Public Law 97-468
97th Congress

An Act

Making technical corrections to the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes.

Jan. 14, 1983
[H.R. 3420]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That titles II through VII of this Act may be cited as the "Rail Safety and Service Improvement Act of 1982".

Rail Safety and Service Improvement Act of 1982.
45 USC 421 note.

TITLE I—NATURAL GAS PIPELINE SAFETY

SEC. 101. Section 4(b) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1673(b)) and section 204(b) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2003(b)) are each amended by striking "once every 6 months." and substituting "twice each calendar year.".

SEC. 102. Section 8(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1675(a)) is amended by striking "sixtieth day" and substituting "90th day".

SEC. 103. Section 206(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2005(a)) is amended by striking "60th day" and substituting "90th day".

SEC. 104. Section 5(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1674(a)) is amended by striking "(other than subsection (a)(3) thereof)" and substituting "(other than subsection (a)(2) thereof)".

TITLE II—BANKRUPT RAILROADS

Bankrupt Railroad Service Preservation and Employee Protection Act of 1982.
45 USC 901 note.

SHORT TITLE

SEC. 201. This title may be referred to as the "Bankrupt Railroad Service Preservation and Employee Protection Act of 1982".

Subtitle A—Service Preservation

PURPOSE

SEC. 211. It is the purpose of this subtitle to continue the effort by Congress to assure service over the lines of rail carriers subject to liquidation in instances where rail carriers are willing to provide service over such lines and financially responsible persons are willing to purchase the lines for continued rail operations.

45 USC 901 note.

FINDINGS

SEC. 212. The Congress finds that—

45 USC 901 note.

(1) it is necessary to establish procedures to facilitate and expedite the acquisition of rail lines of carriers subject to liquidation by financially responsible persons in instances where service is not being provided over the line by the carrier and

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where the financially responsible person seeks to provide rail service over the line;

(2) procedures set forth in the amendments made by this title represent an exercise of the powers of the Congress under the Constitution to regulate commerce among the several States which will provide a practicable means for preserving rail service, thus benefiting shippers, employees, and the economies of the States in which such carriers subject to liquidation have operated service, and for facilitating interstate commerce, while at the same time providing safeguards to protect the interest of the estates of such carriers by requiring compensation which is not less than the constitutionally required minimum; and

(3) it is in the public interest that the Interstate Commerce Commission's authority to issue orders involving temporary authority to operate service over lines of carriers subject to liquidation be clarified.

AMENDMENTS TO THE MILWAUKEE RAILROAD RESTRUCTURING ACT

SEC. 213. Section 17(b) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 915(b)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

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

"(3)(A) If a person has made or makes an offer to acquire from a carrier subject to liquidation a rail line or lines over which no service is provided by that carrier, and that offer has been or is rejected by the trustee in bankruptcy of such carrier, such person may submit an application to the Commission seeking approval of such person's acquisition of such line or lines. A copy of any such application shall be filed simultaneously with the court.

"(B) The Commission shall, within 15 days after the filing of an application under subparagraph (A) of this paragraph, determine whether the applicant—

"(i) is a financially responsible person; and

"(ii) has made a bona fide offer to acquire the line or lines under reasonable terms.

"(C)(i) If the Commission's determination under subparagraph (B) of this paragraph is affirmative with respect to the matters referred to in clauses (i) and (ii) of such subparagraph, the applicant and the trustee in bankruptcy (hereafter in this paragraph referred to collectively as the 'parties') shall enter into negotiations with respect to terms for the acquisition of the line or lines applied for. If the parties at any time agree on such terms, a request for approval of the acquisition shall be filed with the Commission and the court. If the parties are unable to agree to such terms within 30 days after the date of the Commission's determination under subparagraph (B) of this paragraph, either party may, within 60 days after the expiration of such 30-day period, request the Commission to prescribe terms for such acquisition, including compensation for the line or lines to be acquired. The Commission shall prescribe such terms within 60 days after any such request is made. The terms prescribed by the Commission shall be binding upon both parties, subject to court review as provided in subparagraph (D) of this paragraph, except that the applicant may withdraw its offer within 10 days after the Commission prescribes such terms.

"(ii) If more than one applicant has requested under this subparagraph that the Commission prescribe the terms of acquisition for the same or overlapping lines or portions of such lines, the Commission shall prescribe terms for such acquisition which it determines best serve the public interest.

"(D)(i) Within 15 days after the Commission prescribes terms under subparagraph (C) of this paragraph, the Commission shall transmit such terms to the court, unless the offer is withdrawn under such subparagraph. Notwithstanding any other provision of law, the court shall, within 60 days after such transmittal, approve the acquisition under terms prescribed by the Commission if the compensation for the line or lines is not less than that required as a constitutional minimum.

"(ii) Except as provided in this subparagraph, no action shall be taken by the court which would prejudice the acquisition which is the subject of an application under this paragraph.

"(E) The Commission shall require that any person acquiring a line or lines under this paragraph use, to the maximum extent practicable, employees or former employees of the carrier subject to liquidation in the operation of service on such line or lines.

"(F) No person acquiring a line under this paragraph may transfer or discontinue service on such line prior to the expiration of 4 years after such acquisition.

"(G) The Commission shall, within 45 days after the date of enactment of the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982, prescribe such regulations and procedures as are necessary to carry out the provisions of this paragraph.

"(H) As used in this paragraph, the term— Definitions.

"(i) 'carrier subject to liquidation' means a carrier which, on the date of enactment of the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982, was the subject of a proceeding pending under section 77 of the Bankruptcy Act or under subchapter IV of chapter 11 of title 11, United States Code, and which has been ordered by the court to liquidate its properties; *Ante*, p. 2543. 11 USC 1161.

"(ii) 'the court' means the court having bankruptcy jurisdiction over the carrier subject to liquidation; and

"(iii) 'financially responsible person' means a person capable of compensating the carrier subject to liquidation for the acquisition of the line or lines proposed to be acquired and able to cover expenses associated with providing service over such line or lines for a period of not less than 4 years.".

INTERSTATE COMMERCE COMMISSION AUTHORITY

SEC. 214. (a) Section 122(a) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1017(a)) is amended—

(1) by striking "the Rock Island Railroad or the Milwaukee Railroad" and inserting in lieu thereof the following: "a carrier which, on the date of enactment of the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982, was the subject of a proceeding pending under section 77 of the Bankruptcy Act or under subchapter IV of chapter 11 of title 11, United States Code";

(2) by striking the last sentence of such section; and

(3) by adding at the end thereof the following: "The Commission shall have authority to authorize continued rail service under this section over the lines of any such carrier which has been ordered by the court having jurisdiction over such a carrier to liquidate its properties until the disposition of the properties of the estate of such carrier.".

(b) Section 122(c) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1017(c)) is repealed.

Subtitle B—Employee Protection

EMPLOYEE PROTECTION AGREEMENT

SEC. 231. Section 106 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1005) is amended to read as follows:

"EMPLOYEE PROTECTION AGREEMENT

"SEC. 106. (a) The Secretary and the representatives of the various classes and crafts of employees of the Rock Island Railroad shall, not later than 90 days after the date of enactment of the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982, enter into an agreement providing protection for employees of the Rock Island Railroad who are adversely affected as a result of a reduction in service by such Railroad. Such agreement may provide for the use of funds described in subsection (c) of this section for the following purposes:

Ante, p. 2543.

"(1) Subsistence allowances to employees.

"(2) Moving expenses for employees who must make a change in residence.

"(3) Retraining expenses for employees who are seeking employment in new areas.

"(4) Separation allowances for employees.

"(5) Health and welfare insurance premiums.

"(6) Such other purposes as may be agreed upon by the parties.

Schedule of benefits.

"(b) If the parties are unable to reach agreement within the time period specified in subsection (a) of this section, the Secretary shall, within 30 days after the expiration of such time period, prescribe a schedule of benefits for employee protection not inconsistent with the provisions of this Act.

"(c) Any agreement entered into under subsection (a) of this section, and any benefit schedule prescribed under subsection (b) of this section, shall not require the expenditure of funds in excess of amounts authorized to be appropriated under section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973, nor shall any individual employee receive benefits in excess of $20,000 under such agreement or benefit schedule. No benefits or assistance may be provided under any agreement entered into or benefit schedule prescribed under this section after April 1, 1984.

Post, p. 2552.

"(d) The Board shall, in such manner as it shall prescribe by regulation, administer the distribution of funds under any agreement entered into or benefit schedule prescribed under this section, and shall determine the amount for which each employee is eligible under such agreement or benefit schedule. Such regulation shall include procedures to resolve by final and binding arbitration any dispute over an employee's eligibility or claim.".

ELECTION

SEC. 232. Section 108 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1007) is amended—

(1) in subsections (a) and (d), by striking "or arrangement entered into" and inserting in lieu thereof "entered into or benefit schedule prescribed"; and

(2) in subsection (b), by striking "April 1, 1981" and inserting in lieu thereof "120 days after the effective date of any agreement entered into under section 106(a) of this title or of any benefit schedule prescribed under section 106(b) of this title, as the case may be".

NEW CAREER TRAINING ASSISTANCE

SEC. 233. Section 119(a) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1014(a)) is amended by striking "from the Rock Island Railroad under an employee protection agreement or arrangement entered into under section 106 of this title may" and inserting in lieu thereof "under an employee protection agreement entered into or a benefit schedule prescribed under section 106 of this title may, if so provided under such agreement or benefit schedule,".

REPEALS

SEC. 234. (a) Section 110 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1008) is repealed.

(b) The second sentence of section 14(b) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 913(b)) is repealed.

DISPUTE RESOLUTION

SEC. 235. (a) Section 704(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(c)) is amended by striking "3-year" and inserting in lieu thereof "4-year". 45 USC 797c.

(b) Section 704(g) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(g)) is amended by striking "this section or section 703 of this Act" wherever it appears and inserting in lieu thereof "this section, section 703 of this Act, section 8 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 907), or section 105 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1004)". 45 USC 797c.

RAILROAD HIRING

SEC. 236. (a) Section 8 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 907) is amended by striking "April 1, 1981," and inserting in lieu thereof "April 1, 1984,".

(b) Section 105(a) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1004(a)) is amended by striking "January 1, 1981," and inserting in lieu thereof "January 1, 1984,".

TITLE III—NORTHEAST CORRIDOR

AMENDMENTS

SEC. 301. Title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 et seq.) is amended as follows:

45 USC 853.

(1) Section 703(1)(A)(ii) is amended by striking "and Albany, New York" and inserting in lieu thereof "Albany, New York, and Atlantic City, New Jersey".

45 USC 854.

(2) Section 704(a)(1) is amended to read as follows:

"(1) $2,313,000,000 to remain available until expended (A) in order to effectuate the goals of section 703(1)(A)(i) of this title, 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; (B) of which, if the National Railroad Passenger Corporation receives notification on or before June 1, 1983, from the State of New Jersey that such State has approved a plan, developed in consultation with the National Railroad Passenger Corporation, for the operation of rail passenger service between the main line of the Northeast Corridor and Atlantic City, New Jersey, and if such Corporation determines that such plan is feasible, $30,000,000 shall be made available by the Secretary to the National Railroad Passenger Corporation for rehabilitation and other improvements (including upgrading track and the signal system, ensuring safety at public and private highway and pedestrian crossings by improving signals or eliminating such crossings, and the improvement of operational portions of stations related to intercity rail passenger service) on the main line track between such points, consistent with the plan for operation approved by the State, in order to ensure that such track will be of sufficient quality to permit safe rail passenger service at a minimum of 79 miles per hour not later than September 30, 1985, and to promote rail passenger use of such track; and (C) of which such sums as may be required shall be available for the following projects with respect to the main line of the Northeast Corridor: development of the Union Station in Washington, District of Columbia; installation of 189 track miles of concrete ties with continuously welded rail between Washington, District of Columbia, and New York, New York; renewal of 133 track miles of existing continuously welded rail on concrete tie track between Washington, District of Columbia, and New York, New York; installation of reverse signaling between Philadelphia, Pennsylvania, and Morrisville, Pennsylvania, on numbers 2 and 3 tracks; restoration of ditch drainage in concrete tie locations between Washington, District of Columbia, and New York, New York; undercutting of 83 track miles between Washington, District of Columbia, and New York, New York; rehabilitation of bridges between Washington, District of Columbia, and New York, New York (including Hi line); development of a maintenance-of-way equipment repair facility between Washington, District of Columbia, and New York, New York; roadbed stabilization at various locations between Washington, District of Columbia, and New York, New York; automation of Bush River Drawbridge at milepost 72.14; improvements to the New York Service Facility to develop rolling stock repair capability; construction of maintenance-of-way bases at Philadelphia, Pennsylvania, Sunnyside, New York, and Cedar Hill, Connecticut; installation of rail car washer facility at Philadelphia, Pennsylvania; restoration of storage tracks and buildings at the Washington Service Facility; installation of centralized traffic control

from Landlith, Delaware, to Philadelphia, Pennsylvania; track improvements including high speed surfacing, ballast cleaning, and associated equipment repair and material distribution; rehabilitation of interlockings between Washington, District of Columbia, and New York, New York; painting of Connecticut River, Groton, and Pelham Bay bridges; additional catenary renewal and power supply upgrading between Washington, District of Columbia, and New York, New York; rehabilitation of structural, electrical, and mechanical systems at the 30th Street Station in Philadelphia, Pennsylvania; and installation of evacuation and fire protection facilities in tunnels at New York, New York;".

(3) Section 704(a) is amended by adding at the end thereof the following new sentences: "Funds are authorized to be appropriated under this section in excess of limitations imposed under the preceding sentence with respect to a fiscal year, or for fiscal years after the fiscal year ending September 30, 1983, to the extent that the amount appropriated under the authority of this section for any previous fiscal year is less than the limitation under such sentence with respect to such previous fiscal year. The Secretary shall expend or reserve for expenditure funds from the yearly appropriations under this section for the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985, first (A) if the National Railroad Passenger Corporation receives the notification referred to in paragraph (1)(B) of this subsection, for the purposes under such paragraph; and (B) in the amount of $62,000,000 for track improvements with respect to the Southwest corridor project in Boston, Massachusetts, less any amounts obligated for such purpose from yearly appropriations for any fiscal year ending before October 1, 1982. The amount so expended or reserved for expenditure for the purposes of paragraph (1)(B) of this subsection for the fiscal year ending September 30, 1983 shall be $10,000,000.". 45 USC 854.

(4) Section 704(b) is amended—

(A) by striking "LIMITATION.—" and inserting in lieu thereof "LIMITATIONS.—(1)"; and

(B) by adding at the end thereof the following:

"(2)(A) The projects for which funds are authorized to be appropriated under subsection (a)(1)(C) of this section shall be a part of the Northeast Corridor improvement project, and the goals of this title shall not be considered to be fulfilled until such projects are completed. Such projects shall not be undertaken or viewed as a substitute for any improvements specified in the document entitled Corridor Master Plan II, NECIP Restructured Program, dated January 1982, prepared for the United States Department of Transportation, Federal Railroad Administration, Northeast Corridor Improvement Project, in cooperation with the Federal Railroad Administration and the National Railroad Passenger Corporation (Amtrak), by DeLeuw, Cather/Parsons, NECIP architect/engineer.

"(B) For purposes of implementing the improvements and rehabilitation described in subsection (a)(1)(B) of this section, the Secretary may defer projects identified in the document referred to in subparagraph (A) of this paragraph. The aggregate cost of such projects as the Secretary may so defer shall not be substantially greater than the amount the Secretary is required to expend or reserve for expenditure for purposes of subsection (a)(1)(B) of this section.". Deferrals.

45 USC 855.

(5) Section 705 is amended—

(A) in subsection (a), by striking "the" after "reallocation to" and inserting in lieu thereof "such"; and

(B) in subsection (b), by inserting "National Railroad Passenger" immediately before "Corporation".

NEW SERVICE

45 USC 854 note.

SEC. 302. (a) If the National Railroad Passenger Corporation receives notification on or before June 1, 1983, from the State of New York that such State has approved a plan, developed in consultation with such Corporation, for the acquisition and rehabilitation of a line and construction necessary to facilitate improved rail passenger service between Spuyten Duyvil, New York, and the main line of the Northeast Corridor, and has approved a plan, developed in consultation with such Corporation and appropriate local governmental officials, for the rehabilitation of the Amtrak station at Syracuse, New York, such Corporation shall, by September 30, 1985, expend funds, not in excess of $30,000,000, authorized to be appropriated under section 601 of the Rail Passenger Service Act (45 U.S.C. 601) for such purposes.

45 USC 854 note.

(b) Notwithstanding the provisions of section 403 of the Rail Passenger Service Act (45 U.S.C. 563), the National Railroad Passenger Corporation may operate the service described in section 704(a)(1)(B) of the Railroad Revitalization and Regulatory Reform Act of 1976.

(c) Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended by adding at the end thereof the following new subsection:

"(e) Funds from the yearly appropriations under this section for the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985 shall, if the Corporation receives the notification referred to in section 302(a) of the Rail Safety and Service Improvement Act of 1982, be first expended or reserved for expenditure by the Corporation for the purposes under such section 302(a). The amount expended or reserved for expenditure for such purposes for the fiscal year ending September 30, 1983 shall be $10,000,000.".

TITLE IV—RAILROAD FINANCING

EXTENSION

SEC. 401. Sections 505(e), 507(a), 507(d), and 509(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(e), 827(a), 827(d), and 829(a)) are amended by striking "September 30, 1982" wherever it appears and inserting in lieu thereof "September 30, 1985".

TRANSACTION ASSISTANCE

45 USC 825a.

SEC. 402. Notwithstanding any other provision of law, any financially responsible person (including any government authority), except for a class I rail carrier, shall upon application be eligible for financial assistance made available in section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) for the purchase, lease, or rehabilitation of rail lines of the Consolidated Rail Corporation which are to be used for common carrier rail service and with respect to which an application for a certificate of abandonment has been filed with the Interstate Commerce Commis-

sion under section 308(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 748(a)), or a notice of insufficient revenues has been filed with the Commission under section 308(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 748(c)).

AUTHORIZATION FOR RAIL FUND

SEC. 403. (a) Section 509(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)) is amended—

(1) in paragraph (2), by striking "Not less than" and inserting in lieu thereof "Not more than";

(2) by striking paragraph (3);

(3) by redesignating paragraph (4) as paragraph (3);

(4) in paragraph (3), as redesignated by paragraph (3) of this section—

(A) by striking ", (2) and (3)" and inserting in lieu thereof "and (2)"; and

(B) by inserting ", and not more than $55,000,000 are authorized to be appropriated for fiscal years 1983, 1984 and 1985" immediately before the period; and

(5) by adding at the end thereof the following new paragraphs:

"(4) $40,000,000 of the funds received by the Secretary of the Treasury from amounts appropriated under subsection (a) of this section shall be reserved and made available for meritorious applications regarding that restructuring of rail freight facilities and systems specified in section 505(b)(2)(ii) of this title.

"(5) $15,000,000 of the funds appropriated under subsection (a) of this section shall be available for the purchase, or for the refinancing of the purchase, of the rail line of the Chicago, Rock Island and Pacific Railroad Company between Fort Worth and Dallas, Texas, or of interests in such rail line, by a State or one or more political subdivisions thereof. To the extent that funds are made available for such purposes through appropriations for any Administration of the Department of Transportation, other than the Federal Railroad Administration, the amount of funds authorized under this section shall be reduced accordingly.".

(b) 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 "(i)" immediately after "priorities"; and

(2) by inserting "(ii)" immediately after "in the private sector and".

TITLE V—MISCELLANEOUS PROVISIONS

LOCAL RAIL SERVICE

SEC. 501. Section 5(h)(2)(A) of the Department of Transportation Act (49 U.S.C. 1654(h)(2)(A)) is amended to read as follows:

"(A) two-thirds of the available funds, multiplied by a fraction the numerator of which is the sum of (i) total rail mileage in the State, other than rail mileage of the Consolidated Rail Corporation, which, in accordance with section 10904(e) of title 49, United States Code, either is 'potentially subject to abandonment' or with respect to which a carrier plans to file, or has filed, an application for a certificate under subsection (a) of such section, and (ii) the total rail mileage of the Consolidated Rail Corporation in the State which such Corporation has certified to

be in a situation comparable to 'potentially subject to abandonment' within the meaning of such term under such section 10904 or with respect to which the Consolidated Rail Corporation plans to file, or has filed, an application for a certificate under section 308 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 748) or under section 10904(a) of title 49, United States Code, and the denominator of which is the total of the rail mileage described in clauses (i) and (ii) in all the States; and".

95 Stat. 679.

CONTRACT RATES

SEC. 502. Section 10713(k)(1) of title 49, United States Code, is amended by striking "and paper)" and inserting in lieu thereof ", but not including wood pulp, wood chips, pulpwood or paper)".

BURNHAM CANAL

33 USC 59t.

SEC. 503. The portion of the Burnham Canal, in Milwaukee, Wisconsin, which is underneath and west of a point one hundred feet east of South Eleventh Street is declared to be not a navigable water of the United States within the meaning of the Constitution and laws of the United States. The right to alter, amend, or repeal this section is hereby expressly reserved.

COMMUTER TRANSITION FUNDING

95 Stat. 652.
45 USC 744a note.

SEC. 504. (a) Section 1139(b) of the Northeast Rail Service Act of 1981 is amended—

(1) by inserting "(1)"immediately after "(b)";

(2) by striking "in the fiscal year ending September 30, 1982,";

(3) by striking "contracting with Amtrak Commuter"; and

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

"(2) Any funds appropriated under the authority of this subsection shall be distributed by the Secretary to Amtrak Commuter and commuter authorities according to the statutory provisions of paragraph (1) of this subsection within 60 days after receipt of an application by Amtrak Commuter or such commuter authorities or within 60 days after the date of enactment of the Rail Safety and Service Improvement Act of 1982, whichever is later.".

Ante, p. 2543.

(b) Section 216(g) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(g)) is amended—

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

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

"(2) To the extent provided in appropriation Acts, any funds appropriated under the authority of paragraph (1) of this subsection prior to the date of enactment of the Rail Safety and Service Improvement Act of 1982 may be reappropriated to the Secretary, to facilitate the transfer of rail commuter services from the Corporation to other operators, for distribution under the statutory provisions of section 1139(b) of the Northeast Rail Service Act of 1981.".

(c)(1) Section 217(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(a)) is amended by striking "$262,000,000" and inserting in lieu thereof "$137,000,000".

95 Stat. 653.

(2) Section 217(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is amended to read as follows:

"(f) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated not to exceed $262,000,000—

"(A) of which not to exceed $137,000,000 shall be appropriated to the Association for purposes of purchasing securities and accounts receivable of the Corporation under this section, such sums to remain available until the Secretary transfers the Corporation under title IV of this Act; 45 USC 761.

"(B) of which not to exceed $75,000,000 shall be appropriated to the Secretary, to facilitate the transfer of rail commuter services from the Corporation to other operators, for distribution under the statutory provisions of section 1139(b) of the Northeast Rail Service Act of 1981; 95 Stat. 652.

"(C) of which not to exceed $35,000,000 shall be appropriated to the Secretary to be allocated for employee protection under section 106 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1005); and 45 USC 744a. note.

"(D) of which not to exceed $15,000,000 shall be appropriated to the Secretary to facilitate the transfer of rail commuter services from railroads that entered reorganization after calendar year 1974 to any commuter authority that was providing commuter service, operated by a railroad that entered reorganization after calendar year 1974, as of January 1, 1979.

"(2) All sums received on account of the holding or disposition of any securities or accounts receivable referred to in paragraph (1)(A) of this subsection shall be deposited in the general fund of the Treasury.

"(3) The amount authorized to be appropriated under paragraph (1)(B) of this subsection shall be reduced, in an amount equal to any amounts reappropriated under the authority of section 216(g)(2) of this Act, upon the date of enactment of any Act which reappropriates such amounts.". 45 USC 726.

INTERCITY PASSENGER SERVICE EMPLOYEE PROTECTION

SEC. 505. (a) Section 1165 of the Northeast Rail Service Act of 1981 is amended— 95 Stat. 686. 45 USC 1113.

(1) by inserting "(a)" immediately after "Sec. 1165."; and

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

"(b) Conrail employees who are deprived of employment by an assumption or discontinuance of intercity passenger service by Amtrak shall be eligible for employee protection benefits under section 701 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797), notwithstanding any other provision of law, agreement, or arrangement, and notwithstanding the inability of such employees otherwise to meet the eligibility requirements of such section. Such protection shall be the exclusive protection applicable to Conrail employees deprived of employment or adversely affected by any such assumption or discontinuance.". 95 Stat. 661.

RAILROAD DEVELOPMENT CRITERIA

SEC. 506. (a) Section 10910(b)(1)(A)(ii) of title 49, United States Code, is amended by striking "has been placed" and inserting in lieu thereof "is", and by inserting "before an application to purchase such line, or any required preliminary filing with respect to such application, is filed under this section" immediately after "10903 and 10904 of this title".

Effective date. 49 USC 10910 note.

(b) The amendment made by subsection (a) of this section shall be effective with respect to any application or preliminary filing with respect to which the Commission has made no final decision before May 1, 1982, except that such amendment shall not affect any line which has been removed from the carrier's system diagram map before the date of enactment of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 507. There is authorized to be appropriated to the Secretary of Transportation $15,600,000 for the fiscal year ending September 30, 1983, for the Office of the Administrator of the Federal Railroad Administration, of which not to exceed $9,200,000 shall be used for executive direction and administration and not to exceed $6,400,000 shall be used for policy support.

NORTHEAST CORRIDOR COORDINATION

95 Stat. 650.

SEC. 508. Section 505 of the Rail Passenger Service Act (45 U.S.C. 585) is amended—

(1) by striking "Board of Directors of Amtrak Commuter" both places it appears and inserting in lieu thereof "Northeast Corridor Coordination Board"; and

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

"(c) The Northeast Corridor Coordination Board shall consist of (1) one member from each commuter authority, within the meaning of such term under section 1135(a)(3) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)(3)), which operates or contracts for the operation of rail commuter service over the main line of the Northeast Corridor; (2) two members to be named by Amtrak; and (3) one member to be named by the Consolidated Rail Corporation.".

95 Stat. 645.

APPLICABILITY OF LAWS

SEC. 509. Title V of the Rail Passenger Service Act (45 U.S.C. 581 et seq.) is amended by adding at the end thereof the following new section:

45 USC 591.

"SEC. 511. APPLICABILITY OF LAWS.

"Any commuter authority operating commuter service under this title shall be subject to applicable laws with respect to such service, including, but not limited to, the Railway Labor Act (45 U.S.C. 151 et seq.), the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.), the Railroad Retirement Tax Act (26 U.S.C. 3201 et seq.), and the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.).".

COMMISSION PROCEEDINGS

95 Stat. 685.

SEC. 510. Section 1164(c) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1112(c)) is amended—

(1) in paragraph (1)—

(A) by striking "bankruptcy, substantial sale," and inserting in lieu thereof "bankruptcy or substantial sale"; and

(B) by amending the last sentence to read as follows: "The Secretary may substitute for the evidence of such debt contingency notes payable solely from the railroad operating assets then securing such debt, including reinvestments thereof, or such other contingency notes as the Secretary

deems appropriate and which conform to the terms set forth in this subsection.";

(2) by amending paragraph (2) to read as follows:

"(2) If the interest of the United States is limited under paragraph (1), any new debt issued by such a railroad subsequent to the issuance of the debt described in paragraph (1) may have such higher priority in the event of bankruptcy, liquidation, or abandonment of the assets of such a railroad than the debt described in such paragraph as the Secretary and the railroad may agree."; and

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

"(3) In carrying out the duties under this subsection, the Secretary may (A) enter into such agreements, (B) in accordance with any such agreements, cancel or cause to be cancelled or amend or cause to be amended any notes or securities currently held by agencies or instrumentalities of the United States, and (C) accept in exchange as substitution therefor such instruments evidencing the indebtedness owed to such agencies or instrumentalities as, in the Secretary's judgment, will effectuate the purposes of this subsection.".

FEEDER LINE TRANSFER

SEC. 511. (a) Notwithstanding any other provision of law, the Secretary of Transportation shall provide Federal financial assistance, in accordance with the provisions of this section, for the acquisition and rehabilitation (including related new construction of sidings and connecting tracks) of the feeder line which the Illinois Central Gulf Railroad has abandoned extending between Milepost 72 near Herscher, Illinois and Milepost 135 near Barnes, Illinois (known as the "Bloomer Line").

(b) In carrying out this section, the Secretary shall provide assistance to a qualified applicant in an amount not to exceed 90 percent of the acquisition costs and 80 percent of the rehabilitation costs associated with the redevelopment of the feeder line. Any qualified applicant may provide the non-Federal share of the costs of such project.

(c) If an application is filed with the Secretary which is supported by a preponderance of the rail service users on the feeder line or segment of such line for which such an application is filed, the Secretary shall act expeditiously on such application. If the Secretary denies an application filed under this section, the Secretary must provide to the applicant a contemporaneous statement of reasons for the denial and a list of the specific amendments to the application which, if made, would cause the Secretary to approve such application.

(d) If the entity purchasing the line described in subsection (a) of this section petitions the Interstate Commerce Commission for joint rates applicable to traffic moving over through routes in which the purchasing carrier may practically participate, the Commission shall, within 30 days after the date such petition is filed and pursuant to section 10705(a) of title 49, United States Code, require the establishment of reasonable joint rates and divisions over such route.

(e) There is authorized to be appropriated $3,000,000 to carry out this section. Appropriation authorization.

(f) As used in this section, the term "qualified applicant" means— "Qualified applicant."

(1) a State or local governmental entity;

(2) a person who is able to assure that adequate transportation will be provided over a substantial portion of the feeder line described in subsection (a) of this section for a period of not less than 3 years; or

(3) any combination of members of the classes of applicants described in paragraphs (1) and (2) of this subsection.

Alaska Railroad Transfer Act of 1982.

TITLE VI—ALASKA RAILROAD TRANSFER

SHORT TITLE

45 USC 1201 note.

SEC. 601. This title may be cited as the "Alaska Railroad Transfer Act of 1982".

FINDINGS

45 USC 1201.

SEC. 602. The Congress finds that—

(1) the Alaska Railroad, which was built by the Federal Government to serve the transportation and development needs of the Territory of Alaska, presently is providing freight and passenger services that primarily benefit residents and businesses in the State of Alaska;

(2) many communities and individuals in Alaska are wholly or substantially dependent on the Alaska Railroad for freight and passenger service and provision of such service is an essential governmental function;

(3) continuation of services of the Alaska Railroad and the opportunity for future expansion of those services are necessary to achieve Federal, State, and private objectives; however, continued Federal control and financial support are no longer necessary to accomplish these objectives;

(4) the transfer of the Alaska Railroad and provision for its operation by the State in the manner contemplated by this title is made pursuant to the Federal goal and ongoing program of transferring appropriate activities to the States;

(5) the State's continued operation of the Alaska Railroad following the transfer contemplated by this title, together with such expansion of the railroad as may be necessary or convenient in the future, will constitute an appropriate public use of the rail system and associated properties, will provide an essential governmental service, and will promote the general welfare of Alaska's residents and visitors; and

(6) in order to give the State government the ability to determine the Alaska Railroad's role in serving the State's transportation needs in the future, including the opportunity to extend rail service, and to provide a savings to the Federal Government, the Federal Government should offer to transfer the railroad to the State, in accordance with the provisions of this title, in the same manner in which other Federal transportation functions (including highways and airports) have been transferred since Alaska became a State in 1959.

DEFINITIONS

45 USC 1202.

SEC. 603. As used in this title, the term—

(1) "Alaska Railroad" means the agency of the United States Government that is operated by the Department of Transportation as a rail carrier in Alaska under authority of the Act of

March 12, 1914 (43 U.S.C. 975 et seq.) (popularly referred to as the "Alaska Railroad Act") and section 6(i) of the Department of Transportation Act (49 U.S.C. 1655(i)), or, as the context requires, the railroad operated by that agency;

(2) "Alaska Railroad Revolving Fund" means the public enterprise fund maintained by the Department of the Treasury into which revenues of the Alaska Railroad and appropriations for the Alaska Railroad are deposited, and from which funds are expended for Alaska Railroad operation, maintenance and construction work authorized by law;

(3) "claim of valid existing rights" means any claim to the rail properties of the Alaska Railroad on record in the Department of the Interior as of the day before the date of enactment of this Act;

(4) "date of transfer" means the date on which the Secretary delivers to the State the four documents referred to in section 604(b)(1) of this title;

(5) "employees" means all permanent personnel employed by the Alaska Railroad on the date of transfer, including the officers of the Alaska Railroad, unless otherwise indicated in this title;

(6) "exclusive-use easement" means an easement which affords to the easement holder the following:

(A) the exclusive right to use, possess, and enjoy the surface estate of the land subject to this easement for transportation, communication, and transmission purposes and for support functions associated with such purposes;

(B) the right to use so much of the subsurface estate of the lands subject to this easement as is necessary for the transportation, communication, and transmission purposes and associated support functions for which the surface of such lands is used;

(C) subjacent and lateral support of the lands subject to the easement; and

(D) the right (in the easement holder's discretion) to fence all or part of the lands subject to this easement and to affix track, fixtures, and structures to such lands and to exclude other persons from all or part of such lands;

(7) "Native Corporation" has the same meaning as such term has under section 102(6) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(6));

(8) "officers of the Alaska Railroad" means the employees occupying the following positions at the Alaska Railroad as of the day before the date of transfer: General Manager; Assistant General Manager; Assistant to the General Manager; Chief of Administration; and Chief Counsel;

(9) "public lands" has the same meaning as such term has under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e));

(10) "rail properties of the Alaska Railroad" means all right, title, and interest of the United States to lands, buildings, facilities, machinery, equipment, supplies, records, rolling stock, trade names, accounts receivable, goodwill, and other real and personal property, both tangible and intangible, in which there is an interest reserved, withdrawn, appropriated, owned, administered or otherwise held or validly claimed for the Alaska Railroad by the United States or any agency or instrumentality

thereof as of the date of enactment of this Act, but excluding any such properties disposed of, and including any such properties acquired, in the ordinary course of business after that date but before the date of transfer, and also including the exclusive-use easement within the Denali National Park and Preserve conveyed to the State pursuant to this title and also excluding the following:

(A) the unexercised reservation to the United States for future rights-of-way required in all patents for land taken up, entered, or located in Alaska, as provided by the Act of March 12, 1914 (43 U.S.C. 975 et seq.);

(B) the right of the United States to exercise the power of eminent domain;

(C) any moneys in the Alaska Railroad Revolving Fund which the Secretary demonstrates, in consultation with the State, are unobligated funds appropriated from general tax revenues or are needed to satisfy obligations incurred by the United States in connection with the operation of the Alaska Railroad which would have been paid from such Fund but for this title and which are not assumed by the State pursuant to this title;

(D) any personal property which the Secretary demonstrates, in consultation with the State, prior to the date of transfer under section 604 of this title, to be necessary to carry out functions of the United States after the date of transfer; and

(E) any lands or interest therein (except as specified in this title) within the boundaries of the Denali National Park and Preserve;

(11) "right-of-way" means, except as used in section 609 of this title—

(A) an area extending not less than one hundred feet on both sides of the center line of any main line or branch line of the Alaska Railroad; or

(B) an area extending on both sides of the center line of any main line or branch line of the Alaska Railroad appropriated or retained by or for the Alaska Railroad that, as a result of military jurisdiction over, or non-Federal ownership of, lands abutting the main line or branch line, is of a width less than that described in subparagraph (A) of this paragraph;

(12) "Secretary" means the Secretary of Transportation;

(13) "State" means the State of Alaska or the State-owned railroad, as the context requires;

(14) "State-owned railroad" means the authority, agency, corporation or other entity which the State of Alaska designates or contracts with to own, operate or manage the rail properties of the Alaska Railroad or, as the context requires, the railroad owned, operated, or managed by such authority, agency, corporation, or other entity; and

(15) "Village Corporation" has the same meaning as such term has under section 3(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(j)).

TRANSFER AUTHORIZATION

SEC. 604. (a) Subject to the provisions of this title, the United States, through the Secretary, shall transfer all rail properties of the Alaska Railroad to the State. Such transfer shall occur as soon as practicable after the Secretary has made the certifications required by subsection (d) of this section and shall be accomplished in the manner specified in subsection (b) of this section. 45 USC 1203.

(b)(1) On the date of transfer, the Secretary shall simultaneously:

(A) deliver to the State a bill of sale conveying title to all rail properties of the Alaska Railroad except any interest in real property;

(B) deliver to the State an interim conveyance of the rail properties of the Alaska Railroad that are not conveyed pursuant to subparagraph (A) of this paragraph and are not subject to unresolved claims of valid existing rights;

(C) deliver to the State an exclusive license granting the State the right to use all rail properties of the Alaska Railroad not conveyed pursuant to subparagraphs (A) or (B) of this paragraph pending conveyances in accordance with the review and settlement or final administrative adjudication of claims of valid existing rights;

(D) convey to the State a deed granting the State (i) an exclusive-use easement for that portion of the right-of-way of the Alaska Railroad within the Denali National Park and Preserve extending not less than one hundred feet on either side of the main or branch line tracks, and eight feet on either side of the centerline of the "Y" track connecting the main line of the railroad to the power station at McKinley Park Station and (ii) title to railroad-related improvements within such right-of-way.

Prior to taking the action specified in subparagraphs (A) through (D) of this paragraph, the Secretary shall consult with the Secretary of the Interior. The exclusive-use easement granted pursuant to subparagraph (D) of this paragraph and all rights afforded by such easement shall be exercised only for railroad purposes, and for such other transportation, transmission, or communication purposes for which lands subject to such easement were utilized as of the date of enactment of this Act. In the event of reversion to the United States, pursuant to section 610 of this title, of the State's interests in all or part of the lands subject to such easement, such easement shall terminate with respect to the lands subject to such reversion, and no new exclusive-use easement with respect to such reverted lands shall be granted except by Act of Congress.

(2) The Secretary shall deliver to the State an interim conveyance of rail properties of the Alaska Railroad described in paragraph (1)(C) of this subsection that become available for conveyance to the State after the date of transfer as a result of settlement, relinquishment, or final administrative adjudication pursuant to section 606 of this title. Where the rail properties to be conveyed pursuant to this paragraph are surveyed at the time they become available for conveyance to the State, the Secretary shall deliver a patent therefor in lieu of an interim conveyance.

(3) The force and effect of an interim conveyance made pursuant to paragraphs (1)(B) or (2) of this subsection shall be to convey to and vest in the State exactly the same right, title, and interest in and to the rail properties identified therein as the State would have received had it been issued a patent by the United States. The

Secretary of the Interior shall survey the land conveyed by an interim conveyance to the State pursuant to paragraphs (1)(B) or (2) of this subsection and, upon completion of the survey, the Secretary shall issue a patent therefor.

(4) The license granted pursuant to paragraph (1)(C) of this subsection shall authorize the State to use, occupy, and directly receive all benefits of the rail properties described in the license for the operation of the State-owned railroad in conformity with the Memorandum of Understanding referred to in section 606(b)(3) of this title. The license shall be exclusive, subject only to valid leases, permits, and other instruments issued before the date of transfer and easements reserved pursuant to subsection (c)(2) of this section. With respect to any parcel conveyed pursuant to this title, the license shall terminate upon conveyance of such parcel.

(c)(1) Interim conveyances and patents issued to the State pursuant to subsection (b) of this section shall confirm, convey and vest in the State all reservations to the United States (whether or not expressed in a particular patent or document of title), except the unexercised reservations to the United States for future rights-of-way made or required by the first section of the Act of March 12, 1914 (43 U.S.C. 975d). The conveyance to the State of such reservations shall not be affected by the repeal of such Act under section 615 of this title.

(2) In the license granted under subsection (b)(1)(C) of this section and in all conveyances made to the State under this title, there shall be reserved to the Secretary of the Interior, the Secretary of Defense and the Secretary of Agriculture, as appropriate, existing easements for administration (including agency transportation and utility purposes) that are identified in the report required by section 605(a) of this title. The appropriate Secretary may obtain, only after consent of the State, such future easements as are necessary for administration. Existing and future easements and use of such easements shall not interfere with operations and support functions of the State-owned railroad.

(3) There shall be reserved to the Secretary of the Interior the right to use and occupy, without compensation, five thousand square feet of land at Talkeetna, Alaska, as described in ARR lease numbered 69-25-0003-5165 for National Park Service administrative activities, so long as the use or occupation does not interfere with the operation of the State-owned railroad. This reservation shall be effective on the date of transfer under this section or the expiration date of such lease, whichever is later.

(d)(1) Prior to the date of transfer, the Secretary shall certify that the State has agreed to operate the railroad as a rail carrier in intrastate and interstate commerce.

(2)(A) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to assume all rights, liabilities, and obligations of the Alaska Railroad on the date of transfer, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, and accounts payable, except as otherwise provided by this title.

(B) Notwithstanding the provisions of subparagraph (A) of this paragraph, the United States shall be solely responsible for—

(i) all claims and causes of action against the Alaska Railroad that accrue on or before the date of transfer, regardless of the date on which legal proceedings asserting such claims were or may be filed, except that the United States shall, in the case of

any tort claim, only be responsible for any such claim against the United States that accrues before the date of transfer and results in an award, compromise, or settlement of more than $2,500, and the United States shall not compromise or settle any claim resulting in State liability without the consent of the State, which consent shall not be unreasonably withheld; and

(ii) all claims that resulted in a judgment or award against the Alaska Railroad before the date of transfer.

"Accrue."

(C) For purposes of subparagraph (B) of this paragraph, the term "accrue" shall have the meaning contained in section 2401 of title 28, United States Code.

(3)(A) Prior to the date of transfer, the Secretary shall also certify that the State-owned railroad has established arrangements pursuant to section 607 of this title to protect the employment interests of employees of the Alaska Railroad during the two-year period commencing on the date of transfer. These arrangements shall include provisions—

(i) which ensure that the State-owned railroad will adopt collective bargaining agreements in accordance with the provisions of subparagraph (B) of this paragraph;

(ii) for the retention of all employees, other than officers of the Alaska Railroad, who elect to transfer to the State-owned railroad in their same positions for the two-year period commencing on the date of transfer, except in cases of reassignment, separation for cause, resignation, retirement, or lack of work;

(iii) for the payment of compensation to transferred employees (other than employees provided for in subparagraph (E) of this paragraph), except in cases of separation for cause, resignation, retirement, or lack of work, for two years commencing on the date of transfer at or above the base salary levels in effect for such employees on the date of transfer, unless the parties otherwise agree during that two-year period;

(iv) for priority of reemployment at the State-owned railroad during the two-year period commencing on the date of transfer for transferred employees who are separated for lack of work, in accordance with subparagraph (C) of this paragraph (except for officers of the Alaska Railroad, who shall receive such priority for one year following the date of transfer);

(v) for credit during the two-year period commencing on the date of transfer for accrued annual and sick leave, seniority rights, and relocation and turnaround travel allowances which have been accrued during their period of Federal employment by transfered employees retained by the State-owned railroad (except for officers of the Alaska Railroad, who shall receive such credit for one year following the date of transfer);

(vi) for payment to transferred employees retained by the State-owned railroad during the two-year period commencing on the date of transfer, including for one year officers retained or separated under subparagraph (E) of this paragraph, of an amount equivalent to the cost-of-living allowance to which they are entitled as Federal employees on the day before the date of transfer, in accordance with the provisions of subparagraph (D) of this paragraph; and

(vii) for health and life insurance programs for transferred employees retained by the State-owned railroad during the two-year period commencing on the date of transfer, substantially

equivalent to the Federal health and life insurance programs available to employees on the day before the date of transfer (except for officers of the Alaska Railroad, who shall receive such credit for one year following the date of transfer).

(B) The State-owned railroad shall adopt all collective bargaining agreements which are in effect on the date of transfer. Such agreements shall continue in effect for the two-year period commencing on the date of transfer, unless the parties agree to the contrary before the expiration of that two-year period. Such agreements shall be renegotiated during the two-year period, unless the parties agree to the contrary. Any labor-management negotiation impasse declared before the date of transfer shall be settled in accordance with chapter 71 of title 5, United States Code. Any impasse declared after the date of transfer shall be subject to applicable State law.

5 USC 7101 *et seq.*

(C) Federal service shall be included in the computation of seniority for transferred employees with priority for reemployment, as provided in subparagraph (A)(iv) of this paragraph.

(D) Payment to transferred employees pursuant to subparagraph (A)(vi) of this paragraph shall not exceed the percentage of any transferred employee's base salary level provided by the United States as a cost-of-living allowance on the day before the date of transfer, unless the parties agree to the contrary.

(E) Prior to the date of transfer, the Secretary shall also certify that the State-owned railroad has agreed to the retention, for at least one year from the date of transfer, of the offices of the Alaska Railroad, except in cases of separation for cause, resignation, retirement, or lack of work, at or above their base salaries in effect on the date of transfer, in such positions as the State-owned railroad may determine; or to the payment of lump-sum severance pay in an amount equal to such base salary for one year to officers not retained by the State-owned railroad upon transfer or, for officers separated within one year on or after the date of transfer, of a portion of such lump-sum severance payment (diminished pro rata for employment by the State-owned railroad within one year of the date of transfer prior to separation).

(4) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to allow representatives of the Secretary adequate access to employees and records of the Alaska Railroad when needed for the performance of functions related to the period of Federal ownership.

(5) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to compensate the United States at the value, if any, determined pursuant to section 605(d) of this title.

TRANSITION PERIOD

Report to Congress and State legislature.
45 USC 1204.

SEC. 605. (a) Within 6 months after the date of enactment of this Act, the Secretary and the Governor of Alaska shall jointly prepare and deliver to the Congress of the United States and the legislature of the State a report that describes to the extent possible the rail properties of the Alaska Railroad, the liabilities and obligations to be assumed by the State, the sum of money, if any, in the Alaska Railroad Revolving Fund to be withheld from the State pursuant to section 603(8)(C) of this title, and any personal property to be withheld pursuant to section 603(8)(D) of this title. The report shall separately identify by the best available descriptions (1) the rail properties of the Alaska Railroad to be transferred pursuant to

section 604(b)(1) (A), (B), and (D) of this title; (2) the rail properties to be subject to the license granted pursuant to section 604(b)(1)(C) of this title; and (3) the easements to be reserved pursuant to section 604(c)(2) of this title. The Secretaries of Agriculture, Defense, and the Interior and the Administrator of the General Services Administration shall provide the Secretary with all information and assistance necessary to allow the Secretary to complete the report within the time required.

(b) During the period from the date of enactment of this Act until the date of transfer, the State shall have the right to inspect, analyze, photograph, photocopy and otherwise evaluate all of the rail properties of the Alaska Railroad and all records related to the rail properties of the Alaska Railroad maintained by any agency of the United States under conditions established by the Secretary to protect the confidentiality of proprietary business data, personnel records, and other information, the public disclosure of which is prohibited by law. During that period, the Secretary and the Alaska Railroad shall not, without the consent of the State and only in conformity with applicable law and the Memorandum of Understanding referred to in section 606(b)(3) of this title—

(1) make or incur any obligation to make any individual capital expenditure of money from the Alaska Railroad Revolving Fund in excess of $300,000;

(2) (except as required by law) sell, exchange, give, or otherwise transfer any real property included in the rail properties of the Alaska Railroad; or

(3) lease any rail property of the Alaska Railroad for a term in excess of five years.

(c) Prior to transfer of the rail properties of the Alaska Railroad to the State, the Alaska Railroad's accounting practices and systems shall be capable of reporting data to the Interstate Commerce Commission in formats required of comparable rail carriers subject to the jurisdiction of the Interstate Commerce Commission.

(d)(1) Within nine months after the date of enactment of this Act, the United States Railway Association (hereinafter in this section referred to as the "Association") shall determine the fair market value of the Alaska Railroad under the terms and conditions of this title, applying such procedures, methods and standards as are generally accepted as normal and common practice. Such determination shall include an appraisal of the real and personal property to be transferred to the State pursuant to this title. Such appraisal by the Association shall be conducted in the usual manner in accordance with generally accepted industry standards, and shall consider the current fair market value and potential future value if used in whole or in part for other purposes. The Association shall take into account all obligations imposed by this title and other applicable law upon operation and ownership of the State-owned railroad. In making such determination, the Association shall use to the maximum extent practicable all relevant data and information, including, if relevant, that contained in the report prepared pursuant to subsection (a) of this section.

(2) The determination made pursuant to paragraph (1) of this subsection shall not be construed to affect, enlarge, modify, or diminish any inventory, valuation, or classification required by the Interstate Commerce Commission pursuant to subchapter V of chapter 107 of title 49, United States Code (49 U.S.C. 10781 et seq.).

45 USC 712.

(e) Section 202(a) of the Regional Rail Reorganization Act of 1973 is amended—

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

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

(3) by adding at the end thereof the following new paragraph: "(11) determine the value of the Alaska Railroad, as required by section 605 of the Alaska Railroad Transfer Act of 1982.".

LANDS TO BE TRANSFERRED

45 USC 1205.

SEC. 606. (a) Lands among the rail properties of the Alaska Railroad shall not be—

(1) available for selection under section 12 of the Act of January 2, 1976, as amended (43 U.S.C. 1611, note), subject to the exception contained in section 12(b)(8)(i)(D) of such Act, as amended by subsection (d)(5) of this section;

Post, p. 2568.

(2) available for conveyance under section 1425 of the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2515);

(3) available for conveyance to Chugach Natives, Inc., under sections 1429 or 1430 of the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2531) or under sections 12(c) or 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(c) and 1613(h)(8), respectively); or

(4) available under any law or regulation for entry, location, or for exchange by the United States, or for the initiation of a claim or selection by any party other than the State or other transferee under this title, except that this paragraph shall not prevent a conveyance pursuant to section 12(b)(8)(i)(D) of the Act of January 2, 1976 (43 U.S.C. 1611, note), as amended by subsection (d)(5) of this section.

(b)(1)(A) During the ten months following the date of enactment of this Act, so far as practicable consistent with the priority of preparing the report required pursuant to section 605(a) of this title, the Secretary of the Interior, Village Corporations with claims of valid existing rights, and the State shall review and make a good faith effort to settle as many of the claims as possible. Any agreement to settle such claims shall take effect and bind the United States, the State, and the Village Corporation only as of the date of transfer of the railroad.

(B) At the conclusion of the review and settlement process provided in subparagraph (A) of this paragraph, the Secretary of the Interior shall prepare a report identifying lands to be conveyed in accordance with settlement agreements under this title or applicable law. Such settlement shall not give rise to a presumption as to whether a parcel of land subject to such agreement is or is not public land.

(2) The Secretary of the Interior shall have the continuing jurisdiction and duty to adjudicate unresolved claims of valid existing rights pursuant to applicable law and this title. The Secretary of the Interior shall complete the final administrative adjudication required under this subsection not later than three years after the date of enactment of this Act, and shall complete the survey of all lands to be conveyed under this title not later than five years after the date of enactment of this Act, and after consulting with the Governor of the State of Alaska to determine priority of survey with

regard to other lands being processed for patent to the State. The Secretary of the Interior shall give priority to the adjudication of Village Corporation claims as required in this section. Upon completion of the review and settlement process required by paragraph (1)(A) of this subsection, with respect to lands not subject to an agreement under such paragraph, the Secretary of the Interior shall adjudicate which lands subject to claims of valid existing rights filed by Village Corporations, if any, are public lands and shall complete such final administrative adjudication within two years after the date of enactment of this Act.

(3) Pending settlement or final administrative adjudication of claims of valid existing rights filed by Village Corporations prior to the date of transfer or while subject to the license granted to the State pursuant to section 604(b)(1)(C) of this title, lands subject to such claims shall be managed in accordance with the Memorandum of Understanding among the Federal Railroad Administration, the State, Eklutna, Incorporated, Cook Inlet Region, Incorporated (as that term is used in section 12 of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1150)), and Toghotthele Corporation, executed by authorized officers or representatives of each of these entities. Duplicate originals of the Memorandum of Understanding shall be maintained and made available for public inspection and copying in the Office of the Secretary, at Washington, District of Columbia, and in the Office of the Governor of the State of Alaska, at Juneau, Alaska.

(4) The following procedures and requirements are established to promote finality of administrative adjudication of claims of valid existing rights filed by Village Corporations, to clarify and simplify the title status of lands subject to such claims, and to avoid potential impairment of railroad operations resulting from joint or divided ownership in substantial segments of right-of-way:

(A)(i) Prior to final administrative adjudication of Village Corporation claims of valid existing rights in land subject to the license granted under section 604(b)(1)(C) of this title, the Secretary of the Interior may, notwithstanding any other provision of law, accept relinquishment of so much of such claims as involved lands within the right-of-way through execution of an agreement with the appropriate Village Corporation effective on or after the date of transfer. Upon such relinquishment, the interest of the United States in the right-of-way shall be conveyed to the State pursuant to section 604(b)(1)(B) or (2) of this title.

(ii) With respect to a claim described in clause (i) of this subparagraph that is not settled or relinquished prior to final administrative adjudication, the Congress finds that exclusive control over the right-of-way by the Alaska Railroad has been and continues to be necessary to afford sufficient protection for safe and economic operation of the railroad. Upon failure of the interested Village Corporation to relinquish so much of its claims as involve lands within the right-of-way prior to final adjudication of valid existing rights, the Secretary shall convey to the State pursuant to section 604(b)(1)(B) or (2) of this title all right, title and interest of the United States in and to the right-of-way free and clear of such Village Corporation's claim to and interest in lands within such right-of-way.

(B) Where lands within the right-of-way, or any interest in such lands, have been conveyed from Federal ownership prior to

the date of enactment of this Act, or is subject to a claim of valid existing rights by a party other than a Village Corporation, the conveyance to the State of the Federal interest in such properties pursuant to section 604(b)(1)(B) or (2) of this title shall grant not less than an exclusive-use easement in such properties. The foregoing requirements shall not be construed to permit the conveyance to the State of less than the entire Federal interest in the rail properties of the Alaska Railroad required to be conveyed by section 604(b) of this title. If an action is commenced against the State or the United States contesting the validity or existence of a reservation of right-of-way for the use or benefit of the Alaska Railroad made prior to the date of enactment of this Act, the Secretary of the Interior, through the Attorney General, shall appear in and defend such action.

(c)(1) The final administrative adjudication pursuant to subsection (b) of this section shall be final agency action and subject to judicial review only by an action brought in the United States District Court for the District of Alaska. Review of agency action pursuant to this title shall be expedited to the same extent as the expedited review provided by section 1108 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3168).

(2) No administrative or judicial action under this title shall enjoin or otherwise delay the transfer of the Alaska Railroad pursuant to this title, or substantially impair or impede the operations of the Alaska Railroad or the State-owned railroad.

(3) Before the date of transfer, the State shall have standing to participate in any administrative determination or judicial review pursuant to this title. If transfer to the State does not occur pursuant to section 604 of this title, the State shall not thereafter have standing to participate in any such determination or review.

43 USC 1611 note.

(d)(1) Section 12(b)(7)(i) of the Act of January 2, 1976 (Public Law 94-204) is amended—

(A) by striking "subsection 12(b)(6)" and inserting in lieu thereof "section 12(b) (5) and (6)";

(B) by striking "12(b)(7)(ii)" and inserting in lieu thereof "12(b)(7)(iv)";

(C) by striking "crediting" and inserting in lieu thereof "using";

(D) by striking "this subsection 12(b)(7)(i)(b)" and inserting in lieu thereof "these subsections 12(b)(7) (i)(b) or (ii)";

(E) by striking "State" in the last sentence and inserting in lieu thereof "state"; and

(F) by striking the penultimate sentence.

(2) Section 12(b)(7) of such Act is amended—

(A) by redesignating subsections (ii) through (iv) as subsections (iv) through (vi), respectively; and

(B) by inserting immediately after subsection (i) the following:

"(ii) Subject to the exceptions stated in section 12(b)(9), and notwithstanding the foregoing subsection 12(b)(7)(i) and any provision of any other law or any implementing regulation inconsistent with this subsection, until the obligations of the Secretary and the Administrator of General Services under section 12(b) (5) and (6) are otherwise fulfilled:

"(A) concurrently with the commencement of screening of any excess real property, wherever located, for utilization by Federal agencies, the Administrator of General Services shall

notify the Region that such property may be available for conveyance to the Region upon negotiated sale. Within fifteen days of the date of receipt of such notice, the Region may advise the Administrator that there is a tentative need for the property to fulfill the obligations established under section 12(b) (5) and (6). If the Administrator determines the property should be disposed of by transfer to the Region, the Administrator or other appropriate Federal official shall promptly transfer such property;

43 USC 1611 note.

"(B) no disposition or conveyance of property under this subsection to the Region shall be made until the Administrator, after notice to affected State and local governments, has provided to them such opportunity to obtain the property as is recognized in title 40, United States Code and the regulations thereunder for the disposition or conveyance of surplus property; and

"(C) as used in this subsection, 'real property' means any land or interests in land owned or held by the United States or any Federal agency, any improvements on such land or rights to their use or exploitation, and any personal property related to the land.

"Real property."

"(iii) If the Region accepts any conveyance under section 12(b)(7)(i) or (ii), it shall be in exchange for acres or acre-equivalents as provided in subparagraph I(C)(2)(e) of the document referred to in this section, except that, after the obligation of the Secretary and the Administrator under subparagraph I(C)(2)(g) of that document has been fulfilled, the acre-equivalents under subparagraph I(C)(2)(e)(iii)(A) shall be one-half the valued increment therein stated. The entitlement of the Region under section 12(b) of this Act shall be reduced by the number of acres or acre-equivalents attributed to the Region under this subsection. The Secretary and the Administrator are directed to execute an agreement with the Region which shall conform substantially to the 'Memorandum of Understanding Regarding the Implementation of Section 12(b)(7)', dated September 10, 1982, and submitted to the Senate Committee on Commerce, Science, and Transportation. The Secretary, the Administrator and the Region may thereafter otherwise agree to procedures to implement responsibilities under this section 12(b)(7), including establishment of accounting procedures and the delegation or reassignment of duties under this statute.".

(3) Section 12(b)(7)(iv) of such Act, as so redesignated by paragraph (2) of this subsection, is amended—

43 USC 1611 note.

(A) by striking "surplus" the first place it appears therein;

(B) by inserting immediately before the period at the end of the first sentence the following: "or paying for the conveyance of property pursuant to subsections (i) or (ii)";

(C) by inserting immediately after "account shall be" the following: "the sum of (1)";

(D) by striking "I(C)(2)(e)" and inserting in lieu thereof "I(C)(2)(e)(iii)(A)";

(E) by striking "the effective date of this subsection", and inserting in lieu thereof "December 2, 1980";

(F) by striking "and shall be adjusted" and inserting in lieu thereof "and (2) one-half the acre or acre-equivalent exchange value under subparagraph I(C)(2)(e)(iii)(A) of ten townships fewer than the unfulfilled entitlement of the Region on the same date to acres or acre-equivalents under paragraph I(C)(1)

of the document referred to in this section. The balance of the property account shall be adjusted in accordance with subsection 12(b)(7)(iii)"; and

(G) by striking "subsection 12(b)(6)" and inserting in lieu thereof "section 12(b) (5) and (6)".

43 USC 1611 note.

(4) Section 12(b)(7)(v) of such Act, as so redesignated by paragraph (2) of this subsection, is amended by striking "subsection (ii)" and inserting in lieu thereof "subsection (iv)".

43 USC 1611 note.
Post, p. 2570.

(5) Section 12(b)(8) of such Act is amended to read as follows:

"12(b)(8). Subject to the exceptions stated in section 12(b)(9), and notwithstanding any provisions of law or implementing regulation inconsistent with this section:

"(i) The deadlines in subparagraphs I(C)(2) (a) and (g) of the document referred to in this section shall be extended until the Secretary's obligations under section 12(b) (5) and (6) are fulfilled: *Provided*, That:

"(A) the obligation of the Secretary under subparagraph I(C)(2)(a) of such document shall terminate on such date, after July 15, 1984, that the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g) of that document: *Provided*, That the obligation of the Secretary under subparagraph I(C)(2)(g) of such document shall be fulfilled at such date, after July 15, 1984, that the sum of the acres or acre-equivalents identified for and placed in the pool and the acres or acre-equivalents used by the Region in purchasing property under section 12(b)(7) equals or exceeds 138,240 acres or acre-equivalents;

"(B) the authority of the Secretary under subparagraphs I(C)(2)(b) and I(C)(2)(g)(ii) of such document to contribute to the pool created under subparagraph I(C)(2)(a) of such document shall terminate (a) on July 15, 1984, if, by that date, the Secretary has fulfilled his obligation under subparagraph I(C)(2) (g), or (b) if not, on such date after July 15, 1984 as such obligation is fulfilled, or (c) if such obligation remains unfulfilled, on July 15, 1987;

"(C) the concurrence by the State as described in subparagraphs I(C)(2)(a)(vi) and I(C)(2)(c) of the document referred to in this section shall be deemed not required after the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g) of that document, but in no event after July 15, 1987. In lieu of such concurrence, after 1984 as to military property, and after the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g) of that document or July 15, 1987, whichever is earlier, as to any other property, except property of the Alaska Railroad which is governed by subsection 12(b)(6)(i)(D) of this Act, the Secretary shall not place any lands in the selection pool referred to in subparagraphs I(C)(2) (a) and (g) of the document referred to in this section without the prior written concurrence of the State. Such concurrence shall be deemed obtained unless the State advises the Secretary within ninety days of receipt of a formal notice from the Secretary that he is considering placing property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question, requires the property for a public purpose of the State or municipality; and

"(D) notwithstanding section 606(a)(2) of the Alaska Railroad Transfer Act of 1982, the Secretary may include property of the Alaska Railroad in the pool of lands to be made available for selection to the extent that he is authorized to do so under a provision of section 12(b) of this Act if the State consents to its inclusion, which consent is not subject to any limitation under subsection 12(b)(8)(i)(C) herein: *Provided,* That, while the Alaska Railroad is the property of the United States, the Secretary shall obtain the consent of the Secretary of Transportation prior to including such property: *And provided further,* That, if the transfer of the Alaska Railroad to the State does not occur pursuant to the terms of the Alaska Railroad Transfer Act of 1982 or any amendments thereto, the State's consent shall be deemed obtained unless the State advises the Secretary in writing, within ninety days of receipt of a formal notice from the Secretary that he is considering placing such property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question, requires the property for a public purpose of the State or the municipality.

Ante, p. 2564.

Ante, p. 2568.

Ante, p. 2556.

"(ii) In addition to the review required to identify public lands under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e)), the Secretary shall identify for inclusion in the pool all public lands (as such term is used under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e)), as described in subparagraph I(C)(2)(a)(v) of the document referred to in this section, and shall, in so doing, review all Federal installations within the boundaries of the Cook Inlet Region whether within or without the areas withdrawn pursuant to section 11 of the Alaska Native Claims Settlement Act (43 U.S.C. 1610) or by the Secretary acting under authority contained in that section: *Provided,* That no such additional review under such subparagraph shall be required of military installations or of such other installations as may be mutually excluded from review by the Region and the Secretary: *And provided further,* That the Secretary shall not review any property of the Alaska Railroad unless such property becomes available for selection pursuant to subsection 12(b)(8)(i)(D).

"(iii) The concurrence required of the State as to the inclusion of any property in the pool under subparagraph I(C)(2)(b) of the document referred to in this section shall be deemed obtained unless the State advises the Secretary in writing, within ninety days of receipt of a formal notice from the Secretary that the Secretary is considering placing property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question requires the property for a public purpose of the State or the municipality.

"(iv) The deadlines in subparagraph I(C)(1)(b) of the document referred to in this section shall be extended for an additional twenty-four months beyond the dates established in the Act of July 17, 1980 (Public Law 96-311; 94 Stat. 947).

"(v) On or before January 15, 1985, the Secretary shall report to the Congress with respect to:

Report to Congress.

"(A) such studies and inquiries as shall have been initiated by the Secretary and the Administrator of General Services, or have been prepared by other holding agencies,

to determine what lands, except for lands held by the Alaska Railroad or the State-owned railroad, within the boundaries of the Cook Inlet Region or elsewhere can be made available to the Region, to the extent of its entitlement;

"(B) the feasibility and appropriate nature of reimbursement of the Region for its unfulfilled entitlement as valued in subsection 12(b)(7)(iv) of this Act;

"(C) the extent to which implementation of the mechanisms established in section 12(b)(7) promise to meet such unfulfilled entitlement;

"(D) such other remedial legislation or administrative action as may be needed; and

"(E) the need to terminate any mechanism established by law through which the entitlement of the Region may be completed.".

43 USC 1611 note.

(6) Section 12(b) of such Act is amended by adding at the end thereof the following:

Ante, p. 2568.

"12(b)(9). No disposition or conveyance of property located within the State to the Region under section 12(b)(6), 12(b)(7) and 12(b)(8), as amended, shall be made if the property is subject to an express waiver of rights under the provisions of subparagraph I(C)(2)(f) of the document referred to in this section, or if such disposition or conveyance violates valid rights, including valid selections or valid authorized agreements, of Native Corporations (as such term is used in section 102(6) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(6)) or the State existing at the time of such disposition or conveyance under section 6 of Public Law 85-508, as amended (excepting section 906(e) of the Alaska National Interest Lands Conservation Act), sections 12(a), 12(b), 16(b) or 22(f) of the Alaska Native Claims Settlement Act, section 12(h) of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1154), or sections 1416, 1418 through 1425 (inclusive), 1427 through 1434 (inclusive), or 1436 of the Alaska National Interest Lands Conservation Act: *Provided, however,* That nothing within this subsection 12(b)(9) shall diminish such rights and priorities as the Region has under section 12(b) of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1151), as amended by section 4 of the Act of October 4, 1976 (Public Law 94-456; 90 Stat. 1935), section 3 of the Act of November 15, 1977 (Public Law 95-178; 91 Stat. 1369), section 2 of the Act of August 14, 1979 (Public Law 96-55; 93 Stat. 386), the Act of July 17, 1980 (Public Law 96-311; 94 Stat. 947), and section 1435 of the Alaska National Interest Lands Conservation Act.

48 USC note prec. 21.
43 USC 1635.
43 USC 1611, 1615, 1621.
43 USC 1611 note.
94 Stat. 2499, 2501-2515, 2518-2544, 2546.
43 USC 1611 note.

"12(b)(10). For the purpose of its incorporation into this section, paragraph I(C)(1) of the document referred to in this section is amended as follows: (1) by striking 'withdrawn' and inserting in lieu thereof 'withdrawn or formerly withdrawn'; (2) by striking '17(d)(1)' and inserting in lieu thereof '17(d)(1) and (2)'; and (3) by striking the last sentence of subparagraph I(C)(1)(a) and inserting in lieu thereof the following: 'Cook Inlet Region, Incorporated shall not nominate any lands within the boundaries of any conservation system unit, national conservation area, national recreation area, national forest, defense withdrawal, or any lands that were made available to the State for selection pursuant to sections 2 and 5 of the State-Federal Agreement of September 1, 1972.'.

"12(b)(11). Notwithstanding the provisions of section 906 of the Alaska National Interest Lands Conservation Act and section 6(i) of the Alaska Statehood Act (72 Stat. 339): 43 USC 1635. 48 USC note prec. 21.

"(i) The State is hereby authorized to convey to the United States for reconveyance to the Region, and the Secretary is directed to accept and so reconvey, lands tentatively approved for patent or patented to the State, if the State and the Region enter into an agreement that such lands shall be reconveyed to the Region to fulfill all or part of its entitlement under paragraph I(C)(1) of the document referred to in this section: *Provided*, That the acreage of lands conveyed to the United States under this provision shall be added to the State's unfulfilled entitlement pursuant to section 6 of the Alaska Statehood Act, and the number of townships to be nominated, pooled, struck, selected and conveyed pursuant to paragraph I(C)(1) of the document referred to in this section shall be reduced accordingly.

"(ii) The Secretary is directed to convey to the Region lands selected by the State prior to July 18, 1973 or pursuant to sections 2 and 5 of the State-Federal Agreement of September 1, 1972, if the State relinquishes such selections and enters into an agreement with the Region that such lands shall be reconveyed to the Region to fulfill all or part of its entitlement under paragraph I(C)(1) of the document referred to in this section, and the number of townships to be nominated, pooled, struck, selected and conveyed pursuant to paragraph I(C)(1) of the document referred to in this section shall be reduced accordingly.

"(iii) The Secretary, in the Secretary's discretion, is authorized to enter into an agreement with the State and the Region to implement the authority contained in this section 12(b)(11), which agreement may provide for conveyances directly from the State to the Region. Conveyances directly conveyed shall be deemed conveyances from the Secretary pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).".

(e) The State shall be liable to a party receiving a conveyance of land among the rail properties of the Alaska Railroad subject to the license granted pursuant to section 604(b)(1)(C) of this title for damage resulting from use by the State of the land under such license in a manner not authorized by such license. 45 USC 1205.

EMPLOYEES OF THE ALASKA RAILROAD

SEC. 607. (a)(1) Any employees who elect to transfer to the State-owned railroad and who on the day before the date of transfer are subject to the civil service retirement law (subchapter III of chapter 83 of title 5, United States Code) shall, so long as continually employed by the State-owned railroad without a break in service, continue to be subject to such law, except that the State-owned railroad shall have the option of providing benefits in accordance with the provisions of paragraph (2) of this subsection. Employment by the State-owned railroad without a break in continuity of service shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. The State-owned railroad shall be the employing agency for purposes of section 8334(a) of title 5, United States Code, and shall contribute to the Civil Service Retirement and Disability 45 USC 1206. 5 USC 8331.

Fund a sum as provided by such section, except that such sum shall be determined by applying to the total basic pay (as defined in section 8331(3) of title 5, United States Code) paid to the employees of the State-owned railroad who are covered by the civil service retirement law, the per centum rate determined annually by the Director of the Office of Personnel Management to be the excess of the total normal cost per centum rate of the civil service retirement system over the employee deduction rate specified in section 8334(a) of title 5, United States Code. The State-owned railroad shall pay into the Federal Civil Service Retirement and Disability Fund that portion of the cost of administration of such Fund which is demonstrated by the Director of the Office of Personnel Management to be attributable to its employees.

(2) At any time during the two-year period commencing on the date of transfer, the State-owned railroad shall have the option of providing to transferred employees retirement benefits, reflecting prior Federal service, in or substantially equivalent to benefits under the retirement program maintained by the State for State employees. If the State decides to provide benefits under this paragraph, the State shall provide such benefits to all transferred employees, except those employees who will meet the age and service requirements for retirement under section 8336(a), (b), (c) or (f) of title 5, United States Code, within five years after the date of transfer and who elect to remain participants in the Federal retirement program.

(3) If the State provides benefits under paragraph (2) of this subsection—

(A) the provisions of paragraph (1) of this subsection regarding payments into the Civil Service Retirement and Disability Fund for those employees who are transferred to the State program shall have no further force and effect (other than for employees who will meet the age and service requirements for retirement under section 8336(a), (b), (c) or (f) of title 5, United States Code, within five years after the date of transfer and who elect to remain participants in the Federal retirement program); and

(B) all of the accrued employee and employer contributions and accrued interest on such contributions made by and on behalf of the transferred employees during their prior Federal service (other than amounts for employees who will meet the age and service requirements for retirement under section 8336 (a), (b), (c) or (f) of title 5, United States Code, within five years after the date of transfer and who elect to remain participants in the Federal retirement program) shall be withdrawn from the Federal Civil Service Retirement and Disability Fund and shall be paid into the retirement fund utilized by the State-owned railroad for the transferred employees, in accordance with the provisions of paragraph (2) of this subsection. Upon such payment, credit for prior Federal service under the Federal civil service retirement system shall be forever barred, notwithstanding the provisions of section 8334 of title 5, United States Code.

(b) Employees of the Alaska Railroad who do not transfer to the State-owned railroad shall be entitled to all of the rights and benefits available to them under Federal law for discontinued employees.

(c) Transferred employees whose employment with the State-owned railroad is terminated during the two-year period commencing on the date of transfer shall be entitled to all of the rights and benefits of discontinued employees that such employees would have had under Federal law if their termination had occurred immediately before the date of the transfer, except that financial compensation paid to officers of the Alaska Railroad shall be limited to that compensation provided pursuant to section 604(d)(3)(E) of this title. Such employees shall also be entitled to seniority and other benefits accrued under Federal law while they were employed by the State-owned railroad on the same basis as if such employment had been Federal service.

(d) Any employee who transfers to the State-owned railroad under this title shall not be entitled to lump-sum payment for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the State with the unused annual leave balance at the time of transfer.

STATE OPERATION

SEC. 608. (a)(1) After the date of transfer to the State pursuant to section 604 of this title, the State-owned railroad shall be a rail carrier engaged in interstate and foreign commerce subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of subtitle IV of title 49, United States Code, and all other Acts applicable to rail carriers subject to that chapter, including the antitrust laws of the United States, except, so long as it is an instrumentality of the State of Alaska, the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.), the Railroad Retirement Tax Act (26 U.S.C. 3201 et seq.), the Railway Labor Act (45 U.S.C. 151 et seq.), the Act of April 22, 1908 (45 U.S.C. 51 et seq.) (popularly referred to as the "Federal Employers' Liability Act"), and the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.). Nothing in this title shall preclude the State from explicitly invoking by law any exemption from the antitrust laws as may otherwise be available. 45 USC 1207.

(2) The transfer to the State authorized by section 604 of this title and the conferral of jurisdiction to the Interstate Commerce Commission pursuant to paragraph (1) of this subsection are intended to confer upon the State-owned railroad all business opportunities available to comparable railroads, including contract rate agreements meeting the requirements of section 10713 of title 49, United States Code, notwithstanding any participation in such agreements by connecting water carriers.

(3) All memoranda which sanction noncompliance with Federal railroad safety regulations contained in 49 CFR Parts 209-236, and which are in effect on the date of transfer, shall continue in effect according to their terms as "waivers of compliance" (as that term is used in section 202(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(c))).

(4) The operation of trains by the State-owned railroad shall not be subject to the requirement of any State or local law which specifies the minimum number of crew members which must be employed in connection with the operation of such trains.

(5) Revenues generated by the State-owned railroad shall be retained and managed by the State-owned railroad for railroad and related purposes.

(6)(A) After the date of transfer, continued operation of the Alaska Railroad by a public corporation, authority or other agency of the

State shall be deemed to be an exercise of an essential governmental function, and revenue derived from such operation shall be deemed to accrue to the State for the purposes of section 115(a)(1) of the Internal Revenue Code of 1954 (26 U.S.C. 115(a)(1)). Obligations issued by such entity shall also be deemed obligations of the State for the purposes of section 103(a)(1) of the Internal Revenue Code of 1954 (26 U.S.C. 103(a)(1)), but not obligations within the meaning of section 103(b)(2) of the Internal Revenue Code of 1954 (26 U.S.C. 103(b)(2)).

(B) Nothing in this title shall be deemed or construed to affect customary tax treatment of private investment in the equipment or other assets that are used or owned by the State-owned railroad.

(b) As soon as practicable after the date of enactment of this Act, the Interstate Commerce Commission shall promulgate an expedited, modified procedure for providing on the date of transfer a certificate of public convenience and necessity to the State-owned railroad. No inventory, valuation, or classification of property owned or used by the State-owned railroad pursuant to subchapter V of chapter 107 of title 49, United States Code (49 U.S.C. 10781 et seq.) shall be required during the two-year period after the date of transfer. The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and section 382(b) of the Energy Policy and Conservation Act (42 U.S.C. 6362(b)) shall not apply to actions of the Commission under this subsection.

(c) The State-owned railroad shall be eligible to participate in all Federal railroad assistance programs on a basis equal to that of other rail carriers subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of subtitle IV of title 49, United States Code.

(d) After the date of transfer to the State pursuant to section 604 of this title, the portion of the rail properties within the boundaries of the Chugach National Forest and the exclusive-use easement within the boundaries of the Denali National Park and Preserve shall be subject to laws and regulations for the protection of forest and park values. The right to fence the exclusive-use easement within Denali National Park and Preserve shall be subject to the concurrence of the Secretary of the Interior. The Secretary of the Interior, or the Secretary of Agriculture where appropriate, shall not act pursuant to this subsection without consulting with the Governor of the State of Alaska or in such a manner as to unreasonably interfere with continued or expanded operations and support functions authorized under this title.

FUTURE RIGHTS-OF-WAY

45 USC 1208.

SEC. 609. (a) After the date of enactment of this Act, the State or State-owned railroad may request the Secretary of the Interior or the Secretary of Agriculture, as appropriate under law, to expeditiously approve an application for a right-of-way in order that the Alaska Railroad or State-owned railroad may have access across Federal lands for transportation and related purposes. The State or State-owned railroad may also apply for a lease, permit, or conveyance of any necessary or convenient terminal and station grounds and material sites in the vicinity of the right-of-way for which an application has been submitted.

(b) Before approving a right-of-way application described in subsection (a) of this section, the Secretary of the Interior or the

Secretary of Agriculture, as appropriate, shall consult with the Secretary. Approval of an application for a right-of-way, permit, lease, or conveyance described in subsection (a) of this section shall be pursuant to applicable law. Rights-of-way, grounds, and sites granted pursuant to this section and other applicable law shall conform, to the extent possible, to the standards provided in the Act of March 12, 1914 (43 U.S.C. 975 et seq.) and section 603(6) of this title. Such conformance shall not be affected by the repeal of such Act under section 615 of this title.

(c) Reversion to the United States of any portion of any right-of-way or exclusive-use easement granted to the State or State-owned railroad shall occur only as provided in section 610 of this title. For purposes of such section, the date of the approval of any such right-of-way shall be deemed the "date of transfer".

REVERSION

SEC. 610. (a) If, within ten years after the date of transfer to the State authorized by section 604 of this title, the Secretary finds that all or part of the real property transferred to the State under this title, except that portion of real property which lies within the boundaries of the Denali National Park and Preserve, is converted to a use that would prevent the State-owned railroad from continuing to operate, that real property (including permanent improvements to the property) shall revert to the United States Government, or (at the option of the State) the State shall pay to the United States Government an amount determined to be the fair market value of that property at the time its conversion prevents continued operation of the railroad. 45 USC 1209.

(b) If, after the date of transfer pursuant to section 604 of this title, the State discontinues use of any land within the right-of-way, the State's interest in such land shall revert to the United States. The State shall be considered to have discontinued use within the meaning of this subsection and subsection (d) of this section when:

(1) the Governor of the State of Alaska delivers to the Secretary of the Interior a notice of such discontinuance, including a legal description of the property subject to the notice, and a quitclaim deed thereto; or

(2) the State has made no use of the land for a continuous period of eighteen years for transportation, communication, or transmission purposes. Notice of such discontinuance shall promptly be published in the Federal Register by the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, and reversion shall be effected one year after such notice, unless within such one-year period the State brings an appropriate action in the United States District Court for the District of Alaska to establish that the use has been continuing without an eighteen-year lapse. Any such action shall have the effect of staying reversion until exhaustion of appellate review from the final judgment in that action or termination of the right to seek such review, whichever first occurs. Publication in Federal Register.

(c) Upon such reversion pursuant to subsection (b) of this section, the Secretary of the Interior shall immediately convey by patent to abutting landowners all right, title and interest of the United States. Where land abutting the reverted right-of-way is owned by different persons or entities, the conveyance made pursuant to this

subsection shall extend the property of each abutting owner to the centerline of the right-of-way.

(d) If use is discontinued (as that term is used in subsection (b) of this section) of all or part of those properties of the Alaska Railroad transferred to the State pursuant to this title which lie within the boundaries of the Denali National Park and Preserve or the Chugach National Forest, such properties or part thereof (including permanent improvements to the property) shall revert to the United States and shall not be subject to subsection (c) of this section. Upon such reversion, jurisdiction over that property shall be transferred to the Secretary of the Interior or the Secretary of Agriculture, as appropriate, for administration as part of the Denali National Park and Preserve or the Chugach National Forest.

(e) Except as provided in subsections (a) through (d) of this section, if, within five years after the date of transfer to the State pursuant to section 604 of this title, the State sells or transfers all or substantially all of the State-owned railroad to an entity other than an instrumentality of the State, the proceeds from the sale or transfer that exceed the cost of any rehabilitation and improvement made by the State for the State-owned railroad and any net liabilities incurred by the State for the State-owned railroad shall be paid into the general fund of the Treasury of the United States.

(f) The Attorney General, upon the request of the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, shall institute appropriate proceedings to enforce this section in the United States District Court for the District of Alaska.

OTHER DISPOSITION

45 USC 1210.

SEC. 611. If the Secretary has not certified that the State has satisfied the conditions under section 604 within one year after the date of delivery of the report referred to in section 605(a) of this title, the Secretary may dispose of the rail properties of the Alaska Railroad. Any disposal under this section shall give preference to a buyer or transferee who will continue to operate rail service, except that—

(1) such preference shall not diminish or modify the rights of the Cook Inlet Region, Incorporated (as that term is used in section 12 of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1150)), pursuant to such section, as amended by section 606(d) of this title; and

Ante, p. 2564.

(2) this section shall not be construed to diminish or modify the powers of consent of the Secretary or the State under section 12(b)(8) of such Act, as amended by section 606(d)(5) of this title.

Any disposal under this section shall be subject to valid existing rights.

DENALI NATIONAL PARK AND PRESERVE LANDS

45 USC 1211.

SEC. 612. On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), that portion of rail properties of the Alaska Railroad within the Denali National Park and Preserve shall, subject to the exclusive-use easement granted pursuant to section 604(b)(1)(D) of this title, be transferred to the Secretary of the Interior for administration as part of the Denali National Park and Preserve, except that a

transferee under section 611 of this title shall receive the same interest as the State under section 604(b)(1)(D) of this title.

APPLICABILITY OF OTHER LAWS

SEC. 613. (a) The provisions of chapter 5 of title 5, United States Code (popularly known as the Administrative Procedure Act, and including provisions popularly known as the Government in the Sunshine Act), the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.), section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f)), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to actions taken pursuant to this title, except to the extent that such laws may be applicable to granting of rights-of-way under section 609 of this title.

45 USC 1212.
5 USC 500 *et seq.*
5 USC app.

(b) The enactment of this title, actions taken during the transition period as provided in section 605 of this title, and transfer of the rail properties of the Alaska Railroad under authority of this title shall be deemed not to be the disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Act of October 3, 1944, popularly referred to as the "Surplus Property Act of 1944" (50 U.S.C. App. 1622). Such events shall not constitute or cause the revocation of any prior withdrawal or reservation of land for the use of the Alaska Railroad under the Act of March 12, 1914 (43 U.S.C. 975 et seq.), the Alaska Statehood Act (note preceding 48 U.S.C. 21), the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1145), the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2371), and the general land and land management laws of the United States.

(c) Beginning on the date of enactment of this Act, the ceiling on Government contributions for Federal employees health benefits insurance premiums under section 8906(b)(2) of title 5, United States Code, shall not apply to the Alaska Railroad.

(d) Nothing in this title is intended to enlarge or diminish the acreage entitlement of the State or any Native Corporation pursuant to existing law.

(e) With respect to interests of Native Corporations under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) and the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), except as provided in this title, nothing contained in this title shall be construed to deny, enlarge, grant, impair, or otherwise affect any judgment heretofore entered in a court of competent jurisdiction, or valid existing right or claim of valid existing right.

CONFLICT WITH OTHER LAWS

SEC. 614. The provisions of this title shall govern if there is any conflict between this title and any other law.

45 USC 1213.

REPEAL AND AMENDMENT OF EXISTING STATUTES

SEC. 615. (a) On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), whichever first occurs, the following provisions are repealed:

(1) The Act of March 12, 1914 (43 U.S.C. 975 et seq.).

16 USC 353a.

48 USC 301a.

(2) The Act of June 24, 1946, to authorize certain expenditures by the Alaska Railroad (60 Stat. 304).

(3) The Act of July 19, 1932, concerning mining of coal adjacent to the Alaska Railroad (30 U.S.C. 208a).

(4) Section 6(i) of the Department of Transportation Act (49 U.S.C. 1655(i)).

(b) On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), whichever first occurs, the following provisions are amended as follows:

(1) Title 5, United States Code, is amended—

(A) in section 305(a), by striking paragraph (3), and by redesignating paragraphs (4)-(8) as paragraphs (3)-(7), respectively;

(B) in section 3401(1), by striking clause (iii), and by redesignating clauses (iv)-(viii) as clauses (iii)-(vii), respectively;

(C) in section 5102(a)(1), by striking clause (iii), and by redesignating clauses (iv)-(ix) as clauses (iii)-(viii), respectively;

(D) in section 5342(a)(1), by striking subparagraph (C), and by redesignating subparagraphs (D)-(J) as subparagraphs (C)-(I), respectively; and

(E) in section 7327, by striking subsection (a), and by striking the subsection designation "(b)".

(2) Section 102(7) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 802(7)) is amended by striking "and the Alaska Railroad".

(3) Section 10749(b) of title 49, United States Code, is amended—

(A) by inserting "or" at the end of paragraph (1)(B);

(B) by striking "; or" at the end of paragraph (2) and inserting in lieu thereof a period; and

(C) by striking paragraph (3).

(4) Section 324(a)(1) of the Public Health Service Act (42 U.S.C. 251(a)(1)) is amended by striking "employees of the Alaska Railroad and".

(5) Section 202(3)(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 410hh-1(3)(a)) is amended by striking the third sentence.

(6) Section 1(o) of the Railroad Retirement Act of 1974 (45 U.S.C. 231(o)) is amended by inserting immediately after "National Transportation Safety Board," the following: "the State-owned railroad (as defined in the Alaska Railroad Transfer Act of 1982), so long as it is an instrumentality of the State of Alaska,".

SEPARABILITY

45 USC 1214.

SEC. 616. If any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

TITLE VII—RAIL SAFETY

Federal Railroad Safety Authorization Act of 1982.

SHORT TITLE

SEC. 701. This title may be referred to as the "Federal Railroad Safety Authorization Act of 1982". 45 USC 421 note.

REGULATORY AUTHORITY

SEC. 702. (a) Section 202(h)(1) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(h)(1)) is amended to read as follows:

"(h)(1)(A) The Secretary shall, within one year after the date of enactment of the Federal Railroad Safety Authorization Act of 1982, issue such initial rules, regulations, orders, and standards as may be necessary to insure that the construction, maintenance, and operation of railroad passenger equipment maximize safety to rail passengers. The Secretary shall, as a part of any such rulemaking, consider comparable Federal regulations and procedures which apply to other modes of transportation, especially those administered and enforced by the Federal Aviation Administration. The Secretary shall also consider relevant differences between commuter and intercity passenger service. The Secretary shall periodically review any such rules, regulations, orders, and standards and shall, after a hearing in accordance with subsection (b) of this section, make such revisions in any such rules, regulations, orders, and standards as may be necessary.

"(B) The Secretary shall submit to the Congress a report within one year after the date of enactment of the Federal Railroad Safety Authorization Act of 1982 with respect to rules, regulations, orders, and standards issued under subparagraph (A) of this paragraph which describes any rules, regulations, orders, and standards issued or to be issued under this subsection, explains the reasons for their issuance, and compares them to comparable Federal regulations and procedures which apply to other modes of transportation, especially those administered and enforced by the Federal Aviation Administration.". Report to Congress. *Supra.*

(b) The Secretary of Transportation shall, before March 1, 1983, conduct a study of the training of onboard operating and service railroad personnel in evacuation procedures and the use of emergency equipment. The Secretary shall consider, as part of such study, Federal regulations and procedures applicable to other modes of transportation. The Secretary shall submit the results of such study to the Committee on Commerce, Science and Transportation of the Senate, and the Committee on Energy and Commerce of the House of Representatives. Study. Submittal to congressional committees.

(c) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by subsection (a) of this section, is further amended by adding at the end thereof the following new subsections:

"(i) The Secretary shall, within one year after the date of enactment of the Federal Railroad Safety Authorization Act of 1982, issue rules, regulations, orders, and standards to apply appropriate safety principles to track used for commuter or other short-haul rail passenger service in a metropolitan or suburban area. Rules and regulations.

"(j) The Secretary shall, within 60 days after the date of enactment of the Federal Railroad Safety Authorization Act of 1982, report to the Congress on whether to issue rules, regulations, orders, Report to Congress.

and standards to require that the leading car of any railroad train in operation after July 1, 1983, be equipped with an acceptable form of mounted oscillating light.

"All areas of railroad safety."

"(k) As used in this section, the term 'all areas of railroad safety' includes the safety of commuter or other short-haul rail passenger service in a metropolitan or suburban area, including any commuter rail service which was operated by the Consolidated Rail Corporation as of January 1, 1979.".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 703. Section 214 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 444) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by adding immediately after subsection (b) the following new subsection:

45 USC 435.

"(c)(1) There are authorized to be appropriated to carry out the provisions of this Act, except section 206(d) of this title and paragraph (3) of this subsection, not to exceed $29,300,000 for the fiscal year ending September 30, 1983, and not to exceed $31,400,000 for the fiscal year ending September 30, 1984.

"(2) To carry out the provisions of section 206(d) of this title relating to State safety programs, there are authorized to be appropriated not to exceed $2,700,000 for the fiscal year ending September 30, 1983, and not to exceed $2,900,000 for the fiscal year ending September 30, 1984.

"(3) For the purpose of conducting safety research and development activities under this Act, there are authorized to be appropriated not to exceed $20,000,000 for the fiscal year ending September 30, 1983, and not to exceed $21,000,000 for the fiscal year ending September 30, 1984, including funds for assisting in the treatment of alcohol and drug abuse problems of railroad employees.".

MOVEMENT FOR REPAIR

SEC. 704. Section 4 of the Act of April 14, 1910 (45 U.S.C. 13) is amended by striking "where such car can be repaired" and all that follows through "at the sole risk of the carrier," and inserting in lieu thereof the following: "on the line of railroad on which the car was discovered to be defective or insecure where such car can be repaired, or, at the option of a connecting carrier, such car may be hauled to the nearest available point on the line of such connecting carrier where such car can be repaired if such point is no farther than the nearest available point on the line on which the car was discovered defective or insecure, without liability for the penalties imposed by this section or section 6 of this title, if any such movement is necessary to make such repairs and such repairs cannot be made except at any such repair point; and such movement or hauling of such car shall be at the sole risk of the carrier doing the moving or hauling,".

45 USC 15.

ASH PAN ACT

Repeal.

SEC. 705. The Act of May 30, 1908 (45 U.S.C. 17 through 21), commonly referred to as the Ash Pan Act, is repealed.

RESPONSIBILITY FOR COMPLIANCE

SEC. 706. Section 209(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(a)) is amended to read as follows:

"(a) It shall be unlawful for any railroad to fail to comply with any rule, regulation, order, or standard prescribed by the Secretary under this title.".

Approved January 14, 1983.

LEGISLATIVE HISTORY—H.R. 3420 (S. 1099):

HOUSE REPORTS: No. 97-89, Pt. I (Comm. on Public Works and Transportation) and Pt. II (Comm. on Energy and Commerce).

SENATE REPORT No. 97-74 accompanying S. 1099 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 127 (1981): June 1, considered and passed House.
June 2, S. 1099 considered and passed Senate; proceedings vacated.
July 17, H.R. 3420 considered and passed Senate, amended.

Vol. 128 (1982): Dec. 20, House agreed to Senate amendments with amendments.
Dec. 21, Senate concurred in House amendments with amendments; House concurred in Senate amendments.