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94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 94–1168

AMTRAK IMPROVEMENT ACT OF 1976

MAY 15, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. STAGGERS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[Including cost estimate and comparison of the Congressional Budget Office]

[To accompany H.R. 13601]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 13601) to amend the Rail Passenger Service Act to authorize additional appropriations, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

COMMITTEE ACTION

On March 4, 1976, H.R. 12346 was introduced by Chairman Staggers, for himself and Mr. Devine, at the request of the Department of Transportation. On March 9 and 11, 1976, the Subcommittee on Transportation and Commerce held two days of public hearings on H.R. 12346 and received testimony from the Department of Transportation; the National Railroad Passenger Corporation (Amtrak); the Interstate Commerce Commission; the Railway Labor Executives' Association; the National Association of Motor Bus Owners; and the National Association of Railroad Passengers.

On April 1, 1976, the Subcommittee on Transportation and Commerce held an open markup session on H.R. 12346 and directed that a Subcommittee print be prepared for further consideration by the Subcommittee in a subsequent markup session.

On April 12, 1976, the Subcommittee considered the print in an open markup session, and by voice vote, ordered a clean draft entitled "Amtrak Improvement Act of 1976" reported to the full Committee.

On May 6, 1976, the Committee on Interstate and Foreign Commerce considered the clean draft reported by the Subcommittee and

directed that a clean bill be introduced including changes approved by the full Committee. On the same day, H.R. 13601 was introduced by Chairman Staggers, for himself and Mr. Rooney, Chairman of the Subcommittee on Transportation and Commerce.

On May 11, 1976, the Committee on Interstate and Foreign Commerce, by voice vote, ordered the bill, H.R. 13601, reported to the House without amendment.

What the Bill Does

The primary purpose of this bill is to provide funds for Amtrak to cover deficits in operating and capital expenses for each of the fiscal years 1977 and 1978.

This bill authorizes funds for Amtrak as follows:

(1) $430 million for fiscal year 1977 for operating grants.

(2) $140 million for fiscal year 1977 and $140 million for fiscal year 1978 for capital grants.

(3) $68 million for fiscal year 1977 and $75 million for fiscal year 1978 for Northeast Corridor operating expenses.

(4) $25 million for fiscal year 1978 for grants to make payments on Amtrak's outstanding debts.

The reported bill also makes several other changes in existing law which are described in more detail later in this report. Briefly, these changes may be described as follows:

Amtrak is authorized to employ security guards without regard to State laws relating to licensing or residency.

Amtrak is prohibited from entering into any so-called "incentive payment" contract with a railroad which does not meet the rigid requirements set forth in the reported bill. The Interstate Commerce Commission (ICC) is authorized to monitor and enforce compliance with these requirements.

Amtrak is granted specific authority to engage in so-called "leverage lease transactions" with a Federal loan guarantee authorized in existing law.

The ICC is required to report to the Congress on requests by Amtrak for exemptions from any ICC regulation relating to adequacy of service. The ICC is also prohibited from issuing any such regulation which requires Amtrak, or any other railroad providing passenger service, to offer food service at any time other than normal meal times.

Amtrak is exempted from payment of transfer taxes or recording fees which might otherwise be applicable to the transfer of any rail properties involved in the implementation of the Northeast Corridor project.

The reported bill also makes two changes in existing law relating to ICC authority over interstate rates charged by local public bodies providing mass transportation services. The first change provides that the exemption from ICC regulation applies only to local bodies providing rail mass transportation services. Bus services would remain subject to ICC regulation. The second change provides that such rail services will be exempt from ICC rate regulation only if the interstate rates (or the ability to apply for interstate rate increases) of the local public body are subject to approval or disapproval by a Governor of any State in which the rail services are provided.

Background and Need

It has now been five years since the National Railroad Passenger Corporation (Amtrak) was created by the Rail Passenger Service Act of 1970. When Amtrak commenced service on May 1, 1971, rail passenger travel had reached its low mark in this century and most railroads were anxious to surrender passenger service to Amtrak as they believed such service was a hopeless financial proposition.

The 91st Congress established Amtrak because it believed that intercity rail passenger service should be an integral part of the national transportation system as an alternative to total dependence upon traveling by air and automobile. This belief has been sustained by subsequent legislation, including this bill. The Committee is convinced that Amtrak provides, and should continue to provide, a useful service to the American people.

The Committee recognizes that Amtrak was severely under capitalized. Amtrak was originally given a $40 million Federal grant and $197 million over a three year period as payments from participating railroads. On the other hand, the trains included in the original basic system were losing $200 million a year and the rolling stock, stations, and considerable amounts of the tracks on which it operated were in deplorable condition as they had been neglected for a number of years.

The rolling stock averaged 24 years of age. Moreover, the companies which manufactured this equipment were either no longer in business or had turned to other products. Thus, Amtrak had severe maintenance problems as parts were not available and personnel often had to service equipment foreign to their previous experience. In many instances the multiple varying types of cars obtained from the different railroads were not compatible and could not be interchanged on a single train. Amtrak has experienced numerous breakdowns and operated with defective, unsatisfactory equipment. These conditions have undoubtedly discouraged ridership.

Until April 1, 1976, when ConRail was created by the Railroad Revitalization and Regulatory Reform Act of 1976 (P.L. 94–210, approved February 5, 1976), i.e., for the first five years of Amtrak's operations, six of the railroads in the east and midwest were bankrupt. Almost half of Amtrak's operations were on these railroads. Considerable portions of the tracks of these railroads have not been properly maintained due to the financial condition of the railroads and, consequently, Amtrak's operations are severely hampered. Trains are operated at exceedingly slow speeds and in some instances rerouted over circuitous routes. These conditions reduce Amtrack's competitive position since trains are scheduled to take longer in many instances than alternate modes and do not even have good on-time performance.

Similarly, most of the stations were antiquated and had been neglected for many years. These stations were not only dirty and unattractive, but, in some instances, unsafe.

Obviously, considerable funding was required to correct this multitude of deficiencies. The following authorizations were made:

[In millions of dollars]

	Operational grants		Federally guaranteed loans for capital improvements	Capital improvement grants
	General	International routes		
Public Law 91–518	$40.0		$100	
Public Law 92–316	225.0	$2	100	
Public Law 93–146	109.3	[1] 2	300	
Public Law 93–496	200.0		400	
Public Law 94–25	873.0			$245
Total	1,447.3	4	[2] 900	245

[1] Subsequent grants for this purpose were included in the general operation grants.
[2] Existing ceiling on Federal loan guaranty authority.

Amtrak, with these funds, has made considerable progress in the goal of providing a modern intercity rail passenger service. The frequency of Metroliner service was doubled to 14 daily trains each way between New York and Washington. Six high-speed, five-car turbine trains were obtained and placed in service between Chicago and St. Louis. Seven additional turbine trains are being constructed in this country and are expected to be delivered by mid-1976 for operation in New York State's Empire Service. A total of 492 "Amfleet" cars have been ordered. These cars are designed primarily for corridor service but are also capable of long-distance operation. Some of these cars have been delivered and are in service in the Northeast Corridor and out of Chicago. In addition, in early 1977 Amtrak expects to receive 235 double-deck, long-haul passenger cars. These will include the first new sleeping cars built in this country in 20 years. As of December 31, 1975, Amtrak had a regular fleet of 2,139 cars. It is anticipated that the new "Amfleet" and bi-level cars will add to the capacity of the present fleet by 70 percent.

All of the cars Amtrak purchased from the railroads have been refurbished and most have received a heavy overhaul. Amtrak has taken over a number of maintenance and repair facilities from the railroads. Also, a new $15 million maintenance facility is being constructed to maintain the new turbine trains as well as conventional passenger equipment.

A total of 30 new diesel locomotives have been placed in service. An additional 35 diesel and 26 electric locomotives have been ordered but not yet received.

To date, eight new stations have been constructed and over 400 stations have been renovated in some degree. One of the major accomplishments with regard to stations was the consolidation of all intercity passenger train operations in Chicago into a single terminal. It is estimated that this consolidation saves the corporation $1 million a year and at the same time saves millions of passengers the inconvenience and expense of changing stations.

As a result of the Railroad Revitalization and Regulatory Reform Act of 1976, it is expected that considerable improvements should be made to the tracks upon which Amtrak operates. Primarily, $1.6 billion was authorized to upgrade the Northeast Corridor between Washington and Boston to 120-mile-an-hour speeds.

Considerable improvement has been made with regard to information and reservation systems. A nationwide computerized reservations and ticketing system was established. This system replaced 13 outdated systems. Currently, the system is handling an average of 60,000 calls a day, or about half of its programed capacity.

At inception, and for a considerable time afterwards, most of the employees worked for the railroads. As a consequence Amtrak was unable to adequately control its operations. The number of Amtrak employees has increased from 349 on December 31, 1971, to 9,359 on December 31, 1975. The largest increases occurred (1) in 1973 when almost 3,000 professional, clerical, and general employees transferred from the railroads and (2) in 1973 and 1974 when 3,600 station agents and on-board service personnel transferred from the railroads. Equipment maintenance employees have increased from 8 in 1971 to almost 900 on December 31, 1975.

Amtrak ridership grew steadily until, in 1974, it carried 18.5 million passengers. This was the highest passengers-by-train year recorded since the 1950's. In 1975, ridership fell to 17.4 million passengers. It appears that the acute energy crisis of 1974 accounted for much of the increase in passengers at that time. Most of the drop in ridership in 1975 occurred during the first two quarters. Ridership stabilized in the 3rd quarter of 1975 and during the 4th quarter there was a small increase compared with the same period of 1974. It is believed that the ridership in 1975 reflects a return to a more sustainable pre-energy crisis level of growth.

In regard to improvements in operation, the Interstate Commerce Commission reported:

> "Although affected by the general economic downturn and continued inflation, Amtrak's performance record in its fifth year of operation has shown definite signs of overcoming some of the earlier operational problems. At the same time, continued increases in labor costs and the price of materials and supplies has stalled progress toward the profitability goal. Clearly, Amtrak has a long way to go to achieve this objective, although the corporation's 5-year plan forecasts quite optimistic projections for the FY 1976–1980 time period."

AUTHORIZATIONS

Administration spokesmen and the President of Amtrak, testifying before the Subcommittee on Transportation and Commerce, agreed that there is little likelihood Amtrak will make a profit in the near future. Thus, the Committee believes that again it must authorize funds to subsidize Amtrak's operational deficits and capital improvement program.

A total of $430 million is authorized for fiscal year 1977 as operational grants. This represents an increase of $75 million over the $355 million previously authorized by this Congress for this purpose for this time period. The additional authorization is represented primarily by inflation and increased interest costs not considered during previous deliberations.

The Administration requested that the operational grant for fiscal year 1977 be limited to $378 million. It contended that (1) the inflation factor would be $10 million less than estimated by Amtrak ($54 million vs. $64 million); (2) there would be a $20 million savings

resulting from management improvements; and (3) projected losses of $14.2 million for 5 new routes established in 1976 (one Congressionally mandated experimental route, three routes established at the request of, and cost shared by, States, and an Amtrak initiated route between Boston and Chicago) and projected losses of $6.3 million for three new routes to be established in 1977 (two routes to be established at the request of, and cost shared by, States and one Congressionally mandated experimental route), could be offset by eliminating these and other routes and services of marginal public benefit in accordance with the recently approved "Criteria and Procedures for Making Route and Service Decisions."

The Committee is not willing to accept the Administration's recommended amount. The Committee determined that the difference between the two estimates regarding inflation is accounted for by the fact that the Administration assumed that Amtrak computed the amount in an erroneous manner. The Administration, however, was unable to substantiate its position. Similarly, the Administration was unable to explain where the savings resulting from management improvements will come from in 1977. The Committee fully anticipates that savings will result from improved maintenance procedures and facilities, a reduction in maintenance costs for new and refurbished equipment as compared to present equipment, personnel being employed by Amtrak rather than the railroads, and a number of recent managerial decisions. The Committee, however, believes that most of these savings will occur after fiscal year 1977 and cannot estimate the savings that will occur in fiscal year 1977.

With regard to the Administration's proposal that routes and services of marginal public benefit be eliminated, the Committee does not believe that any routes should be discontinued this year. Rather, it believes Amtrak needs a reasonable time to operate its present routes with good equipment and roadbeds before a determination can be accurately made as to whether or not a particular route is economically, socially, and environmentally viable.

The Committee also makes note that a recent report issued by the General Accounting Office indicated that an authorization in the amount recommended by the Administration would be insufficient. GAO reported that Amtrak's projections in its five-year financial plan for sizeable increases in ridership and revenues for fiscal year 1977 and succeeding years is very optimistic. In addition, GAO reported that Amtrak's estimated expenses for fiscal 1977 were understated by at least $61 million. Thus, GAO envisions the necessity for a minimum operating grant of $501 million plus the amount of revenue overstatement. Obviously, therefore, no consideration should be given to authorizing an amount less than $430 million.[1]

It should also be noted that the GAO report pointed out that Federal rail subsidies are substantially less than Federal subsidies for other modes of transportation. GAO also concluded that there is a general feeling of satisfaction among a large number of passengers despite current adverse conditions. Although Amtrak's projected ridership increases may be overly optimistic for the near future, the Committee is convinced that given a fair chance under good operating conditions, and its new management, it can provide a good service

[1] See Appendix for excerpt from GAO report.

which is essential to the American public and reduce current operating losses.

The Committee did not authorize any funds for operating deficits beyond fiscal year 1977. Although it is recognized that funds for this purpose for fiscal year 1978 and future fiscal years will in all likelihood be required, the Committee desires to review the Corporation's activities each year so as to accurately determine the amount of such funds as may be needed.

The bill authorizes $140 million for capital improvement grants for fiscal year 1977 and a like amount for fiscal year 1978. Of these amounts, $50 million is required for new passenger cars, $45 million for facilities, $30 million for right-of-way improvements and $10 million for locomotives. Congress previously authorized $110 million for capital grants for fiscal year 1977; thus, this bill increases this amount by $30 million represented by the rights-of-way improvements.

The Administration recommended $110 million and $100 million respectively for these improvements. The Administration objected to providing funds for right-of-way improvement because it did not believe Federal funds should be used to improve private property.

The Committee agrees with the Administration in principle but does not believe the granting of funds in this instance violates this principle. These funds are to be expended in small increments to correct seriously deficient safety and operational conditions solely for the benefit of Amtrak which the railroads are unwilling or unable to correct. For example, last year Amtrak expended $1.1 million on the "Katy" tracks in Texas in order to remove a dog-leg in the Inter-American route, thereby shortening the route by 39 miles and reducing the scheduled time by 55 minutes. The financial condition of the railroad precluded it from installing this track and, moreover, the shorter routing will be of no benefit to the railroad. It is contemplated that the funds provided by this bill will be expended in a similar manner in a number of different areas on several different railroads all over the country. There are innumerable instances where slow orders reduce train speeds to 10 miles an hour for considerable distances, which severely hamper operations. Overall train speeds commonly average less thant 40 miles an hour. In Indiana, trains are rerouted for several miles because of unsafe conditions for short distances on the main route. In one instance, trains are precluded from entering Chicago and passengers must be bused for about 30 miles. Given these conditions, the Committee believes there will be considerable public benefit by the expenditure of relatively small amounts of funds.

Previously, Amtrak financed capital improvement through the use of Government guaranteed loans. In March 1975, in conjunction with the "Amtrak Improvement Act of 1975," the Committee ceased granting further loan authority as the interest payment was becoming a financial burden upon Amtrak. Loan authority in the total amount of $900 million had been authorized and, as of March 1, 1975, a total of $860 million had been committed by Amtrak. The annual financing of these loans exceeded $32 million. Therefore, the Committee, for the first time, authorized grants rather than increasing the ceiling on loan authority.

The Committee continues to believe that grants should be given for this program rather than increasing the ceiling on loan authority and

placing a further burden on Amtrak's finances. In furtherance of this policy, this bill authorizes $25 million for fiscal year 1978 for grants to make payments on Amtrak's outstanding debts. The $900 million ceiling on loan authority will be reduced by an amount equal to the payments made to retire outstanding debts. The Administration recommended this provision.

The bill further authorizes $68 million for fiscal year 1977 and $75 million for fiscal year 1978 for operating expenses pertaining to the recently acquired Northeast Corridor. The Administration agrees with these estimates.

Thus, the total authorization of Federal grants included in this bill will be as follows: $638 million for fiscal year 1977 and $240 million for fiscal year 1978.

SECURITY GUARDS

With the purchase of the Northeast Corridor by Amtrak it now needs an expanded security guard system to protect Amtrak passengers and property. Existing authority permits Amtrak to expand its security force. It has been found, however, especially with regard to the Northeast Corridor, that there are many different, often conflicting, residency, licensing, and qualification requirements in effect for security personnel along intercity passenger routes. As a result, Amtrak is unable to utilize its security force effectively and economically since almost every train traverses a multitude of jurisdictions. Therefore, this bill permits Amtrak to train its security guards in a single, nationally-recognized training program, such as the G.S.A.'s Federal Protective Services Policy Academy and by virtue of successfully completing the training program, to be automatically certified among the various States and localities.

LEVERAGE LEASING TRANSACTIONS

The Committee believes that existing loan guarantee authority should be made available for lease transactions (including leveraged lease transactions in which a lessor rather than Amtrak retains tax benefits) determined by the Board of Directors of Amtrak to be in its economic interest, and that such requests shall be approved by the Secretary of Transportation and the Secretary of the Treasury, notwithstanding any policy, regulation or any guideline that would otherwise preclude the use of guarantee authority for such transactions. Although the "Amtrak Improvement Act of 1975" clarified the Secretary's authority to permit loan guarantees to support leverage lease agreements, the Department of Transportation informed Amtrak that use of such guaranty authority was contrary to Administration policy. The basis for this policy is a belief that the advantages that accrue to Amtrak by financing through leverage leasing are more than offset by the Treasury's loss of tax revenue from the lessor. In addition, since the Federal tax expenditures involved in leverage leasing are often not considered by the Federal entity involved, the avoidance of leverage leasing would permit more explicit disclosure of the full costs of Government programs.

The Committee feels that Amtrak should be able to use leverage lease financing as do many railroads. There is a limited supply of leverage lease funds available in the financial markets and lessors could obtain the same tax advantages whether or not they entered into leverage leases with Amtrak or some other entity. Also, Amtrak can adequately disclose the use of leverage leasing in its financial statements and reports. Use of leverage lease financing for acquisition of rolling stock or other capital assets will reduce Amtrak's interest cost in acquiring these assets by 2½ to 3 percent per annum over the lease term. For equipment already leased by Amtrak, it is estimated that $45 million will be saved over the lease term. If similar financing could be arranged for rolling stock on order, this interest cost reduction would approximate $180 million over the next 15 years.

ADEQUACY OF SERVICE REGULATIONS

In testimony on the existing Interstate Commerce Commission's Adequacy of Service regulations the Subcommittee was informed that providing 24-hour food service has proven particularly burdensome on the intercity passenger carriers operating overnight trains. Consequently, the bill provides that regulations for intercity passenger service can only require food service during customary dining hours.

In addition, due to the Committee's mounting concern as to the usefulness of regulatory actions with regard to intercity passenger carriers, the Committee added a provision to require the ICC to include in all subsequent annual reports to the Congress a full acounting and analysis of all actions taken (or inaction) on rule changes or exemptions sought by Amtrak. The Committee has spent long hours in analyzing the status and quality of this nation's rail system and is very interested in the ICC's proposed track standards for passenger trains. The Committee is hopeful that such standards will be promulgated soon.

TRANSFERS TO IMPLEMENT NORTHEAST CORRIDOR PROJECT

To protect the public's investment in ConRail, the Railroad Revitalization and Regulatory Reform Act of 1976 (PL 94–210) exempted the transfers of properties from the estates to the ConRail Corporation from title and transfer taxes. Similarly, Amtrak will need to protect the public investment from title and transfer taxes when it takes over operations and control of the Northeast Corridor. At least two major property acquisitions have or will occur with regard to the Northeast Corridor Project: the first was in the transfer to Amtrak from ConRail of all the properties Amtrak needed to acquire for the project implementation and for the operation of the Northeast Corridor; the second will be as the project is implemented and Amtrak needs to acquire miscellaneous land tracts to permit the easing of various extreme curves in the corridor trackage.

The Committee justified the expenditure of public funds for these land and property acquisitions for the implementation of this vital public project. The Committee, however, cannot justify the expenditure of Federal monies to pay title, deed, and transfer taxes on a publicly mandated project to be implemented by Amtrak.

AMTRAK INCENTIVE-PAYMENT CONTRACTS WITH RAILROADS

Under existing law Amtrak has authority to offer cash bonuses (incentive payments) to railroads which improve on-time performance of passenger trains. Beginning in mid-1974, following criticism that some railroads were giving priority to freight trains over Amtrak

passenger trains, Amtrak entered into agreements with several railroads to pay cash bonuses for improved on-time performance. Under these contracts, penalties could be assessed for performance below a stated level and for lack of car cleanliness, but only to the extent that cash bonuses were earned for that year.

The report of the Interstate Commerce Commission, submitted to the President and to the Congress on March 15, 1976, on the effectiveness of the Rail Passenger Service Act, indicated that a total of $11.8 million was paid as incentives to ten railroads between January 1 and August 31, 1975. The ICC report raised several questions about how on-time standards have been interpreted and cited the following three examples:

1. During the 7-month period before signing an incentive contract with Amtrak on July 1, 1974, the Burlington Northern operated trains on time 49.7 percent of the time. Shortly before the incentive contract took effect, the scheduled times of a number of trains were extended by amounts varying from 15 minutes to 55 minutes. This had an immediate effect on that railroad's on-time performance. In the first seven months, under the new contract, Burlington was on time 85.8 percent of the time. During this time, the railroad received $3.1 million in incentive payments. If pre-contract standards had been followed, the railroad would have received $1.49 million.

2. Before signing an incentive contract with Amtrak on July 1, 1974, the Milwaukee Road operated Amtrak passenger trains on time (within 5 minutes of their scheduled time) for 81.5 percent of their total operations for Amtrak. Between April and October of 1973, the Milwaukee conducted an extensive roadbed repair program which caused excessive delays to passenger trains. If these delays had been excluded from performance computations before signing the incentive contract, the on-time performance of the Milwaukee Road would have been 88 percent. No changes were made in Milwaukee train schedules. The incentive contract established a 65 percent on-time figure as the criteria for incentive payments. Between December 1973 and June 1974, Milwaukee operated 89.3 percent of Amtrak passenger trains on time, based on the 5-minute allowance. During the first seven months of the incentive contract, Milwaukee operated 88.9 percent of Amtrak passenger trains on time. Under the 5-minute allowance, the Milwaukee operations would have been 84.8 percent on time. During this period, Milwaukee received $840 thousand in incentive payments. Under the pre-incentive contract standards, Milwaukee would have received $695 thousand.

Before the execution of the incentive contract, any train not within 5 minutes of its scheduled time was considered late. When the incentive contract was executed, Amtrak adopted ICC schedule tolerances in computing on-time performance. Those schedule tolerances are as follows:

Trip length (miles):	*Tolerance (minutes)*
0 to 150	5
151 to 250	10
251 to 350	15
351 to 450	20
451 to 550	25
551 or more	30

The ICC on-time performance standards *were not* promulgated with the purpose of using such figures to compute past on-time performance.

The following chart was contained in the 1975 Amtrak annual report submitted to the President and to the Congress on February 14, 1976. It shows the on-time performance percentage for each railroad and indicates which railroad has an incentive contract.

	Percent on-time		
	1973	1974	1975
Railroad:			
Atchison, Topeka & Santa Fe	66.8	82.0	86.0
Boston & Maine [1]	81.1	83.7	97.4
Burlington Northern [1]	64.1	75.7	90.3
Chessie System	57.5	76.9	70.8
Canadian National		69.5	73.4
Delaware and Hudson [1]		82.1	84.5
Grand Trunk Western [1]		96.3	93.0
Illinois Central Gulf	33.8	58.5	51.9
Louisville & Nashville	42.7	78.5	76.3
Milwaukee Road [1]	68.0	88.5	90.5
Missouri-Kansas-Texas			91.4
Missouri Pacific	58.3	65.8	69.2
Norfolk & Western			91.8
PC-Corridor	62.7	82.3	78.2
PC-Non Corridor	62.7	36.2	54.8
Richmond, Frederick, & Potomac [1]	59.6	64.8	89.3
Seaboard Coast Line [1]	55.2	81.4	94.2
Southern Pacific [1]	39.1	74.1	83.3
Texas and Pacific		91.7	84.9
Union Pacific	77.5	94.7	94.4
Amtrak System	60.2	75.4	77.4

[1] Railroads with incentive contracts.

3. During the 7-month period preceding the incentive payment contract with Seaboard Coast Line on September 15, 1974, the average on-time performance was 77.5 percent. During the incentive contract negotiations, an agreement was reached to extend schedule items. During the first 7 months of operation under the incentive contract, the on-time performance was 94.3 percent. If the on-time performance had been computed under the 5-minute allowance, the on-time performance would have been 88 percent. During the first 7 months of the incentive contract, Seaboard Coast Line received $3,717,500 in incentive payments. Under the pre-incentive contract standards, the railroad would have received $2,952,300.

In view of these examples, the Committee adopted subsection (a) of section 4 of the reported bill, which prohibits Amtrak from entering into any contract providing for an incentive payment for a level of service or performance equal to or less than the level provided before the contract. It also requires that incentives be paid only on a train-by-train basis and prohibits any incentive for a train not operated within 5 minutes of its scheduled time for at least 90 percent of its scheduled operations. The ICC is given authority to monitor incentive contracts and enforce compliance with this subsection.

AUTHORITY OF THE INTERSTATE COMMERCE COMMISSION

Section 304(j) of the Regional Rail Reorganization Act of 1973, as added by section 804 of the Railroad Revitalization and Regulatory Reform Act of 1976 (approved February 5, 1976), provided that any local public body providing mass transportation services (and which was otherwise subject to the Interstate Commerce Act) would be exempted from rules, regulations, and orders issued under that Act

with respect to the provision of such services. This section also provided that any such local public body would continue to be subject to applicable Federal laws pertaining to safety, representation of employees for collective bargaining, and retirement and unemployment systems or any other provision relating to dealings between employees and employers. The term "mass transportation" was defined as having the same meaning prescribed in section 12(c)(5) of the Urban Mass Transportation Act. That definition included all mass transportation services provided by any mode of transportation.

Motor carriers providing mass transportation services argued before the ICC that the Congress did not intend to exempt motor carriers from ICC regulation by the enactment of section 304(j) as part of an ominbus railroad revitalization bill. The ICC agreed that, in the context of a massive bill providing for revitalization of railroads, the Congress did not intend to exempt motor carriers from ICC regulation.

Section 8 of the reported bill confirms this interpretation by redefining the term "mass transportation services" to mean only those transportation services described in section 12(c)(5) of the Urban Mass Transportation Act which are provided by rail.

This section of the reported bill also amends section 304(j) of the Regional Rail Reorganization Act of 1973 to provide that any local public body which provides such services (and is otherwise subject to the Interstate Commerce Act) will be exempt from rules, regulations, and orders issued under that Act only if the interstate fares (or the ability to apply for interstate fare increases) of such local public body is subject to approval or disapproval by a Governor of any State in which such services are provided. This amendment is designed to protect the riding public against arbitrary rate increases by local public bodies.

The Committee was informed of several different situations which could exist in the area of mass transportation services, as illustrated by the following examples:

In the case of local mass transportation services provided between the States of New York and New Jersey by the New York Port Authority, the Governor of either State has authority, under the terms of the Interstate Compact approved by the Congress, to disapprove rate increases sought by the Port Authority.

In the case of such services provided between the States of Pennsylvania and New Jersey by the Pennsylvania Transportation Company (PATCO), a wholly owned subsidiary of the Delaware River Valley Port Authority, there is no similar authority by the Governor of either State to disapprove any rate increases proposed by the local public body. This Authority also operates under an interstate compact approved by the Congress, under the terms of which the Governor of each of the two States exercises appointment and recall powers with respect to members of the Delaware River Port Authority. In this case, however, neither Governor retains a veto power over actions taken by the appointed members.

In the case of the Washington Metropolitan Area Transit Authority (WAMATA), which also operates under an interstate compact approved by the Congress, the terms of the compact provide that the interstate rates will be regulated by a regional agency and further that such rates will be exempt from ICC regulation.

Under section 8 of the reported bill, the following result would be reached in each of the three examples cited above:

Interstate rates fixed by the New York Port Authority would be exempt from ICC regulation because the Governor of either State may disapprove rate increases.

Rate increases fixed by PATCO, under the Delaware River Port Authority, would be subject to ICC regulation because the interstate compact does not provide for an exemption from ICC regulation, nor does the Governor of either State have a veto power over any rate increase.

In the case of the Washington Metropolitan Area Transit Authority, rate increases fixed by the regional agency would be exempt from ICC regulation because the terms of the interstate compact provide for such exemption and, therefore, WAMATA is not "otherwise subject to the Interstate Commerce Act".

Oversight Findings

Pursuant to clause 2(1)(3)(A) of rule XI of the Rules of the House of Representative, the Committee issues the following oversight findings:

In response to a request by the Subcommittee on Oversight and Investigations, the Comptroller General of the United States issued a report on April 21, 1976, entitled "How Much Federal Subsidy Will Amtrak Need?" based on its evaluation of Amtrak's five-year financial program—operations and capital acquisitions, fiscal year 1975–1979.[1] In addition, in continuance of its studies of Amtrak, the Subcommittee on Oversight and Investigations issued a report in July, 1975, on its review of the Amtrak train "The Inter-American." This report is available from the Subcommittee.

In regard to Rule XI, 2(1)(3)(D), no oversight findings have been submitted to the Committee by the Committee on Government Operations.

Cost Estimate

In compliance with clause 7 of rule XIII of the Rules of the House of Representatives, the following statement is made relative to the effect on the revenues of this bill.

The reported bill authorizes appropriations totalling $638 million through the end of fiscal year 1977 and $240 million through the end of fiscal year 1978. The Committee anticipates that the Corporation will request the total amount authorized and, if appropriated, will utilize the total amount within the period authorized. Appropriations for operational deficits for fiscal year 1978 and appropriations for fiscal years after 1978 must be authorized by the Congress in subsequent legislation.

In regard to clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, the Congressional Budget Office submitted the following cost estimate relative to the provisions of H.R. 13601:

[1] See Appendix for excerpt from GAO report.

Congressional Budget Office Cost Estimate

May 13, 1976.

1. Bill number: H.R. 13601.
2. Bill tile: Amtrak Improvement Act of 1976.
3. Purpose of bill:

The bill amends the rail Passenger Service Act to authorize the following appropriations for the National Railroad Passenger Corporation (Amtrak).

a. *$430 million* for FY 1977 for operating expenses of the basic system, and for operating expenses and capital expenses of additional services requested and subsidized by state, regional, or local agencies. This is an increase from the $355 million presently authorized for this purpose for FY 1977.

b. *$140 million* for FY 1977 and *$140 million* for FY 1978 for capital expenditures on the basic system. This is an increase from the $110 million presently authorized for this purpose for FY 1977. There is no previous authorization for FY 1978.

c. *$68 million* for FY 1977 and *$75 million* for FY 1978 for Northeast Corridor operating expenses.

d. *$25 million* for FY 1978 for payment of Amtrak debt guaranteed by the government. The present $900 million ceiling on Amtrak debt is to be reduced by the amount of such payments.

The bill also makes a number of changes in laws affecting Amtrak's hiring of security guards, leverage leasing transactions, and the payment of transfer taxes and recording fees, as well as the authority and responsibilities of the Interstate Commerce Commission.

4. Cost estimate: The budget impact of this bill is estimated as follows, based on additions to previously authorized levels:

BUDGET EFFECTS

[In millions of dollars; fiscal years]

	1977	1978	1979	1980	1981
Additional authorization amount	173.0	240			
Additional cost	153.5	164	74.5	21	
The total funds authorized in this bill produce the following budget impacts:					
Total authorization amount	638.0	240			
Total estimated cost	547.0	219	91.0	21	

5. Basis for estimate: Outlays for operating grants and debt payments (items a, c, and d above) are assumed to be required in the year for which they are authorized. Based on Amtrak estimates, capital grants (item b above) are projected to be expended at a rate of 35 percent the first year, 50 percent the second year, and 15 percent the third year, assuming availability of such funds at the beginning of the first fiscal year.
6. Estimate Comparison: None.
7. Previous CBO Estimate: None.
8. Estimate Prepared By: Robert Sunshine (225-5275).
9. Estimate Approved By:

C. L. Nuckols,
(For James L. Blum,
Assistant Director for Budget Analysis).

Inflation Impact Statement

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee makes the following statement in regard to the inflationary impact of the reported bill:

The reported bill authorizes a total Federal expenditure of $638 million for fiscal year 1977; $430 million for operating deficits; $140 million for capital improvements, and $68 million for Northeast Corridor operating deficits. The Administration's budget includes $483.7 million for these purposes; $378 million for operating deficits and $105.7 million for capital improvements. No funds were included in the Administration's budget for Northeast Corridor deficits because at the time it was prepared it was not known that Amtrak was going to purchase these facilities from ConRail. The Administration agrees that the estimated expenses for this purpose are accurate. It would have preferred, however, that the property were utilized by means of a long term lease thus deferring much of the initial deficit. It is the opinion of the Committee that the Administration's plan would have resulted in a larger cost in the long run.

The difference in anthorized expenditures between the reported bill and the Administration's budget for operating deficits and capital improvements amounts to $86.3 million. The Committee is convinced that the expenditure of this amount will not be inflationary.

If the additional expenditure of $52 million for operating deficits is not made Amtrak will be required to discontinue a number of trains and/or routes. The Committee is opposed to discontinuing any trains or routes at this time as it would defeat the purpose of providing a national passenger train service as an alternative to other transportation modes. In addition, a reduction in trains would not be a deterrent to inflation but rather would have a debilitating effect on the economy because a large number of train, service and maintenance personnel would be discharged. This would result in an increase in unemployment benefits, a decrease in Federal, State and local taxes, and worst of all, a loss of productivity. Also, the discontinuance of trains would have an adverse effect on the nation's fuel consumption. Rail transportation is an efficient use of scarce fuel as compared to automobile and plane travel. To move one tone one mile, a locomotive uses 750 British thermal units, a plane consumes 63,000 Btu's, and a truck 2,400 Btu's. Therefore, the fuel efficiency of rail passenger travel will result in curtailing inflation caused by the importation of oil and the high fuel prices paid by consumers.

The additional expenditure of $34.3 million for capital improvements will be for the purchase of such items as new cars, engines, equipment, facilities and improvement of rights-of-way. Again, this is expected to be a deterrent to inflation as it will generate new employment, and curb unemployment in certain industries such as rolling stock and rail manufacturers.

Section-by-Section Summary

SECTION 1—SHORT TITLE

This section provides for the short title, "Amtrak Improvement Act of 1976".

SECTION 2—FUNDING

This section authorizes funds for Amtrak as follows:

(1) $430 million for fiscal year 1977 for operating grants.

(2) $140 million for fiscal year 1977 and the same amount for fiscal year 1978 for capital grants.

(3) $68 million for fiscal year 1977 and $75 million for fiscal year 1978 for Northeast Corridor operating expenses.

(4) $25 million for fiscal year 1978 for grants to make payments on Amtrak's outstanding debts.

Subsection (b) of this section requires that the $900-million-loan ceiling applicable to Amtrak must be reduced by an amount equal to the total debt paid off with the $25-million appropriation authorized under subsection (a).

SECTION 3—SECURITY GUARDS

This section authorizes Amtrak to employ security guards without regard to State laws relating to licensing or residency.

SECTION 4—INCENTIVE PAYMENTS; AMTRAK ACQUISITION

Subsection (a) of this section prohibits Amtrak from entering into any so-called "incentive payment" contract with a railroad which—

(1) provides for an incentive payment for any level of service or performance which is equal to or less than the level of service or performance provided by the railroad before the date of the contract;

(2) provides for incentive payments on any basis other than a train-by-train basis;

(3) provides for an incentive payment for any level of on-time performance for any train not operated within 5 minutes of its scheduled time for not less than 90 percent of its scheduled operations.

This subsection also authorizes the ICC, on its own motion or on petition by any interested party, to determine whether any contract is in compliance with this requirement and, within 30 days after initiation of any such proceeding, the ICC must issue whatever orders it deems necessary to carry out this subsection (including orders to approve, disapprove, or require renegotiation of, the contract).

Subsection (b) of this section provides that Amtrak will be deemed to have "acquired" tracks or other facilities if it has obtained a present legal or equitable interest therein by any form of lease or purchase, including a long-term contract of sale or a lease with option to purchase. This clarifies when Amtrak "acquires" property and becomes important in determining cost-sharing principles that apply to the use of such property.

The second and third sentences of section 402(a) provide for the application of incremental cost principles to agreements for use by Amtrak of rail properties owned by others, whereas the last two sentences of section 402(a) provide for the application of cost sharing principles which are "equitable and fair" to agreements for use by others of rail properties acquired by Amtrak pursuant to the Regional Rail Reorganization Act of 1973 and the Railroad Revitalization and

Regulatory Reform Act of 1976 and prohibits cross-subsidization through such agreements. Subsection (b) assures that all agreements for use of Amtrak property will be treated under the "equitable and fair" standard and prohibit cross-subsidization without regard to the legal form of the transfer from ConRail to Amtrak, so long as the transfer is done in a way permitted by the statutes.

SECTION 5—LEVERAGE LEASES

This section grants Amtrak specific authority to engage in so-called "leverage lease transactions" with a Federal loan guaranty authorized in existing law.

SECTION 6—ADEQUACY OF SERVICE

Subsection (a) of this section requires the Interstate Commerce Commission to include in its annual report to the Congress a detailed list of the requests received by it from Amtrak to issue, modify or grant an exemption from any regulation issued by the Commission under section 801 of existing law relating to adequacy of service, together with the results of any Commission action on such requests.

Subsection (b) of this section prohibits the Interstate Commerce Commission from issuing any regulation under the so-called "adequacy of service" authority (section 801 of existing law) which requires Amtrak or any other railroad providing passenger service to offer food servce at any time other than normal meal times.

SECTION 7—NORTHEAST CORRIDOR PROPERTY TRANSFERS

This section exempts Amtrak from the payment of any transfer taxes or recording fees which might otherwise be imposed in connection with the transfer of any rail properties involved in the implementation of the Northeast Corridor project.

SECTION 8—RAIL COMMUTER EXEMPTION

This section makes two changes in exiscting law relating to the authority of the Interstate Commerce Commission over interstate rates charged by local public bodies providing mass transportation services.

First, this section provides that the exemption from ICC regulation applies only to local bodies providing mass transportation services by rail. Any such services provided by bus would remain subject to ICC regulation.

Second, this section provides that rail mass transportation services will be exempt from ICC rate regulation only if any interstate fare (or the ability to apply for changes therein) of such local public body is subject to approval or disapproval by a Governor of any State in which such services are provided.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

RAIL PASSENGER SERVICE ACT

* * * * * * *

TITLE III—CREATION OF A RAIL PASSENGER CORPORATION

* * * * * * *

Sec. 305. General Powers of the Corporation.

(a) * * *

* * * * * * *

(*i*) *The Corporation is authorized to employ security guards for purposes of providing security and protection for rail passengers of the Corporation and for rail properties owned by the Corporation. Security guards employed by the Corporation may be employed without regard to any provision of State law setting forth licensing, residency, or related requirements applicable to security guards or persons employed in similar positions.*

* * * * * * *

Sec. 308. Reports to the Congress.

(a)(1) * * *

* * * * * * *

(c) The Secretary and the Commission shall transmit to the President and to the Congress by March 15 of each year (beginning with 1974) reports (or, in their discretion, a joint report) on the effectiveness of this Act in meeting the requirements for a balanced national transportation system, together with any legislative recommendations. Beginning in 1976, the Secretary's report on the Corporation shall be made part of the Department of Transportation annual report to the Congress. *Beginning March 15, 1977, the Commission shall include in the report required by this subsection a detailed listing of requests filed with the Commission by the Corporation to issue, modify, or grant an exemption from, any regulation referred to in section 801 of this Act, relating to adequacy of service, together with the results of any Commission action with respect to such requests.*

TITLE IV—PROVISION OF RAIL PASSENGER SERVICES

* * * * * * *

Sec. 402. Facility and Service Agreements.

(a) The Corporation may contract with railroads or with regional transportation agencies for the use of tracks and other facilities and the provision of services on such terms and conditions as the parties may agree. *The Corporation shall not enter into any contract under this subsection providing for any incentive payment to a contracting railroad or regional transportation agency for a level of service or performance equal to or less than the level of service or performance provided by such railroad or agency before the date such contract was entered into and, in no event, shall any such contract provide for an incentive payment on any basis other than a train-by-train basis or for any level of on-time performance for any train not operated within 5 minutes of its scheduled time for not less than 90 percent of its scheduled operations. The Commission may, on its own motion or on petition by any interested party, initiate a proceeding to determine whether the terms of any incentive payment contract are in compliance with the preceding sentence and, within 30 days after any such proceeding is initiated, shall issue such orders as it may deem necessary to carry out the provisions of such preceding sentence (including orders approving, disapproving, or requiring renegotiation of such contract).* In the event of a failure to agree, the Interstate Commerce Commission shall, within ninety days after application by the Corporation, if it finds that doing so is necessary to carry out the purposes of this Act, order the provision of services or the use of tracks or facilities of the railroad by the Corporation, on such terms and for such compensation as the Commission may fix as just and reasonable, and the rights of the Corporation to such services or to the use of tracks or facilities of the railroad or agency under such order or under an order issued under subsection (b) of this section shall be conditioned upon payment by the Corporation of the compensation fixed by the Commission. In fixing just and reasonable compensation for the provision of services ordered by the Commission under the preceding sentence, the Commission shall, in fixing compensation in excess of incremental costs, consider quality of service as a major factor in determining the amount (if any) of such compensation. If the amount of compensation fixed is not duly and promptly paid, the railroad or agency entitled thereto may bring an action against the Corporation to recover the amount properly owed. Notwithstanding any other provision of this Act, the Corporation may enter into agreements with any other railroads and with any State (or local or regional transportation agency) responsible for providing commuter rail or rail freight services over tracks, rights-of-way and other facilities acquired by the Corporation pursuant to authority granted by the Regional Rail Reorganization Act of 1973 and the Railroad Revitalization and Regulatory Reform Act of 1976. In the event of a failure to agree, the Commission shall order that rail services continue to be provided, and it shall, consistent with equitable and fair compensation principles, decide, within 180 days after the date of submission of a dispute to the Commission, the proper amount of compensation for the provision of such services. The Commission, in making such a determination, shall consider all relevant factors, and shall not permit cross subsidization among intercity, commuter, and rail freight services. *For purposes of this subsection, the Corporation will be deemed to have "acquired" tracks, rights-of way, and other facilities if it has obtained a present legal or equitable interest in such facilities by any form of lease or purchase, including a long-term contract of sale or lease with option to purchase.*

* * * * * * *

TITLE VI—FEDERAL FINANCIAL ASSISTANCE

Sec. 601. Authorization for Appropriations.

(a) There are authorized to be appropriated to the Secretary for the benefit of the Corporation in fiscal year 1971, $40,00,000, and in subsequent fiscal years through June 30, 1975, a total of $597,300,000. There are authorized to be appropriated to the Secretary for the benefit of the Corporation (1) for the payment of operating expenses for the basic system, and for operating and capital expenses of intercity rail passenger service provided pursuant to section 403(b) of this Act, $350,000,000 for fiscal year 1976, $105,000,000 for the transition period

of July 1, 1976, through September 30, 1976 (hereafter in this section referred to as the "transition period") and [$355,000,000] *$430,000,000* for fiscal year 1977; and (2) for the payment of capital expenditures of the basic system, $110,000,000 for fiscal year 1976; $25,000,000 for the transition period; [and $110,000,000 for fiscal year 1977] *$140,000,000 for fiscal year 1977, and $140,000,000 for fiscal year 1978; (3) for the payment of additional operating expenses of the Corporation as a result of operation and maintenance of rail service in the Northeast Corridor pursuant to title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210), $68,000,000 for fiscal year 1977 and 75,000,000 for fiscal year 1978, except that such funds shall not be used for payment of operating losses of commuter rail services or rail freight services; and (4) for the payment of the principal amount of obligations of the Corporation (other than leases) which are guaranteed by the Secretary pursuant to section 602 of this Act, $25,000,000 for fiscal year 1978.* Of the amounts authorized by clause (1) of the preceding sentence, not more han $25,000,000 for fiscal year 1976, $7,000,000 for the transition period, and $30,000,000 for fiscal year 1977 shall be available for payment of operating and capital expenses of intercity rail passenger service provided pursuant to section 403(b) of this Act. Funds appropriated pursuant to such authorization shall be made available to the Secretary during the fiscal year for which appropriated and shall remain available until expended. Such sums shall be paid by the Secretary to the Corporation for expenditure by it in accordance with spending plans approved by Congress at the time of appropriation and general guidelines established annually by the Secretary. Payments by the Secretary to the Corporation of appropriated funds shall be made no more frequently than every 90 days, unless the Corporation, for good cause, requests more frequent payment before the expiration of any 90-day period.

*   *   *   *   *   *   *

Sec. 602. Guarantee of Loans.

(a) * * *

*   *   *   *   *   *   *

(d) The aggregate unpaid principal amount of securities, obligations, leases, or loans outstanding at any one time, which are guaranteed by the Secretary under this section, may not exceed $900,000,000. *Such $900,000000 maximum shall be reduced by an amount equal to the total principal amount of such securities, obligations, or loans paid by the Corporation from funds made available pursuant to clause (4) of section 601(a) of this Act.* The Secretary shall prescribe and collect a reasonable annual guaranty fee.

*   *   *   *   *   *   *

(i) Any request made by the Corporation for the guarantee of a lease or loan pursuant to this section, which has been approved by the Board of Directors of the Corporation, shall be approved by the Secretary if, in the discretion of the Secretary, such request falls within the approved capital and budgetary guidelines issued under subsection (h). *Any request by the Corporation for guarantee authority under this section for a lease transaction (including any leverage lease transaction in which the lessor obtains a Federal tax benefit with respect to railroad equipment leased to the Corporation), determined by the*

Board of Directors to be in the economic interest of the Corporation, shall be approved by the Secretary and by the Secretary of the Treasury, notwithstanding any guideline which would otherwise preclude the use of guarantee authority for such transaction.

*   *   *   *   *   *   *

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 801. Adequacy of Service.

(a) The Commission shall promulgate, within 60 days from the date of enactment of the Amtrak Improvement Act of 1973, and shall from time to time revise, such regulations as it considers necessary to provide adequate service, equipment, tracks, and other facilities for quality intercity rail passenger service. *No regulation issued by the Commission under this section shall require the Corporation or any railroad providing intercity rail passenger service to provide food service other than during customary dining hours.* The Corporation may contract with railroads or with regional transportation agencies for the improvement of service, equipment, tracks and other facilities necessary to meet such regulations promulgated by the Commission. In the event of a failure to agree, the Commission shall by rule establish procedures for allocating between the Corporation and a railroad any costs required to be incurred to meet the regulations establishing adequate service, equipment, tracks, and other facilities.

(b) A civil action may be brought by the Commission to enforce any provision of subsection (a) of this section. The Department of Justice shall represent the Commission in all court proceedings pursuant to this subsection, except that in any case in which the Commission seeks to challenge action or inaction on the part of any party which the Department of Justice is representing, the Commission may be represented by its own attorneys. Uless the Attorney General notifies the Commission within 45 days of a request for representation that he will represent the Commission, such representation may be made by attorneys designated by the Commission. Any action to enforce the provisions of subsection (a) may be maintained in the district court of the United States for any district in which a defendant is found, resides, transacts business, or maintains an agent for service of process. All process in any such suit may be served in any judicial district in which the person to be served is an inhabitant or in which he may be found.

*   *   *   *   *   *   *

REGIONAL RAIL REORGANIZATION ACT OF 1973

*   *   *   *   *   *   *

TITLE III—CONSOLIDATED RAIL CORPORATION

VALUATION AND CONVEYANCE OF RAIL PROPERTIES

Sec. 303. (a) Deposit With Court.—Within 10 days after delivery of a certified copy of a final system plan pursuant to section 209(c) of this Act—

(1) * * *

(e) TRANSFER AND OTHER TAXES AND RECORDING FEES.—All transfers or conveyances of rail properties (whether real, personal, or mixed) which are made under this Act (including transfers and conveyances which are made in accordance with a supplemental transaction pursuant to section 305 of this [title)] *title, or which are made to the National Railroad Passenger Corporation from the Corporation at any time to carry out the purposes of title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 or of section 601 (d) of this Act*) shall be exempt from any taxes, imposts, or levies now or hereafter imposed, by the United States or by any State or any political subdivision of a State, on or in connection with such transfers or conveyances or on the recording of deeds, bills of sale, liens, encumbrances, or other instruments evidencing, effectuating, or incident to any such transfers or conveyances, whether imposed on the transferor or on the transferee. Such transferors and transferees shall be entitled to record any such deeds, bills of sale, liens, encumbrances, or other instruments and, consistent with the designations and applicable principles in the final system plan, to record the release or removal of any pre-existing liens or encumbrances of record with respect to properties so transferred or conveyed, upon payment of any appropriate and generally applicable charges to compensate for the cost of the service performed.

TERMINATION AND CONTINUATION OF RAIL SERVICES

SEC. 304. (a) DISCONTINUANCE.—(1) * * *

* * * * * * *

(j) EXEMPTION.—[(1) No local public body which provides mass transportation services and which is otherwise subject to the Interstate Commerce Act shall, with respect to the provision of such services, be subject to the Interstate Commerce Act or to rules, regulations and orders promulgated under such Act, except that any such local public body shall continue to be subject to applicable Federal laws pertaining to (A) safety, (B) the representation of employees for purposes of collective bargaining, and (C) employment retirement, annuity, and unemployment systems or any other provision pertaining to dealings between employees and employers.] *(1)(A) Except as provided in subparagraph (B) of this paragraph, no local public body which provides mass transportation services by rail, and which is otherwise subject to the Interstate Commerce Act shall, with respect to the provision of such services, be subject to the Interstate Commerce Act or to rules, regulations, and orders promulgated under such Act, if the interstate fares, or the ability to apply to the Interstate Commerce Commission for changes thereto, of such local public body is subject to approval or disapproval by a Governor of any State in which it provides services.*

(B) Any local public body described in subparagraph (A) of this paragraph shall continue to be subject to applicable Federal laws pertaining to (i) safety, (ii) the representation of employees for purposes of collective bargaining, and (ii) employment retirement, annuity, and unemployment systems or any other provision pertaining to dealings between employees and employers.

(2) For purposes of this subsection, the term—

(A) "local public body" has the meaning prescribed for such term in section 12(c)(2) of the Urban Mass Transportation Act (49 U.S.C. 1608(c)(2)) and includes any person or entity which contracts with a local public body to provide transportation services; and

[(B) "mass transportation" has the meaning prescribed for such term in section 12(c)(5) of the Urban Mass Transportation Act (49 U.S.C. 1608(c)(5)).]

(B) "mass transportation services" means transportation services described in section 12(c)(5) of the Urban Mass Transportation Act. (49 U.S.C. 1608(c)(5)) which are provided by rail.

* * * * * * *

AGENCY COMMENTS

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., March 3, 1976.

Hon. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: There is transmitted herewith a proposed bill "To amend the Rail Passenger Service Act to authorize additional appropriations, and for other purposes."

The bill has three purposes: (1) it authorizes appropriations for the National Railroad Passenger Corporation for fiscal years 1977 and 1978; (2) it authorizes the Corporation to establish through routes and rates with motor bus operators; and (3) it provides for reduction of the ceiling amount of the Corporation's obligations that may be guaranteed by the amount of repayments made from appropriations authorized under the Rail Passenger Service Act ("Act").

Section 3 of the proposed bill would authorize appropriations to the Secretary for the benefit of the Corporation as follows: (1) for the payment of operating expenses for all of the Corporation's services, except for certain expenses in the Northeast Corridor, and for capital expenses of service provided pursuant to section 403(b) of the Act for fiscal year 1977 in the amount of $378 million and for fiscal year 1978 in the amount of $410 million; and (2) for the payment of capital acquisitions and improvements of the basic system for fiscal year 1977 in the amount of $110,000,000 and for fiscal year 1978 in the amount of $100 million. In comparison to existing law, this constitutes an increase of $23 million in authorization for operating expenses in fiscal year 1977.

In addition to authorization for appropriations necessary to fund operations and capital improvements for fiscal years 1977 and 1978, section 3 of the bill would authorize appropriations to the Secretary for the benefit of the Corporation (1) for fiscal years 1976, the transition period, 1977, and 1978 to meet increased operating expenses of the Corporation in providing service over the Northeast Corridor pursuant to title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 ("RRRR Act"), except for losses incurred in providing rail commuter or rail freight services, and (2) for fiscal year 1978 to repay obligations of the Corporation guaranteed by the Secretary, except lease transactions. These additional authorizations are

necessary, first, to cover the increased costs of Northeast Corridor operations as a result of the RRRR Act, and, second, to provide a mechanism for reduction of the Corporation's debt. Financial projections of results of operations clearly indicate that the Corporation will not be able to generate net revenues that would be available for payment of guaranteed debt, of which there is over $400 million currently outstanding. The interest cost over the next ten years would be between $600 and $700 million. Section 4 of the bill would make a corresponding change to the Act to reduce the maximum amount that could be guaranteed by the Secretary by an amount equal to the total amount of principal repaid by the Corporation from appropriations made for this purpose.

Section 2 of the proposed bill would specifically authorize the Corporation to establish through routes and fares with motor bus operators in order to develop feeder service to and from rail transfer points. The Corporation could initally propose to establish such connecting service only with motor bus operators that have the requisite authority from the appropriate regulatory agency to provide such service. If no such operator exists, or if all authorized operators refuse to establish through service with the Corporation, then the Corporation would be able to establish through routes and rates with any other certificated bus operator on the same terms offered to authorized operators. Such connecting service would not be subject to the jurisdiction of Federal, State, or local regulatory bodies except with respect to safety.

Carriers providing such connecting service would not be authorized to provide any other new or extended operations without appropriate certification. However, those carriers would be authorized to transport passengers who did not use rail transportation as part of their trip along with the passengers who did use such transportation.

The proposed legislation will not have an adverse impact on the environment, nor will it have an inflationary impact on the economy.

The Office of Management and Budget advises that, from the standpoint of the President's program, there is no objection to the submission of this proposed bill to the Congress and it is in accord with the President's program.

Sincerely,

William T. Coleman, Jr.

AN ACT[1]

To amend the Rail Passenger Service Act to authorize additional appropriations, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Amtrak Improvement Act of 1976".

Sec. 2. Section 306 of the Rail Passenger Service Act (45 U.S.C. 546), relating to applicability of the Interstate Commerce Act and other laws, is amended by adding a new subsection (i) as follows:

"(i)(1) The Corporation may establish a through route and rate with any motor carrier authorized by the Interstate Commerce Commission or by any appropriate State agency to transport passengers over regular routes.

[1] This draft was introduced at the request of the Administration as H.R. 12346.

"(2) Transportation provided pursuant to this subsection may include in the motor carrier segment the transportation of passengers not using the rail services of the Corporation. Transportation provided pursuant to this subsection shall not be subject to:

"(A) part II of the Interstate Commerce Act except as provided in this subsection and except with respect to section 204 of such Act relative to qualification and maximum hours of service of employees, safety of operation, or standards of equipment; and

"(B) any State, regional, or local law except as it may relate to safety of operation.

"(3) In establishing such through service, the Corporation must first offer in writing to establish such through service with the motor carrier or carriers authorized by the Interstate Commerce Commission or by any appropriate State agency to carry passengers on the proposed motor segment of the through route. The terms and conditions of such offer shall be determined by the Corporation. If no motor carrier is authorized to provide such service, or if all the motor carriers authorized to provide the service fail to accept in writing the Corporation's offer within 30 days of its receipt, the Corporation may then offer to establish such through service on the same terms offered to authorized carriers with any other motor carrier authorized by the Commission or appropriate State agency to transport passengers over regular routes."

Sec. 3. Section 601 of such (45 U.S.C. 601), relating to authorization of appropriations, is amended by striking out the second and third sentences of subsection (a) and inserting in lieu thereof the following:

"There are authorized to be appropriated to the Secretary for the benefit of the Corporation (1) for the payment of operating expenses for the basic system, except for the additional expenses that are to be paid from funds authorized by clause (3)(i) of this sentence, and for operating and capital expenses of intercity rail passenger service provided pursuant to section 403(b) of this Act, $350,000,000 for fiscal year 1976, $105,000,000 for the transition period of July 1, 1976, through September 30, 1976 (hereinafter in this section referred to as the 'transition period'), $378,000,000 for fiscal year 1977 and $410,000,000 for fiscal year 1978; (2) for the payment of the costs of capital acquisitions or improvements of the basic system, $110,000,000 for fiscal year 1976, $25,000,000 for the transition period, $110,000,000 for fiscal year 1977, and $100,000,000 for fiscal year 1978; and (3)(i) such sums as may be necessary for fiscal years 1976, the transition period, 1977, and 1978, for the payment of additional operating expenses of the Corporation as a result of operation and maintenance of rail services in the Northeast Corridor pursuant to title VII of Pub. L. No. 94–210 (February 5, 1976), except that such funds shall not be used for payment of operating losses of commuter rail or rail freight services; and (ii) $25,000,000 for fiscal year 1978 for the payment of the principal amount of obligations of the Corporation, except leases, which are guaranteed by the Secretary pursuant to section 602 of this Act. Of the amounts authorized by clause(1) of the preceding sentence, not more than $25,000,000 for fiscal year 1976, $7,000,000 for the transition period, $30,000,000 for fiscal year 1977, and $35,0000,000 for fiscal year 1978 shall be available for payment of operating and

capital expenses of intercity rail passenger service provided pursuant to section 403(b) of this Act."

SEC. 4. Subsection (d) of section 602 of such Act (45 U.S.C. 602), relating to the guarantee of loans, is amended by adding after the first sentence the following:

"Such maximum limitation shall be reduced by an amount equal to the total principal amount of such obligations paid by the Corporation from funds made available pursuant to section 601(a)(3)(ii)."

APPENDIX

EXCEPT FROM REPORT OF THE COMPTROLLER GENERAL OF THE UNITED STATES, RELEASED APRIL 21, 1976

APRIL 21, 1976.

CHAPTER 6

AMTRAK'S FINANCIAL CONDITION

Between fiscal years 1972, the first full year of Amtrak Operations, and 1975 Amtrak has incurred an operational loss in every fiscal year; the 1975 loss was more than double the 1972 loss. This occurred because operating costs continued to increase at a faster rate than operating revenues. As a result, Federal operating subsidies have also had to be increased to keep Amtrak going. However, as shown in the following table, the Federal operating subsidies have been less than the operating losses. This occurred because the operating loss includes costs that do not require appropriations, such as depreciation.

[In millions]

	Fiscal year totals [1]				
	1972	1973	1974	1975	Total
Sales (revenues)	$152.7	$177.3	$240.1	$246.5	$816.6
Operating costs	306.2	319.1	438.0	559.8	1,623.1
Operating loss	153.5	141.8	197.9	313.3	806.5
Federal subsidy	102.7	103.1	127.5	301.3	634.6
Total	50.8	38.7	70.4	12.0	171.9

[1] These figures were taken from Amtrak's financial statements and were not verified.

Amtrak's overall financial position has reached the point where—

Current assets are insufficient to liquidate current liabilites;

Total assets are insufficient to liquidate total liabilites; and

Amtrak's net worth has been reduced from a positive $123.7 million to a negative $9.1 million.

The table shown on the following page summarize Amtrak's financial position at the end of fiscal years 1972, 1973, 1974, and 1975, and the first 6 months of 1976.

SUMMARY OF AMTRAK'S FINANCIAL POSITION

[In millions]

	Year ending June 30—				Midyear Dec. 31, 1975
	1972	1973	1974	1975	
Current assets	[1] $97.9	[1] $100.2	$73.6	$37.3	$62.3
Fixed assets	21.0	81.4	205.2	350.4	464.8
Other assets	54.7	.4	3.2	11.8	11.2
Total [2]	173.7	182.0	282.0	399.5	538.3
Current liablities	33.0	83.9	103.8	318.7	66.1
Long-term liabilities	17.0	13.2	163.6	87.8	481.3
Total liabilities [2]	50.0	97.1	267.4	406.6	547.4
Net worth	[1] 123.7	[1] 84.9	14.6	(7.1)	(9.1)
Total liabilities and net worth	173.7	182.0	282.0	399.5	538.3

[1] Current assets for these years include payments due to be received from the railroads as part of the railroads compensation to Amtrak for taking over their routes as stipulated by sec. 401 of the Rail Passenger Service Act of 1970. These amounts of $65,000,000 and $55,000,000, respectively, are an extraordinary source of funds and account for the high level of current assets in these years. These payments were made over 36 mo and were completed in April 1974. Amtrak's net worth for these periods also reflect these pending payments.

[2] Totals may not add due to rounding.

Beginning in fiscal year 1973 Amtrak began a major equipment replacement program financed by both short- and long-term loans secured under Federal guaranteed loan authority. Because the combination of operating revenue and Federal subsidy was not sufficient to cover operating costs these loans could not be repaid and their debt continued to increase to the point where the ratio of total assets to total liabilities had dramatically decreased. As a result, Amtrak's total assets are insufficient to liquidate its liabilities.

[Dollar amounts in millions]

Ending period	Total assets	Total liabilities	Ratio
June 30, 1972	[1] $173.7	$50.0	[1] 3.474
June 30, 1973	[1] 182.0	97.1	[1] 1.874
June 30, 1974	281.9	267.4	1.054
June 30, 1975	399.5	406.6	.983
Dec. 31, 1975	538.3	547.4	.983

[1] Total assets and the ratio for these periods include pending payments from the railroads (see footnote a on page 37). If these pending payments are excluded from the ratio calculation, the ratios for these periods would be 2.174 and 1.307, respectively.

Two other useful measures in assessing Amtrak's financial condition are the ratios of sales (revenues) to current liabilities and current assets to current liabilities. These ratios are presented in the following chart.

Ending period	Sales	Current assets	Current liabilities	Ratio sales: current liabilities	Rent current assets: current liabilities
June 30, 1972	$152.7	[1] $97.9	$33.0	4.62	[1] 2.97
June 30, 1973	177.3	[1] 100.2	83.9	2.11	[1] 1.19
June 30, 1974	240.1	73.6	103.8	2.31	.71
June 30, 1975	246.5	37.3	318.7	.77	.12
Dec. 31, 1975		62.3	66.1		.94

[1] The current assets and the ratios of current assets to current liabilities for these periods include the pending payments from the railroads (see footnote a on page 37). If these pending payments are excluded from the ratio calculation, the ratios for these periods would be 1.0 and 0.45, respectively.

Since June 30, 1974, the ratio between Amtrak's current assets and current liabilities indicates that Amtrak's current assets are not sufficient to liquidate its current liabilities.

ASSESSMENT OF AMTRAK'S FINANCIAL CONDITION

Based on our analysis of Amtrak's financial statements [1] and the projections for fiscal years 1976 through 1980, it is apparent that Amtrak will continue to require substantial Federal support for both operating subsidies and capital acquisitions if it is to continue.

The combination of Amtrak's continued need for (1) Federal operating subsidies to offset losses and (2) capital program funding through Federal guaranteed loans, will result in a continued deterioration in its financial position.

Unless the combination of Amtrak's operating revenues and the Federal operating subsidies begins to exceed its operating costs in the future years, Amtrak will be unable to pay off any of its outstanding debt. To the extent that the above combination is less than its operating costs and if Amtrak continues to fund its capital acquisition through available Federal guaranteed loan authority, Amtrak's financial condition will continue to deteriorate. Before fiscal year 1976, Amtrak financed capital acquisitions through the use of loans which were guaranteed by the Secretary of Transportation. Amtrak's loan authority totals $900 million. As of December 31, 1975, Amtrak still had unused guaranteed loan authority of approximately $400 million.

Starting in fiscal year 1976, the Congress also authorized capital grants to Amtrak for this purpose, amounting to $111.2 million. The funding of future capital acquisitions with Federal grants rather than loans will result in Amtrak's improved financial condition as the value of its fixed assets increases with these federally funded capital acquisitions. However, if the Federal operating subsidy continues to be less than Amtrak's loss from operations, the unfunded loss will have an adverse effect on Amtrak's equity position.

Since 1972 the Federal operating subsidy has constituted a large portion of Amtrak revenues as follows:

Operating subsidy as a percentage of Amtrak revenues

1972	40.2
1973	36.8
1974	34.7
1975	55.0

Based on our analysis of Amtrak's projections for fiscal years 1976 through 1980, the need for considerable Federal subsidies will continue. Using the adjusted operating subsidy figures developed in chapter 3 and Amtrak's estimates of operating revenue—which we believe to be optimistic as indicated in chapter 2—the total revenues represented by the Federal operating subsidy will be as follows:

[1] Amtrak's financial statements are audited annually by independent certified public accountants.

[Dollar amounts in millions]

Fiscal year	Operating revenues	Operating subsidy	Total	Subsidy as a percent of total
1976	$314.0	$356.6	$670.6	53.2
Transition quarter	99.0	105.0	204.0	51.5
1977	389.0	500.9	889.9	56.3
1978	447.0	554.0	1,001.0	55.3
1979	506.0	548.2	1,054.2	52.0
1980	577.0	516.1	1,093.1	47.2
Total	2,332.0	2,580.8	4,912.8	52.5

CONCLUSIONS

Amtrak's financial condition is such that it has been and will be, for the foreseeable future, heavily reliant upon Federal funding to carry out its operations. Even with the increasing levels of Federal funding it has received, Amtrak's financial condition has declined.

If Amtrak is to continue operations and improve its financial situation, considerable Federal support in the form of both operating subsidies and capital grants is essential.

94TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
No. 94-1479

RAIL AMENDMENTS OF 1976

REPORT

OF THE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE U.S. HOUSE OF REPRESENTATIVES

together with

SEPARATE VIEWS

(Including cost estimate and comparison of the Congressional Budget Office)

ON

H.R. 14932

SEPTEMBER 8, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 94–1479

RAIL AMENDMENTS OF 1976

SEPTEMBER 8, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. STAGGERS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

together with

SEPARATE VIEWS

[Including cost estimate and comparison of the Congressional Budget Office]

[To accompany H.R. 14932]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 14932), to amend the Regional Rail Reorganization Act of 1973, the Railroad Revitalization and Regulatory Reform Act of 1976, the Rail Passenger Service Act, and the Interstate Commerce Act, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

1. Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act, divided into titles and sections according to the following table of contents, may be cited as the "Rail Amendments of 1976".

TABLE OF CONTENTS

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

Sec. 101. Adequate representation.
Sec. 102. Deficiency judgment protection.
Sec. 103. Expiration of options.
Sec. 104. Loans for payment of obligations.
Sec. 105. Protection of employees' pension benefits.
Sec. 106. Basis for compensation.
Sec. 107. Collective bargaining and FELA claims.
Sec. 108. Employee displacement allowance.
Sec. 109. Noncontract employees.
Sec. 110. Exemptions.
Sec. 111. Technical amendments.

TITLE II—AMENDMENTS TO THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

Sec. 201. Obligation guarantees.
Sec. 202. Midwest rail study.
Sec. 203. Technical amendments.

TITLE III—AMENDMENTS TO THE INTERSTATE COMMERCE ACT

Sec. 301. Discontinuance and abandonment procedures.
Sec. 302. Technical amendments.

TITLE IV—GENERAL PROVISIONS

Sec. 401. Environmental study.

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

ADEQUATE REPRESENTATION

SEC. 101. Section 205(d)(7) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 715(d)(7)) is amended to read as follows:

"(7) employ and utilize, until such time as the Director of the Office of Rail Public Counsel has been appointed and confirmed and has taken office, the services of attorneys and such other personnel as may be necessary (A) to protect properly the interests of those communities and users of rail service which, for whatever reason (such as size or location), might not otherwise be adequately represented in the course of the reorganization process under this Act, and (B) to perform, pursuant to section 27 of the Interstate Commerce Act (49 U.S.C. 26b), the functions and duties of the Office of Rail Public Counsel.

The funds authorized to be appropriated to the Office of Rail Public counsel by section 27(6) of the Interstate Commerce Act (49 U.S.C. 26b(6)) are authorized to be made available for purposes of carrying out the provisions of paragraph (7) of this subsection.".

DEFICIENCY JUDGMENT PROTECTION

SEC. 102. (a) Section 206(d)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)(5)) is amended by adding at the end thereof the following new sentence: "Except as otherwise provided with respect to the Corporation pursuant to section 303(c)(2) of this Act, the Corporation, its Board of Directors, and its individual directors shall not be liable to any party, for money damages or in any other manner, solely by reason of the fact that the Corporation transfers property to the National Railroad Passenger Corporation, or to any State (or any local or regional transportation authority), pursuant to section 303 of this Act, to meet the needs of commuter or intercity rail passenger service.".

(b) The first sentence of section 303(c)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(c)(5)) is amended to read as follows: "Whenever the special court, pursuant to subsection (b)(1) of this section, orders the transfer or conveyance of rail properties—

"(A) designated under section 206(c)(1)(C) or (D) of this Act, to the Corporation or any subsidiary thereof, the United States shall indemnify the Corporation against any costs or liabilities imposed on the Corporation as the result of any judgment entered against the Corporation, with respect to such properties, under paragraph (2) of this subsection; and

"(B) to the National Railroad Passenger Corporation, a profitable railroad operating in the region, a State, or a responsible person (including a governmental entity), the United States shall indemnify the National Railroad Passenger Corporation, such profitable railroad, State, or responsible person against any costs or liabilities imposed thereon as a result of any judgment entered against the National Railroad Passenger Corporation, such profitable railroad, State, or responsible person, as the case may be, under paragraph (3) of this subsection,

plus interest on the amount of such judgment at such rate as is constitutionally required.".

EXPIRATION OF OPTIONS

SEC. 103. Section 206(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)) is amended by adding at the end thereof the following new paragraph:

"(7) Any option which is conveyed to the Corporation by a railroad in reorganization, or a railroad leased, operated, or controlled by a railroad in reorganization, with respect to the acquisition by the Corporation, on behalf of a State or a local regional transportation authority, of rail properties designated under section 206(c)(1)(D) of this title, shall be deemed to remain outstanding and in effect until 7 days after the date of enactment of the Rail Amendments of 1976, notwithstanding any contrary provision in such option. The exercise by the Corporation of any such option shall be effective if it is made prior to the expiration of such 7-day period and in the manner prescribed in such option.".

LOANS FOR PAYMENT OF OBLIGATIONS

SEC. 104. (a) Section 211(h)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(1)) is amended to read as follows:

"(h) LOANS FOR PAYMENT OF OBLIGATIONS.—(1)(A) The Association is authorized, subject to the limitations set forth in section 210(b) of this title, to enter into loan agreements, in amounts not to exceed, at any given time, $300,000,000 in the aggregate principal amount, with the Corporation, the National Railroad Passenger Corporation, and any profitable railroad to which rail properties are transferred or conveyed pursuant to section 303(b)(1) of this Act, under which the Corporation, the National Railroad Passenger Corporation, and any profitable railroad entering into such agreement will agree to meet existing or prospective obligations of the railroads in reorganization in the region which the Association, in accordance with procedures established by the Association, determines should be paid by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, on behalf of such railroads in reorganization, in order to avoid disruptions in ordinary business relationships. Such obligations shall be limited to—

"(i) amounts claimed by suppliers (including private car lines) of materials or services utilized or purchased in current rail operations;

"(ii) claims by shippers arising from current rail services;

"(iii) payments to railroads for settlement of current interline accounts and all other current accounts and obligations;

"(iv) claims of employees arising under the collective-bargaining agreements of the railroads in reorganization in the region and subject to section 3 of the Railway Labor Act (including claims for accrued vacation and wages and similar claims arising in connection with labor and services performed);

"(v) claims of all employees or their personal representatives for personal injuries or death and subject to the provisions of Employers' Liability Act (45 U.S.C. 51–60);

"(vi) amounts required for adequate funding of accrued pension benefits existing at the time of a conveyance or discontinuance of service under employee pension benefit plans described in section 505(a) of this Act;

"(vii) amounts required to provide adequate funding for payment, when due, of claims deriving from membership in any employee voluntary relief plan which provides benefits to its members and their beneficiaries in the event of sickness, accident, disability, or death, and to which both a railroad in reorganization and employee members have made contributions; and

"(viii) amounts required to provide adequate funding for payment, when due, of medical and life insurance benefits for employees (whether or not their employment was governed by a collective bargaining agreement) on account of their service with a railroad in reorganization prior to the date of conveyance pursuant to section 303(b)(1), and for individuals who retired, prior to such date of conveyance, from service with a railroad in reorganization.

"(B) The Association shall make a loan pursuant to subparagraph (A) of this paragraph if, notwithstanding any other requirement of this subsection, it finds that the Corporation, the National Railroad Passenger Corporation, or a profitable railroad is entitled to a loan pursuant to section 303(b)(6), 504(e), or 504(g) of this Act, or if, with respect to an obligation referred to in subparagraph (A) of this paragraph, it finds that—

"(i) provision for the payment of such obligation was not included in the financial projections of the final system plan;

"(ii) such obligation arose from rail operations prior to the date of conveyance of rail properties pursuant to section 303(b)(1) of this Act and is, under other applicable law, the responsibility of a railroad in reorganization in the region, and a claim is presented to a railroad in reorganization or the Corporation within 2 years after the date of enactment of the Rail Amendments of 1976;

"(iii) the Corporation, the National Railroad Passenger Corporation, or a profitable railroad has advised the Association that the direct payment of such obligation by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad is for services or materials, the furnishing of which served to avoid disruptions in ordinary business relationships prior to the date of conveyance of rail properties pursuant to section 303(b)(1) of this Act, or is necessary to avoid postconveyance disruptions in ordinary business relationships;

"(iv) the transferor is unable to pay such obligation within a reasonable period of time; and

"(v) with respect to loans made to the Corporation, the procedures to be followed by the Corporation, in seeking reimbursement from a railroad in reorganization in the region for an obligation paid on its behalf under this subsection, have been jointly agreed to by the Finance Committee and the Corporation, and the joint agreement provides—

"(I) for the Corporation to receive reimbursement from the Association for any expenses incurred in seeking reimbursement from any railroad in reorganization in the region for an obligation paid on its behalf under this subsection; and

"(II) for a joint stipulation of the exact procedures the Corporation must undertake to avoid the finding, referred to in paragraph (6)(A)(i) of this subsection, that it has not exercised due diligence.".

(b) Section 211(h)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(2) is amended—

(1) by inserting immediately before the period at the end of the first sentence thereof the following: "and for the payment of only those accounts payable which relate to obligations of the estates identified in paragraph (1) of this subsection"; and

(2) by adding at the end thereof the following new sentence: "Nothing in this subsection shall be construed as permitting any district court of the United States having jurisdiction over the reorganization of a railroad in reorganization in the region to enjoin, restrain, or limit the Corporation, the National Railroad Passenger Corporation, or a profitable railroad from applying, to payment of the obligations of the estates identified in paragraph (1) of this subsection, amounts collected as (A) accounts receivable pursuant to this paragraph, (B) cash or other current assets identified pursuant to paragraph (3) of this subsection, or (C) proceeds of loans pursuant to paragraph (1) of this subsection. Any agency agreement executed prior to the date of the enactment of the Rail Amendments of 1976 shall be deemed amended to the extent necessary to conform such agreement or order to the provisions of this paragraph. Nothing in this paragraph shall be construed to affect any payment made prior to such date of enactment with respect to obligations other than those identified in paragraph (1) of this subsection.".

(c) Section 211(h)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(4) is amended by adding at the end thereof the following new subparagraph:

"(D) Any funds held in an escrow account by a railroad in reorganization on the date of enactment of the Rail Amendments of 1976 which are thereafter determined to be cash and other current assets of the estate for purposes of paragraph (3) of this subsection shall be applied as follows—

"(i) first, to the reduction of any outstanding loans to the Corporation by the Association, pursuant to paragraph (1) of this subsection, the proceeds of which were used to discharge obligations of such railroad in reorganization;

"(ii) second, to the Association to the extent of any such loans which have been forgiven pursuant to paragraph (5) of this subsection; and

"(iii) third, to the payment of any remaining obligations of such railroad in reorganization, in accordance with the provisions of the agency agreement entered into pursuant to paragraph (2) of this subsection.".

(d) Section 211(h)(5)(B) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(5)(B)) is amended by adding at the end thereof the following new sentences: "The Corporation, the National Rail Passenger Corporation, or a profitable railroad, as the case may be, shall, with respect to each direct claim for reimbursement pursuant to paragraph (4) of this subsection, file a proof of administrative expense claim with the trustees of the railroad in reorganization from whom reimbursement is sought. Each such proof of administrative expense claim shall set forth, by category and amount, the obligations of such railroad in reorganization which were paid pursuant to such paragraph (4).".

(e) The first sentence of section 210(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 720(b)) is amended to read as follows: "The aggregate principal amount (exclusive of interest or additions to principal on account of accrual of interest) of obligations issued by the Association under this section which may be outstanding at any one time shall not exceed $345,000,000.".

PROTECTION OF EMPLOYEES' PENSION BENEFITS

SEC. 105. Section 303(b)(6) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(6)) is amended by striking out the period at the end of the last sentence thereof and inserting in lieu thereof the following: ", except that in any case in which the Corporation, on or after the date of transfer or assignment as provided by this paragraph, terminates in whole or in part any such plan, the benefits under which are not guaranteed under title IV of the Employee Retirement Income Security Act of 1974, the Corporation shall guarantee the payment when due of the accrued pension benefits provided for thereunder at the time of termination. The Corporation shall be entitled to a loan pursuant to section 211(h) of this Act in an amount required for the adequate funding of accrued pension benefits under all plans transferred or assigned to the Corporation in accordance with this paragraph (whether or not terminated by the Corporation.) For purposes of such section 211(h) and notwithstanding any other provision of Federal or State law, amounts required for such adequate funding shall be deemed to be expenses of administration of the respective estates of the railroads in reorganization, due and payable as of the date of transfer or assignment of the plans to the Corporation.".

BASIS FOR COMPENSATION

SEC. 106. Section 304(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(d)) is amended by adding at the end thereof the following new paragraph:

"(4) No determination of reasonable payment for the use of rail properties of a railroad in reorganization in the region, and no determination of value of rail properties of such a railroad (including supporting or related documents or reports of any kind) which is made in connection with any lease agreement, contract of sale, or other agreement or understanding which is entered into after the date of enactment of the Rail Amendments of 1976—

"(A) pursuant to this section; or

"(B) pursuant to section 402 of this Act or section 17 of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1613),

shall be admitted as evidence, or used for any other purpose, in any civil action, or any other proceeding for damages or compensation, arising under this Act".

COLLECTIVE BARGAINING AND FELA CLAIMS

SEC. 107. (a) Section 504(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(e)) is amended by inserting immediately after the first sentence thereof the following new sentences: "Any liability of an estate of a railroad in reorganization to its employees which is assumed, processed, and paid, pursuant to this subsection, by the Corporation, the National Railroad Passenger Corporation, or an acquiring carrier shall remain the preconveyance obligation of the estate of such railroad for purposes of section 211(h)(1) of this Act. The Corporation, the National Railroad Passenger Corporation, an acquiring carrier, or the Association, as the case may be, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act (other than paragraph (4)(A) thereof), for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization on whose behalf such obligations are discharged or paid.".

(b) Section 504(g) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(g)) is amended by adding at the end thereof the following new sentences: "Any liability of an estate of a railroad in reorganization which is assumed, processed, and paid, pursuant to this subsection, by the Corporation or an acquiring railroad shall remain the preconveyance obligation of the estate of such railroad for purposes of section 211(h)(1) of this Act. The Corporation, an acquiring railroad, or the Association, as the case may be, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act (other than paragraph (4)(A) thereof), for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization on whose behalf such obligations are discharged or paid.".

EMPLOYEE DISPLACEMENT ALLOWANCE

SEC. 108. (a) Section 505(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(b)) is amended—

(1) In paragraph (1) thereof, by striking out "February 26, 1975" and inserting in lieu thereof "January 1, 1975";

(2) in paragraph (3) thereof, by striking out "February 26, 1975" and inserting in lieu thereof "January 1, 1975"; and

(3) in paragraph (4) thereof, by striking out "February 26, 1975" and inserting in lieu thereof "January 1, 1975".

(b) Section 505(b)(1)(B) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(b)(1)(B)) is amended by inserting immediately after "(B)" the following: "with respect to a protected employee who has been deprived of his employment,".

(c) Section 505(g) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(g)) is amended by adding at the end thereof the following:

"In addition, protected employees displaced as a result of an acquisition pursuant to section 206(d)(4) of this Act (which acquisition was consummated pursuant to section 508 of this title) shall, upon acceptance of employment offered by the Corporation, be entitled to the benefits of paragraphs (1) and (2) of this subsection.".

NONCONTRACT EMPLOYEES

SEC. 109. (a) Section 505(i)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(i)(2)) is amended by inserting immediately after the first sentence thereof the following new sentence: "Such resolution procedure shall be the exclusive means available to the parties for resolving such dispute, and any arbitration decision rendered shall be final and binding on all parties.".

(b) Section 505(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(i)) is amended by addding at the end thereof the following new paragraph:

"(3) Except as otherwise provided in this title, a protected employee whose employment is not governed by the terms of a collective bargaining agreement and who has been deprived of employment shall not, during the period in which he is entitled to protection, be placed in a worse position with respect to any voluntary relief plan benefits or preretirement benefits provided under any life or medical insurance plan, except that the level of benefits to which such an employee is entitled under this paragraph shall not exceed the level of benefits which is afforded to the Corporation's active noncontract employees of comparable age, position, and level of compensation.".

(c) Section 505(b)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(b)(4)) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to any noncontract employee whose noncontract position has been abolished.".

EXEMPTIONS

SEC. 110. Section 601(b)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791(b)), is amended by striking out the third and fourth sentences thereof and inserting in lieu thereof the following: "Thereafter, the district court of the United States which has jurisdiction of the estate of any such railroad in reorganization at the time of such conveyance shall proceed to reorganize or liquidate such railroad in reorganization pursuant to such section 77, in accordance with a fair and equitable plan which complies with the requirements of such section, or such court may convert the proceedings into a bankruptcy proceeding pursuant to any other applicable section or chapter of the Bankruptcy Act, if the court finds that such action would be in the best interests of such estate.".

TECHNICAL AMENDMENTS

SEC. 111. (a) Section 211(h)(6)(A)(i) of the Regional Rail Reorganization Act (45 U.S.C. 721(h)(6)(A)(i)) is amended by striking out "paragraph (1)(E)" and inserting in lieu thereof "paragraph (1)(B)(v)".

(b) Section 303(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(c)) is amended—

(1) in paragraph (2)(A) thereof, by striking out "securities, certificates of value of the Corporation" and inserting in lieu thereof "securities and certificates of value";

(2) in paragraph (2)(A) thereof, by striking out "it has" and inserting in lieu thereof "they have";

(3) in paragraph (2)(B) thereof, by striking out "Corporation's securities, certificates of value" and inserting in lieu thereof "securities and certificates of value";

(4) in paragraph (2)(B) thereof, by striking out "other securities, certificates of value" and inserting in lieu thereof "other securities"; and

(5) in the fourth sentence of paragraph (3) thereof, by striking out "section 303(a)(2)" and inserting in lieu thereof "subsection (a)(2) of this section".

TITLE II—AMENDMENTS TO THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

OBLIGATION GUARANTEES

SEC. 201. (a) Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831) is amended by striking out subsection (c) thereof and inserting in lieu thereof the following new subsection:

"(c) FULL FAITH AND CREDIT.—All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States of America backed by the full faith and credit of the United States of America.".

(b) Section 511(h) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(h)) is amended—

(1) in paragraph (1) thereof, by inserting "(A)" immediately after "secured", and by inserting immediately before the semicolon the following ", or (B) in the case of the rehabilitation or improvement of leased equipment, by the lease"; and

(2) by amending paragraph (5) thereof to read as follows—

"(5) the prospective earning power of the applicant, or the value or prospective earning power of any equipment or facilities to be improved, rehabilitated, or acquired (or any combination of the foregoing), is sufficient to provide the United States with reasonable security and protection in the event of default by the obligor, in the case of repossession by the holder of the obligation, or in the case of possession, purchase, or assumption of the lease by the Secretary, except that if the value or prospective earning power

of such equipment or facilities is equal to or greater than the amount of the obligation to be guaranteed, the Secretary may not, on the basis of the lack of prospective earning power of the applicant, find that the United States will not be provided with the reasonable security and protection referred to in this paragraph; and".

(c) Section 511(j) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(j)) is amended to read as follows:

"(j) CONDITIONS OF GUARANTEES.—(1) The Secretary shall, before making, approving, or extending any guarantee or commitment to guarantee any obligation under this section, require the obligor to agree to such terms and conditions as are sufficient, in the judgment of the Secretary, to assure that, as long as any principal or interest is due and payable on such obligation, such obligor—

"(A) will not make any discretionary dividend payments, except as provided in paragraph (2) of this subsection; and

"(B) will not use any funds or assets from railroad operations for nonrail purposes,

if such payments or use will impair the ability of such obligor to provide rail services in an efficient and economic manner or will adversely effect the ability of such obligor to perform any obligation guaranteed by the Secretary.

"(2) An obligor shall not be restricted with respect to making dividend payments from its net income for any fiscal year, if such payments do not exceed—

"(A) when compared to the net income of such obligor for such fiscal year, the ratio which aggregate dividends paid by such obligor, during the 5 fiscal years prior to the granting of the earliest loan guarantee then outstanding under this section, bore to aggregate net income of such obligor for such period; or

"(B) 50 per centum of the total additions to the retained income of such obligor (computed on a cumulative basis and giving cognizance to dividends paid) during the period commencing with the fiscal year prior to the granting of the earliest loan guarantee then outstanding under this section,

whichever is greater.

"(3) The restrictions on the payment of dividends set forth in paragraph (1)(A) of this subsection shall not apply with respect to an obligation guaranteed under this section if, in the event of a default by the obligor, the Secretary would be subrogated to the rights of the lender under section 77(j) of the Bankruptcy Act.".

MIDWEST RAIL STUDY

SEC. 202. Title IX of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210; 90 Stat. 147) is amended by adding at the end thereof the following new section.

"SEC. 907. (a) The Secretary shall conduct a comprehensive study of freight transportation in the Midwest. Such study shall include, but not be limited to, a determination to the maximum extent feasible of the impact of changes in the capacity of the lock system of the Mississippi River and Illinois Waterway Navigation System upon—

"(1) railroad revenues, service, the ability to attract capital, and continued economic viability;

"(2) railroad branch lines;

"(3) continued capability to provide service;

"(4) shippers dependent upon rail service;

"(5) communities beyond the economic service area of the waterway mode; and

"(6) need for subsidies to railroads.

Such study shall also include a determination of the probable freight to be moved in the Midwest in the next 10 years and the next 25 years, and the most economically efficient method of moving such freight, considering the total private and public costs for the entire region.

"(b) The Secretary shall, within one year after the date of enactment of the Rail Amendments of 1976, submit to the Congress the study required by subsection (a) of this section. The Secretary of the Army and the Commission shall cooperate with the Secretary in preparation of such study. In carrying out its duties under this section, the Commission shall submit to the Secretary of the Army the findings of the Commission with respect to whether the expenditure of Federal funds

on any construction or reconstruction affecting the capacity of the lock system on the Mississippi River and the Illinois Waterway Navigation System is required to meet the needs of the public convenience and necessity for adequate freight transportation services in the Midwest.".

TECHNICAL AMENDMENTS

SEC. 203. (a) Section 308(d)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (15 U.S.C. 80a–3 note) is amended by striking out "subsection (c)" and inserting in lieu thereof "subsection (b)".

(b) Section 504(a)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 824(a)) is amended by inserting "and equipment" immediately after "railroad's facilities".

(c) Section 511(h) of the Rail Revitalization Regulatory Reform Act of 1976 (45 U.S.C. 831(h)) is amended by striking out "PREQUISITES FOR GUARANTEES." and inserting in lieu thereof "PREREQUISITES FOR GUARANTEES.".

(d) Section 809(a)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 1a note) is amended by striking out "abandoned" and inserting "abandoned since 1970" immediately after "railroad rights-of-way".

TITLE III—AMENDMENTS TO THE INTERSTATE COMMERCE ACT

DISCONTINUANCE AND ABANDONMENT PROCEDURES

SEC. 301. (a) Section 1a(1) of the Interstate Commerce Act (49 U.S.C. 1a(1)) is amended by adding at the end thereof the following new sentence: "The authority granted to the Commission under the section shall not apply to (a) abandonment or discontinuance with respect to spur, industrial, team, switching, or side tracks if such tracks are located entirely within one State, or (b) any street, suburban, or interurban electric railway which is not operated as part of a general system of rail transportation.".

(b) Section 1a(4) of the Interstate Commerce Act (49 U.S.C. 1a(4)) is amended—

(1) by adding immediately before the last sentence thereof the following new sentence "If such certificate is issued without an investigation pursuant to paragraph (3) of this section, actual abandonment or discontinuance may take effect, in accordance with such certificate, on the effective date of such certificate."; and (2) in the last sentence thereof, by inserting immediately after "issued" the following: "after an investigation pursuant to such paragraph (3)".

TECHNICAL AMENDMENTS

SEC. 302. (a) The second sentence of section 5(16) of the Interstate Commerce Act (49 U.S.C. 5(16)) is amended by striking out "paragraph (16)" and inserting in lieu thereof "paragraph (17)".

(b) The first sentence of section 17(9)(e) of the Interstate Commerce Act (49 U.S.C. 17(9)(e)) is amended by striking out "section" and inserting in lieu thereof "paragraph".

(c) Section 5b(5)(a)(iii) of the Interstate Commerce Act (49 U.S.C. 5b(5)(a)(iii)) is amended by striking out "section 15(7)" and inserting in lieu thereof "section 15(8)".

(d) Section 13(5) of the Interstate Commerce Act (49 U.S.C. 13(5)) is amended by adding at the end thereof the following:

'Nothing in this paragraph shall affect the authority of the Commission to institute an investigation or to act in such investigation as provided in paragraphs (3) and (4) of this section.".

(e) The final sentence of section 15(19) of the Interstate Commerce Act (49 U.S.C. 15(19)) is amended by striking out "section 2" and inserting in lieu thereof "section 1, 2".

(f) Section 22(2) of the Interstate Commerce Act (49 U.S.C. 22(2)) is amended—

(1) by inserting immediately after "under section 5a" the following: "or section 5b"; and

(2) by striking out "said section 5a" and inserting in lieu thereof "such section 5a or paragraph (8) of such section 5b".

(g) Part I of the Interstate Commerce Act (49 U.S.C. 1 et seq.) is amended by inserting immediately before section 28 the following center heading:

"DISCRIMINATORY STATE TAXATION".

TITLE IV—GENERAL PROVISIONS

ENVIRONMENTAL STUDY

SEC. 401. The Secretary of Health, Education, and Welfare shall, within 12 months after the date of enactment of this Act, submit a report to the Congress with respect to the environmental effects of section 306(i) of the Rail Passenger Service Act (45 U.S.C. 546(i)) and the financial effects on the National Railroad Passenger Corporation and the railroad industry of any repeal or modification of such section 306(i). Such report shall contain such recommendations as the Secretary may consider necessary or appropriate to balance environmental considerations with operating and financial considerations of the railroad industry, including recommendations with respect to equipping new railroad rolling stock and retrofitting existing railroad rolling stock.

2. Amend the title so as to read: "A bill to amend the Regional Rail Reorganization Act of 1973, the Railroad Revitalization and Regulatory Reform Act of 1976, and the Interstate Commerce Act".

COMMITTEE ACTION

The Subcommittee on Transportation and Commerce held three days of Public Hearings on June 22, 23 and 24, 1976, on "Rail Amendments of 1976" (Staff Working Draft, June 10), to amend the Regional Rail Reorganization Act of 1973, the Railroad Revitalization and Regulatory Reform Act of 1976, the Rail Passenger Service Act and the Interstate Commerce Act. Testimony was received from Congressman Robert E. Bauman; Congressman Clarence J. Brown; Congressman Benjamin A. Gilman; Congressman Pierre S. DuPont; the Department of Transportation; Interstate Commerce Commission; United States Railway Association; Association of American Railroads; Consolidated Rail Corporation; Pittsburgh and Lake Erie Railroad; Penn Central Transportation Company; New York, New Haven and Hartford Railroad Company; Eastern Shore Railroad Company; Railway Labor Executives Association and Brotherhood of Railway and Airline Clerks; Rail Progress Institute; National Industrial Traffic League; Union Tank Car Company; Trailer Train Company; American Trucking Association; Freight Forwarders Institute; American Institute for Shipper Associations, Inc.; and National Conference of Non-Profit Shipping Associations.

Subsequently, on July 28, 1976, H.R. 14932 was introduced by Mr. Rooney for himself, Mr. Metcalfe and Mr. Madigan which incorporated the recommendations made during the hearings.

The subcommittee met in open markup session on August 24, 1976 to consider H.R. 14932, and by voice vote, ordered the bill with one amendment reported to the full Committee.

The full Committee on Interstate and Foreign Commerce met in open markup session on August 31 and September 1, 1976, and by voice vote, ordered H.R. 14932 reported to the House with an amendment in the nature of a substitute, set forth above, consisting of the text of the Subcommittee print as amended by the Committee.

WHAT THE BILL DOES

The reported bill includes a number of amendments to the Regional Rail Reorganization Act of 1973, the Railroad Revitalization and Regulatory Reform Act of 1976, and the Interstate Commerce Act.

With regard to the Regional Rail Reorganization Act of 1973, the reported bill provides a means for the existing Public Counsel to continue to function until the President nominates and the Senate confirms a successor. The reported bill extends previously granted deficiency judgment to cover all possible actions that the special court could take with respect to properties designated in the final system plan for "pass through" to the various commuter agencies in the region. It also clarifies any uncertainty regarding ConRail's transfer of certain rail properties to the State of Rhode Island as part of the final system plan.

Significantly, the reported bill increases the United States Railway Association's present loan authority from $230 million to $800 million which is necessary to pay certain claims arising from the operations of the bankrupt railroads immediately prior to conveyance. It has been found that there are insufficient funds presently available from the estates and loan authority to pay these claims in a timely manner in accordance with the Government commitment. The amount of claims is increased by the reported bill by making certain claims eligible for these loans that were not eligible in the original act. For example, health, life insurance and pensions for retirees and accrued vacations are made eligible for these loans. Also in this regard, the amendment provides that the loan funds cannot be discounted for prepaid interest, the escrowed and loan funds can be re-used as repayments are made from the estates, and a time limit of two years after enactment of this bill is imposed for presenting claims. The reported bill specifies the order in which escrowed funds from the estates will be used and provides that amounts collected as accounts receivable, cash or other current assets, or loan proceeds can be used to pay obligations of the estates eligible for these loans notwithstanding prior agreements.

In recognition of the difficulties experienced by States and others to reach an agreement with the trustees of the bankrupt railroads for service on discontinued rail lines, the reported bill specifically excludes from court evidence any such agreement in any future cases involving the overall valuation of the property.

The act is also amended to clarify that ConRail is not required to assume pre-conveyance obligations of the estates under collective bargaining agreements and FELA. Also, ConRail is to be compensated for the cost of issuing the loans to pay these obligations and for collecting these loans. Further, the act is amended to permit the allowance for displaced employees to include the 10 percent wage increase which went into effect for railroad employees throughout the nation on January 1, 1975.

The reported bill provides life and health insurance benefits for displaced non-contract employees. The act presently provides this protection for contract employees but not non-contract employees. The reported bill also amends the act to clarify the district court's handling of the bankrupt estates.

With regard to the Railroad Revitalization and Regulatory Reform Act of 1976, the reported bill provides more flexibility for the loan guarantee program established by section 511 of the Act. It makes clear that the guarantee for these loans has the full faith and credit of the United States and removes the requirement for an evaluation study and publication of a notice of application. It also provides that loans can be made for leased equipment. With regard to the prerequisites for the guarantees, the act is amended to provide that consideration should be given to the prospective earning power of the applicant or the value or prospective earning power of the property or a combination of these. The act presently provides for only the consideration of the value of the property. With regard to the conditions for guarantees, the act is amended to clarify the original intent of Congress by prescribing the amount of dividends that may be paid by the railroad during the term of the loan.

Another amendment to this act requires the Secretary of Transportation to study the impact of waterway transportation on railroads in the Midwest, particularly with regard to the effects of proposed improvements to Lock and Dam 26 at Alton, Illinois.

With regard to the Interstate Commerce Act, the reported bill corrects an unintended omission by specifying that the Commission's discontinuance and abandonment procedures do not apply to spur, industrial, team, switching or side tracks if such tracks are located entirely within one State.

Finally, the reported bill requires the Secretary of Health, Education and Welfare to make recommendations within 12 months as to whether waste disposal conveyances should be required on passenger and freight trains.

Background and Need

The Railroad Revitalization and Regulatory Reform Act of 1976 was signed into law on February 5, 1976 (Public Law 94–210). In accordance with this act, ConRail was established on April 1, 1976, as a result of an income based reorganization including $2.1 billion in Federal financing and the conveyance of certain properties from six bankrupt railroads which previously served the Northeast and Midwest. This constituted the largest corporate reorganization in the history of industrial America.

Although it has been only seven months since this landmark legislation was enacted, it has been determined that a number of essential amendments should be made to clarify the original Congressional intent, correct oversights in the act, and to correct provisions in the act which are now found to be improper.

It was almost inevitable that any major legislation such as this would need to be amended after a certain amount of actual experience. It is believed, however, that the fact there are relatively few amendments being proposed at this time is a reflection of the fine efforts expended by this Congress in considering that legislation.

Adequate Representation

The Railroad Revitalization and Regulatory Reform Act of 1976 established an independent Office of Rail Public Counsel. The President was mandated to appoint (with the advice and consent of the Senate) a director within 60 days after enactment (i.e., February 5). To date, the President has not nominated a director. It was the intent of Congress to have the Public Counsel participate in the many important rulemaking proceedings now underway at the Interstate Commerce Commission regarding the reorganization process as a result of the enactment of Public Law 94–210. Thus, the failure of the President to nominate a director is thwarting the intent of Congress.

The effect of the amendment in the reported bill will be to allow the existing Public Counsel to participate in these proceedings until his successor is nominated and confirmed.

Deficiency Judgment Protection

Sections 303(c)(5) and 206(d)(5) of the Regional Rail Reorganization Act of 1973 provides that the United States shall pay any judgment entered against ConRail, Amtrak, a profitable railroad, a State, or responsible person with respect to the conveyance of any rail properties designated under section 206(c)(1) (C) or (D) as is constitutionally required. The Committee was informed that ConRail encountered problems with regard to an ambiguity in the adequacy of deficiency judgment protection during negotiations with States and transportation authorities for the acquisition and transfer of rail properties. It is argued that the existing language protects against a monetary judgment but does not adequately protect against the possibility of other types of judgments, such as a required adjustment in the base value of the certificates of value, a reallocation of securities, or a requirement to issue additional securities. It is the Committee's opinion that the Congress definitely intended that ConRail, Amtrak, the States, or responsible person should not be exposed to any possible judgment imposed with regard to the transfer of properties designated in the final system plan. Thus, in order not to endanger the viability and solvency of the parties, the amendment in the reported bill reaffirms the previously expressed Congressional intent by making it clear that the deficiency judgment protection afforded in the act covers all possible actions that the special court could take with respect to the properties designated in the final system plan.

Expiration of Options

The Committee was informed that the State of Rhode Island has been unable to consummate the transfer of certain properties located in that State which were contemplated as part of the final system plan. The amendment in the reported bill would enable the State to acquire these properties by removing the uncertainties regarding those transfers.

Loans for Payment of Obligations

Section 211 of the Regional Rail Reorganization Act of 1973 authorized the United States Railway Association to make loans to ConRail, Amtrak, and other acquiring carriers to meet existing or prospective obligations of the railroads in reorganization which USRA determines should be paid in order to avoid disruptions in ordinary

business relationships. The purpose of this section was to provide a mechanism for effecting a smooth transition from the rail operations of the bankrupt railroads to ConRail and other profitable carriers in accordance with the final system plan. The loans were designed to preclude disruptions in rail operations due to the inability of the bankrupt estates to currently meet their obligations to employees, shippers, other railroads, and suppliers for materials and services rendered immediately prior to conveyance on April 1, 1976. It was clear that the claimants would probably react against ConRail and the other acquiring carriers if their unpaid claims were not timely paid because they were left with the estates to be individually collected through the reorganization courts. In fact, based on the assurance that the loan funds provided by section 211 would be available and that claims would be paid in a timely manner, employees, shippers, other railroads, and suppliers continued to provide the necessary materials and services to the bankrupt railroads until conveyance and to the acquiring railroads after conveyance thereby permitting uninterrupted rail service and a smooth conveyance. Unfortunately, however, their claims have not been paid. Failure to pay these claims is causing considerable hardship on the claimants, particularly the numerous small organizations whose cash flow is being devastatingly impacted.

It should be noted that in an opinion pertaining to failure to make timely payment for railroads' interline claims, the U.S. District Court judge stated:

> When the new section 211(h) was finally unveiled, the Court was told that it contained more than enough funding to meet the problem. In fact, the original appropriation had been reduced at the government's request . . . Now that the time to pay the interlines has arrived, the Court is informed that, under USRA regulations, the interline loan may not be granted. If this is so, the Court would have no alternative but to conclude that serious misrepresentations have been made to this Court by representatives of the Government.

With regard to the appropriation reduction, the Conference Report on the appropriations for the 1976 Rail Act states:

> It is not the intention of the conferees that the suppliers of the bankrupt railroads be denied payment of legitimate claims. The conferees are in agreement that, if necessary, a subsequent budget request for these claims will be considered.

The claims have not been paid because there are insufficient funds available from the bankrupt estates and in existing loan authority and because of confusion as to the implementation of this program. Moreover, only a minimum amount of the claims have been paid from the available funds because due to the insufficient amount of funds available to pay all claims there is no agreement as to the priorities as to how the available funds should be divided. The difference between the amount of claims and available funding is shown by the following schedule:

Estimated claims eligible for loans authorized by section 211(h)(1) of the Regional Rail Reorganization Act of 1973—including claims made eligible by the reported bill

[In thousands of dollars]

Employee related claims:	
a. Payroll	51,538
b. FCIA taxes	36,548
c. Pensions	87,263
d. Vacations	106,531
e. FELA	60,134
f. Grievance	30,874
g. VRD	9,500
h. Retiree-health and life and pensions	38,000
Subtotal	420,386
Railroad claims (interline)	242,616
Equipment obligations	38,309
Supplier claims	125,291
Shipper claims (damage)	112,546
Agency fee [1]	43,550
Total claims	982,798
Less estate assets	466,194
Less existing loan authority	230,000
Shortfall	286,604

[1] Roughly 5 percent to ConRail and other carriers to compensate for the administrative burden of paying claims and collecting loans.

Obviously, as there is a "shortfall" of over $286 million, the increase in loan authority amounting to $70 million provided in the reported bill will not be sufficient to immediately pay all claims. Not all claims, however, are eligible for immediate payment as they are subject to litigation or negotiation. For example, not all of the shippers claims for damages or all of the FELA claims have been settled. Therefore, not all of the "shortfall" need be funded immediately. It is believed that these claims can be paid in a timely manner because by the time they have been settled additional funds will be made available from the estates or some of the loans will have been repaid thereby making additional funds available for further loans.

The reported bill also expands the types of claims eligible for section 211(h) loans. It adds: (1) Claims for accrued vacations; (2) claims deriving from membership in employee voluntary relief plans to which both railroads in reorganization and employees have made contributions; and (3) amounts required for adequate funding for payment of medical and life insurance benefits for contract, non-contract and retired employees on account of service prior to date of conveyance with a railroad in reorganization. The Committee believes that these claims come within the original purposes for which these loans are designated. For example, existing legislation provides that the section 211(h) loans could be used for "claims of employees arising under collective bargaining agreements". It is the Committee's opinion that vacation pay is clearly within this category but that a clarification is needed to prevent a misrepresentation of the original Congressional intent. There appears to be no reason why these claimants be denied timely payment by being required to await settlement of the estates. Also, there appears to be no reason why these claims should be to the account of ConRail and the other acquiring railroads

as they pertain to normal administrative expenses incurred by the railroads in reorganization prior to the date of conveyance.

With further regard to the inability to pay some of the claims at the present time with available funds, the Committee is aware that some confusion exists regarding the Congressional intent as to the application of claims to the assets of the estates. It was the Congressional intent that the loan funds were to be used in conjunction with the assets of the estates.

Several of the reorganization courts, however, have made a different interpretation of the act. The courts have been reluctant to use assets of the estate, except current accounts receivable to pay these claims. In addition, the court have been unclear as to what specific claims could be paid with 211(h) funds. In some cases, unfortunately, the courts have held that available estate funds should be applied to the payment of obligations which are not eligible for 211(h) funding. The end result of these interpretations prevents USRA from releasing any funds to ConRail and the other acquiring carriers to pay these claims.

A problem also exists as to whether or not escrowed funds are "cash or other current assets" as provided in existing legislation. The matter is prsently on appeal in several Circuit Courts. The Committee has no intention of interfering with this case. In the event, however, that these escrowed accounts are determined by the courts to be "cash and other current assets" of the estates the Committee believes that they should be applied to: (1) Reduce outstanding loans to ConRail by USRA; (2) reimburse USRA with regard to any loans previously forgiven; and (3) further payment of any remaining obligation. If the application of these funds are not specified in this manner, thereby protecting the Government's interest, the funds could be diverted for payment of claims that are not eligible for section 211(h) loans. For example, the funds could be used to pay taxing authorities for past due taxes. Claims for past due taxes are not eligible for section 211(h) loans because their payment was not necessary to avoid disruption of rail service immediately prior to conveyance.

In summary, the purpose of the amendments in the reported bill is to eliminate the uncertainties about the intent of Congress in creating the 211(h) loan program and to prevent adverse actions against ConRail and other acquiring carriers for unpaid claims. These amendments reaffirm the initial policies adopted by Congress in enacting 211(h) and would have the effect of correcting court orders that misinterpreted the way in which Congress intended section 211(h) to work. Further, after enactment of the amendments, processing these claims on behalf of the estates can begin so that those persons upon which ConRail and the other acquiring carriers depend for future and current service are able to remain viable.

Protection of Employee's Pension Benefits

The Regional Rail Reorganization Act of 1973 contains provisions to protect all current employees by preventing their being placed in a worse position with respect to wages and other benefits. In this regard, the Special Court has held that individuals who were retired before ConRail and other acquiring carriers took over the bankrupt

railroads from which these individuals had retired were also "protected" employees in so far as pension benefits were concerned. The act, however, also provides in section 303(b)(G) that ConRail has an option to terminate its responsibilities for the pension plan and thus return the responsibility for payment of pensions to the Trustees in Bankruptcy of the railroads.

The Committee has been informed that ConRail has exercised its option to terminate 14 pension plans. The Committee is further informed that the Trustees in Bankruptcy for a number of railroads intend to take no action to continue the pensions of the former employees. It is estimated that about 1,600 retirees would be adversely affected. The cost of the pension programs, on a one-time basis, is about $10 million.

The Committee believes that the same justification exists for protecting the pension benefits for these retirees as exists for protecting employees of the bankrupt railroads when they were taken over by ConRail and the other acquiring railroads.

The amendment in the reported bill provides that ConRail and the other acquiring railroads should accept the responsibility for paying these claims. This responsibility is not, however, at the expense of ConRail and the other acquiring railroads. Rather, the pensions are to be paid as other claims eligible for section 211(h) loans, and reimbursement will be sought from the estates of the bankrupt railroads.

Basis for Compensation

In accordance with the final system plan, a number of miles of rail lines of the bankrupt railroads in the Northeast and Midwest were not included in the ConRail system nor were they conveyed to other profitable railroads. Service on these rail lines, however, was not necessarily to be discontinued as the rail lines are eligible for a subsidized operation. In order that these lines can continue to be operated it is necessary for States or other responsible persons providing a portion of the subsidy to enter into agreements with the trustees of the various bankrupt railroads.

The Committee is informed that the trustees of the bankrupt railroads have been reluctant to enter into such agreements because existing legislation provides that the compensation to be paid should be based on the value of the property. The trustees fear such an agreement will be used to their detriment in subsequent litigation to determine the valuation of the property in the final settlement with the Government.

The amendment in the reported bill is designed to permit these agreements to go forward. It specifices that the agreement is merely for the use of the rail property, and specifically excludes from court evidence any such agreements as pertaining to the overall valuation of the property. The amendment is prospective so that agreements already entered into are not excluded from evidence. This avoids the Constitutional question that might arise with respect to agreements already entered into.

Collective Bargaining and FELA Claims

The existing language of sections 504(a), (e), and (g) of the Regional Rail Reorganization Act of 1973 permits an inference that

claims arising before conveyance under collective bargaining agreements of the bankrupt airilroads and under the FELA are the obligation of ConRail and not of the estates. Moreover, under existing provisions, ConRail is required to assume the cost of processing such claims.

In order to remove this inference and fulfill the original Congressional intent, the amendment in the reported bill makes it clear that to the extent collective bargaining and employee personal injury claims arose prior to the date of conveyance (April 1, 1976) they are to be paid with the assistance of section 211(h) loans. Thus, the claims remain the obligations of the estates of the bankrupt railroads reorganized under the act. Further, as the processing of these claims will probably be over an extended period of time, consistent with loans for other eligible claims, ConRail is authorized to use loan funds on a current basis to reimburse its costs and to provide reasonable compensation for its services associated with the processing of the claims involved.

Employee Displacement Allowance

In the original language in Title V of the Railroad Revitalization and Regulatory Reform Act of 1976, the amount of an employee's displacement allowance was based upon his earnings in the 12 months preceding the date on which he was first adversely affected following the date of conveyance. Since this period of time would be different in almost every employee's case and because some employees might be able to artificially increase their displacement allowance prior to being "adversely affected", representatives of ConRail sought an agreement which would avoid the tremendous administrative burden of calculating employee allowances on the basis of separate periods of time for virtually each employee. Consequently, Title V was amended to make the test period identical for all employees. The amendment provided for employee allowances to be based upon the 12 months preceding February 26, 1975, the date on which the preliminary system plan was issued, rather than the 12 months preceding the adverse effect of each individual employee.

On January 1, 1975, a 10 percent wage increase went into effect for railroad employees throughout the nation. It was intended that such "subsequent wage increases" would be added to an employee's test period average compensation, and under the original language of Title V (the 12 months preceding an employee's adverse effect), it would have been so added.

However, since the amended test period would run from February 1, 1974, to January 31, 1975, the 10 percent wage increase would not be a "subsequent" wage increase and thereby would not be added to the employee's test period average compensation. The result is to effectively deprive these displaced employees of the 1975 10 percent wage increase which all other railroad employees in the United States enjoy. No such unfair result was intended by Congress.

The change of date accomplished by the amendment in the reported bill establishes the test period as January 1, 1974, to December 31, 1974. Consequently, the January 7, 1975, 10 percent wage increase becomes a "subsequent" wage increase and added to an employee's test period average as originally intended.

The Committee is informed that it is anticipated that 6,000 employees will receive this displacement allowance and that the total amount of this adjustment for the 10 percent pay increase will be about $360,000 a month or $60 per person. This amount should decrease about 15 percent each year hereafter.

In accordance with section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976, the displacement allowance for employees placed in lower paying jobs is reduced by the amount of any other earnings received. The result is that the employees are deprived of a part of their supplemental income. This situation exists because "displacement" and "dismissal" allowances are combined with other formulae. Consequently, provisions which normally would, and should, have applied only to the "dismissed" or furloughed employees, such as section 505(b)(1)(B), now applies to both displaced and dismissed employees.

The Committee believes that this provision is too restrictive since income derived from non-railroad employment should not be related to railroad employment. Therefore, the amendment in the reported bill restricts the application of the allowance set-off provision to those employees furloughed or "deprived of employment".

Another problem resulting from the complex circumstances of employees being displaced pertains to a situation affecting 29 employees in Bay City, Michigan. These employees of railroads whose properties were acquired by railroads other than ConRail accepted positions with ConRail. In order to exercise their seniority rights they were required to accept a position anywhere in the entire State of Michigan regardless of the thirty-mile limit set by the definition of "change in residence". Consequently, they were denied their moving expenses—a benefit granted to other employees who obtained a position within the geographical definition of a thirty mile radius. It is estimated that the moving expenses for these employees amounts to $150,800. The amendment in the reported bill rectifies this situation by allowing payment of these expenses as this unique problem was not foreseen in the deliberations for the original act.

Noncontract Employees

Section 505(i)(2) of the Regional Rail Reorganization Act of 1973 provides for the resolution of disputes of non-contract employees over the interpretation and application of Title V provisions. Under the existing language, however, a non-contract employee could arguably bypass the dispute resolution procedure altogether and bring suit directly in court or process a claim through the dispute resolution procedure and then, if the result were not to his liking, institute a court suit based upon the same claim.

The amendment in the reported bill makes it clear that the dispute resolution procedure is the exclusive avenue for resolving non-contract employee disputes over the interpretation or application of any provision of Title V, and that an arbitration decision thereunder shall be final and binding on both parties and the matter is not to be subsequently taken to the courts.

Also, this section provides that protected non-contract employees who have been displaced are currently afforded monthly displacement

allowances. However, unlike protected agreement employees, non-contract employees deprived of employment are not entitled under existing Title V provisions to fringe benefit protection.

The Committee is convinced that such unequal treatment between contract and non-contract employees with regard to fringe benefits is not equitable nor intended by Congress in the original deliberations.

The amendment in the reported bill affords to non-contract employees deprived of employment, Title V protection with respect to medical insurance, life insurance and voluntary relief plans. In order to avoid a situation where displaced non-contract employees might be entitled to a higher level of fringe benefits than their active non-contract employee counterparts, the amendment expressly provides that the maximum level of protection with respect to the listed fringe benefits is the level of such benefits which is then being afforded to active non-contract employees of comparable age, position, and level of compensation. Also, as is the case with the protection that is presently afforded contract employees, the protection that would be afforded non-contract employees would be limited to the time period "in which the employee is entitled to protection", which is defined in section 505(e).

Exemptions

The Committee is informed that certain clarifications in the Regional Rail Reorganization Act of 1973 are needed with regard to the powers and duties of the district court after the date of conveyance when rail operations cease for the railroads in reorganization and the powers and duties of the Commission with regard to these railroads also ceases.

The amendment in the reported bill is merely technical in that it removes the statement that the powers and duties of the Commission under section 77 of the Bankruptcy Act shall be vested in the district court of the United States which has jurisdiction of the estate of any railroad in reorganization at the time of conveyance. It also changes the terms of the proceedings to reorganize or liquidate the railroad in reorganization under section 77 from "just and reasonable" to "fair and equitable".

Obligation Guarantees

The Committee is aware that more flexibility is needed with regard to the obligation guarantee program established by section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976. This section authorizes the Secretary to guarantee the payment of principal and interest on obligations amounting to $1 billion if the proceeds are used to acquire or to rehabilitate and improve railroad facilities or equipment.

The Committee found, for example, that if it was specified that the guarantees constitute general obligations of the United States backed by the full faith and credit of the United States, the marketability of the obligations guaranteed would be assured. In addition, this could reduce the costs of borrowing to the applicants. The Committee also found that it is essential that leased equipment be eligible for guarantee. Such equipment is an integral part of railroad operations—a number of railroads lease most of their equipment. With further regard to the prerequisites for guarantees, the Subcommittee

found that a number of railroads could not qualify for the guarantees because the probable value of the equipment or facilities to be improved, rehabilitated, or acquired was not sufficient to provide reasonable security and protection in the event of default by the obligor. The Committee believes that a number of additional railroads could become eligible for guarantees and that the protection to the Government could still be achieved if more flexibility were granted permitting the obligations to be secured by (1) the prospective earning power of the applicant or (2) the value or prospective earning power of the equipment or facilities to be improved, or (3) a combination of the two. Obviously, some projects have adequate value but inadequate earning power, whereas others have inadequate value but adequate earning power and still others have insufficient value and earning power but combined they are sufficient.

The Committee also found that the conditions of guarantees specified in the act are unduly restrictive with respect to allowable dividend payments. It is essential that obligators be permitted to pay dividends during the period of the loan in the event they are warranted by the railroad's financial condition. The primary purpose of the loans is to make the railroads successful. If this is accomplished, dividends should be permitted in order for the railroads to enter the equity market.

The financing provisions of the Railroad Revitalization and Regulatory Reform Act of 1976 were enacted to provide the rail industry with financial assistance in order to rehabilitate its facilities and equipment and thereby increase the industry's profitability and in turn attract private sector investments. The dividend restrictions of the loan guarantee program of section 511 are counterproductive to this goal in that equity investors, which might otherwise be attracted to a profitable carrier, will be reluctant to invest in carriers which have submitted to restrictions on its dividends for the 25 or 30 year life of the loan guarantee program.

In addition, profitable carriers who have not partaken of the section 511(h) loan guarantee program, will be reluctant to merge with or acquire rail carriers who have agreed to 25 or 30 year restrictions on their dividends.

The test of dividend restrictions provided by the amendment in the reported bill are considered objective by the Committee in that they provide investors with a reasonable degree of certainty as to a dividend policy as compared with an undefined determination by the Secretary as presently provided in the act.

This revision to the dividend restrictions contained in section 511(j) in the Railroad Revitalization and Regulatory Reform Act of 1974 would allow a rail carrier which is profitable during the period of the loan guarantee to pay, in those years in which it has sufficient earnings, a reasonable amount of dividends (i.e., 50 percent of its retained earnings during such a period) thereby establishing or continuing a dividend policy which would attract or maintain the interest of equity investors.

Midwest Rail Study

The Department of Transportation has expressed serious concerns that the projects for improving Lock and Dam 26 at Alton, Illinois,

are not being studied on a systematic basis. It is believed that these projects could have serious adverse economic effects on hard-pressed midwestern railroads and rail dependent shippers. In view of the substantial financial assistance for railroads provided by Congress in the Regional Rail Reorganization Act of 1973 and the Railroad Revitalization and Regulatory Reform Act of 1976, it seems only prudent to study the effects the improvements to Lock and Dam 26 would have on these railroads.

The massive Federal subsidy to improve the waterway system will lower barge costs thus diverting freight revenue from the existing rail system. Railroads have a high level of fixed costs (e.g. track, roadbed) which must be shared as unit charges to all rail shippers whereas the substantial cost of facilities for the waterway system which are used by water carriers is borne by the government and thus essentially free to the water carriers. If traffic is diverted from the Midwestern railroads by constructing Lock and Dam 26 and related upstream locks, these fixed costs must be shared by the remaining shippers dependent on rail service thus raising the required charges for remaining shippers. If the predictions of the railroads as to the traffic diversion which would be caused by expansion of the locks are true, the Congress would be undercutting its efforts to strengthen the railroads to keep them in the private sector by authorizing this expansion.

Discontinuance and Abandonment Procedures

In establishing local rail service continuation in the Railroad Revitalization and Regulatory Reform Act of 1976, amendments to the Interstate Commerce Act were included in the nature of substitute provisions dealing with abandonments of lines of railroads, together with technical conforming amendments to that Act's provisions dealing with extensions. In particular, it added a new section 1a (Discontinuance and Abandonment of Rail Service) to the Interstate Commerce Act. This new section, however, inadvertently does not expressly exempt "spur lines" from its provisions. The Commission's abandonment procedures have never applied to such track and it is not Congress' intent (nor does the Commission desire) that such track should be subject to its abandonment procedures. These tracks are not operated as a part of a general system of rail transportation and thus are purely local and should be subject to local jurisdiction as has been the case historically.

According to existing law, where the Commission has not ordered an investigation, it must issue a certificate authorizing an abandonment 60 days after an application has been filed. However, the law also provides that "actual abandonment or discontinuance" may not take effect until 120 days after the issuance of the certificate. Consequently, there is a minimum 6-month delay in all abandonment cases even where there is no service on the line. Therefore, the amendment in the reported bill limits the 120-day provision to applications which the Commission has investigated and provides that actual abandonment would be ordered at the end of the 60-day period in uncontested cases.

Subsection 301(a) is a technical amendment designed to correct an oversight contained in the Railroad Revitalization and Regulatory

Reform Act of 1976. In that Act the then existing language contained in Sec. 1(18) of the Interstate Commerce Act was transferred to Sec. 1(a)(1) of the Act. Through oversight the transfer was accomplished with respect to requests by railroads for extension of lines but was not included with respect to abandonments or discontinuances even though there was no change in existing law contemplated by the redrafting of the provision.

Sec. 301 continues in effect a policy which has long been followed by the Interstate Commerce Commission in excluding certain minor track abandonments from the normal abandonment and discontinuance procedures of the Commission.

It is abundantly clear that this policy has been long-standing in cases before the Commission. It is well settled that a liberal or broad construction must be given to the word "extension" and that a limited or narrow construction must be accorded the words "spur" and "industrial" tracks. *Chicago, M. St. P. & P. R. Co.* v. *Northern Pac. R. Co.*, supra; *Lancaster* v. *Gulf, C. & S. F. Ry. Co.*, 298 Fed. 488 (D.C.); *Texas & P. Ry. Co.* v. *Gulf, C. & S. F. Ry. Co.*, supra; *Piedmont & N. Ry. Co.* v. *Interstate Commerce Commission*, 286 U.S. 299; and *Interstate Commerce Commission* v. *Piedmont & N. Ry. Co.*, 51 F.(2d) 766 (D.C.).

There should be no confusion because of this technical correction. The existing definitions which have been developed by the Interstate Commerce Commission will be adequate to assure that branch lines or other tracks requiring a full hearing prior to abandonment will not be classified as a spur, industrial, team, switch or side track.

Environmental Study

The Railroad Revitalization and Regulatory Reform Act of 1976, excludes intercity rail passenger service from the provisions of Section 361 of the Public Health Services Act, including the regulations promulgated thereunder concerning the discharge of wastes from railroad conveyances. There remains a question, however, as to whether or not this was an appropriate provision and whether or not the provision should be expanded to similarly exclude all railroad conveyances from complying with the waste regulation. Concerns have been expressed for the environmental degradation, offensive nature and possible threat to public health caused by these disposal practices. This threat is arguably intensified where railroad rights-of-way pass through densely populated areas, or near bodies of water that serve our water supply and recreational needs. In addition, railroad workers, while servicing trains or performing their tasks, are exposed to human wastes on the ground or clinging to the undersides of the car. Children and domestic animals and wildlife also come in contact with these discharges.

The railroad industry favors exemption from the Food and Drug Administration regulation because there are no proven cases to date of any outbreak of a communicable disease due to the procedure of discharging raw human wastes onto railroad tracks, nor is there epidemiological evidence to show that such an outbreak will occur. Proponents of the regulation counter this argument by saying the fact

that outbreaks of these diseases have not been documented may be due to the obvious difficulty of tracing such outbreaks to these sources (e.g. water contamination).

The railroad further contend that if they were exempt from this regualtion, they could devote economic and technical resources to solving other problems they consider to be more urgent. It reportedly costs about $4,000 to install containerized toilets on each new locomotive and about $1,100 each for retrofiting existing locomotives and about $1,100 for cabooses (new or retrofited.)

Due to the controversial nature and the conflicting information received, the Committee believes that a study of the matter is warranted in order to guide it in any future contemplated action.

Cost Estimates

In compliance with clause 7 of Rule XIII of Rules of the House of Representatives, the Committee makes the following statement relative the cost of this legislation:

The reported bill increases the loan authority contained in sections 210 and 211 of the Regional Rail Reorganization Act of 1973 by $70 million. Existing legislation provides that these loans should be repaid in three years; if they are not repaid by this time they will be forgiven and the Government will have a case for action against the estates of the bankrupt railroads. The Committee has received no information indicating that these loans will not be repaid. It is not clear, however, as to the length of time the loans will be outstanding within this time period since this is a matter of how long it will take for additional funds to become available from the bankrupt estates. Nevertheless, these loans are to be granted by USRA at an interest rate of about one-half percent greater than the cost of borrowing the funds to make the loans. Thus, there should be no costs to the Government in carrying out this provision of the reported bill.

The reported bill also (1) directs the Secretary of Health, Education, and Welfare to make recommendations as to whether waste disposal conveyances should be required on passenger and freight trains and (2) directs the Secretary of Transportation to study the impact of waterway transportation on railroads in the Midwest. The Committee recognizes that an element of cost is involved in these studies but is unable to estimate what these costs will be. The reported bill, however, does not authorize additional funds to these departments for those studies as it is believed the costs involved are not significant enough that they cannot be absorbed in the normal operations.

In regard to clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, the Congressional Budget Office submitted the following cost estimate relative to the provisions of H.R. 14932:

Congressional Budget Office

COST ESTIMATE, SEPTEMBER 7, 1976

1. Bill: H.R. 14932.
2. Bill title: Rail Amendments of 1976.

3. Purpose of bill: The bill amends the Regional Rail Reorganization Act of 1973 (RRR Act) and other rail legislation to modify various procedures and responsibilities related to the reorganization of the U.S. rail system. In addition to a number of technical and procedural changes and clarifications of present law, the bill increases USRA's loan authorization under section 211(h) of the RRR Act from $230 million to $300 million, while excluding interest from the limitation and allowing the funds to be reloaned after being repaid. It also broadens the types of claims that are eligible for 211(h) funding to include employee claims for medical and life insurance benefits, for certain accrued pension benefits, and for certain benefits derived from membership in employee voluntary relief plans. The bill provides for Conrail to be reimbursed by USRA for expenses incurred by the former in seeking reimbursement from the railroads in reorganization for obligations paid on their behalf under section 211(h). The bill also affirms that collective bargaining and employee personal injury claims that are paid by Conrail, Amtrak, or an acquiring carrier under the provisions of section 211(h) will remain obligations of the estates of the railroads in reorganization—and that reimbursement is to include the costs and expenses of processing such claims.

In addition, the bill makes changes in a number of other areas, including the following:

It requires the Rail Services Planning Office of the ICC to perform the functions and duties of the Office of Rail Public Counsel, until the latter's director is appointed and assumes office.

It changes the base period for computation of the employee displacement allowance so as to fully reflect a 10 percent wage increase that was effective January 1, 1975. It also slightly increases the number of employees eligible for moving expense benefits, and extends protection to noncontract employees with respect to medical and life insurance and voluntary relief plans.

It provides more flexibility to the Secretary of Transportation in determining eligibility for loan guarantees under section 511, and affirms that such guarantees are backed by the "full faith and credit" of the United States.

It mandates a comprehensive one-year study by DOT of freight transportation in the Midwest, to include an assessment of the impact on the rail system of changes in the capacity of the lock system of the Mississippi River and Illinois Waterway Navigation system. It also requires a report from the Secretary of Health, Education, and Welfare on the environmental effect of section 306(i) of the Rail Passenger Service Act and the potential impact on the railroad industry of any change in that provision.

4. Cost estimate: The cost to the government of the provisions in this bill is summarized below:

[In millions of dollars]

	Fiscal year—				
	1977	1978	1979	1980	1981
Additional payments by the Railroad Retirement Board	10.1	9.4	8.8	8.3	7.8
DOT and HEW studies	1.3				

In addition, the $70 million increase in USRA guaranteed loan authority creates a potential liability for the U.S. government, which would be obligated to pay off loans in that amount in the event of default. (This is in addition to the $230 million in loan authority already authorized.) Furthermore, the risk of such a default is increased by the provisions in the bill which allow funds to be reloaned after being repaid, exclude interest from the limitation, and broaden the types of claims eligible for such funding.

There is, in addition, some question as to the source of the USRA funds that will be required to reimburse Conrail for the expenses it incurs in seeking reimbursement from the railroad estates for obligations paid in their behalf under section 211(h). The Association may well seek additional appropriations to cover these costs, which could total as much as $500,000 in the event of lengthy legal proceedings.

5. Basis for estimate: The additional obligations for the Railroad Retirement Board, to be paid out of the Regional Rail Transportation Protective Account at the Treasury, are created in sections 108 and 109 of the bill. These sections change the basis for computing the employee displacement allowance, extend moving expense benefits to certain employees affected by an acquisition, and extend protection to noncontract employees with respect to medical and life insurance and voluntary relief plans. Conrail estimates that employee displacement claims are totally approximately $36 million a year. It is estimated that the change in basis will increase present employee displacement allowances by approximately 8 percent, or $3 million a year. In addition, it is expected that new claims totalling approximately $7 million will result from the change in basis, an increase of 20 percent above the present level. Thus, the overall impact of this change is estimated to be $10 million initially, declining by 6 percent a year due to attrition.

The moving expense benefits are estimated to average $5,000 per employee, and affect 29 employees; these are one-time costs only, assumed to be paid in fiscal year 1977. The cost of the additional insurance benefits is not determinable at this time, but is expected to involve only a small number of employees.

The DOT Midwest freight study is estimated to cost $1.25 million, the bulk of which will be used for contractors' services, including origin-destination studies, rate studies, and traffic projections. Based on DOT estimates, about $1.0

million will be required for contractual research, with the remainder used for consultants and experts, administration, travel, support services, supplies and report production. The HEW report will require a much smaller effort and will be produced mostly in-house, at a cost of less than $100,000. Since both reports are due within a year of enactment of the bill, virtually all costs will be incurred in fiscal year 1977.

6. Estimate comparison: None.
7. Previous CBO estimate: None.
8. Estimate prepared by: Robert Sunshine.
9. Estimate approved by:

C. G. Nuckels,
For James L. Blum,
Assistant Director for Budget Analysis.

Inflationary Impact Statement

Pursuant to clause 2(1)(4) of the Rule XI of the Rules of the House of Representatives, the Committee feels that the enactment of this legislation will have no inflationary impact on the prices and costs in the operation of the national economy. Moreover, it is emphasized, that enactment of the reported bill will provide the funds necessary to pay sizeable amounts of pre-conveyance claims due to employees, suppliers, railroads, and suppliers. The availability of the funds to these persons should, in addition to averting bankruptcy for certain small suppliers, provide a degree of stimulus to the economy.

Oversight Findings

In regard to clause 2(1)(3)(A) of Rule XI of the Rules of the House of Representatives, no oversight findings or recommendations have been made by the Committee.

In regard to clause 2(1)(3)(D) of Rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Operations.

Section-by-Section Summary

Section 1—Short Title, Table of Contents

The first section provides that this legislation may be cited as the "Rail Amendments of 1976". It also contains a table of contents for the reported Bill.

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

Section 101—Adequate Representation

This section amends section 205(d)(7) of the Regional Rail Reorganization Act of 1973 to provide that the Rail Services Planning Office of the Interstate Commerce Commission may employ and utilize attorneys and other necessary personnel to perform the functions and duties of the Office of Rail Public Counsel pursuant to section 27 of the Interstate Commerce Act, until such time as the Director of the

Office of Rail Public Counsel has been appointed and confirmed. This section also provides that the funds authorized to be appropriated to the Office of Rail Public Counsel are authorized to be made available to carry out the provisions of this amendment.

Section 102—Deficiency Judgment Protection

Subsection (a) of this section amends section 206(d)(5) of the Regional Rail Reorganization Act of 1973 to provide that the Board of Directors and the corporate entity of ConRail are adequately protected when transferring property pursuant to the final system plan to meet the needs of commuter or intercity rail passenger service. It provides that the corporate entity of ConRail, and its Directors, shall not be liable to any party for money damages "or in any other manner" solely by reason of the fact that ConRail transfers property to Amtrak, or to any State (or any local or regional transportation authority), to meet the needs of commuter or intercity rail passenger service.

Subsection (b) of this section amends the first sentence of section 303(c)(5) of the Regional Rail Reorganization Act of 1973 to provide that ConRail, Amtrak, a profitable railroad operating in the region, a State, or a responsible person (including a governmental entity) will be fully indemnified for any cost or liabilities imposed as a result of any judgment entered against any of them in connection with properties designated in the final system plan for "pass through" to meet the needs of commuter or intercity rail passenger service.

Section 103—Expiration of Options

This section amends section 206(d) of the Regional Rail Reorganization Act of 1973 to provide that any option conveyed to ConRail by a bankrupt railroad with respect to the acquisition by ConRail (on behalf of a State or a local or regional transportation authority) of rail properties designated to meet the needs of commuter or intercity rail passenger service shall be deemed to remain outstanding and in effect until 7 days after the date of enactment of this legislation. This section would permit ConRail to transfer to the State of Rhode Island certain properties located in that State and clarify any uncertainty regarding those transfers.

Section 104—Loan for Payment of Obligations

Subsection (a) of this section amends section 211(h)(1) of the Regional Rail Reorganization Act of 1973 relating to the authority of the U.S. Railway Association to make loans to ConRail, Amtrak, and profitable railroads to meet existing or prospective obligations of the railroads in reorganization in order to avoid disruptions in ordinary business relationships. This subsection makes several specific changes in existing law.

First, it increases from $230 million to $300 million the ceiling on the amount of loans which may be outstanding under this subsection at any one time.

Second, it permits the use of loan funds to make payments to railroads for settlement of all current accounts and obligations, in addition to current interline accounts.

Third, it permits use of loan funds for payment of amounts required to provide adequate funding for payment, when due, of claims deriving from membership in any employee voluntary relief plan which provides benefits to its members and their beneficiaries in the event of sickness, accident, disability, or death, into which both a railroad in reorganization and employee members have made contributions.

Fourth, it also permits the use of loan funds to pay amounts required to provide adequate funding for payment, when due, of medical and life insurance benefits for employees (whether or not their employment was governed by a collective bargaining agreement) on account of their service with a railroad in reorganization before the date of conveyance of the property of such bankrupt railroad, and or individuals who retired (before such date of conveyance) from service with a bankrupt railroad.

Fifth, it requires the U.S. Railway Association to make a loan if it makes certain findings and also adds to the alternative findings that the Association must make before making a loan under this subsection findings that—

(1) a claim was presented to a railroad in reorganization or to ConRail within 2 years after the date of enactment of this legislation;

(2) the loan money is to be used to make payment for services or materials, the furnishing of which serve to avoid disruptions in ordinary business relationships before the date of conveyance of rail properties, or the furnishing of which is necessary to avoid post conveyance disruptions in ordinary business relationships; and

(3) the joint agreement between the Finance Committee of the U.S. Railway Association and ConRail relating to procedures for seeking reimbursement from railroads in reorganization provide that ConRail receive reimbursement from the U.S. Railway Association for any expenses incurred in seeking reimbursement from any railroad in reorganization for obligations paid by ConRail and also provide for a joint stipulation of exact procedures ConRail must undertake to avoid any finding that it has not exercised "due diligence".

Subsection (b) of this section amends section 211(h)(2) of the Regional Rail Reorganization Act of 1973 in two respects.

First, it requires the trustees of each railroad in reorganization to negotiate agency agreements with ConRail, Amtrak, or a profitable railroad, for the payment of only those accounts payable which relate to obligations of the estates identified in paragraph (1) of section 211(h).

Second, it prohibits any district court of the United States having jurisdiction over the reorganization of a railroad in reorganization to limit ConRail, Amtrak, or a profitable railroad from applying any amounts collected as accounts receivable, cash or other current assets, or proceeds of loans made by the U.S. Railway Association, toward payment of the obligations of the estates identified in paragraph (1) of section 211(h). It also provides that any such agreement executed before the date of enactment of this legislation shall be deemed amended to the extent necessary to conform such agreement to the provisions of this amendment.

Subsection (c) of this section amends section 211(h)(4) of the Regional Rail Reorganization Act of 1973 by adding a new subparagraph (d). This new subparagraph provides that any funds held in escrowed accounts by a railroad in reorganization (on the date of enactment of this legislation) which are thereafter determined to be "cash and other current assets of the estate" must be applied to obligations of the estate in the following order:

(1) First, to the reduction of any outstanding loan to ConRail by the U.S. Railway Association, the proceeds of which were used to discharge obligations of such railroad in reorganization.

(2) Second, to the U.S. Railway Association to the extent any such loan has been forgiven by the U.S. Railway Association.

(3) Third, to the payment of any remaining obligation of such railroad in reorganization in accordance with the agency agreement entered into under paragraph (2) of this subsection.

Subsection (d) of this section amends section 211(h)(5)(B) of the Regional Rail Reorganization Act of 1973 by adding a new sentence at the end thereof requiring that ConRail, Amtrak, or a profitable railroad, shall, with respect to each claim for reimbursement under paragraph (4), file a proof of administrative expense claim with the trustees of the railroad in reorganization from which reimbursement is sought. Each such proof of claim must set forth, by category and amount, the obligations of such railroad in reorganization which were paid pursuant to such paragraph (4).

Subsection (e) of this section amends section 210(b) of the Regional Rail Reorganization Act of 1973 to increase from $275 million to $345 million the maximum principal amount of obligations issued by the U.S. Railway Association which may be outstanding at any one time for the purpose of providing loans pursuant to subsections (g) and (h) of section 211. This amendment conforms section 210(b) to section 211(h)(1) by adding to the ceiling on U.S. Railway Association obligational authority the same amount ($70 million) as was added to the authority of the Association to make loans under section 211(h)(1).

Section 105—Protection of Employees' Pension Benefits

This section amends section 303(b)(6) of the Regional Rail Reorganization Act of 1973 to require that ConRail must guarantee the payment of accrued pension benefits provided under any employee pension benefit plan terminated by ConRail (in whole or in part) on or after the date of transfer of such plan to ConRail if such benefits are not guaranteed under title IV of the Employee Retirement Income Security Act of 1974. The amendment further provides that ConRail will be entitled to a loan under section 211(h) of the 1973 Act in an amount required for the adequate funding of pension benefits under all plans transferred to ConRail, whether or not terminated by ConRail. For purposes of such section 211(h), amounts required for such adequate funding are deemed to be expenses of administration of the respective estates of the railroads in reorganization.

Section 106—Basis for Compensation

This section amends section 304(d) of the Regional Rail Reorganization Act of 1973 by adding a new paragraph providing that no determination of payment for the use of rail properties of a railroad in reorganization, and no determination of value of such rail properties made in connection with any lease agreement, sale agreement, or other agreement which is entered into after the date of enactment of this legislation, to permit the continued operation of such properties to provide rail freight service or rail passenger service, shall be admitted as evidence or used for any other purpose in any action or proceeding for damages or compensation arising under the 1973 Act.

Section 107—Collective Bargaining and FELA Claims

Subsection (a) of this section amends section 504(e) of the Regional Rail Reorganization Act of 1973 to provide that, with respect to employee claims against the estate of a bankrupt railroad arising under collective bargaining before the date of conveyance of the property of the bankrupt railroad to ConRail, such claims shall remain the liability of the estate of such bankrupt railroad. Whoever processes the claim on behalf of the bankrupt railroad shall be entitled to a direct claim as a current expense of administration against the estate of the bankrupt railroad.

Subsection (b) of this section amends section 504(g) of the Regional Rail Reorganization Act of 1973 to provide that any liability of a bankrupt railroad for personal injury claims of its employees arising before the date of conveyance of such property to ConRail or an acquiring railroad shall remain the liability of the bankrupt estate. Whoever processes the claim on behalf of the bankrupt estate shall be entitled to a direct claim as a current expense of administration against such bankrupt estate.

Section 108—Employee Displacement Allowance

Subsection (a) of this section amends section 505(b) of the Regional Rail Reorganization Act of 1973 to change the test period for determining the amount of any employee's displacement allowance from the 12 months preceding February 26, 1975, to the 12 months preceding January 1, 1975. This has the effect of including in the computation of such displacement allowance a 10 percent wage increase which went into effect for railroad employees throughout the nation on January 1, 1975.

Subsection (b) of this section amends section 505(b)(1)(B) of the Regional Rail Reorganization Act of 1973 to provide that the displacement allowance will apply with respect to any employee who has been deprived of employment, which will include both displaced and dismissed employees.

Subsection (c) of this section amends section 505(g) of the Regional Rail Reorganization Act of 1973 to provide that the moving expense benefits of such section 505(g) will be available to employees displaced as a result of an acquisition by a profitable railroad under section 206(d)(4) of the 1973 Act, which acquisition was consummated under section 508 of the 1973 Act, if such employees accept employment offered by ConRail.

Section 109—Noncontract Employees

Subsection (a) of this section amends section 505(i)(2) of the Regional Rail Reorganization Act of 1973 to make it clear that the resolution procedure provided for in such section 505(i)(2) is the

exclusive procedure for resolving noncontract employee disputes over the interpretation or application of any provision of the employee protection benefits of title V of the 1973 Act and that an arbitration decision thereunder will be final and binding on all parties.

Subsection (b) of this section amends section 505(i) of the Regional Rail Reorganization Act of 1973 by adding a new paragraph (3) providing that a noncontract employee entitled to protection shall not be placed in a worse position with respect to any voluntary relief plan benefits or pre-retirement benefits provided under any life or medical insurance plan, but that the level of his benefits must not exceed the level of benefits being afforded to the active noncontract employees of ConRail who are of comparable age, position, and level of compensation.

Subsection (c) of this section amends section 505(b)(4) of the Regional Rail Reorganization Act of 1973 by adding a new sentence providing that the employee protection provisions shall not apply to any noncontract employee whose noncontract position has been abolished.

Section 110—Exemptions

This section amends section 601(b)(4) of the Regional Rail Reorganization Act of 1973 to clarify the jurisdiction of the district courts of the United States having jurisdiction over the estate of a railroad in reorganization after the powers and duties of the Interstate Commerce Commission under section 77 of the Bankruptcy Act were transferred to such court upon conveyance of properties of the bankrupt estate pursuant to the final system plan. The district court having jurisdiction over any such estate is required to proceed to reorganize or liquidate such railroad pursuant to such section 77 in accordance with a fair and equitable plan which complies with the requirements of section 77, or it may convert the proceeding into a bankruptcy proceeding pursuant to any other applicable section or chapter of the Bankruptcy Act if it finds that such action would be in the best interest of such estate.

Section 111—Technical Amendments

This section merely makes technical drafting changes in two sections of the Regional Rail Reorganization Act of 1973.

TITLE II—AMENDMENTS TO THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

Section 201—Obligation Guarantees

Subsection (a) of this section amends section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 to provide that any guarantee entered into by the Secretary with respect to obligations issued to acquire or to rehabilitate and improve facilities or equipment shall constitute general obligations of the United States backed by the full faith and credit of the United States.

Subsection (b) of this section amends section 511(h) of the Railroad Revitalization and Regulatory Reform Act of 1976 to provide that any obligation guaranteed by the Secretary for equipment acquisition, rehabilitation or improvement of leased equipment may be secured by the lease; and to provide that the prospecting earning power of any equipment or facilities acquired, rehabilitated, or improved may be taken into consideration in determining whether the United States has afforded reasonable security and protection in event of a default by the obligor.

Subsection (c) of this section amends section 511(j) of the Railroad Revitalization and Regulatory Reform Act of 1976, relating to conditions of guarantees, to provide that the Secretary must require the obligor to agree to such terms and conditions as are sufficient to assure that, as long as any principal or interest is due and payable on any obligation guaranteed by the Secretary, such obligor will not make any discretionary dividend payments (except as provided in the new paragraph (2) described below) and will not use any funds or assets from railroad operations for nonrail purposes. The new paragraph (2) referred to above provides that the obligor will not be restricted with respect to making dividend payments from its net income for any fiscal year if the payments do not exceed (when compared to the net income of such obligor for such fiscal year) the ratio which aggregate dividends paid by such obligor during the 5 fiscal years before the granting of the earliest loan guarantee then outstanding bore to aggregate income of such obligor for such period, or 50 percent of the total additions to the retained income of such obligor (computed on a cumulative basis and giving cognizance to dividends paid) during the period commencing with the fiscal year prior to the granting of the earliest loan guarantee then outstanding, whichever is greater. These restrictions on the payment of dividends will not apply with respect to an obligation if, in the event of a default by the obligor, the Secretary would be subrogated to the rights of the lender under section 77(j) of the Bankruptcy Act.

Section 202—Midwest Rail Study

This section would add a new section 907 to title IX of the Railroad Revitalization and Regulatory Reform Act of 1976 providing for a Midwest rail study. Under this section, the Secretary of Transportation is required to conduct a comprehensive study of freight transportation in the Midwest, including a determination of the impact of changes in the capacity of the lock system of the Mississippi River and Illinois Waterway Navigation system upon railroad revenues, railroad branch lines, continued capability to provide rail service, shippers dependent upon rail service, and the need for subsidies to railroads. The Secretary is required to submit the study to Congress within one year after the date of enactment of this legislation. The Secretary of the Army and the Interstate Commerce Commission are required to cooperate with the Secretary of Transportation in the preparation of the study. The Interstate Commerce Commission, in addition, is required to submit to the Secretary of the Army any findings of the Commission with respect to whether expenditure of Federal funds on any construction or reconstruction affecting the capacity of the lock system is required to meet the needs of the public convenience and necessity for adequate freight transportation services in the Midwest.

Section 203—Technical Amendments

This section merely makes technical drafting and clarifying changes in several sections of the Railroad Revitalization and Regulatory Reform Act of 1976.

TITLE III—AMENDMENTS TO THE INTERSTATE COMMERCE ACT

Section 301—Discontinuance and Abandonment Procedures

Subsection (a) of this section amends section 1a(1) of the Interstate Commerce Act, relating to discontinuance and abandonment procedures of the Interstate Commerce Commission. This amendment makes clear that the authority granted to the Interstate Commerce Commission with respect to discontinuance and abandonment does not apply with respect to spur, industrial, team, switching, or sidetracks located entirely within one State or with respect to any street, suburban, or interurban electric railway which is not operated as part of the general system of rail transportation.

Subsection (b) of this section amends section 1a(4) of the Interstate Commerce Act, to provide that if the Interstate Commerce Commission issues a certificate of discontinuance or abandonment without an investigation under paragraph 3 of this section, actual abandonment or discontinuance may take effect in accordance with the certificate rather than 120 days after the date such certificate is issued.

Section 302—Technical Amendments

This section merely makes technical drafting and clarifying changes in various sections of the Interstate Commerce Act.

TITLE IV—GENERAL PROVISIONS

Section 401—Environmental Study

This section requires the Secretary of Health, Education, and Welfare to report to the Congress, within 12 months after the date of enactment of this legislation, with respect to the environmental effects of section 306(i) of the Rail Passenger Service Act and the financial effects on Amtrak and the railroad industry of any repeal or modification of such section. Section 306(i) of the Rail Passenger Service Act provides that section 361 of the Public Health Service Act shall not apply to waste disposal from railroad conveyances operated in rail passenger service. The report required under this section must contain such recommendations as may be necessary or appropriate to balance environmental considerations with operating and financial considerations of the railroad industry, including recommendations with respect to equipping new railroad rolling stock and retrofitting existing railroad rolling stock.

Changes in Existing Law Made by the Bill, As Reported

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

REGIONAL RAIL REORGANIZATION ACT OF 1973

*   *   *   *   *   *   *

Title II—United States Railway Association

*   *   *   *   *   *   *

RAIL SERVICES PLANNING OFFICE

Sec. 205. (a) * * *

*   *   *   *   *   *   *

(d) Duties.—In addition to its duties and responsibilities under other provisions of this Act and under the Railroad Revitalization and Regulatory Reform Act of 1976, the Office shall—

(1) assist the Commission in studying and evaluating any proposal, submitted to the Commission pursuant to section 5 (2) or (3) of the Interstate Commerce Act (49 U.S.C. 5(2) or (3)), for a merger, consolidation, unification or coordination project, joint use of track or other facilities, or acquisition or sale of assets, which involves any common carrier by railroad subject to part I of such Act;

(2) assist the Commission in developing, with respect to economic regulation of transportation, policies which are likely to result in a more competitive, energy-efficient, and coordinated transportation system which utilizes each mode of transportation to its maximum advantage to meet the transportation service needs of the Nation;

(3) assist States and local and regional transportation agencies in making determinations whether to provide rail service continuation subsidies to maintain in operation particular rail properties, by establishing criteria for determining whether particular rail properties are suitable for rail service continuation subsidies, with such criteria to include the following considerations: rail properties are suitable if the cost of the required subsidy for such properties per year to the taxpayers is less than (A) the cost of termination of rail service over such properties measured by increased fuel consumption and operational costs for alternative modes of transportation, (B) the cost to the gross national product in terms of reduced output of goods and services, (C) the cost of relocating or assisting through unemployment, retraining, and welfare benefits to individuals and firms adversely affected thereby, and (D) the cost to the environment measured by damage caused by increased pollution;

(4) conduct an ongoing analysis of the national rail transportation needs, evaluate the policies, plans, and programs of the Commission on the basis of such analysis, and advise the Commission of the results of such evaluation;

(5) within 180 days after the date of enactment of the Railroad Revitalization and Regulatory Reform Act of 1976, issue additional regulations, after conducting a proceeding in accord-

ance with the provisions of section 553 of title 5, United States Code, which contain—

(A standards for the computation of subsidies for rail passenger service (except passenger service compensation disputes subject to the jurisdiction of the Commission under section 402(a) of the Rail Passenger Service Act (45 U.S.C. 562(a)), which are consistent with the compensation principles described in the final system plan and which avoid cross subsidization among commuter, intercity, and freight rail services; and

(B) standards for the determination of emergency commuter rail passenger service operating payments pursuant to section 17 of the Urban Mass Transportation Act of 1964;

(6) determine and publish, and from time to time revise and reissue, standards for determining (A) the "revenue attributable to the rail properties," (B) the "available costs of providing service," (C) a "reasonable return on the value," and (D) a "reasonable management fee," as those phrases are used in section 304 of this Act, after a proceeding in accordance with the provisions of section 553 of title 5, United States Code; and

(7) employ and utilize, *until such time as the Director of the Office of Rail Public Counsel has been appointed and confirmed and has taken office*, the services of attorneys and such other personnel as may be [required in order properly to protect] *necessary (A) to protect properly* the interests of those communities and users of rail service which, for whatever reason (such as [their] size or location), might not otherwise be adequately represented in the course of the reorganization process under this Act, [until the assumption of such duties by the Office of Rail Public Counsel pursuant to section 27(4)(d) of the Interstate Commerce Act (49 U.S.C. 27(4)(d)).] *and (B) to perform, pursuant to section 27 of the Interstate Commerce Act (49 U.S.C. 26b), the functions and duties of the Office of Rail Public Counsel.*

The funds authorized to be appropriated to the Office of Rail Public Counsel by section 27(6) of the Interstate Commerce Act (49 U.S.C. 26b(6)) are authorized to be made available for purposes of carrying out the provisions of paragraph (7) of this subsection.

* * * * * * *

FINAL SYSTEM PLAN

SEC. 206. (a) * * *

* * * * * * *

(d) TRANSFERS.—All transfers or conveyances pursuant to the final system plan shall be made in accordance with, and subject to, the following principles:

(1) * * *

* * * * * * *

(5) All properties—

(A) transferred by the Corporation pursuant to sections 206(c)(1)(C) and 601(d) of this Act;

(B) transferred by the Corporation to any State (or local or regional transportation authority), pursuant to subsection (c)(1)(D) of this section, or

(C) transferred by the Corporation to any State, local or regional transportation authority, or the National Railroad Passenger Corporation, within 900 days after the date of conveyance, pursuant to section 303(b)(1) of this Act, to meet the needs of commuter or intercity rail passenger service,

shall be transferred at a value related to the value received from the Corporation pursuant to the final system plan for the transfer to such Corporation of such properties. The value of any such properties, which are transferred pursuant to subparagraph (B) or (C) of this paragraph, shall be adjusted to reflect the value attributable to any applicable maintenance and improvement provided by the Corporation (to the extent the Corporation has not been released from the obligation to pay for such improvements) and the cost to the Corporation of transferring such properties. *Except as otherwise provided with respect to the Corporation pursuant to section 303(c)(2) of this Act, the Corporation, its Board of Directors, and its individual directors shall not be liable to any party, for money damages or in any other manner, solely by reason of the fact that the Corporation transfers property to the National Raiload Passenger Corporation, or to any State (or any local or regional transportation authority), pursuant to section 303 of this Act, to meet the needs of commuter or intercity rail passenger service.*

(6) Notwithstanding any statement to the contrary in the final system plan, a State (or a local or regional transportation authority) shall not be required to deliver to the Corporation a firm commitment to acquire rail properties designated to such State or authority prior to 7 days after the date of enactment of this paragraph.

(7) Any option which is conveyed to the Corporation by a railroad in reorganization, or a railroad leased, operated, or controlled by a railroad in reorganization, with respect to the acquisition by the Corporation, on behalf of a State or a local or regional transportation authority, of rail properties designated under section 206(c)(1)(D) of this title, shall be deemed to remain outstanding and in effect until 7 days after the date of enactment of the Rail Amendments of 1976, notwithstanding any contrary provision in such option. The exercise by the Corporation of any such option shall be effective if it is made prior to the expiration of such 7-day period and in the manner prescribed in such option.

* * * * * * *

OBLIGATIONS OF THE ASSOCIATION

SEC. 210. (a) GENERAL.—* * *

(b) MAXIMUM OBLIGATIONAL AUTHORITY.—The aggregate [amount of obligations of the Association issued under this section which may be outstanding at any one time shall not exceed $275,000,000.] *principal amount (exclusive of interest or additions to principal on account*

of accrual of interest) of obligations issued by the Association under this section which may be outstanding at any one time shall not exceed $345,000,000. No obligations or proceeds thereof shall be issued or made available after the date of enactment of the Railroad Revitalization and Regulatory Reform Act of 1976 except—

(1) to meet existing or potential commitments for loans under section 211 of this title made or applied for prior to January 1, 1976; and

(2) for the purpose of providing loans pursuant to subsections (g) and (h) of section 211 of this title.

* * * * * * *

LOANS

SEC. 211. (a) GENERAL.—* * *

[(h) LOANS FOR PAYMENT OF OBLIGATIONS.—(1) The Association is authorized, subject to the limitations set forth in section 210(b) of this title, to enter into loan agreements, in amounts not to exceed $230,000,000 in the aggregate, with the Corporation, the National Railroad Passenger Corporation, and any profitable railroad to which rail properties are transferred or conveyed pursuant to section 303(b)(1) of this Act, under which the Corporation, the National Railroad Passenger Corporation, and any profitable railroad entering into such agreement will agree to meet existing or prospective obligations of the railroads in reorganization in the region which the Association, in accordance with procedures established by the Association, determines should be paid by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, on behalf of the transferors, in order ot avoid disruptions in ordinary business relationships. Such obligations shall be limited to amounts claimed by suppliers (including private car lines) of materials or services utilized in current rail operations, claims by shippers arising from current rail services, payments to railroads for settlement of current interline accounts, claims of employees arising under the collective bargaining agreements of the railroads in reorganization in the region and subject to section 3 of the Railway Labor Act, claims of all employees or their personal representatives for personal injuries or death and subject to the provisions of Employers' Liability Acts (45 U.S.C. 51–60), and amounts required for adequate funding of accrued pension benefits existing at the time of a conveyance or discontinuance of service under employee pension benefits plans described in section 505(a) of this Act. The Association shall not make such a loan unless it first finds that the loan is for the purpose of paying obligations with respect to accrued pension plans referred to in the preceding sentence or that the Corporation, the National Railroad Passenger Corporation, or a profitable railroad is entitled to a loan pursuant to subsections (e) and (g) of section 504 of this Act, or unless it first finds that—

[(A) provision for the payment of such obligations was not included in the financial projections of the final system plan;

[(B) such obligations arose from rail operations prior to the date of conveyance of rail properties pursuant to section 303(b)(1) of this Act and are, under other applicable law, the responsibility of a railroad in reorganization in the region;

[(C) the Corporation, the National Railroad Passenger Corporation, or a profitable railroad has advised the Association that the direct payment of such obligations by the Corporation, the National Railroad Passenger Corporation or profitable railroad is necessary to avoid disruptions in ordinary business relationships;

[(D) the transferor is unable to pay such obligations within a reasonable period of time; and

[(E) with respect to loans made to the Corporation, the procedures to be followed by the Corporation, in seeking reimbursement from the railroads in reorganization in the region for obligations paid on their behalf under this subsection, have been jointly agreed to by the Finance Committee and the Corporation.]

(h) LOANS FOR PAYMENT OF OBLIGATIONS.—(1)(A) The Association is authorized, subject to the limitations set forth in section 210(b) of this title, to enter into loan agreements, in amounts not to exceed, at any given time, $300,000,000 in the aggregate principal amount, with the Corporation, the National Railroad Passenger Corporation, and any profitable railroad to which rail properties are transferred or conveyed pursuant to section 303(b)(1) of this Act, under which the Corporation, the National Railroad Passenger Corporation, and any profitable railroad entering into such agreement will agree to meet existing or prospective obligations of the railroads in reorganization in the region which the Association, in accordance with procedures established by the Association, determines should be paid by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, on behalf of such railroads in reorganization, in order to avoid disruptions in ordinary business relationships. Such obligations shall be limited to—

(i) amounts claimed by suppliers (including private car lines) of materials or services utilized or purchased in current rail operations;

(ii) claims by shippers arising from current rail services;

(iii) payments to railroads for settlement of current interline accounts and all other current accounts and obligations;

(iv) claims of employees arising under the collective-bargaining agreements of the railroads in reorganization in the region and subject to section 3 of the Railway Labor Act (including claims of accrued vacation and wages and similar claims arising in connection with labor and services performed);

(v) claims of all employees or their personal representatives for personal injuries or death and subject to the provisions of Employers' Liability Act (45 U.S.C. 51–60);

(vi) amounts required for adequate funding of accrued pension benefits existing at the time of a conveyance or discontinuance of service under employee pension benefit plans described in section 505(a) of this Act;

(vii) amounts required to provide adequate funding for payment, when due, of claims deriving from membership in any employee voluntary relief plan which provides benefits to its members and their beneficiaries in the event of sickness, accident, disability, or death, and to which both a railroad in reorganization and employee members have made contributions; and

(viii) amounts required to provide adequate funding for payment, when due, of medical and life insurance benefits for employees (whether or not their employment was governed by a collective bargaining agreement) on account of their service with a railroad in reorganization prior to the date of conveyance pursuant to section 303(b)(1), and for individuals who retired, prior to such date of conveyance, from service with a railroad in reorganization.

(B) The Association shall make a loan pursuant to subparagraph (A) of this paragraph if, notwithstanding any other requirement of this subsection, it finds that the Corporation, the National Railroad Passenger Corporation, or a profitable railroad is entitled to a loan pursuant to section 303(b)(6), 504(e), or 504(g) of this Act, or if, with respect to an obligation referred to in subparagraph (A) of this paragraph, it finds that—

(i) provision for the payment of such obligation was not included in the financial projections of the final system plan;

(ii) such obligation arose from rail operations prior to the date of conveyance of rail properties pursuant to section 303 (b)(1) of this Act and is, under other applicable law, the responsibility of a railroad in reorganization in the region, and a claim is presented to a railroad in reorganization or the Corporation within 2 years after the date of enactment of the Rail Amendments of 1976;

(iii) the Corporation, the National Railroad Passenger Corporation, or a profitable railroad has advised the Association that the direct payment of such obligation by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad is for services or materials, the furnishing of which served to avoid disruptions in ordinary business relationships prior to the date of conveyance of rail properties pursuant to section 303(b)(1) of this Act, or is necessary to avoid postconveyance disruptions in ordinary business relationships;

(iv) the transferor is unable to pay such obligation within a reasonable period of time; and

(v) with respect to loans made to the Corporation, the procedures to be followed by the Corporation, in seeking reimbursement from a railroad in reorganization in the region for an obligation paid on its behalf under this subsection, have been jointly agreed to by the Finance Committee and the Corporation, and the joint agreement provides—

(I) for the Corporation to receive reimbursement from the Association for any expenses incurred in seeking reimbursement from any railroad in reorganization in the region of an obligation paid on its behalf under this subsection; and

(II) for a point stipulation of the exact procedures the Corporation must undertake to avoid the finding, referred to in paragraph (6)(A)(i) of this subsection that it has not exercised due diligence.

(2) The trustees of each railroad in reorganization in the region shall attempt to negotiate agency agreements with the Corporation, the National Railroad Passenger Corporation, or a profitable railroad for the processing of all accounts receivable and accounts payable attributable to operations prior to the conveyance of property pursuant to section 303(b)(1) of this Act *and for the payment of only those accounts payable which relate to obligations of the estates identified in paragraph (1) of this subsection*. If any railroad in reorganization in the region fails to conclude such an agreement within a reasonable time prior to such conveyance, the applicable reorganization courts, after giving all parties an opportunity to be heard, shall prescribe the terms of such an agency arrangement by order, giving due consideration to the need, wherever possible, to make such agreements uniform among the various estates. *Nothing in this subsection shall be construed as permitting any district court of the United States having jurisdiction over the reorganization of a railroad in reorganization in the region to enjoin, restrain, or limit the Corporation, the National Railroad Passenger Corporation, or a profitable railroad from applying, to payment of the obligations of the estates identified in paragraph (1) of this subsection, amounts collected as (A) accounts receivable pursuant to this paragraph, (B) cash or other current assets identified pursuant to paragraph (3) of this subsection, or (C) proceeds of loans pursuant to paragraph (1) of this subsection. Any agency agreement executed prior to the date of the enactment of the Rail Amendments of 1976 shall be deemed amended to the extent necessary to conform such agreement or order to the provisions of this paragraph. Nothing in this paragraph shall be construed to affect any payment made prior to such date of enactment with respect to obligations other than those identified in paragraph (1) of this subsection.*

* * * * * * *

(4)(A) * * *

* * * * * * *

(D) Any funds held in an escrow account by a railroad in reorganization on the date of enactment of the Rail Amendments of 1976 which are thereafter determined to be cash and other current assets of the estate for purposes of paragraph (3) of this subsection shall be applied as follows—

(i) first, to the reduction of any outstanding loans to the Corporation by the Association, pursuant to paragraph (1) of this subsection, the proceeds of which were used to discharge obligations of such railroad in reorganization;

(ii) second, to the Association to the extent of any such loans which have been forgiven pursuant to paragraph (5) of this subsection; and

(iii) third, to the payment of any remaining obligations of such railroad in reorganization, in accordance with the provisions of the agency agreement entered into pursuant to paragraph (2) of this subsection.

* * * * * * *

(5)(A) If, at any time, the Finance Committee of the Association determines that the failure of the Corporation to receive full reimbursement with interest from the estate of a railroad in reorganization in the region for any obligation of such estate paid pursuant to this subsection could adversely affect the fairness and equity of the trans-

fers and conveyances pursuant to section 303(b)(1) of this Act, or that the failure of the National Railroad Passenger Corporation to receive such full reimbursement plus interest for any such obligation would be contrary to the public interest, the Association shall forgive the indebtedness, plus accrued interest, of the Corporation or of the National Railroad Passenger Corporation incurred pursuant to paragraph (1) of this subsection in the amount recommended by the Finance Committee. The Association shall have a direct claim, as a current expense of administration of the estate of such railroad in reorganization, equal to the amount by which loans of the Corporation or of the National Railroad Passenger Corporation, plus interest, have been forgiven. Such direct claim shall not be subject to any reduction by way of setoff, cross-claim, or counter-claim which the estate of such railroad in reorganization may be entitled to assert against the Corporation, the National Railroad Passenger Corporation, the Association, or the United States.

(B) The direct claim of the Association under this paragraph, and any direct claim authorized under paragraph (4) of this subsection, shall be prior to all other administrative claims of the estate of a railroad in reorganization, except claims arising under trustee's certificates or from default on the payment of such certificates. *The Corporation, the National Rail Passenger Corporation, or a profitable railroad, as the case may be, shall, with respect to each direct claim for reimbursement pursuant to paragraph (4) of this subsection, file a proof of administrative expense claim with the trustees of the railroad in reorganization from whom reimbursement is sought. Each such proof of administrative expense claim shall set forth, by category and amount, the obligations of such railroad in reorganization which were paid pursuant to such paragraph (4).*

(6) Notwithstanding any other provision of this subsection, the Association shall forgive any loan made to the Corporation or the National Railroad Passenger Corporation pursuant to this subsection, plus accrued interest thereon, on the 3rd anniversary date of any such loan, except that the Association shall not forgive any loan or portion thereof, in accordance with this paragraph, if—

(A) the Finance Committee makes an affirmative finding, with respect to such loan or portion thereof, that—

(i) the Corporation has not excercised due diligence in executing the procedures adopted pursuant to paragraph (1) [(E)] *(B)(v)* of this subsection, and

(ii) the failure of the Association to forgive such loan or portion thereof will not adversely affect the ability of the Corporation to become financially self-sustaining;

(B) the Finance Committee so directs the Association; and

(C) neither House of the Congress disapproves such affirmative finding and direction, in accordance with the following provisions of this paragraph.

A copy of each such finding, the reasons therefor, and such direction made by the Finance Committee, together with the comments and recommendations thereon of the Board of Directors of the Association, shall be transmitted to the Congress by the Association within 10 days after the date on which the Finance Committee makes such finding and

direction, or if not so transmitted, shall be transmitted by the Finance Committee. Each such finding and direction so transmitted shall become effective immediately, and shall remain in effect, unless, within the first period of 30 calendar days of continuous session of Congress after the date of transmittal of such finding and direction to Congress, either House of Congress disapproves such finding and direction in accordance with the procedures specified in section 1017 of the Congressional Budget and Impoundment Control Act of 1974 (31 U.S.C. 1407). For purposes of this paragraph, continuity of session of Congress is broken only in the circumstances described in section 1011(5) of that Act 31 U.S.C. 1401(5)).

* * * * * * *

Title III—Consolidated Rail Corporation

* * * * * * *

VALUATION AND CONVEYANCE OF RAIL PROPERTIES

Sec. 303. (a) * * *

(b) Conveyance of Rail Properties.—(1) * * *

* * * * * * *

(6) Notwithstanding anything to the contrary contained in this Act or any other provision of law, the special court shall include in its order such further directions as may be necessary to assure (A) that the operation and administration of the employee pension benefit plans described in section 505(a) of this Act shall be continued, without termination or interruption, by the Corporation until such time as the Corporation elects to amend or terminate any such plan, in whole or in part; and (B) that appropriate transfers and assignments with respect to all rights and obligations relating to such plans shall be made to the Corporation for such purposes, without prejudice to payment of consideration for whatever rights any railroad in reorganization may have in any residual assets under any such employee pension benefit plan. No court shall enter any judgment against the Corporation with respect to any such rights, except that the special court may enter such a judgment in an order issued by its pursuant to subsection (c) of this section, after taking into consideration the rights and obligations transferred pursuant to this paragraph. All liabilities as an employer shall be imposed solely upon the railroad in reorganization in the event such plan is terminated, in whole or in part, by the Corporation within 1 year after the date of such transfer or assignment (except liabilities as an employer under the Employee Retirement Income Security Act of 1974 for benefits accruing during such period), *except that in any case in which the Corporation, on or after the date of transfer or assignment as provided by this paragraph, terminates in whole or in part any such plan, the benefits under which are not guaranteed under title IV of the Employee Retirement Income Security Act of 1974, the Corporation shall guarantee the payment when due of the accrued pension benefits provided for thereunder at the time of*

termination. The Corporation shall be entitled to a loan pursuant to section 211(h) of this Act in an amount required for the adequate funding of accrued pension benefits under all plans transferred or assigned to the Corporation in accordance with this paragraph (whether or not terminated by the Corporation). For purposes of such section 211(h) and notwithstanding any other provision of Federal or State law, amounts required for such adequate funding shall be deemed to be expenses of administration of the respective estates of the railroads in reorganization, due and payable as of the date of transfer or assignment of the plans to the Corporation.

* * * * * * *

(c) FINDINGS AND DISTRIBUTION.—(1) * * *

(2) If the special court finds that the terms of one or more exchanges for securities, certificates of value and other benefits are not fair and equitable to an estate of a railroad in reorganization, or to a railroad leased, operated, or controlled by a railroad in reorganization (taking into consideration compensable unconstitutional erosion, if any, which the special court finds to have occurred in the estate of each such railroad, during the bankruptcy proceeding with respect to such railroad), which has transferred rail properties pursuant to the final system plan, it may—

(A) enter a judgment reallocating the securities[,] *and* certificates of value [of the Corporation] in a fair and equitable manner if [it has] *they have* not been fairly allocated among the railroads transferring rail properties to the Corporation or any subsidiary thereof, except that at least one share of series B preferred stock and one certificate of value shall be allocated to each such railroad; and

(B) if the lack of fairness and equity cannot be completely cured by a reallocation of the [Corporation's] securities [,] *and* certificates of value, order the Corporation to provide for the transfer to the railroad of other securities [, certificates of value] of the Corporation or certificates of value issued by the Association as designated in the final system plan in such nature and amount as would make the exchanges fair and equitable; and

(C) enter a judgment against the Corporation if the judgment would not endanger the viability or solvency of the Corporation.

(3) If the special court finds that the terms of one or more conveyances of rail properties to a profitable railroad operating in the region, State, or responsible person in accordance with the final system plan are not fair and equitable, it shall enter a judgment against such profitable railroad, State, or responsible person. If the special court finds that the terms of one or more conveyances or exchanges for securities or other benefits are fairer and more equitable than is required as a constitutional minimum, then it shall order the return of any excess securities, certificates of value, or compensation to the Corporation or a profitable railroad, State, or responsible person so as not to exceed the constitutional minimum standard of fairness and equity. The special court shall also find the amount of the payments, if any, which each profitable railroad has made on behalf of a transferor railroad in reorganization in accordance with section 211(h) of this Act, for which payment the profitable railroad has not been reimbursed, as provided in section 211(h). Notwithstanding any other provision of this paragraph or of paragraph (4), the special court shall order the return to any such profitable railroad from compensation deposited by such profitable railroad pursuant to [section 303] *subsection* (a) (2) *of this section*, of any such amount so found together with interest at the rate provided in section 211(h). In making any finding under this paragraph, the special court shall take into consideration compensable unconstitutional erosion, if any, which it finds to have occurred in the estate of a railroad in reorganization in the region, or of a railroad leased, operated, or controlled by such a railroad, during the bankruptcy proceeding with respect to such railroad.

* * * * * * *

(5) Whenever the special [court orders, pursuant to section 303(b) (1) of this title, the transfer or conveyance to the Corporation or any subsidiary thereof of rail properties designated under section 206 (c)(1) (C) or (D) of this Act, to the National Railroad Passenger Corporation, to a profitable railroad, or to a State, or responsible person (including a government entity), the United States shall pay any judgment entered against the Corporation with respect to the conveyance of any such rail properties or against the National Railroad Passenger Corporation, such profitable railroad, State, or responsible person, plus interest thereon at such rate as is constitutionally required.] *court, pursuant to subsection (b)(1) of this section, orders the transfer or conveyance of rail properties—*

(A) designated under section 206(c)(1) (C) or (D) of this Act, to the Corporation or any subsidiary thereof, the United States shall indemnify the Corporation against any costs or liabilities imposed on the Corporation as the result of any judgment entered against the Corporation, with respect to such properties, under paragraph (2) of this subsection; and

(B) to the National Railroad Passenger Corporation, a profitable railroad operating in the region, a State, or a responsible person (including a governmental entity), the United States shall indemnify the National Railroad Passenger Corporation, such profitable railroad, State, or responsible person against any costs of liabilities imposed thereon as a result of any judgment entered against the National Railroad Passenger Corporation, such profitable railroad, State, or responsible person, as the case may be, under paragraph (3) of this subsection,

plus interest on the amount of such judgment at such rate as is constitutionally required. The United States may, in its discretion, represent the Corporation of the National Railroad Passenger Corporation, such profitable railroad, State or responsible persons, in any proceedings before the special court that could result in such a judgment against the Corporation under paragraph (2) of this subsection or against the National Railroad Passenger Corporation, such profitable railroad, State or responsible person, under paragraph (3) of this subsection. The Corporation, the National Railroad Passenger Corporation, any profitable railroad, State, or responsible person, which is represented by the United States of America shall cooperate diligently in

whatever manner the United States shall reasonably request of it in connection with such proceedings. Neither the Corporation, or its subsidiaries, nor the National Railroad Passenger Corporation, any profitable railroad, State or responsible person, shall be obligated to reimburse the United States for any moneys paid by the United States pursuant to this section.

* * * * * * *

TERMINATION AND CONTINUATION OF RAIL SERVICES

* * * * * * *

SEC. 304. (a) * * *

(d) RAIL FREIGHT SERVICE.—(1) * * *

* * * * * * *

(4) No determination of reasonable payment for the use of rail properties of a railroad in reorganization in the region, and no determination of value of rail properties of such a railroad (including supporting or related documents or reports of any kind) which is made in connection with any lease agreement, contract of sale, or other agreement or understanding which is entered into after the date of enactment of the Rail Amendments of 1976—

(A) pursuant to this section; or

(B) pursuant to section 402 of this Act or section 17 of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1613),

shall be admitted as evidence, or used for any other purpose, in any civil action, or any other proceeding for damages or compensation, arising under this Act.

* * * * * * *

TITLE V—EMPLOYEE PROTECTION

* * * * * * *

COLLECTIVE-BARGAINING AGREEMENTS

SEC. 504. (a) INTERIM APPLICATION.—* * *

* * * * * * *

(e) LIABILITY FOR EMPLOYEE CLAIMS.—In all cases of claims by employees, arising under the collective bargaining agreements of the railroads in reorganization in the region, and subject to section 3 of the Railway Labor Act (45 U.S.C. 153), the Corporation, the National Railroad Passenger Corporation, or an acquiring carrier, as the case may be, shall assume responsibility for the processing of any such claims, and payment of those which are sustained or settled on or subsequent to the date of conveyance, under section 303(b)(1) of this Act, and shall be entitled to direct reimbursement from the Association pursuant to section 211(h) of this Act. *Any liability of an estate of a railroad in reorganization to its employees which is assumed, processed, and paid, pursuant to this subsection, by the Corporation, the National Railroad Passenger Corporation, or an acquiring carrier shall remain the preconveyance obligation of the estate of such railroad for purposes of section 211(h)(1) of this Act. The Corporation, the National Railroad Passenger Corporation, an acquiring carrier, or the Association, as the case may be, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act (other than paragraph (4)(A) thereof), for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization on whose behalf such obligations are discharged or paid.* In those cases in which claims for employees were sustained or settled prior to such date of conveyance, it shall be the obligation of the employees to seek satisfaction against the estate of the railroads in reorganization which were their former employers.

(g) ASSUMPTION OF PERSONAL INJURY CLAIMS.—All cases or claims by employees or their personal representatives for personal injuries or death against a railroad in reorganization in the region arising prior to the date of conveyance of rail properties, pursuant to section 303 of this Act, shall be assumed by the Corporation or an acquiring railroad, as the case may be. The Corporation or the acquiring railroad shall process and pay any such claims that are sustained or settled, and shall be entitled to direct reimbursement from the Association pursuant to section 211(h) of this Act. *Any liability of an estate of a railroad in reorganization which is assumed, processed, and paid, pursuant to this subsection, by the Corporation or an acquiring railroad shall remain the preconveyance obligation of the estate of such railroad for purposes of section 211(h)(1) of this Act. The Corporation, an acquiring railroad, or the Association, as the case may be, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act (other than paragraph (4)(A) thereof), for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization on whose behalf such obligations are discharged or paid.*

EMPLOYEE PROTECTION

SEC. 505. (a) EQUIVALENT POSITION.—* * *

(b) MONTHLY DISPLACEMENT ALLOWANCE.—A protected employee, who has been deprived of employment or adversely affected with respect to his compensation shall be entitled to a monthly displacement allowance computed as follows:

(1) Said allowance shall be determined by computing the total compensation received by the employee, including vacation allowances and monthly compensation guarantees, and his total time paid for during the 12 full calendar months immediately preceding [February 26, 1975,] *January 1, 1975*, or in the case of a supplementary transaction, the 12 full calendar months immediately preceding the effective date of such transaction in which he performed compensated service more than 50 per centum of each of such months, based upon his normal work schedule, and by dividing separately the total compensation and the total time paid for by 12, thereby producing the average monthly compensation and average monthly time paid for; and, if an employee's compensation in his current position is less in any month in which he performs work than the aforesaid average compensation, he shall be paid the difference, less any time lost on account of voluntary absences other than vacations, but said protected employee shall

be compensated in addition there to at the rate of the position filled for any time worked in excess of his average monthly time, *Provided, however*, That—

(A) in determining compensation in his current employment the protected employee shall be treated as occupying the position, producing the highest rate of pay to which his qualifications and seniority entitle him under the applicable collective bargaining agreement and which does not require a change in residence;

(B) *with respect to a protected employee who has been deprived of his employment*, the said monthly displacement allowance shall be reduced by the full amount of any unemployment compensation benefits received by the protected employee and shall be reduced by an amount equivalent to any employment subject to the Railroad Retirement Act and 50 per centum of any earnings in any employment not subject to the Railroad Retirement Act;

(C) a protected employee's average monthly compensation shall be adjusted from time to time thereafter to reflect subsequent general wage increases;

(D) should a protected employee's service total less than 12 months in which he performs more than 50 per centum compensated service based upon his normal work schedule in each of said months, his average monthly compensation shall be determined by dividing separately the total compensation received by the employee and the total time for which he was paid by the number of months in which he performed more than 50 per centum compensated service based upon his normal work schedule; and

(E) the monthly displacement allowance provided by this section shall in no event exceed the sum of $2,500 in any month except that such amount shall be adjusted to reflect subsequent general wage increases.

(2) A protected employee's average monthly compensation under this section shall be based upon the rate of pay applicable to his employment and shall include increases in rates of pay not in fact paid but which were provided for in national railroad labor agreements generally applicable during the period involved.

(3) If a protected employee who is entitled to a monthly displacement allowance served as an agent or a representative of a class or craft of employees on either a full- or part-time basis in the 12 months immediately preceding [February 26, 1975] *January 1, 1975*, or the effective date of the supplemental transaction, as the case may be, his monthly displacement allowance shall be computed by taking the average of the average monthly compensation and average monthly time paid for of the protected employees immediately above and below him on the same seniority roster or his own monthly displacement allowance, whichever is greater.

(4) If a noncontract employee exercises seniority rights in a craft or class of employees protected upnder this Act, then, during the period such seniority is exercised, such noncontract employee

shall be entitled to the same protection offered under this Act to employees in the craft or class in which such seniority is exercised. However, in computing the monthly displacement allowance, the last 12 months prior to [February 26, 1975,] *January 1, 1975*, during which such noncontract employee performed service under a collective-bargaining agreement, shall be used. *This paragraph shall not apply to any noncontract employee whose noncontract position has been abolished.*

(g) MOVING EXPENSE BENEFITS.—Any protected employee who is required to make a change of residence as the result of a transaction shall be entitled to the following benefits—

(1) Reimbursement for all expenses of moving his household and other personal effects, for the traveling expense of himself and members of his family, including living expenses for himself and his family, and for his own actual wage loss, not to exceed 10 working days. *Provided*, That the Corporation or acquiring railroad shall, to the same extent provided above, assume said expenses for any employee furloughed within 3 years after changing his point of employment as a result of a transaction, who elects to move his place of residence back to his original point of employment. No claim for reimbursement shall be paid under the provisions of this section unless such claim is presented to the Corporation or acquiring railroad within 90 days after the date on which the expenses were incurred.

(2)(A)(i) If the protected employee owns, or is under a contract to purchase, his own home in the locality from which he is required to move and elects to sell said home, he shall be reimbursed for any loss suffered in the sale of his home for less than its fair market value. In each case the fair market value of the home in question shall be determined as of a date sufficiently prior to the date of the transaction so as to be unaffected thereby. The Corporation or an acquiring railroad shall in each instance be afforded an opportunity to purchase the home at such fair market value before it is sold by the employee to any other person.

(ii) A protected employee may elect to waive the provisions of paragraph (2)(A)(i) of this subsection and to receive, in lieu thereof, an amount equal to his closing costs which are ordinarily paid for and assumed by a seller of real estate in the jurisdiction in which the residence is located. Such costs shall include a real estate commission paid to a licensed realtor (not to exceed $3,000 or 6 per centum of sale price, whichever is less), and any prepayment penalty required by the institution holding the mortgage; such costs shall not include the payment of any "points" by the seller.

(B) If the protected employee holds an unexpired lease on a dwelling occupied by him as his home, he shall be protected from all loss and cost in securing the cancellation of said lease.

(C) No claim for costs or loss shall be paid under the provisions of this paragraph unless the claim is presented to the Corporation or an acquiring railroad within 90 days after such costs or loss are incurred.

(D) Should a controversy arise with respect to the value of the home, the costs or loss sustained in its sale, the costs or loss under a contract for purchase, loss or cost in securing termination of a lease, or any other question in connection with these matters, it shall be decided through joint conference between the employee, or his representative, and the Corporation or an acquiring railroad. In the event they are unable to agree, the dispute or controversy may be referred by either party to a board of competent real estate appraisers, selected in the following manner: One to be selected by the employee or his representative and one by the Corporation or acquiring railroad and these two, if unable to agree upon a valuation within 30 days, shall endeavor by argument within 10 days thereafter to select a third appraiser, or to agree to a method by which a third appraiser shall be selected, and, failing such agreement, either party may request the National Mediation Board to designate within 10 days a third qualified real estate appraiser whose designation will be binding upon the parties. A decision of a majority of the appraisers shall be required and said decision shall be final and conclusive. The salary and expenses of the third or neutral appraiser, including the expenses of the appraisal board, shall be borne equally by the parties to the proceedings. All other expenses shall be paid by the party incurring them, including the compensation of the appraiser selected by such party.

In addition, protected employees displaced as a result of an acquisition pursuant to section 206(d)(4) of this Act (which acquisition was consummated pursuant to section 508 of this title) shall, upon acceptance of employment offered by the Corporation, be entitled to the benefits of paragraphs (1) and (2) of this subsection.

* * * * * * *

(i) NONCONTRACT EMPLOYEES.—Compensation, severance, termination, and moving expense benefits for employees not governed by a collective-bargaining agreement shall be consistent with subsections (b), (c), (e), (f), and (g) of this section and shall be in accordance with the following provisions:

(1) A protected employee, whose employment is not governed by the terms of a collective-bargaining agreement, may be required by the Corporation, upon reasonable notice, to transfer to any position on the Corporation's system. If such transfer requires a change in residence, the employee may either voluntarily suspend his employment at his home location in lieu of protective benefits, or he may sever his employment and receive a benefit computed in accordance with subsection (e) or (f) of this section. These provisions supersede all provisions or conditions in subsection (d) of this section.

(2) If any dispute arises between the Corporation and a noncontract employee regarding the interpretation or application of any provision of this title, the Corporation shall establish a resolution procedure with arbitration as the final step. *Such resolution procedure shall be the exclusive means available to the parties for resolving such dispute, and any arbitration decision rendered shall be final and binding on all parties.* Either party may request arbitration, and the cost and expenses of such arbitration shall be shared equally by the parties.

(3) Except as otherwise provided in this title, a protected employee whose employment is not governed by the terms of a collective bargaining agreement and who has been deprived of employment shall not, during the period in which he is entitled to protection, be placed in a worse position with respect to any voluntary relief plan benefits or preretirement benefits provided under any life or medical insurance plan, except that the level of benefits to which such an employee is entitled under this paragraph shall not exceed the level of benefits which is afforded to the Corporation's active noncontract employees of comparable age, position, and level of compensation.

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TITLE VI—MISCELLANEOUS PROVISIONS

RELATIONSHIP TO OTHER LAWS

SEC. 601. (a) ANTITRUST.— * * *

(b) COMMERCE, SECURITIES, AND BANKRUPTCY.—(1) * * *

* * * * * * *

(4) The powers and duties of the Commission under section 77 of the Bankruptcy Act (11 U.S.C. 205), with respect to a railroad in reorganization in the region which conveys all or substantially all of its designated rail properties to the Corporation or a subsidiary thereof, or to profitable railroads in the region, pursuant to the final system plan, and the requirement that plans of reorganization be filed with the Commission, shall cease upon the date of such conveyance. The powers and duties of the Commission under section 77 of the Bankruptcy Act shall also so terminate, as of the date of enactment of this paragraph, with respect to any railroad reorganization under such section 77 but not subject to this Act which (1) does not operate any line of railroad, and (2) has transferred all or substantially all of its rail properties to a railroad in reorganization in the region which was subject to this Act prior to the date of enactment of this paragraph. [Thereafter, such powers and duties of the Commission shall be vested in the district court of the United States which has jurisdiction of the estate of any such railroad in reorganization at the time of such conveyance. Such court shall proceed to reorganize or liquidate such railroad in reorganization pursuant to such section 77 on such terms as the court deems just and reasonable, or pursuant to any other provisions of the Bankruptcy Act, if the court finds that such action would be in the best interests of such estate.] *Thereafter, the district court of the United States which has jurisdiction of the estate of any such railroad in reorganization at the time of such conveyance shall proceed to reorganize or liquidate such railroad in reorganization pursuant to such section 77, in accordance with a fair and equitable plan which complies with the requirements of such section, or such court may convert the proceedings into a bankruptcy proceeding pursuant to any other applicable section or chapter of the Bankruptcy Act, if the court*

finds that such action would be in the best interests of such estate. This paragraph does not affect any obligation of any carrier by railroad subject to regulation under the Interstate Commerce Act. The powers and duties of the Commission under section 77 of the Bankruptcy Act shall continue in effect only to the extent that the railroad in reorganization continues to operate any line of railroad.

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RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

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TITLE III—REFORM OF THE INTERSTATE COMMERCE COMMISSION

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SECURITIES

SEC. 308. (a)(1) * * *

* * * * * * *

(d)(1) The amendments made by subsection (a) of this section shall take effect on the 60th day after the date of enactment of this Act, but shall not apply to any bona fide offering of a security made by the issuer, or by or through an underwriter, before such 60th day.

(2) The amendment made by subsection [(c)] *(b)* of this section shall not apply to any report by any person with respect to a fiscal year of such person which began before the date of enactment of this Act.

(3) The amendment made by subsection (c) of this section shall take effect on the 60th day after the date of enactment of this Act.

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TITLE V—RAILROAD REHABILITATION AND IMPROVEMENT FINANCING

* * * * * * *

CAPITAL NEEDS STUDY

SEC. 504. (a) DEFERRED MAINTENANCE STATEMENT.—Within 180 days after the date of enactment of this Act, each railroad designated by the Commission as a class I railroad (other than a railroad subject to reorganization pursuant to the Regional Rail Reorganization Act of 1973) shall prepare and submit to the Secretary a full and complete statement (1) of such railroad's deferred maintenance and delayed capital expenditures, as of December 31, 1975, and (2) of the projected amounts of appropriate maintenance to be performed and capital expenditures to be made for such railroad's facilities *and equipment*, during each of the years from 1976 through 1985. Each railroad shall

submit such additional information as may be required from it by the Secretary, in connection with his duties under section 503 of this title or under this section, prior to July 1, 1977, including the projected sources of and uses for the funds required by such railroad for such projected program.

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GUARANTEE OF OBLIGATIONS

SEC. 511. (a) GENERAL.— * * *

* * * * * * *

[(c) VALUATION.—Before granting any application for a guarantee or a commitment to guarantee any obligation, the Secretary shall make a determination of the value of the facilities or equipment which are or will be financed or refinanced by such obligation. Such determination of value shall be conclusive and not subject to review in any court.]

(c) FULL FAITH AND CREDIT.—All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States of America backed by the full faith and credit of the United States of America.

* * * * * * *

(h) [PREQUISTES] *PREREQUISITES* for GUARANTEES.—No obligation shall be guaranteed and no comment shall be made to guarantee any obligation under this section, unless and until the Secretary makes a finding in writing that—

(1) an obligation for equipment acquisition, rehabilitation, or improvement is secured *(A)* by the particular equipment which is to be financed or refinanced by such obligation, *or (B) in the case of the rehabilitation or improvement of leased equipment, by the lease*;

(2) payment of the obligation is required by its terms to be made within 25 years from the date of its execution;

(3) the financing or refinancing is justified by the present and probable future demand for rail services to be rendered by the applicant and will serve to meet demonstrable needs for rail services and to provide shippers with improved service;

(4) the applicant has given reasonable assurances that the facilities or equipment to be acquired, rehabilitated, or improved with the proceeds of the obligation will be economically and efficiently utilized;

[(5) the probable value of any equipment or facilities to be improved, rehabilitated, or acquired is sufficient to provide the United States with reasonable security and protection in the event of default by the obligor, in the case of repossession by the holder of the obligation or in the case of possession or purchase by the Secretary; and]

(5) the prospective earning power of the applicant, or the value or prospective earning power of any equipment or facilities to be improved, rehabilitated, or acquired (or any combination of the foregoing), is sufficient to provide the United States with reasonable security and protection in the event of default by the obligor, in the case of repossession by the holder of the obligation, or in the case of possession, purchase, or assumption of the lease by the Secretary, except that if the value or prospective earning power of such equipment or facilities is equal to or greater than the amount of the obligation to be guaranteed, the Secretary may not, on the basis of the lack of prospective earning power of the applicant, find that the United States will not be provided with the reasonable security and protection referred to in this paragraph; and

(6) the transaction will result in an improvement in the ability of any affected railroad to transport passengers or freight.

* * * * * * *

[(j) CONDITIONS OF GUARANTEES.—No guarantee of, and no commitment to guarantee, an obligation may be granted, approved, or extended under this section, unless the obligor first agrees in writing that so long as any principal or interest is due and payable on such obligation—

[(1) there will be no increase in discretionary dividend payments over the average ratio which such payments bore to earnings for the applicable fiscal period during the 5 years preceding such proposed increase, without prior approval of such increase by the Secretary;

[(2) the obligor will not use assets or revenues (other than cash) related to or derived from railroad operations in nonrailroad enterprises, without prior approval in writing from the Secretary; and

[(3) the obligor will take all reasonable and practicable steps possible, in accordance with such guidelines as may be established by the Secretary, to improve the equitable distribution and efficient and expeditious use of all equipment and facilities in order to improve rail service.

Approval under paragraph (1) or (2) of this subsection may only be granted if, after a public hearing with an opportunity for interested persons to submit comments, the Secretary makes a written finding that such increase in dividends (or such use of assets or revenues) will not materially affect the ability of the obligor to comply with the requirements of this section.]

(j) CONDITIONS OF GUARANTEES.—(1) The Secretary shall, before making, approving, or extending any guarantee or commitment to guarantee any obligation under this section, require the obligor to agree to such terms and conditions as are sufficient, in the judgment of the Secretary, to assure that, as long as any principal or interest is due and payable on such obligation, such obligor—

(A) will not make any discretionary dividend payments, except as provided in paragraph (2) of this subsection; and

(B) will not use any funds or assets from railroad operations for nonrail purposes,

if such payments or use will impair the ability of such obligor to provide rail services in an efficient and economic manner or will adversely effect the ability of such obligor to perform any obligation guaranteed by the Secretary.

(2) An obligor shall not be restricted with respect to making dividend payments from its net income for any fiscal year, if such payments do not exceed—

(A) when compared to the net income of such obligor for such fiscal year, the ratio which aggregate dividends paid by such obligor, during the 5 fiscal years prior to the granting of the earliest loan guarantee then outstanding under this section, bore to aggregate net income of such obligor for such period; or

(B) 50 per centum of the total additions to the retained income of such obligor (computed on a cumulative basis and giving cognizance to dividends paid) during the period commencing with the fiscal year prior to the granting of the earliest loan guarantee then outstanding under this section,

whichever is greater.

(3) The restrictions on the payment of dividends set forth in paragraph (1)(A) of this subsection shall not apply with respect to case in which, in the event of a default by such obligor with respect to an obligation guaranteed under this section if, in the event of a default by the obligor, the Secretary would be subrogated to the rights of the lender under section 77(j) of the Bankruptcy Act.

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TITLE VIII—LOCAL RAIL SERVICE CONTINUATION

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CONVERSION OF ABANDONED RAILROAD RIGHTS-OF-WAY

SEC. 809. (a) STUDY.—The Secretary shall, within 360 days after the date of enactment of this Act, and in consultation with the Secretary of the Interior, the Office, the Association, the Environmental Protection Agency, and other appropriate Federal agency, any appropriate State and regional transportation agency, any other appropriate State and local governmental entities, and any appropriate private groups and individuals, prepare and submit to the Congress and the President a report on the conversion of railroad rights-of-way. This report shall evaluate and make suggestsions concerning potential alternate uses of, and public policy with respect to the convention of, railroad right-of-way on which service has been discontinued or is likely to be discontinued. This report shall include—

(1) an inventory statement developed by the Secretary as to all [abandoned] railroad rights-of-way *abandoned since 1970* and significant segments of such rights-of-way which retain their linear characteristics, including, as to each identification of th owner of record and an evaluation of its topography, characteristics, condition, approximate value, and alternate use suitability;

(2) an evaluation of the advantages of establishing a rail bank consisting of selected such rights-of-way, as a means of assuring their availability for potential railroad use in the future, a discussion of interim uses for such rights-of-way, the development of conveyancing and leasing forms, conditions, and practices to assure such availability, a projection as to the costs of such a program, and recommendations regarding the administration of such program;

(3) a survey of existing Federal, State, and local programs utilizing or attempting to utilize abandoned railroad rights-of-way for public purposes, including an assessment of the benefits and costs of each; and

(4) an assessment and evaluation of suggestions for more effective public utilization of abandoned railroad rights-of-way, including recommendations for legislative, administrative, and regulatory action, if any, and proposals as to the optimum level of funding therefor.

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Title IX—Miscellaneous Provisions

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Sec. 907. (a) The Secretary shall conduct a comprehensive study of freight transportation in the Midwest. Such study shall include, but not be limited to, a determination to the maximum extent feasible of the impact of changes in the capacity of the lock system of the Mississippi River and Illinois Waterway Navigation System upon—

(1) railroad revenues, service, the ability to attract capital, and continued economic viability;

(2) railroad branch lines;

(3) continued capability to provide service;

(4) shippers depending upon rail service;

(5) communities beyond the economic service area of the waterway mode: and

(6) need for subsidies to railroads.

Such study shall also include a determination of the probable freight to be moved in the Midwest in the next 10 years and the next 25 years, and the most economically efficient method of moving such freight, considering the total private and public costs for the entire region.

(b) The Secretary shall, within one year after the date of enactment of the Rail Amendments of 1976, submit to the Congress the study required by subsection (a) of this section. The Secretary of the Army and the Commission shall cooperate with the Secretary in preparation of such study. In carrying out its duties under this section, the Commission shall submit to the Secretary of the Army the findings of the Commission with respect to whether the expenditure of Federal funds on any construction or reconstruction affecting the capacity of the lock system on the Mississippi River and the Illinois Waterway Navigation System is required to meet the needs of the public convenience and necessity for adequate freight transportation services in the Midwest.

INTERSTATE COMMERCE ACT

* * * * * * *

DISCONTINUANCE AND ABANDONMENT OF RAIL SERVICE

Sec. 1a. (1) No carrier by railroad subject to this part shall abandon all or any portion of any of its lines of railroad (hereafter in this section referred to as 'abandonment') and no such carrier shall discontinue the operation of all rail service over all or any portion of any such line or discontinuance is described in and covered by a certificate which is issued by the Commission and which declares that the present or future public convenience and necessity require or permit such abandonment or discontinuance. An application for such a certificate shall be submitted to the Commission, together with a notice of intent to abandon or discontinue, not less than 60 days prior to the proposed effective date of such abandonment or discontinuance, and shall be in accordance with such rules and regulations as to form, manner, content, and documentation as the Commission may from time to time prescribe. Abandonments and discontinuances shall be governed by the provisions of this section or by the provisions of any other applicable Federal statute, notwithstanding any inconsistent or contrary provision in any State law or constitution, or any decision, order, or procedure of any State administrative or judicial body. *The authority granted to the Commission under this section shall not apply to (a) abandonment or discontinuance with respect to spur, industrial, team, switching, or side tracks if such tracks are located entirely within one State, or (b) any street, suburban, or interurban electric railway which is not operated as part of a general system of rail transportation.*

* * * * * * *

(4) The Commission shall, upon an order with respect to each application for a certificate of abandonment or discontinuance—

(a) issue such certificate in the form requested by the applicant if it finds that such abandonment or discontinuance is consistent with the public convenience or necessity. In determining whether the proposed abandonment is consistent with the public convenience and necessity, the Commission shall consider whether there will be a serious adverse impact on rural and community development by such abandonment or discontinuance;

(b) refuse to issue such certificate.

Each such certificate which is issued by the Commission shall contain provisions for the protection of the interests of employees. Such provisions shall be at least as beneficial to such interests as provisions established pursuant to section 5(2)(f) of this Act and pursuant to section 405 of the Rail Passenger Service Act (45 U.S.C. 565). *If such certificate is issued without an investigation pursuant to paragraph (3) of this section, actual abandonment or discontinuance may take effect, in accordance with such certificate, on the effective date of such certificate.* If such a certificate is issued *after an investigation pursuant*

to such paragraph (3), actual abandonment or discontinuance may take effect, in accordance with such certificate, 120 days after the date of issuance thereof.

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COMBINATIONS AND CONSOLIDATIONS OF CARRIERS

SEC. 5. (1) * * *

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(16) Jurisdiction is hereby confered on the Commission to determine questions of fact, arising under paragraph (15), as to the competition or possibility of competition, after full hearing, on the application of any railroad company or other carrier. Such application may be filed for the purpose of determining whether any existing service is in violation of such paragraph and may pray for an order permitting the continuance of any vessel or vessels already in operation, or may pray for an order under the provisions of paragraph [16] *(17)*. The Commission may on its own motion or the application of any shipper institute proceedings to inquire into the operation of any vessel in use by any railroad or other carrier which has not applied to the Commission and had the question of competition or the possibility of competition determined as herein provided. In all such cases the order of said Commission shall be final.

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AGREEMENTS BETWEEN CARRIERS SUBJECT TO PART I.

SEC. 5b. (1) * * *

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(5) (a) The Commission shall not approve under this section any agreement which establishes a procedure for the determination of any matter through joint consideration, unless it finds that under the agreement there is accorded to each party the free and unrestrained right to take independent action, without fear of any sanction or retaliatory action, at any time before or after any determination arrived at through such procedure. In no event shall any conference, bureau, committee, or other organization established or continued pursuant to any agreement approved by the Commission under the provisions of this section—

(i) permit participation in agreements with respect to, or any voting on, single-line rates, allowances, or charges established by any carrier;

(ii) permit any carrier to participate in agreements with respect to, or to vote on, rates, allowances, or charges relating to any particular interline movement, unless such carrier can practicably participate in such movement; or

(iii) permit, provide for, or establish any procedure for joint consideration or any joint action to protest or otherwise seek the suspension of any rate or classification filed by a carrier of the same mode pursuant to section 15[7] *(8)* of this part where such rate or classification is established by independent action.

As used in clause (i) of this subdivision, a single-line rate, allowance, or charge is one that is proposed by a single carrier applicable only over its own line and as to which the service (exclusive of terminal services provided by switching, drayage, or other terminal carriers or agencies) can be performed by such carrier.

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COMPLAINTS TO AND INVESTIGATIONS BY COMMISSION

SEC. 13. (1) * * *

* * * * * * *

(5) The Commission shall have exclusive authority upon application to it, to determine and prescribe intrastate rates if—

(a) a carrier by railroad has filed with an appropriate administrative or regulatory body of a State, a change in an intrastate rate, fare, or charge, or a change in a classification, regulation, or practice that has the effect of changing such a rate, fare, or charge, for the purpose of adjusting such rate, fare, or charge to the rate charged on similar traffic moving in interstate or foreign commerce; and

(b) the State administrative or regulatory body has not, within 120 days after the date of such filing, acted finally on such change.

Nothing in this paragraph shall affect the authority of the Commission to institute an investigation or to act in such investigation as provided in paragraphs (3) and (4) of this section.

* * * * * * *

DETERMINATION OF RATES ROUTES, ETC.; ROUTING OF TRAFFIC; DISCLOSURES, ETC.

SEC. 15. (1) * * *

* * * * * * *

(19) Notwithstanding any other provision of law, a common carrier by railroad subject to this part may file with the Commission a notice of intention to file a schedule stating a new rate, fare, charge, classification, regulation, or practice whenever the implementation of the proposed schedule would require a total capital investment of $1,000.000 or more, individually or collectively, by such carrier, or by a shipper, receiver, or agent thereof, or an interested third party. The filing shall be accompanied by a sworn affidavit setting forth in detail the anticipated capital investment upon which such filing is based. Any interested person may request the Commission to investigate the schedule proposed to be filed, and upon such request the Commission shall hold a hearing with respect to such schedule. Such hearing may be conducted without answer or other formal pleading, but reasonable notice shall be provided to interested parties. Unless, prior to the 180-day period following the filing of such notice of intention, the Commission determines, after a hearing, that the proposed schedule, or any part thereof, would be unlawful, such carrier may file the schedule at any time within 180 days thereafter to become

effective after 30 days' notice. Such a schedule may not, for a period of 5 years after its effective date, be suspended or set aside as unlawful under section 1, 2, 3, or 4 of this part, except that the Commission may at any time order such schedule to be revised to a level equalling the variable costs of providing the service, if the rate stated therein is found to reduce the going concern value of the carrier.

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COMMISSION PROCEDURE; DELEGATION OF DUTIES; REHEARINGS

SEC. 17. (1) * * *

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(9) (a) * * *

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(e) The Commission may, in its discretion, extend any time period set forth in this [section] *paragraph* for a period of not more than 90 days, if a majority of the Commissioners, by public vote, agree to such extension. The Commission shall submit an annual report in writing to each House of Congress setting forth each extension granted pursuant to this subdivision (classified by the type of proceeding involved), and stating the reasons for each such extension and the duration thereof.

* * * * * * *

RESTRICTIONS

SEC. 22 (1) * * *

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(2) All quotations or tenders of rates, fares or charges under paragraph (1) of this section for the transportation, storage, or handling of property or the transportation of persons free or at reduced rates for the United States Government, or any agency or department thereof, including quotations or tenders for retroactive application whether negotiated or renegotiated after the services have been performed, shall be in writing or confirmed in writing and a copy or copies thereof shall be submitted to the Commission by the carrier or carriers offering such tenders or quotations in the manner specified by the Commission and only upon the submittal of such a quotation or tender made pursuant to an agreement approved by the Commission under section 5a *or section 5b* of this Act shall the provisions of paragraph (9) of [*said*] *such* section 5a *or paragraph (8) of such section 5b* apply, but said provisions shall continue to apply as to any agreement so approved by the Commission under which any such quotation or tender (a) was made prior to the effective date of this paragraph or (b) is hereafter made and for security reasons, as hereinafter provided, is not submitted to the Commission: *Provided*, That nothing in this paragraph shall affect any liability or cause of action which may have accrued prior to the date on which this paragraph takes effect. Submittal of such quotations or tenders to the Commission shall be made concurrently with submittal to the United States

Government, or any agency or department thereof, for whose account the quotations or tenders are offered or for whom the proposed services are to be rendered. Such quotations or tenders shall be preserved by the Commission for public inspection. The provisions of this paragraph requiring submissions to the Commission shall not apply to any quotation or tender which, as indicated by the United States Government, or any agency or department thereof, to any carrier or carriers, involves information the disclosure of which would endanger the national security.

* * * * * * *

DISCRIMINATORY STATE TAXATION

SEC. 28. (1) Notwithstanding the provisions of section 202(b), any action described in this subsection is declared to constitute an unreasonable and unjust discrimination against, and an undue burden on, interstate commerce. It is unlawful for a State, a political subdivision of a State, or a governmental entity or person acting on behalf of such State or subdivision to commit any of the following prohibited acts:

(a) The assessment (but only to the extent of any portion based on excessive values as hereinafter described), for purposes of a property tax levied by any taxing district, of transportation property at a value which bears a higher ratio to the true market value of such transportation property than the ratio which the assessed value of all other commercial and industrial property in the same assessment jurisdiction bears to the true market value of all such other commercial and industrial property.

(b) The levy or collection of any tax on an assessment which is unlawful under subdivision (a).

(c) The levy or collection of any ad valorem property tax on transportation property at a tax rate higher than the tax rate generally applicable to commercial and industrial property in the same assessment jurisdiction.

(d) The imposition of any other tax which results in discriminatory treatment of a common carrier by railroad subject to this part.

(2) Notwithstanding any provision of section 1341 of title 28, United States Code, or of the constitution or laws of any State, the district courts of the United States shall have jurisdiction, without regard to amount in controversy or citizenship of the parties, to grant such mandatory or prohibitive injunctive relief, interim equitable relief, and declaratory judgments as may be necessary to prevent, restrain, or terminate any acts in violation of this section, except that—

(a) such jurisdiction shall not be exclusive of the jurisdiction which any Federal or State court may have in the absence of this subsection;

(b) the provisions of this section shall not become effective until 3 years after the date of enactment of this section;

(c) no relief may be granted under this section unless the ratio of assessed value to true market value, with respect to transportation property, exceeds by at least 5 per centum the ratio of assessed value to true market value, with respect to all other commercial and industrial property in the same assessment jurisdiction;

(d) the burden of proof with respect to the determination of assessed value and true market value shall be that declared by the applicable State law; and

(e) in the event that the ratio of the assessed value of all other commercial and industrial property in the assessment jurisdiction to the true market value of all such other commercial and industrial property cannot be established through the random-sampling method known as a sales assessment ratio study (conducted in accordance with statistical principles applicable to such studies) to the satisfaction of the court hearing the complaint that transportation property has been or is being assessed or taxed in contravention of the provisions of this section, then the court shall hold unlawful an assessment of such transportation property at a value which bears a higher ratio to the true market value of such transportation property than the assessed value of all other property in the assessment jurisdiction in which is included such taxing district and subject to a property tax levy bears to the true market value of all such other property, and the collection of any ad valorem property tax on such transportation property at a tax rate higher than the tax rate generally applicable to taxable property in the taxing district.

(3) As used in this section, the term—

(a) "assessment" means valuation for purposes of a property tax levied by any taxing district;

(b) "assessment jurisdiction" means a geographical area, such as a State or a county, city, township, or special purpose district within such State which is a unit for purposes of determining the assessed value of property for ad valorem taxation;

(c) "commercial and industrial property" or "all other commercial and industrial property" means all property, real or personal, other than transportation property and land used primarily for agricultural purposes or primarily for the purpose of growing timber, which is devoted to a commercial or industrial use and which is subject to a property tax levy; and

(d) "transportation property" means transportation property, as defined in regulations of the Commission, which is owned or used by a common carrier by railroad subject to this part or which is owned by the National Railroad Passenger Corporation.

* * * * * * *

SEPARATE VIEWS TO H.R. 14932 BY HON. JOE SKUBITZ

H.R. 14932 is in no way legislation vital to the health of the railroad industry. However, as a result of careful deliberation by the full Committee, the bill does make some substantive and clarifying changes in existing law which will hopefully improve its operation. In particular, the amendments contained in this bill reaffirm the initial policies adopted by Congress and embodied in Public Law 94–210, the Railroad Revitalization and Regulatory Reform Act of 1976. This reformation and clarification should clear up some court orders and some proposed rulemaking which failed to carry out the intent of Public Law 94–210.

I continue to have reservations concerning one amendment adopted in Committee. That amendment added a new Sec. 105 to the bill titled "Protection of Employees' Pension Benefits." This is a humanitarian amendment but it establishes a dangerous and unwise precedent for the Government. Simply stated, it requires Uncle Sam to pay pension benefits to a number of retired employees of several bankrupt railroads formerly operating in the Northeast. At present, there are 908 individuals receiving special retirement benefits from their former employers. These benefits are benefits over and above Railroad Retirement and are the result of special unfunded pension plans. The following list indicates those unfunded employee pension benefit plans which were terminated as of August 1, 1976 inasmuch as CONRAIL has no obligation to continue payment.

1. Policy of Interim Pensions, Penn Central Transportation Company, of February 1, 1968, as amended to April 8, 1974 (plan established March 1, 1963 by Pennsylvania Railroad Company).
2. Policy of Interim Pensions, Penn Central Transportation Company, of February 1, 1968 (plan established May 28, 1959 by New York Central Railroad Company).
3. Plan for Supplemental Pensions, Penn Central Transportation Company, of January 1, 1969 (plan established January 31, 1951 by New York, New Haven and Hartford Railroad Company, and amended to October 25, 1961).
4. Plan for Additional Pension Allowances for Employees in Canada, Penn Central Transportation Company, of April 25, 1968, as amended to February 3, 1972.
5. The Delaware, Lackawanna and Western Railroad Company Pension Plan (effective October 1, 1941).
6. The Delaware, Lackawanna and Western Railroad Company Unfunded Pension Plan (effective January 1, 1956).
7. The Delaware, Lackawanna and Western Railroad Company Funded Pension Plan (effective January 1, 1956).
8. Early Retirement Policy, approved by Erie Lackawanna Railway Company Board of Directors (effective July 1, 1971).

9. Erie Lackawanna Board of Directors' resolution adopted October 17, 1960, on merger of Erie Railroad and Delaware, Lackawanna and Western Railroad Company, providing credit for prior railroad service to named officers and employees of DL & W in accordance with provisions of plan identified as No. 7 above.

10. Subsequent Erie Lackawanna Board of Directors' and Trustees' resolutions adopted at various times providing credit for prior railroad service to certain officers and employees in connection with their becoming employed.

11. Pension provisions made at various times by Erie Lackawanna for specific officers or employees or, in some cases, their widows.

12. Lehigh and Hudson Policy of Interim Pensions adopted November 17, 1966.

13. Lehigh and Hudson 1956 Unfunded Supplemental Pension Plan.

14. Lehigh Valley 1944 Unfunded Supplemental Pension Plan.

Naturally, the estates of the bankrupt railroads involved have an obligation to pay these pension benefits. I am optimistic that the reorganization court will do all in its power to see that the 908 individuals involved receive their supplemental pension benefits. Quite frankly, if I could see any justification for the United States to take over the rightfully obligations of the bankrupt railroads in this matter, I would endorse the provision. Unfortunately, I cannot. What I do see is the beginning of what could be a long line of bailouts by the Federal Government for all bankrupt estates ranging from the W. T. Grant Company to the corner service station.

Many companies including the bankrupt railroads in the Northeast enter into special pension plans with their employees. In some cases, the employees contribute to the pension plan and others where the employer pays the full cost. In recent years, it has been necessary for such pension plans to meet certain qualifications so as to assure payment of funds to future beneficiaries. In this case, the employers assume the responsibility to pay the supplementary benefits when an employee retired. Unfortunately, the companies involved have gone bankrupt. As with any other bankruptcy, it is incumbent upon the reorganization court to arrive at the best resolution possible with respect to unfunded pension liabilities.

It is my understanding that in each of the 14 plans involved, there was a termination clause which provided for the very contingency which now exists. Under the termination clause, the court should be able to provide the retirees with a fair and equitable settlement.

Sec. 105 of this bill represents unsound public policy and should be stricken.

J. SKUBITZ.

SEPARATE VIEWS OF REPRESENTATIVE JOHN M. MURPHY WITH RESPECT TO H.R. 14932

It was originally intended that section 107 of the subcommittee draft of June 1976 would be included in the final version of H.R. 14932 since that section dealt with the question of rail service in the "southern tier" section of New York State. After hearings were held on June 26, 1976 in Elmira, New York the Subcommittee Chairman, Mr. Rooney, indicated his belief that specific legislation regarding a private line purchase of the southern tier lines would be unnecessary. ConRail officials had formally indicated their intention to maintain service in New York's southern tier.

Since the chairman of the subcommittee had also indicated his desire to include language in the report which would indicate why the subcommittee deliberately omitted provisions regarding the New York Lines, and since the deletion of the entire section in full committee markup preempted discussion of that question in the body of the report itself. I am hereinafter including the language which would have appeared in the report had section 107 survived markup. I am also including copies of correspondence with Chairman Rooney which outlines the commitments made by ConRail at the June hearing.

This bill, and its predecessors, are first and foremost rail service continuation measures, and the representatives of New York intend to hold ConRail to its public assertion of support for that proposition, as articulated to, and through, Chairman Rooney.

JOHN M. MURPHY.

"The Subcommittee recognizes that many areas of the Region had been anticipating major capital investments and service improvements from the Chessie System and that in approving the Final System Plan it was the intent of Congress that these services be enhanced and protected as part of the Federal reorganization effort. Section 107 of H.R. 14932 has been introduced to try to achieve these ends. However, in place of legislation the Subcommittee has received the following assurances from ConRail; it is the Subcommittee's intent that each of these assurances be met:

1. All of the properties of the Erie-Lackawanna in New York formerly designated to be included in Chessie and now part of the ConRail System have been found to be vital and profitable segments of ConRail;

2. ConRail plans to operate the former Erie-Lackawanna mainline Jamestown-Hornell-Binghamton-Port Jervis-Suffern and its connections to the West and East as principal mainlines of the ConRail system with maintenance and traffic densities no less than 25 million gross ton miles per mile;

3. ConRail recognizes that the South Dayton-Waterboro, Bath-Corning, Buffalo-Hornell, Binghamton-Fulton, Binghamton-Utica, Fair Oaks-Middletown and Graham Line are profitable feeders to the

former Erie-Lackawanna mainline and, as such, will be maintained at the best practical maintenance standard but in no case less than adequate to meet FRA's Class II safety standard; and

4. ConRail recognizes that it has 'market dominance,' as that term is used in the Railroad Revitalization and Regulatory Reform Act, over all these properties and all traffic moved to or from these lines and the Port of New York and New Jersey and that ConRail will reflect carefully its monopoly position in each of these areas in any rate actions it may take in the future."

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C., July 30, 1976.

Hon. JOHN M. MURPHY,
Rayburn House Office Building,
Washington, D.C.

DEAR JACK: This is in response to your inquiry regarding Section 107 (Acquisition Proposals) contained in H.R. 14932 ("Rail Amendments of 1976") which I introduced July 28. This provision would amend Title III of the Regional Rail Reorganization Act of 1973 by adding a new section to permit the acquisition of certain rail properties conveyed to ConRail by a State or a profitable railroad. In particular, you are concerned as to the effect this provision would have on the former Erie Lackawanna and Reading property in the New York Southern Tier counties.

The original staff draft, dated June 10, 1976, of the Rail Amendments of 1976 contained a provision whereby basically any State, responsible person, or profitable railroad operating in the region could, within one year, acquire any of the rail properties which were designated in the final system plan to be offered for sale to a profitable railroad operating in the region, but which were subsequently transferred to ConRail. Upon review, it was found that the general broadness of this provision made it undesirable and possibly unconstitutional. I therefore decided that this provision should be limited to rail properities in the Delmarva peninsula.

As you know, I too am concerned for the quality of service to shippers in the Southern Tier. In view of the fact that this rail property was conveyed to ConRail rather than the Chessie System as contemplated by the final system plan, there was a serious question as to the effect this lack of competitive service originally envisioned would have on the shippers in the area. In this regard thorough consideration was given to your bill (H.R. 13138) providing for the reconveyance of the Southern Tier rail property from ConRail to a State or group of States. Public hearings on this bill were held in Elmira, New York, on June 26. Based on these hearings, and other information received by the Subcommittee, it was concluded that the Southern Tier rail properties should remain with ConRail.

During the hearings Edward G. Jordan, Chairman of ConRail, testified that ConRail had already awarded contracts amounting to $20 million for track rehabilitation, $18 million for freight car and locomotive repairs, $1 million for rail welding, and $3 million for other capital improvements—a total of $42 million. In addition, it was stated that once ConRail was certain that it would retain the properties a five year plan would be prepared indicating additional improvements

to be undertaken. ConRail further reassured the Subcommittee that the service in the area would not be downgraded. With the exception of the totally unprofitable piggyback facilities, the shippers are and will continue to receive service equal or better than that provided by the former operators.

It was also brought out in the hearings that reconveyance of the properties from ConRail would cause considerable harm to ConRail and employees. Since ConRail commenced operations in April, some facilities have been closed and others expanded, some personnel have been transferred to different locations in the ConRail system, and others declared surplus, and tariffs and rate divisions have been changed. To reverse these actions would cause considerable hardship on employees and result in large financial losses to ConRail, both of which would have to be compensated by the new operator. Also, as a representative of the Chessie System testified, a considerable amount of the through traffic has been diverted to other ConRail routes and it is doubted if a sizable portion of this traffic could be recovered by another operator of this route. Thus, it is doubtful if the properties would be financially viable for a new operator.

The Subcommittee was also informed that further efforts to reconvey the Southern Tier properties would lead to significant legal problems. ConRail's rights as a private corporation were the main consideration underlying the carefully tailored procedures spelled out for supplemental transactions in Section 305 of the Rail Act. H.R. 13138 does not contain these necessary safeguards. Absent these safeguards, reconveyance could be declared unconstitutional or deemed an act of condemnation. If those safeguards were included, then the price of a transfer requested by a State would not be measured by the acquisition cost to ConRail but by the impact of the transaction on ConRail's future prospects.

H.R. 13138 would also leave uncertain the fate of the Delaware and Hudson, a small railroad recently enlarged and strengthened so as to provide competitive service in the New York and New England areas and in which the Federal government will have invested $23 million by the end of this year. H.R. 13138 does not specify what would happen to the D. & H.'s interest in the ConRail properties. In any event, the D. & H. would either lose those property interests or face additional head-to-head competition in its major markets.

Moreover, the reconveyance envisioned by H.R. 13138 could impact adversely the valuation litigation now pending before the Special Court. The Rail Act, including Section 305, was carefully drafted to create a reorganization process pursuant to the bankruptcy and commerce powers with only minimal reliance upon the power of eminent domain. That is the context within which the Special Court appears to be approaching the valuation litigation and that is the basic position which the government parties have been advocating.

One issue in the case is whether ConRail is in fact a private corporation with the normal rights and attributes of such a corporation or is instead a federal creature. If ConRail is perceived to be a corporation entirely dependent upon federal funding which the government can and does manipulate freely, then the Special Court may alter its view and approach the Rail Act as primarily a condemnation statute and only secondarily, if at all, as a reorganization process. Enactment of legislation which evidences a willingness by the Congress to treat

ConRail as a federal creature, subject to the political process in a much greater degree than other railroads would be harmful to the government's litigation efforts.

Also, I would like to take this opportunity to respond to inquiries by the New York Department of Transportation and members of the New York Congressional delegation regarding status of marine operations in New York Harbor. It has been suggested that a provision be included in H.R. 14932 making it explicitly clear that marine operations, equipment and facilities in New York Harbor are included in the coverage of the 1973 Act.

It is my understanding that it has always been the Congressional intent that the marine operations in New York Harbor be covered by the 1973 Act and consequently the equipment and facilities not be disposed of by the estates and the operations be eligible continuation payments. This understanding was confirmed by a recent ruling that the marine operations are "services by railroad" within the meaning of the Interstate Commerce Commission, and that the facilities are "rail properties" as defined by the Act. The ICC also ordered that the carfloat properties be made available by the estate to designated operators for the performance of transportation services under rail service continuation payments. In addition, it ruled that the properties may not be disposed of by the estate so long as they are required for the performance of marine service. Accordingly, I believe that this ruling provides the legislative clarification desired and that further amendments to the Act are not required.

Please do not hesitate to contact me if you need additional information or if I can be of assistance.

Best personal regards,

Sincerely,

FRED B. ROONEY,
Chairman, Subcommittee on Transportation and Commerce.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C., August 2, 1976.

Hon. JOHN M. MURPHY,
Rayburn House Office Building,
Washington, D.C.

DEAR JACK: In confirmation of our conversation today regarding my letter to you dated July 30, be assured that the information contained in my letter will be included in the Committee report on H.R. 14932. I agree with you that in order to show a complete legislative history of the section pertaining to acquisition proposals it will be necessary to explain why the eligible properties are limited to those in the Delmarva Peninsula. Thus, it will be necessary to explain the consideration given to the properties in the Southern Tier and the commitment given by ConRail regarding the improvements to be made and the service to be provided as explained in my letter.

Kind personal regards,

Sincerely,

FRED B. ROONEY,
Chairman, Subcommittee on Transportation and Commerce.

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Calendar No. 809

94TH CONGRESS 2d Session } SENATE { REPORT No. 94-851

AMTRAK IMPROVEMENT ACT OF 1976

REPORT

OF THE

SENATE COMMITTEE ON COMMERCE

ON

S. 3131

TO AMEND THE RAIL PASSENGER SERVICE ACT TO AUTHORIZE ADDITIONAL APPROPRIATIONS, AND FOR OTHER PURPOSES

MAY 13, 1976.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
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Calendar No. 809

94TH CONGRESS 2d Session | SENATE | REPORT No. 94–851

AMTRAK IMPROVEMENT ACT OF 1976

MAY 13, 1976.—Ordered to be printed

Mr. HARTKE, from the Committee on Commerce, submitted the following

REPORT

[To accompany S. 3131]

The Committee on Commerce, having considered a bill (S. 3131), to amend the Rail Passenger Service Act to authorize additional appropriations, and for other purposes, reports favorably thereon with an amendment in the nature of a substitute, and recommends that the bill as amended do pass.

BRIEF DESCRIPTION

The Amtrak Improvement Act of 1976 provides for authorizations for both operating and capital purposes for fiscal years 1977, and 1978. The bill also contains other amendments to the Rail Passenger Service Act which are designed to reduce the cost of providing rail passenger service and to eliminate bureaucratic delay among the various Departments and Agencies charged with responsibility for improving rail transportation. Additionally, the bill contains several amendments to the Regional Rail Reorganization Act of 1973, the Railroad Revitalization and Regulatory Reform Act of 1976 and the Interstate Commerce Act.

SECTION-BY-SECTION ANALYSIS

Section 1—Short title.

Section 2

Section 2 would amend section 403(b) of the Rail Passenger Service Act in two ways. First, it would promote more cooperation between Amtrak and those States or regional transportation authorities that are paying for Amtrak services pursuant to the provisions of section 403(b). The need for this modification was suggested by several States who subsidize Amtrak services under section 403(b) and have had difficulty in getting cooperation from Amtrak with respect to changes in

scheduling and other operational matters on those trains that they are helping pay for.

The section would also amend the base upon which the costs of section 403(b) are calculated. Until the passage of Public Law 94–210, these costs were calculated on a "solely related" basis, and the States had to pay for two-thirds of the deficit. In February, Congress changed the State share for these State-requested services to 50 percent, but also required the Amtrak board to define the costs to be divided as "the total operating losses and associated capital costs." The board's work in redefining the cost base will lead to an increased cost for the States, even though the local portion was reduced to 50 percent from two-thirds. The amendment would redefine the cost base to assure that changing the State share to 50 percent reduces the amount States have to pay for additional Amtrak services rather than increases it. This will bring the Federal share for 403(b) services closer to the Federal share for noninterstate highway improvements (70/30). It is the intention of the committee to encourage States to participate in the funding of intercity rail passenger services, and the amendment is designed to make section 403(b) arrangements more attractive to the States.

Section 3

Section 3 would amend section 601 of the Rail Passenger Service Act. Subsection (a) would provide for new authorizations for appropriations for both operating and capital expenses of the corporation for fiscal years 1977 and 1978. Paragraph (4) of subsection (a) of the amended section 601 would also authorize the beginning of the retirement of the outstanding balance of loans guaranteed by the Secretary pursuant to section 602 of the act. Clause (2) of subsection (a) of this section would modify the manner in which congressional review of the corporation's spending plans would occur in order to provide sufficient flexibility to meet changed circumstances and to eliminate an overly restrictive interpretation of the existing language by the Department of Transportation. Paragraph (3) of this subsection is intended to reduce Amtrak's financial needs by reducing the funds that are needed to pay interest on outstanding balances of loans that have been guaranteed by the Secretary pursuant to section 602 of the act. Under current law, the Department of Transportation has refused to allow Amtrak to use funds that have been authorized and appropriated in order to temporarily reduce outstanding loan balances, thereby saving interest costs. In fiscal year 1977, it has been estimated that use of appropriated funds for this purpose would save approximately $20 million in interest costs. The amendment will have the effect of providing that those moneys provided by the Congress for the provision of intercity rail passenger service will go further for that purpose.

Section 4

Section 4 would provide that the Secretary could not refuse to guarantee any loan that is needed and requested by the corporation to fulfill contractual agreements with the Consolidated Rail Corp. to purchase those properties that were designated by the U.S. Railway Association for acquisition by Amtrak in the final system plan. This section is intended to resolve disputes that have arisen between Amtrak and the Department of Transportation over the way in which Amtrak

owns these properties. This dispute, which has not been resolved by the Department since the enactment of the Railroad Revitalization and Regulatory Reform Act of 1976 on February 5th, has prevented the prompt implementation of the improvements required by title VII of Public Law 94–210. The committee expects both the Department and Amtrak to quickly resolve these matters so that the required improvement program can move forward in a timely manner.

Section 5

Section 5 would amend the modification made to section 306 of the Rail Passenger Service Act of Public Law 94–210 which eliminated the jurisdiction of the Food and Drug Administration over intercity passenger trains. This amendment would have the effect of restoring FDA's jurisdiction to regulate dining car service while still prohibiting regulations designed to require toilets that do not flush on the right-of-way. It would also extend the prohibition of such regulations to freight trains.

Section 6

Section 6 would designate the president of the corporation as an ex officio member of the board of directors. The president is not currently a board member, and because there are currently two vacancies on the board, the amendment will not affect the term of any sitting board member. By providing that the President should sit on the board, the committee does not intend to imply that he should be designated as chairman. The election of a chairman should be resolved by the board.

Section 7

Section 7 would remove the clause currently contained in section 301 of the Rail Passenger Service Act that states that Amtrak is a "for profit" corporation and substitute language which more accurately describes the potential role that Amtrak can play. The Department of Transportation. Amtrak, and the GAO have found that there is little likelihood of Amtrak ever making a profit, and rail passenger service does not make a profit anywhere else in the world, with the exception of a few types of relatively unusual services. The replacement would require the corporation to maximize public benefits for the public costs involved.

Section 8

Section 8 would amend section 505(a)(2) of Public Law 94–210 in order to remove one statutory construction of section 505 which would have the effect of barring the Secretary of Transportation from dispersing any of the nationwide assistance to railroads approved by Congress until the completion of the 2-year capital needs study. The purpose of the loan funds in question ($600 million) was to provide interim assistance during the 2-year period during which the Secretary is to more fully assess the capital needs of the industry. It is at the end of that period that DOT is to recommend what the full nationwide capital needs of the railroad industry are; the amendment will clarify Congressional intent that the $600 million was to be interim financing.

Section 9

Section 9(a) would amend sections 303(c)(5) and 206(d)(5) of Public Law the Regional Rail Reorganization Act in order to make clear that the deficiency judgment protection afforded by that act is extended to cover all the possible actions that the special court could take with respect to the properties designated in the final system plan for "pass through" to the various commuter agencies in the region. One interpretation of this section would hold that the existing protection language of section 303 only protects against a monetary judgment, and does not adequately protect ConRail (and hence Amtrak and the States involved) against the possibility of other types of judgments, such as a required adjustment in the base value of the certificates of value, a reallocation of securities, or a requirement to issue additional securities. While the committee doubts whether any judgement would be appropriate in these circumstances, the amendments in subsection (a) will reaffirm the previously expressed congressional policy that neither ConRail nor Amtrak and the States involved should even be exposed to the remote possibility of an expense imposed as a result of a judgment relating to the properties designated by the U.S. Railway Association pursuant to section 206(c)(1)(C) and (D) of the Regional Rail Reorganization Act of 1973. Subsection (b) of section 9 relates to ConRail's transfer to the State of Rhode Island of certain properties located in that State and is intended to clarify any uncertainty regarding those transfers, which were contemplated and approved by Congres as part of the final system plan.

Section 10

Section 10 would amend section 303(d) of the Regional Rail Reorganization Act which was added by Public Law 94–210, in order to clarify that the provisions of that section, which provide for an exemption from certain transfer and other local taxes in the context of the reorganization, applies to all the properties transferred and all the transfers of those properties contemplated by the final system plan and the Regional Rail Reorganization Act.

Section 11

Section 11 would require the Interstate Commerce Commission to conduct a study of through route and joint fare arrangements between Amtrak and other intercity rail carriers and the intercity bus industry. This study would be submitted to the Congress by September 30, 1977 and would contain any recommendations for legislation that are necessary to facilitate this kind of intermodal transportation. At that time, the committee may wish to consider any recommended amendments along with a review of the intermodal terminal program, originally authorized in 1974.

Section 12

Section 12 would amend both the Department of Transportation Act in order to provide that appropriations made under those portions of the intermodal terminal program and the program to preserve and reuse railway stations of historical or architectural merit that are under the jurisdiction of the National Endowment for the Arts (as a result of the changes made in this program in Public Law 94–210) should be made directly to the Endowment rather than to the Department of Transportation for retransmittal to the Endownment. Under existing law, the DOT would have to ask for appropriations for the Endowment for those portions of the program which are under the Endowment's jurisdiction. The amendment would provide for a direct appropriation, eliminating unnecessary paperwork by DOT. The amendment does not contain any new authorizations except for an amount not to exceed $250,000 for administrative expenses to carry out the program.

Section 13

Section 13 would increase the authorization for the U.S. Railway Association for the transition quarter and fiscal year 1977 by $6.7 million and $12.1 million, respectively. These additional amounts have been requested because of three basic reasons: (1) Modification of the final system plan occasioned by the inability of the two major acquisition projects to move forward that were originally contemplated (by the Chessie and the Southern), (2) new or revised tasks assigned by Public Law 94–210 (primarily specified monitoring duties over ConRail and the duty to make loans under section 211 for preconveyance debts of railroads in reorganization), and (3) increased duties caused by having USRA become the lead agency for the United States in defending the reorganization process in the courts from legal challenges, a process which has already begun.

Section 14 would amend sections 210 and 211 of the Regional Rail Reorganization Act of 1973. These sections, originally enacted as part of Public Law 94–210 to provide a mechanism for effecting a smooth operating transition from the bankrupt estates to ConRail and to help avoid disruptions in ConRail's business because of the inability of the estates to currently pay certain preconveyance obligations, have not worked as intended. For instance, existing figures indicate that the amount of funding possible through section 211 is inadequate. Paragraph (1) of subsection (a) would provide that those funds available to meet obligations authorized to be financed through section 211 may be used again after being repaid. Paragraph (2) would increase the ceiling amount of guaranteed loan financing to meet the needs that have been identified. Paragraph (3) would clarify the responsibility of the estates of those railroads reorganized under the act with respect to preconveyance obligations for employee compensation and other benefits. Paragraph (4) would authorize the funding from section 211 sources actuarial deficiencies in employee voluntary relief funds of railroads in reorganization. This type of assistance, already authorized for similar types of situations, will allow continued protection for those noncontract employees who could otherwise lose accident, sickness, disability and death benefits provided through the fund.

Subsection (b) would make a conforming amendment to section 210 of the Regional Rail Reorganization Act which parallels the modification that would be made by paragraph (2) of subsection (a).

Subsection (c) would modify certain of the agency relationships bebetween ConRail and the various estates with respect to the administration of section 211 funds. These amendments reaffirm the initial policies adopted by Congress in enacting section 211 and would have the effect

of correcting court orders that misinterpreted the way in which Congress intended section 211 to work.

Subsection (d) would provide a procedure to register in the various reorganization courts claims of administration resulting from application of section 211 loan proceeds. This will provide a simple and uniform mechanism to perfect ConRail's administrative claims.

Section 15

Section 15 would modify section 506 of Public Law 94–210 in order to facilitate the use of trustee certificates and redeemable preference shares under the provisions of title V of that act by railroads in reorganization. One of the purposes of the nationwide rail assistance provisions was to assist such carriers to effectuate income based reorganizations. These reorganizations could be blocked by those holding existing senior securities which would be exchanged in a reorganization for securities of lesser priority. The effect of the amendment would be to allow the Secretary of Transportation, as part of an exchange of trustees certificates for redeemable preference shares in the context of a court approved reorganization, to subordinate the redeemable preference shares to those securities which would have been senior except for the fact that they are being exchanged for securities of a lesser priority as part of the reorganization plan. It is expected that the Secretary will use his discretion in order to assist railroads to effectuate income based reorganizations.

Section 16

Section 16 would provide more flexibility to the obligation guarantee program established by section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976. By providing that the guarantees provided under section 511 extend the full faith and credit of the United States, the amendment would assure the marketability of the obligations to be guaranteed and could reduce the costs of borrowing to the applicants under the program. The amendment would also expand the types of security that the Secretary could consider in making the required finding that there is reasonable security to protect the interests of the United States. This will enable, for instance, the Secretary to consider security that might be offered by a parent company for a railroad subsidiary. The amendment would also remove several procedural requirements in order to speed implementation of the program and provide additional flexibility in order to assure that title V can be used to its maximum potential to restore health to the Nation's rail system.

Section 17

Section 17 would modify section 205 of the Regional Rail Reorganization Act to resolve a hiatus that results from the failure o fthe President to nominate a Public Counsel within the statutorily mandated 60-day time period specified in Public Law 94–210. It was the intent of Congress to have the Public Counsel take an active role in the many important rulemaking proceedings now underway at the Interstate Commerce Commission; since the President has not submitted a nomination, the effect of the amendment would be to require the participation of the existing Public Counsel in the Rail Services Planning Office to participate in these proceedings. The existing Public Counsel was set up to assist in the reorganization process and is still in existence (until his successor is nominated and confirmed), but is unable to participate in the many proceedings now going on as a result of the enactment of Public Law 94–210. The effect of the amendment will be to allow the existing Public Counsel to participate in these proceedings until his successor is nominated and confirmed.

Section 18

Section 18 would correct an apparent inconsistency in the many new time limitations placed on the Interstate Commerce Commission in Public Law 94–210. For instance, shorter time limits relative to hearings and appeals were established. The Commission in new section 17 (e) was, however, given the right in its discretion to extend any time period set forth in section 17 for a period of not more than 90 days. In addition, new section 17(f) provided for a still further extension in extraordinary cases. At the same time, however, section 303(b) of Public Law 94–210 amended section 17 of the Interstate Commerce Act by setting firm time frames as to Commission investigations. More particularly, section 303(b) added a new subparagraph 14(b) to section 17 of the Interstate Commerce Act by requiring any investigation instituted on its own motion which had been pending before the Commission for a period of 3 years or more to be concluded or terminated within 1 year after the date of enactment of the new subparagraph. It would appear that any proceeding that had been pending so long and was Commission-instituted to begin with should, consistent with Congress' concern for administrative reform, be concluded promptly; i.e., within 1 year. The safety valve of time extensions provided by sections 17(e) and 17(f) may well be appropriated in newly-instituted proceedings but the application of time extensions to Commission-instituted cases already long pending and long delayed does not carry out he intent to reform the regulatory process. Therefore, the above amendment will confirm and carry out the original Congressional intent by holding the Commission to the clear and unambiguous 1 year standard.

Section 19 would amend section 504 of the Regional Rail Reorganization Act in order to make subsections (e) and (g) of that act consistent with the way in which section 211 of the Regional Rail Reorganization Act is to work. The collective bargaining and employee personal injury claims that are to be processed with the assistance of section 211 are to remain, to the extent these obligations arose prior to the date of conveyance, the obligations of the estates of the railroads reorganized under the act; but the amendment does make clear ConRail's entitlement to the loan funds required to pay any sums due for these obligations and eliminates any inference that ConRail should use its own funds to discharge these obligations. Because of the extended time period over which collective bargaining claims and FELA claims will be processed, ConRail would be authorized to use loan funds on a current basis to reimburse its costs and to provide reasonable compensation for its services associated with the processing of the claims involved.

Section 20

Section 20 would amend section 505 of the Regional Rail Reorganization Act of 1973. Subsection (a) would amend section 505 (i)(2) in

order to make clear that the dispute resolution procedures established are the exclusive means of resolving noncontract employee disputes involving the interpretation or application of the provisions of title V of the Regional Rail Reorganization Act. An arbitration decision under those procedures is to be final and binding on the parties, and the matter is not to be subsequently taken to the courts.

Subsection (b) would equalize the treatment given to contract and noncontract employees with respect to the fringe benefit protection provided by title V of the Regional Rail Reorganization Act. The amendment will have the effect of providing protection to noncontract employees deprived of employment with respect to medical insurance. life insurance, and voluntary relief plans. As is the case with the protection that would be afforded contract employees under section 505(a), the protection that would be afforded under the new section 505(i)(3) would be limited to the time period "in which the employee is entitled to protection," which is defined in section 505(c). In order to assure that displaced noncontract employees would not be entitled to protection of fringe benefits at a level higher than active noncontract employees, the amendment provides that the maximum protection available is limited to the level of benefits which are then being provided to active noncontract employees.

Subsection (c) is a conforming amendment to section 509 of the Regional Rail Reorganization Act.

Section 21

Section 21 would amend sections 303, 505, and 509 of the Regional Rail Reorganization Act in order to provide that the level of benefits provided to noncontract employees with respect to health and life insurance equals that provided to contract employees.

Section 22

Section 22 would amend section 20(3) of the Interstate Commerce Act in order to insure that the Interstate Commerce Commission's revision of the uniform system of accounts (which is required by Public Law 94–210) is done in consultation with DOT and Amtrak with respect to creation of new cost accounting procedures relating to rail passenger service. If the ICC's efforts are deemed unsatisfactory, DOT may report what it feels the deficiencies are to the Congress for appropriate action.

Section 23

Section 23 would amend section 901 of the Railroad Revitalization and Regulatory Reform Act of 1976 in order to better describe the duties of the Department of Transportation in conducting the study required by section 901.

Section 24

Section 24 would amend section 505(a)(1) of the Regional Rail Reorganization Act, which relates to the duties of acquiring and selling railroads and which requires the offering of employment, the negotiation of rules and working conditions, and employment protection as a condition precedent to the execution of purchase agreements, would be amended to insure that the negotiation of these labor agreements do not unduly delay any needed restructuring which is the subject matter of a supplemental transaction proposal by providing that if such agreements are not reached within 60 days after the determination by the Interstate Commerce Commission ("Commission") under subsection 305(c), or after the expiration of the 90-day period referred to in such subsection (c), the Commission shall prescribe such offers of employment, rules and working conditions, and employment protection, not inconsistent with section 505, that have not been agreed to, which shall govern any such transaction.

Section 305(b) of the act would be amended to allow any transferee to retract its agreement to the supplemental transaction within 30 days after a petition is filed under section 305(d)(1) of the act. At this point of time, the transferee will be in a position to determine whether the transaction is acceptable in light of the labor provisions which will govern the transaction.

Changes in Existing Law

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law proposed to be deleted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 403(b) OF THE RAIL PASSENGER SERVICE ACT

* * * The Corporation shall institute such service under an agreement if the State, regional or local agency agrees to reimburse the Corporation for 50 percent of the [total] *incremental* operating losses and associated capital costs * * *

Any decisions which are likely to have a significant effect on the scheduling, marketing, or operations of the service provided pursuant to this section shall be made by contract or other agreement between the Corporation and the State or agency which is obligated to reimburse the Corporation for all or part of the operating loss, and associated capital costs, of such service. * *

(3) The Board of Directors shall establish the basis for determining the [total] *incremental* costs and the [total] *incremental* revenue of the service provided pursuant to this subsection.

SECTION 601(a) OF THE RAIL PASSENGER SERVICE ACT

(a) *(1)* There is authorized to be appropriated to the Secretary for the benefit of the Corporation in fiscal year 1971, $40,000,000, and in subsequent fiscal years through June 30, 1975, a total of $597,300,000. [There are authorized to be appropriated to the Secretary for the benefit of the Corporation (1) for the payment of operating expenses for the basic system, and for operating and capital expenses of intercity rail passenger service provided pursuant to section 403(b) of this Act, $350,000,000 for fiscal year 1976, $105,000,000 for the transition period of July 1, 1976, through September 30, 1976 (hereafter in this section referred to as the "transition period") and $355,000,000 for fiscal year 1977; and (2) for the payment of capital expenditures of the basic system, $110,000,000 for fiscal year 1976; $25,000,000 for the transition period; and $110,000,000 for fiscal year 1977. Of the

amounts authorized by clause (1) of the preceding sentence, not more than $25,000,000 for fiscal year 1976, $7,000,000 for the transition period, and $30,000,000 for fiscal year 1977 shall be available for payment of operating and capital expenses of intercity rail passenger service provided pursuant to section 403(b) of this Act.]

There are authorized to be appropriated to the Secretary for the benefit of the Corporation—

"(1) for the payment of operating expenses for the basic system, except for the additional expenses that are to be paid from funds authorized by clause (3) of this sentence, and for operating and capital expenses of rail passenger service provided pursuant to section 403(b) of this Act, not to exceed $350,000,000 for the fiscal year ending June 30, 1976, not to exceed $105,000,000 for the transitional fiscal period ending September 30, 1976, not to exceed $430,000,000 for the fiscal year ending September 30, 1977, and not to exceed $470,000,000 for the fiscal year ending September 30, 1978;

(2) for the payment of the costs of capital acquisitions or improvements of the basic system, not to exceed $110,000,000 for the fiscal year ending June 30, 1976, not to exceed $25,000,000 for the transitional fiscal period ending September 30, 1976, not to exceed $120,000,000 for the fiscal year ending September 30, 1977, and not to exceed $120,000,000 for the fiscal year ending September 30, 1978;

(3) for the payment of the additional operating expenses of the Corporation which result from the operation, maintenance, and ownership or control of the Northeast Corridor, pursuant to title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 et seq.), not to exceed a total amount of $68,000,000 for the transitional fiscal period ending September 30, 1976 and the fiscal year ending September 30, 1977, and not to exceed $75,000,000 for the fiscal year ending September 30 1978; and

"(4) for the payment of the principal amount of obligations (other than leases) of the Corporation which are guaranteed by the Secretary pursuant to section 602 of this Act, not to exceed $25,000,000 for the fiscal year ending September 30, 1978.

Not more than $25,000,000 of the amounts authorized by clause (1) of the preceding sentence for the fiscal year ending June 30, 1976; not more than $8,000,000 of the amounts so authorized for the transitional fiscal period ending September 30, 1976, not more than $35,000,000 of the amounts so authorized for the fiscal year ending September 30, 1977, and not more than $40,000,000 of the amounts so authorized for the fiscal year ending Septemebr 30, 1978 shall be available for payment of rail passenger service operating and capital expenses, pursuant to section 403(b) of this Act.";

* * * Such sums shall be paid by the Secretary to the Corporation for expenditure by it in accordance with [spending plans] *total funding levels* approved by Congress at the time of appropriation * * *

(2) Capital grants appropriated pursuant to this section may be used by the Corporation for temporary reduction of outstanding loan balances, including loans guaranteed by the Secretary pursuant to section 602 of this Act, and the Secretary shall make such appropriated funds available for this purpose.

SECTION 602(i) OF THE RAIL PASSENGER SERVICE ACT

* * * *Notwithstanding any other provision of this section, the Secretary shall guarantee any loan approved by the Board of Directors of the Corporation if the proceeds of such loan are needed for the purchase of properties designated, pursuant to section 206(c)(1)(C) or (D) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716 (c)(1)(C) or (D)), for acquisition by the Corporation, in accordance with agreements entered into between the Corporation and the Consolidated Rail Corporation.*

SECTION 306(i) OF THE RAIL PASSENGER SERVICE ACT

(i) The provisions of section 361 of the Public Health Service Act (42 U.S.C. 264 shall not apply to *waste disposal from* railroad conveyances operated in *freight service or* intercity rail passenger service.

SECTION 303 OF THE RAIL PASSENGER SERVICE ACT

(a)(1) The Corporation shall have a board of directors consisting of seventeen individuals who are citizens of the United States selected as follows:

(A) The Secretary of Transportation, ex officio [.], *and the President of the Corporation, ex officio.*

(B) [Nine] *Eight* members appointed by the President * * *

SECTION 301 OF THE RAIL PASSENGER SERVICE ACT

There is authorized to be created a National Railroad Passenger Corporation. [The Corporation shall be a for profit corporation, the purpose of which shall be to provide intercity passenger service, employing innovative operating and marketing concepts so as to fully develop the potential of modern rail service in meeting the Nation's intercity passenger transportation requirements.] *The purpose of the Corporation shall be to operate high-quality intercity rail passenger service in a manner that will maximize the estimated annual value of the benefits associated with or provided by rail passenger service, which arise from sources other than passenger revenues (including benefits from the effects on the environment, energy conservation, safety, and the public convenience and necessity) when compared to the annual requirements for operating subsidies and the opportunity costs of capital grant fund provided to the Corporation.*

SECTION 505(a)(2) OF THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976 (45 U.S.C. 825(a)(2))

(2) For financial assistance for facilities rehabilitation and improvement financing [, except that the Secretary shall not act finally on any such application until the date of publication of the final standards and designations under section 503(e) of this title].

SECTION 206(d)(5) OF THE REGIONAL RAIL REORGANIZATION ACT OF 1973 (45 U.S.C. 716(d)(5))

* * * * * * *

The Corporation, its Board of Directors, and its individual directors shall not be liable to any party, for money damages or in any other

manner, solely by reason of the fact that the Corporation transferred property pursuant to section 303 of this Act to meet the needs of commuter or intercity rail passenger service, except as otherwise provided with respect to the Corporation pursuant to section 303 (c) (2) of this Act.

SECTION 303(c)(5) OF THE REGIONAL RAIL REORGANIZATION ACT OF 1973 (45 U.S.C. 743(c)(5))

[(5) Whenever the special court orders, pursuan to section 303 (b) (1) of this title, the transfer or conveyance to the Corporation or any subsidiary thereof of rail properties designated under section 206 (c) (1) (C) or (D) of this Act, to the National Railroad Passenger Corporation, to a profitable railroad, or to a State, or responsible person (including a government entity), the United States shall pay any judgment entered against the Corporation with respect to the conveyance of any such rail properties or against the National Railroad Passenger Corporation, such profitable railroad, State, or responsible person, plus interest thereon at such rate as is constitutionally required.]

* * * * * * *

(5) Whenever the special court, pursuant to section 303(b) (1) of this title, orders the transfer or conveyance of rail properties—

"(A) designated under section 206(c) (1) (C) or (D) of this Act, to the Corporation or any subsidiary thereof, the United States shall indemnify the Corporation against any costs imposed on the Corporation as the result of any judgment entered against the Corporation, with respect to such properties, under paragraph (2) of this subsection; and

(B) to the National Railroad Passenger Corporation, a profitable railroad operating in the region, a State, or any other responsible person (including a governmental entity), the United States shall indemnify such Corporation, railroad, State, or person against any costs imposed thereon as the result of any judgment entered against such Corporation, railroad, State, or person under paragraph (3) of this subsection;

plus interest on the amount of such judgment at such rate as is constitutionally required.

SECTION 206(d) OF THE REGIONAL RAIL REORGANIZATION ACT OF 1973 (45 U.S.C. 716(d))

* * * * * * *

(7) Notwithstanding any contrary provision in the options conveyed to the Corporation by railroads in reorganization, or railroads leased, operated, or controlled by a railroad in reorganization, with respect to the acquisition, on behalf of a State (or a local or regional transportation authority) of rail properties designated under section 206 (c) (1) (D) of this title, such options shall not be deemed to have expired prior to 7 days after the date of enactment of this paragraph. The exercise by the Corporation of any such option shall be effective if it is made, prior to the expiration of such 7-day period, in the manner prescribed in such options.

SECTION 303(e) OF THE REGIONAL RAIL REORGANIZATION ACT OF 1973 (45 U.S.C. 743(e))

* * * All transfers or conveyances of rail properties (whether real, personal, or mixed) which are made under this Act (including transfers and conveyances which are made in accordance with a supplemental transaction pursuant to section 305 of this title *or which are made at any time to carry out the purposes of title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 or of section 601 (d) of this Act*) shall be exempt * * *

SECTION 306 OF THE RAIL PASSENGER SERVICE ACT

(45 U.S.C. 546)

* * * * * * *

(j) (1) The establishment of through routes and joint fares, between the National Railroad Passenger Corporation and other intercity common carriers of passengers by rail and motor carriers of passengers, is consistent with the public interest and the national transportation policy. The Congress encourages the making of such arrangements.

(2) The Corporation may establish through routes and joint fares with any motor carrier.

(k) The Commission shall, by September 30, 1977, conduct and transmit to the Congress a study of through routes and joint fares between the Corporation and other intercity common carriers by rail and motor carriers of passengers. Such study shall include, but not be limited to—

(1) a history of through route and joint fair arrangements between motor carriers of passengers and carriers of passengers by rail;

(2) laws and regulations presently applicable or related to such through route and joint fare arrangements;

(3) analysis of the need for intermodal terminals, through ticketing and baggage handling arrangements, and the means by which such needs should be met;

(4) the extent to which any existing arrangements have improved or lessened, or might improve or lessen, the adequacy of service and passenger convenience;

(5) methods of formulating joint fares and divisions thereof;

(6) views of the Corporation and of organizations representing intercity bus operators; and

(7) recommendations relative to the establishment of through routes and joint fares between railroads and motor carriers of passengers, including any recommendations for legislation.

SECTION 4(i)(9) OF THE DEPARTMENT OF TRANSPORTATION ACT (49 U.S.C. 1653)

* * * * * * *

(ii) in paragraph (1)(B) of this subsection, not to exceed [5,000,000] *$2,500,000; and*

* * * * * * *

[There shall be available to the National Endowment for the Arts, from the sums available under subparagraphs (A)(ii) and (A)(iii) of this paragraph, not to exceed $2,500,000 for interim maintenance pursuant to paragraph (1)(B) of this subsection.]

SECTION 11(a)(1) OF THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES (20 U.S.C. 960(a)(1))

* * * * * * *

(C) There are authorized to be appropriated to the National Endowment for the Arts for the fiscal year ending September 30, 1977, not to exceed—

(i) $2,500,000 for planning pursuant to paragraph (1)(D) of section 4(i) of the Department of Transportation Act (49 U.S.C. 1653(i)),

(ii) $2,500,000 for interim maintenance pursuant to paragraph (1)(B) of such section 4(i); and

(iii) $250,000 for administrative expenses.

Sums appropriated for the purposes of this subparagraph shall remain available until expended.

SECTION 211(c) OF THE REGIONAL RAIL REORGANIZATION ACT OF 1973 (45 U.S.C. 724(c))

[(c) ASSOCIATION.—There are authorized to be appropriated to the Association for purposes of carrying out its administrative expenses under this Act such sums as are necessary, not to exceed $40,000,000, to remain available until expended, and not to exceed $14,000,000 for the fiscal period which includes the period ending September 30, 1977.]

(c) ASSOCIATION.—There are authorized to be appropriated to the Association, for purposes of its administrative expenses under this Act, not to exceed $20,000,000 for the period beginning May 1, 1976, and ending September 30, 1977. Sums appropriated under this subsection are authorized to remain available until expended.

SECTION 211(h)(1) OF THE REGIONAL RAIL REORGANIZATION ACT OF 1973 (45 U.S.C. 721(h)(1))

(1) The Association is authorized, subject to the limitations set forth in section 210(b) of this title, to enter loan agreements *at any time*, in amounts not to exceed $[230,000,000] *450,000,000* in the aggregate * * * Such obligations shall be limited to amounts claimed by suppliers (including private car lines) of materials or services utilized in current rail operations, claims by shippers arising from current rail services, payments to railroads for settlement of current interline accounts, [claims of employees arising under the collective bargaining agreements of the railroads in reorganization in the region and subject to section 3 of the Railway Labor Act,] *claims of employees (whether or not arising under the collective bargaining agreements of the railroads in reorganization in the region) for accrued wages, wages, vacation pay, and other benefits arising out of or in connection with labor and services performed under an employment relatioinship*, claims of all employees or their personal representatives for personal injuries or death and subject to the provisions of

Employers' Liability Acts (45 U.S.C. 51–60), *required to provide funding adequate to assure the payment, when due, of claims resulting from membership in an employee voluntary relief plan which provides benefits for its members and their beneficiaries in the event of sickness, accident, disability, or death and which has received contributions both from a railroad in reorganization and from such employee members*,

SECTION 210(b) OF THE REGIONAL RAIL REORGANIZATION ACT OF 1973 (45 U.S.C. 720(b))

* * * The aggregate amount of obligations of the Association issued under this section which may be outstanding at any one time shall not exceed $[275,000,000] *495,000,000*. * * *

SECTION 211(h)(2) OF THE REGIONAL RAIL REORGANIZATION ACT OF 1973 (45 U.S.C. 721(h)(2))

(2) The trustees of each railroad in reorganization in the region shall attempt to negotiate agency agreements with the Corporation, the National Railroad Passenger Corporation, or a profitable railroad for the processing of all accounts receivable and accounts payable attributable to operations prior to the conveyance of property pursuant to section 303(b)(1) of this Act[.] *for the payment only of such accounts payable as relate to obligations of the estates identified in paragraph (1) of this subsection.*

* * * * * * *

Nothing contained in this subsection shall be deemed to permit an order by any reorganization court enjoining, restraining, or limiting the Corporation, the National Railroad Passenger Corporation, or a profitable railroad from applying, to payment of the obligations of the estates identified in paragraph (1) of this subsection, amounts collected as (A) accounts receivable pursuant to this paragraph; (B) cash or other current assets identified pursuant to paragraph (3) of this subsection; or (C) proceeds of loan agreements entered into under paragraph (1) of this subsection. Any agency agreement which is executed, and any order which is entered, prior to the date of enactment of this sentence shall be deemed amended to the extent necessary to conform such agreement or order to the provisions of this paragraph.

SECTION 211(h)(5)(B) OF THE REGIONAL RAIL REORGANIZATION ACT OF 1973 (45 U.S.C. 721(h)(5)(B))

* * * * * * *

Any direct claim authorized under paragraph (4) of this subsection shall be registered from time to time by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, whichever is appropriate, by filing a proof of administration expense claim with the trustees of each railroad in reorganization. Each such administrative expense claim shall set forth, by category and amount, the obligations of such railroad in reorganization which were paid pursuant to such paragraph (4).

SECTION 506(a)(2) OF THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976 (45 U.S.C. 826(a)(2))

* * * * * * *

(i) to all common stock of the issuing railroad, whenever issued, *except that the Secretary may make any such redeemable preference share junior in right to any comon stock which was issued as a result of an exchange for securities which previously ranked ahead of common stock if such exchange took place pursuant to a court approved reorganization plan under section 77 of the Bankruptcy Act (11 U.S.C. 205)*,

* * * * * * *

(iii) to any subsequently issued stock, with respect to dividend and redemption payments and in case of liquidation or dissolution of such railroad, but shall be otherwise subordinate in such matters to any of such railroad's previously issued and outstanding securities which rank ahead of its common stock and shall be subordinate to all securities other than common stock (*except in those cases where the Secretary has provided for subordination pursuant to clause (i) of this paragraph*) *which is received* in exchange as part of a court approved reorganization plan * * *

SECTION 511 OF THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976 (45 U.S.C. 831)

* * * * * * *

[(c) VALUATION.—Before granting any application for a guarantee or a commitment to guarantee any obligation, the Secretary shall make a determination of the value of the facilities or equipment which are or will be financed or refinanced by such obligation. Such determination of value shall be conclusive and not subject to review in any court.]

(c) FULL FAITH AND CREDIT.—All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States of America backed by the full faith and credit of the United States of America.

* * * * * * *

[(g) NOTICE.—Upon receipt of an application for the guarantee of an obligation under this section, the Secretary shall cause a notice of such application to be published in the Federal Register and shall invite and afford interested persons an opportunity to submit comments on such application.]

[(h)] *(g)* PREREQUISITES FOR GUARANTEES.—No obligation shall be guaranteed and no commitment shall be made to guarantee any obligation under this section, unless and until the Secretary makes a finding in writing that—

(1) an obligation for equipment acquisition, rehabilitation, or improvement is secured by the particular equipment which is to be financed or refinanced by such obligation;

(2) payment of the obligation is required by its terms to be made within 25 years from the date of its execution;

(3) the financing or refining is justified by the present and probable future demand for rail services to be rendered by the applicant and will serve to meet demonstrable needs for rail services and to provide shippers with improved service;

(4) the applicant has given reasonable assurances that the facilities or equipment to be acquired, rehabilitated, or improved with the proceeds of the obligation will be economically and efficiently utilized;

(5) The probable value of any equipment or facilities to be improved, rehabilitated, or acquired, *together with any other security offered by the applicant* is sufficient to provide the United States with reasonable security and protection in the event of default by the obligor, in the case of repossession by the holder of the obligation or in the case of possession or purchase by the Secretary; and

(6) the transaction will result in an improvement in the ability of any affected railroad to transport passengers or freight.

[(i)] *(h)* GENERAL REQUIREMENT.—The recipients of any guarantees of, or of any commitments to guarantee, an obligation under this section, shall, consistent with their capital resources, maintain their facilities, on a continuing basis, in accordance with standards promulgated under this subsection. The Secretary shall assure compliance with this requirement by regular periodic inspection.

[(j)] *(i)* CONDITIONS OF GUARANTEES.—No guarantee of, and no commitment to guarantee, an obligation may be granted, approved, or extended under this section, unless the obligor first agrees in writing that so long as any principal or interest is due and payable on such obligation—

(1) there will be no increase in discretionary dividend payments over the average ratio which such payments bore to earnings for the applicable fiscal period during the 5 years preceding such proposed increase, without prior approval of such increase by the Secretary;

(2) the obligor will not use assets or revenues (other than cash related to or derived from railroad operations in nonrailroad enterprises, without prior approval in writing from the Secretary; and

(3) the obligor will take all reasonable and practicable steps possible, in accordance with such guidelines as may be established by the Secretary, to improve the equitable distribution and efficient and expeditious use of all equipment and facilities in order to improve rail service.

Approval under paragraph (1) or (2) of this subsection may only be granted if, after a public hearing with an opportunity for interested persons to submit comments, the Secretary makes a written finding that such increase in dividends (or such use of assets or revenues) will not materially affect the ability of the obligor to comply with the requirements of this section.

[(k)] *(j)* BREACH OF CONDITIONS.—The Attorney General shall commence a civil action in any appropriate district court of the United States to enjoin any activity which the Secretary finds in violation of any requirement or condition specified in subsection (i) or (j) of this section, and to secure any other appropriate relief, including termination, suspension, and punitive damages.

[(l)] *(k)* INVESTIGATIVE CHARGE.—The Secretary shall charge and collect from each applicant such amounts as he deems reasonable for

the investigation of any application submitted under this section, for appraisal of the value of the equipment or facilities involved, and for making the necessary determinations and findings. Such charges shall not aggregate more than one-half of 1 percent of the principal amount of the obligation with respect to which the applicant seeks a gurantee or commitment to guarantee.

[m] *(l)* PREMIUM CHARGE.—The Secretary shall assess and collect from the obligor an annual premium charge on each obligation guaranteed under this section. The amount of such premium may not exceed an annual rate of 1 percent on the unpaid principal balance of such obligation at the time payment is due. Payment is due initially when the obligation is guaranteed by the Secretary, and, thereafter, on the anniversary date of such guarantee.

[(n)] *(m)* ADMINISTRATIVE COSTS.—All moneys received by the Secretary under this section shall be deposited in the obligation gurantee fund, and to the extent provided in appropriation acts, may be used by the Secretary to pay administrative costs and expenses incurred by him pursuant to this section.

SECTION 205(d)(7) OF THE REGIONAL RAIL REORGANIZATION ACT OF 1973 (45 U.S.C. 715(d)(7))

[(7) employ and utilize the services of attorneys and such other personnel as may be required in order properly to protect the interests of those communities and users of rail service which, for whatever reason (such as their size or location) might not otherwise be adequately represented in the course of the reorganization process under this Act, until the assumption of such duties by the Office of Rail Public Counsel pursuant to section 27(4)(d) the Interstate Commerce Act (49 U.S.C. 27(4)(d)).

(7) employ and utilize, until such time as the Director of the Office of Rail Public Counsel has been appointed, been qualified, and taken office the services of attorneys and such other personnel as may be required in order—

(A) to protect properly the interests of those communities and users of rail service which, for whatever reason (such as size or location), might not otherwise be adequately represented in the course of the reorganization process under this Act, and

(B) to perform the functions and duties of the Office of Rail Public Counsel, pursuant to section 27 of the Interstate Commerce Act (49 U.S.C. 27).

SECTION 17(9)(e) OF THE INTERSTATE COMMERCE ACT (49 U.S.C. 17(9)(e))

(e) The Commission may, in its discretion, extend any time period set forth in this [section] *paragraph* (9) for a period of not more than 90 days, if a majority of the Commissioners, by public vote, agree to such extension. The Commission shall submit an annual report in writing to each House of Congress setting forth each extension granted pursuant to this subdivision (classified by the type of proceeding involved), and stating the reasons for each such extension and the duration thereof.

SECTION 17(9)(e) OF THE INTERSTATE COMMERCE ACT (49 U.S.C. 17(9)(e)) (45 U.S.C. 774(e))

(e) LIABILITY FOR EMPLOYEE CLAIMS.—In all cases of claims by employees, arising under the collective bargaining agreements of the railroads in reorganization in the region, and subject to section 3 of the Railway Labor Act (45 U.S.C. 153), the Corporation, the National Railroad Passenger Corporation, or an acquiring carrier, as the cases may be, shall assume responsibility for the processing of any such claims, [and payment of those which are sustained or settled on or subsequent to the date of conveyance, under section 303(b)(1) of this Act,] and shall be entitled to [direct reimbursement] *a loan* from the Association pursuant to section 211(h) of this Act. In those cases in which claims for employees were sustained or settled prior to such date of conveyance, it shall be the obligation of the employees to seek satisfaction against the estates of the railroads in reorganization which were their former employers[.] *for payment of those claims which relate to events which occurred prior to the date of conveyance, under such section 303(b)(1), but which are sustained or settled on and after such date regardless of the date on which such claims are first asserted.*

SECTION 504(g) OF THE REGIONAL RAIL REORGANIZATION ACT OF 1973 (45 U.S.C. 774(g))

* * * * * * *

All cases or claims by employees or their personal representatives for personal injuries or death against a railroad in reorganization in the region arising prior to the date of conveyance of rail properties, pursuant to section 303 of this Act, shall be [assumed] *processed on behalf of the railroad in reorganization* by the Corporation or by an acquiring railroad, as the case may be. [The Corporation or the acquiring railroad shall process and pay any such claims that are sustained or settled, and shall be entitled to direct reimbursement from the Association pursuant to section 211(h) of this Act.] *The Corporation or the acquiring railroad shall be entitled to a loan from the Association, pursuant to section 211(h) of this Act, for payment of those claims which relate to events which occurred prior to the date of conveyance, under section 303(b)(1) of this Act, but which are sustained or settled on or after such date regardless of the date on which such claims are first asserted. It shall be the obligation of the claimants, in cases in which claims were sustained or settled prior to such date of conveyance, to seek satisfaction against the estates of the railroads in reorganization which were the former employers of the employees as to whom the claims relate.*

SECTION 505(1) OF THE REGIONAL RAIL REORGANIZATION ACT OF 1973 (45 U.S.C. 775(1))

* * * * * * *

(2) If any dispute arises between the Corporation and a noncontract employee regarding the interpretation or application of any provisions of this title, the Corporation shall establish a *mandatory* resolution procedure with arbitration as the final *and binding* step. * * *

(3) A protected employee, whose employment is not governed by the terms of a collective-bargaining agreement and who has been deprived of employment, shall not (except as explicitly provided in this title) be placed in a worse position during the period in which he is entitled to protection, with respect to any voluntary relief plan benefits provided under any life or medical insurance plans; except that the benefit levels which such an employee is entitled to receive under this paragraph shall not exceed the benefit levels which are then being provided for active noncontract employees.

SECTION 505(b)(4) OF THE REGIONAL RAIL REORGANIZATION ACT OF 1973 (45 U.S.C. 775(b)(4))

* * * * * * *

This paragraph shall not apply to a noncontract employee whose noncontract position was abolished.

SECTION 303 (b)(6) OF THE REGIONAL RAIL REORGANIZATION ACT OF 1973 (45 U.S.C. 743(b)(6))

(6) Notwithstanding anything to the contrary contained in this Act or any other provision of law, the special court shall include in its order such further directions as may be necessary to assure (A) that the operation and administration of the *employee health or life insurance plans and* employee pension benefit plans described in section 505(a) of this Act shall be continued, without termination or interruption, by the Corporation until such time as the Corporation elects to amend or terminate any such plan, in whole or in part;* * *

SECTION 505(a) OF THE REGIONAL RAIL REORGANIZATION ACT OF 1973 (45 U.S.C. 755(a))

SEC. 505. (a) EQUIVALENT POSITION.—A protected employee whose employment is governed by a collective-bargaining agreement will not, except as explicitly provided in this title, during the period in which he is entitled to protection, be placed in a worse position with respect to compensation, fringe benefits, rules, working conditions, and rights and privileges pertaining thereto, including benefits under *any employee health or life insurance plan and* any employee pension benefit plan in effect on December 1, 1975, other than a plan maintained primarily for the purpose of providing deferred compensation for a select group of management personnel or other highly compensated employees. For purposes of protecting employee *health and life insurance and* pension benefits under this title, the term "protected employee whose employment is governed by a collective-bargaining agreement" includes an beneficiary of, and any participant in, such *pension benefit* plan, including noncontract employees. The protected benefits of such beneficiary or participant, accrued as of the date of conveyance, may be limited to the amount guaranteed under terminated plans pursuant to title IV of the Employer retirement Income Security Act of 1974. Pension benefits shall not be paid to any beneficiary of a terminated plan whose benefits are guaranteed by such Act.

SECTION 509 OF THE REGIONAL RAIL REORGANIZATION ACT OF 1973 (45 U.S.C. 779)

SEC. 509. The Corporation, the Association (where applicable), and acquiring railroads, as the case may be, shall be responsible for the actual payment of all allowances, expenses, and costs provided protected employees pursuant to the provisions of this title. The Corporation, the Association (where applicable), and acquiring railroads shall then be reimbursed for the actual amounts paid to, or for the benefit of, protected employees, pursuant to the provisions of this title, other than provisions with respect to employee *health and life insurance and* pension benefits, not to exceed the aggregate sum of * * *

SECTION 20(3) OF THE INTERSTATE COMMERCE ACT (49 U.S.C. 20(3))

(d) In revising those aspects of the cost and revenue accounting and reporting system that pertain to rail passenger service, the Commission shall consult with the Secretary of Transportation and the National Railroad Passenger Corporation to ensure that the revised regulations and procedures provide for an accurate, detailed, and thorough description of the costs and revenues associated with such service. If, in the opinion of the Secretary, the regulations and procedures promulgated pursuant to this section fail to provide for a cost and revenue accounting and reporting system that is adequate to enable the Secretary to carry out his responsibilities for oversight of the National Railroad Passenger Corporation, the Secretary shall, within 30 days after the date on which such regulations are promulgated, report to the Congress, setting forth in detail the deficiencies of such regulations and procedures and providing specific recommendations for change.

[(d)**]** *(e)* In order that the accounting system established pursuant to this paragraph continue to conform to generally accepted accounting principles, compatible with the managerial responsibility accounting requirements of carriers, and in compliance with other objectives set forth in this section, the Commission shall periodically, but not less than once every 5 years, review such accounting system and revise it as necessary.

[(e)**]***(f)* There are authorized to be appropriated to the Commission for purposes of carrying out the provisions of this paragraph such sums as may be necessary, not to exceed $1,000,000, to be available for—

(i) procuring temporary and intermittent services as authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed $250 per day plus expenses; and

"(ii) entering into contracts or cooperative agreements with any public agency or instrumentality or with any person, firm, association, corporation, or institution, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5).

SECTION 901(8) OF THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976 (49 U.S.C. 901(8))

(8) a survey and analysis **[**of the financial and physical condition of the facilities, rolling stock, and equipment of the various railroads of

the United States] *of the railroad industry in the United States to determine its financial condition and the physical condition of its facilities, rolling stock, and equipment.*

SECTION 508(a)(1) OF THE REGIONAL RAIL REORGANIZATION ACT OF 1973 (45 U.S.C. 778)

(a) Acquiring Railroads.—

(1) * * * Unless and until such agreements are reached, the acquiring railroad shall not enter into purchase agreements pursuant to section 206(d)(4) of this Act. *With regard to any supplemental transaction pursuant to section 305 of this Act, if such agreements are not reached within 60 days after the Commission's determination under subsection (c) of section 305, or after the expiration of the 90 day period referred to in such subsection (c), the Commission shall prescribe such offers of employment, rules and working conditions, and employment protection, not inconsistent with section 505 of this title, that have not been agreed to, which shall govern any such transaction. The Commission may prescribe such regulations as may be necessary for the administration of its responsibilities under this section."*

For the purposes of this subsection, the National Railroad Passenger Corporation shall be deemed to be an acquiring railroad, with respect to employees described in section 501(3) of this title.

SECTION 305(b) OF THE REORGANIZATION ACT OF 1973 (45 U.S.C. 745(b))

(b) * * * If any such proposed transferor (other than the Corporation) or transferee fails to notify the Association that any proposed supplementary transaction requiring the transfer of any property from such transferor or to such transferee is acceptable to it, *or if any such proposed transferee retracts its notification within 30 days after the filing of a petition under section 305(d)(1) of this Act*, no further administrative or judicial proceedings shall be conducted with respect to such proposed supplemental transaction.

ESTIMATED COST

The committee estimates that implementation of S. 3131 will cost the Federal Government the following amounts:

Item	Amount
Grants to the National Railroad Passenger Corporation:	
Fiscal year 1977 operating grants	$75,000,000
Fiscal year 1978 operating grants	470,000,000
Fiscal year 1977 capital grants	10,000,000
Fiscal year 1978 capital grants	120,000,000
Northeast corridor operating grants:	
Fiscal year 1977	68,000,000
Fiscal year 1978	75,000,000
(A total of $465,000,000 has previously been authorized for operating and capital purposes in fiscal year 1977)	
Administrative expenses of the National Endowment for the Arts	250,000
Expenses of the United States Railway Association	18,800,000
Total	862,050,000

In addition, the bill would authorize an increase in guaranteed loans whcih, if all of the obligations were defaulted on would obligate the United States to pay $220,000,000. The committee knows of no cost estimate by any federal agency which is at variance with this estimate.

TEXT OF 3131, AS REPORTED

A BILL To amend the Rail Passenger Service Act to provide financing for the National Railroad Passenger Corporation, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Amtrak Improvement Act of 1976".

SEC. 2. Section 403(b)(1) of the Rail Passenger Service Act (45 U.S.C. 563(b)(1)) is amended (1) by adding at the end thereof the following new sentence: "Any decisions which are likely to have a significant effect on the scheduling, marketing, or operations of the service provided pursuant to this section shall be made by contract or other agreement between the Corporation and the State or agency which is obligated to reimburse the Corporation for all or part of the operating loss, and associated capital costs, of such service."; (2) by striking "total" in the second sentence thereof and inserting in lieu thereof "incremental"; and (3) by striking "total" in paragraph (3) thereof and inserting in lieu thereof "incremental".

SEC. 3. Section 601(a) of the Rail Passenger Service Act (45 U.S.C. 601(a)) is amended—

(1) by striking out the second and third sentences thereof and inserting in lieu thereof the following: "There are authorized to be appropriated to the Secretary for the benefit of the Corporation—

"(1) for the payment of operating expenses for the basic system, except for the additional expenses that are to be paid from funds authorized by clause (3), of this sentence and for operating and capital expenses of rail passenger service provided pursuant to section 403(b) of this Act, not to exceed $350,000,000 for the fiscal year ending June 30, 1976, not to exceed $105,000,000 for the transitional fiscal period ending September 30, 1976, not to exceed $430,000,000 for the fiscal year ending September 30, 1977, and not to exceed $470,000,000 for the fiscal year ending September 30, 1978;

"(2) for the payment of the costs of capital acquisitions or improvements of the basic system, not to exceed $110,000,000 for the fiscal year ending June 30, 1976, not to exceed $25,000,000 for the transitional fiscal period ending September 30, 1976, not to exceed $120,000,000 for the fiscal year ending September 30, 1977, and to exceed $120,000,000 for the fiscal year ending September 30, 1978;

"(3) for the payment of the additional operating expenses of the Corporation which result from the operation, maintenance, and ownership or control of the Northeast Corridor, pursuant to title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 et seq.), not to exceed a total amount of $68,000,000 for the transitional fiscal period ending September 30, 1976 and the fiscal year ending September 30, 1977, and not to exceed $75,000,000 for the fiscal year ending September 30, 1978; and

"(4) for the payment of the principal amount of obligations (other than leases) of the Corporation which are guaranteed by the Secretary pursuant to section 602 of this Act, not to exceed $25,000,000 for the fiscal year ending September 30, 1978.

Not more than $25,000,000 of the amounts authorized by clause (1) of the preceding sentence for the fiscal year ending June 30, 1976; not more than $8,000,000 of the amounts so authorized for the transitional fiscal period ending September 30, 1976, not more than $35,000,000 of the amounts so authorized for the fiscal year ending September 30, 1977, and not more than $40,000,000 of the amounts so authorized for the fiscal year ending September 30, 1978 shall be available for payment of rail passenger service operating and capital expenses, pursuant to section 403(b) of this Act.";

(2) by striking out "spending plans" in the fifth sentence thereof and inserting in lieu thereof "total funding levels"; and

(3) (A) by inserting "(1)" immediately before the first sentence thereof and (B) by adding at the end thereof the following new paragraph:

"(2) Capital grants appropriated pursuant to this section may be used by the Corporation for temporary reduction of outstanding loan balances, including loans guaranteed by the Secretary pursuant to section 602 of the Act, and the Secretary shall make such appropriated funds available for this purpose.".

SEC. 4. Section 602(i) of the Rail Passenger Service Act (45 U.S.C. 602(i)) is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of this section, the Secretary shall guarantee any loan approved by the Board of Directors of the Corporation if the proceeds of such loan are needed for the purchase of properties designated, pursuant to section 206(c)(1)(C) or (D) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(C) or (D)), for acquisition by the Corporation, in accordance with agreements entered into between the Corporation and the Consolidated Rail Corporation.".

SEC. 5. Section 306(i) of the Rail Passenger Service Act (45 U.S.C. 546(i)) is amended (1) by inserting "waste disposal from" immediately after "shall not apply to"; and (2) by inserting "freight service or" immediately after "operated in".

SEC. 6. Section 303(a)(1) of the Rail Passenger Service Act (45 U.S.C. 543(a)(1)) is amended (1) by striking out the period at the end of subparagraph (A) thereof and inserting in lieu thereof ", and the President of the Corporation, ex officio."; and (2) by striking out "Nine" in subparagraph (B) thereof and inserting in lieu thereof "Eight".

SEC. 7. The second sentence of section 301 of the Rail Passenger Service Act (45 U.S.C. 541) is amended to read as follows: "The purpose of the Corporation shall be to operate high-quality intercity rail passenger service in a manner that will maximize the estimated annual value of the benefits associated with or provided by rail passenger service, which arise from sources other than passenger revenues (including benefits derived from effects on the environment, energy conservation, safety, and the public convenience and necessity) when compared to the annual requirements for operating subsidies and the opportunity costs of capital grant funds provided to the Corporation.

SEC. 8. Section 505(a)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(a)(2)) is amended by striking out ", except that the Secretary shall not act finally on any such application until the date of publication of the final standards and designations under section 503(e) of this title".

SEC. 9. (a) Section 206(d)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)(5)) is amended by adding at the end thereof the following new sentence: "The Corporation, its Board of Directors, and its individual directors shall not be liable to any party, for money damages or in any other manner, solely by reason of the fact that the Corporation transferred property pursuant to section 303 of this Act to meet the needs of commuter or intercity rail passenger service, except as otherwise provided with respect to the Corporation pursuant to section 303(c)(2) of this Act.".

(b) The first sentence of section 303(c)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(c)(5)) is amended to read as follows: "Whenever the special court, pursuant to section 303(b)(1) of this title, orders the transfer or conveyance of rail properties—

"(A) designated under section 206(c)(1)(C) or (D) of this Act, to the Corporation or any subsidiary thereof, the United States shall indemnify the Corporation against any costs imposed on the Corporation as the result of any judgment entered against the Corporation, with respect to such properties, under paragraph (2) of this subsection; and

"(B) to the National Railroad Passenger Corporation, a profitable railroad operating in the region, a State or any other responsible person (including a governmental entity), the United States shall indemnify such Corporation, railroad, State, or person against any costs imposed thereon as the result of any judgment entered against such Corporation, railroad, State, or person under paragraph (3) of this subsection;

plus interest on the amount of such judgment at such rate as is constitutionally required.".

(c) Section 206(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)) is amended by adding at the end thereof the following new paragraph:

"(7) Notwithstanding any contrary provision in the options conveyed to the Corporation by railroads in reorganization, or railroads leased, operated, or controlled by a railroad in reorganization, with respect to the acquisition, on behalf of a State (or a local or regional transportation authority) of rail properties designated under section 206(c)(1)(D) of this title, such options shall not be deemed to have expired prior to 7 days after the date of enactment of this paragraph. The exercise by the Corporation of any such option shall be effective if it is made, prior to the expiration of such 7-day period, in the manner prescribed in such options.".

SEC. 10. (a) Section 303(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(e)) is amended by adding "or which are made at any time to carry out the purposes of title VII of the Railroad

Revitalization and Regulatory Reform Act of 1976 or of section 601(d) of this Act" at the end of the second parenthetical expression between "title" and the closing parenthesis.

SEC. 11. Section 306 of the Rail Passenger Service Act (45 U.S.C. 546) is amended by adding at the end thereof the following two new subsections:

"(j)(1) The establishment of through routes and joint fares, between the National Railroad Passenger Corporation and other intercity common carriers of passengers by rail and motor carriers of passengers, is consistent with the public interest and the national transportation policy. The Congress encourages the making of such arrangements.

"(2) The Corporation may establish through routes and joint fares with any motor carrier.

"(k) The Commission shall, by September 30, 1977, conduct and transmit to the Congress a study of through routes and joint fares between the Corporation and other intercity common carriers by rail and motor carriers of passengers. Such study shall include, but not be limited to—

"(1) a history of through route and joint fare arrangements between motor carriers of passengers and carriers of passengers by rail;

"(2) laws and regulations presently applicable or related to such through route and joint fare arrangements;

"(3) analysis of the need for intermodal terminals, through ticketing and baggage handling arrangements, and the means by which such needs should be met;

"(4) the extent to which any existing arrangements have improved or lessened, or might improve or lessen, the adequacy of service and passenger convenience;

"(5) methods of formulating joint fares and divisions thereof;

"(6) views of the Corporation, other intercity common carriers by rail and of organizations representing intercity bus operators; and

"(7) recommendations relative to the establishment of through routes and joint fares between the railroads and motor carriers of passengers, including any recommendations for legislation.".

SEC. 12. (a) Section 4(i)(9) of the Department of Transportation Act (49 U.S.C. 1653) is amended by—

(1) striking out "$5,000,000" in clauses (ii) and (iii) of subparagraph (A) thereof and inserting in lieu thereof "$2,500,000";

(2) striking out subparagraph (B) thereof and redesignating subparagraph (C) thereof as subparagraph (B) thereof.

(b) Section 11(a)(1) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(1) is amended by adding after subparagraph (B) thereof the following new subparagraph:

"(C) There are authorized to be appropriated to the National Endowment for the Arts for the fiscal year ending September 30, 1977, not to exceed—

"(i) $2,500,000 for planning pursuant to paragraph (1)(D) of section 4(i) of the Department of Transportation Act (49 U.S.C. 1653(i)),

"(ii) $2,500,000 for interim maintenance pursuant to paragraph (1)(B) of such section 4(i); and

"(iii) $250,000 for administrative expenses.

Sums appropriated for the purposes of this subparagraph shall remain available until expended.".

SEC. 13. Section 214(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(c)) is amended to read as follows:

"(c) ASSOCIATION.—There are authorized to be appropriated to the Association, for purposes of its administrative expenses under this Act, not to exceed $20,000,000 for the period beginning May 1, 1976 and ending September 30, 1977. Sums appropriated under this subsection are authorized to remain available until expended.".

SEC. 14. (a) Section 211(h)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(1)) is amended—

(1) in the first sentence thereof, by inserting immediately after "to enter into loan agreements" the following: "at any time";

(2) in the first sentence thereof, by striking out "230,000,000" and inserting in lieu thereof "450,000,000";

(3) in the second sentence thereof, by striking out "claims of employees arising" and all that follows through "Railway Labor Act," and inserting in lieu thereof the following: "claims of employees (whether or not arising under the collective bargaining agreements of the railroads in reorganization in the region) for accrued wages, wages, vacation pay, and other such benefits arising out of or in connection with labor and services performed under an employment relationship,"; and

(4) in the second sentence thereof, by inserting immediately after "(45 U.S.C. 51–60)," the following: "amounts required to provide funding adequate to assure the payment, when due, of claims resulting from membership in an employee voluntary relief plan which provides benefits for its members and their beneficiaries in the event of sickness, accident, disability, or death and which has received contributions both from a railroad in reorganization and from such employee members,".

(b) Section 210(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 720(b)) is amended, in the first sentence thereof, by striking out "275,000,000" and inserting in lieu thereof "495,000,000".

(c) Section 211(h)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(2)) is amended (1) by striking out the period at the end of the first sentence thereof and inserting in lieu thereof the following: "for the payment only of such accounts payable as relate to obligations of the estates identified in paragraph (1) of this subsection."; and (2) by inserting at the end thereof the following two new sentences: "Nothing contained in this subsection shall be deemed to permit an order by any reorganization court enjoining, restraining, or limiting the Corporations, the National Railroad Passenger Corporation, or a profitable railroad from applying, to payment of the obligations of the estates identified in paragraph (1) of this subsection, amounts collected as (A) accounts receivable pursuant to this paragraph; (B) cash or other current assets identified pursuant to paragraph (3) of this subsection; or (C) proceeds of loan agreements entered into under paragraph (1) of this subsection. Any agency agreement which is executed, and any order which is entered, prior to the date of enactment of this sentence shall be deemed amended to the extent necessary to conform such agreement or order to the provisions of this paragraph.".

(d) Section 211(h)(5)(B) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(5)(B)) is amended by adding at the

end thereof the following two new sentences: "Any direct claim authorized under paragraph (4) of this subsection shall be registered from time to time by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, whichever is appropriate, by filing a proof of administration expense claim with the trustees of each railroad in reorganization. Each such administrative expense claim shall set forth, by category and amount, the obligations of such railroad in reorganization which were paid pursuant to such paragraph (4).".

SEC. 15. (a) Section 506(a)(2)(i) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 826(a)(2)(i) is amended by adding immediately after "whenever issued," the following: "except that the Secretary may make any such redeemable preference share junior in right to any common stock which was issued as a result of an exchange for securities which previously ranked ahead of common stock if such exchange took place pursuant to a court approved reorganization plan under section 77 of the Bankruptcy Act (11 U.S.C. 205),".

(b) Section 506(a)(2)(iii) of such Act (45 U.S.C. 826(a)(2)(iii)) is amended by inserting immediately after "other than common stock" the following: "(except in those cases where the Secretary has provided for subordination pursuant to clause (i) of this paragraph which is".

SEC. 16(a). Section 511(c) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(c) is amended to read as follows:

"(c) FULL FAITH AND CREDIT.—All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States of America backed by the full faith and credit of the United States of America.".

(b) Section 511 of such Act (45 U.S.C. 831) is amended (1) by striking out subsection (g) thereof and redesignating subsections (h) through (n) thereof as subsections (g) through (m) thereof respectively; subsections accordingly;

(2) by inserting immediately after "required" in subsection (g)(5) thereof, as redesignated by this subsection, the following: "together with any other security offered by the applicant"; and

SEC. 17. Section 205(d)(7) of the Regional Rail Reorganization Act (45 U.S.C. 715(d)(7)) is amended to read as follows:

"(7) employ and utilize, until such time as the Director of the Office of Rail Public Counsel has been appointed, been qualified, and taken office, the services of attorneys and such other personnel as may be required in order—

"(A) to protect properly the interests of those communities and users of rail service which, for whatever reason (such as size or location), might not otherwise be adequately represented in the course of the reorganization process under this Act, and

"(B) to perform the functions and duties of the Office of Rail Public Counsel, pursuant to section 27 of the Interstate Commerce Act (49 U.S.C. 27).".

SEC. 18. The first sentence of scetion 17(9)(e) of the Interstate Commerce Act (49 U.S.C. 17(9)(e)) is amended by striking out "section" and inserting in lieu thereof "paragraph (9)".

SEC. 19. (a) Section 504(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(e)) is amended (1) by striking out "and payment of those which were sustained or settled on or subsequent to the date of conveyance, under section 303(b)(1) of this Act,"; (2) by striking out "direct reimbursement" and inserting in lieu thereof "a loan"; and (3) by striking out the period at the end of the first sentence thereof and inserting in lieu thereof the following: "for payment of those claims which relate to events which occurred prior to the date of conveyance, under such section 303(b)(1), but which are sustained or settled on and after such date regardless of the date on which such claims are first asserted.".

(b) Section 504(g) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(g)) is amended (1) by striking out "assumed" in the first sentence thereof and inserting in lieu thereof "processed on behalf of the railroad in reorganization"; and (2) by striking out the second sentence thereof and inserting in lieu thereof the following: "The Corporation or the acquiring railroad shall be entitled to a loan from the Association, pursuant to section 211(h) of this Act, for payment of those claims which relate to events which occurred prior to the date of conveyance, under section 303(b)(1) of this Act, but which are sustained or settled on or after such date regardless of the date on which such claims are first asserted. It shall be the obligation of the claimants, in cases in which claims were sustained or settled prior to such date of conveyance, to seek satisfaction against the estates of the railroads in reorganization which were the former employers of the employees as to whom the claims relate.".

SEC. 201. (a) Section 505(i)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(i)(2)), is amended (1) by inserting "mandatory" immediately after "shall establish a"; and (2) by inserting "and binding" immediately after "with arbitration as the final".

(b) Section 505(i) of such Act (45 U.S.C. 775(i)) is amended by adding at the end thereof the following new paragraph:

"(3) A protected employee, whose employment is not governed by the terms of a collective-bargaining agreement and who has been deprived of employment, shall not (except as explicitly provided in this title) be placed in a worse position during the period in which he is entitled to protection, with respect to any voluntary relief plan benefits provided under any life or medical insurance plans; except that the benefit levels which such an employee is entitled to receive under this paragraph shall not exceed the benefit levels which are then being provided for active noncontract employees.".

(c) Section 505(b)(4) of such Act (45 U.S.C. 775(b)(4)) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to a noncontract employee whose noncontract position was abolished.".

SEC. 21. (a) Section 303(b)(6) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(6)) is amended by adding immediately before the words "employee pension benefits plans" in clause (A) thereof the following: "employee health or life insurance plans and".

(b) Section 505(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 755(a)) is amended—

(1) in the first sentence thereof, by inserting immediately after "including benefits under" the following: "any employee health or life insurance plan and";

(2) in the second sentence thereof, by adding "health and life insurance and" immediately after "employee"; and

(3) in the second sentence thereof, by adding "pension benefit" immediately after "such".

(c) Section 509 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 779) is amended by adding "health and life insurance and" immediately before the word "pension" in the second sentence thereof.

SEC. 22. Section 20(3) of the Interstate Commerce Act (49 U.S.C. 20(3)) is amended (1) by redesignating subdivisions (d) and (e) thereof as subdivisions (e) and (f) thereof, respectively; and (2) by inserting immediately after subdivision (c) thereof the following new subdivision:

"(d) In revising those aspects of the cost and revenue accounting and reporting system that pertain to rail passenger service, the Commission shall consult with the Secretary of Transportation and the National Railroad Passenger Corporation to ensure that the revised regulations and procedures provide for an accurate, detailed, and thorough description of the costs and revenues associated with such service. If, in the opinion of the Secretary, the regulations and procedures promulgated pursuant to this section fail to provide for a cost and revenue accounting and reporting system that is adequate to enable the Secretary to carry out his responsibilities for oversight of the National Railroad Passenger Corporation, the Secretary shall, within 30 days after the date on which such regulations are promulgated, report to the Congress, setting forth in detail the deficiencies of such regulations and procedures and providing specific recommendations for change.".

SEC. 23. Section 901(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (49 U.S.C. 1654(8)) is amended to read as follows:

"(8) a survey and analysis of the railroad industry in the United States to determine its financial condition and the physical condition of its facilities, rolling stock, and equipment.".

Section 508(a)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 778(a)(1) is amended by inserting before the last sentence thereof the following two new sentences:

"With regard to any supplemental transaction pursuant to section 305 of this Act, if such agreements are not reached within 60 days after the Commission's determination under subsection (c) of section 305, or after the expiration of the 90 day period referred to in such subsection (c), the Commission shall prescribe such offers of employment, rules and working conditions, and employment protection, not inconsistent with section 505 of this title, that have not been agreed to, which shall govern any such transaction. The Commission may prescribe such regulations as may be necessary for the administration of its responsibilities under this section."

(b) Section 305(b) of the Regional Rail Reorganization Act of 1973, (45 U.S.C. 745(b) is amended by inserting in the last sentence thereof, following "acceptable to it,", the following:

"or if any such proposed transferee retracts its notification within 30 days after the filing of a petition under section 305(d) (1) of this Act,".

O

S. 3131

Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Monday, the nineteenth day of January, one thousand nine hundred and seventy-six

An Act

To amend the Rail Passenger Service Act to provide financing for the National Railroad Passenger Corporation, to amend the Regional Rail Reorganization Act of 1973 to increase the amount of loan authority under section 211(h)(1) of such Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles and sections according to the following table of contents, may be cited as the "Rail Transportation Improvement Act".

TITLE I—AMTRAK IMPROVEMENT

Sec. 101. Short title.
Sec. 102. Authorization of appropriations.
Sec. 103. Board membership.
Sec. 104. Security guards.
Sec. 105. Waste disposal.
Sec. 106. Through routes and joint fares.
Sec. 107. Cost computation.
Sec. 108. Hours of food service.

TITLE II—RAIL AMENDMENTS

Sec. 201. Short title.
Sec. 202. Rail marine freight service; options.
Sec. 203. Loans for payment of obligations.
Sec. 204. Protection of employees' pension benefits.
Sec. 205. Evidentiary use of certain determinations; reimbursement for rail service.
Sec. 206. Authority of the Interstate Commerce Commission.
Sec. 207. Replacement operators.
Sec. 208. Collective bargaining and FELA claims.
Sec. 209. Employee displacement allowance.
Sec. 210. Noncontract employees.
Sec. 211. United States Railway Association Board membership.
Sec. 212. Financial assistance.
Sec. 213. Priority of redeemable preference shares.
Sec. 214. Redemption payments and interest rate.
Sec. 215. Obligation guarantees.
Sec. 216. Rehabilitation and financing amendments.
Sec. 217. Northeast Corridor acquisitions.
Sec. 218. Discontinuance and abandonment procedures.
Sec. 219. Preservation of historical rail facilities.
Sec. 220. Technical amendments.

TITLE III—GENERAL PROVISIONS

Sec. 301. Environmental study.
Sec. 302. Delmarva rail study.
Sec. 303. Effective date.

TITLE I—AMTRAK IMPROVEMENT

SHORT TITLE

SEC. 101. This title may be cited as the "Amtrak Improvement Act of 1976".

AUTHORIZATION OF APPROPRIATIONS

SEC. 102. (a) Section 601(a) of the Rail Passenger Service Act (45 U.S.C. 601(a)) is amended by striking out the second and third sen-

tences thereof and inserting in lieu thereof the following: "There are authorized to be appropriated to the Secretary for the benefit of the Corporation—

"(1) for the payment of operating expenses for the basic system, except for the additional expenses that are to be paid from funds authorized by clause (3) of this sentence, and for operating and capital expenses of rail passenger service provided pursuant to section 403(b) of this Act, not to exceed $350,000,000 for the fiscal year ending June 30, 1976, not to exceed $105,000,000 for the transitional fiscal period ending September 30, 1976, not to exceed $430,000,000 for the fiscal year ending September 30, 1977, and not to exceed $470,000,000 for the fiscal year ending September 30, 1978;

"(2) for the payment of the costs of capital acquisitions or improvements of the basic system, not to exceed $110,000,000 for the fiscal year ending June 30, 1976, not to exceed $25,000,000 for the transitional fiscal period ending September 30, 1976, not to exceed $130,000,000 for the fiscal year ending September 30, 1977, and not to exceed $130,000,000 for the fiscal year ending September 30, 1978;

"(3) for the payment of the additional operating expenses of the Corporation which result from the operation, maintenance, and ownership or control of the Northeast Corridor, pursuant to title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 et seq.), not to exceed a total amount of $68,000,000 for the transitional fiscal period ending September 30, 1976, and the fiscal year ending September 30, 1977, and not to exceed $75,000,000 for the fiscal year ending September 30, 1978; and

"(4) for the payment of the principal amount of obligations (other than leases) of the Corporation which are guaranteed by the Secretary pursuant to section 602 of this Act, not to exceed $25,000,000 for the fiscal year ending September 30, 1978.

Not more than $25,000,000 of the amounts authorized by clause (1) of the preceding sentence for the fiscal year ending June 30, 1976; not more than $7,000,000 of the amounts so authorized for the transitional fiscal period ending September 30, 1976, not more than $35,000,000 of the amounts so authorized for the fiscal year ending September 30, 1977, and not more than $40,000,000 of the amounts so authorized for the fiscal year ending September 30, 1978, shall be available for payment of rail passenger service operating and capital expenses, pursuant to section 403(b) of this Act.".

(b) Section 601(a) of the Rail Passenger Service Act (45 U.S.C. 601(a)) is further amended—

(1) by inserting "(1)" immediately after "(a)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Funds appropriated for capital grants pursuant to this section (other than subsection (a)(4)) shall be paid to the Corporation in each fiscal quarter, and such grants may be used by the Corporation for temporary reduction of outstanding loan balances, including loans guaranteed by the Secretary pursuant to section 602 of this Act.".

(c) Section 602(d) of the Rail Passenger Service Act (45 U.S.C. 602(d)) is amended by inserting immediately after the first sentence thereof the following new sentence: "Such $900,000,000 maximum shall be reduced by an amount equal to the total principal amount of such securities, obligations, or loans paid by the Corporation from

funds made available pursuant to clause (4) of section 601(a) of this Act.".

BOARD MEMBERSHIP

SEC. 103. Section 303(a)(1) of the Rail Passenger Service Act (45 U.S.C. 543 (a)(1)) is amended—

(1) by striking out the period at the end of subparagraph (A) thereof and inserting in lieu thereof ", and the President of the Corporation, ex officio."; and

(2) by striking out "Nine" in subparagraph (B) thereof and inserting in lieu thereof "Eight".

SECURITY GUARDS

SEC. 104. Section 305 of the Rail Passenger Service Act (45 U.S.C. 545) is amended by adding at the end thereof the following new subsection:

"(i) The Corporation is authorized to employ security guards for purposes of providing security and protection for rail passengers of the Corporation and for rail properties owned by the Corporation. Security guards employed by the Corporation who have complied with the provisions of any State law setting forth licensing, residency, or related requirements applicable to security guards or persons employed in similar positions may be employed without regard to the provisions of any other State's laws setting forth such requirements.".

WASTE DISPOSAL

SEC. 105. Section 306(i) of the Rail Passenger Service Act (45 U.S.C. 546(i)) is amended by inserting "waste disposal from" immediately after "shall not apply to".

THROUGH ROUTES AND JOINT FARES

SEC. 106. Section 306 of the Rail Passenger Service Act (45 U.S.C. 546) is amended by adding at the end thereof the following two new subsections:

"(j)(1) The establishment of through routes and joint fares, between the National Railroad Passenger Corporation and other intercity common carriers of passengers by rail and motor carriers of passengers, is consistent with the public interest and the national transportation policy. The Congress encourages the making of such arrangements.

"(2) The Corporation may establish through routes and joint fares with any motor carrier.

"(k) The Commission shall, by September 30, 1977, conduct and transmit to the Congress a study of through routes and joint fares between the Corporation and other intercity common carriers by rail and motor carriers of passengers. Such study shall include, but not be limited to—

"(1) a history of through route and joint fare arrangements between motor carriers of passengers and carriers of passengers by rail;

"(2) laws and regulations presently applicable or related to such through route and joint fare arrangements;

"(3) analysis of the need for intermodal terminals, through ticketing and baggage handling arrangements, and the means by which such needs should be met;

"(4) the extent to which any existing arrangements have improved or lessened, or might improve or lessen, the adequacy of service and passenger convenience;

"(5) methods of formulating joint fares and divisions thereof;

"(6) views of the Corporation, other intercity common carriers by rail and of organizations representing intercity bus operators; and

"(7) recommendations relative to the establishment of through routes and joint fares between railroads and motor carriers of passengers, including any recommendations for legislation.".

COST COMPUTATION

SEC. 107. Section 403(b) of the Rail Passenger Service Act (45 U.S.C. 563(b)) is amended—

(1) in paragraph (1), by adding at the end thereof the following new sentence: "Any decisions which are likely to have a significant effect on the scheduling, marketing, or operations of the service provided pursuant to this section shall be made by contract or other agreement between the Corporation and the State or agency which is obligated to reimburse the Corporation for all or part of the operating loss, and associated capital costs, of such service.";

(2) in paragraph (1), by striking out "total operating losses" in the second sentence thereof and inserting in lieu thereof "solely related costs"; and

(3) in paragraph (3), by striking out "total" the first place it appears and inserting in lieu thereof "solely related costs and associated capital".

HOURS OF FOOD SERVICE

SEC. 108. Section 801(a) of the Rail Passenger Service Act (45 U.S.C. 641(a)) is amended by inserting immediately after the first sentence thereof the following new sentence: "No regulation issued by the Commission under this section shall require the Corporation or any railroad providing intercity rail passenger service to provide food service other than during customary dining hours.".

TITLE II—RAIL AMENDMENTS

SHORT TITLE

SEC. 201. This title may be cited as the "Rail Amendments of 1976".

RAIL MARINE FREIGHT SERVICE; OPTIONS

SEC. 202. (a) The last sentence of section 206(d)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)(5)) is amended by inserting immediately after "passenger service" the following: "or for purposes of providing rail marine freight floating service".

(b) Section 303(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(c)) is amended by adding at the end thereof the following new paragraph:

"(6) Whenever the Corporation exercises an option to acquire, or acquires, interests in rail marine freight floating equipment pursuant to the recommendations of the final system plan, and the Corporation

thereafter makes such floating equipment available to a profitable railroad operating in the region, a State, or a responsible person including a government entity), the United States shall indemnify—

"(A) the Corporation against any costs or liabilities imposed on the Corporation as the result of any judgment entered against it, with respect to such equipment, under paragraph (2) of this subsection; and

"(B) such profitable railroad, State, or responsible person against any costs or liabilities imposed thereon as the result of any judgment entered against such profitable railroads, State, or responsible person under paragraph (3) of this subsection,

plus interest on the amount of such judgment at such rate as is constitutionally required.".

(c) Section 206(d)(7) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)(7)) is amended by inserting immediately after "acquisition" the following: "by the Corporation pursuant to the final system plan".

LOANS FOR PAYMENT OF OBLIGATIONS

SEC. 203. (a) Section 211(h)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(1)) is amended to read as follows:

"(h) LOANS FOR PAYMENT OF OBLIGATIONS.—(1)(A) The Association is authorized, subject to the limitations set forth in section 210(b) of this title, to enter into loan agreements, in amounts not to exceed, at any given time, $350,000,000 in the aggregate principal amount, with the Corporation, the National Railroad Passenger Corporation, and any profitable railroad to which rail properties are transferred or conveyed pursuant to section 303(b)(1) of this Act, under which the Corporation, the National Railroad Passenger Corporation, and any profitable railroad entering into such agreement will agree to meet existing or prospective obligations of the railroads in reorganization in the region which the Association, in accordance with procedures established by the Association, determines should be paid by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, on behalf of such railroads in reorganization, in order to avoid disruptions in ordinary business relationships. Such obligations shall be limited to—

"(i) amounts claimed by suppliers (including private car lines) of materials or services utilized or purchased in current rail operations;

"(ii) claims by shippers arising from current rail services;

"(iii) payments to railroads for settlement of current interline accounts and all other current accounts and obligations;

"(iv) claims of employees arising under the collective-bargaining agreements of the railroads in reorganization in the region and subject to section 3 of the Railway Labor Act (including claims for accrued vacation and wages and similar claims arising in connection with labor and services performed);

"(v) claims of all employees or their personal representatives for personal injuries or death and subject to the provisions of Employers' Liability Act (45 U.S.C. 51–60);

"(vi) amounts required for adequate funding of accrued pension benefits existing at the time of a conveyance or discontinuance of service under employee pension benefit plans described in section 505(a) of this Act;

"(vii) amounts required to provide adequate funding for payment, when due, of claims deriving from membership in any employee voluntary relief plan which provides benefits to its members and their beneficiaries in the event of sickness, accident, disability, or death, and to which both a railroad in reorganization and employee members have made contributions;

"(viii) amounts required to provide adequate funding for payment, when due, of medical and life insurance benefits for employees (whether or not their employment was governed by a collective bargaining agreement) on account of their service with a railroad in reorganization prior to the date of conveyance pursuant to section 303(b)(1) of this Act, and for individuals who retired, prior to such date of conveyance, from service with a railroad in reorganization;

"(ix) amounts required to discharge the obligations of each such railroad in reorganization to nonemployee claimants for personal injuries suffered during the period such railroad has been in reorganization; and

"(x) amounts required to discharge any obligation of a railroad in reorganization in the region to the National Railroad Passenger Corporation, arising out of a contract between such railroad in reorganization and such Corporation under which such railroad in reorganization is required to provide a suitable rail passenger station, in any case in which such railroad in reorganization sold a rail passenger station pursuant to a judicial order of condemnation prior to April 1, 1976.

"(B) The Association shall make a loan pursuant to subparagraph (A) of this paragraph if, notwithstanding any other requirement of this subsection, it finds that the Corpration, the National Railroad Passenger Corporation, or a profitable railroad is entitled to a loan pursuant to section 303(b)(6), 504(e), or 504(g) of this Act, or if, with respect to an obligation referred to in subparagraph (A) of this paragraph, it finds that—

"(i) provision for the payment of such obligation was not included in the financial projections of the final system plan;

"(ii) such obligation arose from rail operations prior to the date of conveyance of rail properties pursuant to section 303(b)(1) of this Act and is, under other applicable law, the responsibility of a railroad in reorganization in the region, and a claim is presented to a railroad in reorganization in the region, or the Corporation within 2 years after the date of enactment of the Rail Amendments of 1976;

"(iii) the Corporation, the National Railroad Passenger Corporation, or a profitable railroad has advised the Association that the direct payment of such obligation by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad is for services or materials, the furnishing of which served to avoid disruptions in ordinary business relationships prior to the date of conveyance of rail properties pursuant to section 303(b)(1) of this Act, or is necessary to avoid postconveyance disruptions in ordinary business relationships;

"(iv) the transferor is unable to pay such obligation within a reasonable period of time; and

"(v) with respect to loans made to the Corporation, the procedures to be followed by the Corporation, in seeking reimbursement from a railroad in reorganization in the region for an obligation paid on its behalf under this subsection, have been

jointly agreed to by the Finance Committee and the Corporation, and the joint agreement—

"(I) provides for the Corporation to receive reimbursement from the Association for any expenses incurred in seeking reimbursement from any railroad in reorganization in the region for an obligation paid on its behalf under this subsection; and

"(II) includes a stipulation of the exact procedures the Corporation shall undertake to avoid the finding, referred to in paragraph (6)(A)(i) of this subsection, that it has not exercised due diligence.".

(b) Section 211(h)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(2)) is amended—

(1) by inserting immediately before the period at the end of the first sentence thereof the following: "and for the payment of only those accounts payable which relate to obligations of the estates identified in paragraph (1) of this subsection"; and

(2) by adding at the end thereof the following new sentences: "Nothing in this subsection shall be construed as permitting any district court of the United States having jurisdiction over the reorganization of a railroad in reorganization in the region to enjoin, restrain, or limit the Corporation, the National Railroad Passenger Corporation, or a profitable railroad from applying, to payment of the obligations of the estates identified in paragraph (1) of this subsection, amounts collected as (A) accounts receivable pursuant to this paragraph, (B) cash or other current assets identified pursuant to paragraph (3) of this subsection, or (C) proceeds of loans pursuant to paragraph (1) of this subsection. Any agency agreement executed prior to the date of the enactment of the Rail Transportation Improvement Act shall be deemed amended to the extent necessary to conform such agreement or order to the provisions of this paragraph. Nothing in this paragraph shall be construed to affect any payment made prior to such date of enactment with respect to obligations other than those identified in paragraph (1) of this subsection.".

(c) Section 211(h)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(4)) is amended by adding at the end thereof the following new subparagraph:

"(D)(i) Except as provided in clause (ii) of this subparagraph, any funds held in an escrow account by a railroad in reorganization on the date of enactment of the Rail Transportation Improvement Act which are thereafter determined to be cash and other current assets of the estate of such railroad in reorganization, for purposes of paragraph (3) of this subsection, shall be applied as follows—

"(I) first, to the reduction of any outstanding loans to the Corporation by the Association, pursuant to paragraph (1) of this subsection, the proceeds of which were used to discharge obligations of such railroad in reorganization;

"(II) second, to the Association to the extent of any such loans which have been forgiven pursuant to paragraph (5) of this subsection; and

"(III) third, to the payment of any remaining obligations of such railroad in reorganization, in accordance with the provision of the agency agreement entered into pursuant to paragraph (2) of this subsection.

"(ii) The manner of disposition set forth in clause (i) of this subparagraph shall not apply with respect to a railroad in reorganization

if the Secretary (I) determines that a different disposition of assets is necessary to carry out a reorganization plan of such railroad in reorganization, and that such different disposition adequately protects the interests of the United States, and (II) transmits his determination to the court having jurisdiction over the reorganization of such railroad.".

(d) Section 211(h)(5)(B) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(5)(B)) is amended by adding at the end thereof the following new sentences: "The Corporation, the National Rail Passenger Corporation, or a profitable railroad, as the case may be, shall, with respect to each direct claim for reimbursement pursuant to paragraph (4) of this subsection, file a proof of administrative expense claim with the trustees of the railroad in reorganization from whom reimbursement is sought. Each such proof of administrative expense claim shall set forth, by category and amount, the obligations of such railroad in reorganization which were paid pursuant to such paragraph (4).".

(e) The first sentence of section 210(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 720(b)) is amended to read as follows: "The aggregate principal amount (exclusive of interest or additions to principal on account of accrual of interest) of obligations issued by the Association under this section which may be outstanding at any one time shall not exceed $395,000,000.".

PROTECTION OF EMPLOYEES' PENSION BENEFITS

SEC. 204. Section 303(b)(6) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(6)) is amended by striking out the period at the end of the last sentence thereof and inserting in lieu thereof the following: ", except that in any case in which the Corporation, on or after the date of transfer or assignment as provided by this paragraph, terminates in whole or in part any such plan, the benefits under which are not guaranteed under title IV of the Employee Retirement Income Security Act of 1974, the Corporation shall guarantee the payment when due of the accrued pension benefits provided for thereunder at the time of termination. The Corporation shall be entitled to a loan pursuant to section 211(h) of this Act in an amount required for the adequate funding of accrued pension benefits under all plans transferred or assigned to the Corporation in accordance with this paragraph (whether or not terminated by the Corporation). For purposes of such section 211(h) and notwithstanding any other provision of Federal or State law, amounts required for such adequate funding shall be deemed to be expenses of administration of the respective estates of the railroads in reorganization, due and payable as of the date of transfer or assignment of the plans to the Corporation.".

EVIDENTIARY USE OF CERTAIN DETERMINATIONS; REIMBURSEMENT FOR RAIL SERVICE

Sec. 205. (a) Section 304(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(d)) is amended by adding at the end thereof the following new paragraph:

"(4) No determination of reasonable payment for the use of rail properties of a railroad in reorganization in the region, and no determination of value of rail properties of such a railroad (including supporting or related documents or reports of any kind) which is made in connection with any lease agreement, contract of sale, or other agreement or understanding which is entered into after the date of enactment of the Rail Transportation Improvement Act—

"(A) pursuant to this section; or

"(B) pursuant to section 402 of this Act or section 17 of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1613),

shall be admitted as evidence, or used for any other purpose, in any civil action, or any other proceeding for damages or compensation, arising under this Act.".

(b) Section 304(e)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(e)) is amended by redesignating subparagraph (C) thereof as subparagraph (D), and by inserting immediately after subparagraph (B) thereof the following new subparagraph:

"(C) For purposes of the obligation of the Secretary to reimburse the Corporation (or a profitable railroad) or States, local public bodies, and agencies thereof under subparagraphs (A) and (B) of this paragraph, the level of rail passenger service shall be determined on the basis of train miles, car miles, or some other appropriate indicia of scheduled train movements. Programs to correct deferred maintenance on rolling stock, right-of-way, and other facilities which are designed to maintain service, meet on-time performance, and maintain a reasonable degree of passenger comfort (and costs incurred incident thereto) shall be included within the meaning of the term "loss" as used in subparagraph (A) of this paragraph and within the meaning of the term "additional costs" as used in subparagraph (B) of this paragraph and section 17(a)(2) of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1613(a)(2)).".

AUTHORITY OF THE INTERSTATE COMMERCE COMMISSION

SEC. 206. Section 304(j) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(j) is amended—

(1) by striking out paragraph (1) thereof and inserting in lieu thereof the following: "(1)(A) Except as provided in subparagraph (B) of this paragraph, no local public body which provides mass transportation services by rail, and which is otherwise subject to the Interstate Commerce Act shall, with respect to the provision of such services, be subject to the Interstate Commerce Act or to rules, regulations, and orders promulgated under such Act, if the interstate fares, or the ability to apply to the Interstate Commerce Commission for changes thereto, of such local public body is subject to approval or disapproval by a Governor of any State in which it provides services.

"(B) Any local public body described in subparagraph (A) of this paragraph shall continue to be subject to applicable Federal laws pertaining to (i) safety, (ii) the representation of employees for purposes of collective bargaining, and (iii) employment retirement, annuity, and unemployment systems or any other provision pertaining to dealings between employees and employers."; and

(2) by striking out paragraph (2)(B) thereof and inserting in lieu thereof the following:

"(B) 'mass transportation services' means transportation services described in section 12(c)(5) of the Urban Mass Transportation Act (49 U.S.C. 1608(c)(5)) which are provided by rail.".

REPLACEMENT OPERATORS

SEC. 207. (a) Section 501 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771) is amended—

(1) by striking out "and" at the end of paragraph (9) thereof;
(2) by striking out the period at the end of paragraph (10) thereof, and inserting in lieu thereof "; and"; and
(3) by adding at the end thereof the following new paragraph:
"(11) 'replacement operator' means—
"(A) a State which has acquired all or part of the rail properties of any railroad in reorganization in the region and which intends to replace any class I railroad as the operator of rail service over such rail properties; or
"(B) any class I railroad which is designated, by a State which has acquired such rail properties, to replace the State or any other class I railroad as the operator of rail service over such rail properties.".

(b) Section 504(f)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(b)(3)) is amended—
(1) in the first sentence thereof, by striking out "shall upon transfer" and all that follows through "status." and inserting in lieu thereof the following: ", or as a result of the designation of a replacement operator, shall, upon transfer to the National Railroad Passenger Corporation, an acquiring railroad, or a replacement operator, carry with him his protected status."; and
(2) in the second sentence thereof by striking out "or an acquiring railroad," and inserting in lieu thereof ", an acquiring railroad, or a replacement operator,".

(c) Section 509 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 779) is amended—
(1) by inserting immediately after "the Association (where applicable)," each time it appears the following: "replacement operators,"; and
(2) in the third sentence thereof, by inserting immediately after "the Corporation nor" the following: "a replacement operator nor".

COLLECTIVE BARGAINING AND FELA CLAIMS

SEC. 208. (a) Section 504(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(e)) is amended—
(1) by striking out the period at the end of the first sentence thereof, and inserting in lieu thereof the following: ", to the extent that such claims are determined by the Association to be the obligation of a railroad in reorganization in the region."; and
(2) by inserting immediately after the first sentence thereof the following new sentences: "Any liability of an estate of a railroad in reorganization to its employees which is assumed, processed, and paid, pursuant to this subsection, by the Corporation, the National Railroad Passenger Corporation, or an acquiring carrier shall remain the preconveyance obligation of the estate of such railroad for purposes of section 211(h)(1) of this Act. The Corporation, the National Railroad Passenger Corporation, an acquiring carrier, or the Association, as the case may be, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act (other than paragraph (4)(A) thereof), for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization on whose behalf such obligations are discharged or paid.".

(b) Section 504(g) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(g)) is amended—

(1) by striking out the period at the end of the last sentence thereof and inserting in lieu thereof the following: ", to the extent that such claims are determined by the Association to be the obligation of such railroad."; and

(2) by adding at the end thereof the following new sentences: "Any liability of an estate of a railroad in reorganization which is assumed, processed, and paid, pursuant to this subsection, by the Corporation or an acquiring railroad shall remain the preconveyance obligation of the estate of such railroad for purposes of section 211(h)(1) of this Act. The Corporation, an acquiring railroad, or the Association, as the case may be, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act (other than paragraph (4)(A) thereof), for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization on whose behalf such obligations are discharged or paid.".

EMPLOYEE DISPLACEMENT ALLOWANCE

SEC. 209. (a) Section 505(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(b)) is amended—

(1) in paragraph (1) thereof, by striking out "February 26, 1975" and inserting in lieu thereof "January 1, 1975";

(2) in paragraph (3) thereof, by striking out "February 26, 1975" and inserting in lieu thereof "January 1, 1975"; and

(3) in paragraph (4) thereof, by striking out "February 26, 1975" and inserting in lieu thereof "January 1, 1975".

(b) Section 505(b)(1)(B) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(b)(1)(B)) is amended by inserting immediately after "(B)" the following: "with respect to a protected employee who has been deprived of his employment,".

NONCONTRACT EMPLOYEES

SEC. 210. (a) Section 505(i)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775 (i)(2)) is amended by inserting immediately after the first sentence thereof the following new sentence: "Such resolution procedure shall be the exclusive means available to the parties for resolving such dispute, and any arbitration decision rendered shall be final and binding on all parties.".

(b) Section 505(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(i)) is amended by adding at the end thereof the following new paragraph:

"(3) Except as otherwise provided in this title, a protected employee whose employment is not governed by the terms of a collective bargaining agreement and who has been deprived of employment shall not, during the period in which he is entitled to protection, be placed in a worse position with respect to any voluntary relief plan benefits or preretirement benefits provided under any life or medical insurance plan, except that the level of benefits to which such an employee is entitled under this paragraph shall not exceed the level of benefits which is afforded to the Corporation's active noncontract employees of comparable age, position, and level of compensation.".

(c) Section 505(b)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(b)(4)) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to any noncontract employee whose noncontract position has been abolished.".

UNITED STATES RAILWAY ASSOCIATION BOARD MEMBERSHIP

SEC. 211. (a) Section 102(16) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702(16)) is amended by striking out "the duly authorized representatives of either of them" and inserting in lieu thereof ", in his absence, the Deputy Secretary of Transportation".

(b) Section 201(d)(2) of such Act (45 U.S.C. 711) is amended by striking out "their duly authorized representatives" and inserting in lieu thereof "the Deputy Secretary of Transportation, the Vice Chairman of the Commission, or the Deputy Secretary of the Treasury, as the case may be".

(c) Section 201(h) of such Act (45 U.S.C. 711(h)) is amended by striking out the second sentence thereof.

(d) Section 201(i) of such Act (45 U.S.C. 711(i)) is amended, in the first sentence thereof, by striking out "duly authorized representatives" and inserting in lieu thereof "Deputy Secretaries".

(e) Section 201(j)(4) of such Act (45 U.S.C. 711(j)(4)) is amended to read as follows: "Any reference in this Act to the Secretary of the Treasury is to the Secretary of the Treasury or the person who is at the time performing the duties of the Office of the Secretary of the Treasury in accordance with law or, in his absence, the Deputy Secretary of the Treasury. Any reference in this Act to the Chairman of the Commission is to the Chairman of the Commission or the person who is at the time performing the duties of the Chairman of the Commission in accordance with law.".

FINANCIAL ASSISTANCE

SEC. 212. (a) Section 505(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(a)) is amended to read as follows:

"SEC. 505. (a) IN GENERAL.—Any railroad may apply to the Secretary, following the date of enactment of this Act and in accordance with regulations promulgated by the Secretary, for financial assistance for facilities rehabilitation and improvement financing and for such other financial assistance as may be approved by the Secretary. Any regulations promulgated by the Secretary pursuant to this section shall include specific and detailed standards in accordance with which the Secretary shall conduct the evaluations and make the determinations required in subsection (b)(2) of this section.".

PRIORITY OF REDEEMABLE PREFERENCE SHARES

SEC. 213. Section 506(a)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 826(a)(2)) is amended—

(1) in clause (i) thereof, by inserting immediately after "whenever issued," the following: "except that the Secretary may make any such redeemable preference share subordinate to any common stock which was issued as a result of an exchange for securities which were senior in right to common stock, if (I) such exchange took place pursuant to a court-approved reorganization plan under section 77 of the Bankruptcy Act (11 U.S.C.

205), and (II) the railroad subject to such reorganization plan was in reorganization under such section 77 prior to the date of enactment of this Act,";

(2) in clause (iii) thereof, by inserting immediately after "other than common stock" the following: "(except in those cases in which the Secretary has provided for subordination pursuant to clause (i) of this paragraph) which is";

REDEMPTION PAYMENTS AND INTEREST RATE

SEC. 214. (a) Section 506(a)(4) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 826(a)(4)) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "and, except to permit the railroad to prepay its redemption payments, the number of such annual redemption payments shall in no event be less than 15; and".

(b) Section 506(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 826(a)) is amended by adding at the end thereof the following new paragraph:

"(5) the proceeds from the issuance of which are to be expended solely to reduce the deferred maintenance on facilities, shall in no event yield (A) less than the minimum permissible yield determinable in accordance with paragraphs (3) and (4) of this subsection, nor (B) more than such railroad's rate of return on total capital (represented by the ratio which such carrier's net income, including interest on long-term debt, bore to the sum of the average shareholder's equity, long-term debt, and accumulated deferred income tax credits for the three fiscal years preceding the date of submission of the application) as determined in accordance with the uniform system of accounts promulgated by the Commission in those cases in which such rate of return exceeded such minimum permissible yield.".

OBLIGATION GUARANTEES

SEC. 215. (a) Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831) is amended by striking out subsection (c) thereof and inserting in lieu thereof the following new subsection:

"(c) FULL FAITH AND CREDIT.—All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States of America backed by the full faith and credit of the United States of America.".

(b) Section 511(h) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(h)) is amended—

(1) in paragraph (1) thereof, by inserting "(A)" immediately after "secured", and by inserting immediately before the semicolon the following ", or (B) in the case of the rehabilitation or improvement of leased equipment, by the lease"; and

(2) by amending paragraph (5) thereof to read as follows—

"(5) the prospective earning power of the applicant, or the value or prospective earning power of any equipment or facilities to be improved, rehabilitated, or acquired (or any combination of the foregoing), together with any other security offered by the applicant, is sufficient to provide the United States with reasonable security and protection, except that if the value or prospective earning power of such equipment or facilities is equal to or

greater than the amount of the obligation to be guaranteed, the Secretary may not, on the basis of the lack of prospective earning power of the applicant, find that the United States will not be provided with the reasonable security and protection referred to in this paragraph; and".

(c) Section 511(j) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(j)) is amended to read as follows:

"(j) CONDITIONS OF GUARANTEES.—(1) The Secretary shall, before making, approving, or extending any guarantee or commitment to guarantee any obligation under this section, require the obligor to agree to such terms and conditions as are sufficient, in the judgment of the Secretary, to assure that, as long as any principal or interest is due and payable on such obligation, such obligor—

"(A) will not make any discretionary dividend payments, except as provided in paragraph (2) of this subsection; and

"(B) will not use any funds or assets from railroad operations for nonrail purposes,

if such payments or use will impair the ability of such obligor to provide rail services in an efficient and economic manner or will adversely effect the ability of such obligor to perform any obligation guaranteed by the Secretary.

"(2) An obligor shall not be restricted with respect to making dividend payments from its net income for any fiscal year, if such payments do not exceed—

"(A) when compared to the net income of such obligor for such fiscal year, the ratio which aggregate dividends paid by such obligor, during the 5 fiscal years prior to the granting of the earliest loan guarantee then outstanding under this section, bore to aggregate net income of such obligor for such period; or

"(B) 50 per centum of the total additions to the retained income of such obligor (computed on a cumulative basis and giving cognizance to dividends paid) during the period commencing with the fiscal year prior to the granting of the earliest loan guarantee then outstanding under this section,

whichever is greater.

"(3) The restrictions set forth in paragraphs (1) of this subsection shall not apply with respect to an obligation guaranteed under this section if, in the event of a default by the obligor, the Secretary would be subrogated to the rights of the lender under section 77(j) of the Bankruptcy Act.".

(d) Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831) is amended by striking out subsection (g) thereof and redesignating subsections (h) through (n) thereof as subsections (g) through (m), respectively.

REHABILITATION AND FINANCING AMENDMENTS

SEC. 216. (a) Section 505(b)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(b)(2)) is amended—

(1) by inserting in the third sentence thereof, immediately after "shall" the following: "evaluate and";

(2) by inserting immediately after "financed" in clause (A) the following: "and the railroad's rate of return on total capital (represented by the ratio which such carriers net income, including interest on long-term debt, bore to the sum of average shareholder's equity, long-term debt, and accumulated deferred income tax

for fiscal year 1975) as determined in accordance with the uniform system of accounts promulgated by the Commission"; and

(3) by inserting immediately after the third sentence thereof the following new sentence: "Except as provided in the last sentence of this paragraph, the Secretary, in determining the extent to which a project will provide public benefits, shall give the highest priority to projects which will enhance the ability of the applicant carrier or other carriers to provide essential freight services.".

(b) Section 503(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 823(e)) is amended by striking out "60" and inserting in lieu thereof "150".

(c) Section 504(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 824(b)) is amended—

(1) by striking out "360" and inserting in lieu thereof "540"; and

(2) by inserting in paragraph (A) thereof, immediately after "needs," the following: "the projected gross national product, the potential demand for rail service and the types of service capable of meeting that potential demand, the potential revenues and costs (including capital costs associated with those revenues), the demand for rail services for which the railroads could compete on an economic basis, the probable sources of funding for the capital costs of providing those services, and which of those costs must be provided by public financing,".

(d) Section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829) is amended by striking out "September 30, 1978" and inserting in lieu thereof "March 31, 1979".

(e) Section 901 of the Railroad Revitalization and Regulatory Reform Act of 1976 (49 U.S.C. 1654 note) is amended by striking out "540" and inserting in lieu thereof "720".

NORTHEAST CORRIDOR ACQUISITIONS

SEC. 217. (a) Section 704(a)(3)(B) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(3)(B)) is amended by striking out "$85,182,956" and inserting in lieu thereof "$120,000,000".

(b) Section 704(a)(3) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(3)) is amended by adding at the end thereof the following:

"Amounts appropriated pursuant to subparagraphs (B) and (D) of this paragraph shall be used first for the repayment, with interest, of that portion of obligations issued by the National Railroad Passenger Corporation and guaranteed pursuant to section 602 of the Rail Passenger Service Act (34 U.S.C. 602), the proceeds of which have been used for the payment of expenses resulting from the acquisition of the properties referred to in such subparagraphs (B) and (D).".

(c) Section 704 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854) is amended by adding at the end thereof the following new subsections:

"(e) NOTE AND MORTGAGE.—In order to protect and secure the expenditure of funds by the United States on account of the acquisition and improvement of properties designated under section 206 (c)(1) (C) and (D) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1) (C) and (D)), the Secretary is authorized to obtain a note of indebtedness from, and to enter into a mortgage agreement with, the National Railroad Passenger Corporation

in order to establish a mortgage lien on such properties for the United States securing such expenditure. Such note and mortgage shall not infringe upon or supersede the authority conferred upon the National Railroad Passenger Corporation by section 701 of this Act.

"(f) Exemption and Immunity.—Any agreement, security, or obligation obtained by the Secretary pursuant to subsection (e) of this section, and any transaction in connection with any such agreement, security, or obligation, shall be exempt from the provisions of the Interstate Commerce Act (49 U.S.C. 1 et seq.), the Securities Act of 1933 (15 U.S.C. 77a et seq.), and any other Federal, State, or local law or regulation which regulates securities or the issuance thereof. Any such agreement, security, obligation, or transaction shall enjoy all of the immunities from other laws which section 601 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791) accords to transactions which are in compliance with or implement the final system plan. The conveyance or transfer of rail properties resulting from any such agreement, security, obligation, or transaction shall enjoy the same exemptions, privileges, and immunities which the Regional Rail Reorganization Act of 1973 (including section 303(e) thereof) accords to conveyances ordered or approved by the special court under section 306(b) of such Act (45 U.S.C. 743(b)).

"(g) Protection from Liability.—The Corporation, its Board of Directors, and its individual directors shall not be liable to any party for any damages, or in any other manner, by reason of the fact that the Corporation has given or issued a security or obligation to the United States pursuant to the provisions of subsection (e) of this section. The immunity granted by this subsection shall also extend to any agreement entered into by the Corporation pursuant to such subsection (e) and to any transaction in connection with. The United States shall indemnify the Corporation, its Board of Directors, and its individual directors against all costs and expenses (including fees of accountants, experts, and attorneys) actually and reasonably incurred in defending any litigation testing the legal validity of any security, obligation, agreement, or transaction, given, issued, or entered into pursuant to such subsection (e).".

DISCONTINUANCE AND ABANDONMENT PROCEDURES

Sec. 218. (a) Section 1a(1) of the Interstate Commerce Act (49 U.S.C. 1a(1)) is amended by adding at the end thereof the following new sentence: "The authority granted to the Commission under this section shall not apply to (a) abandonment or discontinuance with respect to spur, industrial, team, switching, or side tracks if such tracks are located entirely within one State, or (b) any street, suburban, or interurban electric railway which is not operated as part of a general system of rail transportation.".

(b) Section 1a(4) of the Interstate Commerce Act (49 U.S.C. 1a(4)) is amended—

(1) by adding immediately before the last sentence thereof the following new sentence "If such certificate is issued without an investigation pursuant to paragraph (3) of this section, actual abandonment or discontinuance may take effect, in accordance with such certificate, 30 days after the date of issuance thereof."; and

(2) in the last sentence thereof, by inserting immediately after "issued" the following: "after an investigation pursuant to such paragraph (3)".

PRESERVATION OF HISTORICAL RAIL FACILITIES

SEC. 219. (a) Section 4(i)(9) of the Department of Transportation Act (49 U.S.C. 1653) is amended by—

(1) striking out "$5,000,000" in clauses (ii) and (iii) of subparagraph (A) thereof and inserting in lieu thereof "2,500,000";

(2) striking out subparagraph (B) thereof and redesignating subparagraph (C) thereof as subparagraph (B) thereof.

(b) Section 11(a)(1) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(1)) is amended by adding after subparagraph (B) thereof the following new subparagraph:

"(C) There are authorized to be appropriated to the National Endowment for the Arts for the fiscal year ending September 30, 1977, not to exceed—

"(i) $2,500.000 for planning pursuant to paragraph (1)(D) of section 4(i) of the Department of Transportation Act (49 U.S.C. 1652(i)),

"(ii) $2,500,000 for interim maintenance pursuant to paragraph (1)(B) of such section 4(i); and

"(iii) $250,000 for administrative expenses.

Sums appropriated for the purposes of this subparagraph shall remain available until expended.".

TECHNICAL AMENDMENTS

SEC. 220. (a) Section 211(h)(6)(A)(i) of the Regional Rail Reorganization Act (45 U.S.C. 721(h)(6)(A)(i)) is amended by striking out "paragraph (1)(E)" and inserting in lieu thereof "paragraph (1)(B)(v)".

(b) Section 303(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(c)) is amended—

(1) in paragraph (2)(A) thereof, by striking out "securities, certificates of value of the Corporation" and inserting in lieu thereof "securities and certificates of value";

(2) in paragraph (2)(A) thereof, by striking out "it has" and inserting in lieu thereof "they have";

(3) in paragraph (2)(B) thereof, by striking out "Corporation's securities, certificates of value" and inserting in lieu thereof "securities and certificates of value";

(4) in paragraph (2)(B) thereof, by striking out "other securities, certificates of value" and inserting in lieu thereof "other securities"; and

(5) in the fourth sentence of paragraph (3) thereof, by striking out "section 303(a)(2)" and inserting in lieu thereof "subsection (a)(2) of this section".

(c) Section 308(d)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (15 U.S.C. 80a–3 note) is amended by striking out "subsection (c)" and inserting in lieu thereof "subsection (b)".

(d) Section 504(a)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 824(a)) is amended by inserting "and equipment" immediately after "railroad's facilities".

(e) The first sentence of section 511(a) of the Rail Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(a)) is amended by inserting immediately before the period at the end thereof the following: ", or to develop or establish new railroad facilities".

(f) Section 511(h) of the Rail Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(h)) is amended by striking out "PREQUISITES FOR GUARANTEES." and inserting in lieu thereof "PREREQUISITES FOR GUARANTEES.".

(g) Section 809(a)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 1a note) is amended by striking out "abandoned" and inserting "abandoned since 1970" immediately after "railroad right-of-way".

(h) Section 901(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (49 U.S.C. 1654(8)) is amended to read as follows:

"(8) a survey and analysis of the railroad industry in the United States to determine its financial condition and the physical condition of its facilities, rolling stock, and equipment.".

(i) The second sentence of section 5(16) of the Interstate Commerce Act (49 U.S.C. 5(16)) is amended by striking out "paragraph (16)" and inserting in lieu thereof "paragraph (17)".

(j) The first sentence of section 17(9)(e) of the Interstate Commerce Act (49 U.S.C. 17(9)(e)) is amended by striking out "section" and inserting in lieu thereof "paragraph".

(k) Section 5b(5)(a)(iii) of the Interstate Commerce Act (49 U.S.C. 5b(5)(a)(iii)) is amended by striking out "section 15(7)" and inserting in lieu thereof "section 15(8)".

(l) Section 13(5) of the Interstate Commerce Act (49 U.S.C. 13(5)) is amended by adding at the end thereof the following: "Nothing in this paragraph shall affect the authority of the Commission to institue an investigation or to act in such investigation as provided in paragraphs (3) and (4) of this section.".

(m) The final sentence of section 15(19) of the Interstate Commerce Act (49 U.S.C. 15(19)) is amended by striking out "section 2" and inserting in lieu thereof "section 1, 2".

(n) Section 22(2) of the Interstate Commerce Act (49 U.S.C. 22(2)) is amended—

(1) by inserting immediately after "under section 5a" the following: "or section 5b"; and

(2) by striking out "said section 5a" and inserting in lieu thereof "such section 5a or paragraph (8) of such section 5b".

(o) Part I of the Interstate Commerce Act (49 U.S.C. 1 et seq.) is amended by inserting immediately before section 28 the following center heading:

"DISCRIMINATORY STATE TAXATION".

TITLE III—GENERAL PROVISIONS

ENVIRONMENTAL STUDY

SEC. 301. The Secretary of Health, Education, and Welfare, in consultation with the Interstate Commerce Commission and the Secretary of Transportation, shall submit a report to the Congress within 18 months after the enactment of this Act concerning (1) the risk of outbreaks of disease or illnesses and any other adverse environmental effects resulting from the discharge of waste from railroad conveyances operated in intercity rail passenger service, in rail commuter service, and in rail freight service, and (2) the financial and operating hardships on railroads or public authorities which would

result from a prohibition of waste disposal. Such report shall contain such recommendations as the Secretary of Health, Education, and Welfare, the Interstate Commerce Commission, or the Secretary of Transportation considers appropriate to balance possible dangers of disease or illness and environmental considerations with operating or financial considerations relevant to the railroad industry, including any distinction considered appropriate between new railroad rolling stock and existing railroad rolling stock, and shall consider any regulations pertaining to waste disposal from railroad conveyances operated in other Nations.

DELMARVA RAIL STUDY

SEC. 302. The Interstate Commerce Commission shall, within 6 months after the date of enactment of this Act, submit a report to the Congress with respect to the problems of, and need for, rail transportation services on the Delaware-Maryland-Virginia peninsula. Such report shall include—

(1) an analysis of why the acquisitions proposed under the final system plan with respect to rail properties on such peninsula were not consummated; and

(2) recommendations with respect to the continuation or extension of viable rail transportation service on such peninsula.

EFFECTIVE DATE

SEC. 303. The provisions of this Act and the amendments made by this Act shall take effect on October 1, 1976.

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.