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*Before the Committee on Appropriations*

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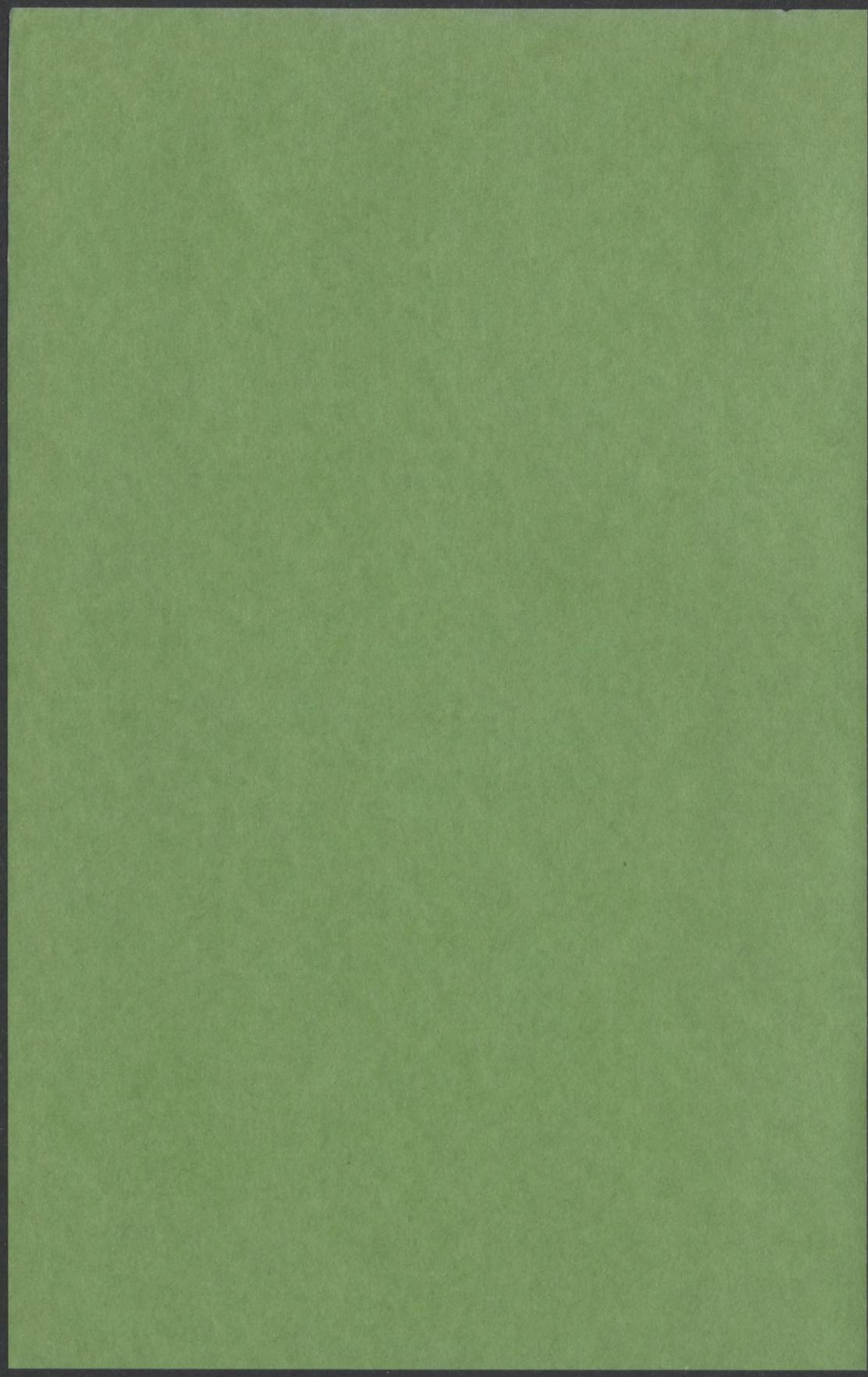
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# Supplemental Railroad Appropriations

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94<sup>th</sup> CONGRESS, SECOND SESSION

H.J. Res. 801



# SUPPLEMENTAL RAILROAD APPROPRIATIONS

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## HEARING BEFORE A SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS UNITED STATES SENATE

NINETY-FOURTH CONGRESS

SECOND SESSION

ON

### **H.J. Res. 801**

A JOINT RESOLUTION MAKING SUPPLEMENTAL RAILROAD  
APPROPRIATIONS FOR THE FISCAL YEAR ENDING JUNE  
30, 1976, THE PERIOD ENDING SEPTEMBER 30, 1976, AND  
THE FISCAL YEAR ENDING SEPTEMBER 30, 1977, AND FOR  
OTHER PURPOSES

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Printed for the use of the Committee on Appropriations



U.S. GOVERNMENT PRINTING OFFICE

66-725 O

WASHINGTON : 1976

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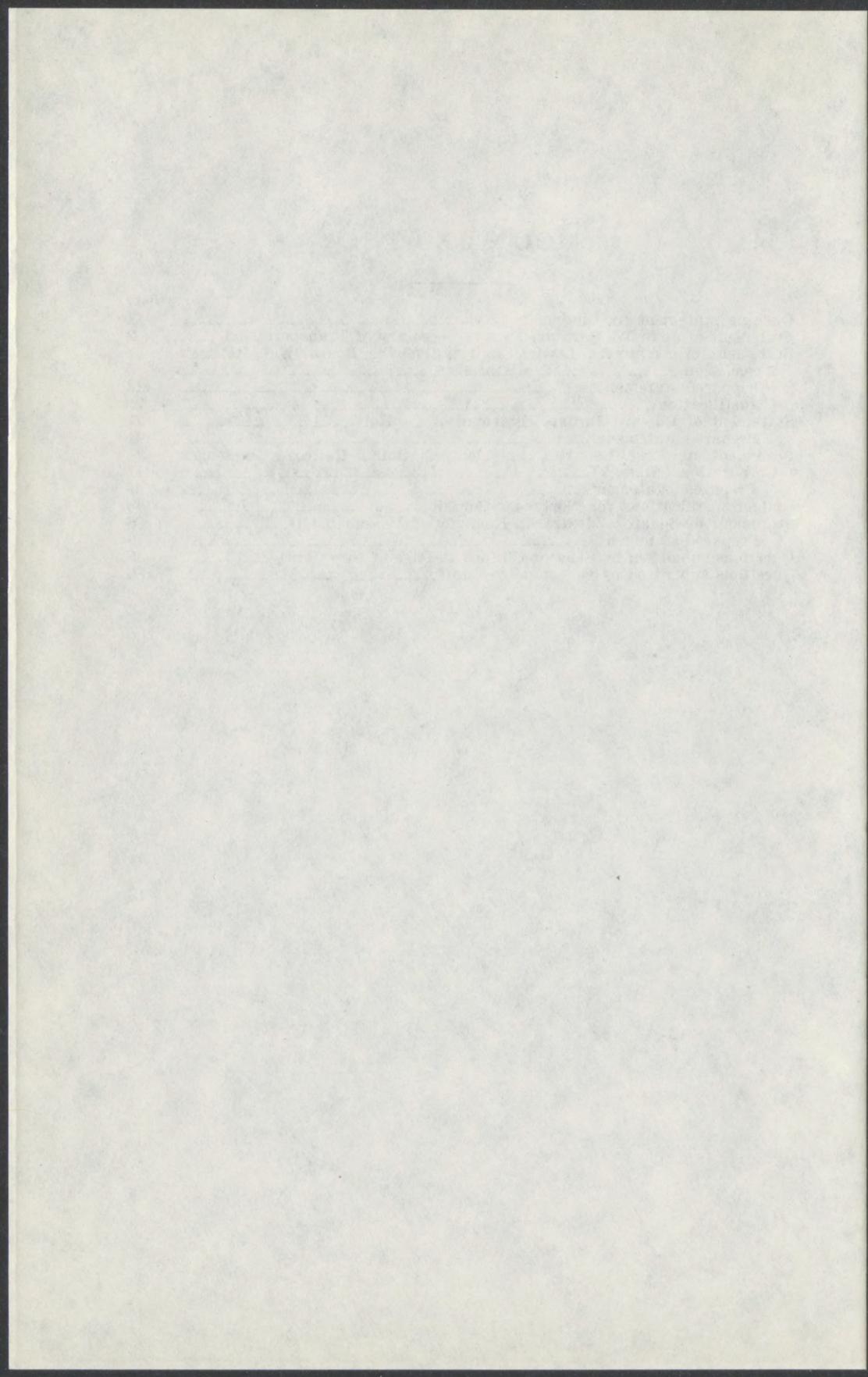
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# SUPPLEMENTAL RAILROAD APPROPRIATIONS

THURSDAY, JANUARY 29, 1976

U.S. SENATE,  
SUBCOMMITTEE ON TRANSPORTATION  
OF THE COMMITTEE ON APPROPRIATIONS,  
*Washington, D.C.*

The subcommittee met at 10:50 a.m., in room 1114, Everett McKinley Dirksen Office Building, Hon. Birch Bayh (chairman) presiding.

Present: Senator Bayh.

Also present: Senator Kennedy.

## DEPARTMENT OF TRANSPORTATION

### OFFICE OF THE SECRETARY

#### RAIL REVITALIZATION AND REGULATORY REFORM ACT OF 1976

#### STATEMENT OF JOHN W. BARNUM, DEPUTY SECRETARY OF TRANSPORTATION

##### BUDGET REQUEST

Senator BAYH. The subcommittee will come to order. Today we have asked the principal parties involved in the Rail Revitalization Act to appear before the committee to give us their testimony as to the various programs for which funds are authorized under the act and to explain the timing of the funding needs. We have received budget requests for USRA's administrative expenses, \$6.1 million, and for the purchase of ConRail preferred stock in the amount of \$2.1 billion. As I understand it, the President's budget also contains funds for rail service assistance in the amount of \$236 million as well as \$15 million for the transition quarter and \$125 million for fiscal 1977 for the Northeast Corridor improvement program. The budget does not address several programs about which I will want to ask the witnesses their opinions. The major ones are: the question of purchase versus lease of the Northeast Corridor by Amtrak; the funding of the passenger operations and losses; the funding needs to take care of the commuter losses; and the light-density line subsidies. I am certain the DOT intends to submit budget amendments for most of these, but perhaps there are some things the committee will want to put in this bill rather than wait until later. Another very important question I will want to get into is whether or not it would not be possible to speed up the Northeast Corridor improvement program. I consider this to be a high-priority program and I frankly cannot understand

why it cannot get moving at a faster pace than is provided for in the President's budget.

I think we should begin with the Deputy Secretary of Transportation, John Barnum, and then we can get the opening remarks from Arthur Lewis, Chairman of the Board of USRA, Ed Jordan, Chairman of ConRail, and Paul Reistrup, President of Amtrak—in that order, if there are no objections.

Please proceed, Mr. Barnum.

I might, if I could, ask you to summarize your statement. We have a few questions here and I hope that all of the questions are asked and answered.

#### DEPUTY SECRETARY OF TRANSPORTATION'S OPENING REMARKS

Mr. BARNUM. Thank you very much, Mr. Chairman. I think it is fair to state that none of the people at this table have anything more important to do than to respond to any questions that you or any other members of the committee may have with respect to the issues that are before you and the other issues that you have just indicated you would like to address.

This is clearly a very critical point in the entire railroad revitalization program. We have already had hearings in the House Appropriations Committee at a time when it was not so clear that in fact there was going to be legislation that would do all the things the Congress in passing S. 2718 yesterday indicated are appropriate. So I can assure you that I and my colleagues will be available to you for as long as it is necessary to satisfy you and the committee that we have indeed addressed all of the issues or at least have underway the studies that are necessary to solve the very problems that you have outlined.

The principal issue before the committee today is, I believe, the supplemental appropriations for the U.S. Railway Association to implement the Final System Plan (FSP). The proposal now pending in the House, and which your committee is now considering, would appropriate \$404.1 million for fiscal year 1976, \$302 million for the transition quarter, and \$1.4 billion for fiscal year 1977. The Department of Transportation and the administration strongly support this proposal. The appropriation is necessary if the conveyances to ConRail and its commencement of operations are to be smooth and orderly.

As your committee no doubt is aware, the Rail Revitalization and Regulatory Reform Act of 1976, title VI of which authorizes \$2.1 billion for implementation of the FSP, was adopted by both Houses of the Congress yesterday. Under title VI of the act, conveyance could take place as early as March 31, 1976, though that date could be put off as much as an additional month, in the discretion of the USRA. The administration is particularly anxious that the appropriations process be expedited and an appropriations bill signed before March 11, when USRA must deliver a certified copy of the FSP to the special court. As a practical matter, that date of March 11 could make other relevant dates fall on a Sunday and it may be that S. 2718

will be modified to have March 12 be the operative date for the submission to the special court. That is the subject of resolutions that are pending in both houses.

Senator BAYH. I hope that is the most difficult question yet to be resolved.

[Laughter.]

Mr. BARNUM. I agree with you. We are, therefore, pleased to note your committee's farsighted action in calling these hearings so soon after the opening of the second session and starting the process at this time.

#### NECESSITY OF EARLY APPROPRIATION

The Final System Plan recommends a total Government investment in Conrail of \$2.1 billion, projected to be spread out over 5 years. It is vital, however, that an appropriation that would make the full \$2.1 billion available to USRA by the end of fiscal year 1977 be passed as soon as possible. An appropriation of the total authorized funding over the next 2 years would give ConRail management assurance of the full commitment of the Government to the success of ConRail. A similar message of assurance would go to the private capital markets, thus helping ConRail obtain equipment financing in those markets as early as possible, financing that might be discouraged if the Government's commitment were doubted. Furthermore, continued viability of ConRail's funding source is assured, its management can better concentrate on business plans for improved control techniques, increased equipment utilization, and consolidation of operations which are needed to create an efficient railroad. Long-range planning will be facilitated if ConRail's management knows that USRA will have access to the full investment fund early in ConRail's life. In addition, with passage of this appropriation, USRA will have the flexibility to accelerate its investment program if ConRail demonstrates, for example, that by taking advantage of conditions in supply markets, it can reduce the overall cost of its rehabilitation program through a stepped up investment schedule.

Let me emphasize the importance of passage of this appropriation request before March 11, 1976, the presently scheduled certification day. Aside from inconveniences such as the inevitable arguments from the estates that the conveyance is somehow defective if all the funds projected as necessary in the FSP are not in place by conveyance day, which under the legislation just passed would be March 31, 1976, a delay in the appropriations beyond March 11 poses real problems. Such delay would present legal ambiguities as the USRA's power to certify to the special court that ConRail's securities package has a value that is the fair and equitable equivalent of the value of the rail properties which the estates will be exchanging. Of course, if the certification is not made, the special court could not order the transfer of the properties to ConRail on March 31, 1976, as presently scheduled. This would plainly be a chaotic, if not disastrous, result. It is extremely important, therefore, that an appropriation for USRA be passed before March 11 to avoid this needless ambiguity and confusion. In addition to the simple interest in orderly conveyance, ConRail will need money from the very first day to meet payrolls, re-

quirements of working capital, and all other day-to-day expenses of the Nation's biggest railroad. If USRA does not have funds appropriated to it for the purchase of ConRail securities, interim financing arrangements, probably in the form of loans, will have to be substituted. Money for such a purpose is very short. Moreover, such a loan will needlessly complicate ConRail's financial picture and necessitate refinancing later when the USRA appropriation is finally made.

In addition, shippers, material suppliers, labor, and connecting carriers will be understandably nervous about their position if ConRail's sources of financing are up in the air. ConRail will have a multitude of startup problems, and we should not add to them by undercutting ConRail's credibility with its creditors in its critical early weeks and months. It could end up saddling ConRail, at the start at least, with onerous security arrangements as everyday creditors scramble to protect themselves. Beyond this, there are serious legal questions concerning ConRail's ability to make contracts in preparation for conveyance with suppliers in the time period before March 31 if ConRail does not have a legally authorized source of funds. Suppliers might successfully claim that until USRA has its appropriation for investment, ConRail cannot make a legally binding contract involving payment of money.

Thus, it is important for long-range planning and flexibility to pass on appropriations that all of the Federal investment funds be committed at an early date, and it is just as important that this appropriation be passed and signed into law before March 11 so that the transition to ConRail's operation is as smooth and uncomplicated as possible. This concludes my prepared remarks, Mr. Chairman. At the conclusion of the other prepared statements, I will be glad to respond to any questions you or other members of the committee may have. Thank you for the opportunity to make this statement.

Senator BAYH. I understand that you all have statements. Why do you not proceed. Mr. Secretary, you can be the ringmaster to determine what order and then we will develop a dialog, if we might.

Mr. BARNUM. I think the order which you gave us at the outset will be agreeable to all of us here, sir.

## U.S. RAILWAY ASSOCIATION

### STATEMENT OF ARTHUR D. LEWIS, CHAIRMAN OF THE BOARD

#### BUDGET REQUEST

Mr. LEWIS. Again, Mr. Chairman, I want you to know we appreciate the opportunity to be here for this purpose.

I have submitted a 12-page statement for the record and Secretary Barnum has made a complete statement of most of the issues involved and I do not think I need to repeat most of the things I said in here.

I would like to address myself very briefly, however, to our own budget problem.

Our formal budget requests for administrative expenses include \$4.1 million for the remainder of the current fiscal year and \$2 million for the transition quarter. We now would like to have those two amounts combined into one appropriation of \$6.1 million to remain available until expended. This will give us the additional flexibility that is essential in view of our rapidly changing administrative expense requirements. We are at this point beginning to run out of funds and it is necessary that action be taken on this matter.

I would like to reiterate our belief, in spite of the comments and criticisms that have been directed to the final system plan, that ConRail can be profitable and will become economically self-sufficient and we believe it will pay dividends on the required Government financing and ultimately repay that financing fully.

We also believe ConRail earnings will be sufficient to create value in the securities of ConRail sufficient to compensate the estates adequately for the value of the rail properties continued in rail service by ConRail.

There are many things essential to ConRail's viability and I would like to endorse Secretary Barnum's statements as to the essential nature of the Federal financial assistance and the extent to which that should be funded for the full amount of \$2.1 billion.

We have estimated a figure of \$1,850 million as being needed for the financing of ConRail, but recognizing that economic forecasting this far out is a hazardous business, we believe it is absolutely essential that some margin of safety or contingency funding be provided so that chance variation that occurs in normal business activities will not result in depriving the company of the ability to be economically self-sustaining, and early action on that, as the Secretary said, is important from the standpoint of our certification to the special court.

Also, the margin of safety is a matter that the special court itself will have to deal with. We understand that there is a problem at issue today as to whether the Congress will be able to give its full commitment to the \$250 million at this time. I would like to reiterate that we, of course, will do the best we can with whatever resources you give us. If in the end a decision is made for budgetary reasons that

the full \$250 million in contingency funding for ConRail cannot be provided at this moment, we would strongly urge the subcommittee and its parent committee to make as strong as possible a commitment to consider and act favorably upon the balance of the \$250 million portion of the request in the second supplemental appropriation bill which Congress will probably be considering later this spring.

A statement of that sort is an essential thing if the full contingency fund of \$250 million is not provided for now.

Senator BAYH. Mr. Lewis, the primary reason for this hearing today and for an urgent supplemental appropriation bill is to get the funds to the USRA in order to enable you to purchase the \$1 billion in ConRail preferred stock and \$841 million in debentures that will get ConRail moving. Since the budget indicates that only \$400 million of this amount is actually planned for use in fiscal 1976, why is it necessary to fund the outyears at this time?

Mr. LEWIS. The purchase by the association of ConRail debentures and series A preferred stock up to a possible maximum of \$2.1 billion is an essential condition to an income-based reorganization. This government investment is needed to create a flow of earnings and cash required to provide significant values to the ConRail series B preferred and common stock to be issued to the estates and other transferees.

Any necessity for future appropriations to satisfy this condition could cause the special court to view the prospects of an income-based reorganization with real doubt. The normal uncertainties inherent in the annual appropriations process in themselves pose a serious problem. In addition, the special court might perceive of the need for annual appropriations in the future as a source of continuing congressional control incompatible with ConRail's private sector profit-oriented status.

There is a critical need to assure to the special court the firm availability of the necessary government funding. Preferably, by far, this availability should be assured in advance of the association's certification to the special court of the fairness and equity of the entire exchange of securities and other benefits for the rail properties transferred to ConRail.

Senator BAYH. The Final System Plan recommended substantially lower commitments for the light density line subsidies than have finally been included in the bill. I believe the program now calls for 100-percent subsidy for 1 year, then 90 percent, then 80 percent, then 2 years at 70 percent. What effect, if any, does this change have on the future of ConRail? Do you think the program, as it is structured, will help improve the efficiency of existing rail services or will it encourage the continuation of duplicate and unnecessary service?

Mr. LEWIS. The subsidy program contained in the rail bill provides ConRail with the difference between the revenues attributable to any individual branch line and the avoidable cost of servicing that line—RSPO has used the short-term prospective of setting the avoidable cost standards for the region—plus a management fee. We believe that this represents a minimally acceptable level of compensation for the provision of the service by ConRail. In addition, the subsidy standards to be used to determine the level of subsidy in the national pro-

gram will be determined from the long-term cost perspective. This should have the result of more equitably compensating the railroads for the provision of service. What this demonstrates is that more important than the scope or matching formula of the subsidy program are the cost standards under which the subsidies are paid.

The critical fact that must be determined by those who make public policy is the extent to which the subsidy of otherwise uneconomic branch lines is in the public interest. For instance, the subsidy program in the Northeast/Midwest region was created, according to legislative history, to allow the continuation of uneconomic but essential service.

If railroads are reasonably compensated for the provision of subsidized service, the efficiency of existing rail services should not be impacted. If the standards applied when determining whether or not a line should be subsidized are reasonable, the continuation of duplicative and unnecessary service will be minimized.

Senator BAYH. What is the current situation with the profitable railroads who are supposed to take over various segments of this system? Are they still intending to do so?

Mr. LEWIS. All of the solvent railroads who indicated their desire to acquire portions of the bankrupt railroads must indicate within 7 days after the enactment of the new legislation whether they will go through with the acquisitions by submitting acceptance of the association's offers in writing. The solvent railroads cannot accept these offerings unless they have signed agreements with the various labor unions under section 508 of the act. Most of the smaller carriers such as D.T. & I., P. & L.E. and F.T. & W. have already signed these agreements. The D. & H. has signed most of theirs. The carriers making the major acquisitions; that is, Chessie and Southern, have signed many of their agreements but several key negotiations are still in progress. We are optimistic that these matters will be resolved and that all of the major acquisitions will be made by the solvent carriers.

Senator BAYH. Do you feel that it is important to fund the commuter losses and passenger losses at this time, or could ConRail wait for those payments?

Mr. LEWIS. ConRail cannot wait for payments owed by Amtrak and the commuter authorities. The working capital requirements of ConRail in the early months are going to be extremely heavy. As we get closer to the conveyance date, it becomes more and more clear that ConRail will have wage payments and material payments that will far exceed its cash revenues in the first few weeks. It would be quite risky to increase these already heavy demands by delaying payments to ConRail from significant creditors such as those involved here. In addition, to the extent that ConRail is forced to increase its short-term borrowing above our FSP projections, there will be a greater demand for USRA to purchase securities and for ConRail to incur interest charges.

Senator BAYH. Do you still feel that the financial projections contained in the Final System Plan will hold up given the assumed levels of Federal assistance?

Mr. LEWIS. Nothing that has occurred in the past 6 months has caused us to question the accuracy of our FSP forecasts. In fact, the general level of economic activity and earnings in the rail industry

over the past 6 months are pretty much on the level assumed in our predictions.

Senator BAYH. Concerning the \$6.1 million request for USRA's administrative expenses, can you summarize the responsibilities that USRA faces after conveyance? I believe the act authorizes substantially more than the \$6.1 million; is that correct? When will the balance be needed?

Mr. LEWIS. Under existing legislation, the Association will have to take actions necessary in the postconveyance period to assure compliance with FSP and Special Court mandates; for example, monitoring the conveyance of assets, further negotiating as required, and updating of valuation data based on actual transfer of assets. The Association will have to defend itself in a variety of anticipated suits, principally based on claims that the rail act was an exercise of the eminent domain power rather than a negotiation process.

The new legislation will result in a number of assignments to USRA. A major role, of course, will be to make determinations concerning the purchase of ConRail securities. USRA is authorized to purchase up to \$1 billion of CRC debentures and up to \$1.1 billion of CRC Series A Preferred Stock to provide for rail rehabilitation, equipment acquisition, working capital, or debt refinancing. Such investments are subject to findings of the Finance Committee as reviewed by Congress.

In addition, USRA will submit, within 150 days after each fiscal year end, a report to Congress detailing CRC performance affecting the quality of rail services and the security of Federal funds.

The act has a special provision for USRA to make loans for payment of certain obligations of the bankrupt estates. USRA may loan up to \$230 million to transferees to meet existing or prospective obligations of the bankrupt railroads if USRA determines such loans are necessary to avoid disruptions in ordinary business relationships. This will require USRA to monitor the payment of many thousands of claims over a year or so to make sure that these loan funds are used only for the limited purpose prescribed in the act.

The new act contains authority for supplemental transactions for restructuring rail service in the region. USRA or DOT may propose, within 6 years of conveyance, that CRC (a) acquire additional properties, (b) convey properties to other carriers, or (c) enter into joint use agreements. USRA must analyze such proposals to determine, and to certify to the special court, whether the goals of the act, the FSP and the public interest would be served and whether the proposals are fair and equitable.

Finally, USRA may consult on the study which DOT will conduct pursuant to the new legislation covering suggested alternate uses of rail rights-of-way on which service has or is likely to be discontinued.

The new legislation increases our administrative expense limitation by \$14 million over the current \$40 million level. We anticipate that funds for the period between March 1 and September 30, 1976, will exceed our supplemental request by at least \$1 million and that our 1977 estimate of \$3 million in the President's budget will also have to be increased substantially.

Senator BAYH. Explain for us the procedures that will take place if the estates and stockholders do not agree that the securities they

have received from ConRail equal the value of the property ConRail has taken from them.

Mr. LEWIS. The procedures for the determinations of the fairness and equity of the transfer of rail properties to ConRail in exchange for its securities, the certificates of value and other benefits under the act are set forth in section 303(c) of the Regional Rail Reorganization Act of 1973, as amended in part by various provisions of title VI of the Railroad Revitalization and Regulatory Reform Act of 1976.

The law confers exclusive jurisdiction on the special court established under the 1973 act to decide whether these transfers of rail properties to ConRail and the conveyance of other rail properties to profitable railroads are "fair and equitable to the estate of each railroad in reorganization in accordance with the standard of fairness and equity applicable to a plan of reorganization under section 77 and whether the transactions are more or less fair and equitable than is required as a constitutional minimum." This litigation involves the transfer and conveyance of properties from some 86 separate transferor entities, each of which is likely to assert that the transaction is in fact less than fair and equitable.

It might be noted that the 1976 act amendments also provide for consideration by the special court of any compensable unconstitutional erosion occurring during the bankruptcy of the railroad in reorganization. The 1976 act also provides for the issuance by the association of certificates of value to each of the transferor entities under which cash payment is guaranteed by the United States of America up to the amount of the net liquidation value of the rail properties transferred and conveyed by each respective transferor, as such net liquidation value is determined by the special court. The amount of the values so guaranteed will be reduced by various other payments received by each transferor in connection with these transactions and by the value of the series B and common stock received by each transferor. The guaranteed values will also reflect the special court's consideration of the other benefits conferred on the transferors by virtue of the 1973 act and also the amount of compensable unconstitutional interim erosion occurring during the period of bankruptcy.

It is anticipated that the litigation before the special court will require several years before a final decision is rendered in the case of each transferor. It may be noted that these transactions involve the largest reorganization and the largest and most complex transfer of business properties ever to have occurred in the United States.

An appeal will lie from the special court decisions directly to the U.S. Supreme Court.

Should the special court determine that a constitutional minimum consideration exceeds the adjusted net liquidation values guaranteed by the certificates of value, a fifth amendment taking claim could be asserted against the United States of America in the Court of Claims for such shortfall.

As I have noted, the 1973 act, as amended, also provides for similar determinations by the special court in connection with the conveyance of properties to the so-called profitable railroads, as provided in the Final System Plan. The compensation paid by the profitable railroads will for the most part be in cash at the net liquidation values determined by U.S. Railway Association in accordance with the 1973 act.

To the extent that such compensation falls short of the constitutional minimum requirement determined by the special court, the 1973 law, as amended by the 1976 act, provides that the United States of America will bear the deficiency judgment entered against any such profitable railroads. The same obligation of the United States of America to assume such deficiency judgments exists with regard to rail properties to be transferred ultimately to Amtrak and various State and local commuter authorities and other designated transferees.

Senator BAYH. Will ConRail still go into operation on conveyance day even though there might be court cases going on at the same time to settle the question of what the values are?

Mr. LEWIS. Actually the so-called valuation litigation will not begin until after conveyance date. One important, and indeed essential, aspect of the amended 1973 act is the provision for the conveyance of properties under the Final System Plan in advance of any judicial determination of the fairness and equity of the exchanges.

Senator BAYH. Do you still feel that the net liquidation values plus accrued interest approach taken in the FSP will hold up as being the proper value for the assets?

Mr. LEWIS. We have not changed our views regarding the use of net liquidation values as the proper measure of physical asset valuation in connection with the transfers and conveyances under the 1973 act. As stated in the Final System Plan, we believe that the fundamental measure of value is reflected in the earnings based values of the series B and common stock of ConRail to be issued to the various transferors. However, we believe that net liquidation value remains the most realistic economic measure of what could be realized by the transferors as an alternative to reorganization under the 1973 act. We continue to believe that the *New Haven Inclusion* case, 399 U.S. 392 (1970) provides important judicial support for this approach to valuation under the 1973 act. I also note that Congress in the 1976 act has expressed its own belief in the propriety of net liquidation value through its determination that the guaranteed values under the association's certificates of value should be fixed at net liquidation values found by the special court.

I should also observe that there is no precise scientific formula by which to arrive at the net liquidation value of particular rail properties. That determination, particularly in connection with transactions as complex as those occurring under the 1973 act, involves a large number of assumptions and judgments about which there may be good faith differences. I believe that the association's methodology was essentially sound, but I also recognize that the special court, in making its own determinations of net liquidation value, may not necessarily agree in every case with particular assumptions or techniques used by the association. The need for a final resolution of such technical questions is an inherent part of every valuation proceeding.

Senator BAYH. Is there any way that this issue can be settled outside of court and thereby save everyone substantial costs and time in reaching a final judgment on it?

Mr. LEWIS. At the moment, the parties seem far apart in their views on the proper valuation of the rail properties to be transferred and

conveyed under the act. Because of the large number of transferors involved, and the large number of possibly conflicting interests in each estate of the railroads in reorganization, the success of any settlement effort seems difficult. It is conceivable that the special court may provide legal principles early in the litigation which will serve to narrow the range of differences under the various valuation theories which are now being asserted. This could prove helpful to possible settlements. Any settlement by the major transferors would require approval of their respective reorganization courts. I cannot be too optimistic about the likelihood of settlement in the near future.

Senator BAYH. The Federal rail reorganization effort calls for considerable rehabilitation of existing facilities. Nonetheless, our efforts to create an efficient rail system should take into account recent technological developments. For example, it is possible that intermodal truck-rail freight systems may obviate the need for certain classification yards and light density lines. Please explain the extent to which the FSP not only takes into account, but actually encourages the construction of an up-to-date rail system, rather than the reconstruction of one that is inefficiently outmoded.

Mr. LEWIS. The USRA Final System Plan, and especially the supplemental report issued in September, 1975, outlines the recommended ConRail rehabilitation strategy. The 10-year first priority program provides for complete rehabilitation of all lines proposed to carry 20 million gross tons per track annually, or to maintain 60 mph running speeds for intermodal trains, as well as rehabilitation of major classification yards supporting these routes. Total track mileage in this program is 5,339.

Rehabilitation of other lines and yards may be performed by ConRail, as resources become available.

The association's intermodal plan incorporated the principal first priority routes programed for rehabilitation. It was concluded that use of a core rail system, with supplemental highway gathering and distribution services, was the most cost effective approach for handling containerizable freight.

However, the association determined that a considerable proportion of existing intermodal traffic did not generate revenues sufficient to cover the cost of providing such service, and therefore stressed the need for selective sales and marketing programs that emphasized profit rather than volume.

The projected 5-year capital budget anticipates the expenditures of \$26 million for intermodal terminals and facilities, to improve efficiency of operations and facilitate terminal consolidation. A comparable level of expenditures is required for the 1981-85 period, to accommodate projected growth traffic.

In summary, the association recognized the role that an expanded intermodal service could fill in ConRail's full-service marketing strategy. Emphasis in the early years must be placed on integration and consolidation of operations, and improved efficiency and profits; the longer term strategy should focus on the development of the total transportation concept.

ConRail management will have the option of encouraging the development of advanced intermodal systems, as an alternative to the reconstruction of much of the existing rail system. This may permit the rationalization of additional light density trackage and yards. However, the existing core system and major system yards will be required in the foreseeable future, for both intermodal and carload freight services.

PREPARED STATEMENT AND JUSTIFICATION

I would like to place my prepared statement and justification in the record at this point.

Thank you, sir.

[The statement and justification follow:]

## STATEMENT OF ARTHUR D. LEWIS

Mr. Chairman and Members of the Committee:

I appreciate this opportunity to appear before you in support of our budget request which includes \$2.1 billion to provide financing for the Consolidated Rail Corporation (ConRail) and \$6.1 million for Administrative Expenses of the United States Railway Association.

I believe that there is now general agreement on the legislation that will be enacted to implement our Final System Plan for restructuring the bankrupt railroads of the Northeast. This legislation will authorize appropriations of \$2.1 billion for the purchase of \$1 billion of debentures and \$1.1 billion of Series A preferred stock in the Consolidated Rail Corporation (ConRail).

The new legislation will establish March 11th as the time for delivery of a certified copy of the Final System Plan to the Special Court, with a proviso that the Association may extend this date by not more than 30 days. If the President signs the bill by January 31st, we anticipate that certification will take place March 11th and that the conveyance of property to ConRail will take place on March 31st. On that date ConRail will become an operating railroad and it and the other acquiring railroads will take over from the bankrupts the responsibility for continuing rail service.

Let me offer a word or two on our administrative expense budget before I get into the major item of today's agenda. At the end of December, we had obligated \$37.8 million of the \$40 million authorized and appropriated for USRA's administrative expenses. At the end of January we expect to have less than \$800,000 still available for obligation, but this will be exhausted before the end of February. Completion of the Final System Plan along with the supplemental report consumed about \$1.5 million of the \$10 million provided in the 1976 appropriation measure. Under the original timing of the legislation

we would not have needed any of the fiscal year 1976 funds required for that purpose. It is now apparent that litigation costs will be higher than originally expected and in 1976 we expect to spend \$1.5 million more than we originally planned in this area. The preparation of conveyance documents is also costing about \$500,000 more than anticipated. These are the major areas of increase. Of course our original estimate was constrained by a statutory ceiling of \$40 million which would be increased in the new legislation by \$14 million.

Our formal budget request for administrative expenses includes \$4.1 million for the remainder of the current fiscal year and \$2 million for the transition quarter. We now would like these two amounts combined into one appropriation of \$6.1 million to remain available until expended. This will give us additional flexibility that is essential in view of our rapidly changing administrative expense requirements.

We believe that the \$6.1 million which we have requested for the period from March 1st to September 30th is probably short of our needs by about \$1 million. When we requested these supplemental amounts we were not aware of the nature and scope of the responsibilities which would be assigned to the Association in the new legislation nor had we an opportunity to fully assess the amount of support work required as part of our litigation in defense of the plan. Both of these factors will tend to increase our expenses over the next seven months.

Let me return, now, to the major appropriation item on this morning's agenda -- the \$2.1 billion for ConRail.

As you know, we have been engaged, under the mandate of the Regional Rail Reorganization Act of 1973, in restructuring the rail system in the Midwest-Northeast Region. This task has involved certain financial, technical and legal issues for which there simply was no precedent. At the core of the entire process is the requirement to establish a new

operating railroad, the Consolidated Rail Corporation, as a viable, financially self-sufficient, private-sector company.

I have said several times and will repeat today that our North-eastern rail reorganization plan is the most thorough and comprehensive reorganization project ever undertaken in the United States, and we remain confident of the realism of its financial projections.

Before I launch into a more detailed statement of the reasons I believe as I do, I'd like to emphasize one point again -- and that is that the United States Railway Association has not had any specific ax to grind in the development of its planning and conclusions. Our goal has been to do what we could to optimize the profitability of the region's bankrupt rail properties with the resources available. We did not try to force any answers. We would rather have returned to Congress and reported that the job could not be done than to put together something we felt would not work. I am not saying in the inherently uncertain world of economic and financial forecasting, that our conclusions cannot be wrong. I simply want to emphasize that we had no partisan interest in or preconceived notions of the solutions and conclusions we developed.

We have forecast that ConRail will suffer an unavoidable loss -- before income taxes and extraordinary items -- of \$332 million in its first year. But we also expect steady improvement in operating results. We foresee the new company earning a profit -- again, before taxes and extraordinary items -- of about \$36 million in 1979, rising to the neighborhood of \$600 million by 1985. I think it goes without saying that this will include -- indeed, must include -- a steady increase in quality of service.

In setting about our job, it became readily apparent that losses on the bankrupt carriers were coming from several sources other than line haul freight operation. The two largest cash drains came from

certain passenger services and a large number of branch lines with very little traffic. Early on, it became obvious that rail freight services were not so profitable that the carriers could continue to subsidize these losing operations and become economically viable.

To show you the importance of this to earnings, we estimated that in 1973, the combined losses from unprofitable passenger services (both Amtrak and commuter) and branch lines approached \$100 million. If ConRail had been forced to continue these services at that loss rate throughout the 1976-1985 period, its cash requirements would have been \$2.3 billion more than we've indicated in the plan. There is no way ConRail could accept that cash drain and the additional financing costs involved and succeed as a private company. One of the successful things we accomplished was getting Congress, the Administration and the public in general to accept the policy that ConRail should not be forced to cross subsidize unprofitable services out of line haul freight revenues.

With elimination of cross subsidies, we think our forecast of ConRail viability by 1985 as a freight carrier is conservative. The critical ratio of ConRail operating expenses as a percent of revenue is estimated to decline steadily from 92.6 in 1976 to 70.7 in 1985. At that time it will compare quite favorably with the average of 69.7 percent for 10 large rail systems in 1973. This is not an unreasonable expectation in the 10th year -- after the expenditure of \$6 billion on roadway, property and equipment improvements; a new management; consolidation of yards and facilities; and the introduction of a number of important new systems to increase efficiency in yards and elsewhere.

In addition, our plan assumes a substantial but not radical improvement in car utilization through the use of modern management techniques. We think productivity can be increased even with the limitations of present labor agreements. We have projected a substantial

improvement in loadings per car, reflecting the higher capacity of cars being added to the fleet as older cars are retired, and our plan completes many of the original consolidations that were thought to justify the merger of the Pennsylvania and the New York Central but were never implemented due to a lack of cash.

Actually, we think we've been conservative in estimating the net benefits of improvements in operating efficiencies. Of our predicted rise in earnings to \$578 million in 1985, only \$299 million will come from gains in operating efficiencies and changes in the traffic mix and volume. This is a very conservative figure, considering the benefits that can flow from programs I've referred to.

I reiterate and say that ConRail can be profitable and will become economically self-sufficient and that it will pay dividends on the required government investment and ultimately repay it fully. We also believe that ConRail's earnings will be sufficient to create values in the securities of ConRail sufficient to compensate the estates adequately for the value of the rail properties continued in rail service by ConRail. As you know, this is vital not merely to the success of ConRail, but to the Federal Government and its taxpaying citizens, as well. For the success of this -- as with any income-based reorganization -- lies in this ability of the reorganized enterprise to realize earnings sufficient to create value in its securities that will be distributed to the creditors of, and other claimants against, the predecessor companies in exchange for the extinction of their existing claims to the rail-related assets thus continued in service.

As I noted a moment ago, it is important to the Federal Government and to its taxpaying citizens for ConRail to succeed in this fashion for, if it does, then arguments to the effect that the entire process is a "taking" rather than a reorganization will be laid to rest and there will be no need to have recourse to those Certificates of Value,

authorized by the pending legislation, which underpin the case for fairness and equity in the process until ConRail has had a chance to prove itself.

Now, the several things that I have mentioned -- such as the restructured ConRail system, new management, a rehabilitated plant, new equipment, and the like -- are all essential to the achievement of this income-based reorganization.

But, so, too, is the availability of the Federal financial assistance as identified in the Final System Plan.

This is so because, as we have often stated, ConRail cannot be turned around to profitability unless it has help in its early years to begin the massive job of reorganization that must be done, and to provide it with working capital until such time as that rehabilitation work begins to show its anticipated benefits. Particularly given the history of predecessor rail operations, this money is not available from the private sector.

We spent a great deal of time and effort, and called upon the most qualified outside experts we could find, trying to determine the extent of Federal help thus required. In the end, we decided that the bare minimum needed in financial assistance from the Federal Government was \$1.841 billion -- a figure that was "rounded off" in the Final System Plan to \$1.85 billion, as you know. But this minimum figure, which we believe to be as accurate as one can reasonably make it, and the financial projections upon which it is based are a quantification of all the operational changes and improvements, and rehabilitation and capital programs proposed in the Final System Plan. This quantification was done on 1973 dollars and time-phased by year, based upon our estimate of when the actions would take place. The 1973 dollar forecast was then "inflated" and adjusted for our estimate of what rate relief from cost inflation would also be realized.

However, economic forecasting this far out is a hazardous business, at best, and even more so when attempting to apply it to a regulated industry such as railroading. We tried to be as precise as possible, but we knew that all of the assumptions we had made would not come to pass exactly as forecast. Some of the unfavorable variances might well be cancelled out by favorable variances, to be sure, but we felt it unwise to anticipate that all variances would be in equal balance. We also felt it would be an unsound business decision to provide ConRail with merely the minimum capital required if a major unfavorable variance from the forecasts could cause its early bankruptcy.

Accordingly, as set forth in the Final System Plan, we recommended a "margin-of-safety", or contingency funding, for ConRail in the amount of \$250 million which, added on top of the \$1.85 billion, brought the total for Federal assistance to ConRail to the requested \$2.1 billion.

When the Senate Commerce Committee reported its original version of implementing legislation, it felt this figure should be \$3 billion. The House Committee accepted our \$2.1 billion recommendation and, in conference as in the pending modified bill, this is the amount that is authorized, with out any differentiation between the \$1.85 million and the \$250 million. This figure of \$2.1 billion is also the Administration's supplemental budget request as now before you.

Early action on that request is essential, since we must certify to the Special Court on March 11th, as noted, that the exchange of securities and other benefits in consideration for the rail properties taken into ConRail is "fair and equitable." In order to be able to do this, we must also certify that ConRail has sufficient capital available to it to achieve that income-based reorganization over a period of time, and that its securities will have reasonable value.

The question of what is sufficient "margin-of-safety" in capitalization in this context will ultimately become one for judicial interpre-

tation. Certainly, some contingency funding would appear to be essential, and we believe the Special Court will so find. We also believe that the recommended \$250 million is about the minimum amount of contingency funding needed to provide a reasonable assurance of ConRail's ability to attain financial self-sustainability over time.

As you are probably aware, the Transportation Subcommittee of the House Committee on Appropriation has at least tentatively decided that \$75 million in contingency funding should be sufficient for the time being when coupled with a Committee expression of willingness to consider the need for more at a later date.

We are keenly aware of the fiscal problems of the day, even as we are appreciative of this Subcommittee's desire to provide what it may deem to be the adequate funds to cover certain commuter losses, and losses from services ConRail may provide to Amtrak, as well as to fund the possible acquisition by Amtrak of the so-called "Northeast Corridor" and to begin the rehabilitation of that important passenger route.

We have no position to take on the latter two issues, but we strongly hope that funds will be provided, from whatever source, to shield ConRail from the continuing burden of losses, as identified in the Final System Plan, which have flowed from passenger and commuter services provided by its predecessor companies.

In short, the need to protect ConRail's projected operating revenues -- which projections rest, as you know, on an assumption that the old practice of "cross-subsidization" is to be ended -- is probably of equal importance to the achievement of an income-based reorganization as is ConRail's sufficient capitalization.

We will, of course, do the best we can with whatever is the final decision of the Committee, and the Congress, in these regards. But if, in the end, the decision is made that, for budgetary reasons, the full \$250 million in contingency funding for ConRail cannot be provided at

the moment, we would strongly urge the Subcommittee, and its parent Committee, to make as strong as possible a commitment to consider and act favorably upon the balance of the \$250 million portion of the request in the Second Supplemental Appropriation bill which Congress will probably be considering later this Spring. A statement of that sort is an essential thing if the full contingency fund of \$250.0 million is not provided for now.

The Final System Plan contains a complete set of financial projections for ConRail. These projections are on a calendar year basis, and our staff has converted the projections to a fiscal year basis. The appropriation request seeks \$400 million for the fiscal year ending next June 30th, \$300 million for the transitional quarter, and \$1.4 billion for fiscal year 1977. These amounts provide a "margin-of-safety" in the early months of ConRail's operation. Our financial projections also show that in the initial years of ConRail operation, Federal funding would be applied primarily against operating cash deficits. The rehabilitation program and the procurement of equipment require only nominal cash prior to October 1, 1976. Initial working capital requirements are expected to be quite heavy because of continuing operating deficits in the transitional period. After meeting initial working capital needs, Federal funds will be used during the first five years of ConRail operations to fund rehabilitation and other capital projects and equipment financing.

The total cost of restructuring and rehabilitating the bankrupt railroads of the Region is considerably more than the \$2.1 billion we are requesting for the financing of ConRail. We are projecting a capital improvement program of over \$6 billion, with over one billion dollars from the private sector and almost three billion dollars from internally generated funds, with the balance from the Federal Government.

In the Forward to the Final System Plan, I stated, "ConRail can succeed. The Region can have an adequate rail system. The Nation can have the benefit of a rail industry which, operating in the private sector, serves its full and efficient role in the national transportation system." Today, after more than four months of rigorous public review and Congressional consideration, I am more than ever firmly convinced of the validity of these statements.

I would be happy to respond to any questions the Committee may have on these matters.

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### Justification

#### ADMINISTRATIVE EXPENSES

For an additional amount for necessary administrative expenses to enable the United States Railway Association to carry out its functions under the Regional Rail Reorganization Act of 1973, \$4,100,000, to remain available until expended.

For administrative expenses for the period July 1, 1976 through September 30, 1976, \$2,000,000, to remain available until expended.

Additional authorizing legislation to be proposed.

## Program and Financing (in thousands of dollars)

Identification code	1976	1976	1976	1970 estimate
	Presently Available	Revised Estimate	Proposed Supplemental	
<u>Program by Activities:</u>				
Administrative expenses (costs - obligations) . . . . .	10,564	14,664	4,100	2,000
<u>Financing:</u>				
Budget authority (proposed supplemental appropriation) . . . . .	10,564	14,664	4,100	2,000
<u>Relation of obligations to outlays:</u>				
Obligations incurred, net . . . . .	10,564	14,664	4,100	2,000
Obligated balance, start of period . . . . .	5,463	5,463	--	200
Obligated balance, end of period . . . . .	- 400	- 600	- 200	- 100
Outlays . . . . .	15,627	19,527	3,900	2,100

## OBJECT CLASSIFICATION (in thousands of dollars)

Identification code	1976	1976	1976	1976
	Presently Available	Revised Estimate	Proposed Supplemental	estimate
<b>Personnel compensation:</b>				
11.5 Other personnel compensation.....	145	145		10
11.8 Special personal services payments.....	5,062	5,062		600
<b>Total personnel compensation.....</b>	<b>5,207</b>	<b>5,207</b>		<b>610</b>
<b>Personnel benefits:</b>				
12.1 Civilian.....	900	900		118
21.0 Travel and transportation of persons.....	285	285		50
22.0 Transportation of things.....	124	124		3
23.0 Rent, communications, and utilities.....	670	670		165
24.0 Printing and reproduction.....	250	250		40
25.0 Other services.....	2,913	7,013	4,100	969
26.0 Supplies and materials.....	125	125		25
31.0 Equipment.....	90	90		20
.....				
.....				
99.0 <b>Total obligations.....</b>	<b>10,564</b>	<b>14,664</b>	<b>4,100</b>	<b>2,000</b>

BUDGET SUBMISSION FOR  
ADMINISTRATIVE EXPENSES

General Statement

I. Introduction

On July 26 the United States Railway Association transmitted to Congress its Final System Plan for restructuring and rehabilitating the bankrupt railroads of the Northeast and Midwest. Legislation has now been introduced which would implement the major features of the Final System Plan. The Congress is in the process of conducting extensive hearings which will determine whether or not the Final System Plan will ultimately be accepted or rejected.

The Association is participating intensively in assisting the Congress in its review of the Final System Plan. This involves not only testimony before the substantive committees but also before the House Appropriation's Subcommittee on Transportation. We have been provided with extensive lists of questions by both Appropriation Committees.

Barring rejection by the Congress, the plan will become effective not later than November 9th. The solvent railroads then have 30 days in which to decide whether or not they will participate in acquiring portions of the bankrupt estates. The deadline for agreements on sale of properties to the solvent lines will be early in January. Early in February, USRA will deliver certified copies of the Final System Plan to the Special Court and the bankruptcy Courts. At this time, USRA will have to certify as to the transfers and conveyance of properties and the terms of value of the securities to be used for Compensation. Ten days later ConRail will deposit its securities and the solvents will deposit their compensation with the Courts. Again assuming that the schedule goes according to existing legislation, at the end of February, the Special Courts will order conveyance of the bankrupt properties and ConRail will actually start-up.

Our workload for the near term future is deeply involved in the preparation of testimony for the Congress, in the development of a conveyance package, and in the preparation of background materials for the litigation that is expected to follow upon conveyance.

Litigation is expected to continue for at least the remainder of calendar year 1976. During that period USRA will be actively participating in review of funding requirements of ConRail and in making funds available as the needs are determined. The latter function, of course, will continue for five or more years.

II BUDGET REQUIREMENTS

A. REQUIREMENTS BY FISCAL YEAR (\$ in thousands)

Activity	FY 1974 Obligations	FY 1975 Obligations	FY 1976 Estimate		Transitor Quarter Estimate
			Available	Additional Requested	
				Total	
Executive Direction	\$ 190	\$ 1,327	\$ 682	\$ 682	\$ 139
General Counsel	180	1,599	1,470	1,285	850
Operations & Facilities Planning	946	10,883	1,509	1,953	169
Financial Planning	38	5,625	2,581	862	281
Strategic Planning	365	2,515	868		53
Public & Governmental Affairs	59	691	502		30
Congressional Affairs	8	161	218		26
Administrative Support	<u>1,165</u>	<u>3,684</u>	<u>2,734</u>		<u>452</u>
TOTAL	\$2,951	\$26,485	\$10,564	\$4,100	\$14,664
				<u>2,734</u>	<u>\$2,000</u>

II. BUDGET REQUIREMENTS (Cont'd)  
 B. Requirements by Object of Expense  
 (\$ in Thousands)

	FY 1975 Actual			FY 1976 Estimate			Transition Quarter Estimate					
	Personnel Related Costs	Contracts	Other Total	Personnel Related Costs	Contracts	Other Total	Personnel Related Costs	Contracts	Other Total			
Executive Direction	\$550	\$777	\$1,327	\$582	\$100	\$682	\$139		\$139			
General Counsel	284	1,315	1,599	405	2,350	2,755	100	750	850			
Operations & Fac. Plang.	2,062	8,821	10,883	1,509	1,953	3,462	100	69	169			
Financial Planning	1,016	4,609	5,625	1,318	2,125	3,443	181	100	281			
Strategic Planning	1,060	1,455	2,515	684	184	868	53		53			
Public & Govt'l Affairs	631	60	691	487	15	502	30		30			
Congressional Affairs	161		161	218		218	26		26			
Administrative Support	1,463	190	2,031	1,314	100	1,320	152	300	452			
TOTAL	\$7,227	\$17,227	\$2,031	\$26,485	\$6,517	\$6,827	\$1,320	\$14,664	\$781	\$919	\$300	\$2,000

### III. Justification

Both the House and the Senate have approved USRA's \$10 million budget request for the current fiscal year. This completes the Appropriations authorized under existing legislation. Unfortunately, it now appears that the Association will not be able to get through the current fiscal year without a supplemental appropriation.

During the past month, we have conducted an intensive review of the requirements that our officials now see growing out of current congressional review of the Final System Plan, the preparation of an adequate conveyance package, and preparation and conduct of the litigation that is expected to follow conveyance.

A number of factors have combined to make it necessary for USRA to seek additional funds for the current fiscal year. In the first instance, the cost of preparing the Final System Plan exceeded our estimates by several millions of dollars. This came about because of increases in data processing costs and the fact that we were still completing the Final System Plan well into August of this year. In addition, we now find that the costs of legal services in connection with both conveyance and litigation are now substantially more than estimated a year ago.

The entire supplemental of \$4.1 million for Fiscal Year 1976 will be used for contractual services. Contractual Services were estimated at \$2.5 million in our original budget estimate and are now estimated at \$6,827,000. Part of the increase of \$4,327,000 has been made up by reprogramming, the remainder requires a supplemental appropriation. The following table indicates by office and function the amounts involved.

(In thousands)

<u>General Counsel:</u>	(\$1,285)
Conveyance	425
Litigation	860
<u>Operations &amp; Facilities Planning:</u>	(1,953)
Conveyance	180
Litigation	395
Final System Plan	1,378
<u>Financial Planning:</u>	(862)
Conveyance	225
Litigation	237
Valuation	250
Final System Plan	150
<u>SUMMARY:</u>	
Conveyance	830
Litigation	1,492
Valuation	250
Final System Plan	1,528
Total	<u>\$4,100</u>

As indicated, there are four areas where contractual requirements have had to be increased: litigation, conveyance, asset valuation, and completion of the Final System Plan. Each of these is discussed briefly in the following paragraphs.

Litigation: There are five major problem areas that we must be prepared to contend as part of the litigation expected before the Special Court. In each case an estimate of the amount of professional time required from outside counsel has been made and translated into a contractual requirement. The key areas for litigation are:

1. Defense of ConRail financial projections and the valuation of ConRail securities.....\$375,000
2. Defense of net liquidation values and legal standards for use of net liquidation as opposed to earnings-based, or other possible valuation methods.....\$450,000
3. Defense of the principles used to identify and quantify "other benefits" arising under the Act.....\$150,000
4. Defense of the fairness and equity of the Final System Plan as a reorganization process that is consistent with constitutional doctrines.....\$400,000
5. Determination of the Special Courts jurisdiction, powers, and procedures.....\$350,000

The total amount projected for litigation in Fiscal Year 1976 is \$1,725,000. This compares with an estimate prepared last year of \$865,000, an increase of \$860,000. It should be noted that our estimate of a year ago did not make a distinction between conveyance and litigation problems so that the \$865,000 figure is a somewhat arbitrary breakdown of \$1,065,000, the total estimate for contractual services in the General Counsel's office that was included in our original Fiscal Year 1976 budget estimate.

Support of the General Counsel's litigation efforts will be provided by all of the program offices. Additional contractual services are projected for Operations Planning and Financial Planning. In the case of Operations Planning no contractual services were forecast for the current fiscal year. We now foresee a definite need for backup information on operating costs and revenues to support the litigation in an amount totalling \$395,000. Backup information from Financial Planning will involve securities valuation and allocation in support of the litigation of these matters and is estimated to cost \$237,000. No funds for this type of support were included in our budget of last year. The total of additional amounts for litigation including General Counsel, Operations Planning and Financial Planning is \$1,492,000.

Conveyance: The most critical aspect of the conveyance process is the work needed to transfer the real estate that is involved. The three major activities required for this are (1) a definitive, dependable geographic description; (2) a conveyance document which

will identify for the Special Court how the properties will be distributed from the 90 odd transferors to the 30 transferees; and (3) recordation of the changes in property interest ownership in local county or township property record offices.

The basic descriptions are contained in some 25,000 documents--valuation, section, or atlas maps--which the railroads have in their files. These must be brought up to date and checked for accuracy. There are some 5,000 boundaries that must be specifically site checked because a division must be made between property remaining with the estate and property being transferred or between property that is designated part of a light density line and property being transferred to a carrier. Some properties will be split among several transferees.

There will probably have to be some 200 separate documents describing the property of more than 90 transferors in conveying to each of 30 odd transferees. Separate conveyance documents will have to be prepared for each of the 450 counties in which relevant railroad properties are located.

Additional research is needed to determine exactly what will be required of the Association in connection with the recordation of deeds. It is currently our view that the conveyance documents will prove adequate for the recordation of deeds in the various localities.

While this discussion has focused on real estate, there are also many (but less complex) problems associated with specific identification of equipment, materials and supplies, and administrative properties and assets. The latter group includes offices and furniture, executory contracts and agreements for purchase of services and supplies, accounts receivable and payable, pension plan assets and obligations, licenses and franchises, easements and leases, and many others.

On site inspections plus special analyses of inventory and asset valuation records will be required. Title companies and special counsel will also be required to assist in preparation of the required documents. We are estimating that the additional amounts required for contractual services totals \$830,000 for conveyancing: \$425,000 for the General Counsel, \$180,000 for Operations Planning and \$225,000 for Financial Planning.

Valuation: The costs of contractual services relating to valuation are now \$250,000 more than was budgeted last fall. The increase is needed to provide information for a certification of valuation to the Special Court. This involves additional data processing costs to conform the files with final inventory information and an internal audit of all records and computations prior to certifying them to the Special Court.

Final System Plan: The preparation of the Final System Plan took more time and involved significantly more money for data processing than was originally contemplated. The Final System Plan was actually completed on July 26th about one month later than was forecast when the Preliminary Plan was released. In addition the Final System Plan was followed by a supplement which was not issued until mid-September.

The increased use of data processing and the stretchout of the time schedule resulted in substantially rising costs for contractual

services in Fiscal Year 1976. The largest amounts are in Operations and Facilities Planning. As noted earlier, our original budget included no funds for contractual services in Fiscal Year 1976 for this Office. Now we are estimating additional obligations of \$300,000 to cover the close-out costs of the facilities inventory contracts. This is about 5 percent of the original estimate on these contracts.

Operations and Facilities Planning incurred data processing costs during the first quarter of the current fiscal year of \$300,000 and required \$240,000 for various contractual studies in support of the Final System Plan. Activities in support of the Final System Plan, primarily data processing, will require an additional \$538,000 in the second and third quarters of the fiscal year to assess some of the major criticisms of the Final System Plan.

The additional requirement of \$150,000 in Financial Planning was obligated for data processing in support of the Final System Plan during the first quarter. This included costs associated with completion of ConRail pro forma financial statements and the preparation of sensitivity analyses of the Final System Plan financial forecasts.

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These supplemental funds for the current fiscal year are required because USRA's need for contractual services now exceeds by over \$4 million the estimates made a year ago. However, the obligations for these contractual services will in large part be incurred in the first half of the fiscal year. As a result, the Association will obligate more than \$8 million of its \$10 million Fiscal Year 1976 appropriation by December 31st. Before the end of February, the Association will have exhausted all of the obligating authority to be made available to it in the Department of Transportation and Related Agencies Appropriation Bill, 1976. Therefore, it is imperative that action be taken on our supplemental estimate prior to next February.

When we submitted our budget a year ago, we did not include funds for the transition quarter. The reason for this was that at that time we felt that most of USRA activities that would take place during the transition quarter would be in connection with the financing of ConRail and that these funds could be obtained by borrowing under Section 210 of our Act. We now know that a substantial part of our transition quarter expenses will result from litigation and these are not funds that would normally be financed with Section 210 monies. In addition, our Final System Plan proposes that we provide funds to ConRail through the use of appropriated funds rather than borrowed funds. In light of these facts, USRA must now seek appropriated funds for the transition quarter. Since our Fiscal Year 1976 situation requires us to seek a supplemental appropriation at this time, we are also taking this opportunity to seek administrative expenses for the transition quarter in the amount of \$2 million.

## Federal Funds

General and Special FundsPurchase of Securities

For the acquisition of debentures and Series A preferred stock issued by the Consolidated Rail Corporation as authorized by the Regional Rail Reorganization Act of 1973, as amended, to remain available until expended, \$400,000,000 for fiscal year 1976, \$300,000,000 for the period July 1, 1976, through September 30, 1976, and for fiscal year 1977, \$1,400,000,000.

## Program and Financing (in thousands of dollars)

Identification code	19 75 actual	19 76 estimate	19 TQ estimate	19 77 estimate
<u>Program by Activities</u>				
Purchase of ConRail debentures.....		400,000	200,000	540,000
<u>Financing:</u>				
Unobligated balance available, start of period....	--	--	--	-100,000
Unobligated balance available, end of period....	--	--	100,000	960,000
<u>Budget Authority</u>				
(appropriation)		400,000	300,000	1,400,000
Relation of obligations to outlays:				
Obligations incurred, net.....		400,000	200,000	540,000
Outlays.....		400,000	200,000	540,000

## OBJECT CLASSIFICATION (in thousands of dollars)

Identification code	19 75 actual	19 76 estimate	19 TQ estimate	19 77 estimate
Personnel benefits:				
33.0 Investments and loans.....	--	400,000	200,000	540,000
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99.0 Total obligations.....		400,000	200,000	540,000

## BUDGET SUBMISSION FOR PURCHASE OF CONRAIL SECURITIES

## GENERAL STATEMENT

I. Introduction

In the first volume of the Final System Plan (page 91), USRA proposes that it be granted immediate budget authority (obligational authority) for \$2.1 billion, or the total Federal funding necessary for ConRail. The success of ConRail is largely dependent on a guaranteed source of capital during its first critical years. ConRail chances for becoming financially self-sustaining will be jeopardized without the assurance that its capital needs will be met. If the government does not provide the needed capital and ConRail falters, the eventual cost to the government could be greater than the amount of the government investment recommended in the Final System Plan.

The Association has prepared implementing amendments to the Regional Rail Reorganization Act which would authorize a government investment of \$2.1 billion. This amount would be used to purchase \$1 billion in debentures, plus up to another \$850 million worth of Series A Preferred Stock, for the purposes of meeting ConRail's projected requirement for funds for rehabilitation and capital improvements, and working capital and equipment acquisitions, the costs of which will exceed its projected earnings from operations, plus an additional \$250 million for possible additional purchase of Series A Preferred Stock, which latter item provides a margin of safety to meet potential contingencies over and above the basic \$1.85 billion.

II. Nature of the Investment

USRA proposes that the government should provide assistance to ConRail in the form of \$1 billion in debentures and from \$850 million

to \$1.1 billion in senior preferred stock. The terms for payment of interest or dividends and repayment of principal on these securities is very liberal so that ConRail will not have any cash expense until it has achieved a significant profit level. If sufficient cash is not available, as defined in the terms of the securities, the interest or dividends are to be paid in preferred stock, and the repayment of principal will be delayed until there is cash. These terms will not result in any crippling drain on ConRail's assets. At the same time, USRA proposes various protective provisions in the process by which the investment decisions are made, and in the terms of the securities to insure adequate protection of the government's investment.

Investment in interest or dividend-bearing securities requiring repayment was selected, rather than outright grants because USRA's financial projections offer clear hope that ConRail can survive as a private firm. By proposing investments rather than grants, USRA has tried to minimize any possible windfall to the creditors. If it should become necessary, USRA's proposed amendments allow interest, dividend, or principal to be forgiven in part or completely. Appropriate techniques have been provided to assure protection for the public's investment.

### III. Outlays by Fiscal Year

The Final System Plan contains a complete set of financial statements for ConRail in Chapters 3 and 4. Pro forma balance sheets, income statement, and sources and uses of funds analyses are provided. The projected annual issuance of securities by ConRail to USRA is presented in Table 1 of Chapter 4 (page 92).

The model used to develop these projections generates information on a calendar year basis. In addition the information is normally for the end of the period and in terms of cash flow

does not disclose peaks that occur during a period. USRA financial planning staff have prepared an analysis on a fiscal year basis.

CONRAIL CASH NEEDS

By Government Fiscal Year  
(\$ Millions)

<u>Fiscal Year</u>	<u>Cash Needed</u>	<u>Cumulative</u>
	<u>Operations</u>	<u>Gov't Investment</u>
	<u>Contingencies</u>	
1976 - 3/1/76 through 6/30/76	\$400	\$400
7/1/76 " 9/30/76	\$200	\$600
1977 - 10/1/76 " 9/30/77	\$540	\$1,140
1978 - 10/1/77 " 9/30/78	\$425	\$1,565
1979 - 10/1/78 " 9/30/79	\$370	\$1,935
1980 - 10/1/79 " 9/30/80	\$165	\$2,100

This table attempts to spread the \$250 million included in our proposal as a 'margin of safety'. We cannot be certain, of course, when or whether that amount will be spent. This amount has been included in the event that the nation experiences a slowdown in economic growth or other unforeseen events depress ConRail's revenues or increase its expenses. We have conservatively forecast that a substantial portion of the 'margin-of-safety' \$250 million will be utilized in the early years.

## U.S. RAILWAY ASSOCIATION

### CONSOLIDATED RAIL CORPORATION (CONRAIL)

#### STATEMENT OF EDWARD JORDAN, CHAIRMAN OF CONRAIL

##### STATUS OF ACTIVITIES OF CONRAIL

Senator BAYH. Mr. Jordan.

I might say in passing, we will do the best we can to see that you have the funds necessary to operate. You have done a good job of dealing with a very difficult and complicated issue. Without the necessity of agreeing with everything you have concluded, I think you have a very difficult job.

Mr. JORDAN. I think it might be useful this morning to summarize for you the status of the activation of ConRail that you contemplate in funding and I attempted to do so in my prepared remarks.

As you undoubtedly know, we did experience a 30-day hold or delay in our original timetable, a delay that was beyond our ability to control. While there are certain costs associated with this, compared to what might take place if the delay were longer, these have been held to a minimal level.

I would like now to outline briefly for you what the startup process has involved to date and what remains to be done. Following my remarks I will be happy to answer any questions you may have.

The planning process necessary to bring ConRail into existence began last summer, at which time I was appointed to head the new corporation, staff it for the activation, and set a timetable of events (or actions) keyed to conveyance early this year.

Our early efforts were largely planning exercises—the drawing up of timetables, priorities, staff requirements—scoping out the effort. This was both time-consuming and exacting but it did not require a large staff or entail a great deal of expense. We leased a small Washington transition office last August, staffed it with a half dozen people, contracted for outside contractors and consultants to assist us, and went to work.

By the time the November 9 date passed, at which point the Final System Plan was deemed approved by Congress, we moved in earnest into the more active second stage of the period leading to conveyance day. To meet the extensive requirements placed on ConRail, we needed a considerably larger staff which we have located in additional temporary space in downtown Philadelphia close to our future headquarters. This group, which now numbers about 170 people, is composed mostly of railroad professionals—including many from the northeast railroads—specialists on leaves of absence from their regular employment. Each of these persons has been assigned to one of our special activation teams. Certain of these teams have been supplemented with outside consultants. Each has specific areas of responsibility relating to

conveyance and immediate post-conveyance needs. These include such functions as operations, rehabilitation, sales and marketing, the preparation of contracts with commuter bodies and with States on branch line operations, and the extraordinary, unique problem of cataloging and drawing up of conveyance day papers and documents. I would like to note to you that it has been made clear to these persons that, as members of the activation teams, the nature and level of their permanent ConRail assignment will be determined only as we sort out the entire management structure.

I am pleased to tell you that, to date, we have appointed two experienced rail executives to permanent ConRail positions. Dick Spence, formerly of the Southern Pacific is president and chief operating officer; and Al Egbers, formerly of the Burlington Northern, is vice president for labor relations. We expect to have additional executive appointments to announce in the next few weeks.

Our objective on opening day is very simple: to have the situation under control. And at this point in the planning process it is under control. This will make it possible to meet our No. 1 operational goal: to minimize service interruptions. To assure this, our work plans have been designed to produce as few operational changes as possible at conveyance. We want experienced people doing a familiar job in familiar territory as much as possible. We are putting in immediate changes only to the extent absolutely necessary.

This does not mean that we will back away from a merger of the railroads. Far from it. And Consolidated Rail Corp. will be the operating entity for all the ConRail system on Day 1. In the early months following conveyance we will work to physically combine the system.

Let me tell you briefly about one aspect of that job: ConRail will be the Nation's largest railroad, both in terms of freight moved and in terms of passengers carried. As you know, ConRail now operates and will continue to operate large numbers of commuter trains for transit authorities in the Philadelphia and New York City areas, and to a lesser extent in several other cities. Every weekday we move 326,500 commuters on 1921 trains. In addition, ConRail now operates 156 trains a day for Amtrak, including 127 a day on the popular Northeast corridor route which carry almost 28,000 passengers daily.

As you know, the Final System Plan makes the basic assumption that ConRail will be made whole for the costs of providing both commuter and intercity (Amtrak) passenger services. If that is not to be the case, then the financial projections that lead to a profitable and viable ConRail in the years ahead are no longer valid. Both Arthur Lewis and I have tried to make this fact abundantly clear. And it specifically states in the foreword to the Final System Plan under the paragraph headed "Finance," that: "ConRail can be developed into a financially self-sustaining corporation provided certain preconditions are met."

The first of these several crucial preconditions to be listed is the necessity "to be relieved of extensive losses from unprofitable passenger \* \* \*" operations.

The statement then concludes: "If," and I would personally underline this word, "these underlying conditions are met, a revitalized, profitable company can be brought into being."

I think that another way of stating this same point would be to say that if these underlying conditions are not met, then the new railroad could be brought into being on a profitable, revitalized basis.

So it is vital, early, to know what the costs to ConRail are of providing this passenger service. The Final System Plan places a figure of \$1.65 billion on the estimated cash deficit to ConRail over the 10-year period through 1985 if none of the existing contracts are renegotiated upward and if no additional subsidies are received over the level prevailing in 1973. Obviously, the absorption of this kind of cash deficit by ConRail would be devastating to the rehabilitation and modernization program that is essential to the viability of ConRail over this period.

If the year-by-year financial projections in the FSP are to be met, it is essential that the existing losses from the operation of all passenger services, both commuter and Amtrak, be stopped immediately. We intend to renegotiate those contracts.

I have had my staff go back to the material on this prepared by USRA for the FSP, which is our basic financial document at this time. This is what we found:

The FSP estimate the net operating loss to ConRail for providing Amtrak and commuter services for the year 1976 at \$114 million, which includes maintenance of right-of-way of \$23 million. This is based on a shared and equitable cost basis, and is derived from data for the last previous year for which there were actual figures available, which was 1973.

That can be broken down into about \$50.9 million for commuter losses, and \$63.1 million for Amtrak.

These sums are the amounts over and above what the operating railroads would receive for providing these services from ticket revenues and commuter authorities and present Amtrak subsidy payments.

In addition, the FSP contemplated \$42 million more of working capital needed in the first year of operation to fund passenger-only service. Therefore, for the first full year ConRail will need \$156 million to maintain present services and not cross-subsidize. In the present, or 1976 fiscal year, plus the transitional quarter, we hope you would appropriate to the proper agencies one-half of the operating losses plus the cash for working capital or \$101 million. Again, Mr. Chairman, we wish to make it clear that the authorization clearly reflects the ConRail needs set forth in the FSP for the basic funding of \$2.1 billion plus protection for these passenger services.

Let me return to the basic goal that underlies all of ConRail's planning and operational efforts. Congress agreed to a private sector railroad solution to this problem. If this is to come to pass the figures in the FSP must ring true, the preconditions, which are clearly stated, must be met. If these are not met the figures will not work, and the railroad will not be viable. And if it is not viable it will become a ward of the State.

Now to go back to the original concept, once again. A private sector solution to this railroad means that its management must be placed in a position to make the decisions required to achieve the legislative goals and the objectives set forth in the FSP for a return to profitability and the private sector. Adequate funding of capital

requirements and for losses generated by social services must be a precursor to management's taking the necessary steps to meet these goals. If it is not funded this is not possible. What it comes down to, I feel, is this: Is ConRail to be a railroad funded and directed toward the private sector solution? Or is ConRail not to be funded and thus inevitably headed toward financial failure which would lead it to become a ward of the State?

I think this is the basic question here.

Thank you very much for the opportunity to be here. I, too, will be available for questions.

Senator BAYH. Thank you, Mr. Jordan. We have your prepared statement and it will appear at this point in the record.

[The statement follows:]

Good morning. I am Edward Jordan, Chairman and Chief Executive Officer of Consolidated Rail Corporation. I appreciate the opportunity to be here today to testify in support of the legislation before you that includes the funding necessary for the startup of ConRail. As Arthur Lewis has already told you we estimate the amount of funding necessary to begin ConRail to be \$400 million for the fiscal year ending June 30th, \$300 million for the transition quarter, and \$1.4 billion for fiscal 1977 -- which we can draw down over the course of the first five years of business as necessary.

This is an important week in the brief history of Consolidated Rail Corporation. It marks the occasion of final completion of the legislative process necessary to the amendment of the Regional Rail Reorganization Act of 1973 that will allow the Final System Plan for ConRail to be put into effect. We now expect that Conveyance Day, Start-up, will be April 1. With the level of appropriations funding we are requesting here today we will be able to begin to plan for our short and long range rehabilitation and modernization programs immediately. Our start-up staff is largely in place to ensure an orderly beginning of operations. We began to draw up a detailed work plan for Conveyance last summer and are now meeting the schedules and timetables for action laid down in this document.

As you know we experienced a thirty day "hold", or delay, in the original timetable. This was a delay which was beyond our ability to control. While there are some costs that will be associated with this they are minimal compared to what would have taken place if the delay had been longer.

I would like now to outline briefly for you what the startup process has involved to date and what remains to be done. Following my remarks I will be happy to answer any questions you may have.

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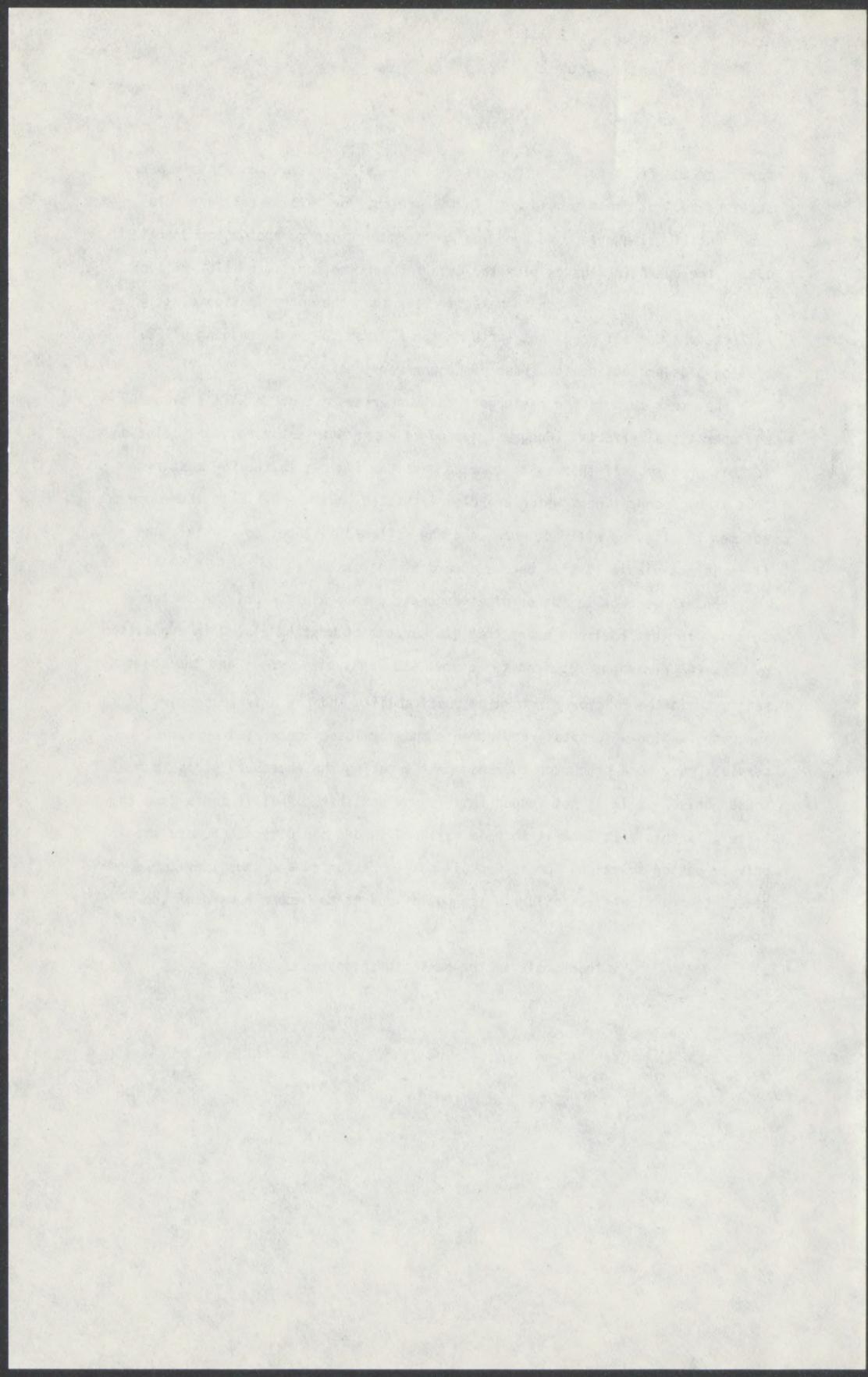
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fore, for the first full year ConRail will need \$156 million to maintain present services and not cross-subsidize. In the present, or 1976 fiscal year, plus the transitional quarter, we hope you would appropriate to the proper agencies 1/2 of the operating losses plus the cash for working capital or \$101 million. Again, Mr. Chairman, we wish to make it clear that the authorization clearly reflects the ConRail needs set forth in the FSP for the basic funding of \$2.1 billion plus protection for these passenger services.

Let me return to the basic goal that underlies all of ConRail's planning and operational efforts. Congress agreed to a private sector railroad solution to this problem. If this is to come to pass the figures in the FSP must ring true, the preconditions, which are clearly stated, must be met. If these are not met the figures will not work, and the railroad will not be viable. And if it is not viable it will become a ward of the state.

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I think this is the basic question here.



# NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)

## STATEMENT OF PAUL REISTRUP, PRESIDENT

### ROLE OF AMTRAK IN RAIL REVITALIZATION

Senator BAYH. Mr. Reistrup.

Mr. REISTRUP. It is a pleasure to be here today. Amtrak's role in the rail revitalization is not as significant as the birth of ConRail but it is extremely significant within the Northeast portion of our country, commonly known as the Northeast corridor, Washington to Boston.

My remarks I would like to offer for the record along with the exhibits and I will just summarize a few points, if possible.

Senator BAYH. Fine.

Mr. REISTRUP. I am addressing myself today in those remarks and in my comments in responding to questions basically to the fiscal year 1976 and transition period appropriations necessary to carry out our part of the authority also granted to us by Congress in the law as it was passed yesterday.

We require \$85 million for the purchase of the Northeast corridor properties. Washington to Boston, the so-called spine mainline over the system. We require a sum of \$20 million for purchase or lease of properties outside the Northeast corridor that are not included in the ConRail plan.

The examples of these are Harrisburg to Philadelphia passenger operations, to put it another way. If these properties are not obtained for Amtrak, the Amtrak operations over those lines would cease.

The examples of those are Harrisburg to Philadelphia passenger line; also Springfield to New Haven.

The second major funding that we need appropriations for are the operations of this physical plant which would be turned over to Amtrak. We need \$31.2 million for fiscal year 1976 and an additional \$5.3 million in the transition period, for a total of \$36.5 million in appropriations to have the money to operate the railroads that would be turned over to us.

The authorizations both in the Amtrak authorization passed before and signed by the President and also in the bill that was passed yesterday would cover this appropriation.

### NORTHEAST CORRIDOR PROJECT

The third significant item is that we at Amtrak feel that we should get cracking on beginning the improvement of the Northeast corridor physical plant, and we have a substantially larger funding proposed than does the Department of Transportation, in that we feel with the 5-year time constraint to get down to the operating times which are laid out in the legislation that was passed yesterday, we must get cracking.

We also have some maintenance situations in the Northeast corridor that require immediate attention. I think the most serious are bridges. We will not know until April or May, when the engineering consultant has completed his work, the extent and detail of the involvement. We do know there are bridges that may require immediate work, probably do, and in the meantime we will probably have to slow the trains down or operate only one at a time over the bridges until they are repaired.

We would hope that we could get the major bridge work started. A lot of engineering is involved there. We need to order long leadtime items such as rail. There are some 450 miles of rail in the Northeast corridor that are not welded—the old-fashioned, jointed kind. We need to make more or less emergency repairs to the electrical system, the signal system and so forth. So there is a considerable difference as to the phasing of our planned improvement and maintenance program compared with the Department's.

With John Barnum and Asaph Hall's help, we need to begin to get our two programs together now that the legislation, which was changing almost daily in the last weeks and now is firm, we must get together and coordinate our programs so that Amtrak as a railroad operator is not spending money in emergency maintenance that will then have to be torn up again and additional funds spent in the improvement program.

We will dedicate ourselves to working to this end so that we do not spend duplicating funds.

I think our track record speaks for itself. North of New Haven we have spent almost \$15 million of Amtrak's money this last working season between New Haven and Boston and we are almost out of funds. We have all but a few of the ties in. The rail is already laid along the right-of-way—10 miles of welded rail—and within the next month or so that rail will be in place, and we have repaired three bridges which were in serious condition.

I think we have proven that we can undertake this type of project.

I, too, will be available for any questions you might ask.

I would also request, Mr. Chairman, that my complete statement appear in the hearing record.

[The statement follows:]

Mr. Chairman, Members of the Committee

I appreciate this opportunity to present the Amtrak supplemental appropriation requirements for Fiscal Year 1976 and the Transition Period for the Northeast Corridor Project Implementation as provided for in Title VII of the Railroad Revitalization and Regulatory Reform Act of 1976.

The enactment of legislation to convey the Northeast corridor rail properties to the National Railroad Passenger Corporation and also give Amtrak responsibility for control and maintenance of the property and all of the intercity passenger operations represents a milestone in the national efforts to renew first-rate rail passenger service. Amtrak welcomes the responsibility and challenge of meeting the goals of this legislation.

#### COST AND BUDGET ESTIMATES

Various parties have made analyses and estimates of the cost to the Government of this legislation. While there is a consensus that additional operating and capital investment costs are involved, there are differing views on the extent and timing of the related appropriation requirements.

The Amtrak budget request of December 22, 1975, set forth our estimates of these requirements for Fiscal Year 1976 and the Transition Period as follows:

	(\$ million)
<u>Operations</u>	
Intercity passenger share of costs having common benefit to freight, commuter and intercity passenger services	\$27.0
Costs of administration, taxes, and data processing required to manage Northeast corridor operations	\$13.0
Initial maintenance of way and structures to protect against continuing deterioration	\$10.0
<u>Capital</u>	
Purchase of the Northeast corridor properties (Includes \$650,000 for mobile radio telephone service as specified in the Act.	\$86.0
Purchase and improvement of designated properties outside the corridor	\$20.0
<u>Nonrecurring Start-up</u>	
Initial equipment, materials, supplies, and supporting services to prepare for management and control of Northeast corridor rail operations and maintenance activities	\$25.0

The key criteria which form the basis for these estimates conform to the provisions of the Rail Revitalization Act. These include conveyance of properties with provision for purchase; control and maintenance of those properties; all operational responsibilities for intercity passenger services; and prohibition against cross subsidization among intercity, commuter, or rail freight services. These criteria are important to the objectives of the Act and Amtrak is in full agreement with them. In connection with appropriations to implement them, however, it is also important to fully recognize all of the resultant costs.

Currently, the costs of Northeast corridor roadbed responsibility are financed by the railroad rather than Amtrak except for some relatively small spot improvements. The railroad also bears the costs of ownership, maintenance of common facilities and equipment, and the manpower, engineering skills, and support costs involved in track maintenance, safety, dispatching, signaling, etc. As Amtrak, or any other instrumentality of the government, acquires the rail property and operational control responsibilities, an accompanying shift of these costs from the railroad is certain and must be funded.

Amtrak's primary concerns are: first, that we fully identify the cost implications of this new but vital responsibility; and, second, that we take every reasonable measure to keep these costs to a minimum. Admittedly, there can be honest differences on the extent and timing of these costs until an experience base is established, but we do not believe that differing opinions are warranted concerning the fact that each of these types of costs will have to be funded. In developing these estimates we have attempted to realistically scope the corridor task, to price both capital and operational needs, and to identify added workloads and manpower estimates in dollar terms. Our estimates are based on review of railroad experience and cost data and have been reexamined each time an alternative estimate or cost requirement consideration has been suggested.

#### AUTHORIZATIONS FOR APPROPRIATIONS

Section 704(a) of the Act provides authorization for appropriations of \$106 million for the property purchase and radio telephone requirements, and \$10 million of the \$25 million required for nonrecurring costs related to initial assumption of control and responsibility for the property and rail operations. No authorization is provided, however, for appropriations to finance the \$27 million requirement for the intercity passenger share of costs having common benefit to freight, commuter, and intercity passenger services, or the \$13 million for administration and taxes which will shift from the railroad to Amtrak with responsibility for management of Northeast corridor operations. In the absence of these authorizations and appropriations, this important responsibility will be assumed without the necessary funding.

#### AMTRAK SUPPLEMENTAL APPROPRIATIONS REQUEST

Within the authorizations for appropriations provided by the Act, Amtrak requests appropriations on an urgent supplemental basis as stated below. These items are exclusive of requirements for right of way improvements pursuant to the goals of the Act. The right of way requirements are addressed later in this statement.

	(\$ millions)	
	FY 1976	Transition Period
For nonrecurring costs related to the initial assumption of control and responsibility for maintaining rail operations in the Northeast corridor.	\$10.0	-
To acquire the Northeast corridor properties	\$85.2	-
For the development and utilization of mobile radio frequencies for high-speed rail passenger radio telephone service	\$ 0.65	-
For acquiring and improving properties designated in accordance with the Regional Rail Reorganization Act of 1973.	\$20.0	-

Appropriations in these full amounts of the authorizations provided by the Act will be sufficient for purchase of the properties and the radio telephone service, but will be significantly short of the operations requirements. In summary, the operations funding shortfall will be as follows:

	(\$ millions)		
	Appropriations Requested	Provided	Short- fall
Intercity passenger share of costs having common benefit to freight, commuter and intercity passenger services	\$27.0	-	\$27.0
Costs of administration, taxes, and data processing required to manage Northeast Corridor operations	\$13.0	-	\$13.0
Initial equipment, materials, supplies, and supporting services to prepare for management and control of Northeast corridor rail operations and maintenance activities	\$25.0	\$10.0	\$15.0
	Total Shortfall		<u>\$55.0</u>

#### POSSIBLE SOLUTIONS TO APPROPRIATION AUTHORIZATIONS DEFICIENCY

The lack of authorization for appropriations to finance the Northeast corridor operations costs for FY 1976 and the transition period presents difficulties. There is no question that these costs will shift from the railroad to the Government with the change in ownership, and we know of no provision for funding these costs other than within the Amtrak operations budget. The date of ownership change is very near. Considering authorization and supplemental appropriation actions now underway, it is doubtful that another cycle of emergency authorization and urgent supplemental appropriation should be relied upon to provide the necessary funding within FY 1976.

One possible solution is for the Congress to appropriate in this FY 1976 supplemental the \$55 million shortfall between the Amtrak budget request for the Corridor operations through the

transition period and the existing authorizations. Of course, such appropriation would be contingent upon subsequent enactment of authorization. To that extent that later developments, including experience, may make some part of the \$55 million unnecessary, the appropriate reduction can be effected in the amount of the supplemental authorization.

It has been suggested as another possible solution that the appropriation authorizations for regular Amtrak operations in FY 1976 and the transition period that have not yet been appropriated be utilized for these Northeast corridor requirements. However, for the following reasons we cannot concede to use of the available authorizations solely for this purpose.

The President's FY 1976 budget included \$350 million for FY 1976 and \$105 million for the transition period for Amtrak operating expenses and these amounts have been authorized. Within this total of \$455 million, appropriations for operating expenses of \$328.8 million for FY 1976 and \$99.7 million for the transition period have been provided. This leaves unused authorization for operating expenses of \$21.2 million in FY 1976 and \$5.3 million in the transition period for a total of \$26.5 million.

The FY 1976 budget for which the appropriation of \$328.8 million was provided included a total operating cost program for the fiscal year of \$710 million. In connection with limiting the FY 1976 appropriation funding for this cost program to \$328.8 million, the conferees stated that they expected Amtrak to take the necessary managerial actions to operate for the full fiscal year within that amount.

Amtrak has treated this as an absolute mandate to complete the FY 1976 operations at a level below the \$710 million program by an amount at least equal to the \$21.2 million of appropriation reduction. In addition, we have considered it incumbent upon Amtrak management to take further cost reduction actions to cover any shortfall from programmed passenger revenue to the maximum extent possible. We have taken strong management actions toward these ends and are now programmed to complete FY 1976 within the range of \$60 million below the \$710 million programmed at the outset. We have done this without discontinuing routes or withdrawing from any commitments to states for initiating routes for which they are sharing costs pursuant to statute.

Notwithstanding these cost reduction measures, it is possible that the extent of reduced revenue due to general economic and gasoline availability conditions will leave no alternative but to draw upon this available authorization for later supplemental appropriation for regular Amtrak operations. Thus, we cannot concede to full use of this remaining authorization solely for additional Northeast corridor operations costs.

It may be decided that Amtrak should complete the Northeast corridor assumption and its regular operations through the transition period within the operating expense appropriation authorizations made available in total by Public Law 94-25 and the Rail Revitalization Act. We believe there is a good probability that Amtrak can do this, provided that the full amount of these combined authorizations is appropriated in this supplemental and is made available currently to (1) continue regular operations through the transition period, and (2) also finance through the transition period the additional

Northeast corridor operations responsibilities as they are conveyed. The total amount of supplemental appropriation to be provided for operations on this basis would be \$36.5 million.

NORTHEAST CORRIDOR RIGHT OF WAY IMPROVEMENT

The foregoing appropriation request does not accommodate the requirement identified in our request of December 22, 1975, of \$10 million for initial maintenance of way and structures to protect against continuing deterioration. We assume that the absence of authorization for this purpose contemplates early appropriation and action to begin the right of way improvements pursuant to the goals established. This requirement is discussed below.

Section 703 of the Rail Revitalization Act sets forth specific goals for schedule and dependability improvements within five years. The authorization provided by Section 704 of the Act to effectuate these goals is \$1.6 billion. We believe the need for prompt initiation of these improvements is a matter of high priority. For the purpose of proceeding on a timely basis, FY 1976 supplemental appropriations are required as follows:

(\$ millions)	
<u>FY 1976</u>	<u>Transition Period</u>
27.4	52.0

These supplemental appropriation requirements for corridor improvements through the transition period represent immediate needs if the goals of the Act are to be met and are in phase with an FY 1977 requirement of \$144.4 million. This latter segment will be addressed in connection with the FY 1977 budget request.

CONCLUSION

Mr. Chairman and Members, I stated earlier that Amtrak welcomes the challenge meeting the goals of the Rail Revitalization Act for first-rate quality rail passenger service in the Northeast corridor. Indeed, the same enthusiasm extends to service throughout the Nation. We have an established organization with top level railroad and management "know-how". We are fully mindful of the cost implications of this national system and the critical need for utmost attention to efficiency and economy throughout. You may be assured that these needs will be met and we urge the full support of the Congress in implementing the major transportation initiative represented by the Rail Revitalization Act of 1976.

That completes my formal statement. Additional information on the estimates and requirements which I have described has been provided in justification material supplied to your staff.

## Exhibit A

National Railroad Passenger Corporation  
 Northeast Corridor Common Benefit Costs

(\$ millions)

	<u>FY 1976 and Transition Quarter</u>	<u>FY 1977</u>
Maintenance of roadway, stations, bridges, electric traction, signals and related properties	\$12.2	\$22.4
Maintenance of cars and locomotives	5.4	9.9
Train operations, train control and dispatching, provision of station services, operation of switching yards and train supplies and expenses	5.0	9.1
General and administrative costs including accounting, data processing, taxes, and overall management	<u>9.1</u>	<u>16.7</u>
	31.7	58.1
Amount paid by Amtrak under present contract	<u>(4.5)</u>	<u>(7.8)</u>
Additional Cost	<u>\$27.2</u>	<u>\$50.3</u>
Rounded	<u>\$27.0</u>	<u>\$51.0</u>

These costs represent amounts incurred for the common benefit of more than one service (i.e., freight, commuter and intercity passenger) which are not presently paid by Amtrak but which would be assignable to intercity passenger service on the basis of full sharing of common costs as contemplated by the Rail Revitalization Act prohibition against cross subsidization among intercity, commuter and rail freight services.

National Railroad Passenger Corporation  
Additional Northeast Corridor Administrative and Management Costs

	(\$ millions)	
	<u>FY 1976 and</u> <u>Transition Quarter</u>	<u>FY 1977</u>
Salaries and fringe benefits of staff support (Engineering, Mechanical, Operations, Labor Relations, Personnel, Security, Accounting, Budgeting, Procurement and Material Control, and Legal)	\$ 2.8	\$ 5.1
Taxes (property taxes not presently paid by Penn Central or by Amtrak and gross receipts taxes on the "operating" railroad not presently reimbursed by Amtrak)	6.1	11.2
Data processing including machine rentals, space rentals and supplies, in excess of amounts presently reimbursed by Amtrak.	2.8	5.2
Overhead costs, including office rentals, supplies, telephone and utility costs, travel and other expenses	<u>0.7</u>	<u>1.3</u>
Total Additional Cost	<u>\$12.4</u>	<u>\$22.8</u>
Rounded	<u>\$13.0</u>	<u>\$23.0</u>

These costs represent the amounts to be incurred for improved management of Northeast Corridor operations, for taxes which the bankrupt estates have not been paying, and for certain services which were previously absorbed by Penn Central as incidental to their operations (particularly data processing) which will be operated separately when Amtrak assumes control.

Exhibit C

National Railroad Passenger Corporation  
Purchase of Northeast Corridor Properties

(\$ millions)

Net liquidation value, as stated in the USRA Final System Plan, of properties on the Penn Central main line from Washington, D. C. through New York, New York to Boston, Massachusetts	\$ 85.2
Development and utilization of mobile radio frequencies for high-speed rail passenger radio telephone service	0.7
Rail lines, stations and other facilities outside the Northeast Corridor as defined above, designated to Amtrak in the Final System Plan, Appendix to Part II - Section C, in accordance with section 201 (c) (1) (D) of the Regional Rail Reorganization Act of 1973. No dollar amount is specified in the Final System Plan for the cost of these properties; for purposes of appropriation request an amount of \$20.0 million has been estimated. Lines designated to Amtrak are:	20.0

<u>End Points</u>	<u>Mileage</u>
Zoo (Philadelphia) to Harrisburg, PA	103.5
Sand Bank to Hoffmans, New York	9.0
Post Road to Rennselaer, New York	12.1
Mill River, Conn. to Springfield, Mass.	60.8
Michigan City, Ind. to Kalamazoo, Mich.	81.5
Sheldon, Ind. to Waldron Road, Ill.	26.9

Total acquisition cost	<u>\$105.9</u>
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## Exhibit D

National Railroad Passenger Corporation  
 Non-recurring Costs of Assuming Northeast Corridor Operational Control

	(\$ millions)	
Materials and supplies inventory acquisition		\$ 4.0
Acquisition of capital assets -		
Tie and surfacing gangs	\$4.5	
Surfacing gangs	1.5	
Catenary maintenance	1.8	
Support gangs facilities and equipment	1.7	
Ballast and tie cars and equipment	3.8	
Miscellaneous vehicles, equipment and tools	3.0	
Furniture, machinery and equipment for Headquarters	0.5	
Security equipment and facilities	<u>0.6</u>	17.4
Engineering, financial and legal consultants		1.5
Salaries and benefits - Headquarters personnel		1.2
Training		0.5
Expenses of procurement of materials and supplies		0.2
Moving expenses		<u>0.2</u>
		<u>\$25.0</u>

These costs are one-time, non-recurring costs which must be incurred in preparation for the control of operations and maintenance activities in the Northeast Corridor.

National Railroad Passenger Corporation  
Northeast Corridor Right of Way Improvement Program  
Fiscal 1976 (3/1/76 to 6/30/76)

<u>Work Item</u>	(\$ millions)
1. Emergency repairs to bridges at Shaws Cove and Mystic River	1.0
2. Emergency bridge repairs	3.1
3. Construct track rehabilitation maintenance bases	1.2
4. Place orders for cross ties	8.1
5. Place orders for rail	5.5
6. Place orders for spare parts for maintenance machinery	1.0
7. Concrete tie test installation	2.5
8. Reconstruct signal system on Hell Gate Line	2.0
9. Rehabilitate signal system at Philadelphia damaged by fire	<u>3.0</u>
TOTAL	<u><u>27.4</u></u>

National Railroad Passenger Corporation  
 Northeast Corridor Right of Way Improvement Program  
 Transition Quarter (7/1/76 to 9/30/76)

<u>Work Item</u>	(\$ millions)
1. Continuation of Amtrak Emergency Track Rehabilitation Program, New York to Boston	4.4
2. Reconstruct Mashassuck River Bridge at Providence, Rhode Island	5.0
3. Design of bridges at Shaws Cove and Mystic River	0.4
4. Emergency bridge repairs	6.5
5. Secure track rehabilitation support machinery	11.9
6. Place orders for rail	11.1
7. Place orders for spare parts for maintenance machinery	2.0
8. Design and construct maintenance repair/rehabilitation facility	2.0
9. Rebuild electric traction maintenance machinery	0.9
10. Concrete tie test installation	3.0
11. Replace signal cable at Portal	2.0
12. Replace power support equipment for the Hell Gate Line	<u>2.8</u>
TOTAL	<u><u>52.0</u></u>

National Railroad Passenger Corporation  
 Northeast Corridor Right of Way Improvement Program  
 Fiscal 1977 (10/1/76 to 9/30/77)

<u>Work Item</u>	(\$ millions)
1. Continuation of FRA Emergency Track Rehabilitation Program, Washington to New York	22.5
2. Continuation of Amtrak Emergency Track Rehabilitation Program, New York to Boston	30.0
3. Reconstruct bridge at Shaws Cove and Mystic River	10.6
4. Emergency bridge repairs	4.0
5. Supervisory training for maintenance personnel	0.3
6. Construct track rehabilitation maintenance bases	6.0
7. Place orders for cross ties	15.0
8. Place orders for rail	11.0
9. Secure various miscellaneous maintenance equipment	1.0
10. Place orders for spare parts for maintenance machinery	2.0
11. Construct maintenance repair/rehabilitation facility	8.0
12. Concrete tie test installation	5.0
13. Signal and communications equipment design	2.0
14. Tunnel design	2.0
15. Land acquisition for line changes	20.0
16. Design and begin construction of rail welding and handling facility	5.0
TOTAL	<u>144.4</u>

## RELATIONSHIP BETWEEN APPROPRIATION REQUEST AND LEGISLATION

Mr. BARNUM. Before you go to questioning, may I elaborate on one point that emerged from the remarks made by Mr. Lewis and Mr. Jordan, to clarify for the committee the relationship between the appropriation request for \$2.1 billion and the legislation that was passed by the Congress yesterday.

The concept in the final system plan described by Mr. Lewis was that with \$1.85 billion, ConRail could be established, its operating losses covered and its rehabilitation financed over the initial 5-year period. There was recognition at the U.S. Railway Association that that amount in some respects did not take into account all of the possible vagaries of the economy over the next 5 years and it was, therefore, determined that, in addition to that baseline figure, an additional \$250 million should likewise be made available to ConRail. The idea then was that we put in the bill \$1.85 billion and see whether or not ConRail would be able to fly with that amount or whether an additional \$250 million was necessary.

In the action the Congress took yesterday there is not any distinction between the original \$1.85 billion and the \$250 million cushion or margin, you may call it. They are treated identically. The Association is to invest that money on the same terms and conditions and the authority in the Association or in the finance committee of the Association to control that investment does not make any distinction between \$1.85 billion and \$250 million.

In the action by the House Appropriations Committee to date, I believe that a distinction has been made. I suggest that that is not consistent with the action of the Congress yesterday in passing the substantive authorization for the full \$2.1 billion and I would urge you in your consideration of the appropriation request to take into account the fact that the Congress has recognized that the entire \$2.1 billion should be treated as the investment that is to be made by the Association on the terms set forth in section 216 of the statute.

Senator BAYH. I appreciate your bringing that to our attention. Would you go over that again, please?

Mr. BARNUM. Yes, Mr. Chairman. I believe that in the specific terms and conditions of the agreement between ConRail and the Association, with respect to the financing, there will not be any distinction made between the \$1.85 billion and the \$250 million. That is consistent with the statute that I believe will be the basis for the terms and conditions which are still being discussed at the Association and I will just point out that action on the part of the Appropriations Committee to make a distinction between the \$1.85 billion and the \$250 million, while consistent with the final system plan, would not be consistent with the substantive legislation that the Congress adopted yesterday.

## BUDGET AMENDMENTS

Senator BAYH. Thank you.

Let me just go to a few questions here and try to concentrate on the major point of difference, purchase or lease of the Northeast corridor and start now or wait a while in improving it. That may be an oversimplification but those seem to be the two general areas where there may be some difference in emphasis between DOT and Amtrak.

Mr. Barnum, has the Department begun the process of preparation of the budget amendments which would be required to fully implement the provisions of the act?

Mr. BARNUM. Yes, sir; we have.

Senator BAYH. When will we be receiving those amendments?

Mr. BARNUM. Well, let us take the Northeast corridor in particular. In the President's 1977 budget, we have taken into account the need to get started as promptly as possible with the Northeast corridor improvement project that is described in the act passed yesterday. Secretary Coleman was quite insistent, in debating the appropriate budget level within the administration, that we put into the President's 1977 budget as much as we thought could feasibly be expended during the transition period and during 1977, and you will have before you, therefore, requests for \$15 million during the transition period, and \$125 million during 1977. Those figures were selected because they were in our judgment the maximum amounts that could be expended so quickly pursuant to the \$1.6 billion program that is in the bill that was passed yesterday.

Senator BAYH. I would appreciate it if you could let us have that for the record, the amendments other than the one you specify, as quickly as we can so we can have it in marking up the bill.

[The information follows:]

## Budget Justifications for NEC

Transition Quarter \$15,000,000 Supplemental Justification - Northeast Corridor Improvement. Since the mid-1950's there has been a strong interest on the part of both the Congress and the Executive Branch in an expanded intercity rail passenger service program in the Northeast Corridor between Boston, Massachusetts, and Washington, D. C. This interest was reflected in the High Speed Ground Transportation Act of 1965, which authorized extensive research and development in improved high speed surface transportation systems, as well as the Metroliner demonstration program begun in the Corridor in 1969. The research, development and demonstration program culminated in the 1971 Department of Transportation report entitled "Recommendations for Northeast Corridor Transportation," which concluded that projected growth in intercity passenger travel in the Corridor could be met most cost-effectively by making fuller use of the rail mode.

The Corridor must be improved by eliminating the backlog of deferred maintenance that has contributed to the deterioration of service reliability. This includes a large investment in improving the track structure by replacing worn ties and installing continuous welded rail, by replacing or rebuilding many of the bridges on the Corridor (over 150 of which were built prior to 1895), by reworking the badly neglected Corridor tunnels, and by rehabilitating service facilities and operational portions of stations. The program also provides for the achievement of significant economic and operational advantages by converting the antiquated electrical system to a system able to use modern commercial power sources.

The improved railroad will facilitate the continued economic growth of the Northeast Corridor area which includes over 40 million people. The railroad also represents the transportation system whose expansion in the Corridor is compatible with our national goals of reducing air and noise pollution, using more energy efficient systems, and lessening our dependence on petroleum products.

We are requesting a supplemental appropriation in the transition quarter to provide for advance planning and engineering work and procurement of long lead materials and equipment for the Northeast Corridor Improvement Program. The transition quarter request will represent the major start-up on the Northeast Corridor Improvement Program. This start would be authorized by the pending Railroad Revitalization and Regulatory Reform Act of 1976, which states that the program should be completed within five years. In order to perform within this very tight schedule, it is necessary to start a large number of additional Corridor activities around July 1, 1976. Major contract awards should be made to Amtrak, enabling the Northeast Corridor Improvement Program to be sufficiently advanced in its planning and engineering that the major construction activities planned for FY 1977 can be obligated during that period.

Fiscal Year 1977

We are requesting a supplemental appropriation in the transition quarter for \$15 million to provide for advance planning and engineering work and procurement of long lead materials and equipment for the Northeast Corridor improvement program. With much of the planning and engineering work proposed to be well underway, the FY 1977 request for \$125 million will provide for initiations of major construction contracts. The following table itemizes the major work elements in this request (\$ in thousands):

<u>Element</u>	<u>Request</u>
System engineering.....	\$ 8,000
Track construction.....	30,000
Bridges.....	12,000
Tunnels.....	3,000
Electrification.....	21,000
Signaling/communications...	15,000
Stations.....	17,000
Service facilities.....	8,000
Rolling stock.....	5,000
Program management (contract support).....	6,000
<b>Total</b>	<b>\$125,000</b>

Since the mid-1960's there has been a strong interest on the part of both the Congress and the Executive Branch in an expanded intercity rail passenger service program in the Northeast Corridor between Boston, Massachusetts, and Washington, D.C. This interest was reflected in the High-Speed Ground Transportation Act of 1965, which authorized extensive research and development on improved high-speed surface transportation systems, as well as the Metroliner demonstration program begun in the Corridor in 1969. The research, development and demonstration programs culminated in the 1971 Department of Transportation report entitled "Recommendations for Northeast Corridor Transportation," which concluded that project growth in intercity passenger travel in the Corridor could be met most cost-effectively by making fuller use of the rail mode.

The Corridor must be improved by eliminating the backlog of deferred maintenance that has contributed to the deterioration of service reliability. This includes a large investment in improving the track structure by replacing worn ties and installing continuous welded rail, by replacing or rebuilding many of the 850 bridges on the Corridor (over 150 of which were built prior to 1895), by reworking the badly neglected Corridor tunnels, and by rehabilitating service facilities and operational portions of stations. The program also provides for the achievement of significant economic and operational advantages by converting the antiquated electrical system to a system able to use modern commercial power sources. Engine changes at New Haven would no longer be required and the improved acceleration capabilities of electric trains would reduce travel times and thus enhance railroad ridership. Both safety and operational efficiency would be improved by up-grading the signaling and control system and taking advantage of modern technology through implementation of a central traffic control system in the heavy traffic areas of Philadelphia, New York City, and Boston.

The improved railroad will facilitate the continued economic growth of the Northeast Corridor area which includes over 40 million people. The railroad also represents the only transportation system whose expansion in the Corridor are compatible with our national goals of reducing air and noise pollution, using more energy efficient systems, and lessening our dependence on petroleum products.

Work will be initiated on the architectural design and construction of a 50 KV catenary for the railroad train dynamics and electrification test track at the Pueblo Transportation Test Center. This test track will be necessary to prove out the overhead catenary systems and the substations which feed power to the system. This system will also be used to evaluate new pantograph collection of power on top of future rolling stock powered by electricity.

## OPERATING LOSSES

Senator BAYH. Mr. Reistrup in his statement made it very clear that Amtrak will have no way of covering the added costs and losses that will occur in their takeover of the passenger operations.

Why has there not been a budget request to date from the President to fund these items?

Mr. BARNUM. Because we have not yet satisfied ourselves as to exactly what level of additional losses will be appropriate and should be funded out of new authorizations.

Senator BAYH. Do you concur with Mr. Jordan's assessment, as far as the operating losses and Amtrak losses?

Mr. BARNUM. I certainly concur with the principle that Mr. Jordan stated, and that is that ConRail should not be bearing any of the losses attributable to passenger service which should indeed be the responsibility of Amtrak or the regional transit authorities that will be operating over ConRail property. That is one of the basic premises of the Final System Plan that the association adopted. It was a premise concurred in completely by the administration: ConRail should not bear any burden of losses for passenger operations.

Now, I think all the gentlemen at this table would recognize that the appropriate allocation of costs of a service or an operation that provides both intercity passenger service and commuter service and freight service is an extremely difficult job, one for which the present statute gives us some guidance but does not provide any easy answers.

Senator BAYH. When will answers be forthcoming?

Mr. BARNUM. Well, among other things, there have been discussions between ConRail and Amtrak, I believe, on this subject. Certainly, it is something which the Department of Transportation has considered in a number of discrete contexts such as the commuter services provided by the State of New Jersey. There is a mechanism set up in the statute for a determination by the ICC of appropriate allocation, and I would hesitate to predict exactly when we are going to have all the answers to that very thorny question available to you. Perhaps some of the other gentlemen who have dealt more closely with the specific negotiations would like to elaborate on that.

Mr. JORDAN. Mr. Chairman, if I may—

Senator BAYH. Please. I would like to know what the answer is going to be, and I understand you are not prepared to give that now. I would like to know when, and I am sure the other members of our committee would like to know—when we can expect an answer.

Mr. JORDAN. I certainly cannot disagree with Mr. Barnum that this is a complex accounting problem. Nevertheless, the statute to which we refer, the statute to be signed, we hope, in the next few days, indicates that at the end of 180 days, ConRail may abandon commuter services if it has been unable to negotiate contracts covering its costs.

## EFFECT OF LOSSES

Now, if in the course of this period of time there is an inability to fund those agencies as provided by the act, and those agencies are unwilling to negotiate those contracts in accordance with that, I think we all face the unpalatable—in my judgment, that is unpalatable for ConRail as well—unpalatable prospect of abandoning some of these 100 trains we were talking about earlier in my statement.

So I would suggest to you that from our viewpoint, at least, it is our intention to work with the rail services planning office and ICC in getting these formulas worked out, but it has to be completed in the first few months or we stand to be out a substantial amount of cash and then have to face that very difficult question some 180 days downstream in advance.

#### LEASING OF NORTHEAST CORRIDOR PROPERTIES

Senator BAYH. Mr. Barnum, I would like to ask you to address yourself to the question of whether Amtrak should be purchasing or leasing corridor.

The act authorizes a little over \$85 million to be used for purchase if that is to be determined to be the proper course of action. That decision is to be made by the Appropriations Committees of the Congress, is it not?

Mr. BARNUM. Yes; it is. Certainly, a decision whether or not to appropriate the \$85 million is entirely within the discretion of the Congress.

Senator BAYH. Does the Department have a position on this question?

Mr. BARNUM. Yes; we do. In our judgment, the corridor should be leased by ConRail to Amtrak for a long term. The statute authorizes Amtrak initially to elect as between a lease and purchase. As you point out, the purchase is obviously subject to appropriation of the funds that would be necessary to acquire the property.

Let me back up and explain the context in which this question comes up. The \$85 million reflects the value put on the mainline properties from Boston to Washington, by the U.S. Railway Association on the basis of what the association believes to be the net liquidation value of those properties. Similarly, the association put on all of the properties to be transferred by bankrupt railroads to ConRail or to other solvent carriers a net liquidation value which is somewhere in the neighborhood of about \$600 million, out of which the \$85 million for Northeast corridor is one part. Now, that was a very extensive valuation performed at the Association.

In the statute that the Congress passed yesterday, it placed on the special court—which ultimately must pass upon the fairness and equity of the exchange of ConRail's securities for those properties, including the corridor—the burden of determining whether or not the valuation set by U.S. Railway Association as the net liquidation value is indeed the net liquidation value of those properties. It says to the special court it should give due weight and consideration to the findings of the association, and I think that is appropriate. But it recognized, in determining what value should be placed upon the certificated value, it lies within the jurisdiction of the special court to set the appropriate net liquidation value.

Now, the certificates of value are relevant because if the special court determines that the \$85 million is not the appropriate net liquidation value for the Northeast corridor properties and assigns some higher net liquidation value to those properties, that \$85 million figure would be increased. Let us take hypothetically that it would be increased to

\$100 million. The Government is liable on those certificates of value and, therefore, would be liable for any increment in the net liquidation value assigned to those properties. As the statute is presently written, if Amtrak purchases the Northeast corridor properties for \$85 million and subsequently it is determined that the net liquidation value is higher, the United States would be liable for the difference between the \$85 million and such higher net liquidation value as may have been determined by the special court.

Now, even today I believe the Association is reviewing its assessment of the net liquidation value for all properties, and the \$85 million figure may or may not be the final figure assigned by the Association to those properties when it certifies to the special court that such and such number should be ascribed to all the properties being transferred from the bankrupt railroads initially to ConRail, and in this case perhaps on to Amtrak.

We do not perceive any difference in Amtrak's ability to operate its intercity passenger trains or to determine the way in which the properties now used by the Penn Central for both intercity passenger trains would be used if Amtrak entered into a long-term lease with ConRail for those properties. Many of those properties do not actually belong to Penn Central; they belong in some cases to Massachusetts, MBTA. In the case of some of the properties in Connecticut and New York, there are certain interests which those States hold in the properties that we talk of as the corridor. We are not really talking about transferring a fee interest in the main line from Boston to Washington; we are only talking about transferring by lease or by purchase whatever interest it is that ConRail could acquire by virtue of its exchange of stock with the Association.

#### PURCHASE OF NORTHEAST CORRIDOR PROPERTIES

From the vantage point of Amtrak, the principal reasons stimulating its desire to purchase the property are twofold. First, Amtrak believes that if they own the property, they are in a better position to decide how the corridor will be used vis-a-vis the commuter authorities and vis-a-vis ConRail. But we all recognize that there is a very substantial interest in having the commuter authorities able to continue to provide their service, and ConRail does indeed intend to use many parts of the main line between Boston and Washington for local freight service and for through-freight service. So I am not sure that we should embrace the concept of Amtrak's being in a position to dictate exactly how all of those properties should be used.

Second, Amtrak would rather be in a position of having the Congress give them \$85 million now to make a one-time expenditure and acquire the properties rather than have to enter into a long-term lease with ConRail whereunder Amtrak would be making a payment to ConRail over the period of years of the lease. From Amtrak's vantage point, they would rather be given the property than to have to pay for it, simply appropriate the money now rather than have to be including the cost of the lease in Amtrak's annual operations.

Senator BAYH. If I might interrupt here a moment, I see our distinguished colleague from Massachusetts. I do not see him, but I feel

his vibrations. He is here, and I am going to have to catch an airplane, as I think you have been advised. If I could get Mr. Reistrup's counterpresentation here, plus I would like to get some input here as to why it is when we look at that budget, the administration has not asked for any money this year to really get cracking to get Amtrak up to the place we all want to go, and next year and the next fiscal year you are only asking for \$15 million, whereas Amtrak suggests that it can use \$52 million. It seems to me if we are going to get started, we ought to get started. We need the jobs right now; we need to move as rapidly as we can. If I could ask Mr. Reistrup to be thinking about that and then we could develop a dialog in the brief time I have remaining after Senator Kennedy is through expressing his thoughts, because he has a vital interest in this, he has been one of the leaders to try to upgrade the quality of passenger service in the corridor, and if you will just let me interrupt here long enough, Senator Kennedy, we would like to have your views. I understand you have another committee that you have to return to, and I appreciate your personal presence.

#### STATEMENT OF SENATOR KENNEDY

Senator KENNEDY. Thank you very much, Mr. Chairman. I appreciate the patience of the witnesses. I think you have asked the real \$64 question as far as not only New England but of anyone who believes in the importance of having an integrated transportation system, including an upgraded rail transportation system. If the administration believes in the viability of rail passenger service, why have they been dragging their heels for so long, and why are they not requesting adequate funds to do the job?

Initially, I want to express my very deep sense of appreciation for your commencing these hearings at this early date. I really speak for all of us, not only in New England, but for all who are concerned about the economy and the development of a sensible transportation policy.

It is very important that these hearings be held now and I want to express my appreciation for your leadership in this area.

I join the administration in support for the requests that may have been made for adequate funds for the U.S. Railway Association to implement the rail reorganization Final System Plan. I certainly support their request.

However, in the area of rail passenger service, we have seen a real abandonment by this administration and by the Department of Transportation of an adequate policy and now of adequate funds to carry out the congressional mandate.

We have heard pious comments from the Department of Transportation giving apparent lipservice to upgrading the Northeast corridor rail service but when the time finally comes to providing financial commitment, they have come up very short of the mark.

We heard a great deal the other evening about false promises to people. Make no mistake about it, Mr. Chairman, and members of the administration, in spite of these pious comments and promises of support for rail passenger service, the supplemental requests and the fiscal year 1977 budget virtually abandon rail passenger service.

Amtrak has held out for what is a realistic program, including the purchase of the corridor right-of-way, and they have the know-how and skills to upgrade the corridor and provide high-speed service. They are winning increased confidence from the people that I represent, and I think that is generally true in all parts of the country. They have outlined in a sound, fiscally responsible manner what is absolutely essential in the short and long range. It is a program which I am extremely hopeful will be supported.

The fiscal year 1977 budget, as you have seen, Mr. Chairman, is going to mean a cutback in some 30 States if we are going to follow the administration's program rather than Amtrak's. I know you are familiar with the implications. In more than 10 States, it is going to knock out any Amtrak passenger service at all. So I want to just urge this committee to press forward in this area.

The rail passenger transportation service is important and we ought to permit Amtrak the resources to move forward on the Northeast corridor, to purchase those rights-of-way, to give them the early resources to upgrade that service, and to develop modern and efficient rail passenger service in this most densely populated corridor.

There is no question of the overwhelming support for improved rail passenger service in the Congress and the Senate. You are very familiar with that, with the bill that passed initially in the Senate and the House, the strong support that came out of the conference committee. The trimming back that was necessary because of administration opposition was unfortunate. A minimal proposal is all that we are seeking to obtain now. Yet there is even abandonment of that commitment in the administration's inadequate supplemental request. We are really relying upon you and this committee, those of us in the Northeast, to try and insure the objectives spelled out in the bill passed yesterday are going to be achieved.

I want to thank you very much. I have a more extensive comment and hope to have it included in the record.

Senator BAYH. You may put it in the record and I express my appreciation for your compliments but must say we have had a lot of help and you have been one of those leading the charge. I have had, in recent weeks, an opportunity to see firsthand some of the problems that exist in that part of the country, where because of the tense energy price pressures on inflation and the cost of living—because of what that has done to unemployment in your part of the country—I think we need to direct our attention in as many different ways as we can to alleviate that. Here is a way in which we can move people rapidly, efficiently, environmentally sound. We can put people to work in the rebuilding of our railroads and, hopefully, out of this will come creative new ideas for doing this better and we can put people to work in this regard instead of building some of these weapons systems that you and I have been concerned about. I think this is just an area where we better not back away; we better make a major commitment, and you have been one who has felt that for a long time. By your presence, you have added weight to your significant interest.

Senator KENNEDY. Thank you very much.

[The statement follows:]

## PREPARED STATEMENT OF SENATOR KENNEDY

Mr. Chairman, I am urging today that the Senate Transportation Appropriations Subcommittee act to prevent a penny-wise and pound-foolish policy of the Office of Management and Budget from undercutting the national commitment to improved rail passenger service.

Every day that the Federal Government fails to provide Amtrak with the funds necessary to purchase the right-of-way in the Northeast Corridor and to begin the mandated improvement of the system means additional unnecessary costs. Inflation drives up the value of land, maintenance is deferred and service flaws produce lower demand and lower revenue.

It was for that reason that start-up authority was included in the Rail Services Act along with authority for Amtrak to purchase the right-of-way. Fully implementing those authorities is essential to achieve high speed rail service in the nation's most densely populated urban corridor.

I have seen the statement prepared by Paul Reistrup, Amtrak president, for the Subcommittee's consideration, and I believe it accurately reflects the vital need for urgent action by the Subcommittee to permit Amtrak to fulfill its mandate of providing the nation with first-rate rail passenger service.

The availability of appropriations to permit immediate purchase and improvement of the corridor and the availability of adequate appropriations for non-recurring start-up costs will permit Amtrak to carry out both the Congressional mandate and the national commitment to this program.

In that regard, I believe the Amtrak decision to purchase as oppose to lease the Corridor is our best guarantee of a full commitment to the Corridor project.

And I would recall for the Subcommittee the statement of Secretary of Transportation William T. Coleman regarding the corridor project in a letter of November 4, 1975, to the Massachusetts delegation, in which he noted that "the public will benefit not only by restoration of a basic transportation mode that is available to 40 million people, but will benefit through reduced reliance on petroleum fuels, increased job opportunities for persons who are unemployed, and by an investment that improves productivity and efficiency."

Those sentiments are worthy of repetition, since they reflect goals of a series of Transportation Secretaries. However, the Administration's specific proposals for the corridor, and now their refusal to request adequate appropriation for the immediate implementation of the corridor project—even as contained within the reduced program set forth in the Rail Services conference report approved by the Senate yesterday—jettisons those goals.

I would emphasize that I believe the full high speed goals of the Secretary's report of 1971—included by the Congress in the Regional Rail Reorganization Act, in the Senate version of the Rail Services Act and in the original conference report on that bill—are still the best answers to our rail passenger needs. My legislation was incorporated in those earlier versions requiring the implementation of the full high speed goals.

The threat of a veto was used by the Administration to force the Conferees to lower their sights.

However, this is not the first time that the Administration particularly OMB, has set forth inadequate funding proposals for rail passenger service, in the corridor and elsewhere.

The reality is that there seems a far greater willingness to cut back on current spending, even though that shortsighted action will necessitate extra costs in the future for delayed rail rehabilitation, extra costs for interstate highway and air traffic, and extra costs for interstate highway and air traffic, and extra costs for the waste of energy from these competing modes.

For all of these reasons, it is essential that the Subcommittee approve the funding necessary for Amtrak to purchase the right-of-way and to immediately undertake the process of revitalization.

Any other course of action would leave the basic decisions with an Administration which clearly has an undeveloped sense of priorities when it comes to rail transportation.

I say this with particular conviction after viewing the proposed budget for FY 1977, a budget proposal which not only would cut back on the necessary funding for the Northeast Corridor project but also would force a discontinuance of existing rail passenger service in more than 30 states and a total withdrawal of Amtrak service from more than 10 states.

It is a budget proposal that Mr. Reistrup has stated would have "a very marginal basic national system." It could more accurately be described as gutting the national rail passenger system and reversing the effort to resurrect an efficient, modern and safe national rail passenger system.

In short, Mr. Chairman, I strongly urge the Subcommittee to support the supplemental appropriations requests of Amtrak and the Amtrak original budget request for FY 1977—unamended by OMB and the Administration.

I appreciate this Subcommittee's past support of adequate rail passenger service and I commend both the Chairman and the Subcommittee for that attitude.

In a related matter, with regard to the provision for commuter subsidy and the extension of the branch line subsidy—both matters involving absolutely vital services to many communities, I would urge the Subcommittee to provide adequate appropriations. It is my understanding that existing appropriations will be sufficient to handle the branch line problem but that some modest supplemental is essential to preserve the continuity of commuter service.

#### TIMING OF STARTUP PROCESS

Senator BAYH. Mr. Reistrup, if you could just give us a quick summary here. That is one bell and I think we are going to have to go. I might suggest equity prevails as far as both sides and flush out the record after I have to leave. I do not want to leave anybody in a prejudicial position.

Mr. REISTRUP. I will be as brief as I can. The Board of Directors of Amtrak made the decision—the majority of the Board—on the purchase versus lease for Amtrak. As a corporation, the purchase decision was better. We would get the one-time advantage of fee title, one-time payment for the property.

Senator BAYH. I would like for you to get to the nub of the thing—when we ought to get started, whether you can do the job, can you put people to work, is it reasonable to start now or should we wait? I think we can feel the difference, legal and the practical differences of purchase or lease. I would like to get to the question of whether we ought to start right now.

#### AMTRAK READY TO START

Mr. REISTRUP. We can start right now, Mr. Chairman. In fact, some of the work has already begun, as I pointed out in my earlier remarks. I think we must pace ourselves so we do not waste money. A lot of engineering work needs to be done, but I believe the Amtrak proposal for expenditures, at least the amounts of money coordinated with the Department of Transportation, can be expended effectively and we will get very quick returns out on the railroad. The ride will improve and be more reliable and we will begin to see benefits to the public. I have always expected two working seasons as the time frame which we can see a measurable improvement. We have seen them in one working season between New Haven and Boston.

Senator BAYH. Do you have any problem of getting people to do the job?

Mr. REISTRUP. We have had some problem getting qualified people to do the job, but I think that the very effective training program, largely led by USDA, has proven that we can get people trained quickly to do effective track work.

I have visited two of these gangs myself and was very impressed as a former track man.

Senator BAYH. You are not concerned about causing inflationary pressures if you spend \$27.4 million immediately to get started?

Mr. REISTRUP. That really is out of my area, Mr. Chairman, but I think that is a relatively minor amount of money to cause inflation.

Senator BAYH. Mr. Barnum, I hate to leave you right here but I am going to have to go to catch that vote. Will you and Mr. Reistrup get together with Mr. English to see that we do have a full and equitable presentation of both sides on the two issues for the record so the public will be apprised?

Mr. BARNUM. Of course we can, but I think you have put your finger on it. The question of whether or not you purchase or lease does not drive the decision how quickly you are going to get the work done. I think there was full recognition at the Amtrak Board that Amtrak could equally effectively operate its intercity passenger trains over the Corridor with long-term lease. Indeed, many railroads operate with long-term leases without holding fee to the property over which they are operating. If the question is how quickly can you get the work done, I suggest that is a question—

Senator BAYH. There are two different questions. We would like to have them articulated so we can get them started now, whether it is lease or purchase. The question is what is in the long-range best interests of the taxpayer, generally, not just Amtrak or ConRail. Let us develop those fully for the record.

[The information follows:]

Department of Transportation Views on  
Amtrak Purchase or Lease of NEC

In considering what is in the best long term interest of the taxpayer with respect to the Northeast Corridor (NEC), it must be recognized that achievement of fast, dependable service on the NEC properties will not be affected by whether those properties are leased or purchased. That is because in either event Amtrak will completely control operations on the NEC. Moreover, the cost to Amtrak of acquiring such control will be comparatively the same. If Amtrak leased the NEC properties, it would pay a lease rate that would be based upon the acquisition price of the properties as required by section 206(d)(5) of the Regional Rail Reorganization Act of 1973, as amended. Also, the implementation of the NEC improvement project under Title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (RRRR Act) will not be affected by whether Amtrak leases or purchases the NEC.

What would affect the taxpayer, possibly in a very substantial way, would be any adverse impact on the purchase price as a result of Amtrak's purchase rather than ConRail's purchase. Such an impact would occur only if arguments likely to be made by creditors of the Penn Central estate or owners of NEC properties prevailed and Amtrak's purchase was deemed to be a condemnation, and such condemnation was found to require a different valuation basis for those properties than the one used by USRA as the applicable basis in a reorganization of this type. We do not believe such arguments will prevail or that a valuation basis different than that utilized by USRA should in any event be applied. However, it is clear that ownership of the NEC properties by ConRail with a long-term lease to Amtrak, rather than

purchase from ConRail by Amtrak, will provide a much better factual basis for defending against any such arguments if made.

Another reason to prefer lease over purchase from the taxpayer's point of view is that it will be consistent with the establishment of a separate profit center for NEC properties in order to show the extent to which the revenues from NEC properties are meeting the full costs of providing service on those properties, including amortization of the acquisition cost. If the properties were purchased at the outset, that acquisition cost would not be reflected in the performance of the profit center. Achieving an accurate measure of the NEC properties' performance will be most important not only in determining whether or to what extent further improvements beyond those required under the RRRR Act should be made but also in assuring that to the extent feasible the NEC traveler, not the general taxpayer, pays the full cost of the service received.

Finally, it should be noted that the ultimate acquisition cost of the NEC properties will be established by the Special Court. If there are adjustments to that cost that result in an increase over the value of the properties established by Congress, there would not be sufficient funds available under the RRRR Act to meet that cost. If the properties are leased, that problem would not be presented. Also, it should be noted that the long-term lease payments made by Amtrak would provide some cash flow to ConRail. Unless the Special Court requires that these funds be passed through to the former owners of NEC properties, this could provide some flexibility to ConRail in meeting its current obligations from time to time.

## ADDITIONAL FUNDS FOR NORTHEAST CORRIDOR

Senator BAYH. Mr. Barnum, on another subject, does DOT intend to request additional funds above those already in the budget for the Northeast corridor improvement program?

Mr. BARNUM. We have asked FRA to make a full review of their budget requirements under the new act. We expect this review to be completed soon and we will then decide whether additional funds will be needed for the Northeast corridor. We will, of course, propose a budget amendment for the program if that appears to be necessary.

Senator BAYH. Why does DOT feel that this program can wait until the transition quarter to get started and then at the relatively modest level of \$15 million? Don't you believe the figures that Mr. Reistrup has set forth in his opening remarks? He made it clear that Amtrak can carry out a much larger program than you anticipate and he listed the areas where the funds could be spent. Have you had an opportunity to study that data?

Mr. BARNUM. We believe that it is important that the program get underway reasonably soon, particularly since the new act proposes that the project be completed in 5 years rather than the 7 years which the Department had proposed. The President's overall fiscal objectives were, of course, a factor in the decision to begin funding the program in the transition quarter. In addition, however, a good deal of preliminary work in planning the program start-up is necessary and will be performed by FRA and Amtrak between now and July. Of the \$15 million in the budget for the transition quarter, about \$7 million will be used for engineering design contracts which may require as many as 500 engineers, management, and support employees. The rest of the \$15 million, some \$7 million will be used for long leadtime contracts for materials needed for the program. A major portion of the fiscal year 1977 appropriation of \$150 million will be used for these purposes as well.

With respect to Mr. Reistrup's remarks, we have indeed had an opportunity to study the data he presented. The program he has in mind is quite different from the one we are proposing and that which is contemplated by the RRRR act. His proposal primarily is for projects of an ongoing maintenance type. It includes items such as contract maintenance, machinery, spare parts, ties, and rail to be used in general maintenance. This is not the kind of program we had planned for the Northeast corridor nor that which the RRRR act envisions. Indeed, FRA believes that if Amtrak were to go forward with the program they have proposed, it could well delay the start of the major upgrading program we have proposed and for which we are requesting funds.

Senator BAYH. What are the anticipated obligation levels that DOT projects for coming fiscal years in order to complete the full \$1.75 billion program in 5 fiscal years? Under the budget, only \$140 million will have been obligated by the end of fiscal 1977.

Mr. BARNUM. FRA's current schedule of planned obligations for the program are as follows: For fiscal year 1976 transition quarter, \$15 million; for fiscal year 1977, \$125 million; for fiscal year 1978, \$515 million; for fiscal year 1979, \$645 million; and for fiscal year 1980, \$450 million.

## TIMING OF REQUEST FOR FUNDS

Senator BAYH. Why has it taken the DOT so long to agree to the need for this program and to request funds for it? Didn't a 1971 DOT study recommend improvements in the corridor similar to the one now required in this act? I am curious as to why the DOT never actively pursued such a program. Obviously, the costs would have been much less than they are today and the energy savings, better transportation service, decreased congestion, etc., would already be an accomplished fact. This seems to be another case of the Government being penny-wise and pound-foolish. So, what we have is rail passenger service that has deteriorated since 1971 instead of being upgraded as was recommended in your study.

Mr. BARNUM. The Department has, in fact, actively pursued efforts to develop plans for improving transportation in the Northeast corridor. We believe we have carefully built a case that a substantial investment in improved rail passenger service in the corridor is justified and we were able to achieve broad support in the executive branch for this. We did not, in fact, receive authorization for the program until the RRR Act of 1973 was passed which supplied funds for more detailed planning efforts. The recently passed Rail Act is, of course, the first time Congress has authorized substantial funds to complete the entire program.

## IMPACT ON JOBS AND RIDERSHIP

Senator BAYH. Do you have any data as to the number of jobs this program will generate? What about the number of increased passenger trips that will use rail rather than the automobile or airplane after this program is completed?

Mr. BARNUM. The current projections indicate that peak employment during the 3rd and 4th years of the program, 1979 and 1980, will be in the range of 10,000-15,000. Employment consists of management, engineering, architectural, skilled, and unskilled type jobs.

Our current ridership projections indicate an increase from the present level of 9 million passengers per year to at least 22 million passengers per year in 1985.

## DOT OVERSIGHT OF FUNDS

Senator BAYH. Mr. Barnum, if this committee adds money to this bill for the improvement program and it turns out that Amtrak cannot efficiently use the full amounts, is it not the function of the DOT oversight of this program to see to it that they don't get more money than they can justify to you?

Mr. BARNUM. Yes, the Secretary clearly has responsibility under the Rail Act for seeing that the stated goals of the improvement program are met. This carries with it the responsibility to insure all funds appropriated by Congress for the program, whether provided to Amtrak or other organizations involved in the program, are wisely and effectively used.

## MINORITY RESOURCES CENTER

Senator BAYH. Mr. Secretary, when will the Minority Resources Center become operational?

Mr. BARNUM. Although the act allows us 180 days to establish the Center, we believe that it would be desirable to begin operations by March 1, 1976. This is a very short turnaround schedule; less than 1 month after the law becomes effective. We are acting with all possible speed because we feel that the Center must not lag behind ConRail in terms of operational startup. If the objectives of issuing minority firms a share of the contracts and subcontracts are to be met, we must assure that the Center gets off to a fast start. Otherwise, minority firms may not get a fair opportunity to compete with nonminority firms.

Based on meetings and discussions with officials of minority business and trade association, we are convinced that we can meet our target date. Through organizations such as these we could have access to the entire minority business and economic development sector and the personnel required to begin operations.

Senator BAYH. How will the operations of the Center be managed and administered?

Mr. BARNUM. The Administrator of the Federal Railroad Administration will be assigned the responsibility of administering this program within the DOT and assuring that the Center receives the information, DOT management and staff support, and other resources it requires to carry out its mission efficiently and effectively.

It is our intention, however, to contract actual Center operations to a minority institution with expertise in the field of minority business and community economic development.

As provided in the act, we shall also appoint five individuals as an Advisory Committee to the Secretary and FRA Administrator on all matters related to the operation of the Center.

Senator BAYH. What level of funds will be needed to support the Center?

Mr. BARNUM. We have not yet progressed sufficiently in our contract specifications to get a fix on the ultimate cost of the Center, which will of course be subject to future appropriations.

Although the final act includes no specific dollar levels for this section, the authorizations included in the Senate passed S. 2718 were as follows: \$175,000 in fiscal year 1976; \$50,000 in the transition quarter; and \$500,000 for the fiscal years 1977 and 1978.

However we have conducted our near term planning on the basis of \$225,000 which would consist of \$175,000 for the remainder of fiscal year 1976 and \$50,000 for the transition quarter. It is our intention to request congressional approval for reprogramming funds for this purpose.

## ADVANTAGES OF PURCHASE VERSUS LEASE AGREEMENT

Senator BAYH. Mr. Reistrup, what advantages and protections inure to Amtrak and the Federal Government by ownership of the North-east corridor properties through purchase rather than through lease?

Mr. REISTRUP. I think the main thing is that the rights under a lease arrangement are never as adequate as the rights of ownership.

Ownership can avoid many unforeseen legal or operational problems. As I have previously testified, we are hopeful that we can unsnarl the Northeast corridor from the present entanglement with lawyers and judges, so that we have clear authority and responsibility, and so we can focus on the real work that has to be done. I would add one other thought. Ownership also insures that Government-funded investments will in fact be permanently protected.

Senator BAYH. What differences exist in effecting control over properties and operations by purchase or lease of the corridor?

Mr. REISTRUP. To begin with, the use of a leased property always depends in the final analysis on what the owner will allow. Ownership greatly facilitates both decisions and their implementation. There are cost elements as well, not to mention just the cost of paperwork. In total, ownership costs are almost without exception less than the costs of leasing, with the possible exception of tax advantages such as lessors enjoy with our equipment leases, yielding us also a better cost, but these do not apply here. In fact, every analysis we have made indicates that leasing the corridor will be far more expensive in total than Amtrak ownership. But I think another main benefit, in terms of what we have to do in the corridor to take advantage of the revenue potential, is that ownership permits immediate action without recourse to the owners first.

Senator BAYH. What are the operating and financial implications of managing the corridor operations by ownership through purchase rather than by lease?

Mr. REISTRUP. Again, I think the main thing is that direct is better than indirect. I have a great deal more confidence that ownership will result in plans and even day-to-day operating decisions being immediately and satisfactorily executed.

Senator BAYH. Does the purchase of the properties provide better control over and simplify the acquisition of new properties and added investment to the corridor than that provided by lease?

Mr. REISTRUP. I would say very much so. As I'm sure the committee knows, we have spent a great deal of time at Amtrak analyzing and discussing the whole question of lease versus buy. The lease option was looked at from every possible angle. I'd rather we would lease it than not get control at all because we have so many problems in the corridor and the potential is so great. So we looked at the lease option. But the more we looked, the better the ownership option came out. One of the areas is the question of adding to the property. We have to ease some of the sharper curves, and the acreage involved is not large but it is important. Without ownership either someone else would have to make these acquisitions on our behalf, with all those complications or delays, or we would go ahead and acquire these oddly shaped parcels of land resulting in a sort of crazy quilt pattern of ownership. Under the ownership option any new properties acquired can be consolidated under one overall ownership, which ought to be not only cheaper in the beginning but with much more streamlined administration and management costs over the long run.

Senator BAYH. How would ownership accelerate the work programs for upgrading and improving the roadbed, tracks, stations, and yards?

Mr. REISTRUP. Just by removing a third party from the decision-making process. Also, as we and ConRail get further along there will

be, I think inevitably, situations where some exchanges of properties can benefit both services. No one thinks the Final System Plan is perfect. With both of us as owners we could just swap one thing for another.

I think I can give a better example. As this committee knows only too well, Amtrak has been in a very complicated three-way negotiation, I think almost since time began now, concerning plans for a new intermodal station at New Carrollton out in Maryland, which is to be the end of the new Metro line. One way or another we are going to get all these conflicting "requirements" sorted out, but I can see an identical situation developing on a much larger scale concerning the entire improvement program for the Northeast corridor, with Penn Central or with ConRail as its successor, unless we can get the ownership transferred.

Senator BAYH. Explain why ownership in fee provides insulation from potential ConRail problems were the properties to be leased.

Mr. REISTRUP. Penn Central problems have in the main stemmed from their critical lack of funds. Purchase is the surest way to make certain that Amtrak and the corridor program is insulated from the possibility that ConRail may not be viable. In the meanwhile, ConRail's main focus, and this is intended, is to make a success of their freight business throughout all the Northeastern States involved, from St. Louis and Chicago east. I think they would agree that they face formidable problems in this regard. If bad turns to worse it is not realistic to assume that ConRail will put its highest priorities—in terms of management time as well as money—into a passenger-railroad problem area. Under Amtrak ownership, any financial disputes or even litigation between Amtrak and ConRail would not materially impede Amtrak's use and development of the corridor.

#### APPROPRIATION LEGISLATION ESSENTIAL

Senator BAYH. Do you feel that it is important to face this issue of lease versus purchase in this bill rather than at some later time?

Mr. REISTRUP. Yes, I feel it is very important that the matter be resolved now. Either way, we have got to have a decision. The authorizing legislation has paved the way, but of course the appropriations process is the final and necessary step. Without appropriations there can be lots of will but zero implementation. It is the same in business. Time is important for two reasons. One is the congressional intent that Amtrak make a success of the corridor operation, and we are under a deadline for the improvements necessary. The second is that on take-over day, all the eggs are going to get scrambled, and if we cannot get it all sorted out now it will become infinitely more difficult later on. Another element is the acquisition price. It will never get any lower. If Amtrak were to lease the corridor first, and purchase it at a later date, I do not believe anyone could ever think we could get it then for \$86 million. And any contract that would attempt to hold this price would surely be a lawyer's delight.

Senator BAYH. Mr. Reistrup, if the funding levels which are proposed in the President's budget for the Northeast corridor improvement program are not increased, what effect will that have on your ability to carry out the requirements for completing the program within the time limitations contained in the act?

Mr. REISTRUP. There was a hard-fought argument over the funding levels. I think it is important now to get started. However, if funding levels are not increased it will mean that either the goals will have to be revised downward or the time it takes to get there will have to be revised upward. We have quite a lot of work to do before we can even start some of the improvements, and funding has not been provided for this sort of work. For example, when we get to making major improvements either to the tracks or the electrification, we are going to have to take certain tracks out of service. Before we can do this, unless our present schedules are to become a shambles, we are going to have to get all tracks up to where they can sustain the traffic, at speed. Also, if we are not going to get behind before we can even get started, we are going to have to be able to make early commitments on long leadtime materials—lead times can run to more than a year; possibly even 2 years, because some plants can have a whole year's production committed before the year even starts.

Senator BAYH. How important is it, for instance, that you proceed now with the purchase of the various pieces of equipment that you list in exhibit E of your statement?

Mr. REISTRUP. There are 12 items in this exhibit, and every one is critical for the timely implementation of following work. If any one should slip, something else—usually a great deal else—will have to slip later. The problem is that we cannot expect any payoff in terms of increased ridership, higher revenues and reduced costs until a major part of the program is in place and working. As a businessman it has always bothered me to see a major part of a project built but not useful—all that money just laying there—because something else ahead of it or behind it didn't get done on time. I guess I would sum it up that if it is the decision to go ahead, then let's do it right. And, if I can add one more point, the 1976 working season is soon coming up and I would certainly hate to lose it.

#### SUBSTANTIAL COST SAVINGS

Senator BAYH. Would you anticipate substantial cost savings by proceeding now with such things as the purchases of rail, crossties, et cetera?

Mr. REISTRUP. Yes; and I would underline substantial. We all know about inflation, and these industrial prices are going up faster than consumer goods prices—10 percent a year and upward. Beyond this there is the usual problem in the railroad supply industry—and probably in every industry—that if you don't get your orders placed on time you end up paying for it anyway, either in higher unit costs on a crash basis or in the cost of delay to a whole program.

Senator BAYH. In the list of work items that you plan for the corridor improvement program, one of the major items is the continuation of the emergency track rehabilitation programs for both the Washington to New York and New York to Boston services. Do you have any funds in your 1976 appropriation for these programs? Would these amounts be in addition to those funds?

Mr. REISTRUP. We have no funds already appropriated that have not already been committed. What we have here is the necessary continuation. These amounts for continuation of basic emergency work in our opinion should have been included in the administration's program and budget. I referred to this sort of work just a moment ago as the work that is necessary to get and keep the whole railroad up to par at least, so that closing off one track to work on it, for example, doesn't tie everything else up in knots.

#### TRACK BEYOND NORTHEAST CORRIDOR

Senator BAYH. We have included here the \$20 million request for track and so forth beyond the Northeast corridor. What are the lines specifically?

Mr. REISTRUP. The list is rather technical, and I think I could be more accurate if I can give this to the committee in writing. There are some stretches of track that ConRail is not going to pick up because they do not need them for freight but we need them to keep the passenger routes intact. Also there are some stations and related facilities and some equipment terminal and shop facilities. I should add that the Amtrak Board took formal action to identify these properties and formally notify all parties of our corporate commitment to take over the properties, Congress concurring. In some cases a lease from ConRail is contemplated, in others a purchase is contemplated. In all of these cases we are going to need the funding that is involved in order to maintain services, and these costs are what are comprehended in the \$20 million request. These represent items that almost fell through the cracks, so to speak. They were added to the final system plan in USRA's "Official Errata Supplement," dated December 1, 1975.

[The information follows:]

#### LINES BEYOND THE NORTHEAST CORRIDOR TO BE PURCHASED

State	From	To	From milepost	To milepost	Branch name (ML=Main line)
New York	Post Road	Rensselaer	187.4	199.5	Right-of-way.
New York	Sand Bank	Hoffmans CP 11	160.9	169.9	ML-ALB-Bayview.
Pennsylvania	Zoo (Philadelphia)	Zoo (44 St.)	2.0	3.2	Suburban line.
Pennsylvania	Zoo (44 St.)	Downingtown	3.2	32.3	ML-Phila-Pitt.
Pennsylvania	Downingtown	Park	32.3	43.9	ML-Phila-Pitt.
Pennsylvania	Park	Parkesburg DP	43.9	45.0	ML-Phil-Pitt.
Pennsylvania	Parkesburg DP	Lancaster	45.0	64.5	ML-Phila-Pitt.
Pennsylvania	Lancaster	Lancaster	64.5	73.0	ML-Phila-Pitt.
Pennsylvania	Lancaster	Conewago	73.0	190.4	ML-Phila-Pitt.
Pennsylvania	Conewago	Roy	190.5	94.5	ML-Phila-Pitt.
Pennsylvania	Roy	Harris	94.5	104.8	ML-Phila-Pitt.
Pennsylvania	Harris	Harrisburg YD	104.8	105.5	ML-Phila-Pitt.
Massachusetts	Springfield (CP 98)	Springfield (CP 98)	98.3	98.6	ML-Boston-Int S.M.
Connecticut-Mas- sachusetts	Will River	Ct/Ma St. Line	1.3	55.8	Hartford Line.
Connecticut-Mas- sachusetts	Ct/Ma St. Line	Springfield	55.8	61.8	Hartford Line.
Michigan	Asylum Switch (Kalamazoo)	Dowagiac	145.0	178.6	ML-Susbddg-Chgo.
Michigan	Dowagiac	Niles	178.6	191.7	ML-Susbddg-Chgo.
Michigan	Niles	Buchanan	191.7	200.8	ML-Susbddg-Chgo.
Michigan	Buchanan	Mi/In St. Line	200.8	222.7	ML-Susbddg-Chgo.
Indiana	Mi/In St. Line	Michigan City	222.7	226.5	ML-Susbddg-Chgo.

<sup>1</sup> The intent is to convey a continuous rail line. This appears to be a typographical error in the Final System Plan, as amended.

Note: All passenger stations including related tracks, structures and facilities related to the rail lines identified above.

STATIONS, AND RELATED TRACKS, STRUCTURES, AND FACILITIES TO BE PURCHASED

Albany-Rensselaer, N.Y.  
 Colonie-Schenectady, N.Y.  
 Schenectady (downtown), N.Y.  
 Amsterdam, N.Y.  
 Utica, N.Y.  
 Rome, N.Y.  
 Syracuse, N.Y.  
 Rochester, N.Y.  
 Batavia, N.Y.  
 Buffalo, N.Y.<sup>1</sup>  
 Erie, Pa.  
 Toledo, Ohio  
 Cincinnati, Ohio<sup>2</sup>  
 Elkhart, Ind.  
 Terre Haute, Ind.  
 Gary, Ind.  
 Cleveland (lakefront), Ohio  
 Hudson, N.Y.  
 Elyria, Ohio  
 Dayton, Ohio  
 Sandusky, Ohio  
 Indianapolis, Ind.  
 Worcester, Mass.  
 Dowagiac, Mich.  
 Springfield, Mass.  
 Michigan City, Ind.

Pittsfield, Mass.  
 Niles, Mich.  
 Kalamazoo, Mich.<sup>3</sup>  
 Battle Creek, Mich.  
 Albion, Mich.  
 Jackson, Mich.  
 Chelsea, Mich.  
 Ann Arbor, Mich.<sup>3</sup>  
 Ypsilanti, Mich.  
 Rhinecliff, N.Y.  
 Detroit, Mich.<sup>1</sup>  
 Johnstown, Pa.  
 Greensburg, Pa.  
 Canton, Ohio  
 Lima, Ohio  
 Effingham, Ill.  
 Harrisburg, Pa.  
 Lewistown, Pa.  
 Huntingdon, Pa.  
 Tyrone, Pa.  
 Altoona, Pa.  
 Latrobe, Pa.  
 Pittsburgh, Pa.<sup>1</sup>  
 Crestline, Ohio  
 Fort Wayne, Ind.

<sup>1</sup> Space in the station building and the parking areas are to be leased. The rail properties that the National Railroad Passenger Corporation is firmly committed to purchase are the related tracks, structures, and facilities.

<sup>2</sup> The only rail property that the National Railroad Passenger Corporation is firmly committed to purchase in Cincinnati is the bridge and related land, tracks and structures (including all real, personal and mixed properties apart thereof) commonly known as the "Southwest Connection."

<sup>3</sup> The rail properties that the National Railroad Passenger Corporation is firmly committed to purchase are parcels necessary for future intercity rail passenger service.

<i>Facility</i>	<i>Facilities to be purchased</i>	<i>Location</i>
12th Street yard.....	.....	Chicago
Passenger yard, engine facilities.....	.....	Albany-Rensselaer, N.Y.
Passenger engine and coach service facilities.....	.....	Syracuse, N.Y.
Coach yard and repair facilities.....	.....	Buffalo, N.Y.
Coach yard (only).....	.....	Jackson, Mich.
Coach yard (only).....	.....	Detroit, Mich.

*Stock to be purchased.*—Chicago Union Station Co.

RAIL LINES TO BE LEASED

State	From	To	From milepost	To milepost	Branch name
Illinois.....	Aroma Park.....	Waldron Road.....	244.9	246.3	ML-Cinn-KKK.
Illinois.....	Sheldon.....	Aroma Park.....	219.4	244.9	ML-Cinn-KKK.

Note: All passenger stations including related tracks, structures and facilities related to the rail lines identified above.

STATIONS AND RELATED TRACKS, STRUCTURES AND FACILITIES TO BE LEASED

Buffalo <sup>1</sup>	Framingham, Mass.	South Bend, Ind.
Cincinnati <sup>2</sup>	Kalamazoo, Mich.	Pittsburgh <sup>1</sup>
Columbus, Ohio	Ann Arbor, Mich.	Poughkeepsie, N.Y.
Grand Central Station, N.Y.	Croton-Harmon, N.Y.	
	Detroit <sup>1</sup>	

<sup>1</sup> The rail properties that the National Railroad Passenger Corporation is firmly committed to lease are space within the station building and parking areas.

<sup>2</sup> The rail properties that the National Railroad Passenger Corporation is firmly committed to lease are those presently occupied by the corporation in that city as a passenger station and related structures and facilities.

## ESTIMATED COST OF FACILITIES

Mr. BAYH. What is the estimated cost for each segment of facility?

Mr. REISTRUP. I would stress that this is an estimate. Where we could, we have relied upon USRA's dollar evaluations for a number of the properties listed in their December 1 errata supplement. These figures are firm. However, dollar figures are not yet included for all the affected properties. Meanwhile, without the funding to make these acquisitions as soon as they are assigned a value by ConRail we will risk severe service interruptions on a number of key routes.

I can give the committee those USRA figures we do have. Again, it will be more accurate if I can submit these in writing.

[The information follows:]

<i>Segment</i>	<i>USRA evaluation</i>
Post Road-Rennselaer.....	(1)
Sand Bank-Hoffmans.....	\$102,844
Zoo-Zoo (44 St.).....	704,457
Zoo (44 St.)-Downington.....	4,742,685
Dowington-Park.....	1,899,878
Park-Parkesburg.....	80,001
Parkesburg-Lancaster.....	290,141
Lancaster (8.5 miles).....	570,177
Lancaster-Conewago.....	140,833
Conewago-Roy.....	2,271

<sup>1</sup> Not available.

<i>Segment</i>	<i>USRA evaluation</i>
Roy-Harris.....	\$576,867
Harris-Harrisburg Yard.....	249,878
Springfield, Mass. (0.3 miles).....	(1)
Mill River-Conn./Mass. St. Line.....	2,530,322
Conn./Mass. St. Line-Springfield.....	81,305
Asylum Switch-Dowagiac.....	580,201
Dowagiac-Niles.....	300,086
Niles-Buchanan.....	91,196
Buchanan-Mich./Ind. St. Line.....	375,987
Mich./Ind. St. Line-Michigan City.....	60,102

<sup>1</sup> Not available.

*Stations, and related tracks, structures, and facilities*

Albany-Rensselaer -----	1	Pittsfield -----	1
Colonie-Schenectady -----	1	Niles -----	1
Schenectady (downtown)---	1	Kalamazoo <sup>4</sup> -----	1
Utica -----	\$344, 833	Battle Creek -----	1
Amsterdam -----	1	Albion -----	1
Rome -----	1	Jackson -----	12, 349
Syracuse -----	1	Chelsea -----	1
Rochester -----	1	Ann Arbor <sup>4</sup> -----	1
Batavia -----	1	Ypsilanti -----	1
Buffalo <sup>2</sup> -----	1	Rhinecliff -----	1
Erie -----	215, 263	Detroit <sup>2</sup> -----	1
Toledo -----	320, 811	Johnstown -----	13, 425
Cincinnati <sup>3</sup> -----	1	Greensburg -----	1
Elkhart -----	1	Canton -----	1
Terre Haute -----	12, 499	Lima -----	1
Gary -----	1	Effingham -----	1
Cleveland (lakefront)---	1	Harrisburg -----	253, 686
Hudson -----	1	Lewistown -----	1
Elyria -----	1	Huntingdon -----	1
Dayton -----	1	Tyrone -----	1
Sandusky -----	1	Altoona -----	1
Indianapolis -----	1	Latrobe -----	1
Worcester -----	1	Pittsburgh <sup>2</sup> -----	1
Dowagiac -----	1	Crestline -----	1
Springfield -----	1	Fort Wayne -----	31, 290
Michigan City -----	1		

<sup>1</sup> Not available.

<sup>2</sup> Space in the station building and the parking areas are to be leased. The rail properties which the National Railroad Passenger Corp. is firmly committed to purchase are the related tracks, structures, and facilities.

<sup>3</sup> The only rail property which the National Railroad Passenger Corp. is firmly committed to purchase in Cincinnati is the bridge and related land, tracks and structures (including all real, personal and mixed properties apart thereof) commonly known as the "Southwest Connection".

<sup>4</sup> The rail properties which the National Railroad Passenger Corp. is firmly committed to purchase are parcels necessary for future intercity rail passenger service.

*Facilities and location and cost*

12th Street yard, Chicago-----	\$265, 072
Passenger yard, engine facilities, Albany-Rensselaer-----	24, 080
Passenger engine and coach service facilities, Syracuse-----	344, 833
Coach yard and repair facilities, Buffalo-----	21, 640
Coach yard (only), Jackson-----	1
Coach yard (only), Detroit-----	1

<sup>1</sup> Not available.

Mr. BAYH. Explain the importance of purchasing the lines.

Mr. REISTRUP. The rail line from Springfield, Mass., to New Haven, Conn., is not designated to ConRail under the final system plan and would remain with the estate to be disposed of in any way the trustees saw fit if Amtrak did not acquire it. An important segment of the Philadelphia, Pa., to Harrisburg, Pa., rail line would remain with the estate if it were not acquired by Amtrak. Both of these rail lines have heavy passenger traffic. Amtrak is considering making major improvements on both of these rail lines as a part of the total Northeast corridor project.

A portion of the rail line from Asylum Switch (Kalamazoo, Mich.) to Michigan City, Ind., is not designated to ConRail and would remain with the estate. This would leave a large gap in an important corridor between Detroit and Chicago.

Both of the rail lines from Post Road, N.Y., to Rennselaer, N.Y., and Sand Bank, N.Y., to Hoffmans, N.Y., are not designated to ConRail and would remain with the estate. The first rail line is necessary to eliminate an 8-mile backup movement for passenger trains operating from Boston, Mass., via Albany, N.Y. It will also cut down the running time by 45 minutes. The second rail line is necessary to serve the downtown area of Schenectady, N.Y. Use of this track will also reduce running time by 10 to 12 minutes.

There is one other missing segment on the line between Indianapolis and Chicago via Lafayette. This is the segment from Sheldon, Ill., to Waldron Road, Ill. Amtrak's board of directors has voted to lease this segment. This rail line is not presently used because of the deteriorated track conditions. It is our intention, however, to restore service on this line as originally designated between Indianapolis and Chicago via Lafayette.

Mr. BAYH. Why can't the lines be under ConRail?

Mr. REISTRUP. A significant part of the rail lines Amtrak needs outside the Northeast corridor are rail lines not designated to ConRail and apparently not wanted by that corporation. Furthermore, these rail lines are more essential to Amtrak than to ConRail. If these rail lines were not acquired by Amtrak essential service would be severed.

Mr. BAYH. Why can't we wait for a budget request from the Department?

Mr. REISTRUP. We anticipate that the rail properties outside the Northeast corridor needed by Amtrak are to be conveyed to the corporation by April 1, 1976. This time schedule does not permit including the cost of these properties in the usual budget process.

#### QUESTIONS SUBMITTED BY SENATOR CASE

Senator BAYH. Senator Case has some questions that he would like to have answered for the record.

[The questions and answers follow:]

Secretary Coleman requested the reprogramming of \$2 million of FRA funds. These funds were originally designated for "Freight Car Management," "Industry Problems," or "Improved Passenger Service." With this reprogramming, these three areas would be funded at less than 50 percent of the fiscal year 1976 DOT budget request level.

*Question.* Are the reprogrammed funds to be used to fulfill the requirements section 901 of the Rail Services Act (S. 2718)?

*Answer.* The reprogrammed funds are to be derived from the unobligated balances available from the fiscal year 1974 and fiscal year 1975 appropriations and will be used for the national rail system research program. We will propose to fund section 901 requirements from the railroad rehabilitation and improvement fund. It should be noted that some of the studies called for by section 901 will be complementary to the work conducted under the national rail system research program.

*Question.* Why hasn't FRA committed the fiscal year 1976 funds to these three high priority programs?

*Answer.* The development of the detailed program specifications and the selection of the contractors and consultants, et cetera, to implement these programs has taken longer than anticipated. This, coupled with the late enactment of the fiscal year 1976 Appropriations Act, has led to unforeseen delays in these programs. We do intend, however, to obligate the full amounts appropriated in fiscal year 1976 for these three programs, namely, industry problems, freight car management, and improved passenger service. In addition, carryover balances

from fiscal year 1974 and fiscal year 1975 resulting from late program starts in those years, are also planned for obligation in fiscal year 1976.

*Question.* What tasks will not be performed if the reprogramming occurs?

*Answer.* While some tasks may be delayed beyond the timing envisioned in the budget, they will all be carried out.

#### QUESTIONS SUBMITTED BY STAFF TO DOT

##### IMPLEMENTATION OF NORTHEAST CORRIDOR PROJECT

*Question.* One of the most important features of that bill is the title dealing with the implementation of the Northeast Corridor project. Before we made changes in those sections of the bill, it is our understanding that the Administration agreed to Title VII as it is currently written. Is that correct?

(A) How does the Administration propose to actually spend the \$1.75 billion that you agreed to with the conferees when you are requesting nothing in this bill, only \$15 million in the transition quarter, and only \$125 million in fiscal year 1977?

(B) Please provide this committee with a schedule for using the \$1.75 billion authorized for this project over the next five years, including when you plan to ask for appropriations.

*Answer.* Title VII of the Railroad Revitalization and Regulatory Reform Act was the subject of extensive negotiations between Congressional staff and myself, and it was ultimately accepted as a compromise both by the members of the Senate and House committees and the Administration. In that sense, therefore, the Administration "agreed to title VII as it is currently written." But I would like to make an important distinction between agreeing to language in an authorizing bill and agreeing to seek or accept appropriations under that language. I did commit to seeking appropriations under Section 704(a) (1) for the \$1.6 billion for the basic program, spread appropriately over a number of years, and for the \$150 million in Section 704(a) (2), in such years as may be appropriate. I did not, however, make any commitment, or agree on behalf of the Administration to seek appropriations for the items in Section 704(a) (3), and indeed I expressly stated on numerous occasions that we would oppose any appropriation of the \$85 million plus authorized in Section 704(a) (3) (B) "to acquire the properties of the Northeast Corridor." The Administration has opposed acquisition by Amtrak of title to the properties of the Northeast Corridor, as I have already testified, and the conferees and their staff were advised of that opposition, and it was agreed that the issue would be settled in the appropriation process. We are still opposed to that acquisition for the reasons I have given previously.

(A) The current schedule for obligating funds for the project is shown below. The Department believes that this schedule could be met and that the objectives of the program could be achieved based on this obligation plan. A good deal of preliminary work can be done by FRA and Amtrak between now and the beginning of the transition quarter. A major part of the effort during the first year of the program will be devoted to developing detailed engineering and technical planning, preliminary to the award of major construction contracts. Some contracts for long lead time procurement items will be let during this period. The Department will have a carefully thought out, detailed plan to support later appropriation requests for the projects.

(B) The current schedule for obligations and appropriations for the \$1.75 billion program is as follows:

[In millions of dollars]

	Annual	Cumulative
Fiscal year:		
Transition quarter.....	\$15	\$15
1977.....	125	140
1978.....	515	655
1979.....	645	1,300
1980.....	450	1,750
1981.....		1,750

## STARTUP COSTS

*Question.* The authorizing legislation provides for \$10 million in startup costs that the Administration has agreed to also. I do not see it in your request here. How do you propose that Amtrak pay for these one time startup costs that your Department has estimated at \$10 million without an appropriation?

*Answer.* In the answer to a previous question, I explained that the Administration agreed to Title VII as it is written in the authorizing Act, while reserving the right to oppose certain appropriations. This is one of the items on which the Administration did not make any commitment to seek or accept an appropriation. There will, of course, be "one time" start up costs to Amtrak for the Northeast Corridor, but it is not yet clear when those costs will be incurred. Moreover, it may be that those costs should be included in funds already authorized and appropriated for Amtrak, or already authorized and to be appropriated in 1977 for Amtrak. We will have to advise the Committee further when we have a more precise idea of the exact costs and their timing.

## FUNDS FOR PURCHASE OF NORTHEAST CORRIDOR PROPERTIES

*Question.* Under Section 206(c) (1) (D) of the Regional Rail Reorganization Act of 1973, the United States Railway Association, in the Final System Plan, has designated to Amtrak certain properties outside the Northeast Corridor for continued intercity rail passenger service. The authorized level is \$20 million for purchasing these properties. Does DOT intend to submit a budget request for this purchase? If so, when and how much?

*Answer.* The need for additional funds for this purpose are also being evaluated as part of our assessment of the total budgetary requirements of the RRRR Act and we will be making appropriate recommendations when that review is completed. It might be noted that the Executive Committee of Amtrak's Board of Directors has decided that these properties should be acquired only if conveyance of the bankrupt properties is not delayed beyond the scheduled date. If conveyance is delayed the Committee has indicated that the properties should be more carefully analyzed and that authorizations to purchase them should be evaluated.

## ALLOCATION OF COSTS AMONG CORRIDOR USERS

*Question.* As I understand it, the success of the entire reorganization is critically dependent on the elimination of cross subsidy between rail freight and rail passenger services, both commuter and, where it exists, intercity. Therefore, it is vital that the commuter authorities are sufficiently funded in order to negotiate new operating agreements with Conrail as soon as possible, is it not? We do not want existing noncompensatory contract to be continued with the new company, do we?

(a) Why are you not asking for an appropriation to take care of this pressing problem? I am informed that both the commuter authorities and Amtrak are badly in need of these funds if they are to negotiate any new agreements with Conrail.

*Answer.* The Department agrees that the equitable allocation of costs among various users of the corridor is important to all concerned. We also agree that noncompensatory arrangements should not be allowed to continue. This funding issue is also now being evaluated by the Department and our conclusions will be reflected in our budget recommendations relating to the RRRR Act.

Mr. BAYH. Gentlemen, I do not want to speak for our colleagues in the House but I sense a bit of feeling there to wait until the next supplemental. I think this will be folly. We had better move quickly to do this job.

I think you are going to see this committee willing to move and move quickly and if you will make any recommendations relative to the amendment—you mentioned one here that we need to consider—we will be glad to cooperate with you in any way we can.

I predict that the Senate is more than ready to move.

So if you will excuse me, I am going to have to run; and I appreciate, gentlemen, your presence here today.

But before I go, I would like to leave a number of questions with you for your response.

[The question and answers follow:]

Legislative History Needed Re: ConRail Financing  
(for Ed Jordan)

1. Q. Mr. Jordan, if I understand your testimony correctly, ConRail will require the entire \$2.1 billion projected in the Final System Plan and authorized in S.2718 for its financial success. If that correct?
- A. That is correct. In order for us to fully justify to the courts that the proposals relating to ConRail's formation constitute an "income-based reorganization," and not a government "taking," the full \$2.1 billion must be committed.

In what I believe was a wise step, the Congress created the United States Railway Association in 1974 and charged it with the responsibility of drafting a plan which would provide a solution for the problem of the Northeast and Middle-west bankrupt railroads. The U.S. Supreme Court has already confirmed the validity of that Congressional purpose. The USRA determined that a total of \$2.1 billion would be necessary to ensure the financial success of ConRail. I think the courts, which have to confirm the legitimacy of the process, will require that the USRA recommendations be fully implemented and that will require a \$2.1 billion final appropriation.

2. Q. Is it also true that the elimination of cross subsidy between freight and passenger services is a key element in the successful reorganization of these bankrupt railroads, and that the funds needed to eliminate any cross subsidy is in addition to the \$2.1 billion needed by CONRAIL?
- A. That same USRA Report made it clear that ConRail, primarily a freight-hauling railroad, could not bear the losses which it has in the past assumed because of passenger services. Therefore, funds that are contemplated in this appropriations bill to make up those losses are essential if ConRail is to succeed and the court is to affirm the validity of the entire ConRail process.
3. Q. In other words, the appropriations that are before us today that pertain to AMTRAK and the commuter operating subsidies are vitally important to the success of CONRAIL as well as important to AMTRAK and the commuter authorities?
- A. It is our assumption that the contracts which we write with AMTRAK and the commuter authorities will be backed by sufficient funds to enable them to reimburse us for the services we render. It is equally clear that they must have the appropriations called for under both the House and Senate "marked-up versions" if they are to meet those contractual obligations.
4. Q. I know from previous conversations that you feel very strongly that substantial improvements can be made in ConRail's operations versus the existing operating procedures used by these carriers. Can you give us any specifics as to the area where you feel such improvements can come about?
- A. There are many areas where substantial improvements can be made in ConRail's operations versus the existing operating procedures. First and foremost will be the improvements that will follow the programs to upgrade track and right of way, and to rebuild our locomotive and freight car fleet. The right of way has been allowed to deteriorate for many, many years, until at the present time more than 8,000 miles of Penn-Central track is under slow orders. As the track is rebuilt these orders will be lifted and trains movements will be more dependable and faster, which in itself is a major factor in reducing operating

costs and reach profitability. We plan to invest \$6 billion in the first ten years in our capital program, of which we expect half to come from internally generated sources.

The Final System Plan also projects an improvement factor of 28 percent in the utilization of freight cars by 1986. We believe this is a realistic operating goal based on the data we have assembled for the type of centralized car distribution system we plan to install, and the improvements that will be made to yards and plant facilities.

Other savings will come from new "run-through" trains we expect to be able to operate over the newly combined track systems of the seven merged railroads.

5. Q. Mr. Jordan, I am concerned that minority businesses get a fair shot at the contracts that will be let by ConRail as I am sure you are. We were successful in having a minority resource center included in the authorization bill. I wonder if you have had a chance to focus on this aspect of ConRail's operations yet. Do you have any definite plans formulated at this time to insure such participation?

- A. We have focused on both ConRail's own policy as to minority business opportunities and the new statutory provisions creating a minority resource center within the Department of Transportation.

We intend to conduct our own procurement procedures in such a manner that minority suppliers of both materials and services will be given every opportunity to provide those for the railroad. We not only intend to honor the standards set by the present federal guidelines but we have in our initial procurement policies and will ensure that internally our policies are geared to provide equal access to all such suppliers.

We intend to cooperate fully with the new Center that would be established under Secretary Coleman. We hope he will seek our advice and counsel on the appointment of the five members of the advisory board, and we will provide the Center with all of the data and information necessary to enable them to focus on ConRail as well as the rail industry in general. It is my own personal belief that minority businessmen, who wish to provide ConRail with its needed services and materials, should be given every opportunity to do so.

6. Q. Are you still convinced that ConRail will be able to perform as projected in the Final System Plan?

- A. The Final System Plan sets forth a set of assumptions relating to not only ConRail's own performance but the performance of our national economy. Within that series of assumptions are another series of sub-assumptions that relate to the managerial skill of ConRail, its ability to utilize new technology, its ability to reach new agreements with its unions, its ability to be innovative in marketing its services, and its ability to be competitive with other railroads and other forms of transportation.

These assumptions are, of course, predicated on a significant measure of federal support. There is no question in my mind that the most important factor in our ability to perform as projected will be the full federal support called for in the Final System Plan. I can assure you that we intend to devote our full time and effort to making those other assumptions a reality. We do intend to bring in top flight management; we do intend to utilize the very best in technology; we do intend to reach a far better set of relationships with our unions; and we do intend to be competitively innovative.

In short, we do believe ConRail can become a self-sustaining railroad, capable of repaying the investment which the federal government will make.

Questions for Ed Jordan, Chairman of ConRail

1. Q. Mr. Jordan, how are things at ConRail? Have you been able to find the kind of managerial talent that you will need to make ConRail a top flight operation?
  - A. The major problem that has colored our discussions with prospective managers has been the absence of legislation that would make ConRail a reality. That legislation has now been passed and the Appropriations Committee is about to take the final steps necessary to make that legislation fully workable. We will be able to recruit the remainder of the people that I believe are necessary to make ConRail, in your terms, a "top flight operation." I would, however, point out what I said in my opening statement; that we have two top railroad men already in place. Dick Spence, formerly President of the Southern Pacific, who is now our new President and Chief Operating Officer, and Al Egbers, formerly of the Burlington Northern, who we believe is the top labor management man in the rail industry, as our Vice President for Labor Management Relations.
 

To summarize, I believe that with the new legislation and the appropriations we will be able to attract the additional people we need to assure a sound operation.
  
2. Q. Assuming that the President signs the authorization and the appropriation bills, when is the conveyance to take place?
  - A. By law, the new act, when signed by the President, calls for Conveyance to take place on April 1st. The new act, however, does permit the United States Railway Association to delay that date for up to 30 days if unforeseen events make the Conveyance a physical impossibility. I am hopeful that such a decision will not take place since the bankrupt railroads, whose property will be conveyed to ConRail, do not have sufficient funds to continue operation beyond April 1st.
  
3. Q. If there is another delay beyond May 1, what would be your estimate of the damage that would do to ConRail?
  - A. If by some chance Conveyance were to be delayed beyond that optional period, that is beyond May 1, the damage to ConRail would be almost incalculable. There are not sufficient funds available under the present act to continue an orderly acquisition of inventory. And, as I have already pointed up, the bankrupt railroads do not have sufficient funds to operate beyond April 1st. In monetary terms alone, the Congress would have to provide \$1 million a day for the operating losses of the bankrupts, and in management terms, we do not believe it is possible to maintain any quantity or quality of service unless there is a Conveyance on April 1st.
  
4. Q. I can assure you on behalf of Senator Magnuson and Senator Pastore that there is a strong commitment to see that this reorganization process is properly funded so that it can be successful, and that this commitment will be reflected both in this appropriations bill and the accompanying report language.
  - A. I am grateful for the assurances you have given us about the proper funding for both ConRail and the contracts it will make with AMTRAK and the commuter automobiles. Without such assurances we would be very skeptical about our financial future.

## SUBCOMMITTEE RECESS

Senator BAYH. The subcommittee will recess, subject to the call of the Chair.

[Whereupon, at 11:55 a.m., Thursday, January 29, the hearing was concluded and the subcommittee was recessed, to reconvene at the call of the Chair.]



