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LAWS RELATING TO RAIL PASSENGER SERVICE
INCLUDING THE RAIL PASSENGER SERVICE ACT

(Public Law 91-518) as Amended

PREPARED AT THE REQUEST OF

HON. WARREN G. MAGNUSON, *Chairman*

FOR THE USE OF THE

COMMITTEE ON COMMERCE



MAY 1977

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The Rail Passenger Service Act (Public Law 91-518, October 30, 1970, as amended by Public Law 92-316, June 22, 1972; by the Amtrak Improvement Act of 1973, Public Law 93-146, November 3, 1973; by the Amtrak Improvement Act of 1974, Public Law 93-496, October 28, 1974; by the Amtrak Improvement Act of 1975, Public Law 94-25, May 26, 1975; by the Railroad Revitalization and Regulatory Reform Act of 1976, Public Law 94-210, February 5, 1976; and by the Rail Transportation Improvement Act, Public Law 94-555, October 19, 1976)

TITLE I—FINDINGS, PURPOSES, AND DEFINITIONS

Sec. 101. Congressional findings and declaration of purpose

The Congress finds that modern, efficient, intercity railroad passenger service is a necessary part of a balanced transportation system; that the public convenience and necessity require the continuance and improvement of such service to provide fast and comfortable transportation between crowded urban areas and in other areas of the country; that rail passenger service can help to end the congestion on our highways and the overcrowding of airways and airports; that the traveler in America should to the maximum extent feasible have freedom to choose the mode of travel most convenient to his needs; that to achieve these goals requires the designation of a basic national rail passenger system and the establishment of a rail passenger corporation for the purpose of providing modern, efficient, intercity rail passenger service; that Federal financial assistance as well as investment capital from the private sector of the economy is needed for this purpose; and that interim emergency Federal financial assistance to certain railroads may be necessary to permit the orderly transfer of railroad passenger service to a railroad passenger corporation.

Sec. 102. Definitions

For the purposes of this Act—

(1) "Railroad" means a common carrier by railroad, as defined in section 1(3) of Part I of the Interstate Commerce Act, as amended (49 U.S.C. 1(3)) other than the corporation created by title III of this Act.

(2) "Secretary" means the Secretary of Transportation or his delegate unless the context indicates otherwise.

(3) "Commission" means the Interstate Commerce Commission.

(4) "Basic system" means the system of intercity rail passenger service designated by the Secretary under title II and section 403(a) of this Act.

(5) "Intercity rail passenger service" means all rail passenger service other than commuter and other short-haul service in metropolitan and suburban areas, usually characterized by reduced fare,

multiple-ride and commutation tickets, and by morning and evening peak period operations.

(6) "Avoidable loss" means the avoidable costs of providing passenger service, less revenues attributable thereto, as determined by the Interstate Commerce Commission pursuant to the provisions of section 553 of title 5, United States Code.

(7) "Corporation" means the National Railroad Passenger Corporation created under title III of this Act.

(8) "Regional transportation agency" means an authority, corporation, or other entity established for the purpose of providing passenger service within a region.

(9) "Auto-ferry service" means intercity rail passenger service characterized by transportation of automobiles and other occupants.

TITLE II—BASIC NATIONAL RAIL PASSENGER SYSTEM

Sec. 201. Designation of system

In carrying out the congressional findings and declaration of purpose set forth in tile I of this Act, the Secretary, acting in cooperation with other interested Federal agencies and departments, is authorized and directed to submit to the Commission and to the Congress within thirty days after the date of enactment of this Act [i.e., by November 29, 1970], his preliminary report and recommendations for the basic system. Such recommendations shall specify those points between which intercity passenger trains shall be operated, identify all routes over which service may be provided, and the trains presently operated over such routes, together with basic service characteristics of operations to be provided within the basic system, taking into account schedules, number of trains, connections, through car service, and sleeping, parlor, dining, and lounge facilities. In recommending the basic system the Secretary shall take into account the need for expeditious intercity rail passenger service within and between all regions of the continental United States, and the Secretary shall consider the need for such service within the States of Alaska and Hawaii and the Commonwealth of Puerto Rico. In formulating such recommendations the Secretary shall consider opportunities for provision of faster service, more convenient service, service to more centers of population, and service at lower cost, by the joint operation, for passenger service, of facilities of two or more railroad companies; the importance of a given service to overall viability of the basic system; adequacy of other transportation facilities serving the same points; unique characteristics and advantages of rail service as compared to other modes of transportation; the relationship of public benefits of given services to the costs of providing such services; and potential profitability of the service. The exclusion of a particular route, train, or service from the basic system shall not be deemed to create a presumption that the route, train, or service is not required by public convenience and necessity in any proceeding under section 13a of the Interstate Commerce Act (49 U.S.C. 13a).

Sec. 202. Review of the basic system

The Commission, the State Commissions, the representatives of the railroads, and labor organizations duly authorized under the Railway

Labor Act to represent railroad employees shall, within thirty days after receipt of the preliminary report of the Secretary designating the basic system, [i.e., by December 29, 1970] review such report consistent with the purposes of this Act and provide the Secretary with their comments and recommendations in writing. The Secretary shall give due consideration to such comments and recommendations. The Secretary shall, within ninety days after the date of enactment of this Act, [i.e. by January 28, 1971] submit his final report designating the basic system to the Congress. Such final report shall include a summary of their recommendations together with his reasons for failing to adopt any such recommendation. The basic system as designated by the Secretary shall become effective for the purpose of this Act upon the date that the final report of the Secretary is submitted to Congress and shall not be reviewable in any court.

TITLE III—CREATION OF A NATIONAL RAIL PASSENGER SYSTEM

Sec. 301. Creation of the corporation

There is authorized to be created a National Railroad Passenger Corporation. The Corporation shall be a for profit corporation, the purpose of which shall be to provide intercity rail passenger service, employing innovative operating and marketing concepts so as to fully develop the potential of modern rail service in meeting the Nation's intercity passenger transportation requirements. The Corporation will not be an agency or establishment of the United States Government. It shall be subject to the provisions of this Act and, to the extent consistent with this Act, to the District of Columbia Business Corporation Act. The right to repeal, alter, or amend this Act at any time is expressly reserved.

Sec. 302. Process of organization

The President of the United States shall appoint not fewer than three incorporators, by and with the advice and consent of the Senate, who shall also serve as the board of directors for one hundred and eighty days following the date of enactment of this Act [i.e. until April 28, 1971]. The incorporators shall take whatever actions are necessary to establish the Corporation, including the filing of articles of incorporation, as approved by the President.

Sec. 303. Directors and officers

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

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

(B) Eight members appointed by the President, by and with the advice and consent of the Senate, to serve for terms of four years or until their successors have been appointed and qualified, of whom not more than five shall be appointed from the same political party.

(C) Three members elected annually by the common stockholders of the Corporation.

(D) Four members elected annually by the preferred stockholders of the Corporation, which members shall be elected as soon as practicable after the first issuance of preferred stock by the Corporation.

(2) Any vacancy in the membership of the board shall be filled in the same manner as in the case of the original selection; except that any member appointed by the President under paragraph (1)(B) of this subsection to fill a vacancy shall be appointed only for the unexpired term of the member he is appointed to succeed.

(3) The board shall elect one of its members annually to serve as Chairman.

(4) Not less than three members appointed by the President shall be designated by him, at the time of their appointment, to serve as consumer representatives, of whom not more than two shall be members of the same political party.

(5) Each member not employed by the Federal Government shall receive compensation at the rate of \$300 per diem when engaged in the actual performance of duties. In addition, each member shall be reimbursed for necessary travel, secretarial or professional staff support which is reasonably required and subsistence expenses incurred in attending meetings of the board.

(6) No member elected by railroads shall vote on any action of the board relating to any contract or operating relationship between the Corporation and a railroad, but he may be present at meetings of the board at which such matters are voted upon, and he may be included for purposes of determining a quorum and may participate in the discussions at any such meeting.

(7) No member appointed by the President may—

(A) have any direct or indirect financial or employment relationship with any railroad; nor

(B) have any significant direct or indirect financial relationship, or any direct or indirect employment relationship, with any person engaged in the transportation of passengers in competition with the Corporation, during the time that he serves on the board.

(8) Pending the election of the four members by the preferred stockholders of the Corporation under paragraph (1)(D) of this subsection, seven members shall constitute a quorum for the purpose of conducting the business of the board.

(9) Any vacancy in the membership of the board of directors required to be filled by appointment by the President under paragraph (1)(B) of this subsection shall be filled by the President not more than one hundred and twenty days after such vacancy occurs.

(b) The board of directors is empowered to adopt and amend bylaws governing the operation of the Corporation. Such bylaws shall not be inconsistent with the provisions of this Act or of the articles of incorporation.

(c) The articles of incorporation of the Corporation shall provide for cumulative voting for all stockholders and shall provide that, upon conversion of one-fourth of the outstanding shares of preferred stock, the common stockholders shall be entitled to elect four directors and the preferred stockholders shall be entitled to elect three directors;

upon the conversion of one-half of the outstanding shares of preferred stock, the common stockholders shall be entitled to elect five directors and the preferred stockholders shall be entitled to elect two directors; upon the conversion of three-fourths of the outstanding shares of preferred stock, the common stockholders shall be entitled to elect six directors and the preferred stockholders shall be entitled to elect one director; and upon conversion of all outstanding shares of preferred stock, the common stockholders shall be entitled to elect seven directors. Any change of directors resulting from such stock conversion shall take effect at the next annual meeting of the Corporation following such stock conversion.

(d) The Corporation shall have a president and such other officers as may be named and appointed by the board. The rates of compensation of all officers shall be fixed by the board. No officer of the Corporation shall receive compensation at a rate in excess of that prescribed for level I of the Executive Schedule under Section 5312 of Title 5, United States Code; except that this limitation upon compensation shall not apply in the case of the President of the Corporation if the board determines with respect to such officer that a higher level of compensation is necessary and is not higher than \$85,000 or the general level of compensation paid officers of railroads in positions of comparable responsibility, whichever is lesser. Officers shall serve at the pleasure of the board. No individual other than a citizen of the United States may be an officer of the Corporation. No officer of the Corporation may have any direct or indirect employment or financial relationship with any railroad during the time of his employment by the Corporation.

Sec. 304. Financing of the Corporation

(a) The Corporation is authorized to issue and have outstanding, in such amounts as it shall determine, two issues of capital stock, a common and a preferred, each of which shall carry voting rights and be eligible for dividends. Common stock may be initially issued only to a railroad. Preferred stock may be issued to and held only by any person other than (1) a railroad or (2) any person controlling one or more railroads, as defined in section 1(3)(b) of the Interstate Commerce Act. The articles of incorporation of the Corporation shall provide for the following respective rights of each issue of stock.

“(b) (1) Notwithstanding any other provision of law, the term of each member of the board of directors appointed by the President under section 303(a) of the Rail Passenger Service Act, (as in effect on the day before the date of enactment of this Act) who is serving under such appointment on such date of enactment shall expire on the thirtieth day after such date of enactment, [i.e. on December 3, 1973] except that each such member so serving shall continue to serve until his successor is appointed and qualified or until the expiration of the one-hundred-twenty-day period beginning on the thirtieth day after such date of enactment, [i.e. until April 2, 1974] whichever first occurs. No member of the board of directors referred to in the preceding sentence shall be ineligible for appointment as such a member after the date of enactment of this Act solely by reason of the enactment of such preceding sentence.

“(2) Notwithstanding section 303(a)(1)(B) of the Rail Passenger Service Act, of the members of the board of directors first appointed by the President under such section 303(a)(1)(B), three shall be appointed to serve for terms of two years and three shall be appointed to serve for terms of three years.” (Enacted as part of the Amtrak Improvement Act of 1973, but did not amend the Rail Passenger Service Act.)

Section 1(b) of Public Law 92-316 provided that "No individual serving as an officer of the National Railroad Passenger Corporation on the date of enactment of this Act (i.e. June 22, 1972) shall have his rate of compensation as such officer reduced solely by reason of the enactment of the amendment made by subsection (a) of this section; Provided, however, That compensation to any officer of the Corporation in excess of level I of the Executive Schedule, shall be paid only from the net profits of the Corporation." (Enacted as part of the 1972 amendments, but did not amend the Rail Passenger Service Act.)

(A) COMMON STOCK.—Common stock shall have a par value of \$10 per share and shall be designated fully paid and nonassessable. No dividends shall be paid on the common stock whenever dividends on the preferred stock are in arrears.

(B) (i) PREFERRED STOCK.—Preferred stock shall have a par value of \$100 per share and shall be designated fully paid and nonassessable. Dividends shall be fixed at a rate not less than 6 per centum per annum, and shall be cumulative so that, if for any dividend period dividends at the rate fixed in the articles of incorporation shall not have been declared and paid or set aside for payment on the preferred shares, the deficiency shall be declared and paid or set apart for payment prior to the making of any dividend or other distribution on the common shares.

(ii) Preferred stock shall be entitled to a liquidation preference over common stock, which shall entitle preferred stockholders to a liquidating payment not less than par value plus all accrued unpaid dividends prior to any payment on liquidation to common stockholders.

(iii) Preferred stock shall be convertible into shares of common stock at such time and upon terms as the articles of incorporation shall provide.

(b) At no time after the initial issue is completed shall the aggregate of the shares of common stock of the Corporation voted by a single railroad or by any person controlling one or more railroads, as defined in section 1(3)(b) of the Interstate Commerce Act, directly or indirectly through subsidiaries or affiliated companies, nominees, or any person subject to its direction or control, exceed $33\frac{1}{3}$ per centum of such shares issued and outstanding. If any railroad or any person controlling one or more railroads, as defined in section 1(3)(b) of the Interstate Commerce Act (49 U.S.C. 1(3)(b)), owns, directly or indirectly through subsidiaries or affiliated companies, nominees, or any person subject to its direction or control, a number of shares in excess of $33\frac{1}{3}$ per centum of the total number of common shares issued and outstanding, such excess number shall, for voting and quorum purposes, be deemed to be not issued and outstanding.

(c) At no time may any stockholder, or any syndicate or affiliated group of such stockholders, own more than 10 per centum of the shares of preferred stock of the Corporation issued and outstanding.

(d) The articles of incorporation shall provide that no shares of any issue of stock may be redeemed or repurchased for five years, following the date of enactment of this Act. [i.e. until October 30, 1975.]

(e) The Corporation is authorized to issue, in addition to the stock authorized by subsection (a) of this section, nonvoting securities, bonds, debentures, and other certificates of indebtedness as it may determine.

(f) The requirement of section 45(b) of the District of Columbia Business Corporation Act (D.C. Code, sec. 29-920(b)) as to the percentage of stock which a stockholder must hold in order to have the rights of inspection and copying set forth in that subsection shall not be applicable in the case of holders of the stock of the Corporation, and they may exercise such rights without regard to the percentage of stock they hold.

Sec. 305. General powers of the Corporation

(a) The Corporation is authorized to own, manage, operate, or contract for the operation of intercity trains operated for the purpose of providing modern, efficient, intercity transportation of passengers and to carry mail and express on such trains; to conduct research and development related to its mission; and to acquire by construction, purchase, or gift, or to contract for the use of, physical facilities, equipment, and devices necessary to rail passenger operations. Insofar as practicable, the Corporation shall directly operate and control all aspects of its rail passenger service. To carry out its functions and purposes, the Corporation shall have the usual powers conferred upon a stock corporation by the District of Columbia Business Corporation Act.

(b) The Corporation shall take such actions as may be necessary to increase its revenues from the carriage of mail and express. In order to increase revenues and to better accomplish the purposes of this Act, the Corporation is authorized to modify its services to provide auto-ferry service as a part of the basic passenger services authorized by this Act, except that nothing contained in this Act shall prevent any other person, other than a railroad (except that for purposes of this section a person primarily engaged in auto-ferry service shall not be deemed to be a railroad), from providing such auto-ferry service over any route in accordance with a certificate issued by the Commission if—

(1) the Commission finds that such auto-ferry service—

(A) will not impair the ability of the Corporation to reduce its losses or to increase its revenues, and

(B) is required to meet the demand of the public, or

(2) such auto-ferry service is being performed by such person on the date of enactment of this paragraph [i.e. November 3, 1973] under contracts entered into before October 30, 1970.

Nothing in this section shall be construed to restrict the right of a railroad that has not entered into a contract with the Corporation for the provision of rail passenger service from performing auto-ferry service over its own lines. The Corporation is authorized to acquire, lease, modify, or develop the equipment and facilities required for the efficient provision of mail, express, and auto-ferry service, or to enter into contracts for the provision of such service. Upon request by the Corporation, Federal departments and agencies shall, consistent

with the provisions of existing law, provide such assistance as may be necessary in carrying out the purposes of this subsection.

(c) The Corporation is authorized to take all steps necessary to insure that no elderly or handicapped individual is denied intercity transportation on any passenger train operated by or on behalf of the Corporation, including but not limited to, acquiring special equipment and devices and conducting special training for employees; **designing and acquiring new equipment and facilities and eliminating** architectural and other barriers in existing equipment and facilities to comply with the highest standards for the design, construction, and alteration of property for the accommodation of elderly and handicapped individuals; and providing special assistance while boarding and alighting and in terminal areas to elderly and handicapped individuals.

(d) (1) The Corporation is authorized, to the extent financial resources are available—

“(A) to acquire any property which the Secretary, acting in furtherance of his responsibility to design and construct an intermodal transportation terminal at Union Station in the District of Columbia, requests, upon assurance of full reimbursement by the Secretary; and

“(B) to acquire any right-of-way, land, or other property (except right-of-way, land, or other property of a railroad or property of a State or political subdivision thereof or of any other governmental agency), which is required [for]¹ intercity rail passenger service;

by the exercise of the right of eminent domain, in accordance with the provisions of this subsection, in the district court of the United States for the judicial district in which such property is located or in any such court if a single piece of property is located in more than one judicial district: *Provided*, That such right may only be exercised when the Corporation cannot acquire such property by contract or is unable to agree with the owner as to the amount of compensation to be paid.

(2) The Corporation shall file with the complaint, or at any time before judgment, a declaration of taking containing or having annexed thereto—

(A) a statement of the public use for which the property is taken;

(B) a description of the property taken sufficient for the identification thereof;

(C) a statement of the estate or interest in the property taken;

(D) a plan showing the property taken; and

(E) a statement of the amount of money estimated by the Corporation to be just compensation for the property taken.

(3) Upon the filing of the declaration of taking and the depositing in the court of the amount of money estimated in such declaration to be just compensation for the property, the property shall be deemed to be condemned and taken for the use of the Corporation. Title to such property shall thereupon vest in the Corporation in fee simple

¹ The word “for” deleted inadvertently by amendment made by section 705(g) of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210).

absolute or in any lesser estate or interest specified in the declaration of taking, and the right to the money deposited as estimated just compensation shall immediately vest in the persons entitled thereto. The court, after a hearing, shall make a finding as to the amount of money which constitutes just compensation for such property and shall make an award and enter judgment accordingly. Such judgment shall include, as part of the just compensation awarded, interest on the amount finally awarded as the value of the property on the date of taking minus the amount deposited in the court on such date, at the rate of 6 per centum per annum from the date of taking to the date of payment.

(4) Upon the application of the parties in interest, the court may order that the money deposited in the court, or any part thereof, be paid forthwith for or on account of the just compensation to be awarded in the proceeding. If the compensation finally awarded exceeds the amount of the money received by any person entitled to compensation, the court shall enter judgment against the Corporation for the amount of the deficiency.

(5) Upon the filing of a declaration of taking, the court may fix the time within which, and the terms upon which, the parties in possession are required to surrender possession to the Corporation. The court may make such orders in respect to encumbrances, liens, rents, taxes, assessments, insurance, and other charges, if any, as shall be just and equitable.

(e) The Corporation is authorized to take all steps necessary to—

(1) establish improved reservations systems and advertising;
(2) service, maintain, repair, and rehabilitate railroad passenger equipment;

(3) conduct research and development and demonstration programs respecting new rail passenger services;

(4) develop and demonstrate improved rolling stock;

(5) establish and maintain essential fixed facilities for the operation of passenger trains on lines and routes included in the basic system over which no through passenger trains are being operated at the time of enactment of this Act [i.e. November 3, 1973] including necessary track connections between lines on the same or different railroads;

(6) purchase or lease railroad rolling stock;

(7) develop and operate international intercity rail passenger service between points within the United States and points in Canada and Mexico, including Montreal, Canada; Vancouver, Canada; and Nuevo Laredo, Mexico (for purposes of section 404(b) of this Act, such international rail passenger service is service included within the basic system); and

(8) to carry out other corporate purposes.

(f) The Corporation shall, to the maximum extent practicable, directly perform all maintenance, rehabilitation, repair, and refurbishment of rail passenger equipment. Until the Corporation obtains, by purchase, lease, construction, or any other method of acquisition, Corporation-owned or controlled facilities which are adequate for the proper maintenance, repair, rehabilitation, and refurbishment of the rolling stock and other equipment and facilities of the Corporation,

the railroads performing such services shall do so as expeditiously as possible.

(g) The Corporation shall advise, consult and cooperate with, and, upon request, is authorized to assist in any other manner the Secretary, the United States Railway Association, the Corps of Engineers, and the Consolidated Rail Corporation in order to facilitate completion and implementation of the Northeast Corridor project, as defined in section 206(a)(3) of the Regional Rail Reorganization Act of 1973, by the earliest practicable date. The Secretary shall assign the highest priority to the completion of such project.

(h) The Secretary of the Treasury and the Attorney General shall (consistent with the effective enforcement of the immigration and customs laws) establish and maintain, in cooperation with the Corporation, en route customs inspection and immigration procedures aboard trains operated in international intercity rail passenger service, which procedures will be convenient for passengers and will result in the most rapid possible transit in international intercity rail passenger service.

(i) The Corporation is authorized to employ security guards for purposes of providing security and protection for rail passengers of the Corporation and for rail properties owned by the Corporation. Security guards employed by the Corporation who have complied with the provisions of any State law setting forth licensing, residency, or related requirements applicable to security guards or persons employed in similar positions may be employed without regard to the provisions of any other State's laws setting forth such requirements.

Sec. 306. Applicability of the Interstate Commerce Act and other laws

(a) The Corporation shall be deemed a common carrier by railroad within the meaning of section 1(3) of the Interstate Commerce Act and shall be subject to all provisions, including the provisions of section 22(1), of the Interstate Commerce Act other than those pertaining to—

(1) regulation of rates, fares, and charges;

(2) abandonment or extension of lines of railroads utilized solely for passenger service, and the abandonment or extension of operations over such lines of railroads, whether by trackage rights or otherwise;

(3) regulation of routes and service and, except as otherwise provided in this Act, the discontinuance or change of passenger train service operations.

(b) The Corporation shall be subject to the same laws and regulations with respect to safety and with respect to the representation of its employees for purposes of collective bargaining, the handling of disputes between carriers and their employees, employee retirement, annuity and unemployment systems, and other dealings with its employees as any other common carrier subject to part I of the Interstate Commerce Act.

(c) The Corporation shall not be subject to any State or other law pertaining to the transportation of passengers by railroad as it relates to rates, routes, or service.

(d) Leases and contracts entered into by the Corporation, regardless of the place where the same may be executed, shall be governed by the laws of the District of Columbia.

(e) Persons contracting with the Corporation for the joint use or operation of such facilities and equipment as may be necessary for the provision of efficient and expeditious passenger service shall be and are hereby relieved from all prohibitions of existing law, including the antitrust laws of the United States, with respect to such contracts, agreements, or leases insofar as may be necessary to enable them to enter into such contracts and to perform their obligations thereunder.

(f) All departments, agencies, and instrumentalities of the Federal Government shall, in authorizing travel in the continental United States for their employees or for members of the Armed Forces or commissioned services, treat travel by train (whether or not extra fare trains) on the same basis as travel by other authorized modes.

(g) The Corporation shall be subject to the provisions of section 552 of Title 5, United States Code.

(h) No common carrier by railroad may refuse to participate with the Corporation in providing auto ferry service on the grounds that a State or local law or regulation makes the service unlawful; and neither the Corporation nor such railroad shall be subject to any fine, penalty, or other sanction for violation of a State or local law or regulation which has the effect of prohibiting or impairing the provision of auto-ferry service.

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

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

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

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

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

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

(3) analysis of the need for intermodal terminals, through ticketing and baggage handling arrangements, and the means by which such needs should be met;

(4) the extent to which any existing arrangements have improved or lessened, or might improve or lessen, the adequacy of service and passenger convenience;

(5) methods of formulating joint fares and divisions thereof;

(6) views of the Corporation, other intercity common carriers by rail and of organizations representing intercity bus operators; and

(7) recommendations relative to the establishment of through routes and joint fares between railroads and motor carriers of passengers, including any recommendations for legislation.

Sec. 307. Sanctions

(a) If the Corporation or any railroad engages in or adheres to any action, practice, or policy inconsistent with the policies and purposes of this Act, obstructs or interferes with any activities authorized by this Act, refuses, fails, or neglects to discharge its duties and responsibilities under this Act, or threatens any such violation, obstruction, interference, refusal, failure, or neglect, the district court of the United States for any district in which the Corporation or other person resides or may be found shall have jurisdiction, except as otherwise prohibited by law, upon petition of the Attorney General of the United States or, in a case involving a labor agreement, upon petition of any employee affected thereby, including duly authorized employee representatives, to grant such equitable relief as may be necessary or appropriate to prevent or terminate any violation, conduct, or threat.

(b) Nothing contained in this section shall be construed as relieving any person of any punishment, liability, or sanction which may be imposed otherwise than under this Act.

Sec. 308. Reports to the Congress

(a) (1) Not later than the eightieth day following the end of each calendar month, the Corporation shall transmit to the Congress and release to the public the following information applicable to its operations for such calendar month:

- (A) Total itemized revenues and expenses.
- (B) Revenues and expenses of each train operated.
- (C) Revenues and total expenses attributable to each railroad over which service is provided.

(2) Not later than the fifteenth day following the end of each calendar month, the Corporation shall transmit to the Congress and release to the public the following information applicable to its operations for such calendar month:

- (A) The average number of passengers per day on board each train operated.
- (B) The on-time performance at the final destination of each train operated, by route and by railroad.

(b) The Corporation shall transmit to the President and to the Congress by February 15 of each year (beginning with 1973), and at such other times as it deems desirable, a comprehensive and detailed report of its operations, activities, and accomplishments under this Act, including a statement of receipts and expenditures for the preceding year. At the time of its annual report, the Corporation shall submit such legislative recommendations as it deems desirable, including the amount of financial assistance needed for operations and for capital improvements, the manner and form in which the amount of such assistance should be computed, and the sources from which such assistance should be derived.

(c) The Secretary and the Commission shall transmit to the President and to the Congress by March 15 of each year (beginning with 1974) reports (or, in their discretion, a joint report) on the effectiveness of this Act in meeting the requirements for a balanced national transportation system, together with any legislative recommendations.

TITLE IV—PROVISION OF RAIL PASSENGER SERVICE

Sec. 401. Assumption of passenger service by the Corporation; commencement of operations

(a) (1) On or before May 1, 1971, the Corporation is authorized to contract and, upon written request therefor from a railroad, shall tender a contract to relieve the railroad, from and after, May 1, 1971, of its entire responsibility for the provision of intercity rail passenger service. On or after March 1, 1973, but before January 1, 1975, the Corporation is authorized to contract, and upon written request therefor, shall tender a contract to relieve the railroad of its entire responsibility for the provision of intercity rail passenger service and such relief shall become effective upon the date on which such contract is entered into. Contracts may be entered into on or before May 1, 1971, notwithstanding the fact that the decision of the Commission under section 102(6) of this Act with respect to avoidable loss has not become final. Any contract entered into before such decision of the Commission has become final shall be subject to adjustment to assure that the contract is consistent with such final decision of the Commission. The contract may be made upon such terms and conditions as necessary to permit the Corporation to undertake passenger service on a timely basis. Upon its entering into a valid contract (including protective arrangements for employees), the railroad shall be relieved of all its responsibilities as a common carrier of passengers by rail in intercity rail passenger service under part I of the Interstate Commerce Act or any State or other law relating to the provision of intercity passenger service; *Provided*, That any railroad discontinuing a train hereunder must give notice in accordance with the notice procedures continued in section 13a(1) of the Interstate Commerce Act.

(2) In consideration of being relieved of this responsibility by the Corporation, the railroad shall agree to pay to the Corporation each year for three years an amount equal to one-third of 50 per centum of the fully distributed passenger service deficit of the railroad as reported to the Commission for the year ending December 31, 1969. The payment to the Corporation may be made in cash or, at the option of the Corporation, by the transfer of rail passenger equipment or the provision of future service as requested by the Corporation. Unless the railroad waives all rights to receive stock in exchange for its payments, the railroad shall receive common stock from the Corporation in an amount equivalent in par value to each payment.

(3) In agreeing to pay the amount specified in paragraph (2) of this subsection, a railroad may reserve the right to pay a lesser sum to be determined by calculating either of the following:

(A) 100 per centum of the avoidable loss of all intercity rail passenger service operated by the railroad during the period January 1, 1969, through December 31, 1969; or

(B) 200 per centum of the avoidable loss of the intercity rail passenger service operated by the railroad during the period January 1, 1969, through December 31, 1969, covering all intercity service over the routes between those points between which the Secretary, under sections 201 and 202 of Title II of this Act, has specified that intercity passenger trains shall be operated within the basic system.

If the amount owed the Corporation under either of these alternatives is agreed by the parties to be less than the amount paid pursuant to paragraph (2), the Corporation shall pay the difference to the railroad and the railroad shall surrender to the Corporation an amount of stock, at par value, equivalent to such payment. If the railroad and the Corporation are unable to agree as to the amount owed, the matter shall be referred to the Interstate Commerce Commission for decision. The Commission, upon investigation, shall decide the issue within ninety days following the date of referral, or within such additional time as the Commission may order not to exceed an aggregate of one hundred and eighty days following such date of referral, and its decision shall be binding on both parties.

(4) The payments to the Corporation shall be made in accordance with a schedule to be agreed upon between the parties. Unless the parties otherwise agree, the payments for each of the first twelve months following the date on which the Corporation assumes any of the operational responsibilities of the railroad shall be in cash and not less than one thirty-sixth of the amount owed.

(b) On May 1, 1971, the Corporation shall begin the provision of intercity rail passenger service between points within the basic system unless such service is being provided (i) either by a railroad with which it has not entered into a contract under subsection (a) of this section or (ii) by a regional transportation agency, provided such agency gives satisfactory assurance to the Corporation of the agency's financial and operating capability to provide such service, and of its willingness to cooperate with the Corporation and with other regional transportation agencies on matters of through train service, through car service, and connecting train service. The Corporation may at any time subsequent to May 1, 1971, contract with a regional transportation agency to provide intercity rail passenger service between points within the basic system included within the service of such agency.

(c) Except as provided in section 305(b) of this Act concerning auto-ferry service, no railroad or any other person may, without the consent of the Corporation, conduct intercity rail passenger service over any route over which the Corporation is performing scheduled intercity rail passenger service pursuant to a contract under this section.

Sec. 402. Facility and service agreements

(a) The Corporation may contract with railroads or with regional transportation agencies for the use of tracks and other facilities and the provision of services on such terms and conditions as the parties may agree. In the event of a failure to agree the Interstate Commerce Commission shall, within ninety days after application by the Corporation, if it finds that doing so is necessary to carry out the purposes of this Act, order the provision of services or the use of tracks or

facilities of the railroad by the Corporation, on such terms and for such compensation as the Commission may fix as just and reasonable, and the rights of the Corporation to such services or to the use of tracks or facilities of the railroad or agency under such order or under an order issued under subsection (b) of this section shall be conditioned upon payment by the Corporation of the compensation fixed by the Commission. In fixing just and reasonable compensation for the provision of services ordered by the Commission under the preceding sentence, the Commission shall, in fixing compensation in excess of incremental costs, consider quality of service as a major factor in determining the amount (if any) of such compensation. If the amount of compensation fixed is not duly and promptly paid, the railroad or agency entitled thereto may bring an action against the Corporation to recover the amount properly owed. Notwithstanding any other provision of this Act, the Corporation may enter into agreements with any other railroads and with any State (or local or regional transportation agency) responsible for providing commuter rail or rail freight services over tracks, rights-of-way, and other facilities acquired by the Corporation pursuant to authority granted by the Regional Rail Reorganization Act of 1973 and the Railroad Revitalization and Regulatory Reform Act of 1976. In the event of a failure to agree, the Commission shall order that rail services continue to be provided, and it shall, consistent with equitable and fair compensation principles, decide, within 180 days after the date of submission of a dispute to the Commission, the proper amount of compensation for the provision of such services. The Commission, in making such a determination, shall consider all relevant factors, and shall not permit cross subsidization among intercity, commuter, and rail freight services.

(b) To facilitate the initiation of operations by the Corporation within the basic system, the Commission shall, upon application by the Corporation, require a railroad to make immediately available tracks and other facilities. The Commission shall thereafter promptly proceed to fix such terms and conditions as are just and reasonable.

(c) To facilitate such operations by the Corporation as may be deemed by it to be necessary in an emergency, the Commission shall, upon application by the Corporation, require a railroad to make immediately available tracks and other facilities for the duration of such emergency. The Commission shall thereafter promptly proceed to fix such terms and conditions as are just and reasonable including indemnification of the railroad by the Corporation against any casualty risk to which it may be exposed.

(d) (1) If the Corporation and a railroad are unable to agree upon terms for the sale to the Corporation of property (including interests in property) owned by the railroad and required for intercity rail passenger service, the Corporation may apply to the Commission for an order establishing the need of the Corporation for the property at issue and requiring the conveyance thereof from the railroad to the Corporation on reasonable terms and conditions, including just compensation. Unless the Commission finds that—

(A) conveyance of the property to the Corporation would significantly impair the ability of the railroad to carry out its obligations as a common carrier; and

(B) the obligations of the Corporation to provide modern, efficient, and economical rail passenger service can adequately be met by the acquisition of alternative property (including interests in property) which is available for sale on reasonable terms to the Corporation, or available to the Corporation by the exercise of its authority under section 305(d) of this Act;

the need of the Corporation for the property shall be deemed to be established and the Commission shall order the conveyance of the property to the Corporation on such reasonable terms and conditions as it may prescribe, including just compensation.

(2) The Commission shall expedite proceedings under this subsection and, in any event, issue its order within one hundred and twenty days from receipt of the application from the Corporation. If just compensation has not been determined on the date of the order, the order shall require, as part of just compensation, interest at the rate of 6 per centum per annum from the date prescribed for conveyance until just compensation is paid.

(e) (1) Except in an emergency, intercity passenger trains operated by or on behalf of the Corporation shall be accorded preference over freight trains in the use of any given line of track, junction, or crossing, unless the Secretary has issued an order to the contrary in accordance with paragraph (2) of this subsection.

(2) Any railroad whose rights with regard to freight train operation are affected by paragraph (1) of this subsection may file an application with the Secretary requesting appropriate relief. If, after hearing under section 553 of title 5 of the United States Code, the Secretary finds that adherence to such paragraph (1) will materially lessen the quality of freight service provided to shippers, the Secretary shall issue an order fixing rights of trains, on such terms and conditions as are just and reasonable.

(f) If, upon request of the Corporation, a railroad refuses to permit accelerated speeds by trains operated by or on behalf of the Corporation, the Corporation may apply to the Secretary for an order requiring the railroad to permit such accelerated speeds. The Secretary shall make findings as to whether such accelerated speeds are unsafe or otherwise impracticable, and with respect to the nature and extent of improvements to track, signal systems, and other facilities that would be required to make such accelerated speeds safe and practicable. After hearing, the Secretary shall issue an order fixing maximum permissible speeds of Corporation trains, on such terms and conditions as he shall find to be just and reasonable.

Sec. 403. New service

(a) The Corporation may provide intercity rail passenger service in excess of that prescribed for the basic system, either within or outside the basic system, where the Corporation, based on its own or available marketing studies or other similar reports or information, determines that experimental or expanded service would be justified, if consistent with prudent management. In determining the establishment of the additional routes, the Corporation shall take into account the current and the estimated future population and economic conditions of the points to be served, the adequacy of alternative modes of

transportation available to those points, and the cost of adding the service. The Corporation shall cooperate with State, regional, and local agencies to encourage the use of trains established under this subsection and shall make reasonable efforts to assure high quality of customer services. Any intercity rail passenger service provided under this subsection for a continuous period of two years shall be designated by the Secretary as a part of the basic system.

(b) (1) Any State, regional, or local agency may request of the Corporation rail passenger service beyond that included within the basic system. The Corporation shall institute such service under an agreement if the State, regional, or local agency agrees to reimburse the Corporation for 50 percent of solely related costs and associated capital costs of such service if service can be provided with the resources available to the Corporation and if it is consistent with the following requirements:

(A) The State or agency must make an adequate assurance to the Corporation that it has sufficient resources to meet its share of the costs of such service for the period such service is to be provided under this section.

(B) The State or agency has conducted a market analysis acceptable to the Corporation to insure that there is adequate demand to warrant such service.

An agreement made pursuant to this section may by mutual agreement be renewed for one or more additional terms of not more than 2 years. Any decisions which are likely to have a significant effect on the scheduling, marketing, or operations of the service provided pursuant to this section shall be made by contract or other agreement between the Corporation and the State or agency which is obligated to reimburse the Corporation for all or part of the operating loss, and associated capital costs, of such service.

(2) If more than one application is made for service and all applications are consistent with the requirements of this subsection, but all the services applied for cannot be provided with the available resources of the Corporation, the Board of Directors shall decide in its discretion which application or applications best serve the public interest and can be provided with the available resources of the Corporation, except that a proposal for State support of a service deleted from the basic system shall be given preference.

(3) The Board of Directors shall establish the basis for determining the solely related costs and associated capital costs and the total revenue of the service provided pursuant to this subsection. The Corporation, at the request of States, may conduct studies during the fiscal year ending June 30, 1976, to determine benefits of seasonal routes to recreational areas.

(c) The Corporation shall initiate not less than one experimental route each year, such route to be designated by the Board of Directors and shall operate such route for not less than two years. After such two-year period, the Secretary, in consultation with the Board of Directors, shall terminate such route if he finds that it has attracted insufficient patronage to serve the public convenience and necessity, or he may designate such route as a part of the basic system. In carrying out the provisions of this subsection, the Board

of Directors shall give priority to experimental routes designed to extend intercity rail passenger service to the major population area of each of the contiguous 48 States which does not have such service to any large population area designated as part of the basic system. After January 1, 1977, all route additions shall be in accordance with the Criteria and Procedures for Making Route and Service Decisions approved by the Congress pursuant to section 404(c) (3), and this subsection shall no longer apply to route additions.

Sec. 404. Discontinuance of service

(a) Unless it has entered into a contract with the Corporation pursuant to section 401(a) (1) of this Act, no railroad may discontinue any intercity passenger train whatsoever prior to January 1, 1975, the provisions of any other Act, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before a Federal or State court, agency, or authority to the contrary notwithstanding. On and after January 1, 1975, passenger train service operated by such railroad may be discontinued under the provisions of section 13a of the Interstate Commerce Act. Upon filing of a notice of discontinuance by such railroad, the Corporation may undertake to initiate passenger train operations between the points served.

(b) (1) The Corporation must provide the service included within the basic system until October 1, 1976, to the extent it has assumed responsibility for such service by contract with a railroad pursuant to section 401 of this Act.

(2) Except as otherwise provided in this paragraph and in section 403(a) of this Act, service beyond that prescribed for the basic system undertaken by the Corporation upon its own initiative may be discontinued at any time. No such service undertaken by the Corporation on or after January 1, 1973, shall be discontinued until March 1, 1977.

(3) If at any time after October 1, 1976, the Corporation determines that any train or trains in the basic system in whole or in part are not required by public convenience and necessity, or will impair the ability of the Corporation to adequately provide other services, such train or trains may be discontinued under the procedures of section 13a of The Interstate Commerce Act (49 U.S.C. 13a) : *Provided, however,* That at least thirty days prior to any change or discontinuance, in whole or in part, of any service under this subsection, the Corporation shall mail to the Governor of each State in which the train in question is operated, and post in every station, depot, or other facility served thereby notice of the proposed change or discontinuance. The Corporation may not change or discontinue this service if prior to the end of the thirty day notice period, State, regional, or local agencies request continuation of the service and within ninety days agree to reimburse the Corporation for a reasonable portion of any losses associated with the continuation of service beyond the notice period.

(4) For purposes of paragraph (3) of this subsection, the reasonable portion of such losses to be assumed by the State, regional, or local agency shall be equal to 50 percent of the total operating losses and associated capital costs of such service. If the Corporation and the State, regional, or local agencies are unable to agree upon a reasonable apportionment of such losses, the matter shall be referred to the Secretary

for decision. In deciding this issue the Secretary shall take into account the purposes of this Act and the impact of requiring the Corporation to bear such losses upon its ability to provide improved service within the basic system.

(c) (1) Within 120 days after the date of enactment of this subsection, the board of directors of the Corporation shall study, develop, and submit to the Secretary, to the Commission, and to the Congress an initial proposal setting forth criteria and procedures under which the Corporation would be authorized to add or discontinue routes and services. Such criteria and procedures shall include, but need not be limited to—

(A) methods for evaluating the economic and environmental impact of any addition or discontinuance of intercity rail passenger service including an evaluation of the economic impact to the Corporation and to the nation of the addition of new service points along existing or new intercity routes within the Northeast Corridor;

(B) methods for evaluating the effects of any such addition or discontinuance on connecting parts of the national system of intercity rail passenger service;

(C) methods for estimating, with respect to any such addition or discontinuance, the population to be affected, the demand for intercity rail passenger service, the revenue per passenger mile, and the effect on capital costs and revenue of the Corporation;

(D) methods for evaluating the availability of alternative modes of transportation;

(E) methods for giving public notice of, and obtaining public comments on, any such addition or discontinuance; and

(F) methods for establishing a priority ranking system for routes and trains to meet the needs of the public convenience and necessity for a balanced transportation system, taking into consideration the criteria and procedures referred to in subparagraphs

(A) through (E) of this paragraph, together with such other criteria as the board of directors deems appropriate.

(2) Within 150 days after the date of enactment of this subsection, the Secretary and the Commission shall submit to the Congress and to the board of directors of the Corporation their comments on the initial proposal setting forth criteria and procedures developed by the board of directors of the Corporation, together with such recommendations as they may deem appropriate.

(3) Within 30 days after receipt of comments submitted by the Secretary and the Commission under paragraph (2) of this subsection, the board of directors of the Corporation shall consider such comments and shall submit to the Congress a final proposal setting forth criteria and procedures under which the Corporation would be authorized to add or discontinue routes and services within the national system of intercity rail passenger services. The criteria and procedures set forth in such final proposal shall take effect at the end of the first period of 60 calendar days of continuous session of the Congress after the date of its submission, unless either the Senate or the House of Representatives adopts a resolution during such period stating that it does not approve such final proposal. If no resolution is adopted as

provided in the preceding sentence, the Corporation may add or discontinue routes and services in accordance with the criteria and procedures set forth in the final proposal, notwithstanding the provisions of section 13a of the Interstate Commerce Act or of section 404(b) (3) of this Act, relating to discontinuance of service within the basic system. Service beyond the basic system referred to in section 404(b) (2) of this Act shall not be discontinued under this subsection until March 1, 1977. For purposes of this paragraph, continuity of session of the Congress is broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded from the computation of the 60-day period.

Sec. 405. Protective arrangements for employees

(a) A railroad shall provide fair and equitable arrangements to protect the interests of employees, including employees of terminal companies, affected by a discontinuance of intercity rail passenger service whether occurring before, on, or after January 1, 1975. A "discontinuance of intercity rail passenger service" shall include any discontinuance of service performed by railroad under any facility or service agreement under sections 305 and 402 of this Act pursuant to any modification or termination thereof or an assumption of operations by the Corporation.

(b) Such protective arrangements shall include, without being limited to, such provisions as may be necessary for (1) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) to such employees under existing collective-bargaining agreements or otherwise; (2) the continuation of collective-bargaining rights; (3) the protection of such individual employees against a worsening of their positions with respect to their employment; (4) assurances of priority of reemployment of employees terminated or laid off; and (5) paid training or retraining programs. Such arrangements shall include provisions protecting individual employees against a worsening of their positions with respect to their employment which shall in no event provide benefits less than those established pursuant to section 5(2) (f) of The Interstate Commerce Act. Any contract entered into pursuant to the provisions of this title shall specify the terms and conditions of such protective arrangements. No contract under section 401(a) (1) of this Act between a railroad and the Corporation may be made unless the Secretary of Labor has certified to the Corporation that the labor protective provisions of such contract afford affected employees, including affected terminal employees, fair and equitable protection by the railroad.

(c) Upon commencement of operations in the basic system, the substantive requirements of subsections (a) and (b) of this section shall apply to the Corporation and its employees in order to insure the maintenance of the protective arrangements specified in such subsections, except that nothing in this subsection shall be construed to impose upon the Corporation any obligation of a railroad with respect to any right, privilege, or benefit earned by any employee as a result of prior service performed for such railroad. The Secretary of Labor shall certify that affected employees of the Corporation have been provided fair and equitable protection as required by this section within one hundred and eighty days after assumption of operations by the Corporation.

(d) The Corporation shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the performance of construction work financed with the assistance of funds received under any contract or agreement entered into under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Corporation shall not enter into any such contract or agreement without first obtaining adequate assurance that required labor standards will be maintained on the construction work. Health and safety standards promulgated by the Secretary of Labor pursuant to section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) shall be applicable to all construction work performed under such contracts or agreements, except any construction work performed by a railroad employee. Wage rates provided for in collective bargaining agreements negotiated under and pursuant to the Railway Labor Act shall be considered as being in compliance with the Davis-Bacon Act.

(e) The Corporation shall not contract out any work normally performed by employees in any bargaining unit covered by a contract between the Corporation or any railroad providing intercity rail passenger service on the date of enactment of this Act [i.e. October 30, 1970] and any labor organization, if such contracting out shall result in the layoff of any employee or employees in such bargaining unit.

(f) The Corporation shall take such action as may be necessary to assure that, to the maximum extent practicable, any railroad employee eligible to receive free or reduced-rate transportation by railroad on April 30, 1971, under the terms of any policy or agreement in effect on such date will be eligible to receive, provided space is available, free or reduced-rate transportation on any intercity rail passenger service provided by the Corporation under this Act, on terms similar to those available on such date to such railroad employee under such policy or agreement. However, the Corporation may apply to all railroad employees eligible to receive free or reduced-rate transportation under such policies or agreements, a single system-wide schedule of terms determined by the Corporation to reflect terms applicable to the majority of such employees under those policies or agreements in effect on April 30, 1971. The Corporation shall be reimbursed by the railroads by way of payment or offset for such costs as may be incurred in providing transportation services to railroad employees under any policy or agreement referred to in the first sentence of this subsection, including the costs of implementing and administering this section. Within ninety days after the enactment of this sentence [i.e. by September 20, 1972], each railroad shall enter into an agreement with the Corporation for the payment of such expenses. If the Corporation and a railroad are unable to agree as to the amount of any payment owed by the railroad under this subsection, the matter shall be referred to the Commission for decision.

The Commission, upon investigation, shall decide the issue within ninety days following the date of referral, and its decision shall be binding on both parties. If any railroad company which operates intercity passenger service not under contract with the Corporation notifies the Corporation and railroads which have entered into the agreement specified above that it will accept the terms of the system-

wide schedule of terms and the compensation specified in the agreements, such railroad company shall be reimbursed for services to railroad employees in accordance with the agreements. As used in this subsection, the term "railroad employee" means (1) an active full-time employee, including any such employee during a period of furlough or while on leave of absence, of a railroad or terminal company, (2) a retired employee of a railroad or terminal company, and (3) the dependents of any employee referred to in clause (1) or (2) of this sentence.

(TITLE V OF THE RAIL PASSENGER SERVICE ACT WAS DELETED BY THE AMTRAK IMPROVEMENT ACT OF 1975, PUBLIC LAW 94-25.)

TITLE VI—FEDERAL FINANCIAL ASSISTANCE

Sec. 601. Authorization for appropriations

(a) (1) There are authorized to be appropriated to the Secretary for the benefit of the Corporation in fiscal year 1971, \$40,000,000, and in subsequent fiscal years through June 30, 1975, a total of \$597,300,000. There are authorized to be appropriated to the Secretary for the benefit of the Corporation (1) for the payment of operating expenses for the basic system, and for operating and capital expenses of intercity rail passenger service provided pursuant to section 403(b) of this Act, \$350,000,000 for fiscal year 1976, \$105,000,000 for the transition period of July 1, 1976, through September 30, 1976 (hereafter in this section referred to as the transition period) and \$355,000,000 for fiscal year 1977; and (2) for the payment of capital expenditures of the basic system, \$110,000,000 for fiscal year 1976; \$25,000,000 for the transition period; and \$110,000,000 for fiscal year 1977. Of the amounts authorized by clause (1) of the preceding sentence, not more than \$25,000,000 for fiscal year 1976, \$7,000,000 for the transition period, and \$30,000,000 for fiscal year 1977 shall be available for payment of operating and capital expenses of intercity rail passenger service provided pursuant to section 403(b) of this Act. There are authorized to be appropriated to the Secretary for the benefit of the Corporation—

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

(2) for the payment of the costs of capital acquisitions or improvements of the basic system, not to exceed \$110,000,000 for the fiscal year ending June 30, 1976, not to exceed \$25,000,000 for the transitional fiscal period ending September 30, 1976, not to exceed \$130,000,000 for the fiscal year ending September 30, 1977, and not to exceed \$130,000,000 for the fiscal year ending September 30, 1978;

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

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

Not more than \$25,000,000 of the amounts authorized by clause (1) of the preceding sentence for the fiscal year ending June 30, 1976; not more than \$7,000,000 of the amounts so authorized for the transitional fiscal period ending September 30, 1976, not more than \$35,000,000 of the amounts so authorized for the fiscal year ending September 30, 1977, and not more than \$40,000,000 of the amounts so authorized for the fiscal year ending September 30, 1978, shall be available for payment of rail passenger service operating and capital expenses, pursuant to section 403(b) of this Act. Payments by the Secretary to the Corporation of appropriated funds shall be made no more frequently than every 90 days, unless the Corporation, for good cause, requests more frequent payment before the expiration of any 90-day period.

(2) Funds appropriated for capital grants pursuant to this section (other than subsection (a)(4)) shall be paid to the Corporation in each fiscal quarter, and such grants may be used by the Corporation for temporary reduction of outstanding loan balances, including loans guaranteed by the Secretary pursuant to section 602 of this Act."

(b)(1) Whenever the Corporation submits any budget estimate or request to the President, the Department of Transportation, or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate or request to the Congress.

(2) Whenever the Corporation submits any legislative recommendation, proposed testimony, or comments on legislation to the President, the Department of Transportation, or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Corporation to submit its legislative recommendations, proposed testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

Sec. 602. Guarantee of loans

(a) The Secretary is authorized, on such terms and conditions as he may prescribe, and with the approval of the Secretary of the Treasury, to guarantee any lender or lessor against loss of principal and interest or other contractual commitments, including rentals, on securities, obligations, leases, or loans (including refinancing thereof) issued to finance the upgrading of roadbeds, and the purchase or lease by the Corporation or an agency of new rolling stock, rehabilitation of

existing rolling stock, reservation systems, switch and signal systems, and other capital equipment and facilities necessary for the improvement of rail passenger service. The maturity date or term of such securities, obligations, leases, or loans, including all extensions and renewals thereof, shall not be later than 20 years from their date of issuance.

(b) All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States of America backed by the full faith and credit of the Government of the United States of America.

(c) Any guarantee made by the Secretary under this section shall not be terminated, canceled or otherwise revoked; shall be conclusive evidence that such guarantee complies fully with the provisions of this Act and of the approval and legality of the principal amount, interest rate, lease rate, and all other terms of the securities, obligations, leases, or loans and of the guarantee, and shall be valid and incontestable in the hands of a holder of a guaranteed security, obligation, lease, or loan, except for fraud or material misrepresentation on the part of such holder.

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

(e) There are authorized to be appropriated to the Secretary such amounts, to remain available until expended, as are necessary to discharge all his responsibilities under this section.

(f) If at any time the moneys available to the Secretary are insufficient to enable him to discharge his responsibilities under guarantees issued by him under subsection (a) of this section, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Secretary from appropriations available under subsection (e) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations as acquired by him under this subsection. All

redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.*

(g) Notwithstanding any other provision of this Act, a guarantee may not be made of any security, obligation, lease, or loan, if the nature of such security, obligation, lease, or loan is such that the income therefrom is not includable in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954.

(h) The Secretary shall, within 180 days after the date of enactment of this subsection [i.e. by April 28, 1975], issue general guidelines designed to assist the Corporation in the formulation of capital and budgetary plans.

(i) Any request made by the Corporation for the guarantee of a lease or a loan pursuant to this section, which has been approved by the Board of Directors of the Corporation, shall be approved by the Secretary if, in the discretion of the Secretary, such request falls within the approved capital and budgetary guidelines issued under subsection (h).

TITLE VII—INTERIM EMERGENCY FEDERAL FINANCIAL ASSISTANCE

Sec. 701. Interim authority to provide emergency financial assistance for railroads operating passenger service

(a) For the purpose of permitting a railroad to enter into or carry out a contract entered into under this Act, the Secretary is authorized, on such terms and conditions as he may prescribe, to (1) make loans to such railroad, or (2) guarantee any lender against loss of principal or interest on any loan to such railroad.

(b) Before making a loan or a guarantee under this section, the Secretary must find, in writing, that—

(1) the loan or guarantee is necessary to carry out the provisions of this Act;

(2) the proceeds of any loan made or guaranteed under this Act will be used solely to carry out contracts entered into under this Act;

(3) the loan or guarantee is not otherwise available on reasonable terms and conditions; and

(4) there is reasonable assurance that the business affairs of the railroad will be conducted in a prudent manner.

(c) (1) In any case in which there is a liquidation of the assets of any railroad which is the recipient of a loan made or guaranteed under this Act, the United States shall have the first right to redeem that portion of such assets consisting of those rights-of-way, tracks,

*The following subsection of Section 10 of the Amtrak Improvement Act of 1972 did not amend the Rail Passenger Service Act:

“(b) Section 602 (b), (c), (d), (e), and (f) of the Rail Passenger Service Act, as amended by subsection (a) of this section shall also apply to guarantees made by the Secretary prior to the enactment of this Act (i.e. June 22, 1972). The amendment of section 602(a) shall not affect the legality of guarantees made by the Secretary prior to the enactment of this Act, but such guarantees shall continue in effect until discharged by payment of the loan guaranteed, together with interest, after such date.”

and other facilities designated by the Secretary to be necessary for the purpose of providing intercity rail passenger service, including services employing innovative technology, within the basic system. In the case of a railroad in reorganization (as defined in section 102 (12) of the Regional Rail Reorganization Act of 1973) which has an agreement with the Corporation to provide intercity rail passenger service on the date of enactment of this sentence, the sale by such railroad of any right-of-way or track over which the Corporation is required to provide intercity rail passenger service on such date of enactment (as an experimental route designated by the Secretary before such date of enactment) shall be deemed to be a liquidation of the assets of such railroad under the first sentence of this paragraph, and the Secretary shall acquire such right, title, and interest in such right-of-way or track, and restore it to such condition, as may be necessary to permit the Corporation to provide intercity rail passenger service over the designated route.

(2) It is the intent of the Congress that, in the case of a loan guarantee under this Act, the United States shall stand in the same position with respect to other creditors as in the case of a direct loan by the United States giving the United States priority over secured and unsecured creditors.

(d) Interest on loans made under this section shall be at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturity of such loans adjusted to the nearest one-eighth of one per centum.

(e) The maturity date on any loan made or guaranteed under this section, including renewals and extensions thereof, shall not be later than five years from the date of issuance.

(f) The aggregate amount of loans and loan guarantees made under this section shall not exceed \$200,000,000.

Sec. 702. Authorization for appropriations

There are hereby authorized to be appropriated such amounts not to exceed \$200,000,000 as may be necessary to carry out the purposes of this title. Any sums appropriated shall be available until expended.

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 801. Adequacy of service

(a) The Commission shall promulgate, within 60 days from the date of enactment of the Amtrak Improvement Act of 1973 [i.e. by January 2, 1974], and shall from time to time revise, such regulations as it considers necessary to provide adequate service, equipment, tracks, and other facilities for quality intercity rail passenger service.

No regulation issued by the Commission under this section shall require the Corporation or any railroad providing intercity rail passenger service to provide food service other than during customary dining hours.

The Corporation may contract with railroads or with regional transportation agencies for the improvement of service, equipment, tracks and other facilities necessary to meet such regulations promulgated by

the Commission. In the event of a failure to agree, the Commission shall by rule establish procedures for allocating between the Corporation and a railroad any costs required to be incurred to meet the regulations establishing adequate service, equipment, tracks, and other facilities.

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

Sec. 802. Effect on pending proceedings

Upon the enactment of this Act, no railroad may discontinue any intercity rail passenger service whatsoever other than in accordance with the provisions of this Act, notwithstanding the provisions of any other Act, the laws or constitution of any State, or the decision or order of, or the pendency on any proceeding before, any Federal or State court, agency, or authority.

Sec. 803. Separability

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

Sec. 804. Accountability

Section 201 of the Government Corporation Control Act (31 U.S.C. 856) is amended by striking out "and" immediately preceding "(5)" and by inserting immediately before the period at the end thereof the following: "and (6) the National Railroad Passenger Corporation".

Sec. 805. Records and audit of the Corporation and certain railroads

(1) (A) The accounts of the Corporation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audit shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit shall be made available to the person conducting the audit; and full facilities for

verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person.

(B) The report of each such independent audit shall be included in the annual report required by section 308(a) of this Act. The audit report shall set forth the scope of the audit and include such statements as are necessary to present fairly the Corporation's assets and liabilities, surplus or deficit, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the Corporation's income and expenses during the year, and a statement of the sources and application of funds, together with the independent auditor's opinion of those statements.

(2) (A) The Comptroller General of the United States shall conduct annually a performance audit of the activities and transactions of the Corporation in accordance with generally accepted management principles, and under such rules and regulations as may be prescribed by the Comptroller General. Any such audit shall be conducted at such place or places as the Comptroller General may deem appropriate. The representative of the Comptroller General shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by the Corporation pertaining to its financial and other transactions and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents and custodians. All such books, accounts, records, reports, files, papers, and property of the Corporation shall remain in possession and custody of the Corporation.

(B) To the extent the Comptroller General deems necessary in connection with audits as he may make of the financial transactions of the Corporation pursuant to paragraph (A) of this subsection, his representatives shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by any railroad with which the Corporation has entered into a contract for the performance of intercity rail passenger service, pertaining to such railroad's financial transactions and necessary to facilitate the audit, and such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of such railroad shall remain in the possession and custody of the railroad.

(C) A report of each such audit shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General may deem necessary to inform Congress of the financial operations and condition of the Corporation, together with such recommendations with respect thereto as he may deem advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made without authority of law. A copy of each report shall be furnished to the President, to the Secretary, and to the Corporation at the time submitted to the Congress.

Sec. 806. Report by Secretary of Transportation

(a) The Secretary shall, on or before March 15, 1973, transmit to the Congress a comprehensive report on the effectiveness of this Act in achieving and promoting intercity rail passenger service and on the effectiveness of the Corporation in implementing the purposes of this Act. Such report shall include an evaluation by the Secretary of the intercity rail passenger service operations assumed by the Corporation including, but not limited to, adequacy and effectiveness of services, on-time performance, reservations and ticketing, scheduling, equipment, fare structures, routes, and immediate and long-term financial needs.

(b) In addition to the general evaluation and assessment required under subsection (a) of this section, the report by the Secretary shall include—

(1) recommendations for the orderly assumption by the Corporation of the operation and control of all aspects of its intercity rail passenger service, including the performance by the Corporation of all full-time functions solely related to the intercity rail passenger service provided by it under this Act;

(2) an assessment of whether the board of directors of the Corporation adequately and fairly represents the members of the public who utilize intercity rail passenger services and, if necessary, recommendations for appropriate changes in the composition of such board of directors.

(3) estimates of potential revenues for the Corporation from the transportation of mail and express on intercity passenger trains;

(4) a detailed analysis of the on-time performance of intercity rail passenger service operations assumed by the Corporation, together with such recommendations as the Secretary may deem advisable to eliminate delays in such intercity rail passenger service operations caused by freight train operations;

(5) recommendations with respect to the establishment of the optimum intercity rail passenger service system as soon as possible after July 1, 1973, taking into account economic feasibility, requirements as to public convenience and necessity, and the ability of the Corporation to provide adequate service over the total system, which optimum system shall include recommended routes and discontinuances; and

(6) recommendations with respect to the improvement of tracks and roadbeds on routes over which the Corporation operates intercity passenger trains.

(c) Such report shall contain such additional recommendations as the Secretary may deem advisable to assist the Corporation in carrying out the purposes of this Act, including recommendations for legislative enactments or administrative actions which would enable the Corporation, after July 1, 1973, to discontinue more rapidly and efficiently those routes which do not meet the criteria recommended by the Secretary for the establishment of the optimum intercity rail passenger service system.

(d) In carrying out the provisions of this section, the Secretary may use available services and facilities of other departments, agencies, and instrumentalities of the Federal Government with their consent and on a reimbursable basis.

(e) Departments, agencies, and instrumentalities of the Federal Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the provisions of this section.

TITLE IX—TAX DEDUCTION FOR CERTAIN PAYMENTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

Sec. 901. (a) Part VIII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to special deductions for corporations) is amended by adding at the end thereof the following new section:

"Sec. 250. Certain payments to the National Railroad Passenger Corporation

"(a) **GENERAL RULE.—**If—

"(1) any corporation which is a common carrier by railroad (as defined in section 1(3) of the Interstate Commerce Act (49 U.S.C. 1(3))) makes a payment in cash, rail passenger equipment, or services to the National Railroad Passenger Corporation (hereinafter in this section referred to as the "Passenger Corporation") pursuant to a contract entered into under section 401(a) of the Rail Passenger Service Act, and

"(2) no stock in the Passenger Corporation is issued at any time to such corporation in connection with any contract entered into under such section 401(a).

then the amount of such payment shall (subject to subsection (c)) be allowed as a deduction for the taxable year in which it is made.

"(b) **WHEN PAYMENT IS MADE.—**Under regulations prescribed by the Secretary or his delegate, a payment in rail passenger equipment shall be treated as made when title to the equipment is transferred, and a payment in services shall be treated as made when the services are rendered.

"(c) **EFFECT OF CERTAIN SUBSEQUENT ACQUISITIONS OF STOCK.—**

(1) **DISALLOWANCE OF DEDUCTIONS.—**If any deduction has been allowed under subsection (a) to a corporation and such corporation (or a successor corporation) acquires any stock in the Passenger Corporation (other than in a transaction described in section 374 or 381) before the close of the 36-month period which begins with the day on which the last payment is made to the Passenger Corporation pursuant to the contract entered into under such section 401(a), then such deduction shall be disallowed (as of the close of the taxable year for which it was allowed under subsection (a)).

"(2) **COLLECTION OF DEFICIENCY.—**If any deduction is disallowed by reason of paragraph (1), then the periods of limitation provided in sections 6501 and 6502 on the making of an assessment and the collection by levy or a proceeding in court shall,

with respect to any deficiency (including interest and additions to the tax) resulting from such a disallowance, include one year following the date on which the person acquiring the stock which results in the disallowance (in accordance with regulations prescribed by the Secretary or his delegate) notifies the Secretary or his delegate of such acquisition; and such assessment and collection may be made notwithstanding any provision of law or rule of law which otherwise would prevent such assessment and collection.

“(d) MEMBERS OF CONTROLLED GROUP.—Under regulations prescribed by the Secretary or his delegate, if a corporation is a member of a controlled group of corporations (within the meaning of section 1563), subsections (a) (2) and (c) shall be applied by treating all members of such controlled group as one corporation.”

(b) The table of sections for such part VIII is amended by adding at the end thereof the following:

“Sec. 250. Certain payments to the National Railroad Passenger Corporation.”

(c) The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

THE AMTRAK IMPROVEMENT ACT OF 1974 (PUBLIC LAW 93-496), OCTOBER 28, 1974

West Coast Intercity Transportation Needs Study

SEC. 13. The High Speed Ground Transportation Act (49 U.S.C. 1631 et seq.) is amended by adding at the end thereof the following new section:

“SEC. 13. (a) The Secretary shall make an investigation and study, for the purpose of determining the social advisability, technical feasibility, and economic practicability, of a high-speed ground transportation system between the cities of Tijuana in the State of Baja California, Mexico, and Vancouver in the Province of British Columbia, Canada, by way of the cities of Seattle in the State of Washington, Portland in the State of Oregon, and Sacramento, San Francisco, Fresno, Los Angeles, and San Diego in the State of California. In carrying out such investigation and study the Secretary shall consider—

“(1) the various means of providing such transportation, including both existing modes and those under development, such as the tracked levitation vehicle;

“(2) the cost of establishing and operating such a system, including any acquisition of necessary rights-of-way;

“(3) the environmental impact of such a system, including the future environmental impact from air and other transportation modes if such a system is not established;

“(4) the factors which would determine the future adequacy and commercial success of any such system, including the speed at which it would operate, the quality of service which could be offered, its cost to potential users, its convenience to potential users, and its ability to expand to meet projected increases in demand;

"(5) the efficiency of energy utilization and impact on energy resources of such a system, including the future impact of existing transportation systems on energy resources if such a system is not established;

"(6) the ability of such a system to be integrated with other local and intrastate transportation systems, both existing and planned, in order to create balanced and comprehensive transit systems;

"(7) coordination with other studies undertaken on the State and local level;

"(8) the impact of the design and location of transportation lines in creating desirable patterns of population distribution and growth; and

"(9) such other matters as he deems appropriate.

"(b) In carrying out any investigation and study pursuant to this section, the Secretary shall consult with, and give consideration to the views of, the Civil Aeronautics Board, the Interstate Commerce Commission, the National Railroad Passenger Corporation, the Corps of Engineers, and regional, State, and local transportation planning agencies. The Secretary may, for the purpose of carrying out such investigation and study, enter into contracts and other agreements with public or private agencies, institutions, organizations, corporations or individuals, without regard to sections 3648 and 3709 of the Revised Statutes of the United States (31 U.S.C. 529; 41 U.S.C. 5).

"(c) The Secretary shall report the results of the study and investigation made pursuant to this section, together with his recommendations, to the Congress and the President no later than January 30, 1977. The Secretary shall submit an interim report to the Congress on January 30, 1976.

"(d) There are authorized to be appropriated not to exceed \$8,000,000 to carry out the provisions of this section."

(Interim report received March 17, 1976)

Intermodal Terminal for Washington, D.C.

SEC. 15. Section 4 of the Department of Transportation Act (49 U.S.C. 1653) is amended by inserting the following two new subsections at the end thereof:

(h) (1) The Secretary is authorized, in consultation with the Secretary of the Interior, to design plan, and coordinate the construction of a model intermodal transportation terminal at Union Station in the District of Columbia. Such terminal may combine the new railroad passenger station described in paragraph (4) of section 102(a) of Public Law 90-264, as amended, and accommodations for such other modes of transportation as the Secretary deems appropriate. To the extent practicable, the Secretary shall incorporate into the design and plans for such intermodal transportation terminal features which will make such facility a model facility and which will attract private investors willing to undertake the development and construction of the terminal.

"(2) Notwithstanding any provision of Public Law 90-264, as amended, in order to facilitate construction of such model intermodal transportation terminal, the Secretary of the Interior shall lease or transfer such space (including air space), which is not required for

purposes of the National Visitor Center, as the Secretary of the Interior holds or may acquire north of the Union Station Building to such party or parties and upon such terms and conditions as the Secretary deems appropriate, notwithstanding section 321 of the Act of June 30, 1932 (40 U.S.C. 303(b)). The Secretary and the Secretary of the Interior may, to the extent required to complete a visitor center, agree to joint use of the concourse.

"(3) The design and plans for the intermodal terminal shall be completed within 2 years following enactment of this subsection. The construction of the intermodal terminal shall be completed within 5 years following enactment of this subsection.

"(4) There is authorized to be appropriated to the Secretary, for the purposes of carrying out this subsection, such sums as are necessary, not to exceed \$5,000,000.

"(5) Nothing in this subsection (h) shall be construed as relieving the Washington Terminal Company, its successors or assigns, from the obligation to finance and construct a new railroad passenger station in compliance with the terms of paragraph (4) of section 102(a) of Public Law 90-264 (82 Stat. 43).

Preservation and Reuse of Railway Stations of Architectural and Historic Merit

(i) (1) The Secretary shall provide financial, technical, and advisory assistance in accordance with this subsection for the purpose of (A) promoting on a feasibility demonstration basis the conversion of not less than three railroad passenger terminals into intermodal transportation terminals; (B) preserving railroad passenger terminals that have a reasonable likelihood of being converted or otherwise maintained pending the formulation of plans for reuse; (C) acquiring and utilizing space in suitable buildings of historic or architectural significance, unless the use of such space would not prove feasible and prudent compared with available alternatives; and (D) stimulating State and local governments, local and regional transportation authorities, common carriers, philanthropic organizations, and other responsible persons to develop plans for the conversion of railroad passenger terminals into intermodal transportation terminals and civic and cultural activity centers.

(2) Financial assistance for the purpose set forth in paragraph (1) (A) of this subsection shall be granted in accordance with the following criteria: (A) the railroad terminal can be converted to accommodate such other modes of transportation as the Secretary deems appropriate, including motorbus transportation, mass transit (rail or rubber tire), and airline ticket offices and passenger terminal providing direct transportation to area airports; (B) the railroad passenger terminal is listed on the National Register of Historic Places maintained by the Secretary of the Interior; (C) the architectural integrity of the railroad passenger terminal will be preserved and such judgment is concurred in by consultants recommended by the Chairman of the National Endowment of the Arts and the Advisory Council on Historic Preservation and retained for this purpose by the Secretary; (D) to the extent practicable, the use of station facilities for trans-

portation purposes may be combined with use for other civic and cultural activities, especially when such use is recommended by the Advisory Council on Historic Preservation or the Chairman of the National Endowment for the Arts, or the consultants retained by the Secretary upon their recommendation; and (E) the railroad passenger terminal and the conversion project meet such other criteria as the Secretary shall develop and promulgate in consultation with the Chairman of the National Endowment of the Arts and the Advisory Council on Historic Preservation. Any grant made by the Secretary under this paragraph shall not exceed 60 per centum of the total cost of conversion of a railroad passenger terminal into an intermodal transportation terminal.

(3) Financial assistance for the purpose set forth in paragraph (1) (B) of this subsection may be granted in accordance with regulations, to any responsible person (including a governmental entity) who is empowered by applicable law, qualified, prepared; and committed, on an interim basis pending the formulation of plans for reuse, to maintain (and prevent the demolition, dismantling, or further deterioration of) a railroad passenger terminal: Provided. That (A) such terminal has, in the opinion of the Secretary, a reasonable likelihood of being converted to or conditioned for reuse as an intermodal transportation terminal, a civic or cultural activities center, or both; and (B) planning activity aimed at conversion or reuse has commenced and is proceeding in a competent manner. Funds appropriated for the purpose of this paragraph and paragraph (1) (B) of this subsection shall be expended in the manner most likely to maximize the preservation of railroad passenger terminals capable reasonably of conversion to intermodal transportation terminals or which are listed in the National Register of Historic Places maintained by the Secretary of the Interior or which are recommended (on the basis of architectural integrity and quality) by the Chairman of the National Endowment for the Arts or the Advisory Council on Historic Preservation. The amount of the Federal share of any grant under this paragraph shall not exceed 60 per centum of the total cost of such interim maintenance for a period not to exceed five years.

(4) Acquisitions made for the purpose set forth in paragraph (1) (C) of this subsection shall be made only after consultation with the chairman of the National Endowment for the Arts and the Advisory Council on Historic Preservation.

(5) Financial assistance for the purpose set forth in paragraph (1) (D) of this subsection may be granted in accordance with regulations, to a qualified person (including a governmental entity) who is prepared to develop practicable plans meeting the zoning, land use, and other requirements of the applicable State and local jurisdictions in which the rail passenger terminal is located as well as requirements under this subsection; who shall incorporate into the designs and plans proposed for the conversion of such terminal into an intermodal transportation terminal, a civic or cultural center, or both, features which reasonably appear likely to attract private investors willing to undertake the implementation of such planned conversion and its subsequent maintenance and operation: and who shall complete the designs and plans for such conversion within two years

following the approval of the application for Federal financial assistance under this subsection. In making grants under this paragraph, the Secretary shall give preferential consideration to applicants whose completed designs and plans will be implemented and effectuated within three years after the date of completion. Funds appropriated for the purpose of this paragraph and paragraph (1)(D) of this subsection shall be expended in the manner most likely to maximize the conversion and continued public use of railroad passenger terminals which are listed in the National Register of Historic Places maintained by the Secretary of the Interior or which are recommended (on the basis of architectural integrity and quality) by the Advisory Council on Historic Preservation or the Chairman of the National Endowment for the Arts. The amount of the Federal share of any grant under this paragraph shall not exceed 60 per centum of the total cost of the project or undertaking for which the financial assistance is provided.

(6) Within ninety days after the date of enactment of this subsection, the Secretary shall issue, and may from time to time, amend regulations with respect to financial assistance under this subsection and procedures for the award of such assistance. Each application for assistance under this subsection shall be made in writing in such form and with such content and other submissions as the Secretary shall require.

(7) The National Railroad Passenger Corporation shall give preference to using station facilities that would preserve buildings of historical and architectural significance.

(8) Each recipient of financial assistance under this subsection shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. Until the expiration of three years after completion of such project or undertaking, the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts which, in the opinion of the Secretary or the Comptroller General, may be related or pertinent to such financial assistance.

(9)(A) There is authorized to be appropriated for the purpose set forth—

(i) in paragraphs (1)(A) and (1)(C) of this subsection, not to exceed \$15,000,000;

(ii) in paragraph (1)(B) of this subsection, not to exceed \$5,000,000; and

(iii) in paragraph (1)(D) of this subsection, not to exceed \$5,000,000.

(B) There shall be available to the National Endowment for the Arts, from the sums available under subparagraphs (A)(ii) and (A)(iii) of this paragraph, not to exceed \$2,500,000 for planning pursuant to paragraph (1)(D) of this subsection, and not to exceed

\$2,500,000 for interim maintenance pursuant to paragraph (1) (B) of this subsection.

(C) Sums appropriated for the purpose of this subsection are authorized to remain available until expended.

(10) As used in this subsection, "civic and cultural activities" include, but are not limited to, libraries, musical and dramatic presentations, art exhibitions, adult education programs, public meeting place for community groups, convention visitors and others, and facilities for carrying on activities supported in whole or in part under Federal law.

(11) Nothing in this subsection shall be construed to invalidate the eligibility of any station for funds designed to assist in its preservation or reuse under any other Federal program or statute."

Legislative History

Rail Passenger Service Act (of 1970) (approved October 30, 1970) :
House Report No. 91-1580 (Comm. on Interstate and Foreign Commerce).

Congressional Record, Vol. 116 (1970) :

Oct. 13, 14, considered and passed House.

Oct. 14, considered and passed Senate.

Amtrak Improvement Act of 1972 (approved June 22, 1972) :

House Reports: No. 92-905 (Comm. on Interstate and Foreign Commerce) and No. 92-1111 (Comm. of Conference).

Senate Reports: No. 92-756 (Comm. on Commerce) and No. 92-834 (Comm. of Conference).

Congressional Record, Vol. 118 (1972) :

Mar. 15, considered and passed House.

Apr. 27, considered and passed Senate, amended.

June 8, Senate agreed to conference report.

June 13, House agreed to conference report.

Amtrak Improvement Act of 1973 (approved November 3, 1973) :

House Reports: No. 93-415 accompanying H.R. 8351 (Comm. on Interstate and Foreign Commerce) and No. 93-587 (Comm. of Conference).

Senate Report No. 93-226 (Comm. on Commerce).

Congressional Record, Vol. 119 (1973) :

June 21, considered and passed Senate.

June 28, reconsidered and passed Senate.

Sept. 6, considered and passed House, amended, in lieu of H.R. 8351.

Oct. 17, House agreed to conference report.

Oct. 18, Senate agreed to conference report.

Weekly Compilation of Presidential Documents, Vol. 9, No. 45:

Nov. 3, Presidential statement.

Amtrak Improvement Act of 1974 (approved October 28, 1974) :

House Reports: No. 93-1145 (Comm. on Interstate and Foreign Commerce) and No. 93-1441 (Comm. of Conference).

Senate Reports: No. 93-1015 accompanying S. 3569 (Comm. on Commerce) and No. 93-1248 (Comm. of Conference).

Congressional Record, Vol. 120 (1974) :

July 11, considered and passed House.

Aug. 8, 9, considered and passed Senate, amended, in lieu of S. 3569.

Oct. 10, Senate agreed to conference report.

Oct. 15, House agreed to conference report.

Weekly Compilation of Presidential Documents, Vol. 10, No. 44:

Oct. 29, Presidential statement.

Amtrak Improvement Act of 1975 (approved May 26, 1975):

House Report No. 94-119 (Comm. on Interstate and Foreign Commerce).

Senate Report No. 94-65 accompanying S. 852 (Comm. on Commerce).

Congressional Record, Vol. 121 (1975):

Apr. 24, considered and passed House.

May 8, 13, considered and passed Senate.

Weekly Compilation of Presidential Documents, Vol. 11, No. 22:

May 26, Presidential statement.

Railroad Revitalization and Regulatory Reform Act of 1976 (approved February 5, 1976):

House Reports: No. 94-725 accompanying H.R. 10979 (Comm. on Interstate and Foreign Commerce) and Nos. 94-768 and 94-781 (Comm. of Conference).

Senate Reports: No. 94-499 (Comm. on Commerce) and Nos. 94-585 and 94-595 (Comm. of Conference).

Congressional Record:

Vol. 121 (1975):

Dec. 2, 4, considered and passed Senate.

Dec. 17, considered and passed House, amended, in lieu of H.R. 10979.

Dec. 19, Senate and House agreed to conference report.

Vol. 122 (1976):

Jan. 20, House vacated certain actions and recommitted the bill to committee of conference.

Jan. 21, Senate vacated certain actions and recommitted the bill to committee of conference.

Jan. 28, House and Senate agreed to conference report.

Weekly Compilation of Presidential Documents: Vol. 12, No. 6 (1976): Feb. 5, Presidential statement.

Rail Transportation Improvement Act (approved October 19, 1976):

House Reports: No. 94-1168 accompanying H.R. 13601 and No. 94-1479 accompanying H.R. 14932 (both from Comm. on Interstate and Foreign Commerce) and No. 94-1743 (Comm. of Conference).

Senate Report No. 94-851 (Comm. on Commerce).

Congressional Record, Vol. 122 (1976):

June 9, 11, H.R. 13601 considered and passed House.

Sept. 1, considered and passed Senate, in lieu of H.R. 13601.

Sept. 27, considered and passed House, amended, in lieu of H.R. 14932.

Sept. 30, Senate agreed to conference report.

Oct. 1, House agreed to conference report.

Related Provisions of the Regional Rail Reorganization Act of 1973—Public Law 93-236 (87 Stat. 985-1023) as amended

SEC. 101. (a) FINDINGS.—The Congress finds and declares that—

(1) Essential rail service in the midwest and northeast region of the United States is provided by railroads which are today insolvent and attempting to undergo reorganization under the Bankruptcy Act.

(2) This essential rail service is threatened with cessation or significant curtailment because of the inability of the trustees of such railroads to formulate acceptable plans of reorganization. This rail service is operated over rail properties which were acquired for a public use, but which have been permitted to deteriorate and now require extensive rehabilitation and modernization.

(3) The public convenience and necessity require adequate and efficient rail service in this region and throughout the Nation to meet the needs of commerce, the national defense, the environment, and the service requirements of passengers, United States mail, shippers, States and their political subdivisions, and consumers.

(4) Continuation and improvement of essential rail service in this region is also necessary to preserve and maintain adequate national rail services and an efficient national rail transportation system.

(5) Rail service and rail transportation offer economic and environmental advantages with respect to land use, air pollution, noise levels, energy efficiency and conservation, resource allocation, safety, and cost per ton-mile of movement to such extent that the preservation and maintenance of adequate and efficient rail service is in the national interest.

(6) These needs cannot be met without substantial action by the Federal Government.

(b) PURPOSES.—It is therefore declared to be the purpose of Congress in this Act to provide for—

(1) the identification of a rail service system in the midwest and northeast region which is adequate to meet the needs and service requirements of this region and of the national rail transportation system;

(2) the reorganization of railroads in this region into an economically viable system capable of providing adequate and efficient rail service to the region;

(3) the establishment of the United States Railway Association, with enumerated powers and responsibilities;

(4) the establishment of the Consolidated Rail Corporation, with enumerated powers and responsibilities;

(5) assistance to States and local and regional transportation authorities for continuation of local rail services threatened with cessation; and

(6) necessary Federal financial assistance at the lowest possible cost to the general taxpayer.

SEC. 102. As used in this Act, unless the context otherwise requires—

* * * * *

(9) "profitable railroad" means a railroad which is not a railroad in reorganization. The term does not include the Corporation, the National Railroad Passenger Corporation, or a railroad leased, operated, or controlled by a railroad in reorganization in the region;

* * * * *

(11) "railroad" means a common carrier by railroad, as defined in section 1(3) of part I of the Interstate Commerce Act (49 U.S.C. 1(3)). The term includes the Corporation and the National Railroad Passenger Corporation;

GENERAL POWERS AND DUTIES OF THE ASSOCIATION

SEC. 202. (a) GENERAL.—* * *

(b) DUTIES.—In addition to its duties and responsibilities under other provisions of this Act, the Association shall * * *

* * * * *

(3) prepare a study of rail passenger services in the region, in terms of scope and quality;

* * * * *

RAIL SERVICES PLANNING OFFICE

SEC. 205. (a) ESTABLISHMENT.—The Rail Services Planning Office is established as an office in the Commission. The Office shall function continuously pursuant to the provisions of this Act, and shall be administered by a director.

(b) DIRECTOR.—The Director of the Office shall be appointed for a term of 6 years by the Chairman of the Commission with the concurrence of 5 members of the Commission. He shall be appointed and compensated, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, classification, and General Schedule pay rates, at a rate not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title. The Director of the Office shall administer and be responsible for the discharge of the functions and duties of the Office from the date he takes office unless removed for cause by the Commission.

(c) POWERS.—The Director of the Office is subject to the direction of, and shall report to, such members of the Commission as the Chairman thereof shall designate. The Chairman may designate himself as that member. Such Director is authorized, with the concurrence of such member or (in case of disagreement) the Chairman of the Commission, to enter into, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5) such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the functions and duties of the Office with any person (including a government entity). Each department, agency, and in-

strumentality of the executive branch of the Federal Government and each independent regulatory agency of the United States is authorized, and shall give careful consideration to a request, to furnish to the Director of the Office, upon written request, on a reimbursable basis or otherwise, such assistance as the Director deems necessary to carry out the functions and duties of the Office. Such assistance includes transfer of personnel with their consent and without prejudice to their position and rating.

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

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

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

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

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

(5) within 180 days after the date of enactment of the Railroad Revitalization and Regulatory Reform Act of 1976, issue additional regulations, after conducting a proceeding in accordance with the provisions of section 553 of title 5, United States Code, which contain—

(A) standards for the computation of subsidies for rail passenger service (except passenger service compensation

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

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

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

(7) employ and utilize the services of attorneys and such other personnel as may be required in order properly to protect the interests of those communities and users of rail service which, for whatever reason (such as their size or location) might not otherwise be adequately represented in the course of the reorganization process under this Act, until the assumption of such duties by the Office of Rail Public Counsel pursuant to section 27(4) (d) of the Interstate Commerce Act (49 U.S.C. 27(4) (d)).

(e) **ADDITIONAL DUTIES.**—(1) Within 27 days after the date of enactment of the Railroad Revitalization and Regulatory Reform Act of 1976, the Office shall issue additional regulations, after conducting a proceeding in accordance with section 553 of title 5, United States Code. Such regulations shall (A) develop an accounting system which will permit the collection and publication by the Corporation or by profitable railroads providing service over lines scheduled for abandonment, of information necessary for an accurate determination of the attributable revenues, avoidable costs, and operations of light density lines as operating and economic units, and (B) determine the 'avoidable costs of providing rail freight service', as that phrase is used in section 1a(6) (a) (ii) (A) of the Interstate Commerce Act. The Office may, at any time, revise and republish the standards and regulations required by this section to incorporate changes made necessary by the accounting system developed pursuant to this subsection.

(2) Upon the request of a State in the region, within 90 days after the date of enactment of the Railroad Revitalization and Regulatory Reform Act of 1976, the Office shall prepare and publish an evaluation of the economic viability of any or all light density lines within such State which are not designated for inclusion in the final system plan. Such an evaluation shall include an analysis of the actions which may be necessary to make the operation of rail services over any such line economical. The results of each such evaluation shall be transmitted to the requesting State and published in the Federal Register, not later than 1 year after the date such request is received by the Office.

FINAL SYSTEM PLAN

SEC. 206. (a) GOALS.—The final system plan shall be formulated in such a way as to effectuate the following goals:

* * * * *

(3) the establishment of improved high-speed passenger service, consonant with the recommendations of the Secretary in his report of September 1971, entitled "Recommendations for Northeast Corridor Transportation",

(See also section 305(g) of the Rail Passenger Service Act.)

* * * * *

(7) the movement of passengers and freight in rail transportation in the region of the most efficient manner consistent with safe operation, including the requirements of commuter and intercity rail passenger service; the extent to which there should be coordination with the National Railroad Passenger Corporation and similar entities; and the identification of all short-to-medium distance corridors in densely populated areas in which the major upgrading of rail lines for high-speed passenger operation would return substantial public benefits; and * * *

* * * * *

(c) DESIGNATIONS.—The final system plan shall designate—

(1) which rail properties of railroads in reorganization in the region or of railroads leased, operated, or controlled by any railroad in reorganization in the region—

* * * * *

(C) shall be purchased, leased, or otherwise acquired from the Corporation by the National Railroad Passenger Corporation in accordance with exercise of its option under section 601(d) of this Act for improvement to achieve the goal set forth in subsection (a) (3) of this section;

* * * * *

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

* * * * *

(5) All properties—

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

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

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

shall be transferred at a value related to the value received from the Corporation pursuant to the final system plan for the transfer

to such Corporation of such properties. The value of any such properties, which are transferred pursuant to subparagraph (B) or (C) of this paragraph, shall be adjusted to reflect the value attributable to any applicable maintenance and improvement provided by the Corporation (to the extent the Corporation has not been released from the obligation to pay for such improvements) and the cost to the Corporation of transferring such properties. The Corporation, its Board of Directors, and its individual directors shall not be liable to any party, for money damages or in any other manner, solely by reason of the fact that the Corporation transferred property pursuant to section 303 of this Act to meet the needs of commuter or intercity rail passenger service or for purposes of providing rail marine freight floating service, except as otherwise provided with respect to the Corporation pursuant to section 303 (c) (2) of this Act.

* * * * *

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

* * * * *

OBLIGATIONS OF THE ASSOCIATION

SEC. 210. (a) GENERAL.—

* * * * *

“(b) MAXIMUM OBLIGATIONAL AUTHORITY.—The aggregate amount of obligations of the Association issued under this section which may be outstanding at any one time shall not exceed \$275,000,000. No obligations or proceeds thereof shall be issued or made available after the date of enactment of the Railroad Revitalization and Regulatory Reform Act of 1976 except—

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

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

LOANS

SEC. 211. (a) GENERAL.—The Association is authorized, in accordance with the provisions of this section and such rules and regulations as it shall prescribe, to make loans to the Corporation, the National Railroad Passenger Corporation, and other railroads (including a

railroad in reorganization which has been found to be reorganizable under section 77 of the Bankruptcy Act pursuant to section 207(b) of this title) in the region, for purposes of assisting in the implementation of the final system plan; to a State or local or regional transportation authority pursuant to section 403 of this Act; and to provide assistance in the form of loans to any railroad which (A) connects with a railroad in reorganization, and (B) is in need of financial assistance to avoid reorganization proceedings under section 77 of the Bankruptcy Act (11 U.S.C. 205). No such loan shall be made by the Association to a railroad unless such loans shall, where applicable, be treated as an expense of administration. The rights referred to in the last sentence of section 77(j) of the Bankruptcy Act (11 U.S.C. 205(j)) shall in no way be affected by this Act.

(b) APPLICATIONS.—Each application, for such a loan shall be made in writing to the Association in such form and with such content and other submissions as the Association shall prescribe to protect reasonably the interests of the United States. The Association shall publish a notice of the receipt of each such application in the Federal Register and shall afford interested persons an opportunity to comment thereon.

(c) TERMS AND CONDITIONS.—Each loan shall be extended in such form, under such terms and conditions, and pursuant to such regulations as the Association deems appropriate. Such loan shall bear interest at a rate not less than the greater of a rate determined by the Secretary of the Treasury taking into consideration (1) the rate prevailing in the private market for similar loans as determined by the Secretary of the Treasury, or (2) the current average yield on outstanding marketable obligations of the Association with remaining periods of maturity comparable to the average maturities of such loans, plus such additional charge, if any, toward covering costs of the Association as the Association may determine to be consistent with the purposes of this Act.

(d) MODIFICATIONS.—The Association is authorized to approve any modification of any provision of a loan under this section, including the rate of interest, time of payment of interest or principal, security, or any other term or condition, upon agreement of the recipient of the loan and upon a finding by the Association that such modification is equitable and necessary or appropriate to achieve the policy declared in subsection (f) of this section.

(e) PREREQUISITES.—The Association shall make a finding in writing, before making a loan to any applicant under this section, that—

(1) the loan is necessary to carry out the final system plan or to prevent insolvency;

(2) it is satisfied that the business affairs of the applicant will be conducted in reasonable and prudent manner; and

(3) the applicant has offered such security as the Association deems necessary to protect reasonably the interests of the United States.

(f) POLICY.—It is the intent of Congress that loans made under this section shall be made on terms and conditions which furnish reasonable assurance that the Corporation or the railroads to which such loans are granted will be able to repay them within the time fixed and that the goals of the final system plan are reasonably likely to be achieved.

(g) **PRE-CONVEYANCE LOANS TO THE CORPORATION.**—During the period between the effective date of the final system plan and the date of the conveyance of rail properties pursuant to section 303(b) of this Act, the association may make such loans in such amounts to the Corporation as the Association deems essential to provide for the purchase by the Corporation of material, supplies, equipment, and services necessary to permit the orderly and efficient implementation of the final system plan. Notwithstanding any inability of the Association during such period to make the finding required by subsection (e)(3) of this section because of any existing contingencies, the Association may make any such loans to the Corporation, subject to—

(1) the most favorable terms and conditions for assuring timely repayment and security as may then be reasonably available, and

(2) the requirement that any loan to the Corporation under this subsection be refinanced immediately out of the proceeds of the first sale by the issuance of debentures under section 216 of this title.

In order to assure that necessary funds are available to the Corporation for implementation of the final system plan, the Corporation is authorized to accept such loans as may be approved by the Association under this subsection, and any such acceptance shall be deemed for all purposes to constitute a reasonable and prudent business judgment in compliance with any fiduciary obligations imposed on the Corporation or its directors. For purposes of this subsection, the term "Corporation" includes a subsidiary of the Corporation.

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

The Association shall not make such a loan unless it first finds that the loan is for the purpose of paying obligations with respect to accrued pension plans referred to in the preceding sentence or that the Corporation, the National Railroad Passenger Corporation, or a profitable railroad is entitled to a loan pursuant to subsections (e) and (g) of section 504 of this Act, or unless it first finds that—

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

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

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

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

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

(2) The trustees of each railroad in reorganization in the region shall attempt to negotiate agency agreements with the Corporation, the National Railroad Passenger Corporation, or a profitable railroad for the processing of all accounts receivable and accounts payable attributable to operations prior to the conveyance of property pursuant to section 303(b)(1) of this Act. If any railroad in reorganization in the region fails to conclude such an agreement within a reasonable time prior to such conveyance, the applicable reorganization courts, after giving all parties an opportunity to be heard, shall prescribe the terms of such an agency arrangement by order, giving due consideration to the need, wherever possible, to make such agreements uniform among the various estates.

(3) The Association may, not less than 30 days prior to the date of conveyance pursuant to section 303(b)(1) of this Act, petition each district court of the United States having jurisdiction over the reorganization of a railroad in reorganization in the region for an order, which shall be entered prior to such conveyance, and which—

(A) identifies that cash and other current assets of the estate of such railroad which shall be utilized to satisfy obligations of the estates identified in paragraph (1) of this subsection; and

(B) provides for the application by the trustees of such railroads and their agents, consistent with the principles of reorganization under section 77 of the Bankruptcy Act (11 U.S.C. 205) and with the agency agreement specified in paragraph (2) of this subsection, of all such current assets, including cash available as of or subsequent to such date of conveyance, to the payment in the postconveyance period of the obligations of the estates identified in paragraph (1) of this subsection.

(4) (A) Each obligation of a railroad in reorganization in the region which is paid with financial assistance under paragraph (1) of this subsection shall be processed, on behalf of such railroad, by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, whichever is appropriate. An obligation of a railroad in reorganization in the region shall be paid, on behalf of such railroad, by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, whichever is appropriate, if—

(i) such obligation is deemed by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, whichever is appropriate, to have been, on the date of conveyance of rail properties pursuant to section 303(b) (1) of this Act, the obligation of a railroad in reorganization in the region;

(ii) such obligation accrues after such date of conveyance but as a result of rail operations conducted prior to such date, and the trustees of such railroad in reorganization acknowledge that it is an obligation of such railroad; or

(iii) the district court of the United States having jurisdiction over such railroad in reorganization in the region approves such obligation as a valid administrative claim against such railroad; to the extent that payment is required under a loan agreement with the Association under such paragraph (1).

(B) The Association shall resolve any disputes among the Corporation, the National Railroad Passenger Corporation, and a profitable railroad concerning which of them shall process and pay any particular obligation on behalf of a particular railroad in reorganization.

(C) The Corporation, the National Railroad Passenger Corporation, or a profitable railroad shall have a direct claim, as a current expense of administration, for reimbursement from the estate of a railroad in reorganization in the region for all obligations of such estate (plus interest thereon) which are paid by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, as the case may be. The right of the Corporation or the National Railroad Passenger Corporation to receive reimbursement under this subparagraph from the estate of a railroad in reorganization in the region shall be reduced by the amount, if any, of loans, plus interest forgiven under paragraph (5) of this subsection.

(5) (A) If, at any time, the Finance Committee of the Association determines that the failure of the Corporation to receive full reimbursement with interest from the estate of a railroad in reorganization in the region for any obligation of such estate paid pursuant to this subsection could adversely affect the fairness and equity of the transfers and conveyances pursuant to section 303(b) (1) of this Act, or that the failure of the National Railroad Passenger Corporation to receive such full reimbursement plus interest for any such obligation would be contrary to the public interest, the Association shall forgive the indebtedness, plus accrued interest, of the Corporation or of the National Railroad Passenger Corporation incurred pursuant to paragraph (1) of this subsection in the amount recommended by the Finance Committee. The Association shall have a direct claim, as a current expense of administration of the estate of such railroad in reorganization, equal to the amount by which loans of the Corporation

or of the National Railroad Passenger Corporation, plus interest, have been forgiven. Such direct claim shall not be subject to any reduction by way of setoff, cross-claim, or counter-claim which the estate of such railroad in reorganization may be entitled to assert against the Corporation, the National Railroad Passenger Corporation, the Association, or the United States.

(B) The direct claim of the Association under this paragraph, and any direct claim authorized under paragraph (4) of this subsection, shall be prior to all other administrative claims of the estate of a railroad in reorganization, except claims arising under trustee's certificates or from default on the payment of such certificates.

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

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

(i) the Corporation has not exercised due diligence in executing the procedures adopted pursuant to paragraph (1)(E) of this subsection, and

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

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

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

A copy of each such finding, the reasons therefor, and such direction made by the Finance Committee, together with the comments and recommendations thereon of the Board of Directors of the Association, shall be transmitted to the Congress by the Association within 10 days after the date on which the Finance Committee makes such finding and direction, or if not so transmitted, shall be transmitted by the Finance Committee. Each such finding and direction so transmitted shall become effective immediately, and shall remain in effect, unless, within the first period of 30 calendar days of continuous session of Congress after the date of transmittal of such finding and direction to Congress, either House of Congress disapproves such finding and direction in accordance with the procedures specified in section 1017 of the Congressional Budget and Impoundment Control Act of 1974 (31 U.S.C. 1407). For purposes of this paragraph, continuity of session of Congress is broken only in the circumstances described in section 1011(5) of that Act (31 U.S.C. 1401(5)).

(7) For purposes of this subsection, the term "Corporation" includes a subsidiary of the Corporation.

(i) **ELECTRIFICATION.**—Upon application by the Corporation, the Secretary shall, pursuant to the provisions of and within the obligational limitations contained in sections 511 through 513 of the Railroad Revitalization and Regulatory Reform Act of 1976, guarantee obligations of the Corporation for the purpose of electrifying high-

density mainline routes if the Secretary finds that such electrification will return operating and financial benefits to the Corporation and will facilitate compatibility with existing or renewed electrification systems. The aggregate unpaid principal amount of obligations which may be guaranteed by the Secretary under this paragraph shall not exceed \$200,000,000 at any one time.

RECORDS, AUDIT, AND EXAMINATION

SEC. 212. (a) RECORDS.—Each recipient of financial assistance under this title, whether in the form of loans, obligations, or other arrangements, shall keep such records as the Association or the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance and such other records as will facilitate an effective audit.

(b) AUDIT AND EXAMINATION.—The Association, the Secretary, and the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of 3 years after the implementation of the final system plan, have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Association, the Secretary, or the Comptroller General may be related or pertinent to the loans, obligations or other arrangements referred to in subsection (a) of this section. The Association or any of its duly authorized representatives shall, until any financial assistance received under this title has been repaid to the Association, have access to any such materials which concern any matter that may bear upon—

(1) the ability of the recipient of such financial assistance to make repayment within the time fixed therefor;

(2) the effectiveness with which the proceeds of such assistance is used; and

(3) the implementation of the final system plan and the realization of the declaration of policy of this Act.

* * * * *

RELATIONSHIP TO OTHER LAWS

SEC. 601. * * *

* * * * *

(d) NORTHEAST CORRIDOR.—(1) Rail properties designated in accordance with section 206(c)(1)(C) of this Act shall be purchased or leased by the National Railroad Passenger Corporation. The Corporation shall negotiate an appropriate sale or lease agreement with the National Railroad Passenger Corporation for the properties designated for transfer pursuant to section 206(c)(1)(C) of this Act (45 U.S.C. 716(c)(1)(C)), which shall take effect on the date of conveyance of such properties to the Corporation.

(2) Properties acquired by purchase, lease, or otherwise pursuant to this subsection shall be improved in order to meet the goal set forth in section 206(a)(3) of this Act, relating to improved high-speed passenger service, by the earliest practicable date after the date of enactment of this Act.

(3) The Secretary shall begin the necessary engineering studies and improvements upon enactment.

(4) The final system plan shall provide for any necessary coordination with freight or commuter services of use of the facilities designated in section 206(c)(1)(C) of this Act. Such coordination may be effectuated through a single operating entity, designated in the final system plan, or as mutually agreed upon by the interested parties.

(5) Construction or improvements made pursuant to this subsection may be made in consultation with the Corps of Engineers.

(See also section 305(g) of the Rail Passenger Service Act.)

LEGISLATIVE HISTORY

Regional Rail Reorganization Act of 1973 (approved January 2, 1974):

House Reports: No. 93-620 (Comm. on Interstate and Foreign Commerce) and No. 93-744 (Comm. of Conference).

Congressional Record, Vol. 119 (1973):

Nov. 8, considered and passed House.

Dec. 11, considered and passed Senate, amended.

Dec. 13, Proceedings vacated; reconsidered and passed Senate, amended.

Dec. 20, House agreed to conference report.

Dec. 21, Senate agreed to conference report.

Weekly Compilation of Presidential Documents, Vol. 10, No. 1 (1974): Jan. 2, Presidential statement.

NORTHEAST CORRIDOR PROJECT IMPLEMENTATION

(Enacted as Title VII of P.L. 94-210, the Railroad Revitalization and Regulatory Reform Act of 1976, February 5, 1976; as amended by P.L. 95-555, the Rail Transportation Improvement Act, October 19, 1976)

TITLE VII—NORTHEAST CORRIDOR PROJECT IMPLEMENTATION

NATIONAL RAILROAD PASSENGER CORPORATION

SEC. 701. (a) GENERAL.—To carry out the purposes of this title, the Rail Passenger Service Act, and the Regional Rail Reorganization Act of 1973, the National Railroad Passenger Corporation is authorized to—

(1) acquire by purchase, lease, exchange, gift, or otherwise, and to hold, maintain, sell, lease or otherwise dispose of, any real or personal property or interest therein which is necessary or useful in establishing and maintaining improved high-speed rail services, as specified in section 703 of this title;

(2) enter into and implement such contracts and agreements as are necessary or appropriate in the conduct of its functions;

(3) provide for the continuous operation and maintenance of rail freight, intercity rail passenger, and commuter rail passenger service over the properties acquired pursuant to this section:

Provided, That any provision of rail freight or rail commuter service shall be effectuated by a compensatory contract with the responsible carrier;

(4) improve railroad rights-of-way between Boston, Massachusetts, and Washington, District of Columbia (including at its option, the route through Springfield, Massachusetts, and routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast Corridor main line) to enable improved high-speed rail passenger service to be provided between Boston, Massachusetts, and Washington, District of Columbia, and intermediate intercity markets, in accordance with the goals set forth in section 703 of this title;

(5) acquire, construct, improve, and install passenger stations; communications, electric power, and other facilities and equipment; public and private highway and pedestrian crossings; other safety facilities or equipment; and any other facilities or equipment which it determines are necessary to enable improved high-speed rail passenger service to be provided over the railroad rights-of-way to be improved under paragraph (4) of this subsection;

(6) enter into agreements with other railroads, other carriers, and commuter agencies, for the purpose of granting, acquiring, or entering into trackage rights, contract services, and other appropriate arrangements for freight and commuter services over the rights-of-way acquired under this title, with such agreement to be on such terms and conditions as are necessary to reimbursement for costs on an equitable and fair basis, except that cross subsidization among intercity, commuter, or rail freight services is prohibited;

(7) appoint a qualified individual to serve as the General Manager of the Northeast Corridor improvement project; and

(8) enter into agreements with telecommunications common carriers on a basis which is consistent with, and subject to, the Communications Act of 1934, for the purpose of continuing existing, and creating new and improved, rail passenger radio mobile telephone service in the high-speed rail passenger service area specified in section 703(1) of this title.

(b) **TRANSFER OF RAIL PROPERTIES.**—The Corporation, on the date of conveyance pursuant to section 303(b)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743), shall, by purchase or lease, transfer to the National Railroad Passenger Corporation all rail properties designated pursuant to sections 206(c)(1)(C) and 601(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(C) and 791(d)), and it shall, within 180 days after the date of enactment of this title, execute agreements providing for the National Railroad Passenger Corporation to assume (1) all operational responsibility for intercity rail passenger services with respect to such properties, and (2) control and maintenance of the properties transferred. Such parties may agree to retaining or transferring, in whole or in part, operational responsibility for rail freight or commuter rail services in the area specified.

(c) **DEFINITION.**—As used in this title, the term “Northeast Corridor” means the States of Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, and Maryland, and the District of Columbia.

OPERATIONS REVIEW PANEL

SEC. 702. (a) ESTABLISHMENT.—There is established an entity which shall be representative of the various users of Northeast Corridor rail transportation facilities, to be known as the Operations Review Panel (hereafter in this section referred to as the “Panel”). The Panel shall have the authority to take such actions as are necessary to resolve differences of opinion concerning operations (among or between the National Railroad Passenger Corporation, other railroads, and State, local, and regional agencies responsible for the provision of commuter rail, rapid rail, or rail freight services), with respect to all matters except those conferred on the Commission in section 402(a) of the Rail Passenger Service Act (45 U.S.C. 562(a)).

(b) **MEMBERSHIP.**—The Panel shall consist of 5 members, as follows:

(1) one member who shall be selected by the chief executive officer of the National Railroad Passenger Corporation;

(2) one member who shall be selected by majority vote of the commuter rail authorities which are subject to the jurisdiction of the Panel;

(3) one member who shall be selected by the chief executive officer of the Corporation; and

(4) two neutral members who shall be selected by the Chairman of the National Mediation Board.

The members shall each serve a term of 4 years from the date of such selection, or until a successor has been selected. If, within 45 days after the date of enactment of this Act, the National Railroad Passenger Corporation, the commuter authorities, or the Corporation fails to select the member who it is authorized to select under this subsection, the Chairman of the National Mediation Board shall, within 30 days after the expiration of such 45-day period, appoint a member on behalf of such party. Any member so appointed shall serve until such time as the party so represented selects a successor.

(c) **DECISIONS AND REVIEW.**—All decisions of the Panel shall be final and binding on the parties. All costs and expenses of the Panel shall be paid by (1) the National Railroad Passenger Corporation, (2) the commuter rail authorities which are subject to such Panel, and (3) the Corporation, each of which shall pay one-third of such costs and expenses, unless otherwise determined by a majority of the members of such Panel. The Panel may adopt such rules of procedure and may employ such resources as it considers appropriate. It may issue preliminary and final orders, which shall have the force and effect of law, with respect to any difference of opinion concerning any operational matter which is the subject of such an order. No order of the Panel shall be subject to review by any court. Upon petition by any party subject to the Panel, the United States District Court for the District of Columbia shall enforce any final order issued by the Panel.

REQUIRED GOALS

SEC. 703. The Northeast Corridor improvement project shall be implemented by the Secretary in order to achieve the following goals:

(1) INTERCITY RAIL PASSENGER SERVICES.—(A) (i) Within 5 years after the date of enactment of this Act, the establishment of regularly scheduled and dependable intercity rail passenger service between Boston, Massachusetts, and New York, New York, operating on a 3-hour-and-40-minute schedule, including appropriate intermediate stops; and regularly scheduled and dependable intercity rail passenger service between New York, New York, and Washington, District of Columbia, operating on a 2-hour-and-40-minute schedule, including appropriate intermediate stops.

(ii) Improvements in facilities in accordance with route criteria approved by the Congress, on routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast Corridor main line, and from Springfield, Massachusetts, to Boston, Massachusetts, and New Haven, Connecticut, in order to facilitate compatibility with improved high-speed rail service operated on the Northeast Corridor main line.

(B) The improvement of nonoperational portions of stations (as determined by the Secretary in consultation with the National Railroad Passenger Corporation) used in intercity rail passenger service and of related facilities and fencing. Fifty percent of the cost of such improvements shall be borne by States (or local or regional transportation authorities), except that the Secretary may, in his sole discretion, fund entirely any safety-related improvement.

(C) The improvements required by this section shall be accomplished in a manner which is compatible with the accomplishment in the future of additional improvements in service levels, and which will produce the maximum labor benefit in terms of hiring persons who are presently unemployed.

(D) The submission by the Secretary and the National Railroad Passenger Corporation to the Congress of annual reports on progress achieved and work in progress and planned (including the need for further improvements) with respect to the completion of this program, including an up-to-date accounting of intercity passenger ridership, revenues from such ridership, expenses, and on-time dependability of intercity passenger trains in the Northeast Corridor.

(E) Within 2 years after the date of enactment of this Act, the submission by the Secretary to the Congress of a report on the financial and operating results of the intercity rail passenger service established under this section, on the rail freight service improved and maintained pursuant to this section, and on the practicability, considering engineering and financial feasibility and market demand, of the establishment of regularly scheduled and dependable intercity rail passenger service between Boston, Massachusetts, and New York, New York, operating on a 3-hour schedule, including appropriate intermediate stops, and regularly

scheduled and dependable intercity rail passenger service between New York, New York, and Washington, District of Columbia, operating on a 2½-hour schedule, including appropriate intermediate stops. Such report shall include a full and complete accounting of the need for improvements in intercity passenger transportation within the Northeast Corridor and a full accounting of the public costs and benefits of improving various modes of transportation to meet those needs. If such report shows (i) that further improvements are needed in intercity passenger transportation in the Northeast Corridor, and (ii) that improvements (in addition to those required by subparagraph (A)(i) of this paragraph) in the rail system in such area would return the most public benefits for the public costs involved, the Secretary shall make appropriate recommendations to the Congress. Within 6 years after the date of enactment of this Act, the Secretary shall submit an updated comprehensive report on the matters referred to in this subparagraph. Thereafter, if it is practicable, the Secretary shall facilitate the establishment of intercity rail passenger service in the Corridor which achieves the service goals specified in this subparagraph.

(2) **RAIL COMMUTER SERVICES, RAIL RAPID TRANSIT, AND LOCAL TRANSPORTATION.**—To the extent compatible with the goals contained in paragraph (1) of this section, the facilitation of improvements in and usage of rail commuter services, rail rapid transit, and local public transportation.

(3) **RAIL FREIGHT SERVICE.**—The maintenance and improvement of rail freight service to all users of rail freight service located on or adjacent to the Northeast Corridor and the maintenance and improvement of all through-freight services which remain in the Northeast Corridor, to the extent compatible with the goals contained in paragraphs (1) and (2) of this section.

(4) **PASSENGER RADIO TELEPHONE SERVICE.**—To the extent compatible with the goals contained in paragraph (1) of this section, the continuation of and improvement in passenger radio telephone service aboard trains operated in high-speed rail service between Washington, District of Columbia, and Boston, Massachusetts. The President and relevant Federal agencies, including the Federal Communications Commission, shall take such actions as are necessary to achieve this goal, subject to the provisions of the Communications Act of 1934 (47 U.S.C. 151 et seq.), including necessary licensing, construction, operation, and maintenance standards for the radio service, as determined by the Federal Communications Commission to be in the public interest, convenience, and necessity.

FUNDING

SEC. 704. (a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary—

(1) \$1,600,000,000 to remain available until expended in order to effectuate the goals of section 703(1)(A)(i) of this title and after such goals have been achieved, the goals of section 703(1)(A)(ii);

(2) \$150,000,000 to remain available until expended in order to effectuate the goal of section 703(1)(B);

(3) for payment to the National Railroad Passenger Corporation—

(A) \$10,000,000 to remain available until expended for nonrecurring costs related to the initial assumption of control and responsibility for maintaining rail operations on the Northeast Corridor;

(B) \$120,000,000 to acquire the properties of the Northeast Corridor;

(C) \$650,000 to remain available until expended, for the development and utilization of mobile radio frequencies for high-speed rail passenger radio telephone service; and

(D) \$20,000,000, to remain available until expended, for acquiring and improving properties designated in accordance with section 206(c)(1)(D) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(D)).

Amounts appropriated pursuant to subparagraphs (B) and (D) of this paragraph shall be used first for the repayment, with interest, of that portion of obligations issued by the National Railroad Passenger Corporation and guaranteed pursuant to section 602 of the Rail Passenger Service Act (34 U.S.C. 602), the proceeds of which have been used for the payment of expenses resulting from the acquisition of the properties referred to in such subparagraphs (B) and (D).

(b) **LIMITATION.**—No funds appropriated under this section or pursuant to section 601 of the Rail Passenger Service Act may be used to subsidize any operating losses of commuter rail or rail freight services.

(c) **COORDINATION.**—The Secretary shall take all steps necessary to coordinate all transportation programs related to the Northeast Corridor to assure that all such programs are integrated and consistent with implementation of the Northeast Corridor improvement project under this title, including, if the Secretary finds any significant non-compliance with the implementation of the goals of section 703 of this title, the denial of funding to any noncomplying program until such noncompliance is corrected.

(d) **EMERGENCY MAINTENANCE CONTINUATION.**—After the conveyance of rail properties, pursuant to section 303(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)) and section 701(b) of this title, not to exceed \$25,000,000 of the funds appropriated pursuant of Public Law 94-6 (89 Stat. 11) shall remain available to be utilized by the Secretary for the purpose of performing emergency maintenance on the rail properties designated in accordance with section 206(c)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(C)).

(e) **NOTE AND MORTGAGE.**—In order to protect and secure the expenditure of funds by the United States on account of the acquisition and improvement of properties designated under section 206(c)(1)(C) and (D) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(C) and (D)), the Secretary is authorized to obtain a note of indebtedness from, and to enter into a mortgage agreement with, the National Railroad Passenger Corporation

in order to establish a mortgage lien on such properties for the United States securing such expenditure. Such note and mortgage shall not infringe upon or supersede the authority conferred upon the National Railroad Passenger Corporation by section 701 of this Act.

(f) EXEMPTION AND IMMUNITY.—Any agreement, security, or obligation obtained by the Secretary pursuant to subsection (e) of this section, and any transaction in connection with any such agreement, security, or obligation, shall be exempt from the provisions of the Interstate Commerce Act (49 U.S.C. 1 et seq.), the Securities Act of 1933 (15 U.S.C. 77a et seq.), and any other Federal, State, or local law or regulation which regulates securities or the issuance thereof. Any such agreement, security, obligation, or transaction shall enjoy all of the immunities from other laws which section 601 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791) accords to transactions which are in compliance with or implement the final system plan. The conveyance or transfer of rail properties resulting from any such agreement, security, obligation, or transaction shall enjoy the same exemptions, privileges, and immunities which the Regional Rail Reorganization Act of 1973 (including section 303(e) thereof) accords to conveyances ordered or approved by the special court under section 306(b) of such Act (45 U.S.C. 743(b)).

(g) PROTECTION FROM LIABILITY.—The Corporation, its Board of Directors, and its individual directors shall not be liable to any party for any damages, or in any other manner, by reason of the fact that the Corporation has given or issued a security or obligation to the United States pursuant to the provisions of subsection (e) of this section. The immunity granted by this subsection shall also extend to any agreement entered into by the Corporation pursuant to such subsection (e) and to any transaction in connection with. The United States shall indemnify the Corporation, its Board of Directors, and its individual directors against all costs and expenses (including fees of accountants, experts, and attorneys) actually and reasonably incurred in defending any litigation testing the legal validity of any security, obligation, agreement, or transaction, given, issued, or entered into pursuant to such subsection (e).







