

(c) Other functions

The factfinding panel may, before making its report to the parties, provide mediation, conciliation, and other assistance to the parties.

(Pub. L. 93-236, title VII, §712, as added Pub. L. 97-35, title XI, §1143(a), Aug. 13, 1981, 95 Stat. 668.)

REFERENCES IN TEXT

The Railway Labor Act, referred to in subsec. (b), is act May 20, 1926, ch. 347, 44 Stat. 577, as amended, which is classified principally to chapter 8 (§151 et seq.) of this title. For complete classification of this Act to the Code, see section 151 of this title and Tables.

§ 797I. Class II railroads receiving Federal assistance

The Surface Transportation Board shall impose no labor protection conditions in approving an application under section 10902 of title 49 when the application involves a Class II rail carrier which—

(1) is headquartered in a State, and operates in at least one State, with a population of less than 1,000,000 persons, as determined by the 1990 census; and

(2) has, as of January 1, 1996, been a recipient of repayable Federal Railroad Administration assistance in excess of \$5,000,000.

(Pub. L. 93-236, title VII, §713, as added Pub. L. 104-88, title III, §327(5)(A), formerly §327(5), Dec. 19, 1995, 109 Stat. 952, renumbered Pub. L. 104-287, §6(f)(4)(B), Oct. 11, 1996, 110 Stat. 3399.)

PRIOR PROVISIONS

A prior section 797I, Pub. L. 93-236, title VII, §713, as added Pub. L. 97-35, title XI, §1143(a), Aug. 13, 1981, 95 Stat. 668, authorized appropriations to carry out activities for protection of employees of Consolidated Rail Corporation, prior to repeal by Pub. L. 99-509, title IV, §4033(a)(2), Oct. 21, 1986, 100 Stat. 1908.

EFFECTIVE DATE

Section effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as a note under section 701 of Title 49, Transportation.

§ 797m. Arbitration

Any dispute or controversy with respect to the interpretation, application, or enforcement of the provisions of this subchapter, except sections 797b, 797c, 797g, and 797I¹ of this title, or section 1144 of the Northeast Rail Service Act of 1981, and except those matters subject to judicial review under section 1152 of the Northeast Rail Service Act of 1981 [45 U.S.C. 1105], which have not been resolved within 90 days, may be submitted by either party to an Adjustment Board for a final and binding decision thereon as provided in section 153 of this title, in which event the burden of proof on all issues so presented shall be on the Corporation, or the Association, where appropriate.

(Pub. L. 93-236, title VII, §714, as added Pub. L. 97-35, title XI, §1143(a), Aug. 13, 1981, 95 Stat. 668.)

REFERENCES IN TEXT

Section 797I of this title, referred to in text, was repealed by Pub. L. 99-509, title IV, §4033(a)(2), Oct. 21,

¹ See References in Text note below.

1986, 100 Stat. 1908, and a new section 797I of this title was subsequently added by Pub. L. 104-88, §327(5).

Section 1144 of the Northeast Rail Service Act of 1981, referred to in text, is section 1144 of Pub. L. 97-35, title XI, Aug. 13, 1981, 95 Stat. 669, which repealed subchapter V (§771 et seq.) of this chapter and sections 910 and 1006 of this title and enacted provisions set out as a note under section 771 of this title.

ABOLITION OF UNITED STATES RAILWAY ASSOCIATION AND TRANSFER OF FUNCTIONS AND SECURITIES

See section 1341 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 741 of this title.

CHAPTER 17—RAILROAD REVITALIZATION AND REGULATORY REFORM

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SUBCHAPTER III—NORTHEAST CORRIDOR
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851 to 856. Repealed.

SUBCHAPTER I—GENERAL PROVISIONS

§ 801. Declaration of policy

(a) Purpose

It is the purpose of the Congress in this Act to provide the means to rehabilitate and maintain the physical facilities, improve the operations and structure, and restore the financial stability of the railway system of the United States, and to promote the revitalization of such railway system, so that this mode of transportation will remain viable in the private sector of the economy and will be able to provide energy-efficient, ecologically compatible transportation services with greater efficiency, effectiveness, and economy, through—

- (1) ratemaking and regulatory reform;
- (2) the encouragement of efforts to restructure the system on a more economically justified basis, including planning authority in the Secretary of Transportation, an expedited procedure for determining whether merger and consolidation applications are in the public interest, and continuing reorganization authority;

(3) financing mechanisms that will assure adequate rehabilitation and improvement of facilities and equipment, implementation of the final system plan, and implementation of the Northeast Corridor project;

(4) transitional continuation of service on light-density rail lines that are necessary to continued employment and community well-being throughout the United States;

(5) auditing, accounting, reporting, and other requirements to protect Federal funds and to assure repayment of loans and financial responsibility; and

(6) necessary studies.

(b) Policy

It is declared to be the policy of the Congress in this Act to—

(1) balance the needs of carriers, shippers, and the public;

(2) foster competition among all carriers by railroad and other modes of transportation, to promote more adequate and efficient transportation services, and to increase the attractiveness of investing in railroads and rail-service-related enterprises;

(3) permit railroads greater freedom to raise or lower rates for rail services in competitive markets;

(4) promote the establishment of railroad rate structures which are more sensitive to changes in the level of seasonal, regional, and shipper demand;

(5) promote separate pricing of distinct rail and rail-related services;

(6) formulate standards and guidelines for determining adequate revenue levels for railroads; and

(7) modernize and clarify the functions of railroad rate bureaus.

(Pub. L. 94-210, title I, § 101, Feb. 5, 1976, 90 Stat. 33.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 94-210, Feb. 5, 1976, 90 Stat. 31, as amended, known as the Railroad Revitalization and Regulatory Reform Act of 1976. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

SHORT TITLE

Section 1 of Pub. L. 94-210 provided in part that this Act [enacting this chapter and sections 726 and 745 to 747 of this title, and sections 1a, 5c, 26b, 26c, 1613, 1653a, 1654, and 1657a of former Title 49, Transportation, amending sections 543, 545, 546, 562 to 564, 702, 711 to 713, 715, 716, 718 to 721, 724, 725, 741, 743, 744, 762, 763, 771, 772, 774, 775, 778, 779, and 791 of this title, sections 77c, 77s, 78m, and 80a-3 of Title 15, Commerce and Trade, sections 11 and 856 of former Title 31, Money and Finance, and sections 1, 1a, 5, 5b, 6, 12, 13, 15, 15a, 17, 20, 27, 31a, 1653, 1658, and 1659 of former Title 49, repealing sections 761 to 762 of this title, enacting provisions set out as notes under sections 745, 761, 791, and 793 of this title, sections 77c and 80a-3 of Title 15, and sections 1, 1a, 5b, 5c, 17, and 1654 of former Title 49, and amending notes set out under section 1651 of former Title 49] may be cited as the "Railroad Revitalization and Regulatory Reform Act of 1976".

ACT REFERRED TO IN OTHER SECTIONS

The Railroad Revitalization and Regulatory Reform Act of 1976 is referred to in section 726 of this title; title 16 section 1247; title 49 section 24904.

§ 802. Definitions

As used in this Act, unless the context otherwise indicates, the term—

(1) “Association” means the United States Railway Association;

(2) “Commission” means the Interstate Commerce Commission;

(3) “Corporation” means the Consolidated Rail Corporation;

(4) “final system plan” means the final system plan and any additions thereto adopted by the Association pursuant to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.);

(5) “includes” and variants thereof should be read as if the phrase “but is not limited to” were also set forth;

(6) “Office” means the Rail Services Planning Office of the Commission;

(7) “railroad” means a rail carrier subject to part A of subtitle IV of title 49, and includes the National Railroad Passenger Corporation; and

(8) “Secretary” means the Secretary of Transportation or his designated representative.

(Pub. L. 94-210, title I, §102, Feb. 5, 1976, 90 Stat. 33; Pub. L. 97-468, title VI, §615(b)(2), Jan. 14, 1983, 96 Stat. 2578; Pub. L. 104-88, title III, §330(1), Dec. 29, 1995, 109 Stat. 953.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 94-210, Feb. 5, 1976, 90 Stat. 31, as amended, known as the Railroad Revitalization and Regulatory Reform Act of 1976. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

The Regional Rail Reorganization Act of 1973, referred to in par. (4), is Pub. L. 93-236, Jan. 2, 1974, 87 Stat. 985, as amended, which is classified principally to chapter 16 (§701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

AMENDMENTS

1995—Par. (7). Pub. L. 104-88 substituted “rail carrier subject to part A of subtitle IV of title 49” for “common carrier by railroad or express, as defined in section 1(3) of the Interstate Commerce Act (49 U.S.C. 1(3))”.

1983—Par. (7). Pub. L. 97-468 struck out “and the Alaska Railroad” before the semicolon at end.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of Title 49, Transportation.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-468 effective on date of transfer of Alaska Railroad to the State [Jan. 5, 1985], pursuant to section 1203 of this title, see section 615(b) of Pub. L. 97-468.

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee

of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 701 of Title 49.

ABOLITION OF UNITED STATES RAILWAY ASSOCIATION AND TRANSFER OF FUNCTIONS AND SECURITIES

See section 1341 of this title.

§ 803. Repealed. Pub. L. 97-449, §7(b), Jan. 12, 1983, 96 Stat. 2443

Section, Pub. L. 94-210, title IX, §905, Feb. 5, 1976, 90 Stat. 148, directed that no person in the United States be discriminated against on the basis of race, color, national origin, or sex with regard to any activity funded in whole or in part under this Act and provided for cut-off of funds to and civil action against any person who persisted in failure to comply. See section 306 of Title 49, Transportation.

SUBCHAPTER II—RAILROAD REHABILITATION AND IMPROVEMENT FINANCING

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1003 of this title; title 49 section 306.

§ 821. Definitions

As used in this subchapter, the term—

(1) “applicant” means any railroad, or other person (including a governmental entity) which submits an application to the Secretary for the guarantee of an obligation under which it is an obligor or for a commitment to guarantee such an obligation;

(2) “equipment” includes any type of new or rebuilt standard gauge locomotive, caboose, or general service railroad freight car the use of which is not limited to any specialized purpose by particular equipment, design, or other features (except as provided in section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978). General service railroad freight car includes a boxcar, gondola, open-top or covered hopper car, and flatcar. The Secretary may designate other types of cars as equipment upon a written finding, with reasons therefor, that such designation is consistent with the purposes of this Act;

(3) “facilities” means—

(A) track, roadbed, and related structures, including rail, ties, ballast, other track materials, grading, tunnels, bridges, trestles, culverts, elevated structures, stations, office buildings used for operating purposes only, repair shops, enginehouses, and public improvements used or useable for rail service operations;

(B) communication and power transmission systems, including electronic, microwave, wireless, communication, and automatic data processing systems, electrical transmission systems, powerplants, power transmission systems, powerplant machinery and equipment, structures, and facilities for the transmission of electricity for use by railroads;

(C) signals, including signals and interlockers;

(D) terminal or yard facilities, including trailer-on-flat-car and container-on-flat-car terminals, express or railroad terminal and switching facilities, and services to express

companies and railroads and their shippers, including ferries, tugs, carfloats, and related shoreside facilities designed for the transportation of equipment by water; or

(E) shop or repair facilities or any other property used or capable of being used in rail freight transportation services or in connection with such services or for originating, terminating, improving, and expediting the movement of equipment;

(4) "Fund" means the Railroad Rehabilitation and Improvement Fund established under section 822 of this title;

(5) "holder" means the obligee or creditor under an obligation, except that when a bank or trust company is acting as agent or trustee for such an obligee or creditor, the term refers to such bank or trust company;

(6) "obligation" means a bond, note, conditional sale agreement, equipment trust certificate, security agreement, or other obligation issued or granted to finance or refinance equipment or facilities acquisition, construction, rehabilitation, or improvement;

(7) "obligor" means the debtor under an obligation, including the original obligor and any successor or assignee of such obligor who is approved by the Secretary;

(8) "restructuring" means any activity (including a consolidation, coordination, merger or abandonment) which (i) involves rehabilitation, or improvement of a facility or the transfer of a facility, and (ii) improves the long-term profitability of any railroad freight system through the achievement of higher average traffic densities or improved asset utilization;

(9) "consolidation" means the combination of separate rail facilities and the abandonment of the excess facilities, except that such term does not include the combination by a single railroad of multiple tracks into fewer tracks where the tracks do not constitute separate physical and operating lines of railroad; and

(10) "coordination" means the combination of rail freight traffic flows through the use of joint facilities arrangements or internally that result in a reduction of service on at least one facility and includes arrangements for joint use of tracks or other facilities and the acquisition or sale of assets.

(Pub. L. 94-210, title V, §501, Feb. 5, 1976, 90 Stat. 66; Pub. L. 95-620, title VIII, §803(c)(1), Nov. 9, 1978, 92 Stat. 3347; Pub. L. 96-101, §24(b), Nov. 4, 1979, 93 Stat. 747; Pub. L. 96-448, title IV, §405(d), Oct. 14, 1980, 94 Stat. 1947; Pub. L. 97-35, title XI, §1162(b), Aug. 13, 1981, 95 Stat. 684; Pub. L. 99-509, title IV, §4033(c)(2), Oct. 21, 1986, 100 Stat. 1908.)

REFERENCES IN TEXT

Section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978, referred to in par. (2), is section 803(a) and (b) of Pub. L. 95-620, Nov. 9, 1978, 92 Stat. 3347, which is set out as a note under section 822 of this title.

This Act, referred to in par. (2), means Pub. L. 94-210, Feb. 5, 1976, 90 Stat. 31, as amended, known as the Railroad Revitalization and Regulatory Reform Act of 1976. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

AMENDMENTS

1986—Par. (8). Pub. L. 99-509 struck out subpar. "(A)" designation and "or (B) the transfer from the Corporation to any railroad or financially responsible person (as defined in section 10910(a)(1) of title 49) for common carrier rail service of ownership or operating rights on any rail line owned or operated by the Corporation where the Secretary determines that such acquisition will provide needed transportation benefits, and that such line will not require further Federal subsidy;"

1981—Par. (8). Pub. L. 97-35 substituted provisions defining term "restructuring" to include any activity involving rehabilitation or improvement, or transfer of ownership or operating rights for provisions defining term "restructuring" to mean any activity which involves rehabilitation or improvement of a facility or the transfer of a facility, improves the long-term profitability of any railroad, and results in the enhancement of the national rail freight system through the achievement of higher average traffic densities or improved asset utilization.

1980—Par. (8). Pub. L. 96-448, §405(d)(2), inserted "acquisition or sale of assets or securities," after "merger,"

Pars. (9), (10). Pub. L. 96-448, §405(d)(1), (3), (4), added pars. (9) and (10).

1979—Par. (8). Pub. L. 96-101 added par. (8).

1978—Par. (2). Pub. L. 95-620 inserted "(except as provided in section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978)" after "or other features".

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, see section 1169 of Pub. L. 97-35, set out as an Effective Date note under section 1101 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-448 effective Oct. 1, 1980, see section 710(a) of Pub. L. 96-448, set out as a note under section 1170 of Title 11, Bankruptcy.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-620 effective 180 days after Nov. 9, 1978, see section 901 of Pub. L. 95-620, set out as an Effective Date note under section 8301 of Title 42, The Public Health and Welfare.

STATEMENT OF PURPOSE AND GOALS

Section 3 of Pub. L. 96-448 provided that: "The purpose of this Act [see Tables for classification] is to provide for the restoration, maintenance, and improvement of the physical facilities and financial stability of the rail system of the United States. In order to achieve this purpose, it is hereby declared that the goals of this Act are—

"(1) to assist the railroads of the Nation in rehabilitating the rail system in order to meet the demands of interstate commerce and the national defense;

"(2) to reform Federal regulatory policy so as to preserve a safe, adequate, economical, efficient, and financially stable rail system;

"(3) to assist the rail system to remain viable in the private sector of the economy;

"(4) to provide a regulatory process that balances the needs of carriers, shippers, and the public; and

"(5) to assist in the rehabilitation and financing of the rail system."

LAWFULNESS OF EXISTING COMPETITIVE PRACTICES BETWEEN WATER CARRIERS AND RAIL CARRIERS UNAFFECTED

Section 707 of Pub. L. 96-448 provided that: "With respect to the relationship between water carriers and rail carriers, none of the amendments made by this Act [see Tables for classification] shall be construed to make lawful (1) any competitive practice that is unfair, destructive, predatory, or otherwise undermines com-

petition and that was unlawful on the effective date of this Act [Oct. 1, 1980], or (2) any other competitive practice that is unfair, destructive, predatory, or otherwise undermines competition.”

§ 822. The Rail Fund

(a) Establishment

There is hereby established in the Treasury of the United States the Railroad Rehabilitation and Improvement Fund. The Fund shall be administered by the Secretary, without the requirement of annual authorizations, in order (1) to secure the payment, when due, of the principal of, any redemption premium on, and any interest on, all Fund anticipation notes and Fund bonds, by a first pledge of and a lien on all revenues payable to and assets held in the Fund, and (2) to carry out the purposes, functions, and powers authorized in this subchapter.

(b) Purpose

The purpose of the Fund is to provide capital which is necessary to furnish financial assistance to railroads, to the extent¹ of appropriated funds, for facilities maintenance, rehabilitation, improvements, and acquisitions, and such other financial needs as the Secretary approves, in accordance with this subchapter. Money appropriated to the Fund under section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978 shall be used to provide financial assistance to railroads for maintenance, rehabilitation, improvement, and acquisition of equipment and facilities which will be used for the rail transportation of coal to regions or States which can use coal in greater quantities as a substitute for imported petroleum.

(c) General powers

In order to achieve the objectives and to carry out the purposes of this subchapter, the Secretary may—

- (1) issue and sell securities, including Fund anticipation notes and Fund bonds, as provided for in sections 827 and 828 of this title;
- (2) make and enforce such rules and regulations, and make and perform such contracts, agreements, and commitments, as may be necessary to appropriate to carry out the purposes or provisions of this subchapter;
- (3) prescribe and impose fees and charges for services by the Secretary, pursuant to this subchapter;
- (4) settle, adjust, and compromise, and, with or without consideration or benefit to the Fund, release or waive, in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the Secretary or the Fund;
- (5) sue and be sued, complain, and defend, in any State, Federal, or other court;
- (6) acquire, take, hold, own, deal with, and dispose of, any property, including carrier redeemable preference shares as provided for in section 825(d) of this title; and
- (7) determine, in accordance with appropriations, the amounts to be withdrawn from the Fund and the manner in which such withdrawals shall be effected.

(d) Assistance from other agencies

The Secretary, with the consent of any department, establishment, or corporate or other instrumentality of the Federal Government, may utilize and act through any such department, establishment, or instrumentality. The Secretary may, with such consent, utilize the information, services, facilities, and personnel of any such department, establishment, or instrumentality, on a reimbursable basis. Each such department, establishment, and instrumentality is authorized to furnish any such assistance to the Secretary upon written request from the Secretary.

(e) Jurisdiction

Whenever the Secretary or the Fund is a party to any civil action under this subchapter, such action shall be deemed to arise under the laws of the United States. The district courts of the United States shall have original and removal jurisdiction of any action in which the Secretary or the Fund is a party, without regard to the amount in controversy. No attachment or execution may be issued against the Secretary, the Fund, or any property thereof prior to the entry of final judgment to such effect in any State, Federal, or other court.

(f) Contents of Fund

There shall be deposited in the Fund, subject to utilization pursuant to subsection (i) of this section—

- (1) funds received by the Secretary for deposit in the Fund, representing the proceeds from the issuance and sale by the Secretary to the Secretary of the Treasury of Fund anticipation notes, as provided in section 827 of this title;
- (2) funds as may be hereafter appropriated to the Fund, following the submission to the Congress of the Secretary's report, under section 824 of this title, with respect to the perceived needs of the rail industry for facilities rehabilitation and improvement, projected cash shortfalls within the rail industry, and the scope and sources of long-term public sector funding for the Fund;
- (3) funds received by the Secretary for deposit in the Fund, representing the proceeds from the issuance and sale of Fund bonds, as provided in section 828 of this title;
- (4) redeemable preference shares issued by a railroad and purchased by the Secretary on behalf of the Fund and funds received by the Fund representing dividends and redemption payments on such shares, as provided in sections 825(d) and 826(a) and (b) of this title;
- (5) income and gains realized by the Fund from any investment of excess funds, pursuant to subsection (g) of this section, and the obligations or securities comprising such investments;
- (6) funds as may hereafter be appropriated to the Fund as authorized under section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978; and
- (7) any other receipts of the Fund.

(g) Excess funds investment

If the Secretary determines that the amount of money in the Fund exceeds the amount required for current needs, the Secretary may,

¹ So in original. Probably should be "extent".

subject to sections 828(g) and (h) of this title, direct the Secretary of the Treasury to invest such amounts as the Secretary deems advisable, for such periods as the Secretary directs, in obligations of, or obligations guaranteed by, the Government of the United States, or in such other governmental or agency obligations or other securities of the United States as the Secretary of the Treasury deems appropriate.

(h) Depository

The Secretary may deposit moneys of the Fund with any Federal Reserve bank, any depository for public funds, or in such other places and in such manner as the Secretary of the Treasury deems appropriate.

(i) Uses

Moneys in the Fund shall be utilized—

(1) to provide financial assistance to railroads for facilities maintenance, rehabilitation, improvement, and acquisition projects, and for such other financial needs as may be approved by the Secretary pursuant to section 825 of this title,

(2) to effect the payment, when due, of the principal of, and any interest on, Fund anticipation notes and Fund bonds issued by the Secretary pursuant to sections 827 and 828 of this title,

(3) to redeem, as contemplated by section 827(c) of this title and section 828(g) of this title, Fund anticipation notes and Fund bonds,

(4) in such amounts as are provided in appropriation acts, to make payment of all expenses incurred by the Secretary in carrying out his duties with respect to the Fund,

(5) to make transfers to the general fund of the Treasury, and

(6) to carry out the purposes of section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978.

(Pub. L. 94-210, title V, §502, Feb. 5, 1976, 90 Stat. 67; Pub. L. 95-620, title VIII, §803(c)(2)-(4), Nov. 9, 1978, 92 Stat. 3347.)

REFERENCES IN TEXT

Section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978, referred to in subsecs. (b), (f)(6), and (i)(6), is section 803(a) and (b) of Pub. L. 95-620, Nov. 9, 1978, 92 Stat. 3347, set out as a note below.

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-620, §803(c)(2), inserted provision requiring money appropriated to the Fund under section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978 be used for maintenance and acquisition of equipment and facilities for transportation of coal to regions or States which can use coal in greater quantities as a substitute for imported petroleum.

Subsec. (f)(6), (7). Pub. L. 95-620, §803(c)(3), added par. (6) and redesignated former par. (6) as (7).

Subsec. (i)(6). Pub. L. 95-620, §803(c)(4), added par. (6).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-620 effective 180 days after Nov. 9, 1978, see section 901 of Pub. L. 95-620, set out as an Effective Date note under section 8301 of Title 42, The Public Health and Welfare.

RAILROAD REHABILITATION FOR TRANSPORTATION OF COAL

Section 803(a), (b) of Pub. L. 95-620 provided that:

“(a) STATEMENT OF PURPOSE.—It is the purpose of this section to facilitate and encourage the use of and conversion to coal as an energy resource in regions and States which can use coal in greater quantity as a substitute for imported petroleum.

“(b) AUTHORIZATION.—There is authorized to be appropriated, for deposit in the Railroad Rehabilitation and Improvement Fund established under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822), not more than \$100,000,000. The money appropriated to the Railroad Rehabilitation and Improvement Fund pursuant to this subsection shall be expended by the Secretary of Transportation, in the same manner as other money in such Fund, to provide financial assistance to railroads for maintenance, rehabilitation, improvement, and acquisition of equipment and facilities which will be used for the rail transportation of coal to regions or States which can use coal in greater quantities (whether or not such equipment or facilities were designed specifically for such purpose).”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 821, 828 of this title.

§ 823. Classification and designation of rail lines

(a) Traffic density analysis

Within 90 days after February 5, 1976, each railroad designated by the Commission as a class I railroad shall prepare and submit to the Secretary a full and complete analysis of the rail system operated by it. Such analysis shall indicate the traffic density for the preceding 5 calendar years on each of the main and branch rail lines of the railroad submitting such analysis. The requirements of the two preceding sentences shall not apply to any railroad subject to reorganization pursuant to the Regional Rail Reorganization Act of 1973 [45 U.S.C. 701 et seq.].

(b) Preliminary standards and designations

Within 180 days after February 5, 1976, the Secretary shall develop and publish—

(1) the preliminary standards for classification, in at least 3 categories, of main and branch rail lines according to the degree to which they are essential to the rail transportation system; and

(2) the preliminary designations with respect to each main and branch rail line, in accordance with such standards for classification.

The classification of rail lines for purposes of this subsection shall be based on the level of usage measured in gross-ton-miles, the contribution to the economic viability of the railroad which controls such lines, and the contribution of such lines to the probable economic viability of any other railroads which participate in the traffic originating on such lines. In determining “level of usage” and “probable economic viability”, for purposes of such classification, the Secretary shall take into account operational service and other appropriate factors, and he may make reasonable allowance for differences in operation among individual railroads or groups of railroads.

(c) Public hearings

Commencing 30 days after the date of publication of the standards and designations required under subsection (b) of this section, the Office shall conduct public hearings, at representative

locations, to solicit comments and receive views on the preliminary standards for classification and on the preliminary designations. The Office shall give notice of the date, time, and place of each such hearing, and such notices shall be designed and placed in such manner that all interested parties will have a full and fair opportunity to be heard.

(d) Report by Office

Within 120 days after the date of publication of the standards and designations required under subsection (b) of this section, the Office shall submit a report to the Secretary containing its conclusions and recommendations with respect to such preliminary standards for classification and such preliminary designations. This report shall be based on the record which was developed by the Office during the hearings under subsection (c) of this section, as supplemented by such studies as may be undertaken by the Office.

(e) Final standards and designations

Within 150 days after the date of receipt of the report required under subsection (d) of this section, the Secretary, with the cooperation and assistance of the Office, shall, after giving due consideration to such report, prepare and publish—

- (1) the final standards for classification of main and branch rail lines; and
- (2) the final designations with respect to each main and branch rail line, in accordance with such standards for classification, including findings to support any material change which is made in a final designation from the corresponding preliminary designation.

(Pub. L. 94-210, title V, §503, Feb. 5, 1976, 90 Stat. 69; Pub. L. 94-555, title II, §216(b), Oct. 19, 1976, 90 Stat. 2627.)

REFERENCES IN TEXT

The Regional Rail Reorganization Act of 1973, referred to in subsec. (a), is Pub. L. 93-236, Jan. 2, 1974, 87 Stat. 985, as amended, which is classified principally to chapter 16 (§701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

AMENDMENTS

1976—Subsec. (e). Pub. L. 94-555 substituted “150” for “60”.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-555 effective Oct. 1, 1976, see section 303 of Pub. L. 94-555, set out as a note under section 702 of this title.

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 701 of Title 49.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 824, 825, 828 of this title.

§ 824. Capital needs study

(a) Deferred maintenance statement

Within 180 days after February 5, 1976, each railroad designated by the Commission as a class I railroad (other than a railroad subject to reorganization pursuant to the Regional Rail Reorganization Act of 1973 [45 U.S.C. 701 et seq.]) shall prepare and submit to the Secretary a full and complete statement (1) of such railroad's deferred maintenance and delayed capital expenditures, as of December 31, 1975, and (2) of the projected amounts of appropriate maintenance to be performed and capital expenditures to be made for such railroad's facilities and equipment, during each of the years from 1976 through 1985. Each railroad shall submit such additional information as may be required from it by the Secretary, in connection with his duties under section 823 of this title or under this section, prior to July 1, 1977, including the projected sources of and uses for the funds required by such railroad for such projected program.

(b) Preliminary financing recommendations

Within 540 days after February 5, 1976, the Secretary, after giving due consideration to (1) the final designations under section 823(e) of this title, (2) the information furnished under subsection (a) of this section, and (3) any other relevant information, shall develop, publish, and transmit—

(A) to the Congress, preliminary recommendations as to the amount and type of carrier equity and other financing to be effected through the Fund, or through any other funding mechanism, recommended by the Secretary, based upon his view of the rail industry's facilities rehabilitation and improvement needs, the projected gross national product, the potential demand for rail service and the types of service capable of meeting that potential demand, the potential revenues and costs (including capital costs associated with those revenues), the demand for rail services for which the railroads could compete on an economic basis, the probable sources of funding for the capital costs of providing those services, and which of those costs must be provided by public financing, as projected through December 31, 1985; and

(B) to the Congress and to the Secretary of the Treasury, preliminary recommendations as to the means by which the Federal share, if any, of such equity and other financing should be provided.

In preparing such recommendations, the Secretary shall specifically consider and evaluate the public benefits and costs which would result from public ownership of railroad rights-of-way.

(c) Evaluation

Within 90 days after the date of publication of the Secretary's preliminary recommendations under subsection (b) of this section, the Secretary of the Treasury shall publish and transmit to the Secretary and to the Congress his evaluation thereof and any recommendations with respect to the matters referred to in subsection (b)(3)(B) of this section.

(d) Final recommendations

Within 90 days after the date of receipt of the evaluation, transmitted under subsection (c) of this section, the Secretary shall, after giving due consideration to such recommendations, prepare and transmit to the Congress his final recommendations with respect to the matters referred to in subsection (b) of this section.

(Pub. L. 94-210, title V, §504, Feb. 5, 1976, 90 Stat. 70; Pub. L. 94-555, title II, §§216(c), 220(d), Oct. 19, 1976, 90 Stat. 2627, 2629.)

REFERENCES IN TEXT

The Regional Rail Reorganization Act of 1973, referred to in subsec. (a), is Pub. L. 93-236, Jan. 2, 1974, 87 Stat. 985, as amended, which is classified principally to chapter 16 (§701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

AMENDMENTS

1976—Subsec. (a)(2). Pub. L. 94-555, §220(d), inserted “and equipment” after “railroad’s facilities”.

Subsec. (b). Pub. L. 94-555, §216(c), substituted “540” for “360” after “Within” and inserted provisions in par. (A) requiring additional items be included in Secretary’s preliminary financing recommendations to Congress concerning the projected gross national product, potential demand for rail service, types of service capable of meeting such demand, revenue and costs, sources of funding, and costs that must be provided by public financing.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-555 effective Oct. 1, 1976, see section 303 of Pub. L. 94-555, set out as a note under section 702 of this title.

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 701 of Title 49.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 822, 825, 827 of this title.

§ 825. Rehabilitation and improvement financing**(a) In general**

(1) Any railroad may apply to the Secretary, following October 19, 1976, and in accordance with regulations promulgated by the Secretary, for financial assistance for facilities rehabilitation and improvement financing and for such other financial assistance as may be approved by the Secretary. Any regulations promulgated by the Secretary pursuant to this section shall include specific and detailed standards in accordance with which the Secretary shall conduct the evaluations and make the determinations required in subsection (b)(2) of this section.

(2) An employee or employee-shipper group may apply to the Secretary for financial assist-

ance pursuant to subsection (b)(3) of this section.

(3)(A) A financially responsible person may apply to the Secretary for financial assistance from funds made available pursuant to section 829(b)(2)¹ of this title.

(B) For purposes of this paragraph, the term “financially responsible person” means a person who (i) is capable of paying the constitutional minimum value of the railroad line proposed to be acquired, and (ii) is able to assure that adequate transportation will be provided over such line for a period of not less than 3 years. Such term includes a governmental authority but does not include a class I or class II rail carrier.

(b) Application and determination

(1) Each application for facilities rehabilitation and improvement financing shall set forth—

(A) a description of the proposed facilities rehabilitation and improvement project for which such railroad is seeking financial assistance, and of the current physical condition of such facilities;

(B) the classification of each main and branch rail line included in such project, as determined in accordance with the final standards and designations under section 823(e) of this title;

(C) the track standard under which each such line has been and is being operated and the reasons therefor, and the safety standards and signal requirements necessary under such standard to prevent loss of life and serious accident or injury at grade crossings;

(D) the track standard necessary, in the judgment of such railroad, to provide reliable and competitive freight service (and passenger service, where applicable) over each such line, together with such railroad’s recommendations as to (i) the most economical method of improving the physical condition of each such line to meet such track standard, (ii) the cost of providing adequate safety standards and signals, and (iii) an economic analysis of the cost of such improvements in condition and in safety standards and signals;

(E) such railroad’s estimate as to the cost of labor and materials, and the date of completion, and its opinion as to the priority to be accorded such portions of the proposed project as are reasonably divisible;

(F) the amount and kind of Federal financial assistance required by such railroad in order to complete the proposed project; and

(G) such other information as the Secretary shall by regulation require to assist him in evaluating such application in accordance with this section or for carrying out the purposes of this subchapter.

(2) The Secretary shall act upon each such application within 6 months after the date on which all required information is received, except as otherwise provided in subsection (a)(2) of this section. The Secretary may approve any such application if he determines that providing the requested financial assistance is in the public interest. When making such a determination,

¹ See References in Text note below.

the Secretary shall evaluate and consider in the following order of priority (A) the availability of funds from other sources at a cost which is reasonable under principles of prudent railroad financial management in light of the railroad's projected rate of return for the project to be financed and the railroad's rate of return on total capital (represented by the ratio which such carrier's net income, including interest on a long-term debt, bore to the sum of average shareholder's equity, long-term debt, and accumulated deferred income tax for fiscal year 1975) as determined in accordance with the uniform system of accounts promulgated by the Commission, (B) the interest of the public in supplementing such other funds as may be available in order to increase the total amount of funds available for railroad financing, and (C) the public benefits, including any significant railroad restructuring, to be realized from the project to be financed in relation to the public costs of such financing and whether the proposed project will return public benefits sufficient to justify such public costs. Except as provided in the last sentence of this paragraph, the Secretary, in determining the extent to which a project will provide public benefits, shall give the highest priority to projects which will enhance the ability of the applicant carrier or other carriers to provide essential freight services. With respect to funds appropriated for financial assistance under this section which were authorized pursuant to section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978, applications for such funds for the purpose of coal transportation shall be deemed to be for the provision of essential freight services. The Secretary, in granting financial assistance to any applicant, shall assign the highest priority, among applications for assistance which would return equal public benefits, to applications for assistance for providing safety improvements and signals, including underpasses or overpasses at railroad crossings at which injury or loss of life has frequently occurred or is likely to occur. The Secretary shall assign the highest priorities (i) to those meritorious applications of carriers operating under section 77 of the Bankruptcy Act unable to generate such funds in the private sector and (ii) to those meritorious applications for funds to provide for the restructuring of rail freight facilities and systems which handle more than two million rail cars annually, which are located in more than one State, and which are separated by the Mississippi River.

(3) The Secretary may approve applications to provide financial assistance to any employee or employee-shipper ownership group formed pursuant to a plan for the purchase or rehabilitation of a line or lines of railroad or of rail facilities which are considered to be in the public interest. The Secretary shall not use more than 20 percent of the total funds available under this section for such financial assistance. In considering the allocation of available funds and priority of eligible projects under this subsection, the Secretary shall consider the availability of viable alternatives to the ownership or rehabilitation by the eligible employee-shipper group for the continuation of rail service. Projects with no such alternative shall receive highest priority.

(c) Financing agreement

Upon the approval of an application for financial assistance under this section, the Secretary shall promptly enter into an agreement with such railroad to provide financing in such amounts and at such times as is sufficient, in the judgment of the Secretary, to meet the reasonable cost, in whole or in part, of the facilities rehabilitation and improvement project which has been approved, in whole or in part. Each such agreement shall include such terms and conditions as are necessary or appropriate, in the judgment of the Secretary, to assure that the financing will be used only in the manner, and for the purposes, approved by the Secretary.

(d) Authorization

(1) In the case of a railroad other than a railroad in reorganization under section 77 of the Bankruptcy Act, financing pursuant to this section shall be in the form of purchase by the Secretary of redeemable preference shares at par. Such shares shall be specifically issued for such purpose in accordance with the terms and conditions set forth in section 826 of this title.

(2)(A) In the case of a railroad in reorganization under section 77 of the Bankruptcy Act, the Secretary, in order to provide financing pursuant to this section, may agree to purchase redeemable preference shares of such railroad at par as part of a plan of reorganization of such railroad approved by the court having jurisdiction over the reorganization of such railroad. Such shares shall be specifically issued in accordance with the terms and conditions set forth in section 826 of this title.

(B) The Secretary, in order to provide financing pursuant to this section, may also purchase certificates issued under section 77(c)(3) of the Bankruptcy Act by a trustee of a railroad in reorganization and approved by the reorganization court, under such terms and conditions as may be approved by the Secretary and the reorganization court. In purchasing such trustee certificates or at any time thereafter, the Secretary may agree with the trustee of such railroad in reorganization, subject to the approval of the reorganization court, to exchange such certificates for redeemable preference shares issued, in accordance with the terms and conditions set forth in section 826 of this title, in connection with a plan of reorganization approved by the reorganization court. Except as provided in subparagraph (C) of this paragraph, no certificate shall be purchased under this section unless and until the Secretary makes a finding in writing that—

(i) such certificates cannot otherwise be sold at a reasonable rate of interest;

(ii) the project to be financed can reasonably be expected to be maintained as part of a financially self-sustaining railroad system; and

(iii) the probable value of the assets of the railroad in the event of liquidation provides reasonable protection to the United States.

(C) The Secretary may purchase certificates under this section without making the finding referred to in clause (iii) of subparagraph (B) only if such certificates are senior in rights to all outstanding capital stock, common and preferred, of the debtor corporation, and all unse-

cured debt incurred before the date of commencement of railroad reorganization proceedings pursuant to section 77 of the Bankruptcy Act, but subordinate to all senior debt of the debtor corporation whenever such senior debt is incurred. As used in this subparagraph, the term "senior debt" means—

(i) all costs of administration, incurred or to be incurred by a trustee, and secured debt assumed by a trustee, in connection with the reorganization proceedings and the operation of a debtor's business by a trustee during the pendency of such proceedings; and

(ii) all secured debt incurred before the date of commencement of railroad reorganization proceedings pursuant to section 77 of the Bankruptcy Act and determined by the court to be a proper claim against the estate and an obligation of the debtor corporation.

(3) In the case of a Government authority that applies for financial assistance from funds made available pursuant to section 829(b)(2)¹ of this title for the purchase or rehabilitation of railroad lines purchased under section 10910¹ of title 49, financing pursuant to this section shall be in the form of purchase by the Secretary of bonds or other debt obligations issued for such purpose by such Government authority.

(4) The total par value of the redeemable preference shares and the amount of trustee certificates, bonds, and other debt obligations which the Secretary may purchase from the proceeds received from the issuance and sale of Fund anticipation notes shall not exceed \$1,400,000,000.

(e) Future purchases of redeemable preference shares

The total par value of the redeemable preference shares which the Secretary may, after September 30, 1985, make commitments to purchase under this subchapter, shall be determined by the Congress following the receipt by the Congress of the Secretary's recommendations as to the scope and sources of funding of the Fund or any recommended alternative financing mechanism, as submitted pursuant to section 824 of this title, except that—

(1) the amount of the Secretary's investment in redeemable preference shares in any fiscal year (out of proceeds other than those derived through the issuance and sale of Fund anticipation notes) shall not, when added to the amount of his prior investment in such shares, exceed 200 percent of the aggregate principal amount of the Fund bonds which (A) have been issued by the Secretary prior to such fiscal year, and (B) are projected to be issued by the Secretary through the end of such fiscal year; and

(2) neither redemptions of Fund bonds nor their payment at scheduled maturity shall have any bearing on the limitation in paragraph (1) of this subsection.

(f) Rehabilitation for common carrier service

(1) Notwithstanding subsections (a) through (e) of this section (other than subsection (d)(3) of this section), the Secretary shall immediately purchase redeemable preference shares or trustee certificates convertible to redeemable preference shares under this section as necessary to

facilitate the rehabilitation and improvement of Milwaukee Railroad property that has been sold or transferred to another person or retained by the restructured Milwaukee Railroad and that will be used for common carrier rail service.

(2) The Secretary may not take any action under this subsection—

(A) prior to (i) the occurrence of an event described in section 920(b) of this title, or (ii) April 1, 1980, whichever first occurs; or

(B) after April 1, 1981.

(3) Funds received from purchases by the Secretary pursuant to this subsection may not be used for the rehabilitation and improvement of any line of railroad which carried less than an average of 3,000,000 gross tons of freight per mile per year during the previous three-year period.

(g) Limitation

Not more than 50 percent of the funds made available at any time for the purchase of redeemable preference shares and trustee certificates under this section may be used for the rehabilitation and improvement of the facilities of any single railroad undergoing restructuring.

(h) Purchase of essential properties for common carrier service

(1) Notwithstanding subsections (a) through (g) of this section (other than subsections (b)(2) and (d)(3) of this section), the Secretary shall, upon application of a noncarrier entity—

(A) purchase, from funds available on May 1, 1980, not less than \$38,000,000 in redeemable preference shares, bonds, or trustee certificates convertible to redeemable preference shares under this section as necessary for the purchase, lease, or rehabilitation of properties of the Rock Island Railroad by responsible noncarrier entities to be used for common carrier rail service; and

(B) purchase not more than \$27,000,000 in redeemable preference shares or trustee certificates convertible to redeemable preference shares under this section as necessary for the purchase of properties of the Milwaukee Railroad by responsible noncarrier entities to be used for common carrier rail service, to the extent that the Secretary determines that funds are available.

(2) Preference shares, bonds, and trustee certificates purchased under this subsection shall be purchased under terms and conditions that insure that the applicant will be financially capable of making the requisite dividend or interest and redemption or principal payments without impairing its financial resources, and the Secretary shall insure that all assistance provided under this subsection is likely to be repaid or can be secured.

(3)(A)(i) For purposes of this subsection, a responsible noncarrier entity may include an association composed of representatives of national railway labor organizations, employee coalitions, shippers, or any combination thereof, and States or State organizations, which wish to acquire, lease, or rehabilitate properties of the Rock Island Railroad or the Milwaukee Railroad pursuant to a feasible employee, employee-shipper, or State ownership plan. A responsible noncarrier entity may also include any railroad

that wishes to contribute any of its properties under common ownership with the property being acquired by the association.

(i) Any ownership plan described in clause (i) of this subparagraph shall be submitted to the Secretary no later than August 20, 1980, or such later date as the Secretary considers appropriate.

(B) For purposes of this subsection, the return on redeemable preference shares shall be the minimum established pursuant to section 826(a)(3) of this title.

(4) This subsection shall apply to (A) purchase offers submitted to the Trustee of the Rock Island Railroad Estate and filed with the Commission prior to September 15, 1980 (or such other time as the Secretary considers appropriate), and (B) purchase applications filed with the Commission prior to September 15, 1980 (or such other time as the Secretary considers appropriate) and approved by the court having jurisdiction over the reorganization of the Rock Island Railroad or the Milwaukee Railroad, as the case may be, and by the Commission.

(5) Financial assistance made available under paragraph (1)(B) of this subsection may be used to purchase, for purposes of rail banking, properties of the Milwaukee Railroad located in the State of Montana with respect to which an interest in future rail common carrier operations has been evidenced.

(6) Applications for rail banking shall be treated equally with other applications for transaction assistance.

(Pub. L. 94-210, title V, §505, Feb. 5, 1976, 90 Stat. 71; Pub. L. 94-555, title II, §§212, 216(a), Oct. 19, 1976, 90 Stat. 2624, 2626; Pub. L. 95-565, §5, Nov. 1, 1978, 92 Stat. 2400; Pub. L. 95-607, title III, §§301(a), 302, Nov. 8, 1978, 92 Stat. 3066; Pub. L. 95-620, title VIII, §803(c)(5), (6), Nov. 9, 1978, 92 Stat. 3347, 3348; Pub. L. 96-73, title IV, §401, Sept. 29, 1979, 93 Stat. 557; Pub. L. 96-101, §§16, 24(a), Nov. 4, 1979, 93 Stat. 744, 747; Pub. L. 96-254, title I, §112, May 30, 1980, 94 Stat. 404; Pub. L. 96-448, title IV, §§404, 405(a)(1), (c)(1), (2), (4), (5), 406, title VII, §701(d), Oct. 14, 1980, 94 Stat. 1945-1947, 1961; Pub. L. 97-35, title XI, §1162(a), (c), (d), Aug. 13, 1981, 95 Stat. 683, 684; Pub. L. 97-468, title IV, §§401, 403(b), Jan. 14, 1983, 96 Stat. 2550, 2551; Pub. L. 99-509, title IV, §4033(c)(3), Oct. 21, 1986, 100 Stat. 1908; Pub. L. 104-88, title III, §330(2), Dec. 29, 1995, 109 Stat. 953.)

REFERENCES IN TEXT

Section 829(b)(2) of this title, referred to in subsecs. (a)(3)(A) and (d)(3), was repealed by Pub. L. 104-88, title III, §330(3), Dec. 29, 1995, 109 Stat. 953.

Section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978, referred to in subsec. (b)(2), is section 803(a) and (b) of Pub. L. 95-620, Nov. 9, 1978, 92 Stat. 3347, which is set out as a note under section 822 of this title.

Section 77 of the Bankruptcy Act, referred to in subsecs. (b)(2) and (d)(1), (2), was classified to section 205 of former Title 11, Bankruptcy. The Bankruptcy Act (act July 1, 1898, ch. 541, 30 Stat. 544, as amended) was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11. For current provisions relating to railroad reorganization, see subchapter IV (§1161 et seq.) of chapter 11 of Title 11.

Section 10910 of title 49, referred to in subsec. (d)(3), was omitted in the general amendment of subtitle IV of

Title 49, Transportation, by Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804. Provisions similar to those in section 10910 are contained in section 10907 of Title 49.

AMENDMENTS

1995—Subsec. (a)(3). Pub. L. 104-88 designated existing provisions as subpar. (A), substituted “A financially responsible person” for “A financially responsible person (as defined in section 10910(a)(1) of title 49)”, and added subpar. (B).

1986—Subsec. (a)(1). Pub. L. 99-509, §4033(c)(3)(A), struck out “(or any financially responsible person, as defined in section 10910(a)(1) of title 49, who acquires from the Corporation for common carrier rail service any rail line owned by the Corporation on August 13, 1981)” after “Any railroad”.

Subsec. (b)(2)(C). Pub. L. 99-509, §4033(c)(3)(B), struck out “or, where the application relates to a rail line owned or operated by the Corporation immediately prior to its acquisition by a railroad or financially responsible person (as defined in section 10910(a)(1) of title 49) for common carrier rail service, whether the financial assistance applied for under this section will further the public interest in transferring rail lines from the Corporation to the private sector, and avoid the need for any further Federal subsidy” after “to justify such public costs”.

1983—Subsec. (b)(2). Pub. L. 97-468, §403(b), inserted “(i)” after “priorities” and “(ii)” after “in the private sector and”.

Subsec. (e). Pub. L. 97-468, §401, substituted “September 30, 1985” for “September 30, 1982”.

1981—Subsec. (a)(1). Pub. L. 97-35, §1162(c), inserted provisions respecting any financially responsible person.

Subsec. (b)(2). Pub. L. 97-35, §1162(a), (d), inserted provisions respecting priority for meritorious carrier applications, and substituted provisions setting forth order of priority for making of determination by Secretary for provisions relating to evaluations and considerations by Secretary in making determinations.

1980—Subsec. (a). Pub. L. 96-448, §405(c)(1), designated existing provision as par. (1) and added pars. (2) and (3).

Subsec. (b)(3). Pub. L. 96-448, §405(c)(2), added par. (3).

Subsec. (d)(3). Pub. L. 96-448, §405(c)(4), added par. (3) and redesignated former par. (3) as (4).

Subsec. (d)(4). Pub. L. 96-448, §405(a)(1), (c)(4), (5), redesignated former par. (3) as (4), inserted “, bonds, and other debt obligations” after “trustee certificates”, and substituted “\$1,400,000,000” for “\$700,000,000”.

Subsec. (e). Pub. L. 96-448, §404, substituted “September 30, 1982” for “September 30, 1980”.

Subsec. (h)(1)(A). Pub. L. 96-448, §701(d)(1), substituted “\$38,000,000” for “\$25,000,000”.

Subsec. (h)(1)(B). Pub. L. 96-448, §701(d)(2), substituted “\$27,000,000” for “\$18,000,000”.

Subsec. (h)(4). Pub. L. 96-448, §701(d)(3), inserted provision making this subsection applicable to purchase offers submitted to the Trustee of the Rock Island Railroad Estate and filed with the Commission prior to Sept. 15, 1980, or at such other time as the Secretary considers appropriate, as well as purchase applications filed with the Commission prior to Sept. 15, 1980, or at such other time as the Secretary considers appropriate.

Subsec. (h)(5), (6). Pub. L. 96-448, §406, added pars. (5) and (6).

Subsec. (h). Pub. L. 96-254 added subsec. (h).

1979—Subsec. (b)(2). Pub. L. 96-101, §24(a), inserted “except that if the Secretary determines, pursuant to clause (C) of this paragraph, that significant railroad restructuring will result from the project, the Secretary shall not consider the availability of funds from other sources but instead shall consider whether such restructuring benefits would be likely to be achieved if assistance were not provided,” in cl. (A) and “, including any significant railroad restructuring,” in cl. (C).

Subsec. (e). Pub. L. 96-73 substituted “1980” for “1979”.

Subsecs. (f), (g). Pub. L. 96-101, §16, added subsecs. (f) and (g).

1978—Subsec. (b)(2). Pub. L. 95-620, §803(c)(5), inserted provision that with respect to funds appropriated for financial assistance under this section as authorized by section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978, application for such funds for coal transportation be deemed to be for the provision of essential freight.

Subsec. (d)(2). Pub. L. 95-607, §302, inserted “Except as provided in subparagraph (C) of this paragraph” in subpar. (B), last sentence, and added subpar. (C).

Subsec. (d)(3). Pub. L. 95-620, §803(c)(6), substituted “\$700,000,000” for “\$600,000,000” and “\$150,000,000” for “\$100,000,000”.

Pub. L. 95-607, §301(a)(1), struck out limitation that not more than \$100,000,000 of the proceeds be used to purchase trustee certificates.

Pub. L. 95-565, §5(a), struck out sentence providing that not more than \$100,000,000 could be used to purchase trustee certificates.

Subsec. (e). Pub. L. 95-607, §301(a)(2), substituted “, after September 30, 1979, make commitments to purchase under this subchapter” for “purchase under this subchapter after September 30, 1978”.

Pub. L. 95-565, §5(b), substituted “after September 30, 1979, make commitments to purchase under this subchapter” for “purchase under this subchapter after September 30, 1978”.

1976—Subsec. (a). Pub. L. 94-555, §212, substituted “October 19, 1976” for “February 5, 1976” and substituted provision requiring specific and detailed standards with which the Secretary shall conduct evaluations and make determinations to be included in regulations promulgated by Secretary for provision that Secretary may not finally act on applications until final standards and designations are published.

Subsec. (b)(2). Pub. L. 94-555, §216(a), inserted “evaluate and” after “the Secretary shall”, inserted provision in cl. (A) relating to consideration by Secretary in approving application of railroads the rate of return on total capital, including interest on long-term debt and accumulated deferred income tax, and inserted in cl. (C) provision giving priority to projects which, in the determination of Secretary, will provide public benefits by enhancing the ability of carriers to provide essential freight services.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of Title 49, Transportation.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, see section 1169 of Pub. L. 97-35, set out as an Effective Date note under section 1101 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by sections 404 to 406 of Pub. L. 96-448 effective Oct. 1, 1980, and amendment by section 701(d) of Pub. L. 96-448 effective Oct. 14, 1980, see section 710(a), (d) of Pub. L. 96-448, set out as a note under section 1170 of Title 11, Bankruptcy.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-73 effective Oct. 1, 1979, see section 501(a) of Pub. L. 96-73.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-620 effective 180 days after Nov. 9, 1978, see section 901 of Pub. L. 95-620, set out as an Effective Date note under section 8301 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-555 effective Oct. 1, 1976, see section 303 of Pub. L. 94-555, set out as a note under section 702 of this title.

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 701 of Title 49.

CHICAGO, MILWAUKEE, AND SAINT PAUL RAILROAD ROADBED AND TRACK IMPROVEMENT LOANS

Section 303 of Pub. L. 95-607 provided that: “The Federal Railroad Administration shall promptly review the condition of the Chicago, Milwaukee, and Saint Paul Railroad and consider assisting such railroad with loans for roadbed and track improvement.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 822, 823, 826, 829, 838, 913 of this title.

§ 825a. Repealed. Pub. L. 99-509, title IV, § 4033(c)(6), Oct. 21, 1986, 100 Stat. 1909

Section, Pub. L. 97-468, title IV, § 402, Jan. 14, 1983, 96 Stat. 2550, provided for financial assistance to responsible persons for purchase, lease, or rehabilitation of rail lines of Consolidated Rail Corporation.

§ 826. Redeemable preference shares

(a) Characteristics

The redeemable preference shares acquired by the Secretary pursuant to section 825(d) of this title are securities which are issued by a railroad¹ employee or employer-shipper² group for the purpose of obtaining financing under this subchapter. Each such redeemable preference share—

(1) shall be nonvoting and shall have a par value of \$10,000;

(2) shall be senior in right (i) to all common stock of the issuing railroad¹ employee or employer-shipper² group, whenever issued, except that the Secretary may make any such redeemable preference share subordinate to any common stock which was issued as a result of an exchange for securities which were senior in right to common stock, if (I) such exchange took place pursuant to a court-approved reorganization plan under section 77 of the Bankruptcy Act, and (II) the railroad¹ employee or employer-shipper² group subject to such reorganization plan was in reorganization under such section 77 prior to October 19, 1976, (ii) to any previously issued preferred stock where such seniority does not mitigate any rights of the holders of such stock accorded by the terms and conditions of such stock, and (iii) to any subsequently issued preferred stock, with respect to dividend and redemption payments and in case of liquidation or dissolution of such railroad¹ employee or employer-shipper² group, but shall be otherwise subordinate in such matters to any of such railroad's¹ employee or employee-shipper group's previously

¹ So in original. Probably should be followed by “or”.

² So in original. Probably should be “employee-shipper”.

issued and outstanding securities which rank ahead of its common stock and shall be subordinate to all securities other than common stock (except in those cases in which the Secretary has provided for subordination pursuant to clause (i) of this paragraph) which is received in exchange as a part of a court approved reorganization plan under section 77 of the Bankruptcy Act approved after February 5, 1976 for previously incurred senior debt or previously issued and outstanding securities which ranked ahead of its common stock;

(3) shall accrue dividends, commencing on the 10th anniversary date of the date of its original issuance, at such rate as shall be fixed by the Secretary for each issuance prior to the issuance thereof and which, when added to the amount of the mandatory redemption payments under subparagraph (4) of this paragraph, shall return to the Fund not less than 150 percent of the aggregate par value thereof, over the scheduled life of the issue and in annual payments which shall be as nearly equal as practicable; and

(4) shall be subject to mandatory redemption, at par, commencing not earlier than the 6th and not later than the 11th (as determined by the Secretary for each issuance) anniversary date of the date of its original issuance, in annual amounts which shall, over the period ending (as determined by the Secretary for each issuance) not later than the 30th anniversary date of the date of its original issuance, aggregate the total par value of such share and, except to permit the railroad³ employee or employer-shipper⁴ group to prepay its redemption payments, the number of such annual redemption payments shall in no event be less than 15; and

(5) the proceeds from the issuance of which are to be expended solely to reduce the deferred maintenance on facilities, shall in no event yield (A) less than the minimum permissible yield determinable in accordance with paragraphs (3) and (4) of this subsection, nor (B) more than such railroad's³ employee or employee-shipper group's rate of return on total capital (represented by the ratio which such carrier's net income, including interest on long-term debt, bore to the sum of the average shareholder's equity, long-term debt, and accumulated deferred income tax credits for the three fiscal years preceding the date of submission of the application) as determined in accordance with the uniform system of accounts promulgated by the Commission in those cases in which such rate of return exceeded such minimum permissible yield.

(b) Deposit

All redeemable preference shares which are acquired by the Secretary pursuant to section 825(d) of this title shall, upon such acquisition, be deposited in the Fund.

(c) Overdue payments

Whenever any dividend or redemption payment which is due on redeemable preference shares issued by any railroad³ employee or em-

ployer-shipper⁴ group remains unpaid for a period of 4 months, the Secretary shall be entitled to appoint two members to the Board of Directors of such railroad³ employee or employer-shipper⁴ group. The term of office of such members shall not extend beyond the period during which such dividend or redemption payments⁵ remains unpaid.

(Pub. L. 94-210, title V, § 506, Feb. 5, 1976, 90 Stat. 73; Pub. L. 94-555, title II, §§ 213, 214, Oct. 19, 1976, 90 Stat. 2624, 2625; Pub. L. 96-448, title IV, § 405(c)(3)(A), (C), Oct. 14, 1980, 94 Stat. 1946, 1947.)

REFERENCES IN TEXT

Section 77 of the Bankruptcy Act, referred to in subsec. (a)(2), was classified to section 205 of former Title 11, Bankruptcy. The Bankruptcy Act (act July 1, 1898, ch. 541, 30 Stat. 544, as amended) was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11. For current provisions relating to railroad reorganization, see subchapter IV (§ 1161 et seq.) of chapter 11 of Title 11.

AMENDMENTS

1980—Subsec. (a). Pub. L. 96-448, § 405(c)(3)(A), (C), inserted "employee or employer-shipper group" after "railroad" wherever appearing and "employee or employee-shipper group's" after "railroad's" in two places.

Subsec. (c). Pub. L. 96-448, § 405(c)(3)(A), inserted "employee or employer-shipper group" after "railroad" in two places.

1976—Subsec. (a)(2)(i). Pub. L. 94-555, § 213(1), inserted exception that Secretary has authority to make redeemable preference shares subordinate to common stock under certain named conditions.

Subsec. (a)(2)(iii). Pub. L. 94-555, § 213(2), inserted "(except in those cases in which the Secretary has provided for subordination pursuant to clause (i) of this paragraph) which is" after "other than common stock".

Subsec. (a)(4). Pub. L. 94-555, § 214(a), inserted "and, except to permit the railroad to repay its redemption payments, the number of such annual redemption payments shall in no event be less than 15; and" after "value of such share".

Subsec. (a)(5). Pub. L. 94-555, § 214(b), added par. (5).

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-448 effective Oct. 1, 1980, see section 710(a) of Pub. L. 96-448, set out as a note under section 1170 of Title 11, Bankruptcy.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-555 effective Oct. 1, 1976, see section 303 of Pub. L. 94-555, set out as a note under section 702 of this title.

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 701 of Title 49.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 822, 825 of this title.

³ So in original. Probably should be followed by "or".

⁴ So in original. Probably should be "employee-shipper".

⁵ So in original. Probably should be "payment".

§ 827. Fund anticipation notes**(a) General**

The Secretary shall, until September 30, 1985, issue and sell, and the Secretary of the Treasury until such date shall, to the extent of appropriated funds, purchase Fund anticipation notes in an aggregate principal amount of not more than \$1,400,000,000, in order to provide financial assistance to railroads¹ employee or employee-shipper groups for such financing needs as the Secretary approves.

(b) Terms of issue

Fund anticipation notes shall be issued in denominations of \$100,000 (or any integral multiple thereof), upon such terms and conditions, with such maturities, such rates of interest, if any, and such redemption premiums, if any, as the Secretary in his sole discretion may determine. The date of maturity of each Fund anticipation note may not exceed 7 years from the date of its issuance.

(c) Redemption

If the Congress, following its receipt of the recommendations of the Secretary pursuant to section 824(d) of this title (with respect to the amount of facilities rehabilitation and improvement financing which should be effected through the Fund and the method of long-term public sector funding therefor) authorizes the issuance of Fund bonds, the Secretary shall redeem the Fund anticipation notes then outstanding, in such manner, and over such period of time, as the Secretary shall determine, from the proceeds of the sale of such Fund bonds and from such other public sector moneys as have been appropriated to the Fund.

(d) Remittance and termination

If the Congress does not, on or before September 30, 1985, enact legislation of the type referred to in subsection (c) of this section, the Secretary shall hold in trust all redeemable preference shares issued by railroads¹ employee or employee-shipper groups which are held in the Fund, and the Fund shall thereupon terminate.

(Pub. L. 94-210, title V, §507, Feb. 5, 1976, 90 Stat. 74; Pub. L. 95-607, title III, §301(b), Nov. 8, 1978, 92 Stat. 3066; Pub. L. 96-73, title IV, §401, Sept. 29, 1979, 93 Stat. 557; Pub. L. 96-448, title IV, §§404, 405(a)(2), (c)(3)(B), Oct. 14, 1980, 94 Stat. 1945, 1946; Pub. L. 97-468, title IV, §401, Jan. 14, 1983, 96 Stat. 2550.)

AMENDMENTS

1983—Subsecs. (a), (d). Pub. L. 97-468 substituted “1985” for “1982”.

1980—Subsec. (a). Pub. L. 96-448, §§404, 405(a)(2), (c)(3)(B), substituted “1982” for “1980” and “\$1,400,000,000” for “\$600,000,000”, and inserted “employee or employee-shipper groups” after “railroads”.

Subsec. (d). Pub. L. 96-448, §§404, 405(c)(3)(B), substituted “1982” for “1980” and inserted “employee or employee-shipper groups” after “railroads”.

1979—Subsecs. (a), (d). Pub. L. 96-73 substituted “1980” for “1979”.

1978—Subsecs. (a), (d). Pub. L. 95-607 substituted “1979” for “1978”.

¹ So in original. Probably should be followed by “or”.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-448 effective Oct. 1, 1980, see section 710(a) of Pub. L. 96-448, set out as a note under section 1170 of Title 11, Bankruptcy.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-73 effective Oct. 1, 1979, see section 501(a) of Pub. L. 96-73.

REDEEMABLE PREFERENCE SHARES

Pub. L. 99-349, title I, July 2, 1986, 100 Stat. 745, provided that: “Notwithstanding any other provision of law, the Secretary of Transportation shall, until September 30, 1988, issue and sell, and the Secretary of the Treasury until such date shall purchase, Fund anticipation notes, and the Secretary of Transportation is hereby authorized to expend for uses authorized for the Railroad Rehabilitation and Improvement Fund proceeds from the sale of such Fund anticipation notes and any other moneys deposited in the Fund after September 30, 1985, pursuant to sections 502, 505-507, and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended [sections 822, 825, 826, 827, and 829 of this title], and section 803 of Public Law 95-620 [amending sections 821, 822, and 825 of this title and enacting a provision set out as a note under section 822 of this title], in amounts not to exceed \$33,500,000.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 99-190, §101(e) [title I], Dec. 19, 1985, 99 Stat. 1267, 1280.

Pub. L. 98-473, title I, §101(i) [title I], Oct. 12, 1984, 98 Stat. 1944, 1956.

Pub. L. 98-78, title I, Aug. 15, 1983, 97 Stat. 465.

Pub. L. 97-369, title I, Dec. 18, 1982, 96 Stat. 1775.

Pub. L. 97-102, title I, Dec. 23, 1981, 95 Stat. 1452.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 822, 828 of this title.

§ 828. Fund bonds**(a) Issuance**

The Secretary may, following enactment of the legislation referred to in section 827(c) of this title, issue Fund bonds in denominations of \$100,000 (or any integral multiple thereof), in such total amounts as may be authorized by the Congress. No Fund bonds—

(1) shall be issued which mature in less than 8, or more than 15, years from the date of original issuance thereof;

(2) shall be issued later than the 10th anniversary of the date of publication of the final standards and designations under section 823(e) of this title; and

(3) shall, except as otherwise provided pursuant to subsections (d)(6) and (g) of this section, be subject to redemption (at the option of the Secretary) (A) at any time prior to the 10th anniversary of the date of original issuance thereof, and (B) at any time thereafter.

(b) Pledge and lien

The Secretary, subject to subsection (g) of this section and section 822(g) of this title, shall impose a first pledge of, and a first lien on, all revenues payable to, and assets held in, the Fund, and appropriated for the use of the Secretary pursuant to this subchapter. The Secretary may impose such a pledge of and lien on all other revenues or property of the Fund. The purpose of any such pledge and lien shall be to secure the

payment, when due, of the principal of, any redemption premiums on, and any interest on, all Fund anticipation notes and Fund bonds, and for other purposes incidental thereto. Such incidental purposes may include the creation of reserve and other funds which may be similarly pledged and used, to such extent and in such manner as the Secretary deems necessary or desirable. Any pledge made by the Secretary shall be valid and binding from the time it is made. The revenues and assets held in the Fund, and the revenues or property of the Fund which are so pledged and which are subsequently received by the Fund, shall immediately be subject to the lien of such pledge without any physical delivery thereof or any further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind, in tort, contract, or otherwise, against the Secretary or the Fund, without regard to whether such parties have notice thereof. No instrument by which a pledge is created need be recorded or filed to protect such pledge.

(c) Enhancement of marketability

The Secretary may enter into binding covenants with the holders of Fund bonds, and with the trustee, if any, under any agreement entered into in connection with the issuance of such bonds with respect to (1) the establishment of reserves, and other funds; (2) stipulations concerning the subsequent issuance of obligations; and (3) such other matters as the Secretary deems necessary or desirable to enhance the marketability of Fund bonds.

(d) Specific determinations

Subject to subsection (a) of this section, the Secretary may determine, with respect to Fund bonds—

- (1) the form and denominations in which they shall be issued;
- (2) the time when they shall be sold, and in what amounts;
- (3) the time when they shall mature;
- (4) the price thereof at sale;
- (5) the rate of interest thereon;
- (6) whether, and in what manner, they may be redeemed prior to the date when they mature; and
- (7) whether they shall be negotiable or non-negotiable and whether they shall be bearer or registered instruments, and any indentures or covenants relating thereto.

(e) Characteristics

Fund bonds issued by the Secretary under this section shall—

- (1) contain a recital that they are issued under this section, which shall be conclusive evidence as to the validity and regularity of issuance and sale of such Fund bonds;
- (2) be subject to such other terms and conditions as the Secretary may, by the resolution authorizing their issuance, determine;
- (3) be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States;
- (4) not be exempted from Federal, State, and local taxation; and

(5) not be debts or enforceable general obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the United States. Neither the full faith and credit, nor the general taxing power, of the Federal Government shall be pledged to the payment of the principal of, any premium on, or interest on, such Fund bonds.

(f) No personal liability

Neither the Secretary, nor any other individual, who executes any Fund anticipation notes or Fund bonds, shall be subject to any personal liability or accountability by reason of the issuance of any such notes or bonds.

(g) Redemption and transfer

If, after the 10th anniversary date of the original issuance of the initial series of Fund bonds, the amount in the Fund, exclusive of the value of any redeemable preference shares held by the Fund, exceeds 250 percent of the amount required to satisfy amounts due in the succeeding fiscal year on account of Fund bonds, the Secretary may use such excess to redeem Fund bonds in accordance with their terms or may withdraw all or part of such excess from the Fund and transfer it to the general fund of the United States. When all Fund bonds have been redeemed, all amounts remaining in the Fund or thereafter accruing to it shall be transferred to the general fund of the United States, except to the extent necessary to cover such expenses of the Fund as may be required to carry on and complete any remaining responsibilities.

(h) Purchase by Secretary

The Secretary, subject to such agreements with holders of Fund bonds as may then exist, is authorized (out of any funds available) to purchase Fund anticipation notes or Fund bonds. Upon any such purchase, such bonds and notes shall be canceled.

(Pub. L. 94-210, title V, § 508, Feb. 5, 1976, 90 Stat. 74.)

CODIFICATION

Pub. L. 96-448, title IV, § 405(c)(3), Oct. 14, 1980, 94 Stat. 1946, purported to amend this section by inserting “employee or employer-shipper group” after “railroad”, “employee or employee-shipper groups” after “railroads”, and “employee or employee-shipper group’s” after “railroad’s” wherever appearing. However, since the words “railroad”, “railroads”, or “railroad’s” do not appear in text, this amendment could not be executed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 822 of this title.

§ 829. Authorization of appropriations; purchases; transfer of funds; restrictions

(a) There is authorized to be appropriated to the Secretary of the Treasury for the purposes of the Fund not to exceed \$1,400,000,000 and the Secretary of the Treasury is authorized and directed to purchase, from time to time, prior to September 30, 1985, from the Secretary, out of such moneys in the Treasury as are appropriated under this sentence, Fund anticipation notes in such aggregate principal amounts, subject to the foregoing limitation, as the Secretary may

so offer for sale. No money in the Fund, regardless of source, shall be obligated, expended, or otherwise committed to any purpose from the Fund prior to or after September 30, 1985, without prior approval thereof in an annual appropriations Act. The Fund shall not qualify as one of the exceptions provided in section 651(d) of title 2.

(b)(1) Repealed. Pub. L. 99-509, title IV, § 4033(c)(4), Oct. 21, 1986, 100 Stat. 1909.

(2) Repealed. Pub. L. 104-88, title III, § 330(3), Dec. 29, 1995, 109 Stat. 953.

(3) Of the funds authorized to be appropriated under this section (other than funds described in paragraphs (1) and (2) of this subsection) not more than \$180,000,000 are authorized to be appropriated in fiscal year 1981, and not more than \$55,000,000 are authorized to be appropriated for fiscal years 1983, 1984 and 1985.

(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 825(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.

(Pub. L. 94-210, title V, § 509, Feb. 5, 1976, 90 Stat. 76; Pub. L. 94-555, title II, § 216(d), Oct. 19, 1976, 90 Stat. 2627; Pub. L. 95-607, title III, § 301(c), Nov. 8, 1978, 92 Stat. 3066; Pub. L. 96-73, title IV, § 401, Sept. 29, 1979, 93 Stat. 557; Pub. L. 96-448, title IV, §§ 404, 405(a)(2), (b)(1), Oct. 14, 1980, 94 Stat. 1945; Pub. L. 97-35, title XI, § 1162(e), (f), Aug. 13, 1981, 95 Stat. 684, 685; Pub. L. 97-468, title IV, §§ 401, 403(a), Jan. 14, 1983, 96 Stat. 2550, 2551; Pub. L. 99-509, title IV, § 4033(c)(4), Oct. 21, 1986, 100 Stat. 1909; Pub. L. 104-88, title III, § 330(3), Dec. 29, 1995, 109 Stat. 953.)

CODIFICATION

In subsec. (a), "section 651(d) of title 2" substituted for "section 401(d) of the Congressional Budget and Impoundment Control Act of 1974 (31 U.S.C. 1351(d))" to reflect the transfer of section 1351 of former Title 31, Money and Finance, to section 651 of Title 2, The Congress.

Section 405(c)(3) of Pub. L. 96-448 purported to amend subsec. (a) of this section by inserting "employee or employer-shipper group" after "railroad", "employee or employer-shipper groups" after "railroads", and "employee or employer-shipper group's" after "railroad's" wherever appearing. However, since the words "railroad", "railroads" or "railroad's" do not appear in the text of subsec. (a), this amendment could not be executed.

AMENDMENTS

1995—Subsec. (b)(2). Pub. L. 104-88 struck out par. (2) which read as follows: "Not more than 5 percent of the

funds received by the Secretary of Transportation from amounts appropriated under subsection (a) of this section (excluding funds transferred under paragraph (1) of this subsection) shall be available for the purchase or rehabilitation of railroad lines acquired under section 10910 of title 49, except that no such funds shall be available for the purchase or rehabilitation of such a railroad line unless such purchase or rehabilitation is consistent with the rail plan (as defined under section 5 of the Department of Transportation Act) of the State in which such line is located."

1986—Subsec. (b)(1). Pub. L. 99-509 struck out par. (1) which read as follows: "Not more than \$200,000,000 of the funds received by the Secretary of Transportation from amounts appropriated under subsection (a) of this section shall be transferred by the Secretary to the United States Railway Association for use by the Association in accordance with section 726(b)(3) of this title. Such funds shall be transferred immediately upon the finding by the Finance Committee under section 726(b)(3) of this title."

1983—Subsec. (a). Pub. L. 97-468, § 401, substituted "1985" for "1982" wherever appearing.

Subsec. (b)(2). Pub. L. 97-468, § 403(a)(1), substituted "Not more than" for "Not less than".

Subsec. (b)(3) to (5). Pub. L. 97-468, § 403(a)(2)-(5), struck out par. (3) which provided that not more than 50 percent of the funds received by the Secretary from amounts appropriated under subsec. (a) be reserved to provide rehabilitation and improvement assistance for facilities transferred from the Corporation after Aug. 13, 1981, redesignated par. (4) as (3) and substituted "and (2)" for " , (2) and (3)" and inserted provision that not more than \$55,000,000 are authorized to be appropriated for fiscal years 1983, 1984, and 1985, and added pars. (4) and (5).

1981—Subsec. (b). Pub. L. 97-35 added par. (3), redesignated former par. (3) as (4) and inserted reference to par. (3).

1980—Pub. L. 96-448 designated existing provision as subsec. (a), substituted "\$1,400,000,000" for "\$600,000,000" and "1982" for "1980" in two places, and added subsec. (b).

1979—Pub. L. 96-73 substituted "1980" for "1979" in two places.

1978—Pub. L. 95-607 substituted "September 30, 1979" for "March 31, 1979" after "time, prior to" and "prior to or after".

1976—Pub. L. 94-555 substituted "March 31, 1979" for "September 30, 1978" after "time, prior to" and "prior to or after".

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of Title 49, Transportation.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, see section 1169 of Pub. L. 97-35, set out as an Effective Date note under section 1101 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-448 effective Oct. 1, 1980, see section 710(a) of Pub. L. 96-448, set out as a note under section 1170 of Title 11, Bankruptcy.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-73 effective Oct. 1, 1979, see section 501(a) of Pub. L. 96-73.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-555 effective Oct. 1, 1976, see section 303 of Pub. L. 94-555, set out as a note under section 702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 726, 825 of this title.

§ 830. Exemption

Neither the registration and prospectus delivery requirements of the Securities Act of 1933 [15 U.S.C. 77a et seq.], nor the provisions of the securities laws of any State, shall be applicable to the issuance and sale of redeemable preference shares by railroads under this subchapter.

(Pub. L. 94-210, title V, §510, Feb. 5, 1976, 90 Stat. 76; Pub. L. 104-88, title III, §330(4), Dec. 29, 1995, 109 Stat. 953.)

REFERENCES IN TEXT

The Securities Act of 1933, referred to in text, is act May 27, 1933, ch. 38, title I, 48 Stat. 74, as amended, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

AMENDMENTS

1995—Pub. L. 104-88 struck out “the provisions of section 20a of the Interstate Commerce Act (49 U.S.C. 20a), nor” after “Neither”.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of Title 49, Transportation.

§ 831. Guarantee of obligations**(a) General**

The Secretary may, in accordance with the provisions of this section, guarantee and make commitments to guarantee the payment of the principal balance of, and any interest on, an obligation of an applicant prior to, on, or after the date of execution or the date of disbursement of such obligation, if the proceeds of such obligation shall be or have been used (1) to acquire or to rehabilitate and improve facilities or equipment (which includes but is not limited to computerized car management systems), (2) to develop or establish new railroad facilities, or (3) to acquire, rehabilitate, improve, develop, or establish high-speed rail facilities or equipment. Each guarantee of such an obligation shall be made in accordance with the provisions of sections 831 through 833 of this title and such rules as the Secretary may prescribe to protect reasonably the interest of the United States. Each application for the guarantee of such an obligation or for a commitment to guarantee such an obligation shall be made in writing to the Secretary in such form and with such content as the Secretary prescribes. Such application shall be granted, in whole or in part, if the Secretary determines that the proposed, negotiated, or executed obligation is eligible for such guarantee. Each such guarantee or commitment to guarantee shall be extended in such form, under such terms and conditions, and pursuant to such regulations as the Secretary deems appropriate, consistent with the purposes of this subchapter. Such a guarantee or commitment to guarantee shall inure to the benefit of the holder of the obligation to which such guarantee or commitment to guarantee applies.

(b) Fund

An obligation guarantee fund shall be established and administered by the Secretary as a

revolving fund to carry out the provisions of sections 831 through 833 of this title. Moneys in the obligation guarantee fund shall be deposited in the Treasury of the United States to the credit of such fund or invested in bonds or other obligations of the United States approved by the Secretary of the Treasury.

(c) Full faith and credit

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

(d) Modifications

The Secretary may approve any modification of any provision of a guarantee, or of a commitment to guarantee an obligation, including the rate of interest, time of payment of interest or principal, security, or any other terms and conditions, if the Secretary makes a finding in writing that such modification is equitable and is in the overall best interests of the United States under this subchapter, and that the holder of such obligation consents to such modification.

(e) Extent of authority

The aggregate unpaid principal amounts of obligations which may be guaranteed by the Secretary under this section shall not exceed \$1,000,000,000 at any one time.

(f) Rate of interest

The rate of interest (exclusive of premium charges for a guarantee and service fees) which shall be paid on the unpaid principal balance of each obligation guaranteed by the Secretary under this section, shall not exceed an annual percentage rate which the Secretary determines to be reasonable, taking into consideration the prevailing interest rates for similar obligations in the private market.

(g) Prerequisites for guarantees

No obligation shall be guaranteed and no commitment shall be made to guarantee any obligation under this section, unless and until the Secretary makes a finding in writing that—

(1) an obligation for equipment acquisition, rehabilitation, or improvement is secured (A) by the particular equipment which is to be financed or refinanced by such obligation, or (B) in the case of the rehabilitation or improvement of leased equipment, by the lease;

(2) payment of the obligation is required by its terms to be made within 25 years from the date of its execution;

(3) the financing or refinancing is justified by the present and probable future demand for rail services or high-speed rail services to be rendered by the applicant and will serve to meet demonstrable needs for rail services or high-speed rail services and to provide shippers or passengers with improved service;

(4) the applicant has given reasonable assurances that the facilities or equipment to be acquired, rehabilitated, improved, developed, or established with the proceeds of the obligation will be economically and efficiently utilized;

(5) the prospective earning power of the applicant, or the value or prospective earning power of any equipment or facilities to be ac-

quired, rehabilitated, improved, developed, or established (or any combination of the foregoing), together with any other security offered by the applicant, is sufficient to provide the United States with reasonable security and protection, except that if the value or prospective earning power of such equipment or facilities is equal to or greater than the amount of the obligation to be guaranteed, the Secretary may not, on the basis of the lack of prospective earning power of the applicant, find that the United States will not be provided with the reasonable security and protection referred to in this paragraph;

(6) the transaction will result in an improvement in the ability of any affected railroad or high-speed rail carrier to transport passengers or freight; and

(7) in the case of high-speed rail facilities and equipment, at least 85 percent of such facilities and equipment are mined, produced, or manufactured in the United States, unless the Secretary finds in writing that—

(A) such requirement would be inconsistent with the public interest;

(B) such facilities and equipment could not be mined, produced, or manufactured in the United States in sufficient and reasonably available quantities of a satisfactory quality;

(C) such a requirement would increase the cost of the facilities and equipment by more than 25 percent; or

(D) such a requirement would result in a violation of obligations of the United States under international trade agreements.

(h) General requirement

The recipients of any guarantees of, or of any commitments to guarantee, an obligation under this section, shall, consistent with their capital resources, maintain their facilities, on a continuing basis, in accordance with standards promulgated under this subsection. The Secretary shall assure compliance with this requirement by regular periodic inspection.

(i) Conditions of guarantees

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

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

(B)(i) will not use any funds or assets from railroad operations for nonrail purposes; and

(ii) will not use any funds or assets from high-speed rail operations for purposes other than high-speed rail purposes,

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

(2) An obligor shall not be restricted with respect to making dividend payments from its net

income for any fiscal year, if such payments do not exceed—

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

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

whichever is greater.

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

(j) Breach of conditions

The Attorney General shall commence a civil action in any appropriate district court of the United States to enjoin any activity which the Secretary finds is in violation of any requirement or condition specified in subsection (i) or (j)¹ of this section, and to secure any other appropriate relief, including termination, suspension, and punitive damages.

(k) Investigation charge

The Secretary shall charge and collect from each applicant such amounts as he deems reasonable for the investigation of any application submitted under this section, for appraisal of the value of the equipment or facilities involved, and for making the necessary determinations and findings. Such charges shall not aggregate more than one-half of 1 percent of the principal amount of the obligation with respect to which the applicant seeks a guarantee or commitment to guarantee.

(l) Premium charge

The Secretary shall assess and collect from the obligor an annual premium charge on each obligation guaranteed under this section. The amount of such premium may not exceed an annual rate of 1 percent on the unpaid principal balance of such obligation at the time payment is due. Payment is due initially when the obligation is guaranteed by the Secretary, and, thereafter, on the anniversary date of such guarantee.

(m) Administrative costs

All moneys received by the Secretary under this section shall be deposited in the obligation guarantee fund, and to the extent provided in appropriation acts, may be used by the Secretary to pay administrative costs and expenses incurred by him pursuant to this section.

(n) "High-speed rail" defined

As used in this section, the term "high-speed rail" means all forms of nonhighway ground

¹ See References in Text note below.

transportation that run on rails providing transportation service which is—

- (1) reasonably expected to reach sustained speeds of more than 125 miles per hour; and
- (2) made available to members of the general public as passengers.

Such term does not include rapid transit operations within an urban area that are not connected to the general rail system of transportation.

(Pub. L. 94-210, title V, §511, Feb. 5, 1976, 90 Stat. 76; Pub. L. 94-555, title II, §§215, 220(e), (f), Oct. 19, 1976, 90 Stat. 2625, 2629, 2630; Pub. L. 96-448, title IV, §405(e), Oct. 14, 1980, 94 Stat. 1947; Pub. L. 99-509, title IV, §4033(c)(5), Oct. 21, 1986, 100 Stat. 1909; Pub. L. 102-240, title I, §1036(e), Dec. 18, 1991, 105 Stat. 1986.)

REFERENCES IN TEXT

Section 77(j) of the Bankruptcy Act, referred to in subsec. (i)(3), was classified to section 205(j) of former Title 11, Bankruptcy. The Bankruptcy Act (act July 1, 1898, ch. 541, 30 Stat. 544, as amended) was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11. For current provisions relating to railroad reorganization, see subchapter IV (§1161 et seq.) of chapter 11 of Title 11.

In subsec. (j), “subsection (i) or (j)” probably should be “subsection (h) or (i)” to reflect the redesignation of subsecs. (h) to (n) as (g) to (m) by section 215(d) of Pub. L. 94-555.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-240, §1036(e)(1), inserted “(1)” before “to acquire”, substituted “(2)” for “or”, and inserted before period at end of first sentence “, or (3) to acquire, rehabilitate, improve, develop, or establish high-speed rail facilities or equipment”.

Subsec. (g)(3). Pub. L. 102-240, §1036(e)(2)(A), (B), inserted “or high-speed rail services” after “rail services” in two places and “or passengers” after “provide shippers”.

Subsec. (g)(4). Pub. L. 102-240, §1036(e)(2)(C), substituted “improved, developed, or established” for “or improved”.

Subsec. (g)(5). Pub. L. 102-240, §1036(e)(2)(D), (E), substituted “acquired, rehabilitated, improved, developed, or established” for “improved, rehabilitated, or acquired” and struck out “and” at end.

Subsec. (g)(6). Pub. L. 102-240, §1036(e)(2)(F), (G), inserted “or high-speed rail carrier” after “affected railroad” and substituted “; and” for the period at end.

Subsec. (g)(7). Pub. L. 102-240, §1036(e)(2)(H), added par. (7).

Subsec. (i)(1). Pub. L. 102-240, §1036(e)(3), in subpar. (B), designated existing provisions as cl. (i) and added cl. (ii), and in concluding provisions inserted “or high-speed rail services” after “provide rail services”.

Subsec. (n). Pub. L. 102-240, §1036(e)(4), added subsec. (n).

1986—Subsec. (e). Pub. L. 99-509 struck out par. “(1)” designation, struck out “, of which not to exceed \$150,000,000 may be guaranteed for the purposes described in paragraph (2) of this subsection” after “time”, and struck out par. (2) which read as follows: “Obligations may be guaranteed for the purpose of improving rail properties designated in the final system plan pursuant to section 716(c)(1)(C) of this title, if the proceeds of such obligations shall be or have been used to acquire or rehabilitate and improve facilities or equipment in a manner that returns the most public benefits for the costs involved.”

1980—Subsec. (a). Pub. L. 96-448 inserted “(which includes but is not limited to computerized car management systems)” after “facilities or equipment”.

1976—Subsec. (a). Pub. L. 94-555, §220(e), inserted “or to develop or establish new railroad facilities” after “improve facilities or equipment”.

Subsec. (c). Pub. L. 94-555, §215(a), substituted provisions relating to full faith and credit backing of guarantees entered into by Secretary for provisions relating to valuation of equipment and facilities to be financed or refinanced.

Subsec. (g). Pub. L. 94-555, §220(f), redesignated subsec. (h) as (g) and substituted “Prerequisites for guarantees” for “Prerequisites for guarantees” after “(g)”. Former subsec. (g), which related to publication in the Federal Register of notice of application for the guarantee of an obligation and invitation for public comments on such application, was struck out by Pub. L. 94-555, §215(d).

Subsec. (g)(1). Pub. L. 94-555, §215(b)(1), inserted “(A)” after “is secured” and “, or (B) in the case of the rehabilitation or improvement of leased equipment, by the lease” after “by such obligation”.

Subsec. (g)(5). Pub. L. 94-555, §215(b)(2), substituted provisions relating to the prospective earning power of applicant or value and prospective earning power of equipment and facilities, alone or in combination, as a prerequisite for guarantees for provisions dealing only with probable value of equipment and facilities to be improved, acquired, or rehabilitated, and inserted exception that if prospective earning power of facilities and equipment is greater than amount of obligation guaranteed, Secretary may not find lack of security and protection on basis of absence of prospective earning power of applicant.

Subsec. (h). Pub. L. 94-555, §215(d), redesignated subsec. (i) as (h). Former subsec. (h) redesignated (g).

Subsec. (i). Pub. L. 94-555, §215(d), redesignated subsec. (k) as (i).

Pub. L. 94-555, §215(c), inserted provisions relating to the payment of dividends by obligor, struck out requirements that obligor obtain prior written approval of Secretary before making discretionary payment of dividends and that a public hearing be held before Secretary may give such approval; made specific Secretary’s duty in respect to making, approving, or extending any guarantee or commitment to guarantee obligations, and inserted provision that par. (1), as amended, shall not apply if obligor defaults on obligation and Secretary is subrogated to the rights of lender. Former subsec. (i) redesignated (h).

Subsecs. (j) to (m). Pub. L. 94-555, §215(d), redesignated subsecs. (k) to (n) as (j) to (m), respectively.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102-240, set out as a note under section 104 of Title 23, Highways.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-448 effective Oct. 1, 1980, see section 710(a) of Pub. L. 96-448, set out as a note under section 1170 of Title 11, Bankruptcy.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-555 effective Oct. 1, 1976, see section 303 of Pub. L. 94-555, set out as a note under section 702 of this title.

REPORT ON APPLICATION OF THIS SECTION TO HIGH-SPEED RAIL FACILITIES AND EQUIPMENT

Section 1036(f) of Pub. L. 102-240, as amended by Pub. L. 104-316, title I, §124, Oct. 19, 1996, 110 Stat. 3839, directed Comptroller General, within 2 years after Dec. 18, 1991, to analyze effectiveness of application of this

section to high-speed rail facilities and equipment, and report results of such analysis to Congress.

LOAN GUARANTEES FOR SECOND RAIL CARRIER SERVING POWDER RIVER COAL REGION; CHICAGO AND NORTH WESTERN CONNECTOR LINE; USE OF AGRICULTURAL LANDS; PRIVATE GRADE CROSSINGS; CLAIMS; JUDICIAL REVIEW; EXPEDITED HEARINGS

Section 702 of Pub. L. 96-448 provided that:

“(a) To promote competition in the transportation of coal, the Secretary of Transportation shall, no later than 75 days after the date of the issuance of the final environmental impact statement with respect to the loan application, take final action on any application for loan guarantees, under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 [this section], to be used in connection with joint ownership, construction, or rehabilitation of any facilities (including support facilities) for a second rail carrier to serve the Powder River Coal Region in Montana and Wyoming.

“(b)(1) The Secretary of Transportation shall review the proposed Chicago and North Western connector line route and shall not approve any route which requires the use of any agricultural land unless (A) there is no feasible and prudent alternative to the use of such land, and (B) the proposed route construction plan requires all possible planning to minimize harm to such agricultural land resulting from such use. The Secretary of Transportation may not otherwise disapprove a proposed route for the Chicago and North Western line under the authority of this subsection. This review of a proposed route shall be conducted within 90 days after the final action specified in subsection (a) of this section.

“(2)(A) The Secretary shall review the use of any agricultural land used in any route for newly constructed line and shall require, to the maximum extent prudent and feasible, that such railroad provide a private grade crossing for the convenience of each landowner whose agricultural holdings are divided by such newly constructed line when the Secretary finds that such division of property will cause a substantial disruption to the agricultural use of such land. The owners of such property shall file a request for such grade crossing with the Secretary within 180 days of the final determination of the route. The finding of the Secretary under this subsection shall be final.

“(B) The Secretary shall render a decision on each request for grade crossing under this paragraph within 180 days of its receipt. Such review shall not require the delay of construction of new line under subsection (a) of this section.

“(c)(1) Notwithstanding any other provision of law, the actions of the Secretary of Transportation taken pursuant to subsections (a) and (b) of this section shall not be subject to judicial review except as provided in this section.

“(2) A claim alleging the invalidity of this section may be brought no later than the 60th day following the date a final action is taken pursuant to subsections (a) and (b) of this section.

“(3) A claim challenging an action of the Secretary of Transportation under subsection (a) or (b) of this section may be brought only on the grounds that such action will deny rights under the Constitution of the United States, is arbitrary, capricious, or an abuse of discretion, exceeds statutory jurisdiction, authority, or limitations, or is short of statutory right. Such a claim may be brought not later than the 60th day following the date of such action.

“(4) A claim under paragraph (2) or (3) shall be barred unless prior to the expiration of such time limits, a complaint is filed in the United States Court of Appeals for the District of Columbia acting as a special court. Such court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided, and no other court of the United States, of any State, territory, or possession of the United States, or of the District of Columbia, shall

have jurisdiction of any such claim in any proceeding instituted prior to or on or after the date of enactment of this Act [Oct. 14, 1980].

“(5) Any such proceeding shall be assigned for hearing and completed at the earliest possible date, and to the greatest extent practical shall take precedence over all other matters pending on the docket of the court at that time, and shall be expedited in every way by such court, and such court shall render its decision relative to any claim within 90 days from the date such claim is brought unless such court determines that a longer period is required to satisfy requirements of the Constitution of the United States.

“(d) Notwithstanding any other provision of law, the Secretary shall take the final action described in subsection (a) of this section without regard to the consent, or lack thereof, of any Committee of the Congress.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 721, 832, 833, 838, 914 of this title; title 49 section 26105.

§ 832. Issuance of notes or obligations

(a) Authorization

The Secretary may issue, in such amounts as are provided in appropriation acts, notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary may prescribe. Such obligations may be issued whenever the moneys in the obligation guarantee fund are not sufficient to pay any amount which the Secretary is required to pay under section 833 of this title. Such obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States on comparable maturities during the month preceding the issuance of such obligations. The Secretary of the Treasury shall purchase any such obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, as now or hereafter in force. The purposes for which securities may be issued under such chapter are extended to include any purchase of notes or other obligations issued under this subsection. The Secretary of the Treasury may sell any such obligations at such times and price and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such obligations by such Secretary shall be treated as public debt transactions of the United States. Moneys obtained under this subsection shall be deposited in the obligation guarantee fund, and redemptions of any such obligations shall be made by the Secretary from such fund.

(b) Validity

No guarantee or commitment to guarantee under section 831 of this title may be terminated, suspended, canceled, or otherwise revoked, except in accordance with lawful terms and conditions prescribed by the Secretary. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of such sections of this subchapter, and that such obligation has been approved and is legal as to principal, interest, and other terms. Such a guaran-

tee or commitment to guarantee shall be valid and incontestable in the hands of the holder thereof, as of the date when the Secretary granted the application therefor, except as to fraud or material misrepresentation by such holder.

(c) "Secretary of the Treasury" defined

As used in this section, the term "Secretary of the Treasury" includes any designated representative of such Secretary.

(Pub. L. 94-210, title V, §512, Feb. 5, 1976, 90 Stat. 79.)

CODIFICATION

In subsec. (a), "chapter 31 of title 31" and "such chapter" substituted for "the Second Liberty Bond Act" and "such Act", respectively, on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 721, 831 of this title.

§ 833. Default on guaranteed obligations

(a) General

If there is a default by the obligor in any payment of principal or interest due under an obligation guaranteed under section 831 of this title, and if such default continues for 30 days, the holder of such obligation or his agent has the right to demand payment by the Secretary of the unpaid interest on, and the unpaid principal of, such obligation consistent with the terms of the guarantee of such obligation. Such payment may be demanded after or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than 90 days from the date of such default. Within such specified period, but not later than 60 days from the date of such demand, the Secretary shall pay to such holder the unpaid interest on, and the unpaid principal of, such obligation, consistent with the terms of the guarantee of such obligation, except that (1) the Secretary shall not be required to make any such payment if he finds, prior to the expiration of such period, that there was no default by the obligor in the payment of interest or principal or that such default has been remedied, and (2) no such holder shall receive payment or be entitled to retain payment in a total amount which, together with an other recovery (including any recovery based upon a security interest in equipment or facilities) exceeds the actual loss of such holder.

(b) Rights of Secretary

(1) If the Secretary makes payment to a holder under subsection (a) of this section, the Secretary shall thereupon—

(A) have all of the rights granted to him by law or agreement with the obligor; and

(B) be subrogated to all of the rights which were granted such holder, by law, assignment, or security agreement between such holder and the obligor.

(2) The Secretary may, in his discretion, complete, recondition reconstruct, renovate, repair, maintain, operate, charter, rent, sell, or otherwise dispose of any property or other interests obtained by him pursuant to this section. The

terms of any such sale or other disposition shall be as approved by the Secretary.

(c) Form of payment

Any amount required to be paid by the Secretary pursuant to subsection (a) of this section shall be paid in cash.

(d) Action against obligor

If there is a default by the obligor in any payment due under an obligation guaranteed under section 831 of this title, the Secretary shall take such action against such obligor or any other person as is, in his discretion, necessary or appropriate to protect the interests of the United States. Such an action may be brought in the name of the United States or in the name of the holder of such obligation. Such holder shall make available to the Secretary all records and evidence necessary to prosecute any such suit. The Secretary may, in his discretion, accept a conveyance of property in full or partial satisfaction of any sums owed to him. If the Secretary receives, through the sale of property, an amount greater than his cost and the amount paid to the holder under subsection (a) of this section, he shall pay such excess to the obligor.

(Pub. L. 94-210, title V, §513, Feb. 5, 1976, 90 Stat. 80.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 721, 831, 832 of this title.

§ 834. Audit of transactions

(a) General

The Comptroller General of the United States is authorized to audit the operations of the Fund and of the obligation guarantee fund in accordance with such rules and regulations as he may prescribe. Any such audit shall be conducted at the place or places where accounts of the Fund or of the obligation guarantee fund are normally kept. The representatives of the Comptroller General shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to, or in use by or in connection with the Fund, the obligation guarantee fund, or the Secretary which pertain to the financial transactions of the Fund or the obligation guarantee fund and which are necessary to facilitate an audit. Such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, things, and property shall remain in the possession and custody of the Fund, the obligation guarantee fund, or the Secretary, as the case may be.

(b) Access to information

The representatives of the Comptroller General shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by any person or entity which has entered into a financial transaction with or involving the Fund, the obligation guarantee fund, or the Secretary, under this subchapter, to the extent deemed necessary by the Comptroller General to facilitate any

audit of financial transactions pursuant to subsection (a) of this section. Such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such property of such person or entity shall, to the extent practicable, remain in the possession and custody of such person or entity.

(c) Report

The Comptroller General shall make a report of each such audit to the Congress. Such report shall contain all comments and information which the Comptroller General deems necessary to inform Congress of the financial operations and condition of the Fund and of the obligation guarantee fund and any recommendations which he deems advisable. Such report shall indicate specifically and describe in detail any program, expenditure, or other financial transaction or undertaking observed in the course of such audit which the Comptroller General deems to have been carried on or made without lawful authority or which is inconsistent with the purposes and provisions of this subchapter. A copy of such report shall be furnished to the President, the Secretary, and the Commission, at the time it is submitted to the Congress.

(Pub. L. 94-210, title V, § 514, Feb. 5, 1976, 90 Stat. 81.)

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND
TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 701 of Title 49.

§ 835. Repealed. Pub. L. 97-375, title I, § 111(d), Dec. 21, 1982, 96 Stat. 1821

Section, Pub. L. 94-210, title V, § 515, Feb. 5, 1976, 90 Stat. 82, directed Secretary to report to Congress within 90 days following end of each fiscal year on financial condition and operations of Fund and of obligation guarantee fund during such fiscal year, and on anticipated condition and operations of Fund and of obligation guarantee fund during current fiscal year.

§ 836. Employee protection

(a) General

Fair and equitable arrangements shall be provided, in accordance with this section, to protect the interests of any employees not otherwise protected under title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771 et seq.), who may be affected by actions taken pursuant to authorizations or approval obtained under this subchapter. Such arrangements shall be determined by the execution of an agreement between the representatives of the railroads and the representatives of their employees, within 120 days after February 5, 1976. In the absence of such an executed agreement, the Secretary of Labor shall prescribe the applicable protective arrangements, within 150 days after February 5, 1976.

(b) Terms

The arrangements required by subsection (a) of this section shall apply to each employee who has an employment relationship with a railroad on the date on which such railroad first applies for applicable financial assistance under this subchapter. Such arrangements shall include such provisions as may be necessary for the negotiation and execution of agreements as to the manner in which the protective arrangements shall be applied, including notice requirements. Such agreements shall be executed prior to implementation of work funded from financial assistance under this subchapter. If such an agreement is not reached within 30 days after the date on which an application for such assistance is approved, either party to the dispute may submit the issue for final and binding arbitration. The decision on any such arbitration shall be rendered within 30 days after such submission. Such arbitration decision shall in no way modify the protection afforded in the protective arrangements established pursuant to this section, shall be final and binding on the parties thereto, and shall become a part of the agreement. Such arrangements shall also include such provisions as may be necessary—

(1) for the preservation of compensation (including subsequent general wage increases, vacation allowances, and monthly compensation guarantees), rights, privileges, and benefits (including fringe benefits such as pensions, hospitalization, and vacations, under the same conditions and so long as such benefits continue to be accorded to other employees of the employing railroad in active service or on furlough, as the case may be) to such employees under existing collective-bargaining agreements or otherwise;

(2) to provide for final and binding arbitration of any dispute which cannot be settled by the parties, with respect to the interpretation, application, or enforcement of the provisions of the protective arrangements;

(3) to provide that an employee who is unable to secure employment by the exercise of his or her seniority rights, as a result of actions taken with financial assistance obtained under this subchapter, shall be offered reassignment and, where necessary, retraining to fill a position comparable to the position held at the time of such adverse effect and for which he is, or by training and retraining can become, physically and mentally qualified, so long as such offer is not in contravention of collective bargaining agreements relating thereto; and

(4) to provide that the protection afforded pursuant to this section shall not be applicable to employees benefited solely as a result of the work which is financed by funds provided pursuant to this subchapter.

(c) Subcontracting

The arrangements which are required to be negotiated by the parties or prescribed by the Secretary of Labor, pursuant to subsections (a) and (b) of this section, shall include provisions regulating subcontracting by the railroads of work which is financed by funds provided pursuant to this subchapter.

(Pub. L. 94-210, title V, §516, Feb. 5, 1976, 90 Stat. 82.)

REFERENCES IN TEXT

The Regional Rail Reorganization Act of 1973, referred to in subsec. (a), is Pub. L. 93-236, Jan. 2, 1974, 87 Stat. 985, as amended. Title V of the Regional Rail Reorganization Act of 1973, which was classified generally to subchapter V (§771 et seq.) of chapter 16 of this title, was repealed by Pub. L. 97-35, title XI, §1144(a)(1), Aug. 13, 1981, 95 Stat. 669. For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 914, 1003 of this title.

§ 837. Intercity rail passenger service

The Secretary is authorized, pursuant to the provisions of, and within the authorizations contained in, this subchapter, to provide financial assistance, in the aggregate sum of up to \$200,000,000, to any railroad or railroads for the purpose of improving intercity rail passenger service on any lines of such railroad or railroads which are located outside of the Northeast Corridor (as defined in section 24102(7) of title 49).

(Pub. L. 94-210, title V, §517, Feb. 5, 1976, 90 Stat. 83.)

CODIFICATION

In text, “section 24102(7) of title 49” substituted for “section 701(c) of this Act” meaning section 701(c) of Pub. L. 94-210, on authority of Pub. L. 103-272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

§ 838. Columbus and Greenville Railway

(a) Limitation of United States interest

Notwithstanding any other provision of this subchapter, the Secretary shall limit the interest of the United States in any debt of the Columbus and Greenville Railway under sections 825 and 831 of this title to an interest which attaches to such debt in the event of (1) bankruptcy, or (2) substantial sale or liquidation of the assets of the railroad, the proceeds of which are not reinvested in the operations of the railroad. 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 in this section.

(b) Higher priority for new debt

If the interest of the United States is limited under subsection (a) of this section, any new debt issued by such railroad subsequent to the issuance of the debt described in such subsection 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 subsection as the Secretary and railroad may agree.

(Pub. L. 94-210, title V, §518, as added Pub. L. 102-533, §12(a), Oct. 27, 1992, 106 Stat. 3521.)

REDEMPTION OF OBLIGATIONS AND LIABILITIES

Pub. L. 103-440, title I, §104, Nov. 2, 1994, 108 Stat. 4619, provided that:

“(a) REDEMPTION OF OUTSTANDING OBLIGATIONS AND LIABILITIES.—Notwithstanding any other provision of law, the Secretary of Transportation, or the Secretary of the Treasury, if a holder of any of the obligations, shall allow the Delta Transportation Company, doing business as the Columbus and Greenville Railway, to redeem the obligations and liabilities of such company which remain outstanding under sections 505 and 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825 and 831, respectively).

“(b) VALUE.—For purposes of subsection (a), the value of each of the obligations and liabilities shall be an amount equal to the value established under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.)”

SUBCHAPTER III—NORTHEAST CORRIDOR PROJECT IMPLEMENTATION

§ 851. Repealed. Pub. L. 103-272, § 7(b), July 5, 1994, 108 Stat. 1379

Section, Pub. L. 94-210, title VII, §701, Feb. 5, 1976, 90 Stat. 119; Pub. L. 96-254, title II, §205, May 30, 1980, 94 Stat. 412, specified powers and duties of National Railroad Passenger Corporation with respect to implementing the Northeast Corridor improvement project. See sections 24102, 24305, 24315, 24902, and 24904 of Title 49, Transportation.

§ 852. Repealed. Pub. L. 97-35, title XI, § 1188(e), Aug. 13, 1981, 95 Stat. 699

Section, Pub. L. 94-210, title VII, §702, Feb. 5, 1976, 90 Stat. 120, set forth provisions relating to the Operations Review Panel.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 1189 of Pub. L. 97-35.

§§ 853 to 855. Repealed. Pub. L. 103-272, § 7(b), July 5, 1994, 108 Stat. 1379

Section 853, Pub. L. 94-210, title VII, §703, Feb. 5, 1976, 90 Stat. 121; Pub. L. 95-421, §§5, 8, Oct. 5, 1978, 92 Stat. 926, 927; Pub. L. 96-254, title II, §§202, 203, 209, May 30, 1980, 94 Stat. 410, 414; Pub. L. 97-468, title III, §301(1), Jan. 14, 1983, 96 Stat. 2547; Pub. L. 99-272, title IV, §4007(d), Apr. 7, 1986, 100 Stat. 108, enumerated goals of Northeast Corridor improvement project. See section 24902 of Title 49, Transportation.

Section 854, Pub. L. 94-210, title VII, §704, Feb. 5, 1976, 90 Stat. 122; Pub. L. 94-555, title II, §217, Oct. 19, 1976, 90 Stat. 2627; Pub. L. 95-421, §9, Oct. 5, 1978, 92 Stat. 928; Pub. L. 96-254, title II, §§204(a), (b), 210, May 30, 1980, 94 Stat. 411, 414; Pub. L. 97-35, title XI, §1193, Aug. 13, 1981, 95 Stat. 701; Pub. L. 97-468, title III, §301(2)-(4), Jan. 14, 1983, 96 Stat. 2548, 2549; Pub. L. 100-342, §6, June 22, 1988, 102 Stat. 627, related to funding of Northeast Corridor improvement project. See sections 24104, 24902, 24904, 24907, and 24909 of Title 49.

Section 855, Pub. L. 94-210, title VII, §705, as added Pub. L. 96-254, title II, §206(a), May 30, 1980, 94 Stat. 412; amended Pub. L. 97-468, title III, §301(5), Jan. 14, 1983, 96 Stat. 2550, related to transfers of authority with respect to track improvements and implementation of Northeast Corridor improvement project goals. See sections 24902, 24904, and 24909 of Title 49.

§ 856. Repealed. Pub. L. 103-429, § 7(a)(1), Oct. 31, 1994, 108 Stat. 4388

Section, Pub. L. 94-210, title VII, §708, as added Pub. L. 102-533, §4(a), Oct. 27, 1992, 106 Stat. 3516, directed Secretary to develop and report to Congress within one year after Oct. 27, 1992, on a program master plan for improvements in passenger service between Boston and New York. See section 24903 of Title 49, Transportation.

EFFECTIVE DATE OF REPEAL

Section 7(a)(1) of Pub. L. 103-429 provided that the repeal by that section is effective July 5, 1994.

**CHAPTER 18—MILWAUKEE RAILROAD
RESTRUCTURING**

Sec.		Sec.	
901.	Congressional findings.	916.	Repealed.
902.	Definitions.	917.	Applicability of National Environmental Policy Act.
903.	Sales and transfers.	918.	Authority of Railroad Retirement Board.
904.	Court approved abandonments and sales.	919.	Publications and reports.
	(a) Abandonment of lines of railroad under section 1170 of title 11.	920.	Continuation of service.
	(b) Sale or transfer of lines of railroad.	921.	Office of Rail Public Counsel.
	(c) Effect on priorities and timing of employee protection payments.	922.	Employee stock ownership plan for surviving portion of Milwaukee Railroad.
905.	Employee or employee-shipper ownership plan.		
	(a) Submission of plan to Commission; approval; findings.		
	(b) Submission of findings to bankruptcy court.		
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	(d) Judicial review.		
	(e) Furnishing of reports and other information for preparation of plan.		
906.	Guarantee of trustee certificates.		
	(a) To (c) Omitted.		
	(d) Authorization.		
	(e) Amount of guarantee.		
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	(h) Cancellation of United States obligations.		
907.	Railroad hiring.		
908.	Employee protection agreements.		
	(a) Agreement between Milwaukee Railroad and labor organizations.		
	(b) Submission of matter to National Mediation Board.		
	(c) Fair and equitable agreements.		
	(d) Payment of benefits and allowances.		
909.	Supplementary unemployment insurance.		
	(a) Eligible employees.		
	(b) Period of payment.		
	(c) Amount of payment.		
	(d) Filing of application.		
	(e) Insurance as compensation.		
	(f) Employees not covered.		
	(g) Furloughed employees.		
910.	Repealed.		
911.	New career training assistance.		
	(a) Eligible employees.		
	(b) Commencement of training as condition.		
	(c) Filing of application; Board determination.		
	(d) Assistance prohibited after April 1, 1984.		
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912.	Election.		
913.	Authorization of appropriations.		
914.	Obligation guarantees.		
	(a) Authorization.		
	(b) Obligations as administrative expense.		
	(c) Limit on aggregate unpaid principal amount.		
	(d) Limit on total liability.		
	(e) Liability of United States respecting section 908 agreements.		
	(f) Applicability of section 836 of this title.		
915.	Court approved abandonment and sales in pending cases.		
	(a) Abandonment of lines of railroad under Bankruptcy Act.		
	(b) Sale or transfer of lines of railroad under Bankruptcy Act.		
	(c) Judicial review.		
	(d) Authority of bankruptcy court.		
	(e) Effect on priorities and timing of employee protection payments.		

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 231f, 1018 of this title.

§ 901. Congressional findings

(a) Congress hereby finds that—

(1) the severe operating losses and the deteriorating plant and equipment of the Milwaukee Railroad threaten to cause cessation of its operations in the near future;

(2) a cessation of operations by the Milwaukee Railroad would have serious repercussions on the economies of the States in which such railroad principally operates (the States of Washington, Montana, Idaho, North Dakota, South Dakota, Illinois, Iowa, Missouri, Michigan, Indiana, Minnesota, and Wisconsin);

(3) a cessation of operations of the Milwaukee Railroad would result in the loss of many thousands of jobs of railroad workers and other workers whose employment is dependent upon rail service over the lines presently operated by the Milwaukee Railroad;

(4) experienced railroad employees make a valuable contribution toward strengthening the railroad industry; and other railroads have the ability and willingness to employ displaced employees of the Milwaukee Railroad;

(5) the ownership by employees or by employees and shippers of part or all of the Milwaukee Railroad may be a valuable tool in reorganization and should be given serious consideration;

(6) cessation of essential transportation services by the Milwaukee Railroad would endanger the public welfare;

(7) cessation of such services is imminent; and

(8) there is no other practicable means of obtaining funds to meet payroll and other expenses necessary for continuation of services and reorganization of the Milwaukee Railroad.

(b) The Congress declares that emergency measures set forth in this chapter must be taken to restructure the Milwaukee Railroad and to avoid the potential unemployment and damage to the economy of the region and of the Nation which a cessation of essential services by the Milwaukee Railroad would otherwise cause.

(Pub. L. 96-101, § 2, Nov. 4, 1979, 93 Stat. 736.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 96-101, Nov. 4, 1979, 93 Stat. 736, as amended, known as the Milwaukee Railroad Restructuring Act, which enacted this chapter and amended sections 231f, 662, 721, 821, and 825 of this title. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

SHORT TITLE OF 1983 AMENDMENT

Pub. L. 97-468, title II, § 201, Jan. 14, 1983, 96 Stat. 2543, provided that: "This title [amending sections 797c, 907,