEE**  
18 **PROTECTIONS**

19 **SEC. 301. WMATA EMPLOYEE WHISTLEBLOWER PROTEC-**  
20 **TION.**

21 (a) IN GENERAL.—The Authority, a contractor or a  
22 subcontractor of the Authority, or an officer or employee  
23 of the Authority, shall not discharge, demote, suspend,  
24 reprimand, or in any other way discriminate against an  
25 employee with respect to the terms and conditions of em-

1 ployment if such discrimination is due, in whole or in part,  
2 to the employee's lawful, good faith act done, or perceived  
3 by the employer to have been done or about to be done—

4 (1) to provide information, directly cause infor-  
5 mation to be provided, or otherwise directly assist in  
6 any investigation regarding any conduct which the  
7 employee reasonably believes constitutes a violation  
8 of any Federal law or regulation or provision adopt-  
9 ed by an authority created by an interstate Compact  
10 relating to public transportation safety or security,  
11 or fraud, waste, or abuse of Federal grants or other  
12 public funds intended to be used for public transpor-  
13 tation safety or security, if the information or assist-  
14 ance is provided to or an investigation stemming  
15 from the provided information is conducted by—

16 (A) a Federal, State, or local regulatory or  
17 law enforcement agency, or a regulatory or law  
18 enforcement agency created by an interstate  
19 Compact (including an office of the Inspector  
20 General under the Inspector General Act of  
21 1978 (5 U.S.C. App.; Public Law 95-452));

22 (B) any Member of Congress, any com-  
23 mittee of Congress, or the Government Ac-  
24 countability Office; or

1 (C) a person with supervisory authority  
2 over the employee or such other person who has  
3 the authority to investigate, discover, or termi-  
4 nate the misconduct;

5 (2) to refuse to violate or assist in the violation  
6 of any Federal law, rule, or regulation relating to  
7 public transportation safety or security;

8 (3) to file a complaint or directly cause to be  
9 brought a proceeding related to the enforcement of  
10 this section or to testify in that proceeding;

11 (4) to notify, or attempt to notify, the Author-  
12 ity, the inspector general, or the Secretary of Trans-  
13 portation of a work-related personal injury or work-  
14 related illness of an employee;

15 (5) to accurately report hours on duty pursuant  
16 to chapter 211 of title 49, United States Code;

17 (6) to cooperate with a safety or security inves-  
18 tigation by the Secretary of Transportation, the Sec-  
19 retary of Homeland Security, or the National Trans-  
20 portation Safety Board; or

21 (7) to furnish information to the Secretary of  
22 Transportation, the Secretary of Homeland Security,  
23 the National Transportation Safety Board, or any  
24 Federal, State, or local regulatory or law enforce-  
25 ment agency, or a regulatory or law enforcement

1 agency created by an interstate Compact, as to the  
2 facts relating to any accident or incident resulting in  
3 injury or death to an individual or damage to prop-  
4 erty occurring in connection with public transpor-  
5 tation.

6 (b) PROMPT MEDICAL ATTENTION.—

7 (1) PROHIBITION.—The Authority or person  
8 covered under this section may not deny, delay, or  
9 interfere with the medical or first aid treatment of  
10 an employee who is injured during the course of em-  
11 ployment. If transportation to a hospital is requested  
12 by an employee who is injured during the course of  
13 employment, the Authority shall promptly arrange to  
14 have the injured employee transported to the nearest  
15 hospital where the employee can receive safe and ap-  
16 propriate medical care.

17 (2) DISCIPLINE.—The Authority or person cov-  
18 ered under this section may not discipline, or threat-  
19 en discipline to, an employee for requesting medical  
20 or first aid treatment, or for following orders or a  
21 treatment plan of a treating physician, except that  
22 the Authority's refusal to permit an employee to re-  
23 turn to work following medical treatment shall not  
24 be considered a violation of this section if the refusal  
25 is pursuant to Federal Railroad Administration med-

1        ical standards for fitness of duty or, if there are no  
2        pertinent Federal Railroad Administration stand-  
3        ards, the Authority’s medical standards for fitness  
4        for duty. For purposes of this paragraph, the term  
5        “discipline” means to bring charges against a person  
6        in a disciplinary proceeding, suspend, terminate,  
7        place on probation, or make note of reprimand on an  
8        employee’s record.

9        (c) HAZARDOUS SAFETY OR SECURITY CONDI-  
10       TIONS.—

11            (1) The authority, or a contractor or a subcon-  
12        tractor of such authority, or an officer or employee  
13        of such authority, shall not discharge, demote, sus-  
14        pend, reprimand, or in any other way discriminate  
15        against an employee for—

16            (A) reporting, in good faith, a hazardous  
17        safety or security condition;

18            (B) refusing to work when confronted by a  
19        hazardous safety or security condition related to  
20        the performance of the employee’s duties, if the  
21        conditions described in paragraph (2) exist; or

22            (C) refusing to authorize the use of any  
23        safety- or security-related equipment, track, or  
24        structures, if the employee is responsible for the  
25        inspection or repair of the equipment, track, or



1 structures, when the employee believes that the  
2 equipment, track, or structures are in a haz-  
3 arduous safety or security condition, if the condi-  
4 tions described in paragraph (2) of this sub-  
5 section exist.

6 (2) A refusal by an employee is protected under  
7 paragraph (1)(B) and (C) if—

8 (A) the refusal is made in good faith and  
9 no reasonable alternative to the refusal is avail-  
10 able to the employee;

11 (B) a reasonable individual in the cir-  
12 cumstances then confronting the employee  
13 would conclude that—

14 (i) the hazardous condition presents  
15 an imminent danger of death or serious in-  
16 jury; and

17 (ii) the urgency of the situation does  
18 not allow sufficient time to eliminate the  
19 danger without such refusal; and

20 (C) the employee, where possible, has noti-  
21 fied the authority of the existence of the haz-  
22 arduous condition and the intention not to per-  
23 form further work, or not to authorize the use  
24 of the hazardous equipment, track, or struc-  
25 tures, unless the condition is corrected imme-

1           diately or the equipment, track, or structures  
2           are repaired properly or replaced.

3           (3) In this subsection, only subsection (c)(1)(A)  
4           shall apply to security personnel, including transit  
5           police, employed or utilized by the authority to pro-  
6           tect riders, equipment, assets, or facilities.

7           (d) ENFORCEMENT ACTION.—

8           (1) FILING AND NOTIFICATION.—A person who  
9           believes that he or she has been discharged or other-  
10          wise discriminated against by any person in violation  
11          of subsection (a), (b), or (c) may, not later than 180  
12          days after the date on which such violation occurs,  
13          file (or have any person file on his or her behalf) a  
14          complaint with the Secretary of Labor alleging such  
15          discharge or discrimination. Upon receipt of a com-  
16          plaint filed under this paragraph, the Secretary of  
17          Labor shall notify, in writing, the person named in  
18          the complaint and the person's employer of the filing  
19          of the complaint, of the allegations contained in the  
20          complaint, of the substance of evidence supporting  
21          the complaint, and of the opportunities that will be  
22          afforded to such person under paragraph (2).

23          (2) INVESTIGATION; PRELIMINARY ORDER.—

24                  (A) IN GENERAL.—Not later than 60 days  
25          after the date of receipt of a complaint filed

1 under paragraph (1) and after affording the  
2 person named in the complaint an opportunity  
3 to submit to the Secretary of Labor a written  
4 response to the complaint and an opportunity to  
5 meet with a representative of the Secretary of  
6 Labor to present statements from witnesses, the  
7 Secretary of Labor shall conduct an investiga-  
8 tion and determine whether there is reasonable  
9 cause to believe that the complaint has merit  
10 and notify, in writing, the complainant and the  
11 person alleged to have committed a violation of  
12 subsection (a), (b), or (c) of the Secretary of  
13 Labor's findings. If the Secretary of Labor con-  
14 cludes that there is a reasonable cause to be-  
15 lieve that a violation of subsection (a), (b), or  
16 (c) has occurred, the Secretary of Labor shall  
17 accompany the Secretary of Labor's findings  
18 with a preliminary order providing the relief  
19 prescribed by paragraph (3)(B). Not later than  
20 30 days after the date of notification of find-  
21 ings under this paragraph, either the person al-  
22 leged to have committed the violation or the  
23 complainant may file objections to the findings  
24 or preliminary order, or both, and request a  
25 hearing on the record. The filing of such objec-

1           tions shall not operate to stay any reinstatement  
2           remedy contained in the preliminary  
3           order. Such hearings shall be conducted expeditiously.  
4           If a hearing is not requested in such  
5           30-day period, the preliminary order shall be  
6           deemed a final order that is not subject to judicial  
7           review.

8                   (B) REQUIREMENTS.—

9                   (i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall  
10                  dismiss a complaint filed under this subsection and shall not conduct an investigation  
11                  otherwise required under subparagraph (A) unless the complainant makes a  
12                  prima facie showing that any behavior described in subsection (a), (b), or (c) was a  
13                  contributing factor in the unfavorable personnel action alleged in the complaint.  
14                    
15                    
16                    
17                    
18                  

19                  (ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary of  
20                  Labor that the complainant has made the showing required under clause (i), no investigation  
21                  otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and con-  
22                    
23                    
24                    
25

1           vincing evidence, that the employer would  
2           have taken the same unfavorable personnel  
3           action in the absence of that behavior.

4                   (iii) CRITERIA FOR DETERMINATION  
5           BY SECRETARY OF LABOR.—The Secretary  
6           of Labor may determine that a violation of  
7           subsection (a), (b), or (c) has occurred  
8           only if the complainant demonstrates that  
9           any behavior described in subsection (a),  
10          (b), or (c) was a contributing factor in the  
11          unfavorable personnel action alleged in the  
12          complaint.

13                   (iv) PROHIBITION.—Relief may not be  
14          ordered under subparagraph (A) if the em-  
15          ployer demonstrates by clear and con-  
16          vincing evidence that the employer would  
17          have taken the same unfavorable personnel  
18          action in the absence of that behavior.

19          (3) FINAL ORDER.—

20                   (A) DEADLINE FOR ISSUANCE; SETTLE-  
21          MENT AGREEMENTS.—Not later than 120 days  
22          after the date of conclusion of a hearing under  
23          paragraph (2), the Secretary of Labor shall  
24          issue a final order providing the relief pre-  
25          scribed by this paragraph or denying the com-

1           plaint. At any time before issuance of a final  
2           order, a proceeding under this subsection may  
3           be terminated on the basis of a settlement  
4           agreement entered into by the Secretary of  
5           Labor, the complainant, and the person alleged  
6           to have committed the violation.

7           (B) REMEDY.—If, in response to a com-  
8           plaint filed under paragraph (1), the Secretary  
9           of Labor determines that a violation of sub-  
10          section (a), (b), or (c) has occurred, the Sec-  
11          retary of Labor shall order the person who com-  
12          mitted such violation to—

13                 (i) take affirmative action to abate the  
14                 violation; and

15                 (ii) provide the remedies described in  
16                 subsection (e).

17          (C) ORDER.—If an order is issued under  
18          subparagraph (B), the Secretary of Labor, at  
19          the request of the complainant, shall assess  
20          against the person against whom the order is  
21          issued a sum equal to the aggregate amount of  
22          all costs and expenses (including attorney's and  
23          expert witness fees) reasonably incurred, as de-  
24          termined by the Secretary of Labor, by the

1 complainant for, or in connection with, bringing  
2 the complaint upon which the order was issued.

3 (D) FRIVOLOUS COMPLAINTS.—If the Sec-  
4 retary of Labor finds that a complaint under  
5 paragraph (1) is frivolous or has been brought  
6 in bad faith, the Secretary of Labor may award  
7 to the prevailing employer reasonable attorney's  
8 fees not exceeding \$1,000.

9 (4) REVIEW.—

10 (A) APPEAL TO COURT OF APPEALS.—Any  
11 person adversely affected or aggrieved by an  
12 order issued under paragraph (3) may obtain  
13 review of the order in the United States Court  
14 of Appeals for the District of Columbia Circuit.  
15 The petition for review must be filed not later  
16 than 60 days after the date of the issuance of  
17 the final order of the Secretary of Labor. Re-  
18 view shall conform to chapter 7 of title 5,  
19 United States Code. The commencement of pro-  
20 ceedings under this subparagraph shall not, un-  
21 less ordered by the court, operate as a stay of  
22 the order.

23 (B) LIMITATION ON COLLATERAL AT-  
24 TACK.—An order of the Secretary of Labor  
25 with respect to which review could have been

1           obtained under subparagraph (A) shall not be  
2           subject to judicial review in any criminal or  
3           other civil proceeding.

4           (5) ENFORCEMENT OF ORDER BY SECRETARY  
5           OF LABOR.—Whenever any person has failed to com-  
6           ply with an order issued under paragraph (3), the  
7           Secretary of Labor may file a civil action in the  
8           United States district court for the district in which  
9           the violation was found to occur to enforce such  
10          order. In actions brought under this paragraph, the  
11          district courts shall have jurisdiction to grant all ap-  
12          propriate relief including, but not limited to, injunc-  
13          tive relief and compensatory damages.

14          (6) ENFORCEMENT OF ORDER BY PARTIES.—

15                 (A) COMMENCEMENT OF ACTION.—A per-  
16                 son on whose behalf an order was issued under  
17                 paragraph (3) may commence a civil action  
18                 against the person to whom such order was  
19                 issued to require compliance with such order.  
20                 The appropriate United States district court  
21                 shall have jurisdiction, without regard to the  
22                 amount in controversy or the citizenship of the  
23                 parties, to enforce such order.

24                 (B) ATTORNEY'S FEES.—The court, in  
25                 issuing any final order under this paragraph,



1           may award costs of litigation (including reason-  
2           able attorney's and expert witness fees) to any  
3           party whenever the court determines such  
4           award is appropriate.

5           (7) DE NOVO REVIEW.—With respect to a com-  
6           plaint under paragraph (1), if the Secretary of  
7           Labor has not issued a final decision not later than  
8           210 days after the filing of the complaint and if the  
9           delay is not due to the bad faith of the employee,  
10          the employee may bring an original action at law or  
11          equity for de novo review in the appropriate district  
12          court of the United States, which shall have jurisdic-  
13          tion over such an action without regard to the  
14          amount in controversy, and which action shall, at  
15          the request of either party to such action, be tried  
16          by the court with a jury. The action shall be gov-  
17          erned by the same legal burdens of proof specified  
18          in paragraph (2)(B) for review by the Secretary of  
19          Labor.

20          (e) REMEDIES.—

21                 (1) IN GENERAL.—An employee prevailing in  
22                 any action under subsection (d) shall be entitled to  
23                 all relief necessary to make the employee whole.

1           (2) DAMAGES.—Relief in an action under sub-  
2           section (d) (including an action described in  
3           (d)(7)) shall include—

4                   (A) reinstatement with the same seniority  
5                   status that the employee would have had, but  
6                   for the discrimination;

7                   (B) any backpay, with interest; and

8                   (C) compensatory damages, including com-  
9                   pensation for any special damages sustained as  
10                  a result of the discrimination, including litiga-  
11                  tion costs, expert witness fees, and reasonable  
12                  attorney's fees.

13          (f) ELECTION OF REMEDIES.—An employee may not  
14          seek protection under both this section and another provi-  
15          sion of law for the same allegedly unlawful act of the au-  
16          thority.

17          (g) RIGHTS RETAINED BY EMPLOYEE.—Nothing in  
18          this section shall be construed to diminish the rights, privi-  
19          leges, or remedies of any employee under any Federal or  
20          State law, provision adopted by an authority created by  
21          an interstate Compact, or under any collective bargaining  
22          agreement. The rights and remedies in this section may  
23          not be waived by any agreement, policy, form, or condition  
24          of employment.

1 (h) NO PREEMPTION.—Nothing in this section pre-  
2 empts or diminishes any other safeguards against dis-  
3 crimination, demotion, discharge, suspension, threats, har-  
4 assment, reprimand, retaliation, or any other manner of  
5 discrimination provided by Federal or State law or provi-  
6 sion adopted by an authority created by an interstate  
7 Compact.

8 (i) DISCLOSURE OF IDENTITY.—

9 (1) Except as provided in paragraph (2) of this  
10 subsection, or with the written consent of the em-  
11 ployee, the Secretary of Transportation or the Sec-  
12 retary of Homeland Security may not disclose the  
13 name of an employee who has provided information  
14 described in subsection (a)(1).

15 (2) The Secretary of Transportation or the Sec-  
16 retary of Homeland Security shall disclose to the At-  
17 torney General the name of an employee described  
18 in paragraph (1) of this subsection if the matter is  
19 referred to the Attorney General for enforcement.  
20 The Secretary making such disclosure shall provide  
21 reasonable advance notice to the affected employee if  
22 disclosure of that person's identity or identifying in-  
23 formation is to occur.

24 (j) PROCESS FOR REPORTING SECURITY PROBLEMS  
25 TO THE DEPARTMENT OF HOMELAND SECURITY.—

1           (1) ESTABLISHMENT OF PROCESS.—The Sec-  
2           retary shall establish through regulations after an  
3           opportunity for notice and comment, and provide in-  
4           formation to the public regarding, a process by  
5           which any person may submit a report to the Sec-  
6           retary regarding public transportation security prob-  
7           lems, deficiencies, or vulnerabilities.

8           (2) ACKNOWLEDGMENT OF RECEIPT.—If a re-  
9           port submitted under paragraph (1) identifies the  
10          person making the report, the Secretary shall re-  
11          spond promptly to such person and acknowledge re-  
12          ceipt of the report.

13          (3) STEPS TO ADDRESS PROBLEM.—The Sec-  
14          retary shall review and consider the information pro-  
15          vided in any report submitted under paragraph (1)  
16          and shall take appropriate steps to address any  
17          problems or deficiencies identified.

18 **SEC. 302. PROTECTION FROM WHISTLEBLOWER RETALIA-**  
19 **TIONS FROM LABOR UNION OFFICIALS.**

20          (a) IN GENERAL.—A labor organization or its offi-  
21          cers or agents shall not discriminate against an employee  
22          if such discrimination is due, in whole or in part, to the  
23          employee's lawful, good faith act done, or perceived by the  
24          labor organization to have been done or about to be  
25          done—

1           (1) to provide information, directly cause infor-  
2           mation to be provided, or otherwise directly assist in  
3           any investigation regarding any conduct which the  
4           employee reasonably believes constitutes a violation  
5           of—

6                   (A) any Federal law or regulation or provi-  
7                   sion adopted by an authority created by an  
8                   interstate Compact;

9                   (B) any bylaw of the labor organization; or

10                   (C) any fraud, waste, or abuse of the labor  
11                   organization's funds if the information or as-  
12                   sistance is provided to or an investigation stem-  
13                   ming from the provided information is con-  
14                   ducted by—

15                           (i) a Federal, State, or local regu-  
16                           latory or law enforcement agency, or a reg-  
17                           ulatory or law enforcement agency created  
18                           by an interstate Compact (including an of-  
19                           fice of the Inspector General under the In-  
20                           spector General Act of 1978 (5 U.S.C.  
21                           App.; Public Law 95-452));

22                           (ii) any Member of Congress, any  
23                           committee of Congress, or the Government  
24                           Accountability Office; or

1 (iii) a person with supervisory author-  
2 ity over the employee or such other person  
3 who has the authority to investigate, dis-  
4 cover, or terminate the misconduct;

5 (2) to refuse to violate or assist in the violation  
6 of any law, rule, or regulation relating to labor pol-  
7 icy;

8 (3) to refuse to violate or assist in the violation  
9 of any bylaw of the labor organization;

10 (4) to file a complaint or directly cause to be  
11 brought a proceeding related to the enforcement of  
12 this section or to testify in that proceeding;

13 (5) to notify, or attempt to notify, an officer of  
14 the labor union, the employer, the inspector general,  
15 or the Secretary of Labor of a violation of a law,  
16 rule, regulation, or a bylaw of the labor organiza-  
17 tion;

18 (6) to accurately report hours on duty pursuant  
19 to chapter 211 of title 49, United States Code;

20 (7) to cooperate with a safety or security inves-  
21 tigation by any Federal, State, or local regulatory or  
22 law enforcement agency, or a regulatory or law en-  
23 forcement agency created by an interstate Compact  
24 (including an office of the Inspector General under

1 the Inspector General Act of 1978 (5 U.S.C. App.;  
2 Public Law 95–452)); or

3 (8) to furnish information to any Federal,  
4 State, or local regulatory or law enforcement agency,  
5 or a regulatory or law enforcement agency created  
6 by an interstate Compact, as to the facts relating to  
7 any accident or incident resulting in injury or death  
8 to an individual, damage to property, or misappropriation of funds.  
9

10 (b) ENFORCEMENT ACTION.—

11 (1) FILING AND NOTIFICATION.—A person who  
12 believes that he or she has been discharged or other-  
13 wise discriminated against by any person in connec-  
14 tion with a violation of subsection (a) may, not later  
15 than 180 days after the date on which such violation  
16 occurs, file (or have any person file on his or her be-  
17 half) a complaint with the Secretary of Labor alleg-  
18 ing such discharge or discrimination. Upon receipt  
19 of a complaint filed under this paragraph, the Sec-  
20 retary of Labor shall notify, in writing, the person  
21 named in the complaint and the person’s employer  
22 of the filing of the complaint, of the allegations con-  
23 tained in the complaint, of the substance of evidence  
24 supporting the complaint, and of the opportunities

1 that will be afforded to such person under paragraph  
2 (2).

3 (2) INVESTIGATION; PRELIMINARY ORDER.—

4 (A) IN GENERAL.—Not later than 60 days  
5 after the date of receipt of a complaint filed  
6 under paragraph (1) and after affording the  
7 person named in the complaint an opportunity  
8 to submit to the Secretary of Labor a written  
9 response to the complaint and an opportunity to  
10 meet with a representative of the Secretary of  
11 Labor to present statements from witnesses, the  
12 Secretary of Labor shall conduct an investiga-  
13 tion and determine whether there is reasonable  
14 cause to believe that the complaint has merit  
15 and notify, in writing, the complainant and the  
16 person alleged to have committed a violation of  
17 subsection (a) of the Secretary of Labor's find-  
18 ings. If the Secretary of Labor concludes that  
19 there is a reasonable cause to believe that a vio-  
20 lation of subsection (a) has occurred, the Sec-  
21 retary of Labor shall accompany the Secretary  
22 of Labor's findings with a preliminary order  
23 providing the relief prescribed by paragraph  
24 (3)(B). Not later than 30 days after the date  
25 of notification of findings under this paragraph,



1           either the person alleged to have committed the  
2           violation or the complainant may file objections  
3           to the findings or preliminary order, or both,  
4           and request a hearing on the record. The filing  
5           of such objections shall not operate to stay any  
6           reinstatement remedy contained in the prelimi-  
7           nary order. Such hearings shall be conducted  
8           expeditiously. If a hearing is not requested in  
9           such 30-day period, the preliminary order shall  
10          be deemed a final order that is not subject to  
11          judicial review.

12                           (B) REQUIREMENTS.—

13                           (i) REQUIRED SHOWING BY COM-  
14                           PLAINANT.—The Secretary of Labor shall  
15                           dismiss a complaint filed under this sub-  
16                           section and shall not conduct an investiga-  
17                           tion otherwise required under subpara-  
18                           graph (A) unless the complainant makes a  
19                           prima facie showing that any behavior de-  
20                           scribed in subsection (a) was a contrib-  
21                           uting factor in the unfavorable personnel  
22                           action alleged in the complaint.

23                           (ii) SHOWING BY LABOR ORGANIZA-  
24                           TION OFFICER.—Notwithstanding a find-  
25                           ing by the Secretary of Labor that the

1 complainant has made the showing re-  
2 quired under clause (i), no investigation  
3 otherwise required under subparagraph (A)  
4 shall be conducted if the labor organization  
5 officer demonstrates, by clear and con-  
6 vincing evidence, that the labor organiza-  
7 tion officer would have taken the same un-  
8 favorable personnel action in the absence  
9 of that behavior.

10 (iii) CRITERIA FOR DETERMINATION  
11 BY SECRETARY OF LABOR.—The Secretary  
12 of Labor may determine that a violation of  
13 subsection (a) has occurred only if the  
14 complainant demonstrates that any behav-  
15 ior described in subsection (a) was a con-  
16 tributing factor in the unfavorable per-  
17 sonnel action alleged in the complaint.

18 (iv) PROHIBITION.—Relief may not be  
19 ordered under subparagraph (A) if the  
20 labor union officer demonstrates by clear  
21 and convincing evidence that the labor  
22 union officer would have taken the same  
23 unfavorable personnel action in the ab-  
24 sence of that behavior.

25 (3) FINAL ORDER.—

1           (A) DEADLINE FOR ISSUANCE; SETTLE-  
2           MENT AGREEMENTS.—Not later than 120 days  
3           after the date of conclusion of a hearing under  
4           paragraph (2), the Secretary of Labor shall  
5           issue a final order providing the relief pre-  
6           scribed by this paragraph or denying the com-  
7           plaint. At any time before issuance of a final  
8           order, a proceeding under this subsection may  
9           be terminated on the basis of a settlement  
10          agreement entered into by the Secretary of  
11          Labor, the complainant, and the person alleged  
12          to have committed the violation.

13          (B) REMEDY.—If, in response to a com-  
14          plaint filed under paragraph (1), the Secretary  
15          of Labor determines that a violation of sub-  
16          section (a) has occurred, the Secretary of Labor  
17          shall order the person who committed such vio-  
18          lation to—

19                 (i) take affirmative action to abate the  
20                 violation; and

21                 (ii) provide the remedies described in  
22                 subsection (c).

23          (C) ORDER.—If an order is issued under  
24          subparagraph (B), the Secretary of Labor, at  
25          the request of the complainant, shall assess

1           against the person against whom the order is  
2           issued a sum equal to the aggregate amount of  
3           all costs and expenses (including attorney's and  
4           expert witness fees) reasonably incurred, as de-  
5           termined by the Secretary of Labor, by the  
6           complainant for, or in connection with, bringing  
7           the complaint upon which the order was issued.

8           (D) FRIVOLOUS COMPLAINTS.—If the Sec-  
9           retary of Labor finds that a complaint under  
10          paragraph (1) is frivolous or has been brought  
11          in bad faith, the Secretary of Labor may award  
12          to the prevailing labor organization officer rea-  
13          sonable attorney's fees not exceeding \$1,000.

14         (4) REVIEW.—

15                 (A) APPEAL TO COURT OF APPEALS.—Any  
16                 person adversely affected or aggrieved by an  
17                 order issued under paragraph (3) may obtain  
18                 review of the order in the United States Court  
19                 of Appeals for the District of Columbia Circuit.  
20                 The petition for review must be filed not later  
21                 than 60 days after the date of the issuance of  
22                 the final order of the Secretary of Labor. Re-  
23                 view shall conform to chapter 7 of title 5,  
24                 United States Code. The commencement of pro-  
25                 ceedings under this subparagraph shall not, un-

1           less ordered by the court, operate as a stay of  
2           the order.

3                   (B) LIMITATION ON COLLATERAL AT-  
4           TACK.—An order of the Secretary of Labor  
5           with respect to which review could have been  
6           obtained under subparagraph (A) shall not be  
7           subject to judicial review in any criminal or  
8           other civil proceeding.

9                   (5) ENFORCEMENT OF ORDER BY SECRETARY  
10          OF LABOR.—Whenever any person has failed to com-  
11          ply with an order issued under paragraph (3), the  
12          Secretary of Labor shall file a civil action in the  
13          United States district court for the district in which  
14          the violation was found to occur to enforce such  
15          order. In actions brought under this paragraph, the  
16          district courts shall have jurisdiction to grant all ap-  
17          propriate relief including, but not limited to, injunc-  
18          tive relief and compensatory damages.

19                   (6) ENFORCEMENT OF ORDER BY PARTIES.—

20                           (A) COMMENCEMENT OF ACTION.—A per-  
21          son on whose behalf an order was issued under  
22          paragraph (3) may commence a civil action  
23          against the person to whom such order was  
24          issued to require compliance with such order.  
25          The appropriate United States district court

1 shall have jurisdiction, without regard to the  
2 amount in controversy or the citizenship of the  
3 parties, to enforce such order.

4 (B) ATTORNEY'S FEES.—The court, in  
5 issuing any final order under this paragraph,  
6 may award costs of litigation (including reason-  
7 able attorney's and expert witness fees) to any  
8 party whenever the court determines such  
9 award is appropriate.

10 (7) DE NOVO REVIEW.—With respect to a com-  
11 plaint under paragraph (1), if the Secretary of  
12 Labor has not issued a final decision within 210  
13 days after the filing of the complaint and if the  
14 delay is not due to the bad faith of the employee,  
15 the employee may bring an original action at law or  
16 equity for de novo review in the appropriate district  
17 court of the United States, which shall have jurisdic-  
18 tion over such an action without regard to the  
19 amount in controversy, and which action shall, at  
20 the request of either party to such action, be tried  
21 by the court with a jury. The action shall be gov-  
22 erned by the same legal burdens of proof specified  
23 in paragraph (2)(B) for review by the Secretary of  
24 Labor.

25 (c) REMEDIES.—

1           (1) IN GENERAL.—An employee prevailing in  
2 any action under subsection (b) shall be entitled to  
3 all relief necessary to make the employee whole.

4           (2) DAMAGES.—Relief in an action under sub-  
5 section (b) shall include—

6                 (A) reinstatement with the same seniority  
7 status that the employee would have had, but  
8 for the discrimination;

9                 (B) any backpay, with interest, to be paid  
10 by the labor organization in lieu of the em-  
11 ployer; and

12                 (C) compensatory damages, including com-  
13 pensation for any special damages sustained as  
14 a result of the discrimination, including litiga-  
15 tion costs, expert witness fees, and reasonable  
16 attorney's fees.

17           (3) POSSIBLE RELIEF.—Relief in any action  
18 under subsection (b) may include punitive damages  
19 in an amount not to exceed \$250,000.

20           (d) ELECTION OF REMEDIES.—An employee may not  
21 seek protection under both this section and another provi-  
22 sion of law for the same allegedly unlawful act of the au-  
23 thority.

24           (e) NO PREEMPTION.—Nothing in this section pre-  
25 empts or diminishes any other safeguards against dis-

1 crimination, demotion, discharge, suspension, threats, har-  
2 assment, reprimand, retaliation, or any other manner of  
3 discrimination provided by Federal or State law or provi-  
4 sion adopted by an authority created by an interstate  
5 Compact.

6 (f) RIGHTS RETAINED BY EMPLOYEE.—Nothing in  
7 this section shall be construed to diminish the rights, privi-  
8 leges, or remedies of any employee under any Federal or  
9 State law, provision adopted by an authority created by  
10 an interstate Compact, or under any collective bargaining  
11 agreement. The rights and remedies in this section may  
12 not be waived by any agreement, policy, form, or condition  
13 of employment.

## 14 **TITLE IV—OTHER PROVISIONS**

### 15 **SEC. 401. STANDARDIZATION OF FEDERAL TRANSIT BENE-** 16 **FITS.**

17 (a) IN GENERAL.—Not later than 15 days after the  
18 date of enactment of this Act, the General Services Ad-  
19 ministration (in this section referred to as “GSA”) shall  
20 initiate a review of the various transit benefit programs  
21 administered by each Federal department and agency with  
22 facilities located in the Washington Metropolitan Area  
23 Transit Zone for the purposes of standardizing the rate  
24 of benefit for all Federal employees enrolled in such a pro-  
25 gram.



1 (b) PURPOSE.—The standardized rate of benefit shall  
2 constitute—

3 (1) an operating subsidy afforded to the Au-  
4 thority from the Government in lieu of direct appro-  
5 priations for the Authority’s operating costs; and

6 (2) a benefit to Federal employees who use the  
7 services administered by the Authority to get to and  
8 from their place of business.

9 (c) ESTABLISHMENT OF STANDARDIZED RATE.—Not  
10 later than 75 days after enactment of this Act, the GSA  
11 shall establish a policy for a standardized rate and shall  
12 have issued rules and regulations to administer such rate,  
13 including guidance for each department and agency to fol-  
14 low in adopting the new rate of benefit. The initial rate  
15 established shall be not less than 90 percent of the highest  
16 rate used by any Federal agency or department, as deter-  
17 mined at the time the policy is established. The policy shall  
18 be made public, and shall include all relevant statistics  
19 used to justify the proposed standardized rate.

20 (d) ADOPTION OF STANDARDIZED RATE.—Not later  
21 than 60 days after the GSA makes public the policy in  
22 subsection (c), all applicable departments and agencies of  
23 the Government shall adopt and make available the stand-  
24 ardized rate of benefit.

1 (e) ADJUSTMENT OF RATE.—The rate established in  
2 subsection (c) shall be reviewed annually and adjusted, if  
3 necessary, based on the same criteria used to calculate the  
4 general schedule of salaries for the Washington-Baltimore-  
5 Arlington, DC–MD–VA–WV–PA areas.

6 **SEC. 402. NATIONAL ACADEMY OF PUBLIC ADMINISTRA-**  
7 **TION.**

8 (a) IN GENERAL.—Not less than 15 days after enact-  
9 ment of this Act, the Secretary shall enter into a contract  
10 with the National Academy of Public Administration for  
11 the purposes of carrying out this Act. The Academy shall  
12 provide assistance to the Secretary, the Authority, and the  
13 Signatories (individually and collectively) for the purposes  
14 of carrying out this Act.

15 (b) CONSIDERATIONS.—In carrying out the relevant  
16 provisions of this Act, the Academy shall—

17 (1) recommend strategies, practices, and tools  
18 to increase the effectiveness of the Board;

19 (2) facilitate engagement with the Signatories  
20 to assist in the development and implementation of  
21 a new interstate Compact;

22 (3) conduct research and analysis in response  
23 to specific needs of the Board and the Signatories,  
24 including key policy and management issues;

1           (4) provide support to the Board in the develop-  
2           ment of a transition plan; and

3           (5) provide implementation support for any  
4           changes to the Board, or any other changes required  
5           by this Act.

6           (c) REPORTS.—

7           (1) PERIODIC REPORTS.—The Academy shall  
8           submit periodic reports, in addition to a final report  
9           upon completion of the contract, summarizing the  
10          support provided and any findings and recommenda-  
11          tions to the appropriate congressional committees.

12          (2) FINAL REPORT.—Not later than 30 days  
13          after the date determined in subsection (d), the  
14          Academy shall publish online in searchable format a  
15          final report summarizing the support provided and  
16          any findings and recommendations for consideration  
17          in Congress. The Academy shall provide notice to  
18          the appropriate congressional committees in advance  
19          of the publication of the final report.

20          (d) CONTRACT LENGTH.—The initial term of the  
21          contract with the National Academy of Public Administra-  
22          tion shall be for a period of not less than 6 months after  
23          the succeeding Compact is in place. The contract may be  
24          renewed, as appropriate, such that the contract shall be

1 in effect for not less than 90 days after the interstate  
2 Compact is amended pursuant to section 103.

3 **SEC. 403. FEDERAL TRANSIT ADMINISTRATION REVIEW.**

4 The Administrator of the Federal Transit Adminis-  
5 tration shall conduct a review with respect to competitive  
6 grant programs administered by the Federal Transit Ad-  
7 ministration to identify alternative criteria that may be  
8 used in addition to, or in lieu of, minimum capital costs  
9 for transit grants awarded by the Administration. The  
10 purpose of such a review is to establish criteria that will  
11 incentivize efficiency within the entities applying for grant  
12 funds. The Administrator shall review any relevant per-  
13 formance metrics, including—

14 (1) system expenses relative to vehicle revenue  
15 hours;

16 (2) cost per passenger mile;

17 (3) cost inefficiencies associated with inad-  
18 equate planning for procurement of equipment such  
19 as railcars and buses; and

20 (4) overall safety, including number of accidents  
21 or injuries system-wide.

22 **SEC. 404. METRO REFORM COMMISSION.**

23 (a) ESTABLISHMENT.—Upon enactment of this Act,  
24 there is established a Metro Reform Commission.

1 (b) PURPOSE.—The Commission will serve as an  
2 intergovernmental body whose purpose is to—

3 (1) share information and provide a forum  
4 through which proposals to improve the Authority  
5 may be debated; and

6 (2) keep Congress and other relevant stake-  
7 holders informed of the progress of the efforts by  
8 the Signatories to amend the interstate Compact  
9 and increase efficiencies within the Authority.

10 (c) MAKEUP.—The makeup of the Commission shall  
11 be as follows:

12 (1) The Governor of Virginia.

13 (2) The Governor of Maryland.

14 (3) The Mayor of the District of Columbia.

15 (4) The Secretary of Transportation.

16 (5) The General Manager of the Authority.

17 (6) 1 member of the National Academy for  
18 Public Administration contracted under section 402  
19 of this Act.

20 (7) 8 Members of the House of Representatives  
21 appointed by the Speaker of the House, 5 of which  
22 shall be from the majority, and 3 of which shall be  
23 from the minority.

1           (8) 3 Members of the Senate appointed by the  
2           majority leader, 2 of which shall be from the major-  
3           ity, and 1 of which shall be from the minority.

4           (d) DESIGNEEES.—Any member of the Commission  
5           may select an individual to serve as a designee on the  
6           Commission.

7           (e) CHAIR.—The Chair shall be named by the Speak-  
8           er of the House of Representatives.

9           (f) MEETINGS.—

10           (1) FREQUENCY.—The Commission shall meet  
11           subject to the call of the Chair.

12           (2) OUTSIDE PARTICIPANTS.—The members of  
13           the Commission may vote with not less than 10  
14           votes to invite outside guests, including stakeholders,  
15           subject matter experts, community leaders, elected  
16           officials, representatives of the business community,  
17           or other relevant entities to their meetings to provide  
18           counsel or briefings.

19           (3) LOCATION.—The Chair shall name the time  
20           and place of meetings, which may be held in a pub-  
21           licly or privately owned building with no expectation  
22           of reciprocal action or favoritism is provided to the  
23           individual granting permission for use of the space.

24           (g) DUTIES.—The Governors of Maryland and Vir-  
25           ginia, and the Mayor of the District of Columbia (referred

1 to in this section as the “executives”) jointly shall develop  
2 a document to reflect specific amendments, deletions, ad-  
3 ditions, or edits to the previous interstate Compact which  
4 governed the Authority. The executives shall provide, to  
5 the best of their ability, such document to the other mem-  
6 bers of the Commission upon request, but at least as often  
7 as the Commission convenes. Upon agreement among the  
8 Signatories of a new interstate Compact, the executives  
9 shall provide a final version of this document to the mem-  
10 bers of the Commission.

11 (h) TERMS OF SERVICE.—The members of the Com-  
12 mission shall serve as long as the Commission is author-  
13 ized. If no amendments to the Compact are agreed upon  
14 before the political term of a Commission member expires,  
15 or that Commission member is defeated in a political elec-  
16 tion, or is removed from office for any reason, his or her  
17 successor to such political office shall serve on the Com-  
18 mission.

19 (i) COMPENSATION.—The members of the Commis-  
20 sion shall serve in addition to their regular professional  
21 duties and obligations, and shall not receive compensation  
22 for membership on, or participation with, the Commission.

23 (j) GIFTS.—Except as provided in subsection (f)(3)  
24 of this section, the Commission members may not accept,

1 use, or dispose of gifts, including donations, services, prop-  
2 erty, or tangible goods.

3 (k) TERMINATION.—The Commission shall be termi-  
4 nated after the Signatories negotiate amendments to the  
5 Compact, adopt such amendments, and the Congress ap-  
6 proves such amendments.

7 **SEC. 405. NATIONAL CAPITAL AREA INTEREST ARBITRA-**  
8 **TION STANDARDS.**

9 Sections 18301 through 18304 of chapter 183 of title  
10 40, United States Code, are amended to read as follows:

11 **“§ 18301. Findings and purposes**

12 “(a) FINDINGS.—Congress finds that—

13 “(1) safe, reliable, and affordable public trans-  
14 portation at sufficient levels is essential to the eco-  
15 nomic vitality of the national capital area and is an  
16 essential component of regional efforts to improve  
17 air quality to meet environmental requirements and  
18 to improve the health of both residents of and visi-  
19 tors to the national capital area as well as to pre-  
20 serve the beauty and dignity of the Nation’s capital;

21 “(2) use of mass transit by both residents of  
22 and visitors to the national capital area is substan-  
23 tially affected by the prices charged for mass transit  
24 services, prices that are substantially affected by



1 labor costs, since more than 70 percent of operating  
2 costs are attributable to labor costs;

3 “(3) labor costs incurred in providing mass  
4 transit in the national capital area have increased at  
5 an alarming rate and are unsustainable in light of  
6 the financial condition of interstate Compact agen-  
7 cies providing mass transit services in the national  
8 capital area;

9 “(4) higher operating costs incurred for public  
10 transit in the national capital area cannot be offset  
11 by increasing costs to patrons, since this often dis-  
12 courages ridership and thus undermines the public  
13 interest in promoting the use of public transit;

14 “(5) higher operating costs incurred for public  
15 transit in the national capital area cannot be offset  
16 by service cuts since this undermines the public in-  
17 terest in promoting the use of public transit and  
18 could impact public safety;

19 “(6) spiraling labor costs cannot be offset by  
20 the governmental entities that are responsible for  
21 subsidy payments for public transit services since  
22 local governments face other substantial financial  
23 obligations;

24 “(7) labor costs cannot be increased during pe-  
25 riods of time when an interstate Compact agency op-

1 erating in the national capital area providing public  
2 transportation is financially stressed taking into ac-  
3 count operating costs, legacy benefit obligations,  
4 capital needs, and reserve levels;

5 “(8) imposition of mandatory standards appli-  
6 cable to arbitrators resolving arbitration disputes in-  
7 volving interstate Compact agencies operating in the  
8 national capital area will ensure that wages, bene-  
9 fits, and other terms and conditions of employment,  
10 including work rules, are justified and do not ad-  
11 versely impact the ability of the interstate Compact  
12 agencies to provide affordable, safe, and reliable  
13 public transit services at levels sufficient to serve the  
14 needs of the Washington metropolitan area;

15 “(9) Federal legislation is required to ensure  
16 that interest arbitration decisions do not adversely  
17 impact the ability of interstate Compact agencies op-  
18 erating in the national capital area to emerge from  
19 periods of financial stress and avoid future periods  
20 of financial stress; and

21 “(10) Federal legislation is necessary under  
22 section 8 of article I of the Constitution to balance  
23 the need to moderate and lower labor costs while  
24 maintaining labor peace.

1       “(b) PURPOSE.—The purpose of this chapter is to  
2 adopt standards governing arbitration that arbitrators  
3 must apply exclusively in resolving disputes involving  
4 interstate Compact agencies operating in the national cap-  
5 ital area in order to lower operating costs and facilitate  
6 the provision of safe, reliable, and affordable public transit  
7 services at sufficient levels in the Washington metropoli-  
8 tan area.

9       **“§ 18302. Definitions**

10       “In this chapter, the following definitions apply:

11               “(1) ARBITRATION.—The term ‘arbitration’—

12                       “(A) means the arbitration of disputes, re-  
13 regarding the terms and conditions of employ-  
14 ment, that is required under an interstate Com-  
15 pact governing an interstate Compact agency  
16 operating in the national capital area; but

17                       “(B) does not include the interpretation  
18 and application of rights arising from an exist-  
19 ing collective bargaining agreement.

20               “(2) ARBITRATOR.—The term ‘arbitrator’ re-  
21 fers to either a single arbitrator, or a board of arbi-  
22 trators, chosen under applicable procedures.

23               “(3) INTERSTATE COMPACT AGENCY OPER-  
24 ATING IN THE NATIONAL CAPITAL AREA.—The term  
25 ‘interstate Compact agency operating in the national

1 capital area’ means any interstate Compact agency  
2 that provides public transit services and that was es-  
3 tablished by an interstate Compact to which the Dis-  
4 trict of Columbia is a signatory.

5 “(4) FINANCIAL STRESS.—The term ‘financial  
6 stress’ means that at least 2 of the following 3 fi-  
7 nancial issues are affecting an interstate Compact  
8 agency operating in the national capital area:

9 “(A) The interstate Compact agency’s  
10 ratio of operating revenues (excluding any sub-  
11 sidy payment or budgetary assistance) to oper-  
12 ating expenses (as measured on the last date of  
13 each fiscal year) has decreased in the aggregate  
14 over the preceding 2-year period.

15 “(B) The interstate Compact agency has  
16 taken at least one of the following measures  
17 during the preceding 2-year period:

18 “(i) Reduced service.

19 “(ii) Increased fares.

20 “(iii) Diverted capital funds to pay for  
21 operating expenses during a period in  
22 which the interstate Compact agency’s  
23 ratio of capital backlog to system value is  
24 greater than the average ratio of capital

1 backlog to system value for other United  
2 States transit systems.

3 “(C) It is not reasonably foreseeable that  
4 the interstate Compact agency will be in a state  
5 of good repair within the following 2 years as  
6 determined by the Federal Transit Administra-  
7 tion’s Transit Economic Requirements Model or  
8 any other alternative model that the Federal  
9 Transit Administration may utilize in the fu-  
10 ture.

11 **“§ 18303. Standards for arbitrators**

12 “(a) DEFINITION.—In this section, the term ‘public  
13 welfare’ means, with respect to arbitration under an inter-  
14 state Compact—

15 “(1) the ability of the interstate Compact agen-  
16 cy to finance wages and benefits resulting from an  
17 arbitrator’s award consistent with its projected oper-  
18 ating and capital budgets during the term of such  
19 award without adversely impacting the agency’s abil-  
20 ity to provide safe, reliable, and affordable public  
21 transportation at sufficient levels;

22 “(2) the ability of the interstate Compact agen-  
23 cy to finance wages and benefits resulting from an  
24 arbitrator’s award as set forth in subsection (c); and

1           “(3) the continuity and stability of interstate  
2           Compact agency operations to the effect that such  
3           operations are not detrimental to any facet of the re-  
4           gional economy or to the ability of employees of the  
5           Federal, State, or local governments to conduct busi-  
6           ness.

7           “(b) FACTORS IN MAKING ARBITRATION AWARD.—  
8           An arbitrator rendering an arbitration award involving the  
9           employees of an interstate Compact agency operating in  
10          the national capital area must exclusively consider the fol-  
11          lowing factors, in addition to the factors prescribed in sub-  
12          section (c):

13           “(1) The existing wages, benefits, and terms  
14          and conditions of employment of the employees in  
15          the bargaining unit except that structural changes  
16          should be awarded to the benefit of an interstate  
17          Compact agency operating in the national capital  
18          area where such changes are consistent with the  
19          public welfare.

20           “(2) The reasonably available and ongoing fi-  
21          nancial resources of the interstate Compact agency,  
22          taking into account the liabilities and obligations (in-  
23          cluding capital needs, legacy benefit obligations, and  
24          reserve levels) of the interstate Compact agency,

1 based on the agency's budget for the current year  
2 and its projected budget for the next 10 years.

3 “(3) The annual increase or decrease in con-  
4 sumer prices for goods and services as reflected in  
5 the most recent Consumer Price Index for the Wash-  
6 ington-Baltimore, DC–MD–VA–WV Consolidated  
7 Metropolitan Statistical Area, published by the Bu-  
8 reau of Labor Statistics.

9 “(4) The wages, benefits, and terms and condi-  
10 tions of the employment of other employees in the  
11 District of Columbia, Maryland, and Virginia whose  
12 positions require qualifications and skills similar to  
13 those required by employees in the bargaining unit  
14 except that an arbitrator rendering an arbitration  
15 award involving the employees of an interstate Com-  
16 pact agency operating in the national capital area  
17 may not consider the wages, benefits, and terms and  
18 conditions of employment of employees working out-  
19 side of the District of Columbia, Maryland, and Vir-  
20 ginia.

21 “(5) The wages, benefits, and terms and condi-  
22 tions of employment applicable to other employees of  
23 the interstate Compact agency taking into account  
24 the special nature of the work performed by the em-  
25 ployees in the bargaining unit, including any hazards

1 or the relative ease of employment, physical require-  
2 ments, educational qualifications, job training and  
3 skills, shift assignments, and the demands placed  
4 upon the employees as compared to only other em-  
5 ployees of the same interstate Compact agency.

6 “(6) The interests and welfare of the employees  
7 in the bargaining unit, including—

8 “(A) the overall compensation presently re-  
9 ceived by the employees, having regard not only  
10 for wage rates but also for wages for time not  
11 worked, including vacations, holidays, and other  
12 excused absences;

13 “(B) all benefits received by the employees,  
14 including previous bonuses, insurance, and pen-  
15 sions; and

16 “(C) the continuity and stability of em-  
17 ployment, such that the arbitrator shall not  
18 issue an award increasing wages or benefits  
19 where the interstate Compact agency operating  
20 in the national capital area can show that such  
21 recommended increases could result in  
22 headcount reductions.

23 “(7) The public welfare.

24 “(c) ABILITY TO FINANCE WAGES AND BENEFITS  
25 PROVIDED IN AWARD.—An arbitrator rendering an arbi-



1 tration award involving the employees of an interstate  
2 Compact agency operating in the national capital area  
3 shall not, with respect to a collective bargaining agreement  
4 governing conditions of employment, provide for wages or  
5 other benefits that exceed the reasonable and ongoing abil-  
6 ity of the interstate Compact agency operating in the na-  
7 tional capital area to obtain the necessary financial re-  
8 sources to pay for wage and benefit increases for employ-  
9 ees of the interstate Compact agency while providing safe,  
10 reliable, and affordable transit services at levels sufficient  
11 to serve the needs of the Washington metropolitan area.  
12 The following conditions shall be met to comply with this  
13 subsection:

14           “(1) An arbitrator’s award shall not provide for  
15 wages and benefits that will result in an annual in-  
16 crease in operating subsidy of more than 1.5 percent  
17 inclusive of both labor and nonlabor-related oper-  
18 ating costs, unless there is substantial evidence that  
19 the interstate Compact agency is able to finance the  
20 additional costs consistent with its budget and pro-  
21 jected budgeted costs without adversely impacting  
22 the agency’s ability to provide safe, reliable, and af-  
23 fordable public transportation at sufficient levels.

24           “(2) During those periods of time when an  
25 interstate Compact agency operating in the national

1 capital area is financially stressed, the arbitrator  
2 shall issue an award that either reduces or does not  
3 increase the interstate Compact agency's personnel  
4 costs.

5 “(3) The arbitrator's award must give substan-  
6 tial deference to the evidence presented by the inter-  
7 state Compact agency's management regarding fi-  
8 nancial issues.

9 “(4) The arbitrator's award may not cause the  
10 interstate Compact agency operating in the national  
11 capital area to be in noncompliance with any other  
12 legal obligations.

13 “(d) CLARIFICATION.—An arbitrator rendering an  
14 arbitration award involving the employees of an interstate  
15 Compact agency operating in the national capital area  
16 shall consider the factors in subsection (b) independently  
17 from the factors in subsection (c).

18 “(e) REQUIREMENTS FOR FINAL AWARD.—

19 “(1) WRITTEN AWARD.—In resolving a dispute  
20 submitted to arbitration involving the employees of  
21 an interstate Compact agency operating in the na-  
22 tional capital area, the arbitrator shall issue a writ-  
23 ten award that demonstrates that all the factors set  
24 forth in subsections (b) and (c) have been considered

1 and applied and that the arbitrator has not consid-  
2 ered and applied any other factors.

3 “(2) PREREQUISITES.—An award may grant an  
4 increase in pay rates or benefits (including insurance  
5 and pension benefits), or reduce hours of work, only  
6 if the arbitrator concludes that any costs to the  
7 agency do not adversely affect the public welfare.

8 “(3) SUBSTANTIAL EVIDENCE.—The arbitra-  
9 tor’s conclusion regarding the public welfare must be  
10 supported by substantial evidence.

11 “(f) COMPLIANCE WITH SECTION 5333(b) OF TITLE  
12 49, UNITED STATES CODE.—

13 “(1) CLARIFICATION.—Neither the existence of  
14 this statute, nor any arbitrator’s award issues pur-  
15 suant to this law, shall be deemed to violate the re-  
16 quirements of section 5333(b) of title 49, United  
17 States Code.

18 “(2) PROHIBITION ON DENIAL.—For the avoid-  
19 ance of doubt, the Department of Labor or the De-  
20 partment of Transportation shall not deny any cer-  
21 tification of compliance with section 5333(b) of title  
22 49, United States Code, and an interstate Compact  
23 agency operating in the national capital area shall  
24 not be denied any Federal grant as a result of this

1 statute or any arbitrator's award issued pursuant to  
2 this statute.

3 **“§ 18304. Procedures for enforcement of awards**

4 “(a) MODIFICATIONS AND FINALITY OF AWARD.—  
5 Within 10 days after the parties receive an arbitration  
6 award to which section 18303 of this title applies, the  
7 interstate Compact agency and the employees, through  
8 their representative, may agree in writing on any modifica-  
9 tions to the award. After the end of that 10-day period,  
10 the award, and any modifications, become binding on the  
11 interstate Compact agency, the employees in the bar-  
12 gaining unit, and the employees' representative.

13 “(b) IMPLEMENTATION.—Each party to an award  
14 that becomes binding under subsection (a) shall take all  
15 actions necessary to implement the award.

16 “(c) JUDICIAL REVIEW.—Within 60 days after an  
17 award becomes binding under subsection (a), the inter-  
18 state Compact agency or the exclusive representative of  
19 the employees concerned may bring a civil action in a  
20 court that has jurisdiction over the interstate Compact  
21 agency for review of the award. The court shall review the  
22 award on the record, and shall vacate the award or any  
23 part of the award, after notice and a hearing, if—

24 “(1) the award is in violation of applicable law;

1           “(2) the arbitrator exceeded the arbitrator’s  
2 powers;

3           “(3) the decision by the arbitrator is arbitrary  
4 or capricious;

5           “(4) the arbitrator conducted the hearing con-  
6 trary to the provisions of this chapter or other laws  
7 or rules that apply to the arbitration so as to sub-  
8 stantially prejudice the rights of a party;

9           “(5) there was partiality or misconduct by the  
10 arbitrator prejudicing the rights of a party;

11           “(6) the award was procured by corruption,  
12 fraud, or bias on the part of the arbitrator; or

13           “(7) the arbitrator did not comply with the pro-  
14 visions of section 18303 of this title.”.