Public Law 94-555
94th Congress

An Act

To amend the Rail Passenger Service Act to provide financing for the National Railroad Passenger Corporation, to amend the Regional Rail Reorganization Act of 1973 to increase the amount of loan authority under section 211(h)(1) of such Act, and for other purposes.

Oct. 19, 1976
[S. 3131]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles and sections according to the following table of contents, may be cited as the "Rail Transportation Improvement Act".

Rail Transportation Improvement Act.
45 USC 501 note.

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TITLE I—AMTRAK IMPROVEMENT

Amtrak Improvement Act of 1976.

SHORT TITLE

SEC. 101. This title may be cited as the "Amtrak Improvement Act of 1976".

45 USC 501 note.

AUTHORIZATION OF APPROPRIATIONS

SEC. 102. (a) Section 601(a) of the Rail Passenger Service Act (45 U.S.C. 601(a)) is amended by striking out the second and third sen-

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tences thereof and inserting in lieu thereof the following: "There are authorized to be appropriated to the Secretary for the benefit of the Corporation—

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

45 USC 563.

"(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.

45 USC 602.

Not more than $25,000,000 of the amounts authorized by clause (1) of the preceding sentence for the fiscal year ending June 30, 1976; not more than $7,000,000 of the amounts so authorized for the transitional fiscal period ending September 30, 1976, not more than $35,000,000 of the amounts so authorized for the fiscal year ending September 30, 1977, and not more than $40,000,000 of the amounts so authorized for the fiscal year ending September 30, 1978, shall be available for payment of rail passenger service operating and capital expenses, pursuant to section 403(b) of this Act.".

(b) Section 601(a) of the Rail Passenger Service Act (45 U.S.C. 601(a)) is further amended—

(1) by inserting "(1)" immediately after "(a)"; and

(2) by adding at the end thereof the following new paragraph:

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

(c) Section 602(d) of the Rail Passenger Service Act (45 U.S.C. 602(d)) is amended by inserting immediately after the first sentence thereof the following new sentence: "Such $900,000,000 maximum shall be reduced by an amount equal to the total principal amount of such securities, obligations, or loans paid by the Corporation from

funds made available pursuant to clause (4) of section 601(a) of this Act.". 45 USC 601.

BOARD MEMBERSHIP

SEC. 103. Section 303(a)(1) of the Rail Passenger Service Act (45 U.S.C. 543 (a)(1)) is amended—

(1) by striking out the period at the end of subparagraph (A) thereof and inserting in lieu thereof ", and the President of the Corporation, ex officio."; and

(2) by striking out "Nine" in subparagraph (B) thereof and inserting in lieu thereof "Eight".

SECURITY GUARDS

SEC. 104. Section 305 of the Rail Passenger Service Act (45 U.S.C. 545) is amended by adding at the end thereof the following new subsection:

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

WASTE DISPOSAL

SEC. 105. Section 306(i) of the Rail Passenger Service Act (45 U.S.C. 546(i)) is amended by inserting "waste disposal from" immediately after "shall not apply to".

THROUGH ROUTES AND JOINT FARES

SEC. 106. Section 306 of the Rail Passenger Service Act (45 U.S.C. 546) is amended by adding at the end thereof the following two new subsections:

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

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

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

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

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

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

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

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

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

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

COST COMPUTATION

Contract.

SEC. 107. Section 403(b) of the Rail Passenger Service Act (45 U.S.C. 563(b)) is amended—

(1) in paragraph (1), by adding at the end thereof the following new sentence: "Any decisions which are likely to have a significant effect on the scheduling, marketing, or operations of the service provided pursuant to this section shall be made by contract or other agreement between the Corporation and the State or agency which is obligated to reimburse the Corporation for all or part of the operating loss, and associated capital costs, of such service.";

(2) in paragraph (1), by striking out "total operating losses" in the second sentence thereof and inserting in lieu thereof "solely related costs"; and

(3) in paragraph (3), by striking out "total" the first place it appears and inserting in lieu thereof "solely related costs and associated capital".

HOURS OF FOOD SERVICE

SEC. 108. Section 801(a) of the Rail Passenger Service Act (45 U.S.C. 641(a)) is amended by inserting immediately after the first sentence thereof the following new sentence: "No regulation issued by the Commission under this section shall require the Corporation or any railroad providing intercity rail passenger service to provide food service other than during customary dining hours.".

Rail Amendments of 1976.

TITLE II—RAIL AMENDMENTS

SHORT TITLE

45 USC 701 note.

SEC. 201. This title may be cited as the "Rail Amendments of 1976".

RAIL MARINE FREIGHT SERVICE; OPTIONS

SEC. 202. (a) The last sentence of section 206(d)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)(5)) is amended by inserting immediately after "passenger service" the following: "or for purposes of providing rail marine freight floating service".

(b) Section 303(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(c)) is amended by adding at the end thereof the following new paragraph:

"(6) Whenever the Corporation exercises an option to acquire, or acquires, interests in rail marine freight floating equipment pursuant to the recommendations of the final system plan, and the Corporation

thereafter makes such floating equipment available to a profitable railroad operating in the region, a State, or a responsible person including a government entity), the United States shall indemnify—

"(A) the Corporation against any costs or liabilities imposed on the Corporation as the result of any judgment entered against it, with respect to such equipment, under paragraph (2) of this subsection; and

"(B) such profitable railroad, State, or responsible person against any costs or liabilities imposed thereon as the result of any judgment entered against such profitable railroads, State, or responsible person under paragraph (3) of this subsection,

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

(c) Section 206(d)(7) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)(7)) is amended by inserting immediately after "acquisition" the following: "by the Corporation pursuant to the final system plan".

LOANS FOR PAYMENT OF OBLIGATIONS

SEC. 203. (a) Section 211(h)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(1)) is amended to read as follows:

"(h) LOANS FOR PAYMENT OF OBLIGATIONS.—(1)(A) The Association is authorized, subject to the limitations set forth in section 210(b) of this title, to enter into loan agreements, in amounts not to exceed, at any given time, $350,000,000 in the aggregate principal amount, with the Corporation, the National Railroad Passenger Corporation, and any profitable railroad to which rail properties are transferred or conveyed pursuant to section 303(b)(1) of this Act, under which the Corporation, the National Railroad Passenger Corporation, and any profitable railroad entering into such agreement will agree to meet existing or prospective obligations of the railroads in reorganization in the region which the Association, in accordance with procedures established by the Association, determines should be paid by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, on behalf of such railroads in reorganization, in order to avoid disruptions in ordinary business relationships. Such obligations shall be limited to—

Post, p. 2620.

45 USC 743.

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

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

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

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

45 USC 153.

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

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

45 USC 775.

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

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

45 USC 743.

"(ix) amounts required to discharge the obligations of each such railroad in reorganization to nonemployee claimants for personal injuries suffered during the period such railroad has been in reorganization; and

"(x) amounts required to discharge any obligation of a railroad in reorganization in the region to the National Railroad Passenger Corporation, arising out of a contract between such railroad in reorganization and such Corporation under which such railroad in reorganization is required to provide a suitable rail passenger station, in any case in which such railroad in reorganization sold a rail passenger station pursuant to a judicial order of condemnation prior to April 1, 1976.

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

Post, pp. 2622, 2623.

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

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

Ante, p. 2616.

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

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

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

jointly agreed to by the Finance Committee and the Corporation, and the joint agreement—

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

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

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

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

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

Jurisdiction.

Ante, p. 2613.

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

"(D)(i) Except as provided in clause (ii) of this subparagraph, any funds held in an escrow account by a railroad in reorganization on the date of enactment of the Rail Transportation Improvement Act which are thereafter determined to be cash and other current assets of the estate of such railroad in reorganization, for purposes of paragraph (3) of this subsection, shall be applied as follows—

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

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

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

"(ii) The manner of disposition set forth in clause (i) of this subparagraph shall not apply with respect to a railroad in reorganization

if the Secretary (I) determines that a different disposition of assets is necessary to carry out a reorganization plan of such railroad in reorganization, and that such different disposition adequately protects the interests of the United States, and (II) transmits his determination to the court having jurisdiction over the reorganization of such railroad.".

Administrative expense, proof of claim, filing.

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

(e) The first sentence of section 210(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 720(b)) is amended to read as follows: "The aggregate principal amount (exclusive of interest or additions to principal on account of accrual of interest) of obligations issued by the Association under this section which may be outstanding at any one time shall not exceed $395,000,000.".

PROTECTION OF EMPLOYEES' PENSION BENEFITS

SEC. 204. Section 303(b)(6) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(6)) is amended by striking out the period at the end of the last sentence thereof and inserting in lieu thereof the following: ", except that in any case in which the Corporation, on or after the date of transfer or assignment as provided by this paragraph, terminates in whole or in part any such plan, the benefits under which are not guaranteed under title IV of the Employee Retirement Income Security Act of 1974, the Corporation shall guarantee the payment when due of the accrued pension benefits provided for thereunder at the time of termination. The Corporation shall be entitled to a loan pursuant to section 211(h) of this Act in an amount required for the adequate funding of accrued pension benefits under all plans transferred or assigned to the Corporation in accordance with this paragraph (whether or not terminated by the Corporation). For purposes of such section 211(h) and notwithstanding any other provision of Federal or State law, amounts required for such adequate funding shall be deemed to be expenses of administration of the respective estates of the railroads in reorganization, due and payable as of the date of transfer or assignment of the plans to the Corporation.".

29 USC 1301.

Ante, p. 2617.

EVIDENTIARY USE OF CERTAIN DETERMINATIONS; REIMBURSEMENT FOR RAIL SERVICE

Sec. 205. (a) Section 304(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(d)) is amended by adding at the end thereof the following new paragraph:

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

"(A) pursuant to this section; or

"(B) pursuant to section 402 of this Act or section 17 of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1613), 45 USC 562.

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

(b) Section 304(e)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(e)) is amended by redesignating subparagraph (C) thereof as subparagraph (D), and by inserting immediately after subparagraph (B) thereof the following new subparagraph:

"(C) For purposes of the obligation of the Secretary to reimburse the Corporation (or a profitable railroad) or States, local public bodies, and agencies thereof under subparagraphs (A) and (B) of this paragraph, the level of rail passenger service shall be determined on the basis of train miles, car miles, or some other appropriate indicia of scheduled train movements. Programs to correct deferred maintenance on rolling stock, right-of-way, and other facilities which are designed to maintain service, meet on-time performance, and maintain a reasonable degree of passenger comfort (and costs incurred incident thereto) shall be included within the meaning of the term "loss" as used in subparagraph (A) of this paragraph and within the meaning of the term "additional costs" as used in subparagraph (B) of this paragraph and section 17(a)(2) of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1613(a)(2)).".

AUTHORITY OF THE INTERSTATE COMMERCE COMMISSION

SEC. 206. Section 304(j) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(j) is amended—

(1) by striking out paragraph (1) thereof and inserting in lieu thereof the following: "(1)(A) Except as provided in subparagraph (B) of this paragraph, no local public body which provides mass transportation services by rail, and which is otherwise subject to the Interstate Commerce Act shall, with respect to the provision of such services, be subject to the Interstate Commerce Act or to rules, regulations, and orders promulgated under such Act, if the interstate fares, or the ability to apply to the Interstate Commerce Commission for changes thereto, of such local public body is subject to approval or disapproval by a Governor of any State in which it provides services. 49 USC prec. 1 note.

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

(2) by striking out paragraph (2)(B) thereof and inserting in lieu thereof the following: "Mass transportation services."

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

REPLACEMENT OPERATORS

SEC. 207. (a) Section 501 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771) is amended—

(1) by striking out "and" at the end of paragraph (9) thereof;

(2) by striking out the period at the end of paragraph (10) thereof, and inserting in lieu thereof "; and"; and

"Replacement operator."

(3) by adding at the end thereof the following new paragraph:

"(11) 'replacement operator' means—

"(A) a State which has acquired all or part of the rail properties of any railroad in reorganization in the region and which intends to replace any class I railroad as the operator of rail service over such rail properties; or

"(B) any class I railroad which is designated, by a State which has acquired such rail properties, to replace the State or any other class I railroad as the operator of rail service over such rail properties.".

(b) Section 504(f)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(b)(3)) is amended—

(1) in the first sentence thereof, by striking out "shall upon transfer" and all that follows through "status." and inserting in lieu thereof the following: ", or as a result of the designation of a replacement operator, shall, upon transfer to the National Railroad Passenger Corporation, an acquiring railroad, or a replacement operator, carry with him his protected status."; and

(2) in the second sentence thereof by striking out "or an acquiring railroad," and inserting in lieu thereof ", an acquiring railroad, or a replacement operator,".

(c) Section 509 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 779) is amended—

(1) by inserting immediately after "the Association (where applicable)," each time it appears the following: "replacement operators,"; and

(2) in the third sentence thereof, by inserting immediately after "the Corporation nor" the following: "a replacement operator nor".

COLLECTIVE BARGAINING AND FELA CLAIMS

SEC. 208. (a) Section 504(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(e)) is amended—

(1) by striking out the period at the end of the first sentence thereof, and inserting in lieu thereof the following: ", to the extent that such claims are determined by the Association to be the obligation of a railroad in reorganization in the region."; and

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

Ante, p. 2617.

(b) Section 504(g) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(g)) is amended—

(1) by striking out the period at the end of the last sentence thereof and inserting in lieu thereof the following: ", to the extent that such claims are determined by the Association to be the obligation of such railroad."; and

(2) by adding at the end thereof the following new sentences: "Any liability of an estate of a railroad in reorganization which is assumed, processed, and paid, pursuant to this subsection, by the Corporation or an acquiring railroad shall remain the preconveyance obligation of the estate of such railroad for purposes of section 211(h)(1) of this Act. The Corporation, an acquiring railroad, or the Association, as the case may be, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act (other than paragraph (4)(A) thereof), for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization on whose behalf such obligations are discharged or paid.". *Ante*, p. 2617.

EMPLOYEE DISPLACEMENT ALLOWANCE

SEC. 209. (a) Section 505(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(b)) is amended—

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

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

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

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

NONCONTRACT EMPLOYEES

SEC. 210. (a) Section 505(i)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775 (i)(2)) is amended by inserting immediately after the first sentence thereof the following new sentence: "Such resolution procedure shall be the exclusive means available to the parties for resolving such dispute, and any arbitration decision rendered shall be final and binding on all parties.".

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

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

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

UNITED STATES RAILWAY ASSOCIATION BOARD MEMBERSHIP

SEC. 211. (a) Section 102(16) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702(16)) is amended by striking out "the duly authorized representatives of either of them" and inserting in lieu thereof ", in his absence, the Deputy Secretary of Transportation".

(b) Section 201(d)(2) of such Act (45 U.S.C. 711) is amended by striking out "their duly authorized representatives" and inserting in lieu thereof "the Deputy Secretary of Transportation, the Vice Chairman of the Commission, or the Deputy Secretary of the Treasury, as the case may be".

(c) Section 201(h) of such Act (45 U.S.C. 711(h)) is amended by striking out the second sentence thereof.

(d) Section 201(i) of such Act (45 U.S.C. 711(i)) is amended, in the first sentence thereof, by striking out "duly authorized representatives" and inserting in lieu thereof "Deputy Secretaries".

(e) Section 201(j)(4) of such Act (45 U.S.C. 711(j)(4)) is amended to read as follows: "Any reference in this Act to the Secretary of the Treasury is to the Secretary of the Treasury or the person who is at the time performing the duties of the Office of the Secretary of the Treasury in accordance with law or, in his absence, the Deputy Secretary of the Treasury. Any reference in this Act to the Chairman of the Commission is to the Chairman of the Commission or the person who is at the time performing the duties of the Chairman of the Commission in accordance with law.".

FINANCIAL ASSISTANCE

Ante, p. 71.

SEC. 212. (a) Section 505(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(a)) is amended to read as follows:

"SEC. 505. (a) IN GENERAL.—Any railroad may apply to the Secretary, following the date of enactment of this Act and in accordance with regulations promulgated by the Secretary, for financial assistance for facilities rehabilitation and improvement financing and for such other financial assistance as may be approved by the Secretary. Any regulations promulgated by the Secretary pursuant to this section shall include specific and detailed standards in accordance with which the Secretary shall conduct the evaluations and make the determinations required in subsection (b)(2) of this section.".

PRIORITY OF REDEEMABLE PREFERENCE SHARES

Ante, p. 73.

SEC. 213. Section 506(a)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 826(a)(2)) is amended—

(1) in clause (i) thereof, by inserting immediately after "whenever issued," the following: "except that the Secretary may make any such redeemable preference share subordinate to any common stock which was issued as a result of an exchange for securities which were senior in right to common stock, if (I) such exchange took place pursuant to a court-approved reorganization plan under section 77 of the Bankruptcy Act (11 U.S.C.

205), and (II) the railroad subject to such reorganization plan was in reorganization under such section 77 prior to the date of enactment of this Act,"; 11 USC 205.

(2) in clause (iii) thereof, by inserting immediately after "other than common stock" the following: "(except in those cases in which the Secretary has provided for subordination pursuant to clause (i) of this paragraph) which is";

REDEMPTION PAYMENTS AND INTEREST RATE

SEC. 214. (a) Section 506(a)(4) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 826(a)(4)) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "and, except to permit the railroad to prepay its redemption payments, the number of such annual redemption payments shall in no event be less than 15; and". *Ante*, p. 73.

(b) Section 506(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 826(a)) is amended by adding at the end thereof the following new paragraph:

"(5) the proceeds from the issuance of which are to be expended solely to reduce the deferred maintenance on facilities, shall in no event yield (A) less than the minimum permissible yield determinable in accordance with paragraphs (3) and (4) of this subsection, nor (B) more than such railroad's rate of return on total capital (represented by the ratio which such carrier's net income, including interest on long-term debt, bore to the sum of the average shareholder's equity, long-term debt, and accumulated deferred income tax credits for the three fiscal years preceding the date of submission of the application) as determined in accordance with the uniform system of accounts promulgated by the Commission in those cases in which such rate of return exceeded such minimum permissible yield.".

OBLIGATION GUARANTEES

SEC. 215. (a) Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831) is amended by striking out subsection (c) thereof and inserting in lieu thereof the following new subsection: *Ante*, p. 76.

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

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

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

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

"(5) the prospective earning power of the applicant, or the value or prospective earning power of any equipment or facilities to be improved, rehabilitated, or acquired (or any combination of the foregoing), together with any other security offered by the applicant, is sufficient to provide the United States with reasonable security and protection, except that if the value or prospective earning power of such equipment or facilities is equal to or

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

Ante, p. 76.

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

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

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

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

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

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

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

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

whichever is greater.

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

11 USC 205.

(d) Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831) is amended by striking out subsection (g) thereof and redesignating subsections (h) through (n) thereof as subsections (g) through (m), respectively.

REHABILITATION AND FINANCING AMENDMENTS

Ante, p. 71.

SEC. 216. (a) Section 505(b)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(b)(2)) is amended—

(1) by inserting in the third sentence thereof, immediately after "shall" the following: "evaluate and";

(2) by inserting immediately after "financed" in clause (A) the following: "and the railroad's rate of return on total capital (represented by the ratio which such carriers net income, including interest on long-term debt, bore to the sum of average shareholder's equity, long-term debt, and accumulated deferred income tax

for fiscal year 1975) as determined in accordance with the uniform system of accounts promulgated by the Commission"; and

(3) by inserting immediately after the third sentence thereof the following new sentence: "Except as provided in the last sentence of this paragraph, the Secretary, in determining the extent to which a project will provide public benefits, shall give the highest priority to projects which will enhance the ability of the applicant carrier or other carriers to provide essential freight services.".

(b) Section 503(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 823(e)) is amended by striking out "60" and inserting in lieu thereof "150". *Ante*, p. 69.

(c) Section 504(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 824(b)) is amended— *Ante*, p. 70.

(1) by striking out "360" and inserting in lieu thereof "540"; and

(2) by inserting in paragraph (A) thereof, immediately after "needs," the following: "the projected gross national product, the potential demand for rail service and the types of service capable of meeting that potential demand, the potential revenues and costs (including capital costs associated with those revenues), the demand for rail services for which the railroads could compete on an economic basis, the probable sources of funding for the capital costs of providing those services, and which of those costs must be provided by public financing,".

(d) Section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829) is amended by striking out "September 30, 1978" and inserting in lieu thereof "March 31, 1979". *Ante*, p. 76.

(e) Section 901 of the Railroad Revitalization and Regulatory Reform Act of 1976 (49 U.S.C. 1654 note) is amended by striking out "540" and inserting in lieu thereof "720". *Ante*, p. 147.

NORTHEAST CORRIDOR ACQUISITIONS

SEC. 217. (a) Section 704(a)(3)(B) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(3)(B)) is amended by striking out "$85,182,956" and inserting in lieu thereof "$120,000,000". *Ante*, p. 122.

(b) Section 704(a)(3) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(3)) is amended by adding at the end thereof the following:

"Amounts appropriated pursuant to subparagraphs (B) and (D) of this paragraph shall be used first for the repayment, with interest, of that portion of obligations issued by the National Railroad Passenger Corporation and guaranteed pursuant to section 602 of the Rail Passenger Service Act (34 U.S.C. 602), the proceeds of which have been used for the payment of expenses resulting from the acquisition of the properties referred to in such subparagraphs (B) and (D).". 45 USC 602.

(c) Section 704 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854) is amended by adding at the end thereof the following new subsections:

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

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

Ante, p. 119.
45 USC 851.

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

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

DISCONTINUANCE AND ABANDONMENT PROCEDURES

SEC. 218. (a) Section 1a(1) of the Interstate Commerce Act (49 U.S.C. 1a(1)) is amended by adding at the end thereof the following new sentence: "The authority granted to the Commission under this section shall not apply to (a) abandonment or discontinuance with respect to spur, industrial, team, switching, or side tracks if such tracks are located entirely within one State, or (b) any street, suburban, or interurban electric railway which is not operated as part of a general system of rail transportation.".

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

(1) by adding immediately before the last sentence thereof the following new sentence "If such certificate is issued without an investigation pursuant to paragraph (3) of this section, actual abandonment or discontinuance may take effect, in accordance with such certificate, 30 days after the date of issuance thereof."; and

(2) in the last sentence thereof, by inserting immediately after "issued" the following: "after an investigation pursuant to such paragraph (3)".

PRESERVATION OF HISTORICAL RAIL FACILITIES

SEC. 219. (a) Section 4(i)(9) of the Department of Transportation Act (49 U.S.C. 1653) is amended by—

(1) striking out "$5,000,000" in clauses (ii) and (iii) of subparagraph (A) thereof and inserting in lieu thereof "2,500,000";

(2) striking out subparagraph (B) thereof and redesignating subparagraph (C) thereof as subparagraph (B) thereof.

Appropriation authorization.

(b) Section 11(a)(1) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(1)) is amended by adding after subparagraph (B) thereof the following new subparagraph:

"(C) There are authorized to be appropriated to the National Endowment for the Arts for the fiscal year ending September 30, 1977, not to exceed—

"(i) $2,500,000 for planning pursuant to paragraph (1)(D) of section 4(i) of the Department of Transportation Act (49 U.S.C. 1652(i)),

49 USC 1653.

"(ii) $2,500,000 for interim maintenance pursuant to paragraph (1)(B) of such section 4(i); and

"(iii) $250,000 for administrative expenses.

Sums appropriated for the purposes of this subparagraph shall remain available until expended.".

TECHNICAL AMENDMENTS

SEC. 220. (a) Section 211(h)(6)(A)(i) of the Regional Rail Reorganization Act (45 U.S.C. 721(h)(6)(A)(i)) is amended by striking out "paragraph (1)(E)" and inserting in lieu thereof "paragraph (1)(B)(v)".

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

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

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

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

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

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

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

Ante, p. 56.

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

Ante, p. 70.

(e) The first sentence of section 511(a) of the Rail Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(a)) is amended by inserting immediately before the period at the end thereof the following: ", or to develop or establish new railroad facilities".

Ante, p. 76.

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

49 USC 1a note.

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

49 USC 1654 note.

(h) Section 901(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (49 U.S.C. 1654(8)) is amended to read as follows:

"(8) a survey and analysis of the railroad industry in the United States to determine its financial condition and the physical condition of its facilities, rolling stock, and equipment.".

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

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

49 USC 5c.

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

(l) Section 13(5) of the Interstate Commerce Act (49 U.S.C. 13(5)) is amended by adding at the end thereof the following: "Nothing in this paragraph shall affect the authority of the Commission to institue an investigation or to act in such investigation as provided in paragraphs (3) and (4) of this section.".

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

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

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

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

49 USC 26c.

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

"DISCRIMINATORY STATE TAXATION".

TITLE III—GENERAL PROVISIONS

ENVIRONMENTAL STUDY

Report to Congress. 45 USC 641 note.

SEC. 301. The Secretary of Health, Education, and Welfare, in consultation with the Interstate Commerce Commission and the Secretary of Transportation, shall submit a report to the Congress within 18 months after the enactment of this Act concerning (1) the risk of outbreaks of disease or illnesses and any other adverse environmental effects resulting from the discharge of waste from railroad conveyances operated in intercity rail passenger service, in rail commuter service, and in rail freight service, and (2) the financial and operating hardships on railroads or public authorities which would

result from a prohibition of waste disposal. Such report shall contain such recommendations as the Secretary of Health, Education, and Welfare, the Interstate Commerce Commission, or the Secretary of Transportation considers appropriate to balance possible dangers of disease or illness and environmental considerations with operating or financial considerations relevant to the railroad industry, including any distinction considered appropriate between new railroad rolling stock and existing railroad rolling stock, and shall consider any regulations pertaining to waste disposal from railroad conveyances operated in other Nations. Recommendations.

DELMARVA RAIL STUDY

SEC. 302. The Interstate Commerce Commission shall, within 6 months after the date of enactment of this Act, submit a report to the Congress with respect to the problems of, and need for, rail transportation services on the Delaware-Maryland-Virginia peninsula. Such report shall include— Report to Congress. 45 USC 714 note.

(1) an analysis of why the acquisitions proposed under the final system plan with respect to rail properties on such peninsula were not consummated; and

(2) recommendations with respect to the continuation or extension of viable rail transportation service on such peninsula.

EFFECTIVE DATE

SEC. 303. The provisions of this Act and the amendments made by this Act shall take effect on October 1, 1976. 45 USC 543 note.

Approved October 19, 1976.

LEGISLATIVE HISTORY:

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.