Public Law 95-421
95th Congress

An Act

To amend the Rail Passenger Service Act to extend the authorizations of appropriations for an additional fiscal year, to provide for public consideration and implementation of a rail passenger service study, and for other purposes.

Oct. 5, 1978
[S. 3040]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Amtrak Improvement Act of 1978.
45 USC 501 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Amtrak Improvement Act of 1978".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. (a) Section 601(a)(1) of the Rail Passenger Service Act (45 U.S.C. 601(a)(1)) is amended—

(1) in clause (1) thereof (A) by striking out "except for" and all that follows through "sentence" and inserting in lieu thereof "including the payment of the additional operating expenses of the Corporation which result from the operation and maintenance 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.)", (B) by striking out "and" immediately after "1977,", and (C) by inserting ", and not to exceed $600,000,000 for the fiscal year ending September 30, 1979" immediately after "1978";

(2) in clause (2) thereof (A) by striking out "and" immediately after "1977,", and (B) by striking out "1978;" and inserting in lieu thereof "1978, and not to exceed $130,000,000 for the fiscal year ending September 30, 1979, which shall include funds for expenditures for compatible equipment under section 703(5) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853(5)); and";

(3) by striking out clause (3) and redesignating clause (4), and all references thereto, as clause (3); and

(4) in clause (3) thereof, as so redesignated, by inserting ", and not to exceed $25,000,000 for the fiscal year ending September 30, 1979" immediately after "1978".

(b)(1) Section 601(a)(2) of such Act (45 U.S.C. 601(a)(2)) is amended by striking out "subsection (a)(4)" and inserting in lieu thereof "subsection (a)(3)".

(2) Section 602(d) of such Act (45 U.S.C. 602(d)) is amended by striking out "clause (4)" and inserting in lieu thereof "clause (3)"

BUDGET ESTIMATES

SEC. 3. Subsection (b) of section 601 of the Rail Passenger Service Act (45 U.S.C. 601(b)) is repealed. Repeal.

ROUTE REEXAMINATION

SEC. 4. (a) The Secretary of Transportation (hereinafter in this section referred to as the "Secretary"), in cooperation with the National Railroad Passenger Corporation (hereinafter in this section referred Preliminary recommendations for route system.
45 USC 521 note.

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to as the "Corporation"), shall immediately develop preliminary recommendations for a route system for the Corporation which will provide and optimal intercity railroad passenger system, based upon current and future market and population requirements, including where appropriate portions of the Corporation's existing route system. In developing such recommendations, the Secretary shall consider—

(1) any unique characteristics and advantages of rail service as compared to other modes of transportation;

(2) the role that rail passenger service can play in helping meet the Nation's transportation needs while furthering national energy conservation efforts;

(3) the relationship of benefits of given intercity rail passenger services to the costs of providing such services, computing the benefits in passenger per train mile and revenues earned and computing the costs in loss or profit per passenger mile rather than total loss or profit per route;

(4) the transportation needs of areas lacking adequate alternative forms of transportation;

(5) frequency and fare structure alternatives and the impact of such alternatives on ridership, revenues, and expenses of rail passenger service; and

(6) the adequacy of other transportation modes serving the same points to be served by the recommended route system.

Copies of route system recommendations.

(b) The Secretary shall, no later than May 1, 1978, develop and publish the preliminary recommendations described in subsection (a) of this section and submit a copy of such recommendations to the Rail Services Planning Office and to both Houses of the Congress. The Secretary shall at that time also provide copies of the preliminary recommendations to the Corporation, the Office of Rail Public Counsel, the Interstate Commerce Commission, the Secretary of Energy, the Governor, department of transportation, and public utilities commission of each State in which rail passenger service is proposed to be modified, the railroads affected by such recommendations, the labor organizations authorized under the Railway Labor Act to represent railroad employees, and the United States Postal Service. In addition, copies of the preliminary recommendations shall be made available by the Secretary to interested persons at a reasonable cost. Such recommendations shall include—

45 USC 151.

(1) a recommended route system by end points and principal intermediate points to be served;

(2) quality and type of service recommended for each route, including frequency, speed, and classes of services offered;

(3) ranges of projected operating expenses, ridership, and revenues, by route, including a measure calculated by loss or profit per passenger mile and separated for non-State supported routes and State supported routes;

(4) an estimate of the equipment and facilities necessary to support the recommended system;

(5) a recommendation for coordinating passenger rail service at points on the system with other modes of transportation serving such points; and

(6) based upon the route level projections, an estimate of operating and capital appropriations required to operate the system for fiscal years 1980 through 1984.

(c) During the period beginning May 1, 1978, and ending August 31, 1978, the Rail Services Planning Office shall conduct public hearings on the preliminary recommendations developed by the Secretary under this section. Such public hearings shall be held in such places and at such times as the Office determines will afford the affected States and communities the greatest opportunity to participate. The Office of Rail Public Counsel, to the extent practicable, shall provide the services of attorneys and such other personnel as may be required in order to protect the interests of those communities and users of rail passenger service which the Director of the Office of Rail Public Counsel determines, for whatever reason (such as size or location), might not otherwise be adequately represented in the course of the hearings and evaluations which the Rail Services Planning Office is required to conduct. During such period, in addition to holding public hearings, the Rail Services Planning Office shall invite comment on such recommendations from the Corporation, the Interstate Commerce Commission, the Secretary of Energy, the Governor, department of transportation, and public utilities commission of each State in which rail passenger service is proposed to be modified, the railroads affected by such recommendations, the labor organizations authorized under the Railway Labor Act to represent railroad employees, interested citizens groups, and the United States Postal Service.

Public hearings.

(d) The Rail Services Planning Office shall, no later than September 30, 1978, submit to the Secretary a summary and analysis of the evidence received in the course of its proceedings conducted under subsection (c) of this section, together with its critique and evaluation of the preliminary recommendations of the Secretary. The Secretary shall thoroughly consider the material submitted by the Office with respect to such recommendations and, based on such consideration (and further evaluations of the Secretary), develop final recommendations for a route system for the Corporation as he deems appropriate. In developing such final recommendations, the Secretary shall also consider the impact of such recommendations upon existing tourism markets and the potential for future tourism in areas to be served by the recommended route system. Such final recommendations shall include a summary of the significant recommendations received, together with the reasons for adopting or not adopting any such recommendation.

Summary and analysis.

(e) (1) The Secretary shall, no later than December 31, 1978, submit the final recommendations designating the basic route system, together with supporting and explanatory material, to both Houses of the Congress and to the Committee on Appropriations and the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Appropriations and the Committee on Commerce, Science, and Transportation of the Senate. The final recommendations shall be deemed approved, and shall take effect, at the end of the first period of 90 calendar days of continuous session of the Congress after such date of submission, unless either the House of Representatives or the Senate adopts a resolution during such period stating that it does not favor such final recommendations.

Final recommendations to Congress and congressional committees.

Approval, effective date.

(2) If either the House of Representatives or the Senate adopts a resolution of disapproval under paragraph (1), the Secretary shall,

Revised plan, submittal to Congress.

within 45 days after the date of adoption, determine and resubmit a revised recommendation. Each such revised plan shall be submitted to the Congress for review pursuant to paragraph (1) of this subsection.

(3) For the purposes of this subsection—

(A) continuity of a session of the Congress is broken only by an adjournment sine die; and

(B) the days on which either House is not in session because of an adjournment for more than 3 days to a day certain are excluded in computing the 90-day period.

Route system, modified or restructured, prohibition.

(f) Notwithstanding any other provison of law, the route system of the Corporation in effect on January 1, 1978, shall not be modified or restructured prior to October 1, 1979, except with respect to those routes initiated by the Corporation subsequent to January 1, 1978, pursuant to section 404(a) of the Rail Passenger Service Act (45 U.S.C. 564(a)). Nothing in this subsection shall be construed by the Corporation as precluding the rerouting of existing rail passenger service, or construed as requiring the Corporation to maintain service provided under an agreement with a State pursuant to section 403(b) of the Rail Passenger Service Act (45 U.S.C. 563(b)) if such State fails to meet its share of the costs of such service or requests discontinuance of such service.

(g) Subject to subsection (f) of this section, immediately upon approval of the final recommendations of the Secretary, the Corporation shall implement the basic route system designated in such recommendations and shall complete such implementation as soon thereafter as possible, but in no event later than 12 months after the date of such approval.

(h)(1) The provisions of section 404(c)(1) of the Rail Passenger Service Act (45 U.S.C. 564(c)(1)), including the criteria and procedures developed under such section, shall not apply to the preliminary or final recommendations developed by the Secretary under this section. After the date of approval of the basic system designated in the final recommendations of the Secretary, any additions, deletions, or modifications in such basic system may be made by the Corporation in accordance with the criteria and procedures developed under such section 404(c)(1).

(2) During the period beginning on the date of enactment of this section, and ending 12 months after the date of approval of the new basic route system designated by the Secretary under this section, the provisions of section 801(a) of the Rail Passenger Service Act (45 U.S.C. 641(a)) (including the regulations of the Commission promulgated thereunder) shall not apply to the development or implementation of the new basic route system.

(i) Subject to subsection (f) of this section, the basic system designated in the final recommendations of the Secretary shall, after the date upon which such recommendations are approved, supersede any other system or route previously in effect.

RAIL PASSENGER SERVICE REPORT

SEC. 5. Section 703(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853(2)) is amended—

(1) by inserting "(A)" immediately after "TRANSPORTATION.—"; and

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

"(B) Within one year after the date of the enactment of this subparagraph, the submission by the Secretary to the Congress of a report on the conflict between the needs of commuter rail passenger service and the needs of intercity rail passenger service in the Northeast Corridor and on the allocation of access rights to key Northeast Corridor terminals, especially Pennsylvania Station in New York, New York.". Report to Congress.

STUDY OF RELATIONSHIP OF AMTRAK FARE STRUCTURE TO THE INTERCITY BUS INDUSTRY

SEC. 6. The Comptroller General shall, in consultation with the Secretary of Transportation and the Interstate Commerce Commission, conduct a study of the economic relationship of the fare structure of the National Railroad Passenger Corporation to the intercity bus industry. The Comptroller General shall, no later than December 31, 1978, submit a report to the Congress setting forth the results of such study. Report to Congress.

HEARINGS ON UNFAIR OR PREDATORY PRACTICES

SEC. 7. Notwithstanding the provisions of section 306 of the Rail Passenger Service Act (45 U.S.C. 546), the Interstate Commerce Commission shall have, upon the application of any aggrieved motor carrier, jurisdiction under any applicable provision of part 1 of the Interstate Commerce Act over any rate, fare, charge, or marketing practice of the National Railroad Passenger Corporation with respect to any route or service which operates at a loss for the purpose of hearing the complaint over an unfair or predatory practice. 45 USC 546a. *Post*, p. 1337.

NORTHEAST CORRIDOR

SEC. 8. Section 703 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853) is amended—

(1) in paragraph (1)(A)(i) thereof, by inserting "at most" immediately before "a 3-hour-and-40-minute" and "a 2-hour-and-40-minute", respectively;

(2) in paragraph (1)(B) thereof, by inserting "or other responsible parties" immediately after "(or local or regional transportation authorities)"; and

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

"(5) COMPATABLE EQUIPMENT.—The Secretary shall develop economical and reliable rolling stock and related equipment designed to be compatible with the track, operating, and marketing characteristics of the Northeast Corridor at and after the completion of the Northeast Corridor improvement project, including the capability to reliably meet the trip times set forth in paragraph (1)(E) of this section in regularly scheduled revenue service in the Northeast Corridor. The Secretary shall consult with the Corporation in the development of such equipment. Before purchasing such equipment with Federal financial assistance, the Corporation shall obtain the Secretary's concurrence that the equipment meets the goals specified in this paragraph. The Corporation shall submit requests for authorization of appropriations Requests for appropriation authorizations.

for the production of such equipment and shall, together with the Secretary, include equipment planning in the reports required by paragraph (1) (E) of this section.".

EXPENSES OF ELECTRIFICATION CONVERSION

SEC. 9. Section 704(a)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(1)) is amended by inserting immediately before the semicolon at the end thereof the following: ", of which not less than $27,000,000 shall be available to finance the cost of the equipment modification and replacement which States (or local or regional transportation authorities) will be required to bear as a result of the electrification conversion system of the Northeast Corridor pursuant to this title".

PURCHASES OF DOMESTIC ARTICLES, MATERIALS, AND SUPPLIES

SEC. 10. 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:

"(j)(1) Except as provided in paragraph (2) or (3) of this subsection, the Corporation shall purchase only—

"(A) unmanufactured articles, materials, and supplies which have been mined or produced in the United States; and

"(B) manufactured articles, materials, and supplies which have been manufactured in the United States substantially all from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States.

"(2) The Secretary may, upon application of the Corporation, exempt the Corporation from the requirements of paragraph (1) of this subsection with respect to the purchase of particular articles, materials, or supplies, if the Secretary determines that—

"(A) imposing such requirements with respect to such articles, materials, or supplies is inconsistent with the public interest;

"(B) the cost of imposing such requirements with respect to such articles, materials, or supplies is unreasonable; or

"(C) such articles, materials, or supplies or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

"(3) The provisions of this subsection shall not apply—

"(A) in any case in which the cost of the articles, materials, or supplies purchased is less than $1,000,000; or

"(B) in the case of articles, materials, or supplies purchased pursuant to a contract entered into before the date of enactment of this subsection.

"United States." "(4) For purposes of this subsection, the term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.".

FOR-PROFIT STATUS OF AMTRAK

SEC. 11. The second sentence of section 301 of the Rail Passenger Service Act (45 U.S.C. 541) is amended by inserting "operated and managed as" immediately before "a for profit corporation".

COMMON STOCK OWNERSHIP

SEC. 12. The Secretary of Transportation shall evaluate the common stock ownership of the National Railroad Passenger Corporation and shall, no later than December 31, 1978, submit a report to the Congress setting forth his recommendations with respect to retention, retirement, or conversion of such common stock. In making such recommendations, the Secretary shall consider the best interests of the United States. Report to Congress.

RAILROAD SAFETY SYSTEM PROGRAM

SEC. 13. Title VIII of the Rail Passenger Service Act (45 U.S.C. 641 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 807. RAILROAD SAFETY SYSTEM PROGRAM 45 USC 646.

"(a) No later than January 1, 1979, the Corporation shall, in consultation with railroad labor organizations, develop and implement a Rail Safety System Program for employees working on property owned by the Corporation. Such program shall be designed to serve as a model for other railroads to use in developing safety programs.

"(b) The Railroad Safety System Program required under this section shall include but not be limited to—

"(1) a periodic analysis of accident data, including primary and secondary causes, if known;

"(2) a periodic evaluation of the activities undertaken under the Program, particularly the specific steps taken in response to accident causes;

"(3) a periodic identification of the expenditures for occupational health and safety activities included in the Program;

"(4) a periodic identification of the reduction of costs, fatalities, and casualties resulting from accident prevention under the Program;

"(5) a periodic identification of direct accident costs, including claims arising out of such accidents; and

"(6) an identification and evaluation of such other information or data as the Corporation considers necessary or appropriate.".

CONVERSION OF RAILROAD TERMINALS

"SEC. 14. Paragraphs (2), (3), and (5) of section 4(i) of the Department of Transportation Act (49 U.S.C. 1653(i)(2), (3), and (5)) are amended by striking out "60 per centum" each place it appears and inserting in lieu thereof "80 per centum".

FACILITY AND SERVICE AGREEMENTS

SEC. 15. The third sentence of section 402(a) of the Rail Passenger Service Act (45 U.S.C. 562(a)) is amended by inserting "or for the use of tracks and facilities" immediately after "provision of services".

REIMBURSEMENT FOR STAFF SERVICES

SEC. 16. Section 403(b)(1) of the Rail Passenger Service Act (45 U.S.C. 563(b)(1)) is amended by adding at the end thereof the following new sentence: "The State or agency shall be entitled to reimburse-

ment for staff services in an amount equal to 3 per centum of the Corporation's share of operating losses and associated capital costs.".

PETITIONS TO THE INTERSTATE COMMERCE COMMISSION

SEC. 17. Section 403(b) of the Rail Passenger Service Act (45 U.S.C. 563(b)) is amended—

(1) by redesignating paragraphs (2) and (3), and all references thereto, as paragraphs (3) and (4), respectively; and

(2) by inserting immediately after paragraph (1) the following new paragraph:

"(2) Whenever a State, regional, or local agency requests the Corporation to institute service pursuant to this subsection, or to enter into a contract or other agreement or modify an existing contract or agreement relating to rates, fares, charges, scheduling, marketing, or operations of service provided pursuant to this subsection, and the Corporation fails to institute such service or to enter into or modify such contract or agreement, as the case may be, such State, regional, or local agency may petition the Commission for an order directing the Corporation to comply with its request. If the Commission determines, upon receipt of such a petition and after notice and an opportunity for a hearing, that the request which is the subject of such petition is consistent with the public interest and the purposes of this subsection, the Commission may enter an order directing the Corporation to comply with such request or to take such other action as the Commission considers appropriate.".

Notice and hearing.

ADDITIONAL SERVICE

SEC. 18. Section 403 of the Rail Passenger Service Act (45 U.S.C. 563) is amended by adding at the end thereof the following new subsection:

"(d) The Corporation is authorized to operate commuter rail passenger service under an agreement with a State (or local or regional transportation agency) if such State or agency agrees to reimburse the Corporation for the avoidable cost of operating such commuter rail passenger service. For purposes of this subsection, the term 'commuter rail passenger service' means rail passenger service operated in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride, and commutation tickets and by morning and evening peak period operations.".

"Commuter rail passenger service."

MAIL SERVICE

45 USC 545a.

SEC. 19. The National Railroad Passenger Corporation shall utilize all feasible means, including taking into account the needs of the United States Postal Service in establishing schedules, to attract and service the bulk mail needs of the Postal Service.

EFFECTIVE DATES

45 USC 541 note.

SEC. 20. (a) Except as provided in subsection (b) or (c) of this section, the provisions of this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) The provisions of section 7 of this Act shall take effect on January 1, 1979.

(c) The amendments made by section 9 and section 16 of this Act shall take effect on October 1, 1978.

Approved October 5, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1182 accompanying H.R. 11493 (Comm. on Interstate and Foreign Commerce) and No. 95-1478 (Comm. of Conference).
SENATE REPORT No. 95-782 (Comm. on Commerce, Science and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 10, considered and passed Senate.
June 21, 23, H.R. 11493 considered and passed House; proceedings vacated; S. 3040, amended, passed in lieu.
Sept. 19, House agreed to conference report.
Sept. 23, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 40:
Oct. 6, Presidential statement.